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9 a.m.–12:30 p.m.

WHERE: Office of the Federal Register
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Washington, DC 20002

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 948

[Doc. No. AMS–FV–12–0043; FV12–948–1 FIR]

Irish Potatoes Grown in Colorado; Modification of the Handling Regulation for Area No. 2

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim rule that modified the grade requirements for potatoes handled under the Colorado potato marketing order, Area No. 2. The interim rule relaxed the minimum grade requirement for size B and 1-inch to 1¾-inch diameter round, red-skinned potatoes handled under the marketing order from U.S. No. 1 to U.S. Commercial. This change is expected to facilitate the handling and marketing of the Area No. 2 potato crop, provide producers and handlers with increased returns, and supply consumers with increased potato purchasing options.

DATES: Effective April 24, 2013.

FOR FURTHER INFORMATION CONTACT: Barry Broadbent, Senior Marketing Specialist, or Gary Olson, Regional Director, Northwest Marketing Field Office, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA; Telephone: (503) 326–2724, Fax: (503) 326–7440, or Email: *Barry.Broadbent@ams.usda.gov* or *GaryD.Olson@ams.usda.gov.*

Small businesses may obtain information on complying with this and other marketing order regulations by viewing a guide at the following Web site: *http://www.ams.usda.gov/MarketingOrdersSmallBusinessGuide;* or by contacting Jeffrey Smutny, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Jeffrey.Smutny@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 97 and Marketing Order No. 948, both as amended (7 CFR part 948), regulating the handling of Irish potatoes grown in Colorado, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

The handling of Irish potatoes grown in Colorado is regulated by 7 CFR part 948. Prior to this action, the minimum grade requirement for size B and 1-inch to 1¾-inch diameter round, red-skinned potatoes handled under the Colorado potato marketing order was U.S. No. 1. Under such grade requirements, industry participants were not able to pursue the emerging market for smaller diameter round, red-skinned U.S. Commercial grade potatoes sold in consumer packs and included in certain value added potato products. Relaxing the minimum grade requirement for such potatoes allows area handlers to pursue this new market category. Therefore, this rule continues in effect the rule that relaxed the minimum grade requirement for size B and 1-inch to 1¾-inch diameter round, red-skinned potatoes handled under the order from U.S. No. 1 to U.S. Commercial.

In an interim rule published in the **Federal Register** on January 2, 2013, and effective on January 3, 2013 (78 FR 3, Doc. No. AMS–FV–12–0043, FV12–948–1 IR), § 948.386 was amended by relaxing the minimum grade requirement for size B and 1-inch to 1¾-inch diameter round, red-skinned potatoes handled under the marketing order from U.S. No. 1 to U.S. Commercial.

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 80 handlers of Colorado Area No. 2 potatoes subject to regulation under the order and approximately 180 producers in the regulated production area. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $7,000,000, and small agricultural producers are defined as those having annual receipts of less than $750,000.

During the 2010–2011 marketing year, the most recent full marketing year for which statistics are available, 15,583,512 hundredweight of Colorado Area No. 2 potatoes were inspected under the order and sold into the fresh market. Based on an estimated average f.o.b. price of $12.75 per hundredweight, the Committee estimates that 71 Area No. 2 handlers, or about 89 percent, had annual receipts of less than $7,000,000. In view of the foregoing, the majority of Colorado Area No. 2 potato handlers may be classified as small entities.

In addition, based on information provided by the National Agricultural Statistics Service, the average producer price for Colorado fall potatoes for 2010–2011 was $9.37 per hundredweight. The average annual fresh potato revenue for each of the 180 Colorado Area No. 2 potato producers is therefore calculated to be approximately $811,208. Consequently, on average, many of the Area No. 2 Colorado potato producers may not be classified as small entities.

This rule continues in effect the action that relaxed the minimum grade requirement for size B and 1-inch to 1¾-inch diameter round, red-skinned potato varieties from U.S. No. 1 grade to

U.S. Commercial. This change provides greater flexibility to handlers in the marketing of the Colorado potato crop. Authority for this action is contained in §§ 948.21 and 948.22.

This relaxation is expected to benefit the producers, handlers, and consumers of Colorado potatoes by allowing a greater quantity of fresh potatoes from the production area to enter the market. This anticipated increase in volume is expected to translate into greater returns for handlers and producers, and more purchasing options for consumers.

This action is not expected to increase costs associated with the order requirements. Rather, this action makes additional product available to the market and has the potential to increase industry returns. The opportunities and benefits that may result from this rule are equally available to all Colorado potato handlers and producers, regardless of their size.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the order's information collection requirements have been previously approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0178 (Generic Vegetable and Specialty Crops). No changes in those requirements as a result of this action are necessary. Should any changes become necessary, they would be submitted to OMB for approval.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large grapefruit handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. In addition, USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

Further, the Committee's meeting was widely publicized throughout the Colorado potato industry and all interested persons were invited to attend the meeting and participate in Committee deliberations. Like all Committee meetings, the July 19, 2012, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue.

Comments on the interim rule were required to be received on or before March 4, 2013. No comments were received. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule, without change.

To view the interim rule, go to: *http://www.regulations.gov/#!documentDetail;D=AMS-FV-12-0043-0001.*

This action also affirms information contained in the interim rule concerning Executive Orders 12866 and 12988, the Paperwork Reduction Act (44 U.S.C. Chapter 35), and the E-Gov Act (44 U.S.C. 101).

After consideration of all relevant material presented, it is found that finalizing the interim rule, without change, as published in the **Federal Register** (78 FR 3, January 2, 2013) will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 948

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

Accordingly, the interim rule that amended 7 CFR part 948 and was published at 78 FR 3 on January 2, 2013, is adopted as a final rule, without change.

Dated: April 17, 2013.

David R. Shipman,

Administrator, Agricultural Marketing Service.

[FR Doc. 2013–09472 Filed 4–22–13; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

Docket No. FAA–2012–1131; Directorate Identifier 2012–NE–34–AD; Amendment 39–17440; AD 2013–08–22]

RIN 2120–AA64

Airworthiness Directives; Turbomeca S.A. Turboshaft Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Turbomeca S.A. Arriel 1A1, 1A2, 1B, 1C, 1C1, 1C2, 1D, 1D1, 1E2, 1K1, 1S, and 1S1 turboshaft engines. This AD requires daily post-flight checks of the engine tachometer's unit cycle-counting feature. This AD also requires ground-run functional checks within every 1,000 operating hours. This AD was prompted by detailed analysis and review of the accuracy of the engine's tachometer cycle-counting feature. We are issuing this AD to prevent uncontained engine failure and damage to the helicopter.

DATES: This AD becomes effective May 28, 2013.

ADDRESSES: The Docket Operations office is located at Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

FOR FURTHER INFORMATION CONTACT: Sanjana Murthy, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7750; fax: 781–238–7199; email: *sanjana.murthy@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on December 11, 2012 (77 FR 73557). That NPRM proposed to correct an unsafe condition for the specified products. The mandatory continuing airworthiness information (MCAI) states:

> Following detailed analysis and review of in-service feedback performed by Turbomeca on the Arriel 1 engines, the chapter 05–10 Airworthiness Limitation Section (ALS) of Arriel 1 Maintenance Manuals has been updated in order to clarify the definition and update the requirements relative to the cycle counting aid system (modification introduced in production by Turbomeca modification TU207 or TU243 and in-service, respectively, by Turbomeca Service Bulletin (SB) 292 80 0190 or SB 292 80 0168), add associated maintenance tasks, and modify the Power Turbine (PT) partial cycle counting method.

The SBs referenced above introduced the tachometer. The tachometer's cycle-counting feature, in some instances, produced results inconsistent with ground run checks. The inaccurate cycle-counting results of the tachometer can lead to exceeding life limits on critical rotating parts, which can cause uncontained engine failure and damage to the helicopter.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (77 FR 73557, December 11, 2012).

Actions Since We Issued the Proposed Rule

Since we issued the NPRM (77 FR 73557, December 11, 2012), the European Aviation Safety Agency (EASA) issued revised MCAI (EASA AD 2012–0187R2, dated December 6, 2012), which states that for affected engines that have a tachometer installed, but the

tachometer is not used to count cycles, then no further action is required.

Changes to Actions and Compliance Section of This AD

We evaluated the revised MCAI (EASA AD 2012–0187R2, dated December 6, 2012), and we agree that for affected engines that have a tachometer installed, but the tachometer is not used to count cycles, then no further compliance action is required. We changed paragraph (e) of the final rule by inserting a new paragraph (e)(1) to read:

''(1) If a tachometer is installed on the engine, but is not used to count cycles, then no further action is required.''

We also changed paragraph (e)(2) of this AD to clarify the objective of the daily check. The objective is not only to compare the cycle-count values from the tachometer and the daily check, but also to verify that they agree. The NPRM (77 FR 73557, December 11, 2012) stated:

''During the post flight maintenance inspection after the last flight of each day, compare the cycles counted by the engine's tachometer unit with the cycles counted by the primary counting method.''

The changed paragraph in this AD states:

''During the post-flight maintenance inspection after the last flight of each day, verify that the cycles counted by the engine's tachometer unit agree with the cycles counted by the primary counting method.''

We also changed paragraph (e)(4) of this AD to clearly state that the ground-run functional check required every 1,000 operating hours is in addition to the daily inspections required by this AD. The NPRM (77 FR 73557, December 11, 2012) stated:

''If the engine tachometer cycle-counting feature remains accurate, then every 1,000 operating hours, perform a ground-run functional check of the tachometer unit cycle-counting feature.''

The changed paragraph in this AD states:

''If the engine tachometer cycle-counting feature remains accurate, then every 1,000 operating hours, perform a ground-run functional check of the tachometer unit cycle-counting feature in addition to the daily inspections required in paragraph (e)(2) of this AD. If the tachometer cycle-counting feature fails the check, thereafter, use only the primary cycle-counting method to count cycles.''

Changes to Cost of Compliance

We also changed the Costs of Compliance section of this AD. Paragraph (e)(4) of this AD requires a functional check of the tachometer cycle counting feature every 1,000 operating hours. The NPRM (77 FR 73557, December 11, 2012) did not include the cost of the functional check in the estimated annual costs of compliance, while this AD does include that cost. The fleet cost for the functional check every 1,000 operating hours is $181,050, bringing the new total estimated fleet cost of compliance for this AD to $19,493,050.

Conclusion

We reviewed the available data and determined that air safety and the public interest require adopting the AD with the changes described previously. We determined that the changes we have made, that is, the change based on revised MCAI and the editorial changes made to improve clarity, will not increase the economic burden on any operator or increase the scope of the AD.

Costs of Compliance

We estimate that this AD will affect about 1,420 engines installed in helicopters of U.S. registry. We do not have an estimate of how many engine tachometers will fail the inspection, so we have estimated the cost of repetitive inspections of engine tachometer units for one year and the cost of a required 1000-hour functional check. We estimate that an average of 320 checks will be required per year, and that it will take about 30 minutes per engine to perform a check of the engine's tachometer unit cycle-counting feature. We estimate the 1,000-operating-hour functional check to take 1.5 hours to complete. The average labor rate is $85 per hour. No parts will be required. Based on these figures, we estimate the total cost of the AD on U.S. operators to be $19,493,050.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

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

Examining the AD Docket

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2013–08–22 Turbomeca S.A.: Amendment 39–17440; Docket No. FAA–2012–1131; Directorate Identifier 2012–NE–34–AD.

(a) Effective Date

This AD becomes effective May 28, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Turbomeca S.A. Arriel 1A1, 1A2, 1B, 1C, 1C1, 1C2, 1D, 1D1, 1E2, 1K1, 1S, and 1S1 turboshaft engines that have incorporated Modification TU 207 or TU 243, or have incorporated Turbomeca Service Bulletin (SB) No. 292 80 0168 or SB No. 292 80 0190.

(d) Reason

This AD was prompted by detailed analysis and review of the accuracy of the engine's tachometer cycle-counting feature. We are issuing this AD to prevent uncontained engine failure and damage to the helicopter.

(e) Actions and Compliance

(1) If a tachometer is installed on the engine, but is not used to count cycles, then no further action is required.

(2) During the post-flight maintenance inspection after the last flight of each day, verify that the cycles counted by the engine's tachometer unit agree with the cycles counted by the primary counting method.

(3) If the numbers are different, use the primary counting method thereafter to determine all cycle counts. Do not use the values from the tachometer cycle-counting feature.

(4) If the engine tachometer cycle-counting feature remains accurate, then every 1,000 operating hours, perform a ground-run functional check of the tachometer unit cycle-counting feature in addition to the daily inspections in paragraph (e)(2) of this AD. If the tachometer cycle-counting feature fails the check, thereafter, use only the primary cycle-counting method to count cycles.

(5) If the tachometer is replaced, follow the instructions in paragraphs (e)(2), (e)(3), and (e)(4) of this AD.

(f) Alternative Methods of Compliance (AMOCs)

The Manager, Engine Certification Office, may approve AMOCs for this AD. Use the procedures found in 14 CFR 39.19 to make your request.

(g) Related Information

(1) For more information about this AD, contact Sanjana Murthy, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7750; fax: 781–238–7199; email: *sanjana.murthy@faa.gov.*

(2) Refer to European Aviation Safety Agency AD 2012–0187R2, dated December 6, 2012, and Turbomeca S.A. SB No. 292 80 0168 and SB No. 292 80 0190, for related information.

(3) For service information identified in this AD, contact Turbomeca S.A., 40220 Tarnos, France; phone: 33 (0) 5 59 74 40 00; telex: 570 042; fax: 33 (0) 5 59 74 45 15. You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

(h) Material Incorporated by Reference

None.

Issued in Burlington, Massachusetts, on April 16, 2013.

Colleen M. D'Alessandro,

Assistant Manager, Engine & Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2013–09349 Filed 4–22–13; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL TRADE COMMISSION

16 CFR Part 309

[RIN 3084–AB21]

Labeling Requirements for Alternative Fuels and Alternative Fueled Vehicles

AGENCY: Federal Trade Commission (FTC or Commission).

ACTION: Final rule.

SUMMARY: The Commission amends the Alternative Fuels Rule (''Labeling Requirements for Alternative Fuels and Alternative Fueled Vehicles'') to consolidate the FTC's alternative fueled vehicle (AFV) labels with new fuel economy labels required by the Environmental Protection Agency (EPA) and the National Highway Traffic Safety Administration (NHTSA). The amendments also eliminate labeling requirements for used AFV labels.

DATES: The amendments published in this document will become effective on May 31, 2013.

ADDRESSES: Requests for copies of this document should be sent to: Public Records Branch, Room 130, Federal Trade Commission, 600 Pennsylvania Avenue NW., Washington, DC 20580. This document, and public records related to the FTC's regulatory review, are also available at that address and at *www.ftc.gov.*

FOR FURTHER INFORMATION CONTACT: Hampton Newsome, (202) 326–2889, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Room M–8102B, 600 Pennsylvania Avenue NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

I. Background

The Energy Policy Act of 1992 (EPAct 92 or Act) established federal programs to encourage the development of alternative fuels and alternative fueled vehicles (AFVs). Section 406(a) of the Act directed the Commission to establish uniform labeling requirements for alternative fuels and AFVs. Under the Act, such labels must provide ''appropriate information with respect to costs and benefits [of alternative fuels and AFVs], so as to reasonably enable the consumer to make choices and comparisons.'' [1] In addition, the required labels must be ''simple and, where appropriate, consolidated with other labels providing information to the consumer.'' [2]

In response to EPAct 92, the Commission published the Alternative Fuels Rule in 1995.[3] The Rule requires labels on new and used AFVs that run on liquid and non-liquid fuels, such as ethanol and other alcohols, including E85 ethanol-gasoline mixtures, natural gas, liquefied petroleum gas, hydrogen, coal-derived liquid fuels, fuels derived from biological materials (*e.g.,* 100% biodiesel), and electricity. The labels for new AFVs disclose the vehicle's estimated driving range (*i.e.,* the travel distance on a single charge or tank of fuel), general factors consumers should consider before buying an AFV, and toll-free telephone numbers and Web sites for additional information from the Department of Energy (DOE) and NHTSA.[4] Labels for used AFVs contain only the general buying factors and DOE/NHTSA contact information.[5] The Rule also requires labels on fuel dispensers for non-liquid alternative fuels, such as electricity, compressed natural gas, and hydrogen. The labels for electricity provide the charging system's kilowatt capacity, voltage, and other related information. The labels for other non-liquid fuels disclose the fuel's commonly used name and principal component (expressed as a percentage).

II. Regulatory Review

In a 2011 Advance Notice of Proposed Rulemaking (ANPR), the Commission initiated its regulatory review of the Alternative Fuels Rule to, among other

[1] 42 U.S.C. 13232(a).

[2] *Id.*

[3] 60 FR 26926 (May 19, 1995).

[4] The Rule requires manufacturers to have a reasonable basis for the vehicle cruising range, and, for certain AFVs, specifies the test method for calculating that range. 16 CFR 309.22.

[5] The general factors listed on the current label include fuel type, operating costs, fuel availability, performance, convenience, energy security, energy renewability, and emissions. See 16 CFR part 309, Appendix A.

things, ensure consistency between FTC-required vehicle labels and EPA (and NHTSA) fuel economy labeling requirements.[6] Following the ANPR, the Commission issued a Notice of Proposed Rulemaking (NPRM) seeking comment on the consolidation of FTC and EPA vehicle labels for all new AFVs and the elimination of FTC labels for used AFVs.[7] The Commission did not propose to change other parts of the Rule, such as provisions for alternative fuel ratings and dispenser labels. The Commission received seven comments in response.[8]

III. Final Rule

After reviewing the comments, the Commission issues final amendments to consolidate FTC and EPA label requirements and discontinue used vehicle labels, consistent with the NPRM's proposals.

A. EPA and NHTSA Fuel Economy Labels

Background: In the NPRM, the Commission proposed requiring manufacturers to use EPA's fuel economy label for their new AFVs, in lieu of existing FTC label requirements. The Commission explained that the proposal would eliminate duplicative labels and reduce manufacturer burden without negatively affecting consumers. EPA fuel economy labels disclose more information than the FTC-required vehicle labels and direct consumers to the U.S. government's fuel economy Web site (*www.fueleconomy.gov*), which provides comprehensive comparative information for both conventional and alternative fuel vehicles.

The NPRM also proposed a specific requirement related to driving range disclosures for flexible fuel vehicles (FFVs) (*i.e.,* dual-fueled vehicles). In contrast to the FTC labels, the EPA requirements allow, but do not mandate, driving range disclosures for FFV's. To ensure the label provides vehicle buyers with comparative driving range performance for both alternative fuel and conventional gasoline, the Commission proposed to require manufacturers to use the version of the EPA FFV label that discloses the vehicle's alternative fuel and gasoline driving range. The Commission pointed to significant differences between alternative fuel and gasoline driving ranges to support this proposal.[9]

Comments: The commenters supported the consolidation of existing requirements into a single federal fuel economy label.[10] For example, the Alliance explained that a universal government label will allow ''apples-to-apples'' vehicle comparisons and eliminate potential confusion from two, sometimes-conflicting labels. APGA added that the proposal appropriately discards existing ''inefficient, costly, and duplicative'' requirements. NADA noted that separate FTC labels will be unnecessary and potentially confusing given the presence of the EPA labels on 2013 vehicles.[11] Finally, in the Alliance's view, the vehicle-specific information on the EPA labels will be more helpful to consumers than the current FTC label content.[12]

The commenters also supported the Commission's proposal to use the version of the EPA FFV label that discloses the vehicle's alternative fuel and gasoline driving ranges.[13] Clean Energy noted that the absence of an alternative fuel range estimate decreases confidence in AFVs, and creates an uneven playing field in favor of underperforming AFVs with shorter driving ranges. Global Automakers supported the proposal but also urged the Commission to clarify whether a manufacturer will have the discretion to use the old FTC label if it chooses to omit such information from the EPA label.

Though the comments generally supported the proposal, two commenters raised concerns about the emissions information on labels for electric vehicles.[14] Specifically, these commenters argued that the current EPA label focuses solely on the tailpipe emissions and thus, for electric vehicles (EVs), ignores the potential ''upstream emissions'' from fossil-fuel electric plants. Although EPA and NHTSA provide such EV-related emissions online, the commenters questioned whether consumers visit those Web sites. To augment the online information, they recommended requiring these disclosures on the label to help consumers make fair emissions comparisons between various AFV technologies.[15] In their view, such changes would encourage a level playing field and allow all AFVs to compete in the marketplace.[16]

Discussion: As proposed in the NPRM, the final rule consolidates the FTC labels with EPA's and requires driving range disclosures on the EPA labels for FFVs.[17] The consolidation of federal requirements into a single AFV fuel economy label will help consumers by eliminating confusion caused from overlapping or inconsistent disclosures. It will also reduce industry burden by removing largely duplicative, and sometimes contradictory, labeling requirements.[18] Generally, the EPA labels provide more vehicle-specific information than the current FTC labels and direct consumers to additional data at *www.fueleconomy.gov.* This Web site provides comprehensive, comparative

[6] 76 FR 31513 (June 1, 2011) (ANPR on Alternative Fuels Rule). In 2011, EPA completed revisions to its fuel economy labeling requirements, which, among other things, addressed labels for AFVs not specifically addressed in the past EPA requirements. *See* 76 FR 39478 (July 6, 2011).

[7] 77 FR 36423 (June 19, 2012) (NPRM on Alternative Fuels Rule).

[8] The Commission received the following comments: Alliance of Automobile Manufacturers (#560902–00006); American Public Gas Association (#560902–00008); Baker, Michael (#560902–00005); Clean Energy Fuels Corp. (#560902–00011); General Motors Company (GM) (#560902–00004); Johnston, Jenna (#560902–00002); National Automobile Dealers Association (NADA) (#560902–00010); NGVAmerica (#560902–00009); and the Association of Global Automakers, Inc. (#560902–00007). The comments are available at: *http://www.ftc.gov/os/comments/alterfuelsnprm/index.shtm.*

[9] In the NPRM (77 FR at 36424), the Commission also proposed to add three categories of vehicles (hydrogen fuel cell, advanced lean burn, and hybrid motor vehicles) to the definition of ''alternative fuel vehicle,'' consistent with statutory amendments found in National Defense Authorization Act for Fiscal Year 2008. 42 U.S.C. 13211(3)(B).

[10] *See* AGPA, Alliance, GM, and NADA comments.

[11] The comments also supported the Commission's proposal to rely on the EPA label for hydrogen fuel cell, advanced lean burn, and hybrid vehicles. *See* NADA comments.

[12] *See also* GM comments.

[13] *See, e.g.,* NADA, AGPA, and the Alliance comments.

[14] *See* AGPA, Clean Energy comments.

[15] APGA also raised concerns about the marketing practices of companies that manufacture ''zero emission vehicles.'' It requested that the FTC work with the EPA and NHTSA to restrain manufacturers from making inaccurate and misleading marketing claims. The Commission may consider these and other advertising issues as part of its ongoing review of its ''Guide Concerning Fuel Economy Advertising for New Automobiles,'' 16 CFR part 259. See 76 FR 41467 (June 1, 2011) (notice postponing amendments to the Guide pending resolution of the Alternative Fuels Rule review).

[16] Finally, Global Automakers encouraged the Commission to finalize the proposed changes in advance of the 2014 model year, which can begin as early as January 2, 2013. To address electric vehicles introduced pending completion of this rulemaking, the Commission issued a policy stating that it will not enforce current FTC labeling requirements for any electric vehicle bearing an EPA-mandated fuel economy label and will encourage vehicle manufacturers to use the EPA label in lieu of the FTC label. *See* FTC enforcement policy on driving range numbers for electric vehicles at *http://www.ftc.gov/opa/2011/05/afr.shtm.*

[17] The amendments are consistent with the EPAct 92, which gives the Commission discretion to consolidate its requirements ''with other labels providing information to the consumer.'' 42 U.S.C. 13232(a). In addition, the Energy and Policy Conservation Act, 42 U.S.C. 32908(e)(2), authorizes the FTC to enforce the EPA automobile label requirements issued pursuant to 49 U.S.C. 32908(b).

[18] For example, consolidation will eliminate current inconsistencies between cruising range values on FTC and EPA electric vehicle labels. *See* FTC enforcement policy on driving range numbers for electric vehicles at *http://www.ftc.gov/opa/2011/05/afr.shtm.*

information for conventional vehicles and AFVs. Because the EPA fuel economy labels apply to all AFVs subject to the FTC's labeling requirements, these amendments eliminate separate FTC label requirements for all AFV types.[19] In addition, as proposed in the NPRM, the final rule requires manufacturers to use the EPA fuel economy label for FFVs that provides comparative driving range performance for both alternative fuel and conventional gasoline in lieu of existing FTC requirements. As commenters explained, this will ensure that the label provides vehicle buyers with comparative driving range performance for both alternative fuel and conventional gasoline.[20]

Finally, in response to concerns about EPA (and FTC) electric vehicle labels, the Commission is not addressing these issues now given its decision to eliminate its own labels in lieu of EPA's fuel economy labels. The Commission recommends that stakeholders continue to raise their concerns with EPA and NHTSA, so that those agencies can consider such matters in future revisions to the fuel economy label. The Commission's staff will continue to coordinate with EPA, NHTSA, and DOE on these and other AFV labeling issues.

B. Labels for Used AFVs

Background: In the ANPR, the Commission proposed eliminating the Rule's labeling requirements for used AFVs. Under the current FTC alternative fuel requirements, used AFV dealers must post labels containing general tips as well as references to government telephone numbers and Web sites. However, these labels do not disclose vehicle-specific information, such as driving range. Noting that these labels provide limited information and may impose increased burdens on used car dealers as the AFV market expands, the Commission proposed to eliminate the requirement for a AFV label for used vehicles. The Commission also sought comment on whether fuel economy information (*e.g.,* a reference to *www.fueleconomy.gov*) should appear on the FTC's Used Car Rule Buyers Guide, in the absence of a separate used AFV label.

Comments: The commenters supported the Commission's proposal to eliminate the AFV label for used vehicles. The Alliance and NADA argued the benefits of a used vehicle label, which contains only generic consumer tips, are small compared to the burdens imposed on dealers tasked with purchasing, installing, and maintaining such labels.[21] NADA, which noted that the EPAct 92 does not mandate used vehicle labels, also supported elimination because *www.fueleconomy.gov,* which did not exist when the FTC first issued the Rule, provides extensive fuel-related information for all used vehicles dating back to 1984.[22] NADA also argued that the used AFV label requirement is unfair to used car dealers because the requirement does not cover private sales, which account for about half of all used vehicle transactions.

Discussion: Consistent with commenter suggestions, the final rule eliminates the used vehicle label requirement. Conditions have changed since the Commission originally issued the Rule in 1995. Consumers can now access detailed used AFV information online at *www.fueleconomy.gov,* including vehicle-specific fuel economy, energy consumption, and environmental data. This online source provides much more information than the general factors currently required by the Rule for used AFVs, without imposing burdens on used car dealers, many of whom are small businesses. Accordingly, the Commission concludes that the used vehicle label is not necessary to ''reasonably enable the consumer to make choices and comparisons'' as contemplated by the statute.[23] In addition, without further information about the efficacy of including fuel economy information on the FTC's Used Car Rule Buyers Guide, the Commission does not propose changing that label at this time.

C. Alternative Fuel Labeling

As proposed in the NPRM, the final rule retains the Rule's labeling requirements for non-liquid alternative fuel requirements. Several comments supported the current requirements during this proceeding. No commenters proposed changes.[24]

IV. Paperwork Reduction Act

The current Rule contains recordkeeping, disclosure, testing, and reporting requirements that constitute ''information collection requirements'' as defined by 5 CFR 1320.3(c) under the OMB regulations that implement the Paperwork Reduction Act (PRA). OMB has approved the Rule's existing information collection requirements through April 30, 2016 (OMB Control No. 3084–0094). The final amendments would reduce the burdens associated with the Rule by eliminating FTC labeling requirements for vehicles subject to EPA's fuel economy labeling requirements.

In past PRA analyses, FTC staff has estimated the Rule applies to 1,121,153 alternative fueled vehicles each year, which mostly include flex-fuel vehicles. The staff estimated a two-minute average time to comply with the posting requirements for each of the approximately 1,121,153 new and used AFVs made available each year, for a total of 37,371 hours. The staff also estimated that the Rule's vehicle labeling requirements apply to an estimated 1,121,153 new and used AFVs each year at 38 cents for each label (per industry sources). Accordingly, the annual non-labor AFV labeling cost is estimated to be $426,038 ($0.38 × 1,121,153). The final rule will eliminate the Rule's burden for all these vehicles. Accordingly, FTC staff is submitting a related clearance request to OMB to adjust these previously submitted burden totals.

V. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612, requires that the Commission provide an Initial Regulatory Flexibility Analysis (IRFA) with a Proposed Rule and a Final Regulatory Flexibility Analysis (FRFA), with the final Rule, if any, unless the Commission certifies that the Rule will not have a significant economic impact on a substantial number of small entities.

The Commission does not anticipate that the amendments will have a significant economic impact on a substantial number of small entities. The Commission recognizes that some affected entities may qualify as small businesses under the relevant thresholds. Because the amendments

[19] Although EPA regulations (40 CFR part 600) require labeling for all vehicles covered under the FTC's Alternative Fuels Rule, current EPA rules do not contain a specific label for several vehicle types not generally available to individual consumers such as those fueled by liquefied petroleum gas, coal-derived liquid fuels, or fuels (other than alcohol) derived from biological materials. *See* 76 FR 39478 (July 6, 2011). However, EPA has authority to require labels for such vehicles, which are also covered by FTC's requirements.

[20] As proposed in the NPRM, the amendments also add the statutory definitions for ''lean burn,'' ''hybrid,'' and ''fuel cell'' vehicles to the Rule. The National Defense Authorization Act for Fiscal Year 2008 added these terms to the definition of ''alternative fuel vehicle'' in the statute. 42 U.S.C. 13211(3)(B). No comments opposed this change.

[21] Global Automakers and GM provided similar comments.

[22] Notwithstanding the usefulness of *www.fueleconomy.gov,* NADA cautioned against including a reference to that Web site on the Used Car Rule Buyers Guide, arguing such information could confuse consumers given the Buyers Guide's focus on warranty information.

[23] 42 U.S.C. 13232(a).

[24] See Alliance comments and 77 FR 36426 (discussion of comments on ANPR).

will lead to a modest burden reduction, however, the Commission does not expect that the economic impact of the Rule will be significant.

Accordingly, this document serves as notice to the Small Business Administration of the FTC's certification of no effect. Although the Commission certifies under the RFA that the Rule will not have a significant impact on a substantial number of small entities, the Commission has determined, nonetheless, that it is appropriate to publish an FRFA. Therefore, the Commission has prepared the following analysis:

A. Description of the Reasons That Action by the Agency Is Being Taken

To provide clear disclosures to consumers and reduce labeling burden, the final rule directs manufacturers to use EPA fuel economy labels in lieu of the existing FTC label. Section 406(a) of EPAct 92 directs the Commission to establish uniform labeling requirements, to the greatest extent practicable, for alternative fuels and AFVs.

B. Issues Raised by Comments in Response to the IRFA

No comments raised concerns with the impacts of the amendments on small businesses. By consolidating FTC labels with EPA's labels for new AFVs and eliminating the used vehicle label requirement, the amendments are likely to reduce impacts on small businesses.

C. Estimate of Number of Small Entities to Which the Amendments Will Apply

Under the Small Business Size Standards issued by the Small Business Administration, automobile manufacturers qualify as small businesses if they have fewer than 1,000 employees. The Commission estimates that approximately six vehicle manufacturers or commercial importers subject to the Rule qualify as small businesses.

D. Projected Reporting, Recordkeeping, and Other Compliance Requirements

The final rule does not impose any additional reporting, recordkeeping, or compliance requirements. Rather, it eliminates FTC labeling requirements for certain vehicles. The classes of small entities affected by the Rule include fuel distributors, vehicle manufacturers, and fuel retailers.

E. Description of Steps Taken To Minimize Significant Economic Impact, If Any, on Small Entities, Including Alternatives

As discussed in the Paperwork Reduction Act analysis of this Notice, the final rule eliminates duplicative labeling burden for alternative fueled vehicles.

Final Rule

List of Subjects in 16 CFR Part 309

Alternative fuel, Alternative fueled vehicle, Energy conservation, Labeling, reporting and recordkeeping, Trade practices.

For the reasons set forth in the preamble, the Federal Trade Commission amends Title 16, Chapter 1, Subchapter C of the Code of Federal Regulations, part 309, as follows:

PART 309—LABELING REQUIREMENTS FOR ALTERNATIVE FUELS AND ALTERNATIVE FUELED VEHICLES

■ 1. The authority citation for part 309 continues to read as follows:

Authority: 42 U.S.C. 13232(a).

■ 2. In § 309.1, revise paragraph (f)(2)(ii), add paragraph (f)(3), remove paragraphs (dd), (ee), and (ff), and redesignate (gg) as (dd).

The revision and addition read as follows:

§ 309.1 Definitions.

* * * * *

(f) * * *

(2) * * *

(ii) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or

(3) Any vehicle that is—

(i) A new qualified fuel cell motor vehicle (as defined in 26 U.S.C. 30B(b)(3));

(ii) A new advanced lean burn technology motor vehicle (as defined in 26 U.S.C. 30B(c)(3));

(iii) A new qualified hybrid motor vehicle (as defined in 26 U.S.C. 30B(d)(3)); or

(iv) Any other type of vehicle that the Administrator of the Environmental Protection Agency demonstrates to the Secretary would achieve a significant reduction in petroleum consumption.

* * * * *

■ 3. Revise § 309.20 to read as follows:

§ 309.20 Labeling requirements for new covered vehicles.

(a) Before offering a new covered vehicle for acquisition to consumers, manufacturers shall affix or cause to be affixed, and new vehicle dealers shall maintain or cause to be maintained, fuel economy labels as required by 40 CFR part 600. For dual fueled vehicles, such labels must include driving range information for alternative fuel and gasoline operation and be otherwise consistent with provisions in 40 CFR part 600.

(b) If an aftermarket conversion system is installed on a vehicle by a person other than the manufacturer prior to such vehicle's being acquired by a consumer, the manufacturer shall provide that person with the vehicle's fuel economy label prepared pursuant to 40 CFR part 600 and ensure that new fuel economy vehicle labels are affixed to such vehicles as required by paragraph (a) of this section.

§§ 309.21 and 309.22 [Removed]

■ 4. Remove §§ 309.21 and 309.22.

§ 309.23 [Redesignated as § 309.21]

■ 5. Redesignate § 309.23 as § 309.21.

Appendix A to part 309 [Amended]

■ 6. In Appendix A to part 309, remove figures 4, 5, 5.1, and 6.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2013–09568 Filed 4–22–13; 8:45 am]

BILLING CODE 6750–01–P

COURT SERVICES AND OFFENDER SUPERVISION AGENCY FOR THE DISTRICT OF COLUMBIA

28 CFR Part 811

RIN 3225–AA10

Sex Offender Registration Amendments

AGENCY: Court Services and Offender Supervision Agency for the District of Columbia.

ACTION: Final rule.

SUMMARY: The Court Services and Offender Supervision Agency for the District of Columbia (''CSOSA'') is amending its regulations which set forth procedures and requirements relating to periodic verification of registration information for sex offenders. Furthermore, the rule permits CSOSA to verify addresses of sex offenders by conducting home visits on its own accord and with its law enforcement partners. The rule also clarifies the schedule for verifying home addresses, even for those sex offenders who are required to register but are not under CSOSA's supervision.

DATES: Effective April 23, 2013.

ADDRESSES: Office of the General Counsel, CSOSA, 633 Indiana Avenue NW., Room 1380, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Rorey Smith, Deputy General Counsel,

(202) 220–5797, or *rorey.smith@csosa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

CSOSA is responsible under the District of Columbia Sex Offender Registration Act of 1999, D.C. Law 13–137, D.C. Official Code Sections 22–4001 *et seq.,* for carrying out the sex offender registration functions in the District of Columbia, including verification of information maintained on sex offenders. In addition, the Sex Offender Registration and Notification Act (SORNA), Title I of the Adam Walsh Child Protection and Safety Act of 2006, (Pub. L. 109–248), provides a comprehensive set of minimum standards for sex offender registration and notification in the United States. SORNA is designed to strengthen and increase the effectiveness of sex offender registration and notification for the protection of the public and to reduce the risk that sex offenders could evade registration requirements or the consequences of registration violations.

On December 11, 2012, CSOSA published a proposed rule to amend part 811, Title 28 of the Code of the Federal Regulations, and it can be found at 77 FR 73558. The proposed rule was published to allow CSOSA to better meet the requirements of the District of Columbia Sex Offender Registration Act of 1999 and SORNA. CSOSA now adopts the proposed rule as a final rule without change.

II. Statutory Authority

The District of Columbia Sex Offender Registration Act of 1999

The District of Columbia Sex Offender Registration Act of 1999, D.C. Law 13–137, D.C. Official Code Sections 22–4001 *et seq.,* grants CSOSA the authority to adopt and implement procedures and requirements for verification of address information and other information required for registration.

The Sex Offender Registration and Notification Act (SORNA)

The Sex Offender Registration and Notification Act (SORNA), Title I of the Adam Walsh Child Protection and Safety Act of 2006, (Pub. L. 109–248), requires a sex offender to appear in person, allowing the jurisdiction to take a current photograph and verify the information in the sex offender registry on a scheduled frequency. Jurisdictions may require verification of registration information with greater frequency than that required by SORNA and may wish to include in their systems additional means of verification for registration information, such as mailing address verification forms to the registered residence address, requesting that the sex offender to sign and return a verification form, crosschecking information provided by the sex offender for inclusion in the registry against other records systems, and verifying home addresses through home visits.

Jurisdictions are required to notify appropriate law enforcement agencies of failures by sex offenders to comply with registration requirements, and such registration violations must be reflected in the sex offender registry. SORNA requires that jurisdictions and the appropriate law enforcement agencies take any appropriate action to ensure compliance. Federal law enforcement resources, including those of the United States Marshals Service, are permitted to assist jurisdictions in locating and apprehending sex offenders who violate registration requirements.

III. Matters of Regulatory Procedure

Executive Order 12866

CSOSA has determined that this rule is not a significant rule within the meaning of Executive Order 12866.

Executive Order 13132

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. Under Executive Order 13132, this rule does not have sufficient federalism implications requiring a Federalism Assessment.

Regulatory Flexibility Act

The rule will not have a significant economic impact upon a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 605(b).

Unfunded Mandates Reform Act of 1995

The rule will not cause State, local, or tribal governments, or the private sector, to spend $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. No action under the Unfunded Mandates Reform Act of 1995 is necessary.

Small Business Regulatory Enforcement Fairness Act of 1996 (Subtitle E—Congressional Review Act)

This rule is not a ''major rule'' as defined by Section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996 Subtitle E—Congressional Review Act), now codified at 5 U.S.C. 804(2). The rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on the ability of United States-based companies to compete with foreign-based companies.

List of Subjects in 28 CFR Part 811

Probation and parole.

For the reasons set forth in the preamble, the Court Services and Offender Supervision Agency for the District of Columbia amends 28 CFR part 811 as follows:

PART 811—[AMENDED]

■ 1. The authority citation for 28 CFR part 811 is revised to read as follows:

Authority: DC ST sec. 24–133 and the District of Columbia Sex Offender Registration Act of 1999, D.C. Law 13–137.

■ 2. In § 811.9, revise paragraph (c) and add paragraph (e) to read as follows:

§ 811.9 Periodic verification of registration information.

* * * * *

(c) Quarterly or annually, as appropriate, CSOSA will send a certified letter with return receipt requested to the home of the sex offender.

* * * * *

(e) CSOSA, either on its own accord or with its law enforcement partners, will conduct home verifications of registered sex offenders pursuant to the following schedule:

(1) Semi-annually, at least every six months, for all registered Class A sex offenders without supervision obligation.

(2) Annually, for all registered Class B sex offenders without a supervision obligation.

(3) As directed by CSOSA and consistent with Agency policy for all Class A and B sex offenders with supervision obligation.

May 28, 2013.

Dated: April 16, 2013.

Nancy M. Ware,

Director, CSOSA.

[FR Doc. 2013–09471 Filed 4–22–13; 8:45 am]

BILLING CODE 3129–04–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1926

[Docket No. OSHA–2007–0066]

RIN No. 1218–AC61

Cranes and Derricks in Construction: Underground Construction and Demolition

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

ACTION: Final rule.

SUMMARY: On August 17, 2012, OSHA issued a notice of proposed rulemaking, as well as a companion direct final rule, that proposed applying the requirements in OSHA's 2010 cranes and derricks construction standard to underground construction work and demolition work. The notice of proposed rulemaking also proposed to correct inadvertent errors in the underground construction and demolition standards. After receiving a comment recommending that OSHA clarify the proposed regulatory text of the demolition standard, OSHA clarified the text and is issuing this final rule to apply the cranes and derricks standard to underground construction work and demolition work.

DATES: This final rule is effective May 23, 2013. Petitions for review of the final rule are due on June 24, 2013.

ADDRESSES: In compliance with 28 U.S.C. 2112(a), OSHA designates the Associate Solicitor of Labor for Occupational Safety and Health as the recipient of petitions for review of the final rule. Contact Joseph M. Woodward, Associate Solicitor, at the Office of the Solicitor, Room S–4004, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693–5445.

FOR FURTHER INFORMATION CONTACT: *General information and press inquiries:* Mr. Frank Meilinger, OSHA Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693–1999.

Technical inquiries: Mr. Garvin Branch, Directorate of Construction, Room N–3468, OSHA, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693–2020; fax: (202) 693–1689.

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

SUPPLEMENTARY INFORMATION:

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I. Background

On August 17, 2012, OSHA published a direct final rule and a companion notice of proposed rulemaking in the **Federal Register** to amend OSHA's construction standards in subpart S (Underground Construction, Caissons, Cofferdams, and Compressed Air) and subpart T (Demolition) of OSHA's construction standards at 29 CFR part 1926 (77 FR 49722; 77 FR 49741). The amendments apply subpart CC (Cranes and Derricks in Construction) of 29 CFR part 1926, which contains requirements for cranes and derricks used in construction, to underground construction work, and demolition work, involving equipment covered by subpart CC. Further, the direct final rule and notice of proposed rulemaking corrected inadvertent errors made to the underground construction and demolition standards in the 2010 rulemaking.

In both the proposed rule and the direct final rule, OSHA stated that it would treat comments received on the direct final rule as comments on the proposed rule, and comments received on the proposed rule as comments on the direct final rule. OSHA received two comments on the documents. The first comment addressed the timing of the implementation and enforcement of the operator-certification provisions of subpart CC (OSHA–2007–0066–0428). Specifically, the commenter claimed that extending the existing operator-certification requirement in subpart CC to crane operators in North Dakota who perform underground construction work or demolition work will make the task of certifying all crane operators in that state more difficult because of the limited number of certified examiners and qualified trainers available in that state.

OSHA is not revising the final rule in response to this comment. This comment did not challenge the application of the subpart CC standard to underground construction work or demolition work. Moreover, OSHA does not believe that requiring employers engaged in underground construction work or demolition work to meet the operator-certification requirements of subpart CC will substantially impact the availability of examiners or trainers in the commenter's state, or any other state in OSHA's jurisdiction, and the commenter did not provide any evidence to the contrary. The bulk of construction crane work already is subject to subpart CC. In addition, subpart CC already requires certification of any crane operator who performs other kinds of construction work, in addition to underground construction or demolition. As OSHA recognized in the preambles to its August 17, 2012, direct final rule and notice of proposed rulemaking, applying subpart CC to underground construction work and demolition work benefits contractors who also perform other work because they will be subject to a single standard instead of having some of their activities covered under subpart CC and other work covered by the temporary requirements in subpart DD (77 FR 49722, 49725; 77 FR 49741, 49745).[1]

Finally, OSHA's provisions regarding operator certification do not take effect until November 10, 2014. OSHA will continue to work with accredited testing organizations as the November 10, 2014, implementation date approaches to ensure that employers are able to meet the operator-certification requirements of subpart CC.

The second comment raised a concern about potential ambiguity in the introductory language of OSHA's proposed demolition standard. The commenter noted that the amendment to § 1926.800(t) of subpart S (Underground Construction, Caissons, Cofferdams, and Compressed Air) uses the phrase ''employers must,'' while §§ 1926.856(c) and 1926.858(b) of subpart T (Demolition) use the phrase ''Cranes, derricks, and other mechanical equipment used must.'' The commenter stated that the regulated community could misread the latter phrase to mean that only *the equipment* must comply with the provisions in subpart CC, and

[1] Subpart DD of 29 CFR part 1926, which OSHA drafted during the 2010 cranes rulemaking as a temporary measure to preserve the requirements of the former crane standard at § 1926.550 for application to underground construction work and demolition work, has been removed.

that employers involved in demolition work would not have to comply with the requirements in subpart CC that do not apply to equipment. Reading the proposed language in this manner would mean that many of the essential protective requirements in subpart CC would not apply to the employers, including requirements for operating equipment, operator certification and other personnel qualifications, inspections, and other requirements that do not relate to the design or function of equipment. The commenter recommended that OSHA use consistent language for all areas addressed by subpart CC.

Reading the proposed language to apply only to equipment is not consistent with OSHA's past application of similar language, or with the stated purpose of this rulemaking. OSHA means for subpart CC to apply as a comprehensive regulatory scheme, as it made clear in the preambles of its August 17, 2012, direct final rule and proposed rule: OSHA ''designed the final rule for cranes and derricks in construction, codified at 29 CFR part 1926, subpart CC, to replace the earlier rule (§ 1926.550) for all construction work'' (77 FR 49722, 49723; 77 FR 49741, 49743) and to ''bring all crane and derrick use in construction work under new subpart CC'' (77 FR 49722, 49724; 77 FR 49741, 49743). The 2010 final cranes rule contains many important requirements regarding personnel qualifications and responsibilities, including: operator-certification requirements at § 1926.1427, requirements for signal persons at §§ 1926.1409–.1412 and 1926.1428, and requirements for operating the equipment at § 1926.1417. OSHA emphasized the importance of applying *all* of subpart CC to demolition work. The Agency explained that doing so ''would ensure that the significant benefits of subpart CC, which include saving 22 lives per year and preventing 175 non-fatal injuries per year compared to prior § 1926.550 (75 FR 48079) extend to demolition and underground construction,'' and that ''construction workers in those sectors receive the same safety protections from new subpart CC as other construction workers'' (77 FR 49722, 49725; 77 FR 49741, 49744–45). The final economic analysis for the final cranes standard, which estimated the cost of all of the requirements in the final cranes rule for industries involved in demolition work (see Section V.A (Final Economic Analysis and Final Regulatory Flexibility Analysis) below), is identical to the analysis provided with the draft final rule and proposed rule, and also demonstrates that OSHA always intended that subpart CC apply comprehensively to underground construction and demolition work in construction.

II. Revisions to the Demolition Standard in This Final Rule

OSHA believes that the language in § 1926.856(c) and § 1926.858(b) of the proposed rule adequately specifies that the full scheme of requirements for cranes and derricks used in construction, including requirements for personnel qualifications and responsibilities, applies to demolition work. In addition, for the reasons stated in the proposed rule, OSHA concludes it is appropriate to apply those requirements to demolition. However, OSHA agrees that adopting different language similar to that in the § 1926.800(t) amendment would clarify application of the provisions. Therefore, to avoid any ambiguity, OSHA is amending the demolition standard by adding subparagraph headings and replacing the ''equipment used must'' language in both §§ 1926.856(c) and 1926.858(b) with a reference to the employer's duty to comply with *all* subpart CC requirements.

OSHA is making the other minor, proposed revisions to the demolition rule for the reasons explained in the preamble to the proposed rule. These revisions include reinserting into § 1926.858 the requirement to comply with subpart N, in addition to subpart CC, of 29 CFR part 1926.

III. Revisions to the Underground Construction Standard in This Final Rule

OSHA is not making any revisions to the underground construction standard other than the revisions specified in the proposed rule; OSHA is including those revisions for the reasons explained in the preamble to the proposed rule (see 77 FR 49724–49725). Most significantly, OSHA is requiring employers using cranes and derricks in underground construction to comply with all of the requirements in subpart CC. OSHA also is correcting several inadvertent errors in the underground construction standard by making several minor grammatical corrections and amending the introductory paragraph of § 1926.800(t) to restore the provision allowing employers to use cranes to hoist personnel for routine access to the underground worksites via a shaft without requiring them to demonstrate that conventional means of access are more hazardous or impossible for this purpose. OSHA also is correcting § 1926.800(t) by restoring the clause ''Except as modified by this paragraph (t)'' to the beginning of the introductory paragraph, and restoring § 1926.800(t)(1) through (t)(4).

IV. Agency Determinations

A. Final Economic Analysis and Final Regulatory Flexibility Analysis

When it issued the final cranes rule in 2010, OSHA prepared a final economic analysis (FEA) as required by the Occupational Safety and Health Act of 1970 (OSH Act; 29 U.S.C. 651 *et seq.*) and Executive Order 12866 (58 FR 51735). OSHA also published a Final Regulatory Flexibility Analysis as required by the Regulatory Flexibility Act (5 U.S.C. 601–612). OSHA's approach to estimating costs and economic impacts in these analyses began by estimating, for all construction sectors, the total number of cranes and whether they were owned and rented, owned without rental, or leased. As a result, both analyses covered all cranes engaged in construction activities, including cranes engaged in underground construction work and cranes engaged in construction work involving demolition. The FEA for the final cranes standard, which included all cranes, crane operations, and industry sectors subject to this final rule, found that the requirements of the rule were technologically and economically feasible.

Because the FEA drew these conclusions from calculations encompassing all of the underground construction and demolition crane operations covered by this final rule, the conclusions in the earlier FEA are valid for this final rule. The reference to the FEA for the final cranes rule, therefore, establishes that this final rule is technologically and economically feasible, addresses significant risks, and reduces those risks significantly. The FEA, which OMB reviewed, meets the requirements of Executive Orders 12866 and Executive Order 13563 with respect to the operations covered by this final rule; OSHA included these operations in the FEA for the final cranes standard. Therefore, OSHA believes that this final rule also complies with Executive Orders 12866 and Executive Order 13563.

To determine if this final rule has annual costs of greater than $100 million, or would have a significant economic impact on a substantial number of small firms, OSHA examined the sectors most affected by this final rule. This final rule affects two construction sectors: NAICS 237990 (Other Heavy and Civil Engineering

Construction), which includes all establishments engaged in underground construction, and NAICS 238910 (Site Preparation Contractors), which includes all establishments engaged in demolition. This analysis, therefore, reviews the results for these two sectors reported in the final crane standard's FEA, which the **Federal Register** published on August 9, 2010.

That FEA simply considered all cranes and crane operations in these sectors, and did not analyze separately those operations involving underground construction or demolition because OSHA planned to apply subpart CC to these operations. OSHA will report here the results for the entire heavy-and-civil engineering sector and the entire site-preparation sector, which will inevitably involve greater costs and impacts than for the activities addressed in this final rule because employers included in the heavy-and-civil engineering sector, or the site-preparation sector, have many cranes and crane jobs that do not involve underground construction or demolition activities. Table B–9 of the FEA shows that NAICS 237990, which includes all crane operations involved in underground construction operations, had annualized compliance costs of $1,903,569 for firms that own and rent cranes, $205,532 for firms that own but do not rent cranes, and $1,151,759 for firms that lease cranes, for total annualized costs of $3,260,860 (75 FR 48102–48105). Table B–9 also shows that NAICS 238910, which contains all crane operations involving demolition, had annualized compliance costs of $1,232,974 for firms that own and rent cranes, $292,601 for firms that own but do not rent cranes, and $1,626,463 for firms that lease cranes, for total annualized compliance costs of $3,152,038. The total annualized compliance cost for both sectors is $6,412,898. Because these two NAICS sectors include operations not involved in underground construction or demolition, the total estimated annualized compliance costs of $6,412,898 for these sectors will be greater than the actual costs of this final rule. Based on these costs, OSHA concludes that this final rule is not a significant rule under either E.O. 12866 or the Unfunded Mandates Act. OSHA reached the same conclusion in its preliminary analysis of the demolition standard published in the preamble of the proposed rule on August 17, 2012, and requested comment. OSHA did not receive any comments on this issue.

With respect to technological feasibility, the earlier FEA, which included consideration of both underground construction and demolition operations, noted:

> In accordance with the OSH Act, OSHA is required to demonstrate that occupational safety and health standards promulgated by the Agency are technologically feasible. Accordingly, OSHA reviewed the requirements that would be imposed by the final regulation, and assessed their technological feasibility. As a result of this review, OSHA has determined that compliance with the requirements of the final standard is technologically feasible for all affected industries. The standard would require employers to perform crane inspections, utilize qualified or certified crane operators, address ground conditions, maintain safe distances from power lines using the encroachment prevention precautions, and to fulfill other obligations under the standard. Compliance with all of these requirements can be achieved with readily and widely available technologies. Some businesses in the affected industries already implement the requirements of the standard to varying degrees (some states have requirements), as noted during the SBREFA Panel. OSHA believes that there are no technological constraints in complying with any of the proposed requirements, and received no comments that suggested that these standards were technologically infeasible.

(75 FR 48095.)

In Table B–12 of the FEA for the final cranes rule, OSHA examined the costs as a percentage of revenues and as a percentage of profits in these two sectors. This table shows that the greatest potential impacts were on establishments that own and rent cranes with operators. This table showed that for NAICS 237990, which includes all underground construction operations, costs were 0.18 percent (less than 1 percent) of revenues and 3.54 percent of profits. This table also showed that for NAICS 238910, which includes all demolition operations involving cranes, costs were 0.18 percent of revenues and 4.05 percent of profits. (Table B–12 of the FEA, and the FEA as a whole, provide the full calculations and derivations.) The FEA from the 2010 final cranes standard stated:

> The Agency concludes that the final standard is economically feasible for the affected industries. As described above, a standard is economically feasible if there is a reasonable likelihood that the estimated costs of compliance ''will not threaten the existence or competitive structure of an industry, even if it does portend disaster for some marginal firms.'' *United Steelworkers of America* v. *Marshall,* 647 F.2d 1189, 1272 (DC Cir. 1980). The potential impacts on employer costs associated with achieving compliance with the final standard fall well within the bounds of economic feasibility in each industry sector. Costs of 0.2 percent of revenues and 4 percent of profits will not threaten the existence of the construction industry, affected general industry sectors, or the use of cranes in affected industry sectors. OSHA does not expect compliance with the requirements of the final standard to threaten the viability of employers or the competitive structure of any of the affected industry sectors. When viewed in the larger context of the construction sector, an increase in costs of $148.2 million a year is effectively negligible, and will have no noticeable effect on the demand for construction services. Even when viewed as an increase in the costs of using cranes, an increase in the cost of rentals services of 0.2 percent will not cause the construction industry to forego the use of cranes and, thus, put crane leasing firms out of business.

(75 FR 48112.) Because the 2010 FEA included the costs of this underground construction and demolition final rule, which was only one part of the overall costs of the 2010 final rule, and OSHA considered the total cost of the 2010 final rule to be economically feasible, OSHA concludes that the FEA for this underground construction and demolition final rule is economically feasible. OSHA included the same conclusion in its preliminary economic analysis of the underground construction and demolition proposed rule and requested comment on that conclusion (77 FR 49746), but did not receive any comments on this issue.

Tables B–14 and B–15 of the FEA for the cranes and derricks final rule examine the costs as a percentage of revenues and as a percentage of profits in these two sectors for small firms as defined by the Small Business Administration, and very small entities with fewer than 20 employees, respectively. Because so many firms owning cranes are small, there is no appreciable difference between the impacts on small and very small firms versus the impacts for all firms already discussed. Comparison of the two tables shows that, for NAICS 237990, the impacts for very small firms were equal to or greater than those for small firms. Table B–15 shows that, for NAICS 237990, costs were 0.18 percent of revenues and 3.54 per cent of profits. This table also shows that, for NAICS 238910, including all demolition operations involving cranes, there were no very small entities that owned and rented cranes, with the result that the greatest impacts are for small entities that own and rent cranes, for which costs are 0.18 percent of revenues and 4.05 percent of profits.

In its regulatory flexibility analysis, OSHA generally defines a significant economic impact on small entities as one with costs in excess of one percent of revenues or five percent of profits. The possible costs of this final rule clearly are well below these thresholds.

OSHA reached the same conclusion in its preliminary economic analysis of the proposed amendments to the underground construction and demolition standards (77 FR 49746), and requested comment on that conclusion, but did not receive any comments. OSHA, therefore, certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act of 1995

When OSHA issued the final cranes rule on August 9, 2010, it submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) titled *Cranes and Derricks in Construction (29 CFR Part 1926, Subpart CC).* This ICR [2] covered all establishments in the construction industry, including all of the establishments in NAICS 237990 and NAICS 238910. On November 1, 2010, OMB approved the ICR under OMB control number 1218–0261, with an expiration date of November 30, 2013. Subsequently, in December 2010, OSHA discontinued the *Cranes and Derricks Standard for Construction (29 CFR 1926.550)* ICR (OMB Control Number 1218–0113) because the new ICR superseded the existing ICR. In addition, OSHA retitled the new ICR to *Cranes and Derricks in Construction (29 CFR Part 1926, Subpart CC and Subpart DD).*[3]

This final rule requires no additional collections of information.[4] OMB's approval of OSHA's ICR under Control Number 1218–0261 already covers all collections of information required by this final rule, and OSHA does not believe it is necessary to submit a new ICR to OMB seeking to collect additional information under this final rule. OSHA made the same determinations in the proposed rule (77 FR 49746) and requested comment on these determinations, but did not receive any comments.

OSHA notes that a Federal agency cannot conduct or sponsor a collection of information unless OMB approves it under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), and the agency displays a currently valid OMB control number. The public need not respond to a collection of information requirement unless the agency displays a currently valid OMB control number, and, notwithstanding any other provision of law, no person shall be subject to a penalty for failing to comply with a collection of information requirement if the requirement does not display a currently valid OMB control number.

C. Federalism

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

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

OSHA previously concluded from its analysis that promulgation of subpart CC complies with Executive Order 13132. 75 FR 48128–29. That analysis applies to the extension of subpart CC to establishments engaged in underground construction work or demolition work; therefore, this final rule complies with Executive Order 13132. OSHA included this determination in the proposed rule (77 FR 49747), and did not receive any comment. In states without an OSHA-approved State Plan, any standard developed from this final rule would limit state policy options in the same manner as every standard promulgated by OSHA. In states with OSHA-approved State Plans, this rulemaking does not significantly limit state policy options.

D. State Plan States

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

The amendments in this final rule will result in more stringent requirements for cranes and derricks used in underground construction or demolition work. Therefore, states and territories with approved State Plans must adopt comparable amendments to their standards for cranes and derricks used in underground construction or demolition within six months of the effective date of this final rule unless they demonstrate that such a change is not necessary because their existing standards are already the same, or at least as effective, as OSHA's new final rule.

E. Unfunded Mandates Reform Act

When OSHA issued the 2010 final rule for cranes and derricks in construction, it reviewed the rule according to the Unfunded Mandates

[2] The ICR is part of Exhibit 0425 in the docket for the final rule on cranes and derricks in construction (OSHA–2007–0066). It is available at *www.regulations.gov* and at *www.reginfo.gov* (OMB Control Number 1218–0261).

[3] This request, OMB's approval for discontinuing the previous Cranes and Derricks in Construction ICR (OMB Control Number 1218–0113) and the retitling of the ICR, are available at *www.reginfo.gov*.

[4] Although the final rule for cranes and derricks in construction did not require employers covered by subpart DD to meet the information-exchange requirements of subpart CC, OSHA did not deduct these employers from its analysis of the burden and costs for these requirements in the paperwork analysis for subpart CC. Therefore, this approach inflated the burden and costs estimates of the ICR approved by OMB for subpart CC; however, the burden and costs estimates are accurate now that OSHA is applying subpart CC to underground construction work and demolition work.

Reform Act of 1995 (UMRA; 2 U.S.C. 1501 *et seq.*) and Executive Order 13132 (64 FR 43255) (Aug. 10, 1999). OSHA concluded that the final rule for cranes and derricks in construction did not meet the definition of a ''Federal intergovernmental mandate'' under the UMRA because OSHA standards do not apply to state or local governments except in states that have voluntarily adopted State Plans. 75 FR 48130. OSHA further noted that the final rule for cranes and derricks in construction imposed costs of over $100 million per year on the private sector and, therefore, required review under the UMRA for those costs; OSHA determined that its final economic analysis met that requirement.

As discussed above in Section V.A (Final Economic Analysis and Final Regulatory Flexibility Analysis) of this preamble, this final rule does not impose any costs on private-sector employers beyond those costs already taken into account in the final rule for cranes and derricks in construction. Because OSHA reviewed the total costs of this final rule under the UMRA, no further review of those costs is necessary. Therefore, for the purposes of the UMRA, OSHA certifies that this final rule does not mandate that state, local, or tribal governments adopt new, unfunded regulatory obligations, or increase expenditures by the private sector of more than $100 million in any year.

F. Consultation and Coordination with Indian Tribal Governments

OSHA reviewed this final rule in accordance with Executive Order 13175 (65 FR 67249) and determined that it does not have ''tribal implications'' as defined in that order. The rule does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.

G. Legal Considerations

The purpose of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 *et seq.*) is ''to assure so far as possible every working man and woman in the nation safe and healthful working conditions and to preserve our human resources.'' 29 U.S.C. 651(b). To achieve this goal, Congress authorized the Secretary of Labor to promulgate and enforce occupational safety and health standards. 29 U.S.C. 654(b), 655(b). A safety or health standard is a standard ''which requires conditions, or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe or healthful employment or places of employment.'' 29 U.S.C. 652(8). A standard is reasonably necessary or appropriate within the meaning of Section 652(8) when a significant risk of material harm exists in the workplace and the standard would substantially reduce or eliminate that workplace risk. See *Industrial Union Department, AFL–CIO* v. *American Petroleum Institute,* 448 U.S. 607 (1980). In the cranes and derricks 2010 final rule, OSHA made such a determination with respect to the use of cranes and derricks in construction, while at the same time noting that the Agency would apply subpart CC to the activities addressed in this final rule (75 FR 47913, 47920–21).

This final rule will not reduce the employee protections put in place by the standard OSHA is updating under this rulemaking. Instead, this rulemaking likely will enhance employee safety by ensuring that the construction workers involved in underground construction or demolition receive the same safety protections from recently published subpart CC as other construction workers. OSHA explained in the proposed rule that the revisions also will benefit construction contractors that engage in underground construction or demolition work in addition to other types of construction work, because these contractors will now be subject to a single standard rather than having some of their construction work under subpart CC, and other work covered by former subpart DD. This action, therefore, will clarify employer obligations by applying a single cranes and derricks standard to all construction work, including demolition and underground construction projects. Accordingly, it is unnecessary to make a separate determination of significant risk, or the extent to which this rule would reduce that risk, as typically required by *Industrial Union Department.*

List of Subjects in 29 CFR Part 1926

Construction industry, Demolition, Occupational safety and health, Safety, Underground construction.

Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210, authorized the preparation of this document. OSHA is issuing this document pursuant to 29 U.S.C. 653, 655, and 657, 40 U.S.C. 3701 *et seq.,* 5 U.S.C. 553, Secretary of Labor's Order 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR part 1911.

Signed at Washington, DC, on April 12, 2013.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

Amendments to Standards

For the reasons stated in the preamble of this final rule, OSHA amends 29 CFR part 1926 to read as follows:

PART 1926—SAFETY AND HEALTH REGULATIONS FOR CONSTRUCTION

Subpart S—Underground Construction, Caissons, Cofferdams, and Compressed Air

■ 1. The authority citation for subpart S of 29 CFR part 1926 continues to read as follows:

Authority: 40 U.S.C. 3701; 29 U.S.C. 653, 655, 657; and Secretary of Labor's Orders 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 5–2007 (72 FR 31159), or 1–2012 (77 FR 3912), as applicable.

■ 2. Amend § 1926.800 by revising paragraph (t) to read as follows:

§ 1926.800 Underground construction.

* * * * *

(t) *Hoisting unique to underground construction.* Except as modified by this paragraph (t), employers must: Comply with the requirements of subpart CC of this part, except that the limitation in § 1926.1431(a) does not apply to the routine access of employees to an underground worksite via a shaft; ensure that material hoists comply with § 1926.552(a) and (b) of this part; and ensure that personnel hoists comply with the personnel-hoists requirements of § 1926.552(a) and (c) of this part and the elevator requirements of § 1926.552(a) and (d) of this part.

(1) *General requirements for cranes and hoists.* (i) Materials, tools, and supplies being raised or lowered, whether within a cage or otherwise, shall be secured or stacked in a manner to prevent the load from shifting, snagging or falling into the shaft.

(ii) A warning light suitably located to warn employees at the shaft bottom and subsurface shaft entrances shall flash whenever a load is above the shaft bottom or subsurface entrances, or the load is being moved in the shaft. This paragraph does not apply to fully enclosed hoistways.

(iii) Whenever a hoistway is not fully enclosed and employees are at the shaft bottom, conveyances or equipment shall be stopped at least 15 feet (4.57 m) above the bottom of the shaft and held

there until the signalman at the bottom of the shaft directs the operator to continue lowering the load, except that the load may be lowered without stopping if the load or conveyance is within full view of a bottom signalman who is in constant voice communication with the operator.

(iv)(A) Before maintenance, repairs, or other work is commenced in the shaft served by a cage, skip, or bucket, the operator and other employees in the area shall be informed and given suitable instructions.

(B) A sign warning that work is being done in the shaft shall be installed at the shaft collar, at the operator's station, and at each underground landing.

(v) Any connection between the hoisting rope and the cage or skip shall be compatible with the type of wire rope used for hoisting.

(vi) Spin-type connections, where used, shall be maintained in a clean condition and protected from foreign matter that could affect their operation.

(vii) Cage, skip, and load connections to the hoist rope shall be made so that the force of the hoist pull, vibration, misalignment, release of lift force, or impact will not disengage the connection. Moused or latched openthroat hooks do not meet this requirement.

(viii) When using wire rope wedge sockets, means shall be provided to prevent wedge escapement and to ensure that the wedge is properly seated.

(2) *Additional requirements for cranes.* Cranes shall be equipped with a limit switch to prevent overtravel at the boom tip. Limit switches are to be used only to limit travel of loads when operational controls malfunction and shall not be used as a substitute for other operational controls.

(3) *Additional requirements for hoists.* (i) Hoists shall be designed so that the load hoist drum is powered in both directions of rotation, and so that brakes are automatically applied upon power release or failure.

(ii) Control levers shall be of the ''deadman type'' which return automatically to their center (neutral) position upon release.

(iii) When a hoist is used for both personnel hoisting and material hoisting, load and speed ratings for personnel and for materials shall be assigned to the equipment.

(iv) Material hoisting may be performed at speeds higher than the rated speed for personnel hoisting if the hoist and components have been designed for such higher speeds and if shaft conditions permit.

(v) Employees shall not ride on top of any cage, skip or bucket except when necessary to perform inspection or maintenance of the hoisting system, in which case they shall be protected by a body belt/harness system to prevent falling.

(vi) Personnel and materials (other than small tools and supplies secured in a manner that will not create a hazard to employees) shall not be hoisted together in the same conveyance. However, if the operator is protected from the shifting of materials, then the operator may ride with materials in cages or skips which are designed to be controlled by an operator within the cage or skip.

(vii) Line speed shall not exceed the design limitations of the systems.

(viii) Hoists shall be equipped with landing level indicators at the operator's station. Marking the hoist rope does not satisfy this requirement.

(ix) Whenever glazing is used in the hoist house, it shall be safety glass, or its equivalent, and be free of distortions and obstructions.

(x) A fire extinguisher that is rated at least 2A:10B:C (multi-purpose, dry chemical) shall be mounted in each hoist house.

(xi) Hoist controls shall be arranged so that the operator can perform all operating cycle functions and reach the emergency power cutoff without having to reach beyond the operator's normal operating position.

(xii) Hoists shall be equipped with limit switches to prevent overtravel at the top and bottom of the hoistway.

(xiii) Limit switches are to be used only to limit travel of loads when operational controls malfunction and shall not be used as a substitute for other operational controls.

(xiv) Hoist operators shall be provided with a closed-circuit voice communication system to each landing station, with speaker microphones so located that the operator can communicate with individual landing stations during hoist use.

(xv) When sinking shafts 75 feet (22.86 m) or less in depth, cages, skips, and buckets that may swing, bump, or snag against shaft sides or other structural protrusions shall be guided by fenders, rails, ropes, or a combination of those means.

(xvi) When sinking shafts more than 75 feet (22.86 m) in depth, all cages, skips, and buckets shall be rope or rail guided to within a rail length from the sinking operation.

(xvii) Cages, skips, and buckets in all completed shafts, or in all shafts being used as completed shafts, shall be rope or rail-guided for the full length of their travel.

(xviii) Wire rope used in load lines of material hoists shall be capable of supporting, without failure, at least five times the maximum intended load or the factor recommended by the rope manufacturer, whichever is greater. Refer to § 1926.552(c)(14)(iii) of this part for design factors for wire rope used in personnel hoists. The design factor shall be calculated by dividing the breaking strength of wire rope, as reported in the manufacturer's rating tables, by the total static load, including the weight of the wire rope in the shaft when fully extended.

(xix) A competent person shall visually check all hoisting machinery, equipment, anchorages, and hoisting rope at the beginning of each shift and during hoist use, as necessary.

(xx) Each safety device shall be checked by a competent person at least weekly during hoist use to ensure suitable operation and safe condition.

(xxi) In order to ensure suitable operation and safe condition of all functions and safety devices, each hoist assembly shall be inspected and load-tested to 100 percent of its rated capacity: at the time of installation; after any repairs or alterations affecting its structural integrity; after the operation of any safety device; and annually when in use. The employer shall prepare a certification record which includes the date each inspection and load-test was performed; the signature of the person who performed the inspection and test; and a serial number or other identifier for the hoist that was inspected and tested. The most recent certification record shall be maintained on file until completion of the project.

(xxii) Before hoisting personnel or material, the operator shall perform a test run of any cage or skip whenever it has been out of service for one complete shift, and whenever the assembly or components have been repaired or adjusted.

(xxiii) Unsafe conditions shall be corrected before using the equipment.

(4) *Additional requirements for personnel hoists.* (i) Hoist drum systems shall be equipped with at least two means of stopping the load, each of which shall be capable of stopping and holding 150 percent of the hoist's rated line pull. A broken-rope safety, safety catch, or arrestment device is not a permissible means of stopping under this paragraph (t).

(ii) The operator shall remain within sight and sound of the signals at the operator's station.

(iii) All sides of personnel cages shall be enclosed by one-half inch (12.70 mm)

wire mesh (not less than No. 14 gauge or equivalent) to a height of not less than 6 feet (1.83 m). However, when the cage or skip is being used as a work platform, its sides may be reduced in height to 42 inches (1.07 m) when the conveyance is not in motion.

(iv) All personnel cages shall be provided with a positive locking door that does not open outward.

(v) All personnel cages shall be provided with a protective canopy. The canopy shall be made of steel plate, at least 3/16-inch (4.763 mm) in thickness, or material of equivalent strength and impact resistance. The canopy shall be sloped to the outside, and so designed that a section may be readily pushed upward to afford emergency egress. The canopy shall cover the top in such a manner as to protect those inside from objects falling in the shaft.

(vi) Personnel platforms operating on guide rails or guide ropes shall be equipped with broken-rope safety devices, safety catches or arrestment devices that will stop and hold 150 percent of the weight of the personnel platform and its maximum rated load.

(vii) During sinking operations in shafts where guides and safeties are not yet used, the travel speed of the personnel platform shall not exceed 200 feet (60.96 m) per minute. Governor controls set for 200 feet (60.96 m) per minute shall be installed in the control system and shall be used during personnel hoisting.

(viii) The personnel platform may travel over the controlled length of the hoistway at rated speeds up to 600 feet (182.88 m) per minute during sinking operations in shafts where guides and safeties are used.

(ix) The personnel platform may travel at rated speeds greater than 600 feet (182.88 m) per minute in completed shafts.

* * * * *

Subpart T—Demolition

■ 3. The authority citation for subpart T of 29 CFR part 1926 continues to read as follows:

Authority: 40 U.S.C. 3701; 29 U.S.C. 653, 655, 657; and Secretary of Labor's Orders 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 5–2007 (72 FR 31159), or 1–2012 (77 FR 3912), as applicable.

■ 4. Amend § 1926.856 by revising paragraph (c) to read as follows:

§ 1926.856 Removal of walls, floors, and material with equipment.

* * * * *

(c) *Cranes, derricks, and other mechanical equipment.* Employers must meet the requirements specified in subparts N, O, and CC of this part.

■ 5. Amend § 1926.858 by revising paragraph (b) to read as follows:

§ 1926.858 Removal of steel construction.

* * * * *

(b) *Cranes, derricks, and other hoisting equipment.* Employers must meet the requirements specified in subparts N and CC of this part.

* * * * *

[FR Doc. 2013–09153 Filed 4–22–13; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2013–0015]

RIN 1625–AA08

Special Local Regulations; Moss Point Rockin' the Riverfront Festival; Robertson Lake & O'Leary Lake; Moss Point, MS

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary special local regulation for a portion of Robertson Lake & O'Leary Lake, Moss Point, MS. This action is necessary for the safeguard of participants and spectators, including all crews, vessels, and persons on navigable waters during the Moss Point Rockin' the Riverfront Festival high speed boat races. Entry into, transiting or anchoring in this area is prohibited to all vessels not registered with the sponsor as participants or not part of the regatta patrol, unless specifically authorized by the Captain of the Port Mobile or a designated representative.

DATES: This rule is effective from 11 a.m. on April 27, 2013, until 4 p.m. on April 28, 2013. This rule will be enforced from 11 a.m. to 4 p.m. on April 27 and April 28, 2013.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2013–0015. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH''. Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or email LT Lenell J. Carson, Sector Mobile, Waterways Division, U.S. Coast Guard; telephone 251–441–5940, email *Lenell.J.Carson@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
COTP Captain of the Port

A. Regulatory History and Information

The Coast Guard published a NPRM in the **Federal Register** on February 12, 2013 (78 FR 9866), providing proper notice and opportunity to comment on this rule. No comments were received and there were no requests for a public meeting.

B. Basis and Purpose

The Moss Point Main Street Association applied for a Marine Event Permit to conduct a high speed boat race on Robertson Lake & O'Leary Lake, Moss Point, MS on April 27–28, 2013. This event will draw in a large number of pleasure craft and the high speed boats pose a significant safety hazard to both vessels and mariners operating in or near the area. The COTP Mobile is establishing a temporary special local regulation for a portion of Robertson Lake & O'Leary Lake, Moss Point, MS. This temporary special local regulation is deemed necessary to safeguard persons and vessels during the high speed boat races. The legal basis and authorities for this rule are found in 33 U.S.C. 1233 and 33 CFR part 100, which authorizes the Coast Guard to propose, establish, and define regulatory special local regulations for safety during marine events.

The COTP anticipates minimal impact on vessel traffic due to this regulation. However, the temporary special local regulation is deemed necessary for the safeguard of life and property within the COTP Mobile zone.

C. Discussion of Comments, Changes and the Temporary Final Rule

There were no comments received by the Coast Guard during the NPRM process.

The Coast Guard is establishing a temporary special local regulation for a portion of Robertson Lake & O'Leary Lake, Moss Point, MS, enclosed by a bounded area starting at a point on the shore at approximately 30°25′11.0″ N, 088 32′24.4″ W, then east to 30°25′12.9″ N, 088 32′18.0″ W, then south to 30°24′50.9″ N, 088 32′09.6″ W, then west following the shore line back to the starting point at 30°25′11.0″ N, 088 32′24.4″ W. This temporary rule will safeguard life and property in this area. Entry into, transiting or anchoring in this zone is prohibited to all vessels not registered with the sponsor as participants or not part of the regatta patrol, unless specifically authorized by the COTP Mobile or a designated representative. They may be contacted on VHF–FM Channel 16 or through Coast Guard Sector Mobile at 251–441–5976.

The COTP Mobile or a designated representative will inform the public through broadcast notice to mariners of changes in the effective period for the temporary special local regulation. This rule is effective from April 27, 2013 through April 28, 2013.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

The temporary special local regulation listed in this rule will only restrict vessel traffic from entering or transiting a small portion of Robertson Lake & O'Leary Lake, Moss Point, MS. The effect of this regulation will not be significant for several reasons: (1) This rule will only affect vessel traffic for a short duration; (2) vessels may request permission from the COTP to transit through the regulated area; and (3) the impacts on routine navigation are expected to be minimal. Notifications to the marine community will be made through Local Notice to Mariners and Broadcast Notice to Mariners. These notifications will allow the public to plan operations around the affected area.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received 0 comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in the affected portion of the Robertson Lake & O'Leary Lake during the high speed boat races. This temporary special local regulation will not have a significant economic impact on a substantial number of small entities for the following reasons. The regulated area is limited in size, is of short duration and vessel traffic may request permission from the COTP Mobile or a designated representative to enter or transit through the regulated area.

3. Assistance for Small Entities

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

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

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

This 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 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 under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not

an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it 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 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 rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule involves safety for the public and is not expected to result in any significant adverse environmental impact as described in NEPA. This rule is categorically excluded from further review under paragraph 34(h) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects 33 CFR Part 100

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

■ 2. Add § 100.T08–0015 to read as follows:

§ 100.T08–0015 Special Local Regulation; Moss Point Rockin' the Riverfront Festival; Robertson Lake & O'Leary Lake; Moss Point, MS.

(a) *Location.* The following area is a regulated area: a portion of Robertson Lake & O'Leary Lake, Moss Point, MS, enclosed by a bounded area starting at a point on the shore at approximately 30°25′11.0″ N, 088 32′24.4″ W, then east to 30°25′12.9″ N, 088 32′18.0″ W, then south to 30°24′50.9″ N, 088 32′09.6″ W, then west following the shore line back to the starting point at 30°25′11.0″ N, 088 32′24.4″ W.

(b) *Effective date.* This rule is effective from 11 a.m. on April 27, 2013, until 4 p.m. on April 28, 2013. This rule will be enforced from 11 a.m. to 4 p.m. on April 27 and April 28, 2013.

(c) *Special Local Regulations.* (1) The Coast Guard will patrol the regulated area under the direction of a designated Coast Guard Patrol Commander. The Patrol Commander may be contacted on Channel 16 VHF–FM (156.8 MHz) by the call sign ''PATCOM''.

(2) All Persons and vessels not registered with the sponsor as participants or official patrol vessels are considered spectators. The ''official patrol vessels'' consist of any Coast Guard, state, or local law enforcement and sponsor provided vessels assigned or approved by the Captain of the Port Mobile to patrol the regulated area.

(3) Spectator vessels desiring to transit the regulated area may do so only with prior approval of the Patrol Commander and when so directed by that officer and will be operated at a minimum safe navigation speed in a manner which will not endanger participants in the regulated area or any other vessels.

(4) No spectator shall anchor, block, loiter, or impede the through transit of participants or official patrol vessels in the regulated area during the effective dates and times, unless cleared for entry by or through an official patrol vessel.

(5) The patrol commander may forbid and control the movement of all vessels in the regulated area. When hailed or signaled by an official patrol vessel, a vessel shall come to an immediate stop and comply with the directions given. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(6) Any spectator vessel may anchor outside the regulated area, but may not anchor in, block, or loiter in a navigable channel. Spectator vessels may be moored to a waterfront facility within the regulated area in such a way that they shall not interfere with the progress of the event. Such mooring must be complete at least 30 minutes prior to the establishment of the regulated area and remain moored through the duration of the event.

(7) The Patrol Commander may terminate the event or the operation of any vessel at any time it is deemed necessary for the protection of life or property.

(8) The Patrol Commander will terminate enforcement of the special local regulations at the conclusion of the event.

(d) *Informational broadcasts.* The Captain of the Port or a designated representative will inform the public through broadcast notices to mariners of the enforcement period for the regulated area as well as any changes in the planned schedule.

Dated: March 18, 2013.

D.J. Rose,

Captain, U.S. Coast Guard, Captain of the Port, Mobile.

[FR Doc. 2013–09548 Filed 4–22–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2013–0237]

Drawbridge Operation Regulations; Narrow Bay, Smith Point, NY

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Smith Point Bridge, mile 6.1, across Narrow Bay, between Smith Point and Fire Island, New York. The deviation is necessary to facilitate the Smith Point Triathlon. This deviation allows the bridge to remain closed for two hours to facilitate public safety during a public event.

DATES: This deviation is effective between 7 a.m. and 9 a.m. on August 4, 2013.

ADDRESSES: The docket for this deviation, [USCG–2013–0237] 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 temporary deviation, call or email Ms. Judy Leung-Yee, Project Officer, First Coast Guard District, *judy.k.leung-yee@uscg.mil,* or (212) 668–7165. If you have questions on viewing the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The Smith Point Bridge, mile 6.1, across Narrow Bay, between Smith Point and Fire Island, New York, has a vertical clearance in the closed position of 16 feet at mean high water and 18 feet at mean low water. The drawbridge operation regulations are listed at 33 CFR 117.799.

The waterway users are recreational vessels of various sizes.

The owner of the bridge, Suffolk County Department of Public Works, requested a temporary deviation from the regulations to allow the bridge to remain closed for two hours to facilitate public safety during a public event, the Smith Point Triathlon.

Under this temporary deviation the Smith Point Bridge, mile 6.1, across Narrow Bay between Smith Point and Fire Island, will remain in the closed position between 7 a.m. and 9 a.m. on August 4, 2013.

Vessels that can pass under the bridge in the closed position may do so at any time. There are no alternate routes; however, the bridge can open in an emergency. Vessel operators will be notified of the bridge closure through a Safety Marine Information Broadcast (SMIB) issued by the Coast Guard.

In accordance with 33 CFR 117.35(e), the bridge 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: April 10, 2013.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

[FR Doc. 2013–09550 Filed 4–22–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[USCG–2013–0229]

Drawbridge Operation Regulations; Newtown Creek, New York City, NY

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Greenpoint Avenue Bridge across Newtown Creek, mile 1.3, at New York City, New York. The deviation is necessary to facilitate bridge painting operations. Under this temporary deviation, the bridge may remain in the closed position for various times up to six days at a time during a four month period.

DATES: This deviation is effective from May 1, 2013 through September 30, 2013.

ADDRESSES: The docket for this deviation, [USCG–2013–0229] 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 temporary deviation, call or email Ms. Judy Leung-Yee, Project Officer, First Coast Guard District, *judy.k.leung-yee@uscg.mil,* or (212) 668–7165. If you have questions on viewing the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The Greenpoint Avenue Bridge has a vertical clearance of 26 feet at mean high water and 31 feet at mean low water in the closed position. The existing drawbridge operating regulations are found at 33 CFR 117.801(g).

The bridge owner, New York City Department of Transportation, requested multiple six day closure periods between May 1, 2013 and September 30, 2013, to facilitate bridge painting operation at the Greenpoint Avenue Bridge. Each six day closure period will be followed with four days of normal bridge operations. The exact time and dates of each six day closure period will be announced in the Local Notice to Mariners and also with a Broadcast Notice to Mariners at least two weeks in advance of each closure period. This temporary deviation will be in effect from May 1, 2013 through September 30, 2013.

The waterway users are commercial oil and barge vessels. The oil facilities were all contacted and advised of the closures and no objections were received.

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

Dated: April 10, 2013.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

[FR Doc. 2013–09551 Filed 4–22–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[USCG–2013–0244]

Drawbridge Operation Regulations; Saugatuck River, Westport, CT

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Route 136 Bridge across the Saugatuck River, mile 1.3, at Westport, Connecticut. The deviation is necessary to facilitate emergency repairs. Under this temporary deviation, the bridge owner requires a 24 hour advance notice for bridge openings through June 1, 2013.

DATES: This deviation is effective from May 4, 2013 through June 1, 2013.

ADDRESSES: The docket for this deviation, [USCG–2013–0244] 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 temporary deviation, call or email Ms. Judy Leung-Yee, Project Officer, First Coast Guard District, *judy.k.leung-yee@uscg.mil,* or (212) 668–7165. If you have questions on viewing the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The Route 136 Bridge has a vertical clearance of 6 feet at mean high water in the closed position. The existing drawbridge operating regulations are found at 33 CFR 117.221(c).

The bridge owner, Connecticut Department of Transportation, requested a 24 hour advance notice requirement for bridge openings to facilitate emergency repairs to the mechanical and electrical components at the bridge.

We previously authorized the above request from March 5, 2013 through May 3, 2013; however, an additional 29 days will be necessary in order to finish storm related repairs from Hurricane Sandy last October. The bridge can operate manually in the event of an emergency situation.

Under this temporary deviation at least a 24 hour advance notice shall be required for bridge openings at the Route 136 Bridge, mile 1.3, across the Saugatuck River at Westport, Connecticut, from May 4, 2013 through June 1, 2013.

The Saugatuck River is predominantly a recreational waterway. During the time period that this temporary deviation will be in effect the impact on navigation will be minimal.

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

Dated: April 10, 2013.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

[FR Doc. 2013–09555 Filed 4–22–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2013–0197]

RIN 1625–AA09

Drawbridge Operation Regulations; North Carolina Cut, Atlantic Intracoastal Waterway (AIWW), Wrightsville Beach, NC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is temporarily changing the operating schedule that governs the operation of the S.R. 74 Bridge, at AIWW mile 283.1, over the North Carolina Cut, at Wrightsville Beach, NC. This rule restricts the operation of the draw span to facilitate the additional unforeseen structural repair of the bridge. This change allows the bridge to open on a two hour advance notification at night so the necessary repairs may be made while still providing reasonable needs of navigation.

DATES: This rule is effective from April 23, 2013 until 7 a.m. on March 1, 2014, and has been enforced with actual notice since 7 p.m. on April 16, 2013.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2013–0197. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or email Mr. Jim Rousseau, Bridge Management Specialist, Coast Guard, telephone (757) 398–6422, email *James.L.Rousseau2@uscg.mil.* If you have questions on reviewing the docket, call Barbara Hairston, Program Manager, Docket Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking
§ Section Symbol
U.S.C. United States Code

A. Regulatory History and Information

The Coast Guard published a temporary deviation (77 FR 64411) on October 22, 2012, which allowed the bridge to operate under a restricted schedule until March 15, 2013, so structural repairs could be made to the bridge. The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. The Coast Guard did not learn of the severity of the bridge damage and necessity of the repairs until after the previous deviation period ended. The repairs that are the subject of this regulation need to be undertaken as soon as possible to ensure safe use of the bridge.

On March 22, 2013, the Coast Guard received a letter from the bridge owner identifying additional structural problems with the bridge that would require work to continue under an altered bridge operating schedule. After coordination with the bridge owner and contractor, the Coast Guard established a maintenance schedule. The necessary repairs are more extensive and will require a longer alteration period from the bridge schedule. As of the effective date, emergency work will be ongoing at the bridge in accordance with the schedule set forth in this document. Forgoing notice and comment will minimize disruption to the work already underway, provide for the reasonable needs of navigation, and allow for an efficient course of repairs in order to eventually return this bridge to its regular operating schedule, and thus, any delay is impracticable.

Under 5 U.S.C. 553(d)(3), for the same reasons as discussed above, the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

B. Basis and Purpose

The North Carolina Department of Transportation, which owns and operates this bascule lift bridge, has

requested a temporary change to the existing operating regulations set out in 33 CFR 117.821 (a)(4), to facilitate the additional emergency structural repair of the bridge. The current operating schedule opens on the hour from 7 a.m. to 7 p.m. and on demand during the rest of the day.

The S.R. 74 Bridge, at AIWW mile 283.1, over the North Carolina Cut, at Wrightsville Beach, NC has unlimited vertical clearances in the open position and closed position of 20 feet above mean high water respectively.

The Coast Guard initially published a temporary deviation (77 FR 64411) on October 22, 2012, which allowed the bridge to operate under a restricted schedule until March 15, 2013, to accommodate for repair. However, the repairs are more extensive than initially contemplated and were not discovered until the end of the project. A contract extension was granted and a formal request to continue work by letter was received on March 22, 2013. Therefore, in order to facilitate the required additional repair work and to minimize the impact on navigation, from April 16, 2013, to March 1, 2014, the bridge shall open providing 2-hour advance notice during the evening and early morning hours when impact to navigation will be the least. The temporary final rule is needed to complete extensive work on the bridge.

Vessel traffic along this part of the Atlantic Intracoastal Waterway consists of commercial and pleasure craft including sail boats, fishing boats, and tug and barge traffic that transit mainly during the daylight hours with the occasional recreational and commercial fishing vessel traffic at night. There are fewer openings at night for mariners, making it a more suitable time to restrict the operation of the drawbridge. There are no alternate routes for vessels transiting this section of the North Carolina.

C. Discussion of Temporary Final Rule

Under this temporary final rule the Coast Guard is temporarily revising the operating regulations at 33 CFR 117.821 by suspending the current regulation listed at 33 CFR 117.821(a)(4) and adding the revised regulation at 33 CFR 117.821(a)(6). The regulation will now read that between 7 a.m. and 7 p.m., the draw need only open on the hour and from 7 p.m. to 7 a.m. need not open, except with a two hour advance notice. The remainder of 33 CFR 117.821 will remain unchanged. This temporary final rule is necessary because of additional problems discovered on the bridge.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. This change is not a significant regulatory action because it is expected to have minimal impact on mariners since the operating hours effected are during the evening and early morning when vessel traffic is at a minimum. The Coast Guard has carefully coordinated the restrictions with commercial and recreational waterway users.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This action will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will be in effect from 7 p.m. to 7 a.m. with two hour notification for opening when vessel traffic is low. Vessels that can safely transit under the bridge may do so at any time.

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 rule calls for no 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 have determined that it does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the ''For Further Information Contact'' section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule involves the change to the operating schedule for the Wrightsville Beach Bridge in order to accommodate necessary repair. This rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction.

Under figure 2–1, paragraph (32)(e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

■ 2. In § 117.821, from 7 a.m. on April 16, 2013, through 7 p.m. on March 1, 2014, suspend paragraph (a)(4) and add paragraph (a)(6) to read as follows:

§ 117.821 Atlantic Intracoastal Waterway, Albemarle Sound to Sunset Beach.

(a) * * *

(6) S.R. 74 Bridge, mile 283.1 at Wrightsville Beach, NC, between 7 a.m. and 7 p.m., the draw need only open on the hour and from 7 p.m. to 7 a.m. need not open, except with a two hour advance notice; except that from 7 a.m. to 9 a.m. on the second Saturday of July of every year, from 7 a.m. to 11 a.m. on the third and fourth Saturday of September of every year, and from 7 a.m. to 10:30 a.m. on the last Saturday of October of every year or the first or second Saturday of November of every year, the draw need not open for vessels due to annual races.

* * * * *

Dated: April 4, 2013.

Steven H. Ratti,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 2013–09549 Filed 4–22–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 162

[Docket No. USCG–2012–0952]

RIN 1625–AB95

Inland Waterways Navigation Regulation: Sacramento River, CA

AGENCY: Coast Guard, DHS.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: The Coast Guard is confirming the removal of the Decker Island restricted anchorage area in the Sacramento River. The restricted anchorage area was needed in the past to prevent non-government vessels from transiting through or anchoring in the United States Army's tug and barge anchorage zones. The United States Army relinquished control of the Island in 1975. A direct final rule detailing the removal of the restricted anchorage regulation was published in the **Federal Register** on January 23, 2013. We received no comments in response, therefore, the rule will go into effect as scheduled.

DATES: The effective date of the direct final rule published January 23, 2013 (78 FR 4785) is confirmed as April 23, 2013.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email Lieutenant Lucas Mancini, U.S. Coast Guard Eleventh District; telephone (510) 437–3801 or email *Lucas.W.Mancini@uscg.mil.*

SUPPLEMENTARY INFORMATION: On January 23, 2013, we published a direct final rule and request for comment entitled, ''Inland Waterways Navigation Regulation: Sacramento River, CA'' in the **Federal Register** (78 FR 4785). That rule announced our intent to update the inland waterways navigation regulations by removing the Decker Island restricted anchorage described in 33 CFR 162.205(c).

In the direct final rule we notified the public of our intent to make the rule effective on April 23, 2013, unless an adverse comment, or notice of intent to submit an adverse comment, was received on or before March 25, 2013. We did not receive any comments or notices of intent to submit an adverse comment on the rule. Therefore, under 33 CFR 1.05–55(d), we now confirm that the removal of the Decker Island restricted anchorage will become effective, as scheduled, on April 23, 2013.

Dated: April 9, 2013.

K.L. Schultz,

Rear Admiral, U.S. Coast Guard, Commander, Eleventh Coast Guard District.

[FR Doc. 2013–09518 Filed 4–22–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2013–0069]

Safety Zone; Fourth of July Fireworks; City of Antioch, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the safety zone for the City of Antioch Fourth of July Fireworks display in the Captain of the Port, San Francisco area of responsibility during the dates and times noted below. This action is necessary to protect life and property of the maritime public from the hazards associated with the fireworks display. During the enforcement period, unauthorized persons or vessels are prohibited from entering into, transiting through, or anchoring in the safety zone,

unless authorized by the Patrol Commander (PATCOM).

DATES: This rule will be enforced from 8 a.m. until 10:15 p.m. on July 4, 2013.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email Lieutenant Junior Grade Joshua Dykman, Sector San Francisco Waterways Safety Division, U.S. Coast Guard; telephone 415–399–3585, email *D11-PF-MarineEvents@uscg.mil.*

SUPPLEMENTARY INFORMATION: The regulations in 33 CFR 165.1191, Table 1, Item number 14, will be enforced from 8 a.m. until 10:15 p.m. on July 4, 2013. The Coast Guard will enforce this safety zone in navigable waters around and under the fireworks barge within a radius of 100 feet during the loading, transit, and arrival of the fireworks barge to the display location and until the start of the fireworks display. From 8 a.m. until 8 p.m. on July 4, 2013, the fireworks barge will be loaded off of Fulton Shipyard Pier in Antioch, CA at position 38°01′03″ N, 121°48′10″ W (NAD 83). From 8 p.m. to 8:50 p.m. on July 4, 2013, the loaded barge will transit from Fulton Shipyard Pier to the launch site off the City of Antioch, CA near position 38°01′06″ N, 121°48′32″ W (NAD 83) where it will remain until the commencement of the fireworks display. Upon the commencement of the 30 minute fireworks display, scheduled to take place from 9:30 p.m. to 10 p.m. on July 4, 2013, the safety zone will increase in size to encompass the navigable waters around and under the fireworks barge within a radius 1,000 feet near position 38°01′06″ N, 121°48′32″ W (NAD 83) for the City of Antioch Fourth of July Fireworks display in 33 CFR 165.1191, Table 1, Item number 14.

Under the provisions of 33 CFR 165.1191, unauthorized persons or vessels are prohibited from entering into, transiting through, or anchoring in the safety zone during all applicable effective dates and times, unless authorized to do so by the PATCOM. Additionally, each person who receives notice of a lawful order or direction issued by an official patrol vessel shall obey the order or direction. The PATCOM is empowered to forbid entry into and control the regulated area. The PATCOM shall be designated by the Commander, Coast Guard Sector San Francisco. The PATCOM may, upon request, allow the transit of commercial vessels through regulated areas when it is safe to do so. This notice is issued under authority of 33 CFR 165.1191 and 5 U.S.C. 552 (a). In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with extensive advance notification of the safety zone and its enforcement period via the Local Notice to Mariners.

If the Captain of the Port determines that the regulated area need not be enforced for the full duration stated in this notice, a Broadcast Notice to Mariners may be used to grant general permission to enter the regulated area.

Dated: March 11, 2013.

Cynthia L. Stowe,

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

[FR Doc. 2013–09542 Filed 4–22–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2012–1084]

RIN 1625–AA00

Safety Zones; Annual Fireworks Events in the Captain of the Port Buffalo Zone

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending and establishing regulations requiring safety zones for firework events that take place annually within the Captain of the Port Zone Buffalo. This final rule is intended to amend and establish restrictions on vessel access to designated areas on U.S. navigable waterways during certain fireworks displays. The safety zones amended and established by this final rule are necessary to protect spectators, participants, and vessels from the hazards associated with fireworks displays.

DATES: This rule is effective May 23, 2013.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2012–1084]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or email LT Christopher Mercurio, Chief of Waterways Management, U.S. Coast Guard Sector Buffalo; telephone 716–843–9343, email *SectorBuffaloMarineSafety@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. Regulatory History and Information

On June 18, 2008, the Coast Guard put 33 CFR 165.939 into effect, which established several permanent safety zones within U.S. navigable waters under the jurisdiction of the Captain of the Port Buffalo (73 FR 28704). Specifically, twenty-six permanent safety zones were established then. These safety zones were put in place to protect the boating public from hazards associated with annually recurring fireworks displays that take place over U.S. navigable waterways. Since those twenty-six safety zones were established in June of 2008, the Coast Guard has not amended 33 CFR 165.939. On February 20, 2013, we published a NPRM entitled Safety Zones; Annual Fireworks Events in the Captain of the Port Buffalo Zone in the **Federal Register** (78 FR 11798). We received 0 comments on the proposed rule.

B. Basis and Purpose

As stated above, 33 CFR 165.939 currently lists twenty-six permanent safety zones within the Captain of the Port Zone Buffalo. Each of these twenty-six safety zones corresponds to an annually recurring fireworks display. During a recent review of 33 CFR 165.939, it was determined that event details for seventeen recurring fireworks displays have changed, seven additional recurring fireworks displays now require that permanent safety zones be implemented, and four permanent safety zones require disestablishment because the corresponding fireworks displays have not occurred for an extended time. In addition, it was noted that the coordinates for the safety zones corresponding with the Browns Football Half time Fireworks and the Lorain Port Fest Fireworks are formatted differently than the other safety zones. Finally, it was noted that the radius of the safety zone associated with the Lorain Port Fest Fireworks is in yards as opposed to

feet. With the above findings in mind, the Coast Guard is amending 33 CFR 165.939 to disestablish four safety zones; to revise the enforcement period, the size, and the location of seventeen other safety zones; and to establish seven new safety zones. Likewise, this rule will amend the Browns Football Half time and the Lorain Port Fest safety zones, to include changing the format of the coordinates and the radius size from yards to feet. The Captain of the Port Buffalo has determined that this amendment is necessary to protect spectators and participants from the hazards associated with maritime fireworks displays.

C. Discussion of Comments, Changes and the Final Rule

As mentioned above, no comments were received from the public in response to the NPRM that preceded this final rule. Furthermore, there were no changes made between the proposed rule and this final rule. Thus, there are no comments and no changes to discuss.

Just as was described in the NPRM, the Captain of the Port Buffalo is amending 33 CFR 165.939. Specifically, this rule will revise 33 CFR 165.939 in its entirety. This revision will include modifications made to the size, location, and enforcement period for seventeen safety zones, the disestablishment of four safety zones, two technical amendments, and the establishment of seven additional safety zones. In total, after this rule goes into effect, 33 CFR 165.939 will contain a total of twenty-nine permanent safety zones. Although this rule will remain in effect year round, the safety zones within it will be enforced only immediately before, during, and after each corresponding event.

The Captain of the Port Buffalo will use all appropriate means to notify the public when the zones in this proposal will be enforced. Consistent with 33 CFR 164.7(a), such means of notification may include, among other things, publication in the **Federal Register** and Broadcast Notice to Mariners notifying the public when enforcement of a safety zones in this section is in effect and when cancelled.

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

D. Regulatory Analyses

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

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS). We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The safety zones contained in this rule will be relatively small and enforced for relatively short time. Also, the safety zones are designed to minimize their impact on navigable waters. Furthermore, the safety zones have been designed to allow vessels to transit around them. Thus, restrictions on vessel movement within the particular areas are expected to be minimal. Under certain conditions, moreover, vessels may still transit through a safety zone when permitted by the Captain of the Port Buffalo.

2. Impact on Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered the impact of this rule on small entities. The Coast Guard received 0 comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule would affect the following entities, some of which might be small entities: The owners and operators of vessels intending to transit or anchor in any one of the below safety zones while the safety zone is being enforced. The below safety zones will not have a significant economic impact on a substantial number of small entities for the following reasons: Each safety zone in this rule will be in effect for only a few hours within any given 24 hour period. Each of the safety zones will be in effect only once per year. Furthermore, these safety zones have been designed to allow traffic to pass safely around each zone. Moreover, vessels will be allowed to pass through each zone at the discretion of the Captain of the Port Buffalo, or his or her designated representative.

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 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 rule or any policy or action of the Coast Guard.

4. Collection of Information

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

5. Federalism

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

6. Unfunded Mandates Reform Act

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

7. Taking of Private Property

This rule 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.

8. Civil Justice Reform

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

9. Protection of Children From Environmental Health Risks

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

10. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it 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.

11. Energy Effects

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

12. Technical Standards

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

13. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have 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 rule involves the establishment and disestablishment of safety zones and, therefore it 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 preliminary Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard is amending 33 CFR Part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Revise § 165.939 to read as follows:

§ 165.939 Safety Zones; Annual Fireworks Events in the Captain of the Port Buffalo Zone.

(a) *Safety Zones.* The following are designated as safety zones:

(1) *Boldt Castle 4th of July Fireworks, Heart Island, NY.* (i) *Location.* All U.S. waters of the Saint Lawrence River within a 1,120 foot radius of land position 44°20′38.5″ N, 075°55′19.1″ W (NAD 83) at Heart Island, NY.

(ii) *Enforcement Date and Time.* From 8:30 p.m. to 10:30 p.m. on July 4 of each year.

(2) *Clayton Chamber of Commerce Fireworks, Calumet Island, NY.* (i) *Location.* All U.S. waters of the Saint Lawrence River within an 840 foot radius of land position 44°15′04″ N, 076°05′40″ W (NAD 83) at Calumet Island, NY.

(ii) *Enforcement Date and Time.* From 9:00 p.m. to 11:30 p.m. on July 3 of each year.

(3) *French Festival Fireworks, Cape Vincent, NY.* (i) *Location.* All U.S. waters of the Saint Lawrence River within an 840 foot radius of land position 44°07′54.6″ N, 076°20′01.3″ W (NAD 83) in Cape Vincent, NY.

(ii) *Enforcement Date and Time.* From 9:15 p.m. to 11:00 p.m. on the second weekend of July each year.

(4) *Lyme Community Days, Chaumont, NY.* (i) *Location.* All U.S. waters of Chaumont Bay within a 560 foot radius of position 44°04′06.3″ N, 076°08′56.8″ W (NAD 83) in Chaumont, NY.

(ii) *Enforcement Date and Time.* From 8:30 p.m. to 11:00 p.m. on the fourth weekend of July each year.

(5) *Village Fireworks, Sackets Harbor, NY.* (i) *Location.* All U.S. waters of Black River Bay within an 840 foot radius of position 43°56′51.9″ N, 076°07′46.9″ W (NAD 83) in Sackets Harbor, NY.

(ii) *Enforcement Date and Time.* From 8:30 p.m. to 10:30 p.m. on July 4 each year.

(6) *Can-Am Festival, Sackets Harbor, NY.* (i) *Location.* All U.S. waters of Black River Bay within a 1,120 foot radius of position 43°57′15.9″ N, 076°06′39.2″ W (NAD 83) in Sackets Harbor, NY.

(ii) *Enforcement Date and Time.* From 9:00 p.m. to 10:45 p.m. on the third weekend of July each year.

(7) *Oswego Harborfest, Oswego, NY.* (i) *Location.* All U.S. waters of Lake Ontario within a 1,000 foot radius of position 43°28′10″ N, 076°31′04″ W (NAD 83) in Oswego, NY.

(ii) *Enforcement Date and Time.* From 9:00 to 10:30 p.m. on the last Saturday of July each year.

(8) *Brewerton Fireworks, Brewerton, NY.* (i) *Location.* All U.S. waters of Lake Oneida within an 840 foot radius of barge position 43°14′16.4″ N, 076°08′03.6″ W (NAD 83) in Brewerton, NY.

(ii) *Enforcement Date and Time.* From 9:00 p.m. to 10:30 p.m. on July 3 of each year.

(9) *Celebrate Baldwinsville Fireworks, Baldwinsville, NY.* (i) *Location.* All U.S. waters of the Seneca River within a 700 foot radius of land position 43°09′24.9″ N, 076°20′18.9″ W (NAD 83) in Baldwinsville, NY.

(ii) *Enforcement Date and Time.* From 9:00 p.m. to 11:00 p.m. on the first weekend of July each year.

(10) *Island Festival Fireworks, Baldwinsville, NY.* (i) *Location.* All U.S. waters of the Seneca River within a 1,120 foot radius of land position 43°09′22″ N, 076°20′15″ W (NAD 83) in Baldwinsville, NY.

(ii) *Enforcement Date and Time.* From 9:30 p.m. to 11:00 p.m. on the first weekend of July each year.

(11) *Seneca River Days, Baldwinsville, NY.* (i) *Location.* All U.S. waters of the Seneca River within an 840 foot radius of land position 43°09′25″ N, 076°20′21″ W (NAD 83) in Baldwinsville, NY.

(ii) *Enforcement Date and Time.* From 9 p.m. to 10:30 p.m. on the second weekend of July each year.

(12) *City of Syracuse Fireworks Celebration, Syracuse, NY.* (i) *Location.*

All U.S. waters of Onondaga Lake within a 350 foot radius of land position 43°03″37′ N, 076°09″59′ W (NAD 83) in Syracuse, NY.

(ii) *Enforcement Date and Time.* From 9:30 p.m. to 10:30 p.m. on the last weekend of June each year.

(13) *Tom Graves Memorial Fireworks, Port Bay, NY.* (i) *Location.* All U.S. waters of Port Bay within an 840 foot radius of barge position 43°18″14.8′ N, 076°50″17.3′ W (NAD 83) in Port Bay, NY.

(ii) *Enforcement Date and Time.* From 9:00 p.m. to 10:30 p.m. on July 3 of each year.

(14) *Village Fireworks, Sodus Point, NY.* (i) *Location.* All U.S. waters of Sodus Bay within a 1,120 foot radius of land position 43°16″28.7′; N, 076°58″27.5′ W (NAD 83) in Sodus Point, NY.

(ii) *Enforcement Date and Time.* From 9:30 p.m. to 10:30 p.m. on July 3 of each year.

(15) *Rochester Harbor and Carousel Festival, Rochester, NY.* (i) *Location.* All U.S. waters of Lake Ontario within a 1,120 foot radius of land position 43°15″40.2′ N, 077°36″05.1′ W (NAD 83) in Rochester, NY.

(ii) *Enforcement Date and Time.* From 8:00 p.m. to 10:00 p.m. on the fourth Monday of June each year.

(16) *A Salute to our Heroes, Hamlin Beach State Park, NY.* (i) *Location.* All U.S. waters of Lake Ontario within a 560 foot radius of land position 43°21″51.9′ N, 077°56″59.6′ W (NAD 83) in Hamlin, NY.

(ii) *Enforcement Date and Time.* From 9:45 p.m. to 11:30 p.m. on the first weekend of July each year.

(17) *Olcott Fireworks, Olcott, NY.* (i) *Location.* All U.S. waters of Lake Ontario within a 1,120 foot radius of land position 43°20″23.6′ N, 078°43″09.5′ W (NAD 83) in Olcott, NY.

(ii) *Enforcement Date and Time.* From 9:30 p.m. to 11:00 p.m. on July 3 of each year.

(18) *North Tonawanda Fireworks, North Tonawanda, NY.* (i) *Location.* All U.S. waters of the East Niagara River within a 1,400 foot radius of land position 43°01″39.6′ N, 078°53″07.5′ W (NAD 83) in North Tonawanda, NY.

(ii) *Enforcement Date and Time.* From 8:45 p.m. to 10:15 p.m. on July 4 of each year.

(19) *Tonawanda's Canal Fest Fireworks, Tonawanda, NY.* (i) *Location.* All U.S. waters of the East Niagara River within a 210 foot radius of land position 43°01″17.8′ N, 078°52″40.9′ W (NAD 83) in Tonawanda, NY.

(ii) *Enforcement Date and Time.* From 9:00 p.m. to 10:30 p.m. on the fourth Sunday of July each year.

(20) *Celebrate Erie Fireworks, Erie, PA.* (i) *Location.* All U.S. waters of Presque Isle Bay within an 800 foot radius of land position 42°08″19′ N, 080°05″29′ W (NAD 83) in Erie, PA.

(ii) *Enforcement Date and Time.* From 9:45 p.m. to 10:30 p.m. on the third weekend of August each year.

(21) *Conneaut Fourth of July Fireworks, Conneaut, OH.* (i) *Location.* All U.S. waters of Lake Erie within an 840 foot radius of position 41°58′01.3″ N, 080°33′39.5″ W (NAD 83) in Conneaut, OH.

(ii) *Enforcement Date and Time.* From 9:00 p.m. to 11:30 p.m. on the first weekend of July each year.

(22) *Fairport Harbor Mardi Gras, Fairport, OH.* (i) *Location.* All U.S. waters of Lake Erie within a 350 foot radius of land position 41°45′30″ N, 081°16′18″ W (NAD 83) east of the harbor entrance at Fairport Harbor Beach, OH.

(ii) *Enforcement Date and Time.* From 9:00 p.m. to 10:30 p.m. at the beginning of the second week of July each year.

(23) *Mentor Harbor Yacht Club Fireworks, Mentor Harbor, OH.* (i) *Location.* All U.S. waters of Lake Erie and Mentor Harbor within a 700 foot radius of land position 41°43′36″ N, 081°21′09″ W (NAD 83) in Mentor Harbor, OH.

(ii) *Enforcement Date and Time.* From 9:00 p.m. to 10:30 p.m. on July 3 of each year.

(24) *Browns Football Halftime Fireworks, Cleveland, OH.* (i) *Location.* All U.S. waters of Cleveland Harbor and Lake Erie beginning in approximate land position 41°30′49.4″ N, 081°41′37.2″ W (the northwest corner of Burke Lakefront Airport); continuing northwest to 41°31′10.6″ N, 081°41′53.0″W; then southwest to 41°30′48.6″ N, 081°42′30.9″ W (the northwest corner of dock 28 at the Cleveland Port Authority) then northeast back to the starting point at 41°30′49.4″ N, 081°41′37.2″ W (NAD 83).

(ii) *Enforcement Date and Time.* On a Sunday during the second or third Cleveland Browns home game each year.

(25) *City of Cleveland 4th of July, Cleveland, OH.* (i) *Location.* All U.S. waters of Lake Erie and Cleveland Harbor within a 1,000 foot radius of land position 41°30′10″ N, 081°42′36″ W (NAD 83) at Dock 20 in Cleveland, OH.

(ii) *Enforcement Date and Time.* From 9:30 p.m. to 11:00 p.m. on July 4 of each year.

(26) *Cleveland Yachting Club Fireworks Display, Rocky River, OH.* (i) *Location.* All U.S. waters of the Rocky River and Lake Erie within a 560 foot radius of land position 41°29′25.7″ N, 081°50′18.5″ W (NAD 83), at Sunset Point on the western side of the mouth of the Rocky River in Cleveland, OH.

(ii) *Enforcement Date and Time.* From 9:15 p.m. to 11:00 p.m. on the second Thursday of July each year.

(27) *Sheffield Lake Fireworks, Sheffield Lake, OH.* (i) *Location.* All U.S. waters of Lake Erie within a 700 foot radius of land position 41°29′26.2″ N, 082°06′47.7″ W (NAD 83), at the lake front area in Sheffield Lake, OH.

(ii) *Enforcement Date and Time.* From 9:30 p.m. to 11:00 p.m. on the second Friday of July each year.

(28) *Lorain 4th of July Celebration Fireworks, Lorain, OH.* (i) *Location.* All U.S. waters of Lorain Harbor within a 1,400 foot radius of land position 41°28′35.5″ N, 082°10′51.3″ W (NAD 83), east of the harbor entrance on the end of the break wall near Spitzer's Marina.

(ii) *Enforcement Date and Time.* From 9:15 p.m. to 11:00 p.m. on July 3 or 4 of each year.

(29) *Lorain Port Fest Fireworks Display, Lorain, OH.* (i) *Location.* All U.S. waters of Lorain Harbor within a 750 foot radius of land position 41°28′02.4″ N, 082°10′21.9″ W (NAD 83) in Lorain, OH.

(ii) *Enforcement Date and Time.* From 9:45 p.m. to 11:00 p.m. on the third weekend of July each year.

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

(1) *Designated Representative* means any Coast Guard Commissioned, Warrant, or Petty Officer designated by the Captain of the Port Buffalo to monitor a safety zone, permit entry into the zone, give legally enforceable orders to persons or vessels within the zones, and take other actions authorized by the Captain of the Port.

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

(c) *Regulations.* (1) In accordance with the general regulations in section 165.23 of this part, entry into, transiting, or anchoring within any of the safety zones contained in this section during a period of enforcement is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative.

(2)(i) These safety zones are closed to all vessel traffic, except as may be permitted by the Captain of the Port or his designated representative.

(ii) All persons and vessels must comply with the instructions of the Captain of the Port Buffalo or his designated representative.

(iii) Upon being hailed by the Coast Guard by siren, radio, flashing light or other means, the operator of a vessel shall proceed as directed.

(3)(i) All vessels must obtain permission from the Captain of the Port or his designated representative to enter or move within any safety zone established in this section when the safety zone is enforced.

(ii) Vessels and persons granted permission to enter a safety zone must obey all lawful orders or directions of the Captain of the Port or a designated representative.

(iii) While within a safety zone, all vessels must operate at the minimum speed necessary to maintain a safe course.

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

(e) *Waiver.* Upon finding that operational conditions or other circumstances are such that application of this section is unnecessary or impractical, the Captain of the Port Buffalo or his designated representative may waive any of the requirements of this section for any vessel.

(f) *Notification.* The Captain of the Port Buffalo will notify the public when the zones in this section will be enforced by all appropriate means In keeping with 33 CFR 165.7(a), such means of notification may include, but are not limited to Broadcast Notice to Mariners or Local Notice to Mariners and publication of Notices of Enforcement in the **Federal Register**. The Captain of the Port will issue a Broadcast Notice to Mariners notifying the public when enforcement of the safety zones established by this section are in effect and when they are cancelled.

Dated: April 10, 2013.

S.M. Wischmann,

Captain, U.S. Coast Guard, Captain of the Port Buffalo.

[FR Doc. 2013–09558 Filed 4–22–13; 8:45 am]

BILLING CODE 9110–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–25; FCC 12–144]

Implementation of the Local Community Radio Act of 2010; Revision of Service and Eligibility Rules for Low Power FM Stations

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Commission announces that the Office of Management and Budget (OMB) has approved, for a period of three years, the information collection associated with the Commission's Local Community Radio Act of 2010; Revision of Service and Eligibility Rules for Low Power FM Stations, Sixth Report and Order (*Order*) and revisions to Form 318. This notice is consistent with the *Order,* which stated that the Commission would publish a document in the **Federal Register** announcing OMB approval and the effective date of the requirements.

DATES: The amendments to 47 CFR 73.807, 73.810, 73.827, 73.850, 73.853, 73.855, 73.860, 73.872, and FCC Form 318, published at 78 FR 2078, January 9, 2013, are effective May 23, 2013.

FOR FURTHER INFORMATION CONTACT: Peter Doyle, Media Bureau, Audio Division, at (202) 418–2789, or email *Peter.Doyle@fcc.gov* <*mailto:Peter.Doyle@fcc.gov*>.

SUPPLEMENTARY INFORMATION: This document announces that, on April 12, 2013, OMB approved the new information collection requirements contained in the Commission's *Order,* FCC 12–144, published at 78 FR 2078, January 9, 2013. The OMB Control Number is 3060–0920. The Commission publishes this notice as an announcement of the effective date of the requirements. If you have any comments on the burden estimates listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street SW., Washington, DC 20554. Please include the OMB Control Number, 3060–0920, in your correspondence. The Commission will also accept your comments via the Internet if you send them to *PRA@fcc.gov* <*mailto:PRA@fcc.gov*>.

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

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received OMB approval on April 12, 2013, for the new information collection requirements contained in the Commission's rules at 47 CFR 73.807, 73.810, 73.827, 73.850, 73.853, 73.855, 73.860, 73.872 and FCC Form 318.

Under 5 CFR 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Number is 3060–0920.

The foregoing notice is required by the Paperwork Reduction Act of 1995, Pub. L. 104–13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060–0920.

OMB Approval Date: April 12, 2013.

OMB Expiration Date: April 30, 2016.

Title: Application for Construction Permit for a Low Power FM Broadcast Station; Report and Order in MM Docket No. 99–25 Creation of Low Power Radio Service; §§ 73.807, 73.809, 73.810, 73.827, 73.850, 73.865, 73.870, 73.871, 73.872, 73.877, 73.878, 73.318, 73.1030, 73.1207, 73.1212, 73.1230, 73.1300, 73.1350, 73.1610, 73.1620, 73.1750, 73.1943, 73.3525, 73.3550, 73.3598, 11.61(ii), FCC Form 318.

Form Number: FCC Form 318.

Respondents: Not-for-profit institutions; State, local or Tribal governments.

Number of Respondents and Responses: 21,019 respondents; 27,737 responses.

Estimated Time per Response: .0025 to 12 hours.

Frequency of Response: Recordkeeping requirement; on occasion reporting requirement; monthly reporting requirement; third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in sections 154(i), 303, 308, and 325(a) of the Communications Act of 1934, as amended.

Total Annual Burden: 35,471 hours.

Total Annual Cost: $39,750.

Nature and Extent of Confidentiality: There is no need for confidentiality with this information collection.

Privacy Impact Assessment: No impact(s).

Needs and Uses: On December 4, 2012, the FCC released a Sixth Report and Order (''Order''), MM Docket No. 99–25, FCC 12–144. In the Order, the FCC revised § 73.853(b) of the Commission's rules (''rules'') to permit

federally recognized Native American Tribes and Alaska Native Villages (''Tribal Nations'') and entities owned or controlled by Native Nations (collectively, ''Tribal Nation Applicants'') to hold LPFM licenses. The FCC also revised its definition of local to specify that Tribal Nation Applicants are considered local throughout their Tribal lands. We have revised FCC Form 318 to reflect these changes.

In the Order, the FCC also modified its ownership rules. First, the FCC revised its cross-ownership rule to permit cross-ownership of an LPFM station and up to two FM translator stations. Second, the FCC modified its cross-ownership rule to permit Tribal Nation Applicants to seek up to two LPFM construction permits to ensure adequate coverage of tribal lands. We have revised FCC Form 318 to reflect these changes.

The FCC further modified the point system used to select among mutually exclusive LPFM applicants and set forth in § 73.872 of the rules. First, the FCC revised the ''established community presence'' criterion to extend the ''established community presence'' standard in rural areas. Under the earlier version of the rule, an LPFM applicant was deemed to have an established community presence if it was physically headquartered or had a campus within ten miles of the proposed LPFM transmitter site, or if 75 percent of its board members resided within ten miles of the proposed LPFM transmitter site. The FCC changed the standard from ten to twenty miles for all LPFM applicants proposing facilities located outside the top fifty urban markets, for both the distance from transmitter and residence of board member standards. Second, the FCC modified the point system to award a point to Tribal Nation Applicants, when they propose to provide LPFM service to Tribal Nation communities. Third, the FCC established additional points criteria related to maintenance and staffing of a main studio, commitments to locally originate programming and maintain and staff a main studio, and new entry into the broadcasting field. We have revised the Form 318 to reflect these changes to the point system.

The FCC made a number of changes related to time-sharing. It adopted a requirement that parties submit voluntary time-sharing agreements via the Consolidated Database System. It also revised the Commission's involuntary time-sharing policy. As a result of these changes, an LPFM applicant must submit the date on which it qualified as having an ''established community presence.'' The FCC also may require certain LPFM applicants to indicate which 8-hour and 12-hour time slots they prefer. Finally, the FCC adopted a mandatory time-sharing policy similar to that applicable to full-service noncommercial educational FM stations. We have revised the Form 318 to reflect these changes.

Finally, the FCC modified the manner in which it processes requests for waiver of the second-adjacent channel minimum distance separation requirement, amended the rule related to third-adjacent channel interference, and amended the rule that sets forth the obligations of LPFM stations with respect to interference to the input signals of FM translator or FM booster stations. We have revised the Form 318 to reflect these proposed changes.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison, Office of the Secretary, Office of Managing Director.

[FR Doc. 2013–09545 Filed 4–22–13; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[WT Docket No. 02–55; DA 13–586]

Improving Public Safety Communications in the 800 MHz Band; New 800 MHz Band Plan for U.S.-Mexico Sharing Zone

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document establishes a reconfigured 800 MHz band plan for the National Public Safety Planning Advisory Committee Regions bordering Mexico. This action is necessary to meet the Commission's goals to improve public safety communications in the 800 MHz band. This order ensures an orderly and efficient transition to the new 800 MHz band plan along the Mexico border.

DATES: Effective June 24, 2013.

FOR FURTHER INFORMATION CONTACT: Brian Marenco, Policy and Licensing Division, Public Safety and Homeland Security Bureau, (202) 418–0838.

SUPPLEMENTARY INFORMATION: This is a summary of the Fifth Report and Order, DA 13–586, released on April 1, 2013. The complete text of the Fifth Report and Order is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY–A257, 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). It is also available on the Commission's Web site at *http://www.fcc.gov.*

1. In a July 2004 Report and Order, the Commission reconfigured the 800 MHz band to eliminate interference to public safety and other land mobile communication systems operating in the band, 69 FR 67823, November 22, 2004. The Commission, however, deferred consideration of band reconfiguration plans for the border areas, noting that ''implementing the band plan in areas of the United States bordering Mexico and Canada will require modifications to international agreements for use of the 800 MHz band in the border areas.'' The Commission stated that ''the details of the border plans will be determined in our ongoing discussions with the Mexican and Canadian governments.''

2. In a Second Memorandum Opinion and Order, adopted in May 2007, the Commission delegated authority to the Public Safety and Homeland Security Bureau (Bureau) to propose and adopt border area band plans once agreements are reached with Canada and Mexico, 72 FR 39756, July 20, 2007.

3. On June 8, 2012, the United States and Mexico signed an agreement modifying the international allocation of 800 MHz spectrum along the U.S.-Mexico border enabling the U.S. to proceed with 800 MHz band reconfiguration in regions bordering Mexico.

4. Consequently, on August 17, 2012, the Bureau released a Fourth Further Notice of Proposed Rulemaking seeking comment on establishing and implementing a reconfigured 800 MHz channel plan for the National Public Safety Planning Advisory Committee (NPCPAC) Regions bordering Mexico, 77 FR 52633, August 30, 2012. The Bureau received seven comments and four reply comments.

5. Based on the record, on April 1, 2013, the Bureau released a Fifth Report and Order establishing a reconfigured channel plan for each NPSPAC region bordering Mexico. As with channel plans previously adopted for non-border regions and the Canada border region, the Bureau's goal is to reconfigure licensees within the band in a manner which separates—to the greatest extent possible—public safety and other non-cellular licensees from licensees in the band that employ cellular technology.

6. In the Fifth Report and Order, the Bureau also established a 30-month transition period for licensees along the border with Mexico to complete the rebanding process. The Bureau will, however, evaluate the progress of rebanding as of the 18th month of the transition period to determine whether additional time is needed based upon circumstances beyond licensees' control.

Procedural Matters

A. Final Regulatory Flexibility Analysis

7. The Final Regulatory Flexibility Analysis required by section 604 of the Regulatory Flexibility Act, 5 U.S.C. 604, is included in the Fifth Report and Order.

B. Paperwork Reduction Act of 1995 Analysis

8. The Fifth Report and Order contains no new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. Therefore it contains no new or modified ''information burden for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198.

Final Regulatory Flexibility Analysis

9. As required by the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated into the *Fourth Further Notice of Proposed Rule Making* (*Fourth FNPRM*) of this proceeding. The Bureau sought written public comment on the IRFA. The RFA requires that an agency prepare a regulatory flexibility analysis for notice-and-comment rulemaking proceedings, unless the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' The RFA generally defines ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A ''small business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). The present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

A. Need for, and Objectives of, the Proposed Rules

10. In the *Fifth Report and Order,* the Bureau adopts a channel plan for reconfiguring the 800 MHz band along the U.S.-Mexico border. The channel plan the Bureau adopts in the *Fifth Report and Order* will be incorporated into the Commission's rules and is needed to implement and complete the Commission's band reconfiguration program along the U.S.-Mexico border. The Commission ordered reconfiguration of the 800 MHz band to address an ongoing nationwide problem of interference created by a fundamentally incompatible mix of technologies in the band. The Commission determined to resolve the interference by reconfiguring the band to spectrally separate incompatible technologies. The Commission delegated authority to the Bureau in May 2007 to propose and adopt a channel plan for implementing band reconfiguration along the U.S.-Mexico border. The band plan the Bureau adopts in the *Fifth Report and Order* will separate incompatible technologies along the U.S.-Mexico border and thus resolve the ongoing interference problem in that region.

B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

11. There were no comments filed that specifically addressed the rules and policies proposed in the IRFA.

C. Description and Estimate of the Number of Small Entities To Which the Rules Will Apply

12. The RFA directs agencies to provide a description of and an estimate of the number of small entities to which the rules will apply. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. Below, we provide an estimate of the number of small entities to which the rules the adopted in this *Fifth Report and Order* will apply.

13. *Private Land Mobile Radio Licensees (PLMR).* PLMR systems serve an essential role in a range of industrial, business, land transportation, and public safety activities. These radios are used by entities of all sizes operating in all U.S. business and public sector categories, and are often used in support of the licensee's primary (non-telecommunications) operations. For the purpose of determining whether a licensee of a PLMR system is a small entity as defined by the SBA, we use the broad census category, Wireless Telecommunications Carriers (except Satellite). This definition provides that a small entity is any such entity employing no more than 1,500 persons. The Commission does not require PLMR licensees to disclose information about number of employees, so the Commission does not have information that could be used to determine how many PLMR licensees constitute small entities under this definition. We note that PLMR licensees generally use the licensed facilities in support of other business and governmental activities, and therefore, it would also be helpful to assess PLMR licensees under the standards applied to the particular industry subsector to which the licensee belongs.

14. As of March 2013, there were approximately 250 PLMR licensees operating in the PLMR band between 806–824/851–869 MHz along the U.S.-Mexico border.

D. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

15. The *Fifth Report and Order* does not adopt a rule that will entail additional reporting, recordkeeping, and/or third-party consultation or other compliance efforts beyond those already approved for this proceeding. See OMB Control No. 3060–1080 for Improving Public Safety Communications in the 800 MHz Band (exp. September 30, 2014).

E. Steps Taken To Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered

16. The RFA requires an agency to describe the steps it has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including the agency's reasoning for not adopting significant alternatives to the rules adopted.

17. The *Fifth Report and Order* creates no significant economic impact on small entities because Sprint Nextel Corporation will pay all reasonable costs associated with retuning incumbent licensees to the post-reconfiguration channel plan adopted by the Bureau. Further, once the channel plan adopted in the *Fifth*

Report and Order is implemented, PLMR licensees will no longer be subject to on-going interference in the band and will therefore save costs that would otherwise be associated with resolving interference.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

18. None.

Ordering Clauses

19. Accordingly, *it is ordered,* pursuant to sections 4(i), 303(b), 316, and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(b), 316, 332, that the Fifth Report and Order *is adopted.*

20. *It is further ordered* that the amendments of the Commission's rules set forth in the Fifth Report and Order *are adopted,* effective sixty days from the date of publication in the **Federal Register**.

21. *It is further ordered* that the Final Regulatory Flexibility required by section 604 of the Regulatory Flexibility Act, 5 U.S.C. 604, and as set forth in the Fifth Report and Order *is adopted.*

22. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this *Fifth Report and Order,* including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 90

Radio.

Federal Communications Commission.

David S. Turetsky,

Chief, Public Safety and Homeland Security Bureau.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission's Public Safety and Homeland Security Bureau amends 47 CFR part 90 as follows:

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

■ 1. The authority citation for part 90 continues to read as follows:

Authority: Sections 4(i), 11, 303(g), 303(r), and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 161, 303(g), 303(r), and 332(c)(7), and Title VI of the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. 112–96, 126 Stat. 156.

■ 2. Section 90.619 is amended by revising paragraph (a) to read as follows:

§ 90.619 Operations within the U.S./Mexico and U.S./Canada border areas.

(a) *Use of frequencies in 800 MHz band in Mexico border region.* All operations in the 806–824/851–869 MHz band within 110 km (68.35 miles) of the U.S./Mexico border (''Sharing Zone'') shall be in accordance with international agreements between the U.S. and Mexico.

(1) The U.S. and Mexico divide primary access to channels in the Sharing Zone as indicated in Table A1 below.

TABLE A1—U.S. AND MEXICO PRIMARY CHANNELS IN SHARING ZONE

Channels	Primary access
1–360	U.S.
361–610	Mexico.
611–830	U.S.-Mexico Co-Primary.

(2) Stations authorized on U.S. primary channels in the Sharing Zone are subject to the effective radiated power (ERP) and antenna height limits listed below in Table A2.

TABLE A2—LIMITS ON EFFECTIVE RADIATED POWER (ERP) AND ANTENNA HEIGHT

Average of the antenna height above average terrain on standard radials in the direction of the common border (meters) [1]	Maximum ERP in any direction toward the common border per 25 kHz (watts)
0 to 503	500
Above 503 to 609	350
Above 609 to 762	200
Above 762 to 914	140
Above 914 to 1066	100
Above 1066 to 1219	75
Above 1219 to 1371	70
Above 1371 to 1523	65
Above 1523	5

[1] Standard radials are 0°, 45°, 90°, 135°, 180°, 225°, 270° and 315° to True North. The height above average terrain on any standard radial is based upon the average terrain elevation above mean sea level.

(3) Stations may be authorized on channels primary to Mexico in the Sharing Zone provided the maximum power flux density (PFD) at any point at or beyond the border does not exceed −107 db(W/m^2) per 25 kHz of bandwidth. Licensees may exceed this value only if all potentially affected counterpart operators in the other country agree to a higher PFD level.

(4) Stations authorized on U.S.-Mexico co-primary channels in the Sharing Zone are permitted to exceed a maximum power flux density (PFD) of −107 db(W/m^2) per 25 kHz of bandwidth at any point at or beyond the border only if all potentially affected counterpart operators of 800 MHz high density cellular systems, as defined in § 90.7, agree.

(5) Channels in the Sharing Zone are available for licensing as indicated in Table A3 below.

TABLE A3—ELIGIBILITY REQUIREMENTS FOR CHANNELS IN SHARING ZONE

Channels	Eligibility requirements
1–230	Report and Order of Gen. Docket No. 87–112.
231–315	Public Safety Pool.
316–550	General Category.
551–830	Special Mobilized Radio for 800 MHz High Density Cellular.

(i) Channels 1–230 are available to applicants eligible in the Public Safety Category. The assignment of these channels will be done in accordance with the policies defined in the Report and Order of Gen. Docket No. 87–112 (See § 90.16). The following channels are available only for mutual aid purposes as defined in Gen. Docket No. 87–112: channels 1, 39, 77, 115, 153. 800 MHz high density cellular systems as defined in § 90.7 are prohibited on these channels.

(ii) Channels 231–315 are available to applicants eligible in the Public Safety Category which consists of licensees eligible in the Public Safety Pool of subpart B of this part. 800 MHz high density cellular systems as defined in § 90.7 are prohibited on these channels.

(iii) Channels 316–550 are available in the General Category. All entities are eligible for licensing on these channels. 800 MHz high density cellular systems as defined in § 90.7 are prohibited on these channels.

(iv) Channels 551–830 are available to applicants eligible in the SMR category—which consists of Specialized Mobile Radio (SMR) stations and eligible end users. ESMR licensees who employ 800 MHz high density cellular systems, as defined in § 90.7, are permitted to operate on these channels.

(6) Stations located outside the Sharing Zone (*i.e.* greater than 110 km from the border) are subject to the channel eligibility requirements and provisions listed in §§ 90.615 and 90.617 except that stations in the following counties are exempt from the requirements of paragraph (k) of § 90.617:

California: San Luis Obispo, Kern, San Bernardino, Santa Barbara, Ventura, Los Angeles, Orange and Riverside.

* * * * *

[FR Doc. 2013–09416 Filed 4–22–13; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 120404257–3325–02]

RIN 0648–BB58

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery off the Southern Atlantic States; Amendment 18B

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement management measures described in Amendment 18B to the Fishery Management Plan (FMP) for the Snapper-Grouper Fishery of the South Atlantic Region (Amendment 18B), as prepared by the South Atlantic Fishery Management Council (Council). This final rule: establishes a longline endorsement program for the commercial golden tilefish component of the snapper-grouper fishery; establishes initial eligibility requirements for a golden tilefish longline endorsement; establishes an appeals process; allocates the commercial golden tilefish annual catch limit (ACL) among gear groups; establishes a procedure for the transfer of golden tilefish endorsements; and modifies the golden tilefish trip limits; and establishes a trip limit for commercial fishermen who do not receive a golden tilefish longline endorsement. The intent of this rule is to reduce overcapacity in the commercial golden tilefish component of the snapper-grouper fishery.

DATES: This rule is effective May 23, 2013.

ADDRESSES: Electronic copies of Amendment 18B may be obtained from the Southeast Regional Office Web site at *http://sero.nmfs.noaa.gov/sf/SASnapperGrouperHomepage.htm.* Amendment 18B includes an environmental assessment, a final regulatory flexibility analysis (FRFA), and a Fishery Impact Statement.

Comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted in writing to Anik Clemens, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701; and Office of Management and Budget (OMB), by email at *OIRA Submission@omb.eop.gov,* or by fax to 202–395–7285.

FOR FURTHER INFORMATION CONTACT: Karla Gore, Southeast Regional Office, NMFS, telephone: 727–824–5305; email: *Karla.Gore@noaa.gov.*

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery off the southern Atlantic states includes golden tilefish and is managed under the FMP for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The FMP was prepared by the Council and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

On October 26, 2012, NMFS published a notice of availability for Amendment 18B and requested comments (77 FR 65356). On December 19, 2012, NMFS published a proposed rule for Amendment 18B and requested public comments (77 FR 75093). The proposed rule and Amendment 18B outline the rationale for the actions contained in this final rule. Amendment 18B was approved by the Secretary of Commerce on January 25, 2013. A summary of the actions implemented by this final rule are provided below.

This final rule: establishes a longline endorsement program for the commercial golden tilefish component of the snapper-grouper fishery; establishes initial eligibility requirements for a golden tilefish longline endorsement; establishes an appeals process; allocates the commercial golden tilefish ACL among gear groups; establishes a procedure for the transfer of golden tilefish endorsements; modifies the golden tilefish trip limits; and establishes a trip limit for commercial fishermen who do not receive a golden tilefish longline endorsement. This final rule also contains two administrative changes unrelated to Amendment 18B. Through this final rule, NMFS amends 50 CFR 622.194, paragraph (a), to include maximum sustainable yield proxy, optimum yield, a quota of zero, annual catch targets, maximum fishing mortality threshold, minimum stock size threshold, size limits, fishing year, and rebuilding plans to the list of items that can be established or modified in accordance with the framework procedure for the FMP. Additionally, NMFS revises the phrase ''Federal charter vessel/headboat permit'' to read ''Federal commercial or charter vessel/headboat permit'' in several paragraphs in 50 CFR 622.193 and 622.280.

Comments and Responses

NMFS received a total of 16 comments on Amendment 18B and the proposed rule, which include comments from private citizens, recreational fishermen, commercial fishermen, and fishing associations. One comment expressed support for the amendment and two comments were unrelated to the actions in Amendment 18B. The specific comments related to the actions contained in Amendment 18B and the proposed rule and NMFS' respective responses, are summarized below.

Comment 1: The golden tilefish recreational sector allocation (3 percent) is unfair and should be increased.

Response: The golden tilefish recreational sector allocation of 3 percent was established in Amendment 17B to the FMP (75 FR 82280, December 30, 2012), and changing that allocation is outside the scope of Amendment 18B. Amendment 18B does divide the commercial sector ACL between the longline (75 percent) and hook-and-line (25 percent) gear groups.

Comment 2: A sunset clause for the 25 percent allocation to the hook-and-line component of the commercial sector should be established if that component cannot harvest golden tilefish at that allocated level.

Response: The Council did not choose a sunset clause for the hook-and-line allocation in Amendment 18B, and NMFS may not add such a requirement. If the hook-and-line component is unable to harvest their portion of the ACL allotted through Amendment 18B, the Council may consider changing that allocation in a future amendment to the FMP.

Comment 3: The ACL allocation should be divided equally for the longline and hook-and-line components of the commercial sector.

Response: NMFS disagrees. Amendment 18B allocates 25 percent of the commercial ACL to the hook-and-line component and 75 percent to the longline component, which currently equates to 135,324 lb (61,382 kg), gutted weight, for the hook-and-line component and 405,971 lb (184,145 kg), gutted weight, for the longline component. The Council examined past and present landings when considering options for gear allocations, and determined that allocating 25 percent of the ACL to the hook-and-line component, and 75 percent to the longline component was appropriate. The hook-and-line component caught 25 percent of the total commercial golden tilefish landings during 2001–2005. Since 2005, the proportion of the golden tilefish landings taken by the hook-and-

line component has progressively decreased due to a reduced golden tilefish quota that was implemented in 2006, which has been met earlier each year. As a result, hook-and-line fishermen, who typically do not fish until the fall, have been increasingly unable to participate in the golden tilefish component of the snapper-grouper fishery because the ACL was being caught quickly each fishing season by the longline component. NMFS agrees that allocating 25 percent of the commercial ACL to the hook-and-line component and 75 percent to the longline component would restore access to the resource by hook-and-line fishermen to proportions observed prior to 2006, and during periods when they have historically harvested golden tilefish (late summer to early fall). If the hook-and-line component regularly reaches its ACL allocation cap in the future, the Council may consider increasing the allocation in a future amendment to the FMP.

Comment 4: The establishment of an endorsement program grants private rights to a public resource.

Response: An endorsement does not grant a private right to a public resource. An endorsement is a type of permit that may be transferred, revoked, suspended, denied, conditioned, or restricted in accordance with the Magnuson-Stevens Act. Anyone with a commercial Snapper-Grouper Unlimited or 225-lb Trip-Limited Permit who did not receive an endorsement would still be able to harvest commercial quantities of golden tilefish using hook-and-line gear under the 500-lb (227-kg), gutted weight, trip limit. However, those with the 225-lb Trip-Limited Permit are limited to 225 lb (102 kg).

Changes From the Proposed Rule

On April 17, 2013, NMFS published in the **Federal Register** an interim final rule to reorganize the regulations in 50 CFR part 622 for the Gulf of Mexico, South Atlantic, and the Caribbean (78 FR 22950). That interim final rule did not create any new rights or obligations; it reorganized the existing regulatory requirements in the Code of Federal Regulations into a new format. This final rule incorporates this new format into the regulatory text; it does not change the specific regulatory requirements that were contained in the proposed rule. Therefore, as a result of this reorganization, the permit text previously located at § 622.4(a)(2)(vi) is now at § 622.170(a)(1), the golden tilefish endorsement text previously located at § 622.4(a)(2)(xvi) is now at § 622.170(f), the species limitations text previously located at § 622.41(d)(6) is now at § 622.188(g), the species limitations text previously located at § 622.41(d)(6) is now at § 622.188(g), the quota text previously located at § 622.42(e)(2) is now at § 622.191(a)(2), the AMs text previously at § 622.48(f) is now at § 622.194(a), and the edits to the phrase ''Federal charter vessel/headboat permit'' previously found in § 622.49 are now at §§ 622.193 and 622.280. The transfer text previously located at § 622.4(g)(1) is longer needed because it is covered in § 622.4(f).

Classification

The Regional Administrator, Southeast Region, NMFS, has determined that the actions contained in this final rule are necessary for the conservation and management of the snapper-grouper fishery in the South Atlantic and are consistent with Amendment 18B, the Magnuson-Stevens Act, and other applicable law.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

A FRFA was prepared for this action. The FRFA incorporates the IRFA, a summary of the significant economic issues raised by public comments, NMFS' responses to those comments, and a summary of the analyses completed to support the action. The FRFA follows.

No public comments specific to the IRFA were received and, therefore, no public comments are addressed in this FRFA. However, several comments with socioeconomic implications were received and are addressed in the Comments and Responses section (Comments 1 and 3). No changes in the final rule were made in response to public comments.

NMFS agrees that the Council's choice of preferred alternatives would best achieve the Council's objectives while minimizing, to the extent practicable, the adverse effects on fishers, support industries, and associated communities. The preamble to this final rule provides a statement and need for, and objectives of, this rule and it is not repeated here.

The Magnuson-Stevens Act provides the statutory basis for this final rule. No duplicative, overlapping, or conflicting Federal rules have been identified.

The only new reporting, record-keeping, or other compliance requirements that this final rule will introduce pertain to the requirement to have a commercial golden tilefish longline endorsement to fish for golden tilefish in the South Atlantic exclusive economic zone (EEZ) using longline gear or possess golden tilefish on a vessel in the South Atlantic EEZ with longline gear aboard. The initial endorsement will be sent directly to those qualifying for the endorsement. Renewals and transfers of endorsements are subject to the same fees as permits. Because the endorsement would be received through completion of the normal permitting process, no special professional skills would be required to satisfy this new compliance requirement. In the case of appeals, the appellants are required to submit logbook information as supporting documentation. Submission of logbook information does not require special professional skill.

NMFS expects this final rule to directly affect commercial fishermen in the South Atlantic snapper-grouper fishery. The Small Business Administration established size criteria for all major industry sectors in the U.S. including fish harvesters. A business involved in fish harvesting is classified as a small business if independently owned and operated, is not dominant in its field of operation (including its affiliates), and its combined annual receipts are not in excess of $4.0 million (NAICS code 114111, finfish fishing) for all of its affiliated operations worldwide.

During 2005–2011, a total of 142 hook-and-line vessels with valid permits to operate in the commercial snapper-grouper fishery landed golden tilefish. These vessels generated annual average dockside revenues of approximately $69,000 (2010 dollars) from golden tilefish, or $603,000 (2010 dollars) from all species, inclusive of golden tilefish, caught in the same trips as golden tilefish. On average, each of these vessels generated about $4,246 (2010 dollars) in gross revenues from all species caught only in trips in which golden tilefish was caught. During the same period, a total of 43 longline vessels with valid permits to operate in the commercial snapper-grouper fishery landed golden tilefish. Their annual average revenues were about $835,000 (2010 dollars) from golden tilefish, or $1,218,000 (2010 dollars) from all species, inclusive of golden tilefish, caught in the same trips as golden tilefish. Each of these vessels, therefore, generated an average of approximately $28,330 (2010 dollars) in gross revenues from all species caught only in trips in which golden tilefish was caught.

Based on revenue information, all commercial vessels affected by the rule can be considered small entities.

NMFS expects the final rule to directly affect all federally-permitted commercial vessels harvesting golden tilefish in the South Atlantic EEZ. All directly affected entities have been

determined, for the purpose of this analysis, to be small entities. Therefore, NMFS determines that this final rule will affect a substantial number of small entities.

NMFS considers all entities expected to be affected by the rule as small entities, so the issue of disproportional effects on small versus large entities does not arise in the present case.

Establishing a longline endorsement system will limit the expansion of capital and effort in the longline component of the commercial sector for golden tilefish. Because this component is by far the dominant component in the commercial harvest of golden tilefish, an endorsement system could extend the commercial fishing season, thereby providing the industry opportunities to remain profitable. However, unlike the case with a management system that assigns harvesting privileges to specific fishermen, an endorsement system will not eliminate the underlying incentive to ''race to fish.'' With this incentive remaining intact, effort and capital stuffing (increasing vessel capacity, speed or fishing accessories) will continue to increase over time and eventually shorten the fishing season.

Under the selected criteria for a longline endorsement, 24 vessels that used longline gear during 2006–2011 will qualify for a longline endorsement; 19 vessels that used longline gear during the same time period will not qualify for an endorsement. Qualifying vessels generated total revenues of about $788,000 (2010 dollars) annually from golden tilefish while non-qualifying vessels generated a total of about $47,000 (2010 dollars) in annual revenues from golden tilefish. The decrease in revenues to non-qualifying vessels from not receiving an endorsement would be about 17 percent of their total revenues. Non-qualifying vessels could switch gear and recoup part of their losses; nonetheless, their short-term profits will still likely suffer. However, relative to the total profits of commercial vessels in the snapper-grouper fishery, revenue and profit reductions to non-qualifying vessels will not be significant. In terms of revenues, a loss of $47,000 (2010 dollars) will be about 3 percent of total revenues by vessels landing golden tilefish and less than 1 percent of total revenues by all commercial vessels in the South Atlantic. Moreover, revenue and profit losses to non-qualifying vessels will likely be gained by qualifying vessels. Considering the fishing season closures in recent years, qualifying vessels will most likely harvest the golden tilefish forgone by non-qualifying vessels. This will increase the revenues and possibly the profits of qualifying vessels, and will decrease the profits of non-qualifying vessels. Whether this will increase overall industry profits cannot be ascertained based on available information. It is possible that short-term industry profits will increase or at least not dissipate quickly. With fewer participants in the longline component, and noting that the longline component is by far the dominant component in the commercial harvest of golden tilefish, the fishing season for the longline component could lengthen and thereby allow qualifying vessels to command better prices for golden tilefish. These effects, however, will be transitory. The incentive to ''race to fish'' is still intact so that effort from qualifying vessels could increase in the medium- and long-term, eventually erasing any profit gains from establishing the endorsement.

Establishing an appeals process for fishermen initially excluded from the golden tilefish longline endorsement will provide opportunities for those legitimately qualified to receive their endorsement after an initial denial. Given the narrow basis for appeals (*e.g.,* landings reported on NMFS logbook records or state landing records), only a limited number of appeals will likely be successful.

Establishing a 75-percent longline and 25-percent hook-and-line allocation of the golden tilefish commercial ACL will ensure the continued presence of the hook-and-line component in the commercial harvest of golden tilefish. Relative to the baseline (2005–2011 average landings), this allocation ratio will redistribute the harvest of golden tilefish from the longline component to the hook-and-line component. This, in theory, will result in negative effects on the longline component and positive effects on the hook-and-line component. However, because the commercial quota (commercial ACL) is increased well above the baseline landings of both components, this allocation ratio will yield positive revenue effects to both components. Revenue gains are expected to total $302,000 (2010 dollars) to the entire hook-and-line component and $271,000 (2010 dollars) to the entire longline component, or total revenue effects of about $573,000 (2010 dollars) for the whole commercial sector. NMFS expects that these positive revenue effects will translate to positive profit effects on both components because many vessel trips will be able to retain golden tilefish.

Allowing the transfer of golden tilefish longline endorsements between individuals or entities with South Atlantic Unlimited Snapper-Grouper Permits will open opportunities for increasing the value of the endorsement asset and for the more efficient operators to engage in the fishery. Such opportunities, however, will still be limited by the requirement that transfers of endorsements be made between individuals/entities possessing South Atlantic Snapper-Grouper Unlimited Permits. These snapper-grouper commercial permits are under a limited entry program.

Eliminating the 300-lb (136-kg), gutted weight, commercial trip limit when 75 percent of the commercial ACL is taken will benefit longline vessels. This decrease of the trip limit was intended to preserve the presence of the hook-and-line component, but is now unnecessary because the hook-and-line component has a separate allocation. Thus, this alternative will allow the longline component, whose trips will likely be unprofitable under a trip limit of 300 lb (136 kg), gutted weight, to efficiently use its capacity and maximize its revenues and likely profits as well.

Establishing a 500-lb (223-kg), gutted weight, trip limit for commercial fishermen who will not receive a longline endorsement will affect 14 out of 249 trips based on average 2005–2011 data. This trip limit will reduce per trip landings, and it is also expected to reduce total landings for those not receiving an endorsement, at least in its first year of implementation. Total landings will be reduced by about 24,000 lb (10,886 kg), gutted weight, worth $69,000 (2010 dollars). The effects of a trip limit are generally temporary; vessels incurring revenue reductions due to a trip limit could recoup their losses by taking more trips so long as those trips remain profitable. Considering the relatively few trips that will be affected, this trip limit will likely not be too constraining as to reduce the sector's overall profits.

The following discussion analyzes the alternatives that were not chosen by the Council.

Two alternatives, including the preferred alternative that would establish an endorsement system, were considered for limiting participation in the golden tilefish component of the snapper-grouper fishery through an endorsement system. The no action alternative would not limit effort in the commercial harvest of golden tilefish and thus would not address the evolving derby (race to fish) in the commercial sector.

Two alternatives were considered for establishing eligibility requirements for the longline endorsement. The first alternative, the no action alternative,

would make the endorsement system ineffective in addressing increasing effort in the commercial sector because everyone with a valid commercial snapper-grouper permit could receive an endorsement. The second alternative consists of 9 sub-alternatives, including the preferred sub-alternative, with each providing for an endorsement eligibility based on a minimum amount of golden tilefish landings using longline gear during a given period. The first sub-alternative would require a minimum of 2,000 lb (907 kg), gutted weight, total longline landings during 2006–2008. The second sub-alternative would require a minimum of 5,000 lb (2,268 kg), gutted weight, total longline landings during 2006–2008. The third sub-alternative would require a minimum of 5,000 lb (2,268 kg), gutted weight, average longline landings during 2006–2008. The fourth sub-alternative would require a minimum of 5,000 lb (2,268 kg), gutted weight, average longline landings during 2007–2009. The fifth sub-alternative would require a minimum of 10,000 lb (4,536 kg), gutted weight, average longline landings during 2007–2009. The sixth sub-alternative would require a minimum of 5,000 lb (2,268 kg), gutted weight, average longline landings for the best 3 years during 2006–2010. The seventh sub-alternative would require a minimum of 5,000 lb (2,268 kg), gutted weight, average longline landings for the best 3 years during 2006–2011. The eighth sub-alternative would require a minimum of 10,000 lb (4,536 kg), gutted weight, average longline landings for the best 3 years during 2006–2011. Each of these sub-alternatives would qualify fewer entities for the endorsement and thus would result in greater forgone revenues than the preferred sub-alternative.

Three alternatives, including the preferred alternative, were considered for establishing an appeals process for fishermen initially excluded from the endorsement program. The first alternative, the no action alternative, would not establish an appeals process. This alternative has the potential to unduly penalize participants, mainly due to errors in data reporting or recording. The second alternative is the same as the preferred alternative, except it would additionally establish a special board composed of state directors/designees that would review, evaluate, and make individual recommendations to the RA. This alternative would introduce an additional administrative burden that may not improve the appeals process considering that the only major issue subject to appeals is the landings record.

Four alternatives, including the preferred alternative, were considered for allocating the commercial golden tilefish ACL among gear groups. The first alternative, the no action alternative, would not specify an allocation among gear groups. With this alternative, the already diminished share of the hook-and-line component in the harvest of golden tilefish could further decline. Consequently, further reductions in that component's revenues and profits could occur, negating the Council's intent to minimize negative economic impacts on this component. The second alternative would establish an 85 percent longline and 15 percent hook-and-line allocation, and the third alternative would establish a 90 percent longline and 10 percent hook-and-line allocation. These two other alternatives would favor the longline component, but would allow the hook-and-line component to continue its operations. Similar to the preferred alternative, the effects of these alternatives on overall industry profits cannot be determined based on available information.

Two alternatives, including the preferred alternative, were considered for allowing transferability of longline endorsements. The first alternative, the no action alternative, would not allow transfers of endorsements. This alternative would limit the value of the endorsement asset and hinder the participation of potentially more efficient operators. The second alternative (preferred) includes two sub-alternatives, of which one is the preferred sub-alternative that would allow transfers of endorsements upon implementation of the program. The other sub-alternative would not allow transfers of endorsements during the first 2 years of the program. This sub-alternative would mainly delay the entrance of more efficient operators and the generation of higher-valued endorsement assets.

Three alternatives, including the preferred alternative, were considered for modifying the golden tilefish trip limit. The first alternative, the no action alternative, would retain the 4,000-lb (1,814-kg), gutted weight, trip limit that would be reduced to 300 lb (136 kg), gutted weight, if 75 percent of the commercial ACL is reached by September 1. The trip limit reduction to 300 lb (136 kg), gutted weight, which was partly established to preserve the presence of the hook-and-line component, is no longer necessary with the establishment of a separate allocation for each gear group. The second alternative would prohibit longline fishing for golden tilefish when 75 percent of the commercial ACL is reached. This alternative is not necessary because of the establishment of a separate allocation for each gear group. In addition, this would constrain the profits longline vessels could derive from the harvest of golden tilefish.

Six alternatives, including the preferred alternative, were considered for establishing a trip limit for commercial fishermen who do not receive a longline endorsement. The first alternative, the no action alternative, would retain the 4,000-lb (1,814-kg), gutted weight, trip limit that would be reduced to 300 lb (136 kg), gutted weight, when 75 percent of the commercial ACL is reached. The second alternative would establish a 300-lb (136-kg), gutted weight, trip limit; the third alternative, a 400-lb (181-kg), gutted weight, trip limit; the fourth, a 100-lb (45-kg), gutted weight, trip limit; and, the fifth alternative, a 200-lb (91-kg), gutted weight, trip limit. Relative to the preferred alternative, all these other trip limits would be more restrictive and thus would likely result in larger reductions in vessel revenues and profits per trip.

In addition to the actions considered in Amendment 18B included in this final rule, this final rule makes changes to the regulatory text in 50 CFR parts 622.194, 622.193, and 622.280. These changes are described in the preamble of this final rule. These changes are either clerical or simply clarify language associated with a prior regulatory action. As a result, none of these changes in the regulatory text would be expected to result in any reduction in profits to any small entities.

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as small entity compliance guides. As part of the rulemaking process, NMFS prepared a fishery bulletin, which also serves as a small entity compliance guide. The fishery bulletin will be sent to all vessel permit holders in the South Atlantic snapper-grouper fishery.

This final rule contains collection-of-information requirements subject to the requirements of the Paperwork Reduction Act (PRA), which have been approved by OMB under control numbers 0648–0205 and 0648–0603. NMFS estimates the requirement for South Atlantic Unlimited Snapper-

Grouper Permit holders to submit their logbook information if they are appealing their landings data for a golden tilefish longline endorsement to average 2 hours per response. NMFS estimates the requirement to check boxes on the Federal Permit Application Form for a new endorsement, renewal, or transfer of the golden tilefish endorsement to average 1 minute per response. These estimates of the public reporting burden include the time for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing the collection-of-information. Send comments regarding the burden estimate or any other aspect of the collection-of-information requirement, including suggestions for reducing the burden, to NMFS and to OMB (see **ADDRESSES**).

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

List of Subjects in 50 CFR Part 622

Commercial sector, Fisheries, Fishing, Golden tilefish, Snapper-grouper Fishery, South Atlantic, Reporting and recordkeeping requirements.

Dated: April 17, 2013.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, performing the functions and duties of the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

■ 2. In § 622.170, paragraph (a)(1) is revised and paragraph (f) is added to read as follows:

§ 622.170 Permits and endorsements.

(a) * * *

(1) *South Atlantic snapper-grouper.* For a person aboard a vessel to be eligible for exemption from the bag limits for South Atlantic snapper-grouper in or from the South Atlantic EEZ, to sell South Atlantic snapper-grouper in or from the South Atlantic EEZ, to engage in the directed fishery for golden tilefish in the South Atlantic EEZ, to use a longline to fish for South Atlantic snapper-grouper in the South Atlantic EEZ, or to use a sea bass pot in the South Atlantic EEZ between 35°15.19′ N. lat. (due east of Cape Hatteras Light, NC) and 28°35.1′ N. lat. (due east of the NASA Vehicle Assembly Building, Cape Canaveral, FL), either a commercial vessel permit for South Atlantic Unlimited Snapper-Grouper Permit or a trip-limited permit for South Atlantic snapper-grouper must have been issued to the vessel and must be on board. A vessel with a trip-limited commercial permit is limited on any trip to 225 lb (102.1 kg) of snapper-grouper. See § 622.171 for limitations on the use, transfer, and renewal of a commercial vessel permit for South Atlantic snapper-grouper.

* * * * *

(f) *South Atlantic golden tilefish longline endorsement.* For a person aboard a vessel, for which a valid commercial vessel permit for South Atlantic snapper-grouper unlimited has been issued, to fish for or possess golden tilefish in the South Atlantic EEZ using longline gear, a South Atlantic golden tilefish longline endorsement must have been issued to the vessel and must be on board. A permit or endorsement that has expired is not valid. This endorsement must be renewed annually and may only be renewed if the associated vessel has a valid commercial vessel permit for South Atlantic snapper-grouper unlimited or if the endorsement and associated permit are being concurrently renewed. The RA will not reissue this endorsement if the endorsement is revoked or if the RA does not receive a complete application for renewal of the endorsement within 1 year after the endorsement's expiration date.

(1) *Initial eligibility.* To be eligible for an initial South Atlantic golden tilefish longline endorsement, a person must have been issued and must possess a valid or renewable commercial vessel permit for South Atlantic snapper-grouper that has golden tilefish landings using longline gear averaging at least 5,000 lb (2,268 kg), gutted weight, over the best 3 years within the period 2006–2011. NMFS will attribute all applicable golden tilefish landings associated with a current South Atlantic snapper-grouper permit for the applicable landings history, to the current permit owner, including golden tilefish landings reported by a person(s) who held the permit prior to the current permit owner. Only legal landings reported in compliance with applicable state and Federal regulations are acceptable.

(2) *Initial issuance.* On or about April 23, 2013, the RA will mail each eligible permittee a golden tilefish longline endorsement via certified mail, return receipt requested, to the permittee's address of record as listed in NMFS' permit files. An eligible permittee who does not receive an endorsement from the RA, must contact the RA no later than May 23, 2013, to clarify his/her endorsement status. A permittee who is denied an endorsement based on the RA's initial determination of eligibility and who disagrees with that determination may appeal to the RA.

(3) *Procedure for appealing golden tilefish longline endorsement eligibility and/or landings information.* The only items subject to appeal are initial eligibility for a golden tilefish longline endorsement based on ownership of a qualifying snapper-grouper permit, the accuracy of the amount of landings, and the correct assignment of landings to the permittee. Appeals based on hardship factors will not be considered. Appeals must be submitted to the RA postmarked no later than August 21, 2013, and must contain documentation supporting the basis for the appeal. The National Appeals Office will review, evaluate, and render recommendations on appeals to the RA. The RA will then review each appeal, render a final decision on each appeal, and advise the appellant of the final NMFS decision.

(i) *Eligibility appeals.* NMFS' records of snapper-grouper permits are the sole basis for determining ownership of such permits. A person who believes he/she meets the permit eligibility criteria based on ownership of a vessel under a different name, for example, as a result of ownership changes from individual to corporate or vice versa, must document his or her continuity of ownership and must submit that information with their appeal.

(ii) *Landings appeals.* Determinations of appeals regarding landings data for 2006 through 2011 will be based on NMFS' logbook records, submitted on or before October 31, 2012. If NMFS' logbooks are not available, the RA may use state landings records or data for the period 2006 through 2011 that were submitted in compliance with applicable Federal and state regulations on or before October 31, 2012.

(4) *Transferability.* A valid or renewable golden tilefish endorsement may be transferred between any two entities that hold, or simultaneously obtain, a valid South Atlantic snapper-grouper unlimited permit. An endorsement may be transferred independently from the South Atlantic

snapper-grouper unlimited permit. NMFS will attribute golden tilefish landings to the associated South Atlantic Unlimited Snapper-Grouper Permit regardless of whether the landings occurred before or after the endorsement was issued. Only legal landings reported in compliance with applicable state and Federal regulations are acceptable.

(5) *Fees.* No fee applies to the initial issuance of a golden tilefish longline endorsement. NMFS charges a fee for each renewal or replacement or transfer of such endorsement and calculates the amount of each fee in accordance with the procedures of the NOAA Finance Handbook for determining the administrative costs of each special product or service. The handbook is available from the RA. The appropriate fee must accompany each application for renewal or replacement or transfer.

■ 3. In § 622.188, paragraph (g) is revised to read as follows:

§ 622.188 Required gear, authorized gear, and unauthorized gear.

* * * * *

(g) *Longline species limitation.* A vessel that has on board a valid Federal commercial permit for South Atlantic snapper-grouper, excluding wreckfish, that fishes in the EEZ on a trip with a longline on board, may possess only the following South Atlantic snapper-grouper: snowy grouper, yellowedge grouper, misty grouper, golden tilefish, blueline tilefish, and sand tilefish. See § 622.170(f) for the requirement to possess a valid South Atlantic golden tilefish longline endorsement to fish for golden tilefish in the South Atlantic EEZ using longline gear. For the purpose of this paragraph, a vessel is considered to have a longline on board when a power-operated longline hauler, a cable of diameter suitable for use in the longline fishery on any reel, and gangions are on board. Removal of any one of these three elements constitutes removal of a longline.

■ 4. In § 622.190, paragraph (a)(2) is revised to read as follows:

§ 622.190 Quotas.

* * * * *

(a) * * *

(2) *Golden tilefish.* (i) *Longline and hook-and-line components combined*—541,295 lb (245,527 kg).

(ii) *Hook-and-line component*—135,324 lb (61,382 kg).

(iii) *Longline component*—405,971 lb (184,145 kg).

* * * * *

■ 5. In § 622.191, paragraph (a)(2) is revised to read as follows:

§ 622.191 Commercial trip limits.

* * * * *

(a) * * *

(2) *Golden tilefish*—(i) *South Atlantic snapper-grouper unlimited permit holders, with a longline endorsement, using longline gear.* Until the quota specified in § 622.190(a)(2)(iii) is reached, 4,000 lb (1,814 kg), gutted weight; 4,480 lb (2,032 kg), round weight.

(ii) *South Atlantic snapper-grouper unlimited permit holders, without a longline endorsement, using hook-and-line gear.* Until the quota specified in § 622.190(a)(2)(ii) is reached, the trip limit for golden tilefish is 500 lb (227 kg), gutted weight; 560 lb (254 kg), round weight. Vessels with golden tilefish longline endorsements are not eligible to fish for golden tilefish using hook-and-line gear under this 500-lb (227-kg) trip limit.

(iii) See § 622.190(c)(1) for the limitations regarding golden tilefish after the applicable commercial quota is reached.

* * * * *

■ 6. In § 622.193, paragraph (a)(1) is revised and the last sentence of paragraphs (d)(1)(i), (g)(1)(i), (h)(1)(i), (i)(1)(i), (j)(1)(i), (l)(1)(i), (m)(1)(i), (o)(1)(i), (p)(1)(i), (q)(1)(i), (s)(1)(i), (t)(1)(i), (u)(1)(i), (w)(1)(i), and (x)(1)(i) are revised to read as follows:

§ 622.193 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).

(a) * * *

(1) *Commercial sector*—(i) *Hook-and-line component.* If commercial landings, as estimated by the SRD, reach or are projected to reach the commercial ACL (commercial quota) specified in § 622.190(a)(2)(ii), the AA will file a notification with the Office of the Federal Register to close the hook-and-line component of the commercial sector for the remainder of the fishing year.

(ii) *Longline component.* If commercial landings, as estimated by the SRD, reach or are projected to reach the commercial ACL (commercial quota) specified in § 622.190(a)(2)(iii), the AA will file a notification with the Office of the Federal Register to close the longline component of the commercial sector for the remainder of the fishing year. After the commercial ACL for the longline component is reached or projected to be reached, golden tilefish may not be fished for or possessed by a vessel with a golden tilefish longline endorsement.

* * * * *

(d) * * *

(1) * * *

(i) * * * This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.,* in state or Federal waters.

* * * * *

(g) * * *

(1) * * *

(i) * * * This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.,* in state or Federal waters.

* * * * *

(h) * * *

(1) * * *

(i) * * * This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.,* in state or Federal waters.

* * * * *

(i) * * *

(1) * * *

(i) * * * This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.,* in state or Federal waters.

* * * * *

(j) * * *

(1) * * *

(i) * * * This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.,* in state or Federal waters.

* * * * *

(l) * * *

(1) * * *

(i) * * * This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.,* in state or Federal waters.

* * * * *

(m) * * *

(1) * * *

(i) * * * This bag and possession limit applies in the South Atlantic on

board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.,* in state or Federal waters.

* * * * *

(o) * * *

(1) * * *

(i) * * * This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.,* in state or Federal waters.

* * * * *

(p) * * *

(1) * * *

(i) * * * This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.,* in state or Federal waters.

* * * * *

(q) * * *

(1) * * *

(i) * * * This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.,* in state or Federal waters.

* * * * *

(s) * * *

(1) * * *

(i) * * * This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.,* in state or Federal waters.

* * * * *

(t) * * *

(1) * * *

(i) * * * This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.,* in state or Federal waters.

* * * * *

(u) * * *

(1) * * *

(i) * * * This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.,* in state or Federal waters.

* * * * *

(w) * * *

(1) * * *

(i) * * * This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.,* in state or Federal waters.

* * * * *

(x) * * *

(1) * * *

(i) * * * This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.,* in state or Federal waters.

* * * * *

■ 7. In § 622.194, paragraph (a) is revised to read as follows:

§ 622.194 Adjustment of management measures

* * * * *

(a) Biomass levels, age-structured analyses, target dates for rebuilding overfished species, MSY (or proxy), OY, ABC, TAC, quotas (including a quota of zero), annual catch limits (ACLs), annual catch targets (ACTs), AMs, maximum fishing mortality threshold (MFMT), minimum stock size threshold (MSST), trip limits, bag limits, size limits, gear restrictions (ranging from regulation to complete prohibition), seasonal or area closures, fishing year, rebuilding plans, definitions of essential fish habitat, essential fish habitat, essential fish habitat HAPCs or Coral HAPCs, and restrictions on gear and fishing activities applicable in essential fish habitat and essential fish habitat HAPCs.

* * * * *

■ 8. In § 622.280, the last sentence of paragraphs (a)(1) and (b)(1) are revised to read as follows:

§ 622.280 Annual catch limits (ACLs) and accountability measures (AMs).

(a) * * *

(1) * * * This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.,* in state or Federal waters.

* * * * *

(b) * * *

(1) * * * This bag and possession limit applies in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.,* in state or Federal waters.

* * * * *

[FR Doc. 2013–09574 Filed 4–22–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 120918468–3111–02]

RIN 0648–XC633

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher/Processors Using Hook-and-line Gear in the Western Regulatory Area of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod by catcher/processors (C/Ps) using hook-and-line gear in the Western Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the A season allowance of the 2013 Pacific cod total allowable catch apportioned to C/Ps using hook-and-line gear in the Western Regulatory Area of the GOA.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), April 21, 2013, through 1200 hours, A.l.t., September 1, 2013.

FOR FURTHER INFORMATION CONTACT: Obren Davis, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679. Regulations governing sideboard

protections for GOA groundfish fisheries appear at subpart B of 50 CFR part 680.

The A season allowance of the 2013 Pacific cod total allowable catch (TAC) apportioned to C/Ps using hook-and-line gear in the Western Regulatory Area of the GOA is 2,254 metric tons (mt), as established by the final 2013 and 2014 harvest specifications for groundfish of the GOA (78 FR 13162, February 26, 2013).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator) has determined that the A season allowance of the 2013 Pacific cod TAC apportioned to C/Ps using hook-and-line gear in the Western Regulatory Area of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 2,204 mt, and is setting aside the remaining 50 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by C/Ps using hook-and-line gear in the Western Regulatory Area of the GOA. After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the directed fishing closure of Pacific cod for C/Ps using hook-and-line gear in the Western Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of April 17, 2013.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 18, 2013.

Kara Meckley,

Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2013–09520 Filed 4–18–13; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 78, No. 78

Tuesday, April 23, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2010–0678; Directorate Identifier 2010–NM–020–AD]

RIN 2120–AA64

Airworthiness Directives; the Boeing Company

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

ACTION: Proposed rule; withdrawal.

SUMMARY: The FAA withdraws a notice of proposed rulemaking (NPRM) that proposed a new airworthiness directive (AD) for certain The Boeing Company Model 777–200 and –300 series airplanes. The proposed AD would have required installing new operational software in the cabin management system, and loading new software into the mass memory card. Since the proposed AD was issued, we have received new data that indicates the unsafe condition would not be adequately addressed by the proposed action. Subsequently, we are considering issuing new rulemaking that positively addresses the unsafe condition identified in the NPRM and eliminates the need for the actions proposed in the NPRM. Accordingly, the proposed AD is withdrawn.

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

FOR FURTHER INFORMATION CONTACT: Ray Mei, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6467; fax: 425–917–6590; email: *raymont.mei@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We proposed to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) with a notice of proposed rulemaking (NPRM) for a new AD for certain Model 777–200 and –300 series airplanes. That NPRM published in the **Federal Register** on July 7, 2010 (75 FR 38945). The NPRM would have required installing new operational software in the cabin management system, and loading new software into the mass memory card. The NPRM resulted from an in-flight entertainment (IFE) systems review. The proposed actions were intended to ensure that the flightcrew is able to turn off electrical power to the IFE system and other non-essential electrical systems through a switch in the flight compartment in the event of smoke or flames. In the event of smoke or flames in the airplane flight deck or passenger cabin, the flightcrew's inability to turn off electrical power to the IFE system and other non-essential electrical systems could result in the inability to control smoke or flames in the airplane flight deck or passenger cabin during a non-normal or emergency situation.

Actions Since NPRM (75 FR 38945, July 7, 2010) Was Issued

Since we issued the NPRM (75 FR 38945, July 7, 2010), we have received new data that the actions that indicates the unsafe condition would not be adequately addressed by the proposed action. Subsequently, we are considering issuing new rulemaking that positively addresses the unsafe condition identified in the NPRM and eliminates the need for the actions proposed in the NPRM.

FAA's Conclusions

Upon further consideration, we have determined that the unsafe condition still exists, however, we intend to address it with new AD rulemaking. Accordingly, the NPRM (75 FR 38945, July 7, 2010) is withdrawn.

Withdrawal of the NPRM (75 FR 38945, July 7, 2010) does not preclude the FAA from issuing another related action or commit the FAA to any course of action in the future.

Regulatory Impact

Since this action only withdraws an NPRM (75 FR 38945, July 7, 2010), it is neither a proposed nor a final rule and therefore is not covered under Executive Order 12866, the Regulatory Flexibility Act, or DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

List of Subjects in 14 CFR Part 39

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

The Withdrawal

Accordingly, we withdraw the NPRM, Docket No. FAA–2010–0678, Directorate Identifier 2010–NM–020–AD, which published in the **Federal Register** on July 7, 2010 (75 FR 38945).

Issued in Renton, Washington, on February 1, 2013.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–09428 Filed 4–22–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2013–0076]

RIN 1625–AA00

Safety Zone; Crescent City 4th of July Fireworks; Crescent City Harbor, Crescent City, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes establishing a temporary safety zone in the navigable waters near Crescent City, CA in support of the Crescent City 4th of July Fireworks on July 4, 2013. This safety zone is necessary to ensure the safety of participants and spectators from the dangers associated with the pyrotechnics. The safety zone will temporarily restrict vessel movement

within the designated area on July 4, 2013, from 9:30 p.m. until 10:15 p.m.

DATES: Comments and related material must be received by the Coast Guard on or before May 23, 2013.

Requests for public meetings must be received by the Coast Guard on or May 7, 2013.

ADDRESSES: You may submit comments identified by docket number USCG–2013–0076 using any one of the following methods:

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

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

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 temporary rule, call Lieutenant Junior Grade William J. Hawn at 415–399–7442, or email *D11-PF-MarineEvents@uscg.mil*. If you have questions on viewing or submitting material to the docket, contact the 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–2013–0076) 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–2013–0076) 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 plan to hold public meetings on this proposed rule. 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. 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, which collectively authorize the Coast Guard to establish safety zones.

Crescent City-Del Norte County Chamber of Commerce will sponsor the Crescent City 4th of July Fireworks on July 4, 2013, off of the West Jetty in Crescent City Harbor, CA in approximate position 41°44′41″ N, 124°11′59″ W (NAD 83) as depicted in National Oceanic and Atmospheric Administration (NOAA) Chart 18603. Upon the commencement of the fireworks display, the safety zone will encompass the navigable waters around and under the launch site within a radius of 560 feet. The fireworks display is meant for entertainment purposes. This restricted area around the launch site is necessary to protect spectators, vessels, and other property from the hazards associated with the pyrotechnics.

C. Discussion of the Proposed Rule

The proposed safety zone will encompass the navigable waters around the land based launch site on the West Jetty in Crescent City Harbor, Crescent City, CA. Upon the commencement of the fireworks display, scheduled to take place from 9:30 p.m. to 10 p.m. on July 4, 2013, the safety zone will encompass the navigable waters around the fireworks launch site within a radius 560 feet from position 41°44′41″ N, 124°11′59″ W (NAD 83) for the Crescent City 4th of July Fireworks. At the conclusion of the fireworks display the safety zone shall terminate.

The effect of the temporary safety zone will be to restrict navigation in the vicinity of the launch site until the conclusion of the scheduled display. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the restricted area. These regulations are needed to keep spectators and

vessels away from the immediate vicinity of the launch site to ensure the safety of participants, spectators, and transiting vessels.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

We expect the economic impact of this rule does not rise to the level of necessitating a full Regulatory Evaluation. The safety zone is limited in duration and is limited to a narrowly tailored geographic area. In addition, although this rule restricts access to the waters encompassed by the safety zone, the effect of this rule will not be significant because the local waterway users will be notified via public Broadcast Notice to Mariners to ensure the safety zone will result in minimum impact. The entities most likely to be affected are waterfront facilities, commercial vessels, and pleasure craft engaged in recreational activities.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule may affect owners and operators of waterfront facilities, commercial vessels, and pleasure craft engaged in recreational activities and sightseeing. This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons. This safety zone would be activated, and thus subject to enforcement, for a limited duration. When the safety zone is activated, vessel traffic could pass safely around the safety zone. The maritime public will be advised in advance of this safety zone via Broadcast Notice to Mariners.

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 rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above.

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

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone of limited size and duration. This rule is categorically excluded from further review under paragraph 34(g) and 35(b) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, and 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. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165–T11–0076 to read as follows:

§ 165–T11–0076 Safety Zone; Crescent City 4th of July Fireworks, Crescent City Harbor, Crescent City, CA.

(a) *Location.* This safety zone is established in the navigable waters near the West Jetty of Crescent City Harbor, Crescent City, CA, as depicted in National Oceanic and Atmospheric Administration (NOAA) Chart 18603. The temporary safety zone will encompass the navigable waters around the fireworks launch site in position 41°44′41″ N, 124°11′59″ W (NAD 83) within a radius of 560 feet.

(b) *Enforcement period.* The zone described in paragraph (a) of this section will be enforced from 9:30 p.m. through 10:15 p.m. on July 4, 2013. The Captain of the Port San Francisco (COTP) will notify the maritime community of periods during which this zone will be enforced via Broadcast Notice to Mariners in accordance with 33 CFR 165.7.

(c) *Definitions.* As used in this section, ''designated representative'' means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer on a Coast Guard vessel or a Federal, State, or local officer designated by or assisting the COTP in the enforcement of the safety zone.

(d) *Regulations.* (1) Under the general regulations in 33 CFR Part 165.23, entry into, transiting or anchoring within this safety zone is prohibited unless authorized by the COTP or a designated representative.

(2) The safety zone is closed to all vessel traffic, except as may be permitted by the COTP or a designated representative.

(3) Vessel operators desiring to enter or operate within the safety zone must contact the COTP or a designated representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the COTP or a designated representative. Persons and vessels may request permission to enter the safety zone on VHF–23A or through the 24-hour Command Center at telephone (415) 399–3547.

Dated: April 1, 2013.

Cynthia L. Stowe,

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

[FR Doc. 2013–09547 Filed 4–22–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2013–0033]

RIN 1625–AA00

Safety Zone; Redwood City 4th of July Fireworks Show; Port of Redwood City, Redwood City, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary safety zone in the navigable waters of the Port of Redwood City near Redwood City, CA in support of the Redwood City 4th of July Fireworks Show on July 4, 2013. This safety zone is necessary to ensure the safety of participants and spectators from the dangers associated with the pyrotechnics. The safety zone will temporarily restrict vessel movement within the designated area on July 4, 2013, from 9:30 p.m. until 10 p.m.

DATES: Comments and related material must be received by the Coast Guard on or before May 23, 2013.

ADDRESSES: You may submit comments identified by docket number USCG–2013–0033 using any one of the following methods:

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

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

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

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call Lieutenant Junior Grade Joshua V. Dykman at 415–399–3585, or email *D11-PF-MarineEvents@uscg.mil.* If you have questions on viewing or submitting material to the docket, contact the 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 (USCG–2013–0033), 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 (via *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 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 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–2013–0033) 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–2013–0033) 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 plan to hold public meetings on this proposed rule. 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. 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, which collectively authorize the Coast Guard to establish safety zones.

Redwood City will sponsor the Redwood City 4th of July Fireworks Show on July 4, 2013, on Wharf 4 in the Port of Redwood City, CA in position 37°30′34″ N, 122°12′42″ W (NAD 83) as depicted in National Oceanic and Atmospheric Administration (NOAA) Chart 18651. Upon the commencement of the fireworks display, the safety zone will encompass the navigable waters around and under the launch site within a radius of 560 feet. The fireworks display is meant for entertainment purposes. This restricted area around the launch site is necessary to protect spectators, vessels, and other property from the hazards associated with the pyrotechnics.

C. Discussion of the Proposed Rule

The proposed safety zone will encompass the navigable waters around the land based launch site on Wharf 4 in the Port of Redwood City, CA. Upon the commencement of the fireworks display, scheduled to take place from 9:30 p.m. to 10 p.m. on July 4, 2013, the safety zone will encompass the navigable waters around the fireworks launch site within a radius 560 feet from position 37°30′34″ N, 122°12′42″ W (NAD 83) for the Redwood City 4th of July Fireworks. At the conclusion of the fireworks display the safety zone shall terminate.

The effect of the temporary safety zone will be to restrict navigation in the vicinity of the launch site until the conclusion of the scheduled display. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the restricted area. These regulations are needed to keep spectators and vessels away from the immediate vicinity of the launch site to ensure the safety of participants, spectators, and transiting vessels.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

We expect the economic impact of this rule does not rise to the level of necessitating a full Regulatory Evaluation. The safety zone is limited in duration, and is limited to a narrowly tailored geographic area. In addition, although this rule restricts access to the waters encompassed by the safety zone, the effect of this rule will not be significant because the local waterway users will be notified via public Broadcast Notice to Mariners to ensure the safety zone will result in minimum impact. The entities most likely to be affected are waterfront facilities, commercial vessels, and pleasure craft engaged in recreational activities.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule may affect owners and operators of waterfront facilities, commercial vessels, and pleasure craft engaged in recreational activities and sightseeing. This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons. This safety zone would be activated, and thus subject to enforcement, for a limited duration. When the safety zone is activated, vessel traffic could pass safely around the safety zone. The maritime public will be advised in advance of this

safety zone via Broadcast Notice to Mariners.

3. Assistance for Small Entities

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

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

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone of limited size and duration. This rule is categorically excluded from further review under paragraph 34(g) and 35(b) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, and 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. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165–T11–546 to read as follows:

§ 165–T11–546 Safety Zone; Redwood City 4th of July Fireworks Show, Port of Redwood City, Redwood City, CA.

(a) *Location.* This safety zone is established in the navigable waters of the Port of Redwood City near Redwood City, CA as depicted in National Oceanic and Atmospheric Administration (NOAA) Chart 18651. From 9:30 p.m. until 10 p.m. on July 4, 2013, the temporary safety zone will encompass the navigable waters around the fireworks launch site in position 37°30′34″ N, 122°12′42″ W (NAD 83) within a radius of 560 feet.

(b) *Enforcement period.* The zone described in paragraph (a) of this section will be enforced from 9:30 p.m. through 10 p.m. on July 4, 2013. The Captain of the Port San Francisco (COTP) will notify the maritime community of periods during which this zone will be enforced via Broadcast Notice to Mariners in accordance with 33 CFR 165.7.

(c) *Definitions.* As used in this section, ''designated representative'' means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer on a Coast Guard vessel or a Federal, State, or local officer designated by or assisting the COTP in the enforcement of the safety zone.

(d) *Regulations.* (1) Under the general regulations in 33 CFR 165.23, entry into, transiting or anchoring within this safety zone is prohibited unless authorized by the COTP or a designated representative.

(2) The safety zone is closed to all vessel traffic, except as may be permitted by the COTP or a designated representative.

(3) Vessel operators desiring to enter or operate within the safety zone must contact the COTP or a designated representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the COTP or a designated representative. Persons and vessels may request permission to enter the safety zone on VHF–23A or through the 24-hour Command Center at telephone (415) 399–3547.

Dated: April 1, 2013.

Cynthia L. Stowe,

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

[FR Doc. 2013–09539 Filed 4–22–13; 8:45 am]

BILLING CODE 9110–04–P

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Part 1195

[Docket No. ATBCB–2012–0003]

RIN 3014–AA40

Medical Diagnostic Equipment Accessibility Standards Advisory Committee

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of advisory committee meeting.

SUMMARY: The Medical Diagnostic Equipment Accessibility Standards Advisory Committee will hold its sixth meeting. On July 5, 2012, the Architectural and Transportation Barriers Compliance Board (Access Board) established the advisory committee to make recommendations to the Board on matters associated with comments received and responses to questions included in a previously published Notice of Proposed Rulemaking (NPRM) on Medical Diagnostic Equipment Accessibility Standards.

DATES: The Committee will meet on May 7, 2013, from 10 a.m. to 5 p.m. and on May 8, 2013, from 9 a.m. to 2:30 p.m.

ADDRESSES: The meeting will be held at the Access Board's Conference Room, 1331 F Street NW., Suite 800, Washington, DC 20004–1111.

FOR FURTHER INFORMATION CONTACT: Rex Pace, Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004–1111. Telephone number (202) 272–0023 (Voice); (202) 272–0052 (TTY). Electronic mail address: *pace@access-board.gov*.

SUPPLEMENTARY INFORMATION: On July 5, 2012, the Architectural and Transportation Barriers Compliance Board (Access Board) established an advisory committee to make recommendations to the Board on matters associated with comments received and responses to questions included in a previously published NPRM on Medical Diagnostic Equipment Accessibility Standards. See 77 FR 6916 (February 9, 2012). The NPRM and information related to the proposed standards are available on the Access Board's Web site at: *http://www.access-board.gov/medical-equipment.htm*.

The advisory committee will hold its sixth meeting on May 7 and 8, 2013. The agenda includes the following:

- Review of previous committee work;
- review and discussion of subcommittee recommendations;
- review and discussion of committee recommendations;
- review and discussion of the committee's final report;
- consideration of issues proposed by committee members; and
- discussion of administrative issues.

The preliminary meeting agenda, along with information about the committee, is available at the Access Board's Web site (*http://www.access-board.gov/medical-equipment.htm*).

Committee meetings are open to the public and interested persons can attend the meetings and communicate their views. Members of the public will have opportunities to address the committee on issues of interest to them during public comment periods scheduled on each day of the meeting.

The meetings will be accessible to persons with disabilities. An assistive listening system, Communication Access Realtime Translation (CART), and sign language interpreters will be provided. Persons attending the meetings are requested to refrain from using perfume, cologne, and other fragrances for the comfort of other participants (see *www.access-board.gov/about/policies/fragrance.htm* for more information). Also, persons wishing to provide handouts or other written information to the committee are requested to provide electronic formats to Rex Pace via email prior to the meetings so that alternate formats can be distributed to committee members.

David M. Capozzi,

Executive Director.

[FR Doc. 2013–09513 Filed 4–22–13; 8:45 am]

BILLING CODE 8150–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Parts 160 and 164

HIPAA Privacy Rule and the National Instant Criminal Background Check System (NICS)

AGENCY: Office for Civil Rights, Department of Health and Human Services.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: On January 16, 2013, President Barack Obama announced a series of Executive Actions to reduce gun violence in the United States, including efforts to improve the Federal government's background check system for the sale or transfer of firearms by licensed dealers, called the National Instant Criminal Background Check System (NICS). Among those persons disqualified from possessing or receiving firearms under Federal law are individuals who have been involuntarily committed to a mental institution; found incompetent to stand trial or not guilty by reason of insanity; or otherwise have been determined, through a formal adjudication process, to have a severe mental condition that results in the individuals presenting a danger to themselves or others or being incapable of managing their own affairs (referred to below as the ''mental health prohibitor''). Concerns have been raised that, in certain states, the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule may be a barrier to States' reporting the identities of individuals subject to the mental health prohibitor

to the NICS. The Department of Health and Human Services (HHS or ''the Department''), which administers the HIPAA regulations, is issuing this Advance Notice of Proposed Rulemaking (ANPRM) to solicit public comments on such barriers to reporting and ways in which these barriers can be addressed. In particular, we are considering creating an express permission in the HIPAA rules for reporting the relevant information to the NICS by those HIPAA covered entities responsible for involuntary commitments or the formal adjudications that would subject individuals to the mental health prohibitor, or that are otherwise designated by the States to report to the NICS. In addition, we are soliciting comments on the best methods to disseminate information on relevant HIPAA policies to State level entities that originate or maintain information that may be reported to NICS. Finally, we are soliciting public input on whether there are ways to mitigate any unintended adverse consequences for individuals seeking needed mental health services that may be caused by creating express regulatory permission to report relevant information to NICS. The Department will use the information it receives to determine how best to address these issues.

DATES: Submit comments on or before June 7, 2013.

ADDRESSES: Written comments may be submitted through any of the methods specified below. Please do not submit duplicate comments.

- *Federal eRulemaking Portal:* You may submit electronic comments at *http://www.regulations.gov*. Follow the instructions for submitting electronic comments. Attachments should be in Microsoft Word, WordPerfect, or Excel; however, we prefer Microsoft Word.
- *Regular, Express, or Overnight Mail:* You may mail written comments (one original and two copies) to the following address only: U.S. Department of Health and Human Services, Office for Civil Rights, *Attention:* HIPAA Privacy Rule and NICS, Hubert H. Humphrey Building, Room 509F, 200 Independence Avenue SW., Washington, DC 20201.
- *Hand Delivery or Courier:* If you prefer, you may deliver (by hand or courier) your written comments (one original and two copies) to the following address only: Office for Civil Rights, Attention: HIPAA Privacy Rule and NICS, Hubert H. Humphrey Building, Room 509F, 200 Independence Avenue SW., Washington, DC 20201. (Because access to the interior of the Hubert H. Humphrey Building is not readily available to persons without federal government identification, commenters are encouraged to leave their comments in the mail drop slots located in the main lobby of the building.)

Inspection of Public Comments: All comments received before the close of the comment period will be available for public inspection, including any personally identifiable or confidential business information that is included in a comment. We will post all comments received before the close of the comment period at *http://www.regulations.gov*. Because comments will be made public, they should not include any sensitive personal information, such as a person's social security number; date of birth; driver's license number, state identification number or foreign country equivalent; passport number; financial account number; or credit or debit card number. Comments also should not include any sensitive health information, such as medical records or other individually identifiable health information, or any non-public corporate or trade association information, such as trade secrets or other proprietary information.

FOR FURTHER INFORMATION CONTACT: Andra Wicks, 202–205–2292.

SUPPLEMENTARY INFORMATION:

I. Background

On January 16, 2013, President Barack Obama announced 23 Executive Actions aimed at curbing gun violence across the nation. Those actions include efforts by the Federal government to improve the national background check system for the sale or transfer of firearms by licensed dealers, and a specific commitment to ''[a]ddress unnecessary legal barriers, particularly relating to the Health Insurance Portability and Accountability Act, that may prevent states from making information available to the background check system.'' To better understand the scope of any problems HIPAA may pose to reporting the identities of persons who are subject to the mental health prohibitor to the NICS, where a HIPAA covered entity may hold the records of the involuntary commitments or mental health adjudications, the Department developed this ANPRM to solicit input from States, other stakeholders, and the public on these issues. The public comments will inform the Department's efforts to address concerns related to HIPAA in a manner that is consistent with our approach to balancing important public safety goals and individuals' privacy interests.

The NICS

The Brady Handgun Violence Prevention Act of 1993, Public Law 103–159, and its implementing regulations, are designed to prevent the transfer of firearms by licensed dealers to individuals who are not allowed to possess them as a result of restrictions contained in the Gun Control Act of 1968, as amended (Title 18, United States Code, Chapter 44), and those deemed otherwise unfit to possess or receive firearms. The Gun Control Act identifies several categories (known as ''prohibitors'') of individuals [1] who are prohibited from engaging in the shipment, transport, receipt, or possession of firearms, including convicted felons and fugitives. Most relevant for the purposes of this ANPRM is the ''mental health prohibitor,'' which applies to individuals who have been involuntarily committed to a mental institution,[2] found incompetent to stand trial or not guilty by reason of insanity, or otherwise adjudicated as having a serious mental condition that results in the individuals presenting a danger to themselves or others or being unable to manage their own affairs.[3] The Brady Act established the National Instant Criminal Background Check System (NICS) to help enforce these prohibitions.[4] The NICS Index, a database administered by the Federal Bureau of Investigation (FBI), collects and maintains certain identifying information about individuals who are subject to one or more of the Federal prohibitors and thus, are ineligible to

[1] See 18 U.S.C. 922(g) and (n) and implementing regulations at 27 CFR 478.11 and 27 CFR 478.32.

[2] The regulation, at 27 CFR 478.11, defines ''Committed to a mental institution'' as: A formal commitment of a person to a mental institution by a court, board, commission, or other lawful authority. The term includes a commitment to a mental institution involuntarily, commitment for mental defectiveness or mental illness, as well as commitments for other reasons, such as for drug use. The term does not include a person in a mental institution for observation or a voluntary admission to a mental institution.

[3] The term used in the statute, ''adjudicated as a mental defective,'' is defined by regulation to include: ''(a) A determination by a court, board, commission, or other lawful authority that a person, as a result of marked subnormal intelligence, or mental illness, incompetency, condition, or disease: (1) is a danger to himself or to others; or (2) lacks the mental capacity to contract or manage his own affairs.'' The term includes a finding of insanity in a criminal case, and a finding of incompetence to stand trial or a finding of not guilty by reason of lack of mental responsibility pursuant to the Uniform Code of Military Justice. 27 CFR 478.11.

[4] See 28 CFR 25.1 through 25.11 (establishing NICS information system specifications and processes) and 27 CFR part 478 (establishing requirements and prohibitions for commerce in firearms and ammunition, including requirements related to conducting NICS background checks).

purchase firearms.[5] The information maintained by the NICS typically is limited to the names of ineligible individuals and certain other identifying information, such as their dates of birth, as well as codes for the submitting entity and the prohibited category that applies to the individual. Other than demographic information about the individual, only the fact that the individual is subject to the mental health prohibitor is submitted to the NICS; underlying diagnoses, treatment records, and other identifiable health information is not provided to or maintained by the NICS. A NICS background check queries the NICS Index and certain other national databases[6] to determine whether a prospective buyer's identifying information matches any prohibiting records contained in the databases.

The potential transfer of a firearm from a Federal Firearms Licensee (FFL) to a prospective buyer proceeds as follows: First, the prospective buyer is required to provide personal information on a Firearms Transaction Record (ATF Form 4473). Unless the prospective buyer has documentation that he or she qualifies for an exception to the NICS background check requirement under 18 U.S.C. 922(t)(3),[7] the FFL contacts the NICS—electronically, by telephone, or through a State level point of contact—and provides certain identifying information about the prospective buyer from ATF Form 4473.[8] Within about 30 seconds, the FFL receives a response that the firearm transfer may proceed or is delayed. The transfer is delayed if the prospective buyer's information matches a record contained in one of the databases reviewed. If there is a match, a NICS examiner reviews the records to determine whether it is in fact prohibiting, and then either: (1) If the record does not contain prohibiting information, advises the FFL to proceed with the transaction; (2) if the record does contain prohibiting information, denies the transaction (due to ineligibility); or (3) if it is unclear based solely on the existing information in the record whether it is prohibiting, delays the transaction pending further research.[9] The NICS examiner does not disclose the reason for the determination to the FFL (e.g., the FFL would not learn that the individual was ineligible due to the mental health prohibitor). In case of a delay, if the NICS examiner does not provide a final instruction to the FFL within three business days of the initial background check request, the FFL may, but is not required to, proceed with the transaction.[10]

Although FFLs are required in most cases to request a background check through the NICS before transferring a firearm to a prospective buyer,[11] Federal law does not require State agencies to report to the NICS the identities of individuals who are prohibited by Federal law from purchasing firearms, and not all states report complete information to the NICS. Therefore, the NICS Index does not include information about all individuals who are subject to one or more of the prohibited categories.[12]

Following the events at Virginia Tech University in 2007, and other tragedies involving the illegal use of firearms, Congress enacted the NICS Improvement Amendments Act (NIAA) of 2008, Public Law 110–180. Among other provisions, the NIAA requires Federal agencies to report to the NICS the identities of individuals known by the agencies to be subject to one or more prohibitors, and it authorizes incentives for States to provide such information when it is in their possession. In addition, some States enacted legislation requiring State agencies to report the identities of ineligible individuals to the NICS or to a State level repository responsible for submitting information to the NICS.

The HIPAA Privacy Rule and NICS Reporting

The Privacy Rule, promulgated under the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Title II, Subtitle F—Administrative Simplification, Public Law 104–191, establishes federal protections to ensure the privacy and security of protected health information (PHI) and establishes an array of individual rights with respect to one's own health information. HIPAA applies to covered entities, which include health plans, health care clearinghouses, and health care providers that conduct certain standard transactions (such as billing insurance) electronically. HIPAA covered entities may only use and disclose protected health information with the individual's written authorization, or as otherwise expressly permitted or required by the HIPAA Privacy Rule. The Privacy Rule seeks to balance individuals' privacy interests with important public policy goals including public health and safety. In doing so, the Privacy Rule allows, subject to certain conditions and limitations, disclosures of protected health information without individuals' authorization for certain law enforcement purposes, to avert a serious threat to health or safety, and where required by State or other law, among other purposes.

As stated above, individuals who are subject to the mental health prohibitor are ineligible to purchase a firearm because they have been involuntarily committed to a mental institution, have been found incompetent to stand trial or not guilty by reason of insanity, or otherwise have been determined through an adjudication process to have a severe mental condition resulting in the individuals presenting a danger to themselves or others or being unable to manage their own affairs. Records of individuals adjudicated as incompetent to stand trial, or not guilty by reason of insanity, originate with entities in the criminal justice system, and these entities are not HIPAA covered entities. Likewise, involuntary civil commitments are usually made by court order, and thus, records of such orders originate with entities in the justice system. In addition, many adjudications determining that individuals pose a danger to themselves or others, or are

[5] Additionally, in 2012 the NICS Index began to include the identities of persons who are prohibited from possessing or acquiring firearms by State law, which in some cases may be more restrictive than Federal law. See Statement Before the Senate Judiciary Committee, Subcommittee on Crime and Terrorism at a hearing entitled, ''The Fix Gun Checks Act: Better State and Federal Compliance, Smarter Enforcement'' (November 15, 2011), by David Cuthbertson, Assistant Director, Criminal Justice Information Services Division, Federal Bureau of Investigation. Testimony available at: *http://www.justice.gov/ola/testimony/112-1/11-15-11-fbi-cuthbertson-testimony-re-the-fix-gun-checks-act.pdf.*

[6] The other databases include the Interstate Identification Index, which contains criminal history record information; and the National Crime Information Center, which includes, e.g., information on persons subject to civil protection orders and arrest warrants. Additional information is available at, *http://www.fbi.gov/about-us/cjis/nics/general-information/nics-overview.*

[7] These exceptions are listed in the ATF regulation at 27 CFR 478.102(d).

[8] The form collects the prospective buyer's name; demographic information such as address, place and date of birth, gender, citizenship, race and ethnicity; and ''yes'' or ''no'' answers to questions about the person's criminal history and other potential prohibitors. The form is available at *http://www.atf.gov/forms/download/atf-f-4473-1.pdf.*

[9] For example, a ''delay'' response may mean that further research is required because potentially prohibitive criteria exist, but the matched records are incomplete, See Federal Bureau of Investigation (FBI) Fact Sheet at: *www.fbi.gov/about-us/cjis/nice/general-information/fact-sheet.*

[10] Some States have waiting periods that also must be complied with before a firearm may be transferred, regardless of whether a proceed response from NICS is received by the FFL within three business days.

[11] See 27 CFR 478.102. Exceptions to this requirement are listed in FN 7 above, and in the regulation at 27 CFR 478.102(d).

[12] The same is true of the other two databases accessed during a NICS Check, the III and NCIC. State participation and reporting to those databases is also not required.

incapable of managing their own affairs, occur through legal process in the court system.

However, because of the variety of State laws, there may be State agencies, boards, commissions, or other lawful authorities outside the court system that are involved in some involuntary commitments or mental health adjudications. At this time, we have insufficient data regarding to what extent these State agencies, boards, commissions, or other lawful authorities that order involuntary commitments or conduct mental health adjudications are also HIPAA covered entities. Moreover, we understand that some States have designated repositories to collect and report to the NICS the identities of individuals subject to the mental health prohibitor. We also do not have data to determine to what extent any of these repositories is also a HIPAA covered entity (e.g., a State health agency).

Where the record of an involuntary commitment or mental health adjudication originated with a HIPAA covered entity, or the HIPAA covered entity is the State repository for such records, the records are subject to HIPAA, but there are ways in which the Privacy Rule permits the reporting to the NICS. In particular, the Privacy Rule permits the agency to disclose the information to the NICS to the extent the State has enacted a law requiring such reporting.[13] Alternatively, where there is no State law requiring reporting, the Privacy Rule permits a State agency that is a HIPAA covered entity that performs both health care and non-health care functions (e.g., NICS reporting) to become a hybrid entity and thus, have the HIPAA Privacy Rule apply only to its health care functions. The State agency achieves hybrid entity status by designating its health care components as separate from other components and documenting that designation. Thus, a State agency that has designated itself a hybrid entity, in accordance with the Privacy Rule,[14] can report prohibitor information through its non-HIPAA covered NICS reporting unit without restriction under the Privacy Rule.

However, many States still are not reporting essential mental health prohibitor information to the NICS. Some States may face practical difficulties in passing a State law requiring NICS disclosures, and there may be administrative or other challenges to the creation of a hybrid entity. Thus, concerns have been raised that the HIPAA Privacy Rule's restrictions on covered entities' disclosures of protected health information may prevent certain States from reporting to the NICS the identities of individuals who are subject to the mental health prohibitor. Further, in July 2012, the U.S. Government Accountability Office (GAO) reported to Congress on the results of a survey of six states that it had conducted as part of a performance audit of the progress made by DOJ and the States in implementing the NIAA.[15] In the report, the GAO wrote that, ''* * * officials from 3 of the 6 states we reviewed said that the absence of explicit state-level statutory authority to share mental health records was an impediment to making such records available to NICS.'' [16] The report also stated that, although the number of records provided by the States to the NICS had increased by 800 percent between 2004 and 2011, this increase was largely due to efforts by only 12 states. The report raised the possibility that States that do not report to the NICS the identities of individuals who are subject to the mental health prohibitor may experience challenges to reporting related to the HIPAA Privacy Rule.

To address these concerns, the Department is considering whether to amend the Privacy Rule to expressly permit covered entities holding information about the identities of individuals who are subject to the mental health prohibitor to disclose limited mental health prohibitor information to the NICS. Such an amendment might produce clarity regarding the Privacy Rule and help make it as simple as possible for States to report the identities of such individuals to the NICS.

In crafting the elements of an express permission, we would consider limiting the information to be disclosed to the minimum data necessary for NICS purposes, such as the names of the individuals who are subject to the mental health prohibitor, demographic information such as dates of birth, and codes identifying the reporting entity and the relevant prohibitor. We would not consider permitting the disclosure of an individual's treatment record or any other clinical or diagnostic information for this purpose. In addition, we would consider permitting disclosures for NICS purposes only by those covered entities that order involuntary commitments, perform relevant mental health adjudications, or are otherwise designated as State repositories for NICS reporting purposes.

To inform our efforts to address any issues in this area, we request comments specifically on the questions below, which will help us identify the nature and scope of the problem of underreporting, determine whether our assumptions about where data are maintained are correct, determine to what extent the existing permissible disclosures are insufficient, and explore additional methods of disseminating information about whether the HIPAA Privacy Rule affects entities' ability to report to the NICS. The Department welcomes comments from all stakeholders on these issues, including HIPAA covered entities; agencies of State, territorial, and tribal governments; law enforcement officials; individuals; and consumer advocates and groups. We are particularly interested in specific examples of situations in which reporting to the NICS is hindered by HIPAA requirements, or where there may be uncertainty about how HIPAA applies to such reporting, and any other concerns about the disclosure of information for these purposes by health care entities that both perform the adjudications or involuntary commitments and provide the mental health treatment to the individuals. We ask that commenters indicate throughout their submitted comments which question(s) they are responding to.

II. Questions

In a 2012 report on implementation of the NIAA, the GAO wrote that States had increased reporting to the NICS of the identities of individuals who are prohibited from purchasing firearms because they have been involuntarily committed to a mental institution, found incompetent to stand trial or not guilty by reason of insanity, or otherwise adjudicated as having a serious mental condition that results in the individuals posing a danger to themselves or others or being unable to manage their own affairs.[17] Specifically, reporting of this information grew from 126,000 records in October 2004, to

[13] See 45 CFR 164.512(a). Note that disclosures for NICS purposes would not fall under the Privacy Rule's provisions permitting disclosures for law enforcement (which apply to specific law enforcement inquiries) or to avert a serious threat to health or safety (which require an imminent threat of harm). See 45 CFR 164.512(f) and (j).

[14] See 45 CFR 164.103, 164.105.

[15] See GAO–12–684, Gun Control: Sharing Promising Practices and Assessing Incentives Could Better Position Justice to Assist States in Providing Records for Background Checks.

[16] We note that the GAO Report uses the term ''mental health records'' to refer to identifying information on individuals who are subject to the mental health prohibitor. To avoid implying that mental health records are collected by NICS, the Department uses the terms ''identities,'' ''information,'' or ''data'' in place of ''mental health records.'' GAO–12–684, p. 12.

[17] GAO–12–684, p. 9.

approximately 1.2 million in October 2011. The GAO also indicated that just 12 states were responsible for the majority of this increase, having reported the identities of at least 10,000 individuals who are subject to the mental health prohibitor by 2011.[18] As of February 2013, the number of records was over 2.7 million.[19] Despite improvements in reporting, only a small proportion of the records of individuals who are subject to the mental health prohibitor have been reported to the NICS. We invite comment on the following questions relating to States' participation in NICS reporting and other related issues.

1. Does your State routinely report the identities of individuals who are subject to the Federal mental health prohibitor to the NICS?

2. If your State does not routinely report the identities of such individuals to the NICS, what are the primary reasons for not doing so?

a. To what extent, if any, is the HIPAA Privacy Rule perceived as a barrier to your participation? If HIPAA is seen as a barrier, please specify in what way(s) HIPAA may prevent NICS reporting or make reporting difficult. (For example, does HIPAA pose a barrier with respect to only certain types of adjudications?)

b. Are there other legal barriers (e.g., State law)?

3. If your State does routinely report the identities of such individuals to the NICS, did you have to overcome any obstacles to your reporting? How did your State overcome those obstacles?

a. If the HIPAA Privacy Rule was perceived as a barrier to your participation, what did you do to meet HIPAA requirements?

b. If State privacy laws were perceived as a barrier to your participation, what did you do to meet State requirements?

c. Please describe any statutory or regulatory changes adopted by your State. To what extent do any changes in State law address the requirements of Federal and/or State privacy laws?

We understand that some States may have designated a particular State agency or other entity to collect and maintain NICS information and report to the NICS on a regular basis. We request comments on the following related questions.

4. Has your State designated one or more agencies as State repositories for information about the identities of individuals who are subject to the mental health prohibitor? If so, please identify the agencies and specify, for each such agency, whether it is a HIPAA covered entity.

5. If HIPAA applies to the repository, how has your State addressed HIPAA requirements while fulfilling its NICS reporting function (e.g., do you have a State law that requires reporting, or has your State created a hybrid entity to isolate the reporting function from the health care component of the repository agency)?

6. If the HIPAA Privacy Rule were to be amended to expressly permit disclosures of the identities of individuals covered by the mental health prohibitor to the NICS Index, would you still face any barriers to reporting? If so, what are they?

As discussed above, in many cases, information on the identities of persons who are subject to the mental health prohibitor originates with entities outside the health care sector that are not subject to HIPAA. Still, we recognize that authority to make these determinations is a matter of State law and, therefore, the process may vary from State to State. Thus, there may be instances in which these types of adjudications are made by State agencies or private parties within the health care system. We request comments on the following matters.

7. Are there situations in your State in which a HIPAA covered entity (e.g., a physician, a hospital, or another entity in the health care system), or a component of a larger organization that is a covered entity (e.g., a State health department), has legal authority to involuntarily commit a person to a mental institution—without review or a final action being made by a court? If so, what types of involuntary commitments can be ordered by these authorities?

8. Are there situations in your State in which a HIPAA covered entity (e.g., a physician, a hospital, or another entity in the health care system), or a component of a larger organization that is a covered entity (e.g., a State health department), has legal authority to make a formal adjudication that an individual has a serious mental condition that results in a finding of danger to self or others or an inability to manage affairs—without review or a final action being made by a court? If so, what types of adjudications can be made by these authorities?

9. If HIPAA applies to the entity conducting the relevant mental health adjudications, how has your State addressed HIPAA requirements while fulfilling its NICS reporting function (e.g., do you have a State law that requires reporting, or has your State created a hybrid entity to isolate the reporting function from the health care component of the repository agency)?

10. If the HIPAA Privacy Rule were to be amended to expressly permit disclosures of the identities of individuals covered by the mental health prohibitor to the NICS, would you still face any barriers to reporting? If so, what are they?

As the Federal government works to improve reporting to the NICS to ensure comprehensive background checks for firearms purchases, HHS also must continue to fulfill its mandate to protect individuals' health information privacy rights. Therefore, we request public input on the following issues and any other relevant considerations.

11. Are there privacy protections in place, under State law or otherwise, for data collected by State entities for reporting to the NICS? Would any State public records laws apply to make this data publicly available, or prohibit the reporting to the NICS?

12. We recognize a heightened need for confidentiality because of the sensitivity of, and the stigma attached to, mental health conditions. Are there implications for the mental health community, or for the treatment/care of consumers of mental health services, in having the identities of individuals who are subject to the mental health prohibitor reported for NICS purposes by health care entities that perform both adjudication and treatment functions? If so, what are those implications?

13. Are there ways that HHS may address or mitigate any unintended adverse consequences, for individuals seeking needed mental health services, that may be caused by creating express regulatory permission to report relevant information to the NICS?

14. How can HHS better disseminate information to States on HIPAA Privacy Rule policies as they relate to NICS reporting? Are there central points of contact at the State level that are able to receive and share this information with entities that serve in an adjudicatory or repository capacity?

15. Are there any additional guidance materials and/or training from HHS on particular aspects of the Privacy Rule that would be helpful to address any confusion regarding HIPAA requirements and help improve NICS reporting?

Dated: April 16, 2013.

Leon Rodriguez,

Director, Office for Civil Rights.

[FR Doc. 2013–09602 Filed 4–19–13; 4:15 pm]

BILLING CODE 4153–01–P

[18] GAO–12–684, p. 10.

[19] FBI, Active Records in the NICS Index as of February 28, 2013, *http://www.fbi.gov/about-us/cjis/nics/reports/20130205_nics-index.pdf.*

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[CC Docket No. 02–6, GN Docket No. 09–51; DA 13–592]

Schools and Libraries Universal Service Support Mechanism and A National Broadband Plan for Our Future

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) seeks comment on a proposal to clarify the schools and libraries universal service support program (E-rate program) requirements for bundling devices, equipment and services that are ineligible for E-rate support. Under this proposal, beginning in funding year 2014, service providers may no longer offer bundled ineligible components as E-rate eligible even if they determine the bundled offering falls within the scope of the *Gift Rule Clarification Order.*

DATES: Comments are due on or before May 23, 2013 and reply comments are due on June 7, 2013.

ADDRESSES: You may submit comments, identified by CC Docket No. 02–6, GN Docket No. 09–51; DA 13–592, 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.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: (202) 418–0530 or TTY: (202) 418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Bryan Boyle or Cara Voth, Wireline Competition Bureau, (202) 418–7400 or TTY: (202) 418–0484.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Public Notice in CC Docket No. 02–6, GN Docket No. 09–51, and DA 13–592, released April 9, 2013. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. The document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCPI), 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone (800) 378–3160 or (202) 863–2893, facsimile (202) 863–2898, or via the Internet at *http://www.bcpiweb.com.* It is also available on the Commission's Web site at *http://www.fcc.gov.*

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998).

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: *http://fjallfoss.fcc.gov/ecfs2/.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

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

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW., Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of *before* entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington DC 20554.

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).

Furthermore, two copies of each pleading must be sent to Charles Tyler, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street SW., Room 5–A452, Washington, DC 20554; email: *Charles.Tyler@fcc.gov* and one copy to Bryan P. Boyle, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street SW., Room 6–A100, Washington, DC 20554; email: *Bryan.Boyle@fcc.gov.*

I. Introduction

1. In the Public Notice, the Wireline Competition Bureau (Bureau) seeks comment on a proposal to clarify the schools and libraries universal service support program (informally known as the E-rate program) requirements for bundling devices, equipment and services that are ineligible for E-rate support (''ineligible components'') with E-rate eligible services and products. In 2012, the Bureau sought comment on a petition filed by the State E-rate Coordinators Alliance (SECA) seeking clarification of how the Commission's rules requiring cost allocation of ineligible components aligns with language in the Bureau's 2010 *Gift Rule Clarification Order* (Order) (DA 10–2355) that allowed, under limited circumstances, the bundling of ineligible end-user devices and equipment without cost allocation. Having considered the comments filed in response to the *SECA Petition Public Notice,* the Bureau now proposes and seeks comment on additional clarifications to remove any potential uncertainty regarding the Commission's requirement for applicants to cost allocate ineligible components when those ineligible components are bundled with eligible services.

II. Discussion

2. Based on several unexpected issues that have arisen since the Order was released, we have determined that it may be in the best interest of E-rate applicants, service providers, and the public, for the Bureau to interpret the Commission's rules regarding bundled ineligible components differently than was reflected in the Order. Specifically, we propose to clarify that beginning with applications seeking discounts for E-rate funding year 2014, any ineligible components must be cost allocated, even if bundled with E-rate eligible services and offered to the public or some class of users. As further described

herein, we seek comment on this proposal.

A. Requirements for Bundled Ineligible Components

3. We propose that, beginning in funding year 2014, service providers may no longer offer bundled ineligible components as E-rate eligible even if they determine the bundled offering falls within the scope of the Order. E-rate applicants may seek E-rate funding for the eligible services portion of any bundled offering but must provide a cost allocation for any ineligible components including, but not limited to, telephone handsets, computers, cell phones, and other components. We make this proposal out of our concern that the Order language that allowed, under limited circumstances, an exemption of our cost allocation requirements, may lead to unintended consequences. We are persuaded by those interested parties who have expressed concern that an open-ended interpretation and widespread use and expansion of this exception could lead to further strain on the E-rate fund, which is capped and already over-subscribed. Moreover, the out-of-pocket expenses at issue are for ineligible components that recipients have always understood to be ineligible for E-rate support. Additionally, to the extent that the real cost to the provider of the ''free'' or reduced price ineligible component results in a more expensive bundle, the money saved by not paying for the entire bundle will result in more funds being available to other E-rate recipients for E-rate eligible services. We seek further comment on these concerns and related matters.

4. We make this proposal primarily because the record developed on this issue thus far demonstrates a lack of clarity about the rules regarding cost allocation for bundled ineligible components. We are also not persuaded that the clarifications suggested by stakeholders would be effective because those suggestions could result in excessively burdensome procedures for applicants, service providers and the administrator of the E-rate program, USAC. For example, SECA's proposals and other potential outcomes that include procedures to determine which bundled offerings qualify for an exemption from cost allocation are likely to be administratively unworkable and ultimately costly for the E-rate program. Also, assigning a specific measurement as a maximum threshold for a bundled ineligible component, such as a percentage of a contract price or a specific dollar amount, as at least one commenter recommends, could in turn encourage recipients to set that dollar amount as a goal for spending or might prompt service providers to price equipment just under that maximum. This could further deplete funds, and could have other unintended negative consequences on participant purchasing decisions. Finally, determining whether a bundled service offering is a commercially common practice within the industry, and not a unique offering of an individual service provider, and that the bundled arrangement is currently available to the public and not just to a designated class of subscribers, would require both USAC and ultimately the Commission to perform analysis of individual service provider offerings on a case-by-case basis. We agree that it would be difficult to administer this exemption on a consistent basis without posing a drain on E-rate resources, because it could require additional personnel and market trend analysis that USAC is not prepared for or structured to perform. We seek comment on whether putting measurements and procedures in place to implement the bundling exemption in the Order will cost more to the program than any savings that might be gained by some applicants if we continue to allow the exemption.

5. We also seek comment on any alternatives to our proposal. We ask commenters that support our proposal to provide a specific rationale for their position. To the extent commenters believe that other interpretations would better serve the Commission's goals, including other proposals that might improve program efficiency while protecting E-rate funds, commenters should provide detailed descriptions of their proposals in their comments. We also welcome suggested alternatives that minimize the impact of these proposals on small businesses as well as comments regarding the cost and benefits of implementing our proposal.

B. Cost Allocation Procedures

6. We considered as part of this proposal the likely impact on applicants and we do not anticipate it will cause an unreasonable burden. E-rate program participants have always been required to detail the costs of ineligible components and our proposal would merely require them to apply this requirement to any bundled ineligible components they may have believed to fall within the purview of the Order. Although this may increase the amount of time applicants spend on their applications, we do not believe that this increase will be significant. We recognize, however, that applicants may desire additional guidance on how to best derive the costs of ineligible end-user devices. For example, for situations where component costs are not easily obtained and applicants must rely on their service providers for cost allocation percentages, how can applicants confirm such percentages? We seek comment on whether we should further clarify our current standard for cost allocations to provide additional guidance concerning end-user equipment. We also seek comment whether there are additional ways the Commission could reduce the burden on E-rate recipients that are required to cost allocate bundled components that they may have believed to be exempt from cost allocation in more recent funding years.

C. Ancillary Components

7. Finally, our proposal addresses only the cost allocation language in the Order pertaining to the treatment of ineligible components and does not purport to alter the Commission's cost allocation rule, 47 CFR 54.504(e). Other than the Order language, the only existing exception to the cost allocation rules is the exception for ancillary components. An insignificant and strictly ''ancillary'' component can be bundled into a much broader product or service without cost allocation if the ineligible component is ancillary to the principle use of the eligible component, and is the most cost-effective means of receiving the eligible component functionality. In order for an ineligible component to be ancillary, however, its price cannot be determined separately and independently from the price of the eligible components. SECA asserts that in addition to the Order language, the rules concerning ancillary components may lack clarity and should be addressed by the Bureau. Therefore, we seek comment on whether it is necessary to make changes and, if so, what clarifications could be made to ensure that ineligible components are not bundled under the guise of being ancillary to a much broader product or service. For example, under what circumstances would it be appropriate for an applicant or service provider to assert that a separate piece of equipment, such as a telephone handset, cell phone or tablet, is ancillary to the eligible service it is paired with? Because their prices can almost always be determined independent of any eligible components, we do not think end-user devices could ever be considered ancillary to the services with which they are paired. We seek comment on this position.

III. Procedural Matters

A. Initial Regulatory Flexibility Analysis

8. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared its Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the rules proposed in this Public Notice. Written comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the Public Notice. The Commission will send a copy of the Public Notice, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).

B. Need for, and Objectives of, the Proposed Rules

9. The public notice seeks comment on requirements that apply when service providers seek to bundle devices, equipment and services that are ineligible for E-rate support with E-rate eligible services and products. In the public notice, we propose to clarify that beginning with applications seeking discounts for E-rate fund year 2014, any ineligible components must be cost allocated, even if bundled with E-rate eligible services and offered to the public or some class of users. The Bureau's objective for the proposed rule is to provide clarity to E-rate recipients and service providers and stabilize fund expenditures. The current requirement as interpreted in the Order could further strain the E-rate program because it permits E-rate funding to pay for ineligible components and also lacks sufficient clarity to be interpreted on a consistent and fair basis in the marketplace. This Public Notice seeks comment on the Commission's definition of ancillary services and its relation to E-rate offerings with bundled ineligible components.

10. The prudent use of limited E-rate funding and clarity about E-rate rules are important to the long-term efficacy of the fund. The proposal contained in this public notice will help to achieve the Commission's goal of maintaining fund solvency and providing clear rules to E-rate recipients.

C. Legal Basis

11. The legal basis for any action that may be taken pursuant to the public notice is contained in sections 1 through 4, 201–205, 254, 303(r), and 403 of the Communications Act of 1934, 47 U.S.C. 151 through 154, 201 through 205, 254, 303(r), and 403.

D. Description and Estimate of the Number of Small Entities To Which the Proposed Rules May Apply

12. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). Nationwide, there are a total of approximately 27.5 million small businesses, according to the SBA. A ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.''

13. Nationwide, as of 2002, there were approximately 1.6 million small organizations. The term ''small governmental jurisdiction'' is defined generally as ''governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' Census Bureau data for 2002 indicate that there were 87,525 local governmental jurisdictions in the United States. We estimate that, of this total, 84,377 entities were ''small governmental jurisdictions.'' Thus, we estimate that most governmental jurisdictions are small.

14. Small entities potentially affected by the proposals herein include eligible schools and libraries and the eligible service providers offering them discounted services.

15. *Schools and Libraries.* As noted, ''small entity'' includes non-profit and small government entities. Under the schools and libraries universal service support mechanism, which provides support for elementary and secondary schools and libraries, an elementary school is generally ''a non-profit institutional day or residential school that provides elementary education, as determined under state law.'' A secondary school is generally defined as ''a non-profit institutional day or residential school that provides secondary education, as determined under state law,'' and not offering education beyond grade 12. For-profit schools and libraries, and schools and libraries with endowments in excess of $50,000,000, are not eligible to receive discounts under the program, nor are libraries whose budgets are not completely separate from any schools. Certain other statutory definitions apply as well. The SBA has defined for-profit, elementary and secondary schools and libraries having $6 million or less in annual receipts as small entities. In funding year 2007 approximately 105,500 schools and 10,950 libraries received funding under the schools and libraries universal service mechanism. Although we are unable to estimate with precision the number of these entities that would qualify as small entities under SBA's size standard, we estimate that fewer than 105,500 schools and 10,950 libraries might be affected annually by our action, under current operation of the program.

16. *Telecommunications Service Providers.* First, neither the Commission nor the SBA has developed a size standard for small incumbent local exchange services. The closest size standard under SBA rules is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 1,307 incumbent carriers reported that they were engaged in the provision of local exchange services. Of these 1,307 carriers, an estimated 1,006 have 1,500 or fewer employees and 301 have more than 1,500 employees. Thus, under this category and associated small business size standard, we estimate that the majority of entities are small. We have included small incumbent local exchange carriers in this RFA analysis. A ''small business'' under the RFA is one that, *inter alia,* meets the pertinent small business size standard (*e.g.,* a telephone communications business having 1,500 or fewer employees), and ''is not dominant in its field of operation.'' The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent local exchange carriers are not dominant in their field of operation because any such dominance is not ''national'' in scope. We have therefore included small incumbent carriers in this RFA analysis, although we emphasize that this RFA action has no effect on the Commission's analyses and determinations in other, non-RFA contexts.

17. Second, neither the Commission nor the SBA has developed a definition of small entities specifically applicable to providers of interexchange services (IXCs). The closest applicable definition under the SBA rules is for wired telecommunications carriers. This

provides that a wired telecommunications carrier is a small entity if it employs no more than 1,500 employees. According to the Commission's *2010 Trends Report,* rel. Sept. 2012, 359 companies reported that they were engaged in the provision of interexchange services. Of these 300 IXCs, an estimated 317 have 1,500 or few employees and 42 have more than 1,500 employees. Consequently, the Commission estimates that most providers of interexchange services are small businesses.

18. Third, neither the Commission nor the SBA has developed a definition of small entities specifically applicable to competitive access services providers (CAPs). The closest applicable definition under the SBA rules is for wired telecommunications carriers. This provides that a wired telecommunications carrier is a small entity if it employs no more than 1,500 employees. According to the *2010 Trends Report,* 1,442 CAPs and competitive local exchange carriers (competitive LECs) reported that they were engaged in the provision of competitive local exchange services. Of these 1,442 CAPs and competitive LECs, an estimated 1,256 have 1,500 or fewer employees and 186 have more than 1,500 employees. Consequently, the Commission estimates that most providers of competitive exchange services are small businesses.

19. *Wireless Telecommunications Carriers (except Satellite).* Since 2007, the Census Bureau has placed wireless firms within this new, broad, economic census category. Prior to that time, such firms were within the now-superseded categories of ''Paging'' and ''Cellular and Other Wireless Telecommunications.'' Under the present and prior categories, the SBA has deemed a wireless business to be small if it has 1,500 or fewer employees. Because Census Bureau data are not yet available for the new category, we will estimate small business prevalence using the prior categories and associated data. For the category of Paging, data for 2002 show that there were 807 firms that operated for the entire year. Of this total, 804 firms had employment of 999 or fewer employees, and three firms had employment of 1,000 employees or more. For the category of Cellular and Other Wireless Telecommunications, data for 2002 show that there were 1,397 firms that operated for the entire year. Of this total, 1,378 firms had employment of 999 or fewer employees, and 19 firms had employment of 1,000 employees or more. Thus, we estimate that the majority of wireless firms are small.

20. Wireless telephony includes cellular, personal communications services, and specialized mobile radio telephony carriers. As noted, the SBA has developed a small business size standard for Wireless Telecommunications Carriers (except Satellite). Under the SBA small business size standard, a business is small if it has 1,500 or fewer employees. According to the *2010 Trends Report,* 413 carriers reported that they were engaged in wireless telephony. Of these, an estimated 261 have 1,500 or fewer employees and 152 have more than 1,500 employees. We have estimated that 261 of these are small under the SBA small business size standard.

21. *Common Carrier Paging.* As noted, since 2007 the Census Bureau has placed paging providers within the broad economic census category of Wireless Telecommunications Carriers (except Satellite). Prior to that time, such firms were within the now-superseded category of ''Paging.'' Under the present and prior categories, the SBA has deemed a wireless business to be small if it has 1,500 or fewer employees. Because Census Bureau data are not yet available for the new category, we will estimate small business prevalence using the prior category and associated data. The data for 2002 show that there were 807 firms that operated for the entire year. Of this total, 804 firms had employment of 999 or fewer employees, and three firms had employment of 1,000 employees or more. Thus, we estimate that the majority of paging firms are small.

22. In addition, in the *Paging Second Report and Order,* 12 FCC Rcd 2732, rel. Feb. 24, 1997, the Commission adopted a size standard for ''small businesses'' for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. A small business is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. The SBA has approved this definition. An initial auction of Metropolitan Economic Area (''MEA'') licenses was conducted in the year 2000. Of the 2,499 licenses auctioned, 985 were sold. Fifty-seven companies claiming small business status won 440 licenses. A subsequent auction of MEA and Economic Area (''EA'') licenses was held in the year 2001. Of the 15,514 licenses auctioned, 5,323 were sold. One hundred thirty-two companies claiming small business status purchased 3,724 licenses. A third auction, consisting of 8,874 licenses in each of 175 EAs and 1,328 licenses in all but three of the 51 MEAs, was held in 2003. Seventy-seven bidders claiming small or very small business status won 2,093 licenses.

23. Currently, there are approximately 74,000 Common Carrier Paging licenses. According to the most recent *Trends in Telephone Service,* rel. Sept. 2012, 291 carriers reported that they were engaged in the provision of ''paging and messaging'' services. Of these, an estimated 289 have 1,500 or fewer employees and two have more than 1,500 employees. We estimate that the majority of common carrier paging providers would qualify as small entities under the SBA definition.

24. *Internet Service Providers.* The 2007 Economic Census places these firms, whose services might include voice over Internet protocol (VoIP), in either of two categories, depending on whether the service is provided over the provider's own telecommunications facilities (*e.g.,* cable and DSL ISPs), or over client-supplied telecommunications connections (*e.g.,* dial-up ISPs). The former are within the category of Wired Telecommunications Carriers, which has an SBA small business size standard of 1,500 or fewer employees. The latter are within the category of All Other Telecommunications, which has a size standard of annual receipts of $25 million or less. The most current Census Bureau data for all such firms, however, are the 2002 data for the previous census category called Internet Service Providers. That category had a small business size standard of $21 million or less in annual receipts, which was revised in late 2005 to $23 million. The 2002 data show that there were 2,529 such firms that operated for the entire year. Of those, 2,437 firms had annual receipts of under $10 million, and an additional 47 firms had receipts of between $10 million and $24,999,999. Consequently, we estimate that the majority of ISP firms are small entities.

25. *Vendors of Internal Connections: Telephone Apparatus Manufacturing.* The Census Bureau defines this category as follows: ''This industry comprises establishments primarily engaged in manufacturing wire telephone and data communications equipment. These products may be standalone or board-level components of a larger system. Examples of products made by these establishments are central office switching equipment, cordless telephones (except cellular), PBX equipment, telephones, telephone answering machines, LAN modems, multi-user modems, and other data communications equipment, such as bridges, routers, and gateways.'' The SBA has developed a small business

size standard for Telephone Apparatus Manufacturing, which is: all such firms having 1,000 or fewer employees. According to Census Bureau data for 2002, there were a total of 518 establishments in this category that operated for the entire year. Of this total, 511 had employment of under 1,000, and an additional seven had employment of 1,000 to 2,499. Thus, under this size standard, the majority of firms can be considered small.

26. *Vendors of Internal Connections: Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing.* The Census Bureau defines this category as follows: ''This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment.'' The SBA has developed a small business size standard for firms in this category, which is: all such firms having 750 or fewer employees. According to Census Bureau data for 2002, there were a total of 1,041 establishments in this category that operated for the entire year. Of this total, 1,010 had employment of under 500, and an additional 13 had employment of 500 to 999. Thus, under this size standard, the majority of firms can be considered small.

27. *Vendors of Internal Connections: Other Communications Equipment Manufacturing.* The Census Bureau defines this category as follows: ''This industry comprises establishments primarily engaged in manufacturing communications equipment (except telephone apparatus, and radio and television broadcast, and wireless communications equipment).'' The SBA has developed a small business size standard for Other Communications Equipment Manufacturing, which is having 750 or fewer employees. According to Census Bureau data for 2002, there were a total of 503 establishments in this category that operated for the entire year. Of this total, 493 had employment of under 500, and an additional 7 had employment of 500 to 999. Thus, under this size standard, the majority of firms can be considered small.

E. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

28. In the Public Notice, the Bureau seeks public comment on proposals for cost allocating bundled ineligible components. The proposed rule could result in minimal additional reporting requirements.

29. These requirements are already part of 47 CFR 54.504(e) which require a clear delineation of eligible and ineligible services that are included on an application requesting E-rate discounts. The result of the Public Notice could be that small entities that had not been cost allocating certain bundled ineligible components per the Order would again be required to comply with 47 CFR 54.504(e) requirements for cost allocating these components. Small entities that are service providers and vendors in the E-rate program would also be required to reexamine offerings in accordance to any changed requirements.

F. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

30. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): ''(1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.''

31. The proposed rulemaking could impose minimal additional burden on small entities. The only additional administrative burden the proposed rulemaking could impose on small entities, however, would be requiring them to cost allocate ineligible components that they may have presumed were exempted from the cost allocation requirements per the Order. Cost allocation requires determining the costs of eligible and ineligible components and reporting the delineation of those costs in a request for E-rate discounts on the FCC Form 471. E-rate recipients had been required to cost allocate ineligible components bundled with eligible services prior to the Order, and are already generally required to cost allocate all ineligible components. Thus, this rulemaking merely removes a short-term exemption that may have been applicable to certain equipment that met the limited qualifications outlined in the Order.

G. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

32. None.

H. Initial Paperwork Reduction Act of 1995 Analysis

33. This document seeks comment on a potential new or revised information collection requirement. If the Commission adopts any new or revised information collection requirement, the Commission will publish a separate notice in the **Federal Register** inviting the public to comment on the requirement, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3501–3520). In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

I. Ex Parte Presentations

34. *Permit-But-Disclose.* The proceeding this Public Notice initiates shall be treated 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 § 1.1206(b) of the Commission's rules. In proceedings governed by § 1.49(f) of the Commission's rules 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.

Federal Communications Commission.

Kimberly Scardino,

Division Chief, Telecommunications Access Policy Division, Wireline Competition Bureau.

[FR Doc. 2013–09421 Filed 4–22–13; 8:45 am]

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Notices

Federal Register
Vol. 78, No. 78
Tuesday, April 23, 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

Agricultural Marketing Service

[Doc. No. AMS–FV–12–0072; FV13–902–1]

Marketing Orders for Fruit Crops; Notice of Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request an extension and revision to the approved forms and generic information collection for marketing orders covering fruit crops.

DATES: Comments on this notice are due by June 24, 2013 to be assured of consideration.

Additional Information: Contact Andrew Hatch, Chief, Program Services Branch, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Room 1406–S, Washington, DC, 20250–0237; Telephone: (202) 720–6862 or Email: *andrew.hatch@ams.usda.gov*.

Small businesses may request information on this notice by contacting Jeffrey Smutny, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Room 1406–S, Washington, DC, 20250–0237; Telephone (202) 720–9922 or Email: *jeffrey.smutny@ams.usda.gov*.

Comments: Comments should reference the document number and the date and page number of this issue of the **Federal Register**, and be mailed to the Docket Clerk, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., Room 1406–S, Washington, DC 20250–0237; Fax: (202) 720–8938); or submitted through the Internet at *http://www.regulations.gov*.

SUPPLEMENTARY INFORMATION:

Title: Marketing Orders for Fruit Crops.

OMB Number: 0581–0189.

Expiration Date of Approval: November 30, 2013.

Type of Request: Extension and Revision of a currently approved information collection.

Abstract: Marketing orders provide an opportunity for producers of fresh fruits, vegetables and specialty crops, in specified production areas, to work together to solve marketing problems that cannot be solved individually. This notice covers the following marketing order program citations 7 CFR parts 905 (Florida citrus), 906 (Texas citrus), 915 (Florida avocados), 917 (California pears), 920 (California kiwifruit), 922 (Washington apricots), 923 (Washington cherries), 924 (Oregon/Washington prunes), 925 (California table grapes), 927 (Oregon/Washington pears), and 929 (Cranberries grown in 10 States). Order regulations help ensure adequate supplies of high quality product and adequate returns to producers. Marketing order programs are authorized under the Agricultural Marketing Agreement Act of 1937 (Act), as amended (7 U.S.C. 601–674). The Secretary of Agriculture is authorized to oversee the order operations and issue regulations recommended by a committee of representatives from each commodity industry.

The information collection requirements in this request are essential to carry out the intent of the Act, to provide the respondents the type of service they request, and to administer the marketing orders. Under the Act, orders may authorize: Production and marketing research, including paid advertising; volume regulations; reserves, including pools and producer allotments; container regulations; and quality control. Assessments are levied on handlers regulated under the marketing orders.

USDA requires several forms to be filed to enable the administration of each marketing order program. These include forms covering the selection process for industry members to serve on a marketing order's committee or board and ballots used in referenda to amend or continue marketing order programs.

Under Federal marketing orders, producers and handlers are nominated by their peers to serve as representatives on a committee or board which administers each program. Nominees must provide information on their qualifications to serve on the committee or board. Nominees are appointed by the Secretary. Formal rulemaking amendments must be approved in referenda conducted by USDA and the Secretary. For the purposes of this action, ballots are considered information collections and are subject to the Paperwork Reduction Act. If an order is amended, handlers are asked to sign an agreement indicating their willingness to abide by the provisions of the amended order.

Some forms are required to be filed with the committee or board. The orders and their rules and regulations authorize the respective commodities' committees and boards, the agencies responsible for local administration of the orders, to require handlers and producers to submit certain information. Much of the information is compiled in aggregate and provided to the respective industries to assist in marketing decisions. The committees and boards have developed forms as a means for persons to file required information relating to supplies, shipments, and dispositions of their respective commodities, and other information needed to effectively carry out the purpose of the Act and their respective orders, and these forms are utilized accordingly.

The forms covered under this information collection require the minimum information necessary to effectively carry out the requirements of the orders, and their use is necessary to fulfill the intent of the Act as expressed in the orders rules and regulations.

The information collected is used only by authorized employees of the committees and authorized representatives of the USDA, including AMS, Fruit and Vegetable Program's regional and headquarters' staff. Authorized committee or board employees are the primary users of the information and AMS is the secondary user.

Estimate of Burden: Public reporting burden for this collection of information

is estimated to average .30 hours per response.

Respondents: Producers, handlers, processors, cooperatives, and public members.

Estimated Number of Respondents: 15,950.

Estimated Number of Responses: 26,802.

Estimated Number of Responses per Respondent: 1.68.

Estimated Total Annual Burden on Respondents: 8,266 hours.

Comments are invited on: (1) Whether the proposed collection of the information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record. All comments received will be available for public inspection at the street address in the ''Comment'' section and can be viewed at: *www.regulations.gov*.

Dated: April 16, 2013.

David R. Shipman,

Administrator, Agricultural Marketing Service.

[FR Doc. 2013–09467 Filed 4–22–13; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS–LS–13–0007]

Seed Testing Service Program; Request for an Extension of and Revision to a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this document announces the Agricultural Marketing Service's (AMS) intention to request approval from the Office of Management and Budget (OMB), for an extension of and revision to the currently approved information collection for the Seed Service Testing Program.

DATES: Comments on this document must be received by June 24, 2013 to be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments concerning this information collection document. Comments should be submitted online at *www.regulations.gov*. Send written comments to Fawad S. Shah, Director, Seed Regulatory and Testing Division (SRTD), Livestock, Poultry, and Seed Program, AMS, USDA, 801 Summit Crossing Place, Suite C, Gastonia, North Carolina 28054–2193, or by facsimile to (704) 852–4109. All comments should reference the docket number (AMS–LS–13–0007), the date, and page number of this issue of the **Federal Register**. All comments received will be posted without change, including any personal information provided, online at *http://www.regulations.gov* and will be made available for public inspection at the above physical address during regular business hours.

SUPPLEMENTARY INFORMATION:

Title: Seed Service Testing Program.

OMB Number: 0581–0140.

Expiration Date of Approval: October 13, 2013.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: This information collection is necessary to conduct voluntary seed testing on a fee for service basis. The Agricultural Marketing Act of 1946, as amended, (7 U.S.C. 1621 *et seq.*) authorizes the Secretary to inspect and certify the quality of agricultural products and collect such fees as reasonable to cover the cost of service rendered. Regulations for inspection and certification of quality of agricultural and vegetable seeds are contained in 7 CFR Part 75.

The purpose of the voluntary program is to promote efficient, orderly marketing of seeds, and assist in the development of new and expanding markets. Under the program, samples of agricultural and vegetable seeds submitted to AMS are tested for factors such as purity and germination at the request of the applicant for the service. In addition, grain samples, submitted at the applicant's request, by the Grain Inspection, Packers, and Stockyards Administration are examined for the presence of certain weed and crop seed. A Federal Seed Analysis Certificate or an ISTA Orange International Seed Lot Certificate is issued giving the test results. Most of the seed tested under this program is scheduled for export. Many importing countries require a Federal Seed Analysis Certificate on U.S. seed.

The only information collected is information needed to provide the service requested by the applicant. This includes information to identify the seed being tested, the seed treatment (if treated with a pesticide), the tests to be performed, and any other appropriate information required by the applicant to be on the Federal Seed Analysis Certificate or the ISTA Orange International Seed Lot Certificate.

The number of seed companies applying for the seed testing service has decreased from 81 to 76 during the past 3 years due to a decrease in the number of companies exporting seed. The total number of samples received for testing has decreased. Therefore, the average burden for information collection has decreased for seed companies applying for the service.

The information in this collection is used only by authorized AMS employees to track, test, and report results to the applicant.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.25 hours per response.

Respondents: Applicants for seed testing service.

Estimated Number of Respondents: 76.

Estimated Number of Responses per Respondent: 25.46.

Estimated Total Annual Burden on Respondents: 483.75 hours.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this document will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: April 17, 2013.

David R. Shipman,

Administrator.

[FR Doc. 2013–09465 Filed 4–22–13; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS–LS–13–0008]

Federal Seed Act Program; Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this document announces the Agricultural Marketing Service's (AMS) intention to request approval, from the Office of Management and Budget (OMB), for an extension of and revision to the currently approved information collection 7 CFR part 201 for Federal Seed Act Labeling and Enforcement.

DATES: Comments on this document must be received by June 24, 2013 to be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments concerning this information collection document. Comments should be submitted online at *www.regulations.gov* or sent to Fawad S. Shah, Director, Seed Regulatory and Testing Division (SRTD), Livestock, Poultry, and Seed Program, AMS, USDA, 801 Summit Crossing Place, Suite C, Gastonia, North Carolina 28054–2193, or by facsimile to (704) 852–4109. All comments should reference the docket number (AMS–LS–13–0008), the date, and the page number of this issue of the **Federal Register**. All comments received will be posted without change, including any personal information provided, online at *http://www.regulations.gov* and will be made available for public inspection at the above physical address during regular business hours.

SUPPLEMENTARY INFORMATION:

Title: Federal Seed Act Program.

OMB Number: 0581–0026.

Expiration Date of Approval: October 31, 2013.

Type of Request: Extension and revision of currently approved information collection.

Abstract: This information collection and recordkeeping requirements are necessary to conduct the Federal Seed Act (FSA) (7 U.S.C. 1551 *et seq.*) program with respect to certain testing, labeling, and recordkeeping requirements of agricultural and vegetable seeds in interstate commerce. Regulations under the FSA are contained in 7 CFR part 201.

The FSA, Title II, is a truth-in-labeling law that regulates agricultural and vegetable planting seed in interstate commerce. Seed subject to the FSA must be labeled with certain quality information and it requires that information to be truthful. The FSA prohibits the interstate shipment of falsely advertised seed and seed containing noxious-weed seeds that are prohibited from sale in the State into which the seed is being shipped.

No unique forms are required for this information collection. The FSA requires seed in interstate commerce to be tested and labeled. Once in a State, seed must comply with the testing and labeling requirements of the State seed law. The same testing and labeling required by the FSA nearly always satisfies the State's testing and labeling requirements. Also the receiving, sales, cleaning, testing, and labeling records required by the FSA, are records that the shipper would normally keep in good business practice.

The information in this collection is the minimum information necessary to effectively carry out the enforcement of the FSA. With the exception of the requirements for entering a new variety into a State seed certification program (set forth separately below), the information collection is entirely recordkeeping rather than reporting.

Seed Testing, Labeling, and Recordkeeping

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 2.69 hours per record keeper.

Respondents: Interstate shippers and labelers of seed.

Estimated Number of Respondents: 3,032.

Estimated Total Annual Responses: 9,854.

Estimated Number of Responses per Respondent: 3.25.

Estimated Total Annual Burden on Respondents: 26,507.26 hours.

Eligibility Requirements for Certification of New Varieties and Recordkeeping

Estimate of Burden: Public reporting burden for this collection of information (eligibility for certification of new varieties) is estimated to average 2.42 hours per response.

Respondents: Entities seeking to enter new varieties into State seed certification programs.

Estimated Number of Respondents: 54.

Estimated Total Annual Responses: 486.

Estimated Number of Responses per Respondent: 9.

Estimated Total Annual Burden on Respondents: 1,176.12 hours.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: April 17, 2013.

David R. Shipman,

Administrator.

[FR Doc. 2013–09473 Filed 4–22–13; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Intent To Grant Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant to Headwall Photonics, Inc. of Fitchburg, Massachusetts, an exclusive license to U.S. Patent No. 7,460,227, ''METHOD TO DETECT BONE FRAGMENTS DURING THE PROCESSING OF MEAT OR FISH,'' issued on December 2, 2008, U.S. Patent No. 7,787,111, ''SIMULTANEOUS ACQUISITION OF FLUORESCENCE AND REFLECTANCE IMAGING TECHNIQUES WITH A SINGLE IMAGING DEVICE FOR MULTITASK INSPECTION,'' issued on August 31, 2010, U.S. Patent No. 8,126,213,

''METHOD AND SYSTEM FOR WHOLESOMENESS INSPECTION OF FRESHLY SLAUGHTERED CHICKENS ON A PROCESSING LINE,'' issued on February 28, 2012, and U.S. Patent No. 8,159,525, ''PORTABLE MULTISPECTRAL IMAGING SYSTEMS,'' issued on April 17, 2012.

DATES: Comments must be received on or before May 23, 2013.

ADDRESSES: Send comments to: USDA, ARS, Office of Technology Transfer, 5601 Sunnyside Avenue, Rm. 4–1174, Beltsville, Maryland 20705–5131.

FOR FURTHER INFORMATION CONTACT: June Blalock of the Office of Technology Transfer at the Beltsville address given above; telephone: 301–504–5989.

SUPPLEMENTARY INFORMATION: The Federal Government's patent rights in these inventions are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license these inventions as Headwall Photonics, Inc. of Fitchburg, Massachusetts has submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within thirty (30) days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Robert Griesbach,

Deputy Assistant Administrator.

[FR Doc. 2013–09442 Filed 4–22–13; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Intent To Grant Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant to Biosortia Pharmaceuticals of Dublin, Ohio, an exclusive license to U.S. Patent No. 7,943,142, ''EUGLENOID DERIVED ALKALOID'', issued on May 17, 2011.

DATES: Comments must be received on or before May 23, 2013.

ADDRESSES: Send comments to: USDA, ARS, Office of Technology Transfer, 5601 Sunnyside Avenue, Rm. 4–1174, Beltsville, Maryland 20705–5131.

FOR FURTHER INFORMATION CONTACT: June Blalock of the Office of Technology Transfer at the Beltsville address given above; telephone: 301–504–5989.

SUPPLEMENTARY INFORMATION: The Federal Government's patent rights in this invention are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license this invention as Biosortia Pharmaceuticals of Dublin, Ohio has submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within thirty (30) days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Robert Griesbach,

Deputy Assistant Administrator.

[FR Doc. 2013–09440 Filed 4–22–13; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Notice of Funds Availability: Inviting Applications for the Technical Assistance for Specialty Crops Program

SUMMARY: The Commodity Credit Corporation (CCC) announces that it is inviting proposals for the 2014 Technical Assistance for Specialty Crops (TASC) program. The intended effect of this notice is to solicit applications from the private sector and from government agencies for fiscal year 2014 and to set out criteria for the award of funds in October 2013. The TASC program is administered by personnel of the Foreign Agricultural Service (FAS).

The funding authority for TASC expires at the end of fiscal year 2013. This notice is being published at this time to allow awards to be made early in fiscal year 2014, provided that program funding is reauthorized prior to that time. In the event this program is not reauthorized, or is substantially modified, FAS will publish a notice in the **Federal Register** rescinding this Notice of Funds Availability.

DATES: To be considered for funding, applications must be received by 5 p.m. Eastern Daylight Time, May 28, 2013. Any applications received after this time will be considered only if funds are still available.

FOR FURTHER INFORMATION CONTACT: Entities wishing to apply for funding assistance should contact the Program Operations Division, Office of Trade Programs, Foreign Agricultural Service *by courier address:* Room 6512, 1400 Independence Ave. SW., Washington, DC 20250, or *by phone:* (202) 720–4327, or *by fax:* (202) 720–9361, or *by email: podadmin@fas.usda.gov.* Information is also available on the FAS Web site at *http://www.fas.usda.gov/mos/tasc/default.asp.*

SUPPLEMENTARY INFORMATION:

I. Funding Opportunity Description

Announcement Type: New.

Catalog of Federal Domestic Assistance (CFDA) Number: 10.604.

Authority: The TASC program is authorized by section 3205 of Pub. L. 107–171. TASC regulations appear at 7 CFR part 1487.

Purpose: The TASC program is designed to assist U.S. organizations by providing funding for projects that address sanitary, phytosanitary, or related technical barriers that prohibit or threaten the export of U.S. specialty crops. U.S. specialty crops, for the purpose of the TASC program, are defined to include all cultivated plants, or the products thereof, produced in the United States, except wheat, feed grains, oilseeds, cotton, rice, peanuts, sugar, and tobacco.

As a general matter, TASC program projects should be designed to address the following criteria:

- Projects should identify and address a sanitary, phytosanitary, or related technical barrier that prohibits or threatens the export of U.S. specialty crops;
- Projects should demonstrably benefit the represented industry rather than a specific company or brand;
- Projects must address barriers to exports of commercially-available U.S. specialty crops for which barrier removal would predominantly benefit U.S. exports; and
- Projects should include an explanation as to what specifically could not be accomplished without Federal funding assistance and why the participating organization(s) would be unlikely to carry out the project without such assistance.

Examples of expenses that CCC may agree to reimburse under the TASC program include, but are not limited to:

initial pre-clearance programs, export protocol and work plan support, seminars and workshops, study tours, field surveys, development of pest lists, pest and disease research, database development, reasonable logistical and administrative support, and travel and per diem expenses.

II. Award Information

In general, all qualified proposals received before the specified application deadline will compete for funding. The limited funds and the range of barriers affecting the exports of U.S. specialty crops worldwide preclude CCC from approving large budgets for individual projects. Proposals requesting more than $500,000 in any given year will not be considered. Additionally, private entities may submit multi-year proposals that may be considered in the context of a detailed strategic implementation plan. The maximum duration of an activity is 5 years. Funding in such cases may, at FAS' discretion, be provided one year at a time with commitments beyond the first year subject to interim evaluations and funding availability. In order to validate funding eligibility, proposals must specify previous years of TASC funding for each proposed activity/title/market/constraint combination. Government entities are not eligible for multi-year funding.

Applicants may submit multiple proposals, and applicants with previously approved TASC proposals may apply for additional funding. The number of approved projects that a TASC participant can have underway at any given time is five. Please see 7 CFR part 1487 for additional restrictions.

FAS will consider providing either grant funds as direct assistance to U.S. organizations or technical assistance on behalf of U.S. organizations, provided that the organization submits timely and qualified proposals. FAS will review all proposals against the evaluation criteria contained in the program regulations.

Funding for successful proposals will be provided through specific agreements. These agreements will incorporate the proposal as approved by FAS. FAS must approve in advance any subsequent changes to the project. FAS or another Federal agency may be involved in the implementation of approved projects.

III. Eligibility Information

1. Eligible Applicants: Any U.S. organization, private or government, with a demonstrated role or interest in exporting U.S. agricultural commodities may apply to the program. Government organizations consist of Federal, State, and local agencies. Private organizations include non-profit trade associations, universities, agricultural cooperatives, state regional trade groups, and private companies.

Foreign organizations, whether government or private, may participate as third parties in activities carried out by U.S. organizations, but are not eligible for funding assistance from the program.

2. Cost Sharing or Matching: FAS considers the applicant's willingness to contribute resources, including cash, goods, and services of the U.S. industry and foreign third parties, when determining which proposals are approved for funding.

3. Proposals should include a justification for funding assistance from the program—an explanation as to what specifically could not be accomplished without Federal funding assistance and why the participating organization(s) would be unlikely to carry out the project without such assistance.

IV. Application and Submission Information

1. Application through the Unified Export Strategy (UES): Organizations are strongly encouraged to submit their applications to FAS through the UES application Internet Web site. Using the UES application process reduces paperwork and expedites FAS's processing and review cycle. Applicants planning to use the UES Internet-based system must contact FAS/Program Operations Division to obtain site access information, including a user ID and password. The UES Internet-based application may be found at the following URL address: *https://www.fas.usda.gov/ues/webapp/.*

Although FAS highly recommends applying via the Internet-based UES application, as this format virtually eliminates paperwork and expedites the FAS processing and review cycle, applicants also have the option of submitting an electronic version to FAS at *podadmin@fas.usda.gov.*

2. Content and Form of Application Submission: All TASC proposals must contain complete information about the proposed projects as described in § 1487.5(b) of the TASC program regulations. In addition, in accordance with the Office of Management and Budget's policy directive (68 FR 38402 (June 27, 2003)) regarding the need to identify entities that are receiving government awards, all applicants must submit a Dun and Bradstreet Data Universal Numbering System (DUNS) number. An applicant may request a DUNS number at no cost by calling the dedicated toll-free DUNS number request line at 1–866–705–5711.

In addition, in accordance with 2 CFR Part 25, each entity that applies to the TASC program and does not qualify for an exemption under 2 CFR 25.110 must:

(i) Be registered in the CCR prior to submitting an application or plan;

(ii) Maintain an active CCR registration with current information at all times during which it has an active Federal award or an application or plan under consideration by CCC; and

(iii) Provide its DUNS number in each application or plan it submits to CCC.

Similarly, in accordance with 2 CFR Part 170, each entity that applies to the TASC program and does not qualify for an exception under 2 CFR 170.110(b) must ensure it has the necessary processes and systems in place to comply with the applicable reporting requirements of 2 CFR Part 170 should it receive TASC funding.

Incomplete applications and applications that do not otherwise conform to this announcement will not be accepted for review.

3. Submission Dates and Times: TASC proposals are reviewed on a rolling basis during the fiscal year as long as TASC funding is available as set forth below:

- Proposals received by, but not later than, 5 p.m. Eastern Daylight Time, May 28, 2013, will be considered for funding with other proposals received by that date;
- Proposals not approved for funding during the review period will be reconsidered for funding after the review period only if the applicant specifically requests such reconsideration in writing, and only if funding remains available;
- Proposals received after 5 p.m. Eastern Daylight Time, May 28, 2013, will be considered in the order received for funding only if funding remains available.

Notwithstanding the foregoing, a proposal may be submitted for expedited consideration under the TASC Quick Response process if, in addition to meeting all requirements of the TASC program, a proposal clearly identifies a time-sensitive activity. In these cases, a proposal may be submitted at any time for an expedited evaluation. Such a proposal must include a specific request for expedited evaluation.

FAS will track the time and date of receipt of all proposals.

4. Funding Restrictions: Although funded projects may take place in the UnitedStates or abroad, all eligible projects must specifically address sanitary, phytosanitary, or related

technical barriers to the export of U.S. specialty crops.

Certain types of expenses are not eligible for reimbursement by the program, such as the costs of market research, advertising, or other promotional expenses, and will be set forth in the written program agreement between CCC and the participant. CCC will also not reimburse unreasonable expenditures or any expenditure made prior to approval of a proposal.

5. Other Submission Requirements: All Internet-based applications must be properly submitted by 5 p.m., Eastern Daylight Time, May 28, 2013, in order to be considered for funding; late submissions received after the deadline will be considered only if funding remains available. All applications submitted by email must be received by 5 p.m. Eastern Daylight Time, May 28, 2013, at *podadmin@fas.usda.gov* in order to receive the same consideration.

V. Application Review Information

1. Criteria: FAS follows the evaluation criteria set forth in § 1487.6 of the TASC regulations and in this Notice.

2. Review and Selection Process: FAS will review proposals for eligibility and will evaluate each proposal against the criteria referred to above. The purpose of this review is to identify meritorious proposals, recommend an appropriate funding level for each proposal based upon these factors, and submit the proposals and funding recommendations to the Deputy Administrator, Office of Trade Programs. FAS may, when appropriate, request the assistance of other U.S. government subject area experts in evaluating the merits of a proposal.

VI. Award Administration Information

1. Award Notices: FAS will notify each applicant in writing of the final disposition of the submitted application. FAS will send an approval letter and agreement to each approved applicant. The approval letter and agreement will specify the terms and conditions applicable to the project, including levels of funding, timelines for implementation, and written evaluation requirements.

2. Administrative and National Policy Requirements: The agreements will incorporate the details of each project as approved by FAS. Each agreement will identify terms and conditions pursuant to which CCC will reimburse certain costs of each project. Agreements will also outline the responsibilities of the participant. Interested parties should review the TASC program regulations found at 7 CFR part 1487 in addition to this announcement. TASC program regulations are available at the following URL address: *http://www.fas.usda.gov/mos/tasc/default.asp.* Hard copies may be obtained by contacting the Program Operations Division at (202) 720–4327.

3. Reporting: TASC participants will be required to submit regular interim reports and a final performance report, each of which evaluate the TASC project using the performance measures presented in the approved proposal, as set forth in the written program agreement.

VII. Agency Contact

For additional information and assistance, contact the Program Operations Division, Office of Trade Programs, Foreign Agricultural Service, U.S. Department of Agriculture.

Courier address: Room 6512, 1400 Independence Ave. SW., Washington, DC 20250, or *by phone:* (202) 720–4327, or *by fax:* (202) 720–9361, or *by email: podadmin@fas.usda.gov.*

Signed at Washington, DC, on the 28 of March, 2013.

Suzanne E Herman,

Administrator, Foreign Agricultural Service, and Vice President, Commodity Credit Corporation.

[FR Doc. 2013–09469 Filed 4–22–13; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Notice of Funds Availability: Inviting Applications for the Foreign Market Development Cooperator Program

Announcement Type: New.

Catalog of Federal Domestic Assistance (CFDA) Number: 10.600.

SUMMARY: The Commodity Credit Corporation (CCC) announces that it is inviting proposals for the 2014 Foreign Market Development Cooperator (Cooperator) program. The intended effect of this notice is to solicit applications from eligible applicants for fiscal year 2014 and to set out criteria for the award of funds under the program in October 2013. The Cooperator program is administered by personnel of the Foreign Agricultural Service (FAS).

The funding authority for FMD expires at the end of fiscal year 2013. This notice is being published at this time to allow awards to be made early in fiscal year 2014, provided that program funding is reauthorized prior to that time. In the event this program is not reauthorized, or is substantially modified, FAS will publish a notice in the **Federal Register** rescinding this Notice of Funds Availability.

DATES: All applications must be received by 5 p.m. Eastern Daylight Time, May 28, 2013. Applications received after this date will not be considered.

FOR FURTHER INFORMATION CONTACT: Entities wishing to apply for funding assistance should contact the Program Operations Division, Office of Trade Programs, Foreign Agricultural Service by courier address: Room 6512, 1400 Independence Ave. SW., Washington, DC 20250, or by phone: (202) 720–4327, or by fax: (202) 720–9361, or by email: *podadmin@fas.usda.gov.* Information is also available on the FAS Web site at *http://www.fas.usda.gov/mos/programs/fmdprogram.asp.*

SUPPLEMENTARY INFORMATION:

I. Funding Opportunity Description

Authority: The Cooperator program is authorized by title VII of the Agricultural Trade Act of 1978, as amended. Cooperator program regulations appear at 7 CFR part 1484.

Purpose: The Cooperator program is designed to create, expand, and maintain foreign markets for U.S. agricultural commodities and products through cost-share assistance. Financial assistance under the Cooperator program will be made available on a competitive basis and applications will be reviewed against the evaluation criteria contained herein and in the Cooperator program regulations. All U.S. agricultural commodities, except tobacco, are eligible for consideration.

The FAS allocates funds in a manner that effectively supports the strategic decision-making initiatives of the Government Performance and Results Act (GPRA) of 1993. In deciding whether a proposed project will contribute to the effective creation, expansion, or maintenance of foreign markets, the FAS considers whether the applicant provides a clear, long-term agricultural trade strategy, and a program effectiveness time line against which results can be measured at specific intervals using quantifiable product or country goals. The FAS also considers the extent to which a proposed project targets markets with the greatest growth potential. These factors are part of the FAS resource allocation strategy to fund applicants who can demonstrate performance and address the objectives of the GPRA.

II. Award Information

Under the Cooperator program, the FAS enters into agreements with eligible nonprofit U.S. trade organizations to

share the cost of certain overseas marketing and promotion activities. Funding priority is given to organizations that have the broadest possible producer representation of the commodity being promoted and that are nationwide in membership and scope. Cooperators may receive assistance only for generic activities that do not involve promotions targeted directly to consumers. The program generally operates on a reimbursement basis.

III. Eligibility Information

1. Eligible Applicants: To participate in the Cooperator program, an applicant must be a nonprofit U.S. agricultural trade organization.

2. Cost Sharing: To participate in the Cooperator program, an applicant must agree to contribute resources to its proposed promotional activities. The Cooperator program is intended to supplement, not supplant, the efforts of the U.S. private sector. The contribution must be at least 50 percent of the value of resources provided by CCC for activities conducted under the project agreement.

The degree of commitment of an applicant to the promotional strategies contained in its application, as represented by the agreed cost-share contributions specified therein, is considered by the FAS when determining which applications will be approved for funding. Cost-share may be actual cash invested or in-kind contributions, such as professional staff time spent on design and execution of activities. The Cooperator program regulations, including sections 1484.50 and 1484.51, provide detailed discussion of eligible and ineligible cost-share contributions.

3. Other: Applications should include a justification for funding assistance from the program—an explanation as to what specifically could not be accomplished without federal funding assistance and why participating organization(s) are unlikely to carry out the project without such assistance.

IV. Application and Submission Information

1. Address to Request Application Package: Organizations are encouraged to submit their FMD applications to the FAS through the Unified Export Strategy (UES) application Internet Web site. The UES allows applicants to submit a single consolidated and strategically coordinated proposal that incorporates requests for funding and recommendations for virtually all of the FAS marketing programs, financial assistance programs, and market access programs. The suggested UES format encourages applicants to examine the constraints or barriers to trade faced, identify activities that would help overcome such impediments, consider the entire pool of complementary marketing tools and program resources, and establish realistic export goals.

Applicants planning to use the Internet-based system must contact the FAS/Program Operations Division to obtain site access information. The Internet-based application may be found at the following URL address: *https://www.fas.usda.gov/ues/webapp/.*

The FAS highly recommends applying via the Internet-based application as this format virtually eliminates paperwork and expedites the FAS processing and review cycle. However, applicants also have the option of submitting an electronic version of their application to FAS at *podadmin@fas.usda.gov.*

2. Content and Form of Application Submission: To be considered for the Cooperator program, an applicant must submit to the FAS information required by the Cooperator program regulations in section 1484.20. In addition, in accordance with the Office of Management and Budget's policy (68 FR 38402 (June 27, 2003)) regarding the need to identify entities that are receiving government awards, all applicants must submit a Dun and Bradstreet Data Universal Numbering System (DUNS) number. An applicant may request a DUNS number at no cost by calling the dedicated toll-free DUNS number request line at 1–866–705–5711.

In addition, in accordance with 2 CFR Part 25, each entity that applies to the Cooperator program and does not qualify for an exemption under 2 CFR 25.110 must:

(i) Be registered in the CCR prior to submitting an application or plan;

(ii) Maintain an active CCR registration with current information at all times during which it has an active Federal award or an application or plan under consideration by CCC; and

(iii) Provide its DUNS number in each application or plan it submits to CCC.

Similarly, in accordance with 2 CFR Part 170, each entity that applies to the Cooperator program and does not qualify for an exception under 2 CFR 170.110(b) must ensure it has the necessary processes and systems in place to comply with the applicable reporting requirements of 2 CFR Part 170 should it receive funding under the Cooperator program. Incomplete applications and applications that do not otherwise conform to this announcement will not be accepted for review.

The FAS administers various other agricultural export assistance programs, including the Market Access Program (MAP), the Emerging Markets Program, the Quality Samples Program, and the Technical Assistance for Specialty Crops program. Any organization that is not interested in applying for the Cooperator program but would like to request assistance through one of the other programs mentioned should contact the Program Operations Division.

3. Submission Dates and Times: All applications must be received by 5 p.m. Eastern Daylight Time, May 28, 2013. All Cooperator program applicants, regardless of the method of submitting an application, also must submit by the application deadline, an original signed certification statement as specified in 7 CFR 1484.20(a)(14) to the Program Operations Division, Office of Trade Programs, Foreign Agricultural Service, U.S. Department of Agriculture, Room 6512, 1400 Independence Ave. SW., Washington, DC 20250. Applications or certifications received after this date will not be considered.

4. Funding Restrictions: Certain types of expenses are not eligible for reimbursement by the program, and there are limits on other categories of expenses. CCC also will not reimburse unreasonable expenditures or expenditures made prior to approval. Full details are available in the Cooperator program regulations, including sections 1484.54 and 1484.55.

V. Application Review Information

1. Criteria and Review Process: Following is a description of the FAS process for reviewing applications and the criteria for allocating available Cooperator program funds.

(1) Phase 1—Sufficiency Review and FAS Divisional Review

Applications received by the closing date will be reviewed by FAS to determine the eligibility of the applicants and the completeness of the applications. These requirements appear in sections 1484.14 and 1484.20 of the Cooperator program regulations as well as in this Notice. Applications that meet the requirements then will be further evaluated by the appropriate Commodity Branch office of the FAS/Cooperator Programs Division. The Commodity Branch will review each application against the criteria listed in section 1484.21 of the Cooperator program regulations. The purpose of this review is to identify meritorious proposals. The Commodity Branch then recommends an appropriate funding level for each approved application for

consideration by the Office of the Deputy Administrator, Office of Trade Programs.

(2) Phase 2—Competitive Review

Meritorious applications are passed on to the Office of the Deputy Administrator, Office of Trade Programs, for the purpose of allocating available funds among those applicants. Applicants will compete for funds on the basis of the following allocation criteria as appropriate (the number in parentheses represents a percentage weight factor):

(a) Contribution Level (40)

- The applicant's 6-year average share (2009–2014) of all contributions under the Cooperator program (contributions may include cash and goods and services provided by U.S. entities in support of foreign market development activities) compared to;
- The applicant's 6-year average share (2009–2014) of the funding level for all Cooperator program participants.

(b) Past Export Performance (20)

- The 6-year average share (2008–2013) of the value of exports promoted by the applicant compared to;
- The applicant's 6-year average share (2008–2013) of the funding level for all Cooperator participants plus, for those groups participating in the MAP program, a 6-year average share (2008–2013) of all MAP budgets.

(c) Past Demand Expansion Performance (20)

- The 6-year average share (2008–2013) of the total value of world trade of the commodities promoted by the applicant compared to;
- The applicant's 6-year average share (2008–2013) of all Cooperator program expenditures plus, for those groups participating in the MAP program, a 6-year average share (2008–2013) of all MAP expenditures.

(d) Future Demand Expansion Goals (10)

- The projected total dollar value of world trade of the commodities being promoted by the applicant for the year 2019 compared to;
- The applicant's requested funding level.

(e) Accuracy of Past Demand Expansion Projections (10)

- The actual dollar value share of world trade of the commodities being promoted by the applicant for the year 2012 compared to;
- The applicant's past projected share of world trade of the commodities being promoted by the applicant for the year 2012, as specified in the 2009 Cooperator program application.

The Commodity Branches' recommended funding levels for each applicant are converted to percentages of the total Cooperator program funds available and then multiplied by each weight factor to determine the amount of funds allocated to each applicant.

2. Anticipated Announcement Date: Announcements of funding decisions for the Cooperator program are anticipated during October 2013.

VI. Award Administration Information

1. Award Notices: The FAS will notify each applicant in writing of the final disposition of its application. The FAS will send an approval letter and project agreement to each approved applicant. The approval letter and project agreement will specify the terms and conditions applicable to the project, including the levels of Cooperator program funding, and cost-share contribution requirements.

2. Administrative and National Policy Requirements: Interested parties should review the Cooperator program regulations, which are available at the following URL address: *http://www.fas.usda.gov/mos/programs/fmdprogram.asp.* Hard copies may be obtained by contacting the Program Operations Division.

3. Reporting: The FAS requires various reports and evaluations from Cooperators. Reporting requirements are detailed in the Cooperator program regulations in sections 1484.53, 1484.70, and 1484.72.

VII. Agency Contact(s)

For additional information and assistance, contact the Program Operations Division, Office of Trade Programs, Foreign Agricultural Service, U.S. Department of Agriculture.

Courier address: Room 6512, 1400 Independence Ave. SW., Washington, DC 20250, or *by phone:* (202) 720–4327, or *by fax:* (202) 720–9361, or *by email: podadmin@fas.usda.gov.*

Signed at Washington, DC, on the 28 of March, 2013.

Suzanne E. Heinen,

Administrator, Foreign Agricultural Service, and Vice President, Commodity Credit Corporation.

[FR Doc. 2013–09461 Filed 4–22–13; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Notice of Funds Availability: Inviting Applications for the Emerging Markets Program

SUMMARY: The Commodity Credit Corporation (CCC) announces that it is inviting proposals for the 2014 Emerging Markets Program (EMP). The intended effect of this notice is to solicit applications from the private sector and from government agencies for fiscal year 2014 and to set out criteria for the award of funds under the program in October 2013. The EMP is administered by personnel of the Foreign Agricultural Service (FAS).

The statutory authority for EMP expires at the end of fiscal year 2013. This notice is being published at this time to allow awards to be made early in fiscal year 2014, provided that the program is reauthorized prior to that time. In the event this program is not reauthorized, or is substantially modified, FAS will publish a notice in the **Federal Register** rescinding this Notice of Funds Availability.

DATES: To be considered for funding, applications must be received by 5 p.m. Eastern Daylight Time, May 28, 2013. Any applications received after this time will be considered only if funds are still available.

FOR FURTHER INFORMATION CONTACT: Entities wishing to apply for funding assistance should contact the Program Operations Division, Office of Trade Programs, Foreign Agricultural Service *by courier address:* Room 6512, 1400 Independence Ave. SW., Washington, DC 20250, or *by phone:* (202) 720–4327, or *by fax:* (202) 720–9361, or *by email: podadmin@fas.usda.gov*. Information is also available on the Foreign Agricultural Service Web site at *http://www.fas.usda.gov/mos/em-markets/em-markets.asp*.

SUPPLEMENTARY INFORMATION:

I. Funding Opportunity Description

Announcement Type: New.

Catalog of Federal Domestic Assistance (CFDA) Number: 10.603.

Authority: The EMP is authorized by section 1542(d)(1) of the Food, Agriculture, Conservation and Trade Act of 1990 (The Act), as amended. The EMP regulations appear at 7 CFR part 1486.

1. Purpose. The EMP assists U.S. entities in developing, maintaining, or expanding exports of U.S. agricultural commodities and products by funding activities that improve emerging markets' food and rural business

systems, including reducing potential trade barriers in such markets. The EMP is intended primarily to support export market development efforts of the private sector, but EMP resources may also be used to assist public organizations.

All U.S. agricultural commodities, except tobacco, are eligible for consideration. Agricultural product(s) should be comprised of at least 50 percent U.S. origin content by weight, exclusive of added water, to be eligible for funding. Proposals that seek support for multiple commodities are also eligible. EMP funding may only be used to develop, maintain, or expand emerging markets for U.S. agricultural commodities and products through generic activities. EMP funding may not be used to support the export of another country's products to the United States, or to promote the development of a foreign economy as a primary objective.

2. Appropriate Activities. All EMP projects must fall into at least one of the following four categories:

(a) Assistance to teams consisting primarily of U.S. individuals expert in assessing the food and rural business systems of other countries. This type of EMP project must include all three of the following:

- Conduct an assessment of the food and rural business system needs of an emerging market;
- Make recommendations on measures necessary to enhance the effectiveness of these systems; and
- Identify opportunities and projects to enhance the effectiveness of the emerging market's food and rural business systems.

To be eligible, such proposals must clearly demonstrate that experts are primarily agricultural consultants, farmers, other persons from the private sector, and government officials, and that they have expertise in assessing the food and rural business systems of other countries.

(b) Assistance to enable individuals from emerging markets to travel to the United States so that these individuals can, for the purpose of enhancing the food and rural business systems in their countries, become familiar with U.S. technology and agribusiness and rural enterprise operations by consulting with food and rural business system experts in the United States.

(c) Assistance to enable U.S. agricultural producers and other individuals knowledgeable in agricultural and agribusiness matters to travel to emerging markets to assist in transferring their knowledge and expertise to entities in emerging markets. Such travel must be to emerging markets. Travel to developed markets is not eligible under the program even if the traveler's targeted market is an emerging market.

(d) Technical assistance to implement the recommendations, projects, and/or opportunities identified under 2(a) above. Technical assistance that does not implement the recommendations, projects, and/or opportunities identified by assistance under 2(a) above is not eligible under the EMP.

Proposals that do not fall into one or more of the four categories above, regardless of previous guidance provided regarding the EMP, are not eligible for consideration under the program.

EMP funds may not be used to support normal operating costs of individual organizations, nor as a source to recover pre-award costs or prior expenses from previous or ongoing projects. Proposals that counter national strategies or duplicate activities planned or already underway by U.S. non-profit agricultural commodity or trade associations (''cooperators'') will not be considered. Other ineligible expenditures include: Branded product promotions (e.g., in-store, restaurant advertising, labeling, *etc.*); advertising, administrative, and operational expenses for trade shows; Web site development; equipment purchases; and the preparation and printing of brochures, flyers, and posters (except in connection with specific technical assistance activities such as training seminars). For a more complete description of ineligible expenditures, please refer to the EMP regulations.

3. Eligible Markets. The Act defines an emerging market as any country that the Secretary of Agriculture determines:

(a) Is taking steps toward developing a market-oriented economy through the food, agriculture, or rural business sectors of the economy of the country; and

(b) Has the potential to provide a viable and significant market for U.S. agricultural commodities or products of U.S. agricultural commodities.

Because EMP funds are limited and the range of potential emerging market countries is worldwide, consideration will be given only to proposals that target countries or regional groups with per capita income of less than $12,475 (the current ceiling on upper middle income economies as determined by the World Bank [World Development Indicators; July 2012, *http://site resources.worldbank.org/DATA STATISTICS/Resources/CLASS.XLS])* and populations of greater than 1 million.

Income limits and their calculation can change from year to year with the result that a given country may qualify under the legislative and administrative criteria one year, but not the next. Therefore, CCC has not established a fixed list of emerging market countries.

A few countries technically qualify as emerging markets but may require a separate determination before funding can be considered because of political sensitivities.

II. Award Information

In general, all qualified proposals received before the application deadline will compete for EMP funding. Priority consideration will be given to proposals that directly support or address at least one of the goals and objectives in the USDA and FAS Strategic Plans. The USDA Strategic Plan and Strategic Plan Update Addendum can be accessed at the following link: USDA Strategic Plan—*http://www.ocfo.usda.gov/usdasp/sp2010/sp2010.pdf; USDA Strategic Plan Update Addendum—http://www.ocfo.usda.gov/usdasp/sp2010/Strategic%20Plan%20Update.pdf.* The FAS strategic plan can be accessed at the following link: *http://www.fas.usda.gov/FAS_SP2012-2016 Final5-16-12.pdf.* The applicants' willingness to contribute resources, including cash, goods and services, will be a critical factor in determining which proposals are funded under the EMP. Each proposal will also be judged on the potential benefits to the industry represented by the applicant and the degree to which the proposal demonstrates industry support.

The limited funds and the range of eligible emerging markets worldwide generally preclude CCC from approving large budgets for individual projects. While there is no minimum or maximum amount set for EMP-funded projects, most projects are funded at a level of less than $500,000 and for a duration of approximately one year. Private entities may submit multi-year proposals requesting higher levels of funding that may be considered in the context of a detailed strategic implementation plan. Funding in such cases is generally limited to three years and provided one year at a time with commitments beyond the first year subject to interim evaluations and funding availability. Government entities are not eligible for multi-year funding.

Funding for successful proposals will be provided through specific agreements. The CCC, through FAS, will be kept informed of the implementation of approved projects through the requirement to provide interim progress

reports and final performance reports. Changes in the original project timelines and adjustments within project budgets must be approved in advance by FAS.

Note: EMP funds awarded to government agencies must be expended or otherwise obligated by close of business, September 30, 2014.

III. Eligibility and Qualification Information

1. Eligible Applicants: Any U.S. private or government entity (*e.g.,* universities, non-profit trade associations, agricultural cooperatives, state regional trade groups (SRTGs), state departments of agriculture, federal agencies, profit-making entities, and consulting businesses) with a demonstrated role or interest in exports of U.S. agricultural commodities or products may apply to the program. Proposals from research and consulting organizations will be considered if they provide evidence of substantial participation by and financial support from the U.S. industry. For-profit entities are also eligible but may not use program funds to conduct private business, promote private self-interests, supplement the costs of normal sales activities or promote their own products or services beyond specific uses approved by CCC in a given project.

U.S. export market development cooperators and SRTGs may seek funding to address priority, market specific issues and to undertake activities not suitable for funding under other CCC market development programs, *e.g.,* the Foreign Market Development Cooperator (Cooperator) Program and the Market Access Program (MAP). Foreign organizations, whether government or private, may participate as third parties in activities carried out by U.S. organizations, but are not eligible for funding assistance from the program.

2. Cost Sharing: No private sector proposal will be considered without the element of cost-share from the applicant and/or U.S. partners. The EMP is intended to complement, not supplant, the efforts of the U.S. private sector. There is no minimum or maximum amount of cost-share, though the range in recent successful proposals has been between 35 and 75 percent. The degree of commitment to a proposed project, represented by the amount and type of private funding, is one factor used in determining which proposals will be approved for funding. Cost-share may be actual cash invested or professional time of staff assigned to the project. Proposals for which private industry is willing to commit cash, rather than in-kind contributions, such as staff resources, will be given priority consideration.

Cost-sharing is not required for proposals from government agencies, but is mandatory for all other eligible entities, even when they may be party to a joint proposal with a government agency. Contributions from USDA or other government agencies or programs may not be counted toward the stated cost-share requirement of other applicants. Similarly, contributions from foreign (non-U.S.) organizations may not be counted toward the cost-share requirement, but may be counted in the total cost of the project.

3. Other: Proposals should include a justification for funding assistance from the program—an explanation as to what specifically could not be accomplished without Federal funding assistance and why the participating organization(s) would be unlikely to carry out the project without such assistance. Applicants may submit more than one proposal.

IV. Application and Submission Information

1. Address to Request Application Package: EMP applicants have the opportunity to utilize the Unified Export Strategy (UES) application process, an online system that provides a means for interested applicants to submit a consolidated and strategically coordinated single proposal that incorporates funding requests for any or all of the market development programs administered by FAS.

Applicants are strongly encouraged to submit their applications to FAS through the UES application Internet Web site. The Internet-based format reduces paperwork and expedites FAS' processing and review cycle. Applicants planning to use the on-line UES system must contact the Program Operations Division to obtain site access information. The Internet-based application is located at the following URL address: *https://www.fas.usda.gov/ues/webapp/.*

Although FAS highly recommends applying via the Internet-based application, applicants also have the option of submitting an electronic version to FAS at *podadmin@fas.usda.gov.*

2. Content and Form of Application Submission: To be considered for the EMP, an applicant must submit to FAS information required by this Notice of Funds Availability and the EMP regulations at 7 CFR part 1486. EMP regulations and additional information are available at the following URL address: *http://www.fas.usda.gov/mos/em-markets/em-markets.asp.*

In addition, in accordance with the Office of Management and Budget's issuance of a final policy (68 FR 38402 (June 27, 2003)) regarding the need to identify entities that are receiving government awards, all applicants must submit a Dun and Bradstreet Data Universal Numbering System (DUNS) number. An applicant may request a DUNS number at no cost by calling the dedicated toll-free DUNS number request line on 1–866–705–5711.

In addition, in accordance with 2 CFR Part 25, each entity that applies to the EMP and does not qualify for an exemption under 2 CFR § 25.110 must:

(i) Be registered in the CCR prior to submitting an application or plan;

(ii) Maintain an active CCR registration with current information at all times during which it has an active Federal award or an application or plan under consideration by CCC; and

(iii) Provide its DUNS number in each application or plan it submits to CCC.

Similarly, in accordance with 2 CFR Part 170, each entity that applies to the EMP and does not qualify for an exception under 2 CFR § 170.110(b) must ensure it has the necessary processes and systems in place to comply with the applicable reporting requirements of 2 CFR Part 170 should it receive EMP funding.

Applications should be no longer than ten (10) pages and include the following information:

(a) Date of proposal;

(b) Name of organization submitting proposal;

(c) Organization address, telephone and fax numbers;

(d) Tax ID number;

(e) DUNS number;

(f) Primary contact person;

(g) Full title of proposal;

(h) Target market(s);

(i) Specific description of activity/activities to be undertaken;

(j) Clear demonstration that successful implementation will benefit an emerging market's food and rural business system and/or reduce potential trade barriers, and will benefit a particular industry as a whole, not just the applicant(s);

(k) Current conditions in the target market(s) affecting the intended commodity or product;

(l) Description of problem(s) (*i.e.,* constraint(s)) to be addressed by the project, such as the need to assess and enhance food and rural business systems of the emerging market, lack of awareness by foreign officials of U.S. technology and business practices, impediments (infrastructure, financing,

regulatory or other non-tariff barriers) to the effectiveness of emerging market's food and rural business systems previously identified by an EMP project that are to be implemented by the applicant, *etc.*;

(m) Project objectives;

(n) Performance measures: Benchmarks for quantifying progress in meeting the objectives;

(o) Rationale: Explanation of the underlying reasons for the project proposal and its approach, the anticipated benefits, and any additional pertinent analysis;

(p) Explanation as to what specifically could not be accomplished without Federal funding assistance and why the participating organization(s) would be unlikely to carry out the project without such assistance;

(q) Timeline(s) for implementation of activity, including start and end dates;

(r) Information on whether similar activities are or have previously been funded with USDA resources in the target country or countries (*e.g.,* under MAP and/or Cooperator programs);

(s) Detailed line item activity budget:

• Cost items should be allocated separately to each participating organization; and

• Expense items constituting a proposed activity's overall budget (*e.g.,* salaries, travel expenses, consultant fees, administrative costs, etc.), with a line item cost for each, should be listed, clearly indicating:

(1) Which items are to be covered by EMP funding;

(2) Which by the participating U.S. organization(s); and

(3) Which by foreign third parties (if applicable).

Cost items for individual consultant fees should show calculation of daily rate and number of days. Cost items for travel expenses should show number of trips, destinations, cost, and objective for each trip; and

(t) Qualifications of applicant(s) should be included as an attachment.

3. Funding Restrictions: Certain types of expenses are not eligible for reimbursement by the program, and there are limits on other categories of expenses, such as indirect overhead charges, travel expenses, and consulting fees. CCC will also not reimburse unreasonable expenditures or expenditures made prior to approval of a proposal. Full details of the funding restrictions are available in the EMP regulations.

4. Submission Dates and Times: EMP proposals are reviewed on a rolling basis during the fiscal year as long as EMP funding is available as set forth below:

• Proposals received by, but not later than, 5 p.m. Eastern Daylight Time, May 28, 2013, will be considered for funding with other proposals received by that date;

• Proposals not approved for funding during the review period will be reconsidered for funding after the review period only if the applicant specifically requests such reconsideration in writing, and only if funding remains available;

• Proposals received after 5 p.m. Eastern Daylight Time, May 28, 2013, will be considered in the order received for funding only if funding remains available.

5. Other Submission Requirements: All Internet-based applications must be properly submitted by 5 p.m., Eastern Daylight Time, May 28, 2013, in order to be considered for funding; late submissions received after the deadline will be considered only if funding remains available. All applications submitted by email must be received by 5 p.m. Eastern Daylight Time, May 28, 2013, at *podadmin@fas.usda.gov* in order to receive the same consideration.

V. Application Review Information

1. Criteria: Key criteria used in judging proposals include:

• The objective of the activities is to develop, maintain, or expand markets for U.S. agricultural exports by improving the effectiveness of the food and rural business systems in emerging markets;

• Appropriateness of the activities for the targeted market(s) and the extent to which the project identifies market barriers (e.g., a fundamental deficiency in the emerging market's food and rural business systems, and/or a recent change in those systems);

• Potential of the project to expand U.S. market share and increase U.S. exports or sales;

• Quality of the project's performance measures, and the degree to which they relate to the objectives, deliverables, and proposed approach and activities;

• Justification for Federal funding;

• Overall cost of the project and the amount of funding provided by the applicant and any partners; and

• Evidence that the organization has the knowledge, expertise, ability, and resources to successfully implement the project, including timeliness and quality of reporting on past EMP activities.

Please see 7 CFR part 1486 for additional evaluation criteria.

2. Review and Selection Process: All applications undergo a multi-phase review within FAS, by appropriate FAS field offices, and, as needed, by the private sector Advisory Committee on Emerging Markets to determine the qualifications, quality, appropriateness of projects, and reasonableness of project budgets.

VI. Award Administration Information

1. Award Notices: FAS will notify each applicant in writing of the final disposition of the submitted application. FAS will send an approval letter and project agreement to each approved applicant. The approval letter and agreement will specify the terms and conditions applicable to the project, including the levels of EMP funding and cost-share contribution requirements.

2. Administrative and National Policy Requirements: Interested parties should review the EMP regulations, which are available at the following URL address: *http://www.fas.usda.gov/mos/em-markets/em-markets.asp.*

3. Reporting. Quarterly progress reports for all programs one year or longer in duration are required. Projects of less than one year generally require a mid-term progress report. Final performance reports are due 90 days after completion of each project. Content requirements for both types of reports are contained in the Project Agreement. Final financial reports are also due 90 days after completion of each project as attachments to the final reports. Please see 7 CFR part 1486 for additional reporting requirements.

VII. Agency Contact(s)

For additional information and assistance, contact the Program Operations Division, Office of Trade Programs, Foreign Agricultural Service, U.S. Department of Agriculture.

Courier address: Room 6512, 1400 Independence Ave. SW., Washington, DC 20250, or *by phone:* (202) 720–4327, or *by fax:* (202) 720–9361, or *by email: podadmin@fas.usda.gov.*

Signed at Washington, DC, on 28 day of March 2013.

Suzanne E. Heinen,

Administrator, Foreign Agricultural Service and Vice President, Commodity Credit Corporation.

[FR Doc. 2013–09460 Filed 4–22–13; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Notice of Funds Availability: Inviting Applications for the Market Access Program

Announcement Type: New.

Catalog of Federal Domestic Assistance (CFDA) Number: 10.601.

SUMMARY: The Commodity Credit Corporation (CCC) announces that it is inviting proposals for the 2014 Market Access Program (MAP). The intended effect of this notice is to solicit applications from eligible applicants for fiscal year 2014 and to set out criteria for the award of funds under the program in October 2013. The MAP is administered by personnel of the Foreign Agricultural Service (FAS).

The funding authority for MAP expires at the end of fiscal year 2013. This notice is being published at this time to allow awards to be made early in fiscal year 2014, provided that program funding is reauthorized prior to that time. In the event this program is not reauthorized, or is substantially modified, FAS will publish a notice in the **Federal Register** rescinding this Notice of Funds Availability.

DATES: All applications must be received by 5 p.m. Eastern Daylight Time, May 28, 2013. Applications received after this date will not be considered.

FOR FURTHER INFORMATION CONTACT: Entities wishing to apply for funding assistance should contact the Program Operations Division, Office of Trade Programs, Foreign Agricultural Service *by courier address:* Room 6512, 1400 Independence Ave. SW., Washington, DC 20250, or *by phone:* (202) 720–4327, or *by fax:* (202) 720–9361, or *by email: podadmin@fas.usda.gov*. Information is also available on the FAS Web site at *http://www.fas.usda.gov/mos/programs/map.asp*.

SUPPLEMENTARY INFORMATION:

I. Funding Opportunity Description

Authority: The MAP is authorized under Section 203 of the Agricultural Trade Act of 1978, as amended. MAP regulations appear at 7 CFR part 1485.

Purpose: The MAP is designed to create, expand, and maintain foreign markets for U.S. agricultural commodities and products through cost-share assistance. Financial assistance under the MAP will be made available on a competitive basis, and applications will be reviewed against the evaluation criteria contained herein and in the MAP regulations. All U.S. agricultural commodities, except tobacco, are eligible for consideration.

The FAS allocates funds in a manner that effectively supports the strategic decision-making initiatives of the Government Performance and Results Act (GPRA) of 1993. In deciding whether a proposed project will contribute to the effective creation, expansion, or maintenance of foreign markets, the FAS considers whether the applicant provides a clear, long-term agricultural trade strategy and a program effectiveness time line against which results can be measured at specific intervals using quantifiable product or country goals. The FAS also considers the extent to which a proposed project targets markets with the greatest growth potential. These factors are part of the FAS resource allocation strategy to fund applicants who can demonstrate performance and address the objectives of the GPRA.

II. Award Information

Under the MAP, the CCC enters into agreements with eligible Participants to share the cost of certain overseas marketing and promotion activities. MAP Participants may receive assistance for generic or brand promotion activities. For generic activities, funding priority is given to organizations that have the broadest possible producer representation of the commodity being promoted and that are nationwide in membership and scope. Only non-profit U.S. agricultural trade organizations, nonprofit state regional trade groups (SRTGs), U.S. agricultural cooperatives, and State government agencies can participate directly in the brand program. The MAP generally operates on a reimbursement basis.

III. Eligibility Information

1. Eligible Applicants: To participate in the MAP, an applicant must be a nonprofit U.S. agricultural trade organization, a nonprofit SRTG, a U.S. agricultural cooperative, or a State government agency. A small-sized U.S. commercial entity may participate through a MAP Participant.

2. Cost Sharing: To participate in the MAP, an applicant must agree to contribute resources to its proposed promotional activities. The MAP is intended to supplement, not supplant, the efforts of the U.S. private sector. In the case of generic promotion, the contribution must be at least 10 percent of the value of resources provided by CCC for such generic promotion. In the case of brand promotion, the contribution must be at least 50 percent of the total cost of such brand promotion.

The degree of commitment of an applicant to the promotional strategies contained in its application, as represented by the agreed cost-share contributions specified therein, is considered by the FAS when determining which applications will be approved for funding. Cost-share may be actual cash invested or in-kind contributions, such as professional staff time spent on design and execution of activities. The MAP regulations, in section 1485.16, provide detailed discussion of eligible and ineligible cost-share contributions.

3. Other: Applications should include a justification for funding assistance from the program—an explanation as to what specifically could not be accomplished without federal funding assistance, and why participating organization(s) are unlikely to carry out the project without such assistance.

IV. Application and Submission Information

1. Address to Request Application Package: Organizations are encouraged to submit their MAP applications to the FAS through the Unified Export Strategy (UES) application Internet Web site. The UES allows interested applicants to submit a single consolidated and strategically coordinated proposal that incorporates requests for funding and recommendations for virtually all of the FAS marketing programs, financial assistance programs, and market access programs. The suggested UES format encourages applicants to examine the constraints or barriers to trade that they face, identify activities that would help overcome such impediments, consider the entire pool of complementary marketing tools and program resources, and establish realistic export goals. Applicants planning to use the Internet-based system must contact the FAS/Program Operations Division to obtain Web site access information. The Internet-based application may be found at the following URL address: *https://www.fas.usda.gov/ues/webapp/*.

The FAS highly recommends applying via the Internet-based application, as this format virtually eliminates paperwork and expedites the FAS processing and review cycle. However, applicants also have the option of submitting an electronic version of their application to FAS at *podadmin@fas.usda.gov*.

2. Content and Form of Application Submission: To be considered for the MAP, an applicant must submit to the FAS information required by the MAP regulations in section 1485.13. In addition, in accordance with the Office of Management and Budget's policy (68 FR 38402 (June 27, 2003)) regarding the need to identify entities that are receiving government awards, all applicants must submit a Dun and Bradstreet Data Universal Numbering System (DUNS) number. An applicant may request a DUNS number at no cost by calling the dedicated toll-free DUNS number request line at 1–866–705–5711.

In addition, in accordance with 2 CFR Part 25, each entity that applies to MAP and does not qualify for an exemption under 2 CFR 25.110 must:

(i) Be registered in the CCR prior to submitting an application or plan;

(ii) Maintain an active CCR registration with current information at all times during which it has an active Federal award or an application or plan under consideration by CCC; and

(iii) Provide its DUNS number in each application or plan it submits to CCC.

Similarly, in accordance with 2 CFR Part 170, each entity that applies to MAP and does not qualify for an exception under 2 CFR 170.110(b) must ensure it has the necessary processes and systems in place to comply with the applicable reporting requirements of 2 CFR Part 170 should it receive MAP funding.

Incomplete applications and applications that do not otherwise conform to this announcement will not be accepted for review.

The FAS administers various other agricultural export assistance programs including the Foreign Market Development Cooperator (Cooperator) program, the Emerging Markets Program, the Quality Samples Program, and the Technical Assistance for Specialty Crops program. Any organization that is not interested in applying for the MAP, but would like to request assistance through one of the other programs mentioned should contact the Program Operations Division.

3. Submission Dates and Times: All applications must be received by 5 p.m. Eastern Daylight Time, May 28, 2013. All MAP applicants, regardless of the method of submitting an application, must also submit by the application deadline, an original signed certification statement as specified in 7 CFR 1485.13(a)(2)(i)(E) to the Program Operations Division, Office of Trade Programs, Foreign Agricultural Service, U.S. Department of Agriculture, Room 6512, 1400 Independence Ave. SW., Washington, DC 20250. Applications or certifications received after this date will not be considered.

4. Funding Restrictions: Certain types of expenses are not eligible for reimbursement by the program, and there are limits on other categories of expenses. CCC also will not reimburse unreasonable expenditures or expenditures made prior to approval. Full details are available in the MAP regulations in section 1485.17.

V. Application Review Information

1. Criteria and Review Process: Following is a description of the FAS process for reviewing applications and the criteria for allocating available MAP funds.

(1) Phase 1—Sufficiency Review and FAS Divisional Review

Applications received by the closing date will be reviewed by the FAS to determine the eligibility of the applicants and the completeness of the applications. These requirements appear in sections 1485.12 and 1485.13 of the MAP regulations. Applications that meet the requirements then will be further evaluated by the appropriate Commodity Branch office of the FAS/Cooperator Programs Division. The Commodity Branch will review each application against the criteria listed in section 1485.14(b) and (c) of the MAP regulations as well as in this Notice. The purpose of this review is to identify meritorious proposals and to recommend an appropriate funding level for each application based upon these criteria.

(2) Phase 2—Competitive Review

Meritorious applications then will be passed on to the Office of the Deputy Administrator, Office of Trade Programs, for the purpose of allocating available funds among the applicants. Applicants will compete for funds on the basis of the following allocation criteria as applicable (the number in parentheses represents a percentage weight factor):

(a) Applicant's Contribution Level (40)

- The applicant's 4-year average share (2011–2014) of all contributions under the MAP (cash and goods and services provided by U.S. entities in support of overseas marketing and promotion activities) compared to;
- The applicant's 4-year average share (2011–2014) of the funding level for all MAP Participants.

(b) Past Performance (30)

- The 3-year average share (2010–2012) of the value of exports promoted by the applicant compared to;
- The applicant's 2-year average share (2012–2013) of the funding level for all MAP Participants plus, for those groups participating in the Cooperator program, the 2-year average share (2012–2013) of all Cooperator program budgets.

(c) Projected Export Goals (15)

- The total dollar value of projected exports promoted by the applicant for 2014 compared to;
- The applicant's requested funding level.

(d) Accuracy of Past Projections (15)

- Actual exports for 2012 as reported in the 2014 MAP application compared to;
- Past projections of exports for 2012 as specified in the 2012 MAP application.

The Commodity Branches' recommended funding levels for each applicant are converted to percentages of the total MAP funds available and then multiplied by each weight factor as described above to determine the amount of funds allocated to each applicant.

2. Anticipated Announcement Date: Announcements of funding decisions for the MAP are anticipated during October 2013.

VI. Award Administration Information

1. Award Notices: The FAS will notify each applicant in writing of the final disposition of its application. The FAS will send an approval letter and program agreement to each approved applicant. The approval letter and program agreement will specify the terms and conditions applicable to the project, including the levels of MAP funding and cost-share contribution requirements.

2. Administrative and National Policy Requirements: Interested parties should review the MAP regulations, which are available at the following URL address: *http://www.fas.usda.gov/mos/programs/map.asp*. Hard copies may be obtained by contacting the Program Operations Division.

3. Reporting: The FAS requires various reports and evaluations from MAP Participants. Reporting requirements are detailed in the MAP regulations in section 1485.22 and 1485.23.

VII. Agency Contact(s)

For additional information and assistance, contact the Program Operations Division, Office of Trade Programs, Foreign Agricultural Service, U.S. Department of Agriculture.

Courier address: Room 6512, 1400 Independence Ave. SW., Washington, DC 20250, or *by phone:* (202) 720–4327, or *by fax:* (202) 720–9361, or *by email: podadmin@fas.usda.gov.*

Signed at Washington, DC, on the 28 of March 2013.

Suzanne E. Heinen,

Administrator, Foreign Agricultural Service, and Vice President, Commodity Credit Corporation.

[FR Doc. 2013–09447 Filed 4–22–13; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Notice of Funds Availability: Inviting Applications for the Quality Samples Program

Announcement Type: New.

Catalog of Federal Domestic Assistance (CFDA) Number: 10.605.

SUMMARY: The Commodity Credit Corporation (CCC) announces it is inviting proposals for the 2014 Quality Samples Program (QSP). The intended effect of this notice is to solicit applications from eligible applicants for fiscal year 2014 and to set out the criteria for the award of funds under the program in October 2013. QSP is administered by personnel of the Foreign Agricultural Service (FAS).

DATES: To be considered for funding, applications must be received by 5 p.m. Eastern Daylight Time, May 28, 2013. Any applications received after this time will be considered only if funds are still available.

FOR FURTHER INFORMATION CONTACT: Entities wishing to apply for funding assistance should contact the Program Operations Division, Office of Trade Programs, Foreign Agricultural Service *by courier address:* Room 6512, 1400 Independence Ave. SW., Washington, DC 20250, or *by phone:* (202) 720–4327, or *by fax:* (202) 720–9361, or *by email: podadmin@fas.usda.gov.* Information is also available on the FAS Web site at *http://www.fas.usda.gov/mos/programs/QSP.asp.*

SUPPLEMENTARY INFORMATION:

I. Funding Opportunity Description

Authority: QSP is authorized under Section 5(f) of the CCC Charter Act, 15 U.S.C. 714c(f).

Purpose: QSP is designed to encourage the development and expansion of export markets for U.S. agricultural commodities by assisting U.S. entities in providing commodity samples to potential foreign importers to promote a better understanding and appreciation for the high quality of U.S. agricultural commodities.

QSP participants will be responsible for procuring (or arranging for the procurement of) commodity samples, exporting the samples, and providing the on-site technical assistance necessary to facilitate successful use of the samples by importers. Participants that are funded under this announcement may seek reimbursement from QSP for the sample purchase price, the cost of transporting the samples domestically to the port of export, and then to the foreign port or point of entry. Transportation costs from the foreign port or point of entry to the final destination will not be eligible for reimbursement. CCC will not reimburse the costs incidental to purchasing and transporting samples, for example, inspection or documentation fees. Although providing technical assistance is required for all projects, QSP will not reimburse the costs of providing technical assistance. A QSP participant will be reimbursed after CCC reviews its reimbursement claim and determines that the claim is complete.

General Scope of QSP Projects: QSP projects are the activities undertaken by a QSP participant to provide an appropriate sample of a U.S. agricultural commodity to a foreign importer, or a group of foreign importers, in a given market. The purpose of the project is to provide information to an appropriate target audience regarding the attributes, characteristics, and proper use of the U.S. commodity. A QSP project addresses a single market/commodity combination.

As a general matter, QSP projects should conform to the following guidelines:

- Projects should benefit the represented U.S. industry and not a specific company or brand;
- Projects should develop a new market for a U.S. product, promote a new U.S. product, or promote a new use for a U.S. product, rather than promote the substitution of one established U.S. product for another;
- Sample commodities provided under a QSP project must be in sufficient supply and available on a commercial basis;
- The QSP project must either subject the commodity sample to further processing or substantial transformation in the importing country, or the sample must be used in technical seminars in the importing country designed to demonstrate to an appropriate target audience the proper preparation or use of the sample in the creation of an end product;
- Samples provided in a QSP project shall not be directly used as part of a retail promotion or supplied directly to consumers. However, the end product, that is, the product resulting from further processing, substantial transformation, or a technical seminar, may be provided to end-use consumers to demonstrate to importers consumer preference for that end product; and
- Samples shall be in quantities less than a typical commercial sale and limited to the amount sufficient to achieve the project goal (*e.g.,* not more than a full commercial mill run in the destination country).
- Projects should be completed within one year of CCC approval.

QSP projects shall target foreign importers and audiences who:

- Have not previously purchased the U.S. commodity that will be transported under QSP;
- Are unfamiliar with the variety, quality attribute, or end-use characteristic of the U.S. commodity;
- Have been unsuccessful in previous attempts to import, process, and market the U.S. commodity (*e.g.,* because of improper specification, blending, formulation, sanitary, or phytosanitary issues);
- Are interested in testing or demonstrating the benefits of the U.S. commodity; or
- Need technical assistance in processing or using the U.S. commodity.

II. Award Information

Under this announcement, the number of projects per participant will not be limited. However, individual projects will be limited to $75,000 of QSP reimbursement. Projects comprised of technical preparation seminars, that is, projects that do not include further processing or substantial transformation, will be limited to $15,000 of QSP reimbursement as these projects require smaller samples. Financial assistance will be made available on a reimbursement basis only; cash advances will not be made available to any QSP participant.

All proposals will be reviewed against the evaluation criteria contained herein and funds will be awarded on a competitive basis. Funding for successful proposals will be provided through specific agreements between the applicant and CCC. These agreements will incorporate the proposal as approved by FAS. FAS must approve in advance any subsequent changes to the project.

III. Eligibility Information

1. Eligible Applicants: Any United States private or government entity with a demonstrated role or interest in exporting U.S. agricultural commodities may apply to the program. Government organizations consist of Federal, State, and local agencies. Private organizations include non-profit trade associations, universities, agricultural cooperatives, state regional trade groups, and profit-making entities.

2. Cost Sharing: FAS considers the applicant's willingness to contribute resources, including cash, goods, and services of the U.S. industry and foreign

third parties, when determining which proposals to approve for funding.

3. Proposals should include a justification for funding assistance from the program—an explanation as to what specifically could not be accomplished without Federal funding assistance and why the participating organization(s) would be unlikely to carry out the project without such assistance. Applicants may submit more than one proposal.

IV. Application and Submission Information

1. *Address to Request Application Package:* Organizations are strongly encouraged to submit their QSP applications to FAS through the Uniform Export Strategy (UES) application Internet Web site. The UES allows applicants to submit a single consolidated and strategically coordinated proposal that incorporates requests for funding and recommendations for virtually all of the FAS marketing programs, financial assistance programs, and market access programs. The suggested UES format encourages applicants to examine the constraints or barriers to trade that they face, identify activities that would help overcome such impediments, consider the entire pool of complementary marketing tools and program resources, and establish realistic export goals.

Applicants planning to use the Internet-based system must contact the FAS/Program Operations Division to obtain Web site access information. The Internet-based application may be found at the following URL address: *https://www.fas.usda.gov/ues/webapp/.*

Although FAS highly recommends applying via the Internet-based application, as this format virtually eliminates paperwork and expedites the FAS processing and review cycle, applicants also have the option of submitting an electronic version of their application to FAS at *podadmin@fas.usda.gov.*

2. Content and Form of Application Submission: To be considered for QSP, an applicant must submit to FAS information detailed in this notice. Additionally, in accordance with the Office of Management and Budget's policy directive (68 FR 38402 (June 27, 2003)) regarding the need to identify entities that are receiving government awards, all applicants must submit a Dun and Bradstreet Data Universal Numbering System (DUNS) number. An applicant may request a DUNS number at no cost by calling the dedicated toll-free DUNS number request line at 1–866–705–5711.

In addition, in accordance with 2 CFR Part 25, each entity that applies to QSP and does not qualify for an exemption under 2 CFR 25.110 must:

(i) Be registered in the CCR prior to submitting an application or plan;

(ii) Maintain an active CCR registration with current information at all times during which it has an active Federal award or an application or plan under consideration by CCC; and

(iii) Provide its DUNS number in each application or plan it submits to CCC.

Similarly, in accordance with 2 CFR Part 170, each entity that applies to the QSP and does not qualify for an exception under 2 CFR § 170.110(b) must ensure it has the necessary processes and systems in place to comply with the applicable reporting requirements of 2 CFR Part 170 should it receive QSP funding.

Incomplete applications and applications that do not otherwise conform to this announcement will not be accepted for review.

Proposals should contain, at a minimum, the following:

(a) Organizational information, including:

- Organization's name, address, Chief Executive Officer (or designee), Federal Tax Identification Number (TIN), and DUNS number;
- Type of organization;
- Name, telephone number, fax number, and email address of the primary contact person;
- A description of the organization and its membership;
- A description of the organization's prior export promotion experience; and
- A description of the organization's experience in implementing an appropriate trade/technical assistance component;

(b) Market information, including:

- An assessment of the market;
- A long-term strategy in the market; and
- U.S. export value/volume and market share (historic and goals) for 2007–2013;

(c) Project information, including:

- A brief project title;
- Amount of funding requested;
- A brief description of the specific market development trade constraint or opportunity to be addressed by the project, performance measures for the years 2014–2016, which will be used to measure the effectiveness of the project, a benchmark performance measure for 2012, the viability of long-term sales to this market, the goals of the project, and the expected benefits to the represented industry;
- A description of the activities planned to address the constraint or opportunity, including how the sample will be used in the end-use performance trial, the attributes of the sample to be demonstrated and its end-use benefit, and details of the trade/technical servicing component (including who will provide and who will fund this component);
- A sample description (*i.e.,* commodity, quantity, quality, type, and grade), including a justification for selecting a sample with such characteristics (this justification should explain in detail why the project could not be effective with a smaller sample);
- An itemized list of all estimated costs associated with the project for which reimbursement will be sought;
- Beginning and end dates for the proposed project;
- The importer's role in the project regarding handling and processing the commodity sample; and
- Explanation as to what specifically could not be accomplished without Federal funding assistance and why the participating organization(s) would be unlikely to carry out the project without such assistance;

(d) Information indicating all funding sources and amounts to be contributed by each entity that will supplement implementation of the proposed project. This may include the organization that submitted the proposal, private industry entities, host governments, foreign third parties, CCC, FAS, or other Federal agencies. Contributed resources may include cash, goods or services.

3. Submission Dates and Times: QSP funding is reviewed on a rolling basis during the fiscal year as long as remaining QSP funding is available as set forth below:

- Proposals received by, but not later than 5 p.m. Eastern Daylight Time, May 28, 2013, will be considered for funding with other proposals received by that date;
- Proposals not approved for funding during this review period will be reconsidered for funding after the review period only if the applicant specifically requests such reconsideration in writing, and only if funding remains available;
- Proposals received after 5 p.m. Eastern Daylight Time, May 28, 2013, will be considered in the order received for funding only if funding remains available.

4. Other Submission Requirements: All Internet-based applications must be properly submitted by 5 p.m., Eastern Daylight Time, May 28, 2013, in order to be considered for funding; late submissions received after the deadline will be considered only if funding remains available. All applications

submitted by email must be received by 5 p.m. Eastern Daylight Time, May 28, 2013, at *podadmin@fas.usda.gov* in order to receive the same consideration.

5. Funding Restrictions: Proposals that request more than $75,000 of CCC funding for individual projects will not be considered. Projects comprised of technical preparation seminars will be limited to $15,000 in QSP funding. CCC will not reimburse expenditures made prior to approval of a proposal or unreasonable expenditures.

V. Application Review Information

1. Criteria and Review Process: Following is a description of the FAS process for reviewing applications and the criteria for allocating available QSP funds.

FAS will use the following criteria in evaluating proposals:

- The ability of the organization to provide an experienced staff with the requisite technical and trade experience to execute the proposal;
- The extent to which the proposal is targeted to a market in which the United States is generally competitive;
- The potential for expanding commercial sales in the proposed market;
- The nature of the specific market constraint or opportunity involved and how well it is addressed by the proposal;
- The extent to which the importer's contribution in terms of handling and processing enhances the potential outcome of the project;
- The amount of reimbursement requested and the organization's willingness to contribute resources, including cash, goods and services of the U.S. industry, and foreign third parties; and
- How well the proposed technical assistance component assures that performance trials will effectively demonstrate the intended end-use benefit.

Proposals will be evaluated by the Commodity Branch offices in the FAS' Cooperator Programs Division. The Commodity Branches will review each proposal against the factors described above. The purpose of this review is to identify meritorious proposals, recommend an appropriate funding level for each proposal based upon these factors, and submit proposals and funding recommendations to the Deputy Administrator, Office of Trade Programs.

2. Anticipated Announcement Date: Announcements of funding decisions for QSP are anticipated during October 2013.

VI. Award Administration Information

1. *Award Notices:* FAS will notify each applicant in writing of the final disposition of the submitted application. FAS will send an approval letter and agreement to each approved applicant. The approval letter and agreement will specify the terms and conditions applicable to the project, including the levels of QSP funding, and any cost-share contribution requirements.

2. *Administrative and National Policy Requirements:* The agreements will incorporate the details of each project as approved by FAS. Each agreement will identify terms and conditions pursuant to which CCC will reimburse certain costs of each project. Agreements will also outline the responsibilities of the participant, including, but not limited to, procurement (or arranging for procurement) of the commodity sample at a fair market price, arranging for transportation of the commodity sample within the time limit specified in the agreement (organizations should endeavor to ship commodities within 6 months of the effective date of the agreement), compliance with cargo preference requirements (shipment on United States flag vessels, as required), compliance with the Fly America Act requirements (shipment on United States air carriers, as required), timely and effective implementation of technical assistance, and submission of a written evaluation report within 90 days of expiration or termination of the agreement.

QSP projects are subject to review and verification by FAS' Compliance, Security and Emergency Planning Division. Upon request, a QSP participant shall provide to CCC the original documents that support the participant's reimbursement claims. CCC may deny a claim for reimbursement if the claim is not supported by adequate documentation.

3. *Reporting:* A written evaluation report must be submitted within 90 days of the expiration or termination of each participant's QSP agreement. Evaluation reports should address all performance measures that were presented in the proposal.

VII. Agency Contact(s)

For additional information and assistance, contact the Program Operations Division, Office of Trade Programs, Foreign Agricultural Service, U.S. Department of Agriculture.

Courier address: Room 6512, 1400 Independence Ave. SW., Washington, DC 20250, or *by phone:* (202) 720–4327, or *by fax:* (202) 720–9361, or *by email: podadmin@fas.usda.gov.*

Signed at Washington, DC, on the 28th of March, 2013.

Suzanne E. Hermen,

Administrator, Foreign Agricultural Service, and Vice President, Commodity Credit Corporation.

[FR Doc. 2013–09455 Filed 4–22–13; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2012–0046]

Notice of Request for a New Information Collection (Accredited Laboratory Contact Update Form)

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and Office of Management and Budget (OMB) regulations, the Food Safety and Inspection Service (FSIS) is announcing its intention to request a new information collection regarding the compilation of updated contact information for Accredited Laboratories.

DATES: Comments on this notice must be received on or before June 24, 2013.

ADDRESSES: FSIS invites interested persons to submit comments on this notice. Comments may be submitted by one of the following methods:

- *Federal eRulemaking Portal:* This Web site provides the ability to type short comments directly into the comment field on this Web page or attach a file for lengthier comments. Go to *http://www.regulations.gov*. Follow the on-line instructions at that site for submitting comments.
- *Mail, including CD–ROMs, etc.:* Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, Patriots Plaza 3, 1400 Independence Avenue SW., Mailstop 3782, Room 8–163A, Washington, DC 20250–3700.
- *Hand- or courier-delivered submittals:* Deliver to Patriots Plaza 3, 355 E Street SW., Room 8–163A, Washington, DC 20250–3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2012–0046. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *http://www.regulations.gov.*

Docket: For access to background documents or comments received, go to

the FSIS Docket Room at Patriots Plaza 3, 355 E Street, Room 8–164, Washington, DC 20250–3700 between 8:00 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Contact John O'Connell, Paperwork Reduction Act Coordinator, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW., Room 6065, South Building, Washington, DC 20250; (202) 720–0345.

SUPPLEMENTARY INFORMATION:

Title: Accredited Laboratory Program Annual Contact Update Form.

Type of Request: New.

Abstract: FSIS has been delegated the authority to exercise the functions of the Secretary (7 CFR 2.18, 2.53) as specified in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601, *et seq.*) and the Poultry Products and Inspection Act (PPIA) (21 U.S.C. 451, *et seq.*). FSIS protects the public by verifying that meat and poultry products are safe, wholesome, not adulterated, and correctly labeled.

In addition, the Food, Agriculture, Conservation, and Trade Act of 1990, as amended, (7 U.S.C. 138–138i) provides authority for the accreditation of non-Federal laboratories. Under these provisions, FSIS accredits non-Federal laboratories as eligible to perform analysis on official regulatory meat and poultry samples.

Non-Federal laboratories that are part of the FSIS Accredited Laboratory Program will annually complete the FSIS Accredited Laboratory Program Annual Contact Update form. FSIS will use the information collected by the form to maintain necessary contact information for responsibly connected personnel at the laboratories (see 9 CFR 439.20 (e) and 9 CFR 439.1(w)). The completed FSIS Accredited Laboratory Program Annual Contact Update form will also inform the Agency if a laboratory, or responsibly connected person or entity, has been charged, indicted, or convicted of any crime listed in 9 CFR 439.52. If a laboratory or a responsibly connected person or entity has been charged or indicted of such a crime, FSIS will suspend the laboratory from the Accredited Laboratory Program (9 CFR 439.52). If a laboratory or a responsibly connected person or entity has been convicted of such a crime, FSIS will revoke the laboratory's accreditation (9 CFR 439.53).

FSIS has made the following estimates on the basis of an information collection assessment.

Estimate of Burden: FSIS estimates that it takes respondents an average of 30 hours per year to complete the forms.

Respondents: Accredited Laboratories.

Estimated No. of Respondents: 60.

Estimated No. of Annual Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 30 hours.

Copies of this information collection assessment can be obtained from John O'Connell, Paperwork Reduction Act Coordinator, Food Safety and Inspection Service, USDA, 1400 Independence SW., Room 6065, South Building, Washington, DC 20250; (202) 720–0345.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of FSIS's functions, including whether the information will have practical utility; (b) the accuracy of FSIS's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology. Comments may be sent both to FSIS, at the addresses provided above, and to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20253.

Responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

USDA Nondiscrimination Statement

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's Target Center at 202–720–2600 (voice and TTY).

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Additional Public Notification

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Done at Washington, DC, on: April 18, 2013.

Alfred V. Almanza,

Administrator.

[FR Doc. 2013–09514 Filed 4–22–13; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2013–0018]

Codex Alimentarius Commission: Meeting of the Codex Alimentarius Commission

AGENCY: Office of the Under Secretary for Food Safety, USDA.

ACTION: Notice of public meeting and request for comments.

SUMMARY: The Office of the Under Secretary for Food Safety, U.S. Department of Agriculture (USDA) is sponsoring a public meeting on June 18, 2013. The objective of the public meeting is to provide information and receive public comments on agenda items and draft United States positions that will be discussed at the Thirty-Sixth Session of the Codex Alimentarius

Commission (CAC), which will take place July 1–5, 2013 in Rome, Italy. The Under Secretary for Food Safety recognizes the importance of providing interested parties the opportunity to obtain background information on the session and to address items on the agenda.

DATES: The public meeting is scheduled for Tuesday, June 18, 2013 from 1:00–4:00 p.m.

ADDRESSES: The public meeting will be held at The Jamie L. Whitten Building, United States Department of Agriculture (USDA), 1400 Independence Avenue SW., Room 107–A, Washington, DC 20250. Documents related to the 36th Session of the CAC will be accessible via the World Wide Web at the following address: *http://www.codexalimentarius.org/meetings-reports/en/*.

The U.S. Delegate to the 36th Session of the CAC invites U.S. interested parties to submit their comments electronically to the following email address: *Barbara.McNiff@fsis.usda.gov*.

Call in Number: If you wish to participate in the public meeting for the 36th Session of the CAC, by conference call, Please use the call in number and participant code listed below:

Call in Number: 1–888–858–2144.

Participant Code: 6208658.

For Further Information About the 36th Session of the CAC Contact: Barbara McNiff, U.S. Codex Office, 1400 Independence Avenue SW., Room 4861, South Building, Washington, DC 20250, Tel: (202) 690–4719 Fax: (202) 720–3157, Email: *Barbara.Mcniff@fsis.usda.gov*.

For Further Information About the Public Meeting Contact: Jasmine Curtis, U.S. Codex Office, 1400 Independence Avenue SW., Room 4865, South Building, Washington, DC 20250, Tel: (202) 690–1124 Fax: (202) 720–3157, Email: *Jasmine.Curtis@fsis.usda.gov*.

SUPPLEMENTARY INFORMATION:

Background

Codex was established in 1963 by two United Nations organizations, the Food and Agriculture Organization (FAO) and the World Health Organization (WHO). Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting adoption and implementation by governments, Codex seeks to protect the health of consumers and ensure that fair practices are used in the food trade.

Issues To Be Discussed at the Public Meeting

The following items on the Agenda for the 36th Session of the CAC will be discussed during the public meeting:

- Report by the Chairperson on the 68th Session of the Executive Committee
- Reports of FAO/WHO Regional Coordinating Committees and Appointment of Regional Coordinators
- Proposed amendments to the Procedural Manual/Comments on Proposed Amendments to the Procedural Manual
- Draft Standards and Related Texts at Step 8 of the Procedure (including those submitted at Step 5 with a recommendation to omit Steps 6 and 7 and at Step 5 of the Accelerated Procedure) and Comments on Draft Standards and Related Texts submitted to the Commission for adoption
- Proposed Draft Standards and Related Texts at Step 5 and Comments on Draft Standards and Related Texts at Step 5
- Revocation of Existing Codex Standards and Related Texts
- Amendments to the Codex Standards and Related Texts
- Proposals for the Elaboration of New Standards and Related Texts and for the Discontinuation of Work
- Matters referred to the Commission by Codex Committees and Task Forces
- Strategic Planning of the Codex Alimentarius Commission
  (a) General Implementation Status
  (b) Draft Codex Strategic Plan 2014–2019
- Financial and Budgetary Matters
- Matters arising from FAO and WHO
  (a) FAO/WHO Project and Trust Fund for Enhanced Participation in Codex
  (b) Other Matters arising from FAO and WHO
- Relations between the Codex Alimentarius Commission and other International Organizations
- Election of Chairperson and Vice Chairperson and Appointment of the Coordinators
- Designation of Countries responsible for Appointing the Chairpersons of Codex Committees and Task Forces and Schedule of Sessions 2014–2015
- Other Business

Each issue listed will be fully described in documents distributed, or to be distributed, by the Secretariat prior to the Meeting. Members of the public may access or request copies of these documents (see **ADDRESSES**).

Public Meeting

At the June 18, 2013, public meeting, draft U.S. positions on the agenda items will be discussed, and attendees will have the opportunity to pose questions and offer comments. Written comments may be offered at the meeting or sent to the U.S. Delegate for the 36th Session of CAC see **ADDRESSES**). Written comments should state that they relate to activities of the 36th session of the CAC.

Additional Public Notification

FSIS will announce this notice online through the FSIS Web page located at *http://www.fsis.usda.gov/regulations_&_policies/Federal_Register_Notices/index.asp*.

FSIS will also make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to constituents and stakeholders. The Update is communicated via Listserv, a free electronic mail subscription service for industry, trade groups, consumer interest groups, health professionals, and other individuals who have asked to be included. The Update is also available on the FSIS Web page. In addition, FSIS offers an electronic mail subscription service which provides automatic and customized access to selected food safety news and information. This service is available at *http://www.fsis.usda.gov/News_&_Events/Email_Subscription/*. Options range from recalls to export information to regulations, directives, and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

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Washington, DC 20250–9410 or call (202) 720–5964 (voice and TTY). USDA is an equal opportunity provider and employer.

Done at Washington, DC, on April 18, 2013.

Mary Frances Lowe,

U.S. Manager for Codex Alimentarius.

[FR Doc. 2013–09510 Filed 4–22–13; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2013–0005]

Interagency Risk Assessment—*Listeria monocytogenes* in Retail Delicatessens: Notice of a Public Meeting

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of public meeting.

SUMMARY: The Food Safety and Inspection Service (FSIS) and the Food and Drug Administration/Center for Food Safety and Applied Nutrition (FDA/CFSAN) are holding a public meeting on May 22, 2013, to present the background, approach, scope, and findings of the draft ''Interagency Risk Assessment—*L. monocytogenes* in Retail Delicatessens.'' The purpose of this draft quantitative risk assessment (QRA) is to evaluate the public health impact of changes in retail delicatessen (deli) practices and potential interventions to reduce or prevent *L. monocytogenes* contamination in ready-to-eat (RTE) foods that are sliced, prepared, or packaged in retail facilities. FSIS and FDA invite interested individuals, organizations, and other stakeholders to participate in the meeting and to provide comments on the draft QRA.

DATES: The public meeting will be held on May 22, 2013 from 8:45 a.m. to 4:15 p.m. EDT. Submit either electronic or written comments to FSIS June 24, 2013.

A copy of the agenda will be made available for viewing prior to the meeting on FSIS's Web site at *www.fsis.usda.gov/News/Meetings_&_Events/.*

ADDRESSES: The meeting will be held in Washington, DC, on May 22, 2013, in the USDA Jefferson Auditorium (South Building), 1400 Independence Avenue SW., Washington, DC 20250. Attendees must provide a photo ID to enter the building. The Jefferson Auditorium is located between Wings 5 and 6 in the South Building. Attendees should enter the building via Wing 5 or 7 on 14th Street and Independence Avenue SW. After 9:30 a.m., attendees should enter the building via the Wing 1 entrance.

Registration: Registration will begin at 8:15 a.m. Pre-registration for this meeting is encouraged. To pre-register, access the FSIS Web site, *http://www.fsis.usda.gov/News/Meetings_&_Events/.*

Contact Joan Lindenberger for more information on logistics at (202) 720–0284. Persons requiring a sign language interpreter or other special accommodations should notify Ms. Lindenberger by May 13, 2013.

Comments may be submitted by one of the following methods:

- *Federal eRulemaking Portal:* This Web site provides the ability to type short comments directly into the comment field on this Web page or attach a file for lengthier comments. Go to *http://www.regulations.gov.* Follow the on-line instructions at that site for submitting comments.
- *Mail, including CD–ROMs, etc.:* Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, Patriots Plaza 3, 1400 Independence Avenue SW., Mailstop 3782, Room 8–163A, Washington, DC 20250–3700.
- *Hand- or courier-delivered submittals:* Deliver to Patriots Plaza 3, 355 E Street SW., Room 8–163A, Washington, DC 20250–3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2013–0005. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *http://www.regulations.gov.*

Docket: For access to background documents or comments received, go to the FSIS Docket Room at Patriots Plaza 3, 355 E Street SW., Room 8–164, Washington, DC 20250–3700 between 8:00 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Janell Kause, Scientific Advisor for Risk Assessment, Office of Public Health Science, Food Safety and Inspection Service, USDA, 355 E Street SW., Washington, DC 20024; Telephone: (202) 690–0286, FAX: (202) 690–6337, Email: *Janell.Kause@fsis.usda.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

FSIS and FDA will issue a draft quantitative risk assessment (QRA), ''Interagency Risk Assessment—*Listeria monocytogenes* in Retail Delicatessens'' for public comment prior to the public meeting. This draft QRA provides a scientific assessment of the risk of foodborne illness associated with consumption of RTE foods (i.e., deli meats, cheese, and deli salads) commonly prepared and sold in the deli of a retail food store and examines how that risk may be impacted by changes to common or recommended practices. FSIS and FDA have involved stakeholders and the public in the development of this QRA to ensure its utility.

A request for comments, scientific data, and information for this QRA was published in the **Federal Register** on January 21, 2009 (Ref. 1). In addition, FSIS and FDA held a public meeting on June 23, 2009, to present the background, approach, scope, and data needs for this QRA (Ref. 2) (transcripts are available for viewing by the public in the FSIS docket room and on the FSIS Web site at *http://www.fsis.usda.gov/PDF/Listeria-Transcript_062309.pdf*).

II. Purpose of the Meeting and Agenda

The purpose of the meeting on May 22, 2013, is to present the background, approach, and findings of the draft ''Interagency Risk Assessment—*Listeria monocytogenes* in Retail Delicatessens,'' and gather public input.

A copy of the agenda will be made available for viewing prior to the meeting on FSIS's Web site at *http://www.fsis.usda.gov/News/Meetings_&_Events/.*

The meeting agenda will include presentations on background information relevant to *L. monocytogenes* at retail and data commissioned to fill specific risk assessment data needs, the overall risk assessment modeling approach, and findings. Time will be provided for questions and comments from the participants.

III. Transcripts

Please be advised that as soon as a transcript is available, it will be accessible at *http://www.regulations.gov.* The transcript may be viewed at FSIS Docket Room, Docket Clerk, U.S. Department of Agriculture, Patriots Plaza 3, 355 E Street SW., Room 8–164, Washington, DC 20250–3700 between 8:00 a.m. and 4:30 p.m., Monday through Friday and will also be posted on the Agency Web site (*http://www.fsis.usda.gov*).

IV. References

The following references are on display in the FSIS Docket Room at the address above between 8:00 a.m. and

4:30 p.m., Monday through Friday (FSIS have verified the following Web site addresses, but FSIS is not responsible for any subsequent changes to the Web sites after this document publishes in the **Federal Register**.)

1. Risk Assessment of the Public Health Impact from Foodborne *Listeria monocytogenes* in Some Ready-to-Eat Foods Sliced, Prepared, and/or Packaged in Retail Facilities; Request for Comments and for Scientific Data and Information. (74 FR 3617 (January 21, 2009)), Docket No. FDA–2008–N–0658, *http://www.fda.gov/OHRMS/DOCKETS/98fr/E9-938.pdf.*
2. Interagency Retail Listeria monocytogenes Risk Assessment: Notice of a Public Meeting. (74 FR 27276; June 9, 2009). Docket No. FSIS–2009–0012, *http://www.gpo.gov/fdsys/pkg/FR-2009-06-09/html/E9-13378.htm.*

Additional Public Notification

FSIS will announce this notice online through the FSIS Web page located at *http://www.fsis.usda.gov/regulations_&_policies/Federal_Register_Notices/index.asp*.

FSIS will also make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to constituents and stakeholders. The Update is communicated via Listserv, a free electronic mail subscription service for industry, trade groups, consumer interest groups, health professionals, and other individuals who have asked to be included. The Update is also available on the FSIS Web page. In addition, FSIS offers an electronic mail subscription service which provides automatic and customized access to selected food safety news and information. This service is available at *http://www.fsis.usda.gov/News_&_Events/Email_Subscription/*. Options range from recalls to export information to regulations, directives, and notices. Customers can add or delete subscriptions themselves, and have the option to password-protect their accounts.

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Done at Washington, DC, on April 18, 2013.

Alfred V. Almanza,

Administrator.

[FR Doc. 2013–09508 Filed 4–22–13; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2013–0013]

Retail Exemptions Adjusted Dollar Limitations

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice.

SUMMARY: The Food Safety and Inspection Service (FSIS) is announcing the dollar limitations on the amount of meat and meat food products, poultry, and poultry products that a retail store can sell to hotels, restaurants, and similar institutions without disqualifying itself for exemption from Federal inspection requirements. In accordance with FSIS's regulations, for calendar year 2013, the dollar limitation for meat and meat food products is being increased from $67,300 to $69,600 and for poultry products from $51,700 to $54,500. FSIS is changing the dollar limitations from calendar year 2012 based on price changes for these products evidenced by the Consumer Price Index.

DATES: *Effective Date:* This notice is effective April 23, 2013.

FOR FURTHER INFORMATION CONTACT: John O'Connell, Policy Issuances Division, Office of Policy and Program Development, FSIS, U.S. Department of Agriculture, Room 6083 South Building, 1400 Independence Avenue SW., Washington, DC 20250–3700; Telephone: (202) 720–0345.

SUPPLEMENTARY INFORMATION:

Background

The Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*) provide a comprehensive statutory framework to ensure that meat, meat food products, poultry, and poultry products prepared for commerce are wholesome, not adulterated, and properly labeled and packaged. Statutory provisions requiring inspection of the preparation or processing of meat, meat food, poultry, and poultry products do not apply to operations of types traditionally and usually conducted at retail stores and restaurants when those operations are conducted at any retail store or restaurant or similar retail-type establishment for sale in normal retail quantities (21 U.S.C. 661(c)(2) and 454(c)(2)). FSIS's regulations (9 CFR 303.1(d) and 381.10(d)) elaborate on the conditions under which requirements for inspection do not apply to retail operations involving the preparation of meat and meat food, and processing of poultry and poultry products.

Sales to Hotels, Restaurants, and Similar Institutions

Under these regulations, sales to hotels, restaurants, and similar institutions (other than household consumers) disqualify a store for exemption if the product sales exceed either of two maximum limits: 25 percent of the dollar value of total product sales or the calendar year dollar limitation set by the Administrator. The dollar limitation is adjusted automatically during the first quarter of the year if the Consumer Price Index (CPI), published by the Bureau of Labor Statistics, shows an increase or decrease of more than $500 in the price of the same volume of product for the previous year. FSIS publishes a notice of the adjusted dollar limitations in the **Federal Register**. (See 9 CFR 303.1(d)(2)(iii)(*b*) and 381.10(d)(2)(iii)(*b*).)

The CPI for 2012 reveals an annual average price increase for meat and meat food products at 3.4 percent and for poultry products at 5.5 percent. When rounded to the nearest $100, the dollar limitation for meat and meat food products increased by $2,300 and the dollar limitation for poultry products increased by $2,800. Because the dollar limitation of meat and meat food products and poultry products increased by more than $500, FSIS is increasing the dollar limitation on sales to hotels, restaurants, and similar institutions to $69,600 for meat and meat food products and to $54,500 for poultry products for calendar year 2013, in accordance with 9 CFR 303.1(d)(2)(iii)(*b*) and 381.10(d)(2)(iii)(*b*).

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Done at Washington, DC, on April 18, 2013.

Alfred V. Almanza,

Administrator.

[FR Doc. 2013–09512 Filed 4–22–13; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Forest Service

Dixie Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Dixie Resource Advisory Committee (RAC) will meet in Cedar City, Utah. The RAC is authorized under the Secure Rural Schools and Community Self-Determination Act of 2000, (the Act) (Public Law 110–343) and operates in compliance with the Federal Advisory Committee Act (FACA) (Public Law 92–463). The purpose of the RAC is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. The meeting is open to the public. The purpose of the meeting is to review proposals for forest projects and recommending funding.

DATES: The meeting will be held Thursday, May 9, 2013, at 1:00 p.m. (MDT)

ADDRESSES: The meeting will be held at the Dixie National Forest Supervisor's Office, 1789 North Wedgewood Lane, Cedar City, Utah 84721. Written comments may be submitted as described under Supplementary Information. All comments, including names and addresses when provided are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Dixie National Forest Headquarters Office, 1789 North Wedgewood Lane, Cedar City, Utah 84721. Please call ahead to Janice Minarik, RAC Coordinator by phone at (435) 865–3794 to facilitate entry into the building to view comments.

FOR FURTHER INFORMATION CONTACT: Janice Minarik, RAC Coordinator, Dixie National Forests Headquarter at (435) 865–3794, or by email *jminarik@fs.fed.us.* 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 agenda will focus on reviewing proposals for forest projects and recommending funding. Anyone who would like to bring related matters to the attention of the RAC may file written statements with the RAC staff before the meeting. Written comments and requests for time for oral comments must be sent to Janice Minarik, RAC Coordinator, Dixie National Forests Headquarter by email to *jminarik@fs.fed.us* or via facismile to (435) 865–3791.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation for access to the facility for proceedings by contacting the person listed under For Further Information Contact. All reasonable accommodation requests are managed on a case by case basis.

Dated: April 17, 2013.

Angelita S. Bulletts,

Forest Supervisor, Dixie National Forest.

[FR Doc. 2013–09493 Filed 4–22–13; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF COMMERCE

Census Bureau

Proposed Information Collection; Comment Request; Quarterly Summary of State and Local Government Tax Revenue

AGENCY: U.S. Census Bureau.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: To ensure consideration, written comments must be submitted on or before June 24, 2013.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW, Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Cheryl Lee, Chief, State Finance and Tax Statistics Branch, Governments Division, U.S. Census Bureau, Headquarters: 6K041, Washington, DC, 20233; telephone: 301.763.5635; facsimile: 301.763.6833; email: *cheryl.h.lee@census.gov*

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau conducts the Quarterly Summary of State and Local Government Tax Revenue, using the F–71 (Quarterly Survey of Property Tax Collections), F–72 (Quarterly Survey of State Tax Collections), and F–73 (Quarterly Survey of Non-Property Taxes) forms. The Quarterly Summary of State and Local Government Tax Revenue provides quarterly estimates of state and local government tax revenue at the national level, as well as detailed tax revenue data for individual states. The information contained in this survey is the most current information available on a nationwide basis for government tax collections.

The Census Bureau needs state and local tax data to publish benchmark statistics on taxes, to provide data to the Bureau of Economic Analysis for Gross Domestic Product (GDP) calculations and other economic indicators, and to provide data for economic research and comparative studies of governmental finances.

Tax collection data are used to measure economic activity for the Nation as a whole, as well as for comparison among the various states. Economists and public policy analysts use the data to assess general economic conditions and state and local government financial activities.

The Census Bureau is requesting a revision to the F–73 form, which surveys local governments on the non-property taxes they collect. The current form will be reduced from eleven questions to three questions on the revised form which will cover only general sales and gross receipts taxes, personal income taxes, and corporate income taxes; eliminating: motor fuel sales, public utilities, alcohol sales, tobacco sales, motor vehicle licenses and operator's licenses, and all other non-property taxes.

The Quarterly Survey of Non-Property Taxes (Form F–73) will be mailed to a sample of approximately 1,800 local tax collection agencies known to have substantial collections of local general sales and/or local individual/corporate income taxes every quarter. The sample size could potentially be reduced after the revision of the form. A new sample frame is being developed to accompany the new survey design. The new sample is designed to meet the Office of Management and Budget's statistical standards for data quality.

The Quarterly Survey of Property Tax Collections (Form F–71) will be mailed to a sample of approximately 5,500 local tax collection agencies known to have substantial collections of property tax.

The Quarterly Survey of State Tax Collections (Form F–72) will be sent to each of the 50 state governments.

II. Method of Collection

F–71 and F–73 survey data will be collected via mail-out/mail-back questionnaires, which are also available on the Internet. Respondents may choose to mail, fax, or report their data online. Data for the F–72 survey are collected via form or compilation of data in coordination with the state government revenue office. In addition to reporting current quarter data, respondents may report data for the previous eight quarters or submit revisions to their previously submitted data.

In those instances when we are not able to obtain a response, we conduct follow-up operations using email and phone calls.

Nonresponse weighting adjustments are used to adjust for any unreported units in the sample from the latest available data.

III. Data

OMB Control Number: 0607–0112.
Form Number: F–71, F–72, F–73.
Type of Review: Regular submission.
Affected Public: Local and State governments.
Estimated Number of Respondents: 7,350.
Estimated Time per Response: 30 minutes.
Estimated Total Annual Burden Hours: 14,700.
Estimated Total Annual Cost: $347,067.
Respondents Obligation: Voluntary.
Legal Authority: Title 13 U.S.C. Section 182.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: April 17, 2013.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2013–09445 Filed 4–22–13; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–32–2013]

Foreign-Trade Zone 114—Peoria, Illinois; Application for Subzone; Easton-Bell Sports, Inc.; Rantoul, Illinois

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the Economic Development Council for Central Illinois, grantee of FTZ 114, requesting special-purpose subzone status for the facility of Easton-Bell Sports, Inc. (EBS), located in Rantoul, Illinois. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the FTZ Board (15 CFR part 400). It was formally docketed on April 16, 2013.

The proposed subzone (71.9 acres) is located at 1001 Innovation Road, Rantoul, Champaign County. The company has indicated that a notification of proposed production activity will be submitted; the production notification would be published separately for public comment.

In accordance with the FTZ Board's regulations, Elizabeth Whiteman of the FTZ Staff is designated examiner to review the application and make recommendations to the FTZ Board.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is June 3, 2013. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to June 17, 2013.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 2111, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.*

For further information, contact Elizabeth Whiteman at

Elizabeth.Whiteman@trade.gov or (202) 482–0473.

Dated: April 16, 2013.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2013–09562 Filed 4–22–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–869]

Diffusion-Annealed, Nickel-Plated Flat-Rolled Steel Products From Japan: Initiation of Antidumping Duty Investigation

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* April 23, 2013.

FOR FURTHER INFORMATION CONTACT: Dena Crossland or David Cordell at (202) 482–3362 or (202) 482–0408, respectively, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petition

On March 27, 2013, the Department of Commerce (the ''Department'') received an antidumping duty (''AD'') petition concerning imports of diffusion-annealed, nickel-plated flat-rolled steel products from Japan (''certain nickel-plated, flat-rolled steel''), filed in proper form by Thomas Steel Strip Corporation (''Petitioner'').[1] Petitioner is a domestic producer of certain nickel-plated, flat-rolled steel. On April 2, 2013, Petitioner provided a clarification and supplement to the scope language provided in the Petition.[2] The Department requested additional information and clarification of certain areas of the Petition on April 2, 2013.[3] Petitioner filed its response to this request on April 5, 2013.[4] Petitioner filed a business proprietary document, which identified the source of the pricing data included in Exhibit 11 to the Petition, on April 9, 2013. On April 11, 2013, Department officials held a telephone conference call with that source to confirm the information provided.[5]

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the ''Act''), Petitioner alleges that imports of certain nickel-plated, flat-rolled steel from Japan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act and that such imports are materially injuring, or threatening material injury to, an industry in the United States. Also, consistent with section 732(b)(1) of the Act, the Petition is accompanied by information reasonably available to Petitioner supporting its allegations.

The Department finds that Petitioner filed this Petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and has demonstrated sufficient industry support with respect to the initiation of the AD investigation that Petitioner is requesting. *See* the ''Determination of Industry Support for the Petition'' section below.

Period of Investigation

Because the Petition was filed on March 27, 2013, the period of investigation (''POI'') is January 1, 2012, through December 31, 2012.[6]

Scope of the Investigation

The product covered by this investigation is certain nickel-plated, flat-rolled steel from Japan. For a full description of the scope of the investigation, *see* the ''Scope of the Investigation,'' in Appendix I of this notice.

Comments on Scope of Investigation

During our review of the Petition, we discussed the scope with Petitioner to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the regulations (*Antidumping Duties; Countervailing Duties; Final Rule,* 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for interested parties to raise issues regarding product coverage. The Department encourages all interested parties to submit such comments by May 6, 2013, 5:00 p.m. Eastern Standard Time, 20 calendar days from the signature date of this notice. All comments and submissions to the Department must be filed electronically using Import Administration's Antidumping Countervailing Duty Centralized Electronic Service System (''IA ACCESS'').[7] An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by the time and date noted above. Documents excepted from the electronic submission requirements must be filed manually (*i.e.,* in paper form) with Import Administration's APO/Dockets Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, and stamped with the date and time of receipt by the deadline noted above.

The period for scope comments is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determination.

Comments on Product Characteristics for Antidumping Duty Questionnaire

The Department requests comments from interested parties regarding the appropriate physical characteristics of certain nickel-plated, flat-rolled steel to be reported in response to the Department's AD questionnaire. This information will be used to identify the key physical characteristics of the subject merchandise in order to develop appropriate product-comparison criteria and to allow respondent to report the relevant costs of production, if necessary.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as (1) general product characteristics and (2) the product-comparison criteria. We find that it is not always appropriate to use all product characteristics as product-comparison criteria. We base product-comparison criteria on meaningful commercial differences among products. In other words, while there may be some physical product characteristics utilized by manufacturers to describe certain nickel-plated, flat-rolled steel, it may be that only a select few product characteristics take into account commercially meaningful physical

[1] *See* Antidumping Duty Petition on Diffusion-Annealed, Nickel-Plated Steel Flat-Rolled Products from Japan, dated March 27, 2013 (''Petition'').

[2] *See* Memorandum to the File from Richard Weible, ''Conversation with Petitioners Regarding Scope,'' dated March 29, 2013, and First Supplement to the Petition, dated April 2, 2013.

[3] *See* First Department Supplemental Questionnaire issued on April 2, 2013.

[4] *See* Second Supplement to the Petition dated April 5, 2013 (''Second Petition Supplement'').

[5] *See* Memorandum to the File from Dena Crossland, dated April 12, 2013.

[6] *See* 19 CFR 351.204(b)(1).

[7] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011) for details of the Department's electronic filing requirements, which went into effect on August 5, 2011. Information on using IAACCESS can be found at *https://iaaccess.trade.gov/help.aspx* and a handbook can be found at *https://iaaccess.trade.gov/help/Handbook%20on%20Electronic%20Filling%20Procedures.pdf.*

characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in matching products. Generally, the Department attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the AD questionnaire, we must receive comments filed in accordance with the Department's electronic filing requirements, available at 19 CFR 351.303, by May 6, 2013. Rebuttal comments must be received by May 13, 2013.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the ''industry.''

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (''ITC''), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (*see* section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.[8]

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation'' (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, Petitioner does not offer a definition of the domestic like product distinct from the scope of the investigation. Based on our analysis of the information submitted on the record, we have determined that certain nickel-plated, flat-rolled steel constitutes a single domestic like product and we have analyzed industry support in terms of that domestic like product.[9]

In determining whether Petitioner has standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the ''Scope of the Investigation,'' in Appendix I of this notice. To establish industry support, Petitioner provided its own production of the domestic like product in 2012.[10] Petitioner states that it was the sole remaining U.S. producer of the domestic like product in calendar year 2012 and, therefore, the Petition is supported by 100 percent of the U.S. industry.[11]

Our review of the data provided in the Petition, supplemental submissions, and other information readily available to the Department indicates that Petitioner has established industry support.[12] First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.,* polling).[13] Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.[14] Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.[15] Accordingly, the Department determines that the Petition was filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

The Department finds that Petitioner filed the Petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and it has demonstrated sufficient industry support with respect to the AD investigation that it is requesting the Department initiate.[16]

Allegations and Evidence of Material Injury and Causation

Petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at less than normal value (''NV''). In addition, Petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.[17]

Petitioner contends that the industry's injured condition is illustrated by reduced market share; underselling and price depression or suppression; lost sales and revenue; declining capacity utilization, production, and shipments; reduced employment and hours worked; increased inventories; and decline in financial performance.[18] We have

[8] *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989)).

[9] For a discussion of the domestic like product analysis in this case, *see* Antidumping Duty Investigation Initiation Checklist: Diffusion-Annealed, Nickel-Plated Flat-Rolled Steel Products from Japan (''Initiation Checklist'') at Attachment II, Analysis of Industry Support for the Petition Covering Diffusion-Annealed, Nickel-Plated Flat-Rolled Steel Products from Japan, dated concurrently with this notice and on file electronically via IA ACCESS. Access to documents filed via IA ACCESS is also available in the Central Records Unit, Room 7046 of the main Department of Commerce building.

[10] *See* Petition, at 54 (Table 12).

[11] *See* Petition, at 6–7; *see also* Second Petition Supplement, at 9–10 and Exhibits 32–33.

[12] *See* Initiation Checklist at Attachment II.

[13] *See* section 732(c)(4)(D) of the Act; *see also* Initiation Checklist at Attachment II.

[14] *See* Initiation Checklist at Attachment II.

[15] *See id.*

[16] *See id.*

[17] *See* Petition, at 41.

[18] *See* Petition, at 2–4, 24–28, 40–65 and Exhibits 10–11, 14–16, 22–23, and 25–31; *see also* Second

assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation.[19]

Allegation of Sales at Less Than Fair Value

The following is a description of the allegation of sales at less than fair value upon which the Department based its decision to initiate this investigation of imports of certain nickel-plated, flat-rolled steel from Japan. The sources of data for the deductions and adjustments relating to U.S. price and NV are discussed in greater detail in the Initiation Checklist.

Export Price

Petitioner calculated export price (''EP'') using two sources. First, Petitioner used competitive sales information obtained in the market through customer negotiations. Second, Petitioner used U.S. Bureau of Census (''Census'') import statistics under the Harmonized Tariff Schedule of the United States (''HTSUS'') subheadings 7210.90.6000 and 7212.50.0000, corresponding to bills of lading, as obtained through Zepol Corporation,[20] that specifically identify the imports as ''diffusion-annealed, nickel-plated steel.''

With respect to the competitive sales data, Petitioner made adjustments for CIF charges, import duties and commissions to estimate the ex-factory price. Petitioner also claimed that there would be warehousing costs in the United States as well as credit expenses, but that for the purposes of the Petition, these expenses were not estimated or deducted, thereby understating the full extent of dumping.

With respect to the import statistics, since HTSUS subheadings 7210.90.6000 and 7212.50.0000 are ''basket'' tariff categories include more than certain nickel-plated, flat-rolled steel, in order to confirm the accuracy and reliability of the use of U.S. import statistics under these HTSUS subheadings, Petitioner compared the U.S. import quantity by ports and month for these HTSUS subheadings to the quantity of imports of certain nickel-plated, flat-rolled steel from Japan captured in bills of lading. Petitioner argues that where the bill of lading corresponds precisely to the port of entry, month of importation and quantity, the average unit value provided by the Census statistics is an appropriate indicator of the price of the subject merchandise. In addition, Petitioner compared the average unit customs values and average unit landed cost values with actual market prices. According to Petitioner, this data corroborates the accuracy of the Census data. Petitioner notes that because the customs value per metric ton represents the F.O.B. origin value of the imported merchandise, no adjustments were made with respect to this value for purposes of estimating the EP.

Normal Value

Pursuant to section 773(a)(1)(B)(i) of the Act, Petitioner based NV on prices in Japan for sales to the largest Japanese battery producers, which were obtained by an independent market research organization. Petitioner asserts that these products correspond to the specifications for certain nickel-plated, flat-rolled steel exported to the United States and represent Japanese home market pricing for large-volume products to major customers through the fourth quarter 2012. While acknowledging that no adjustments were made to reflect credit terms, Petitioner notes that accounting for this deduction would have a *de minimis* impact on the estimated dumping margins.

Fair Value Comparisons

Based on the data provided by Petitioner, there is reason to believe that imports of certain nickel-plated, flat-rolled steel from Japan are being, or are likely to be, sold in the United States at less than fair value. Based on comparisons of EP to NVs, in accordance with section 773(a)(1) of the Act, the estimated dumping margins for certain nickel-plated, flat-rolled steel from Japan range from 56.50 percent to 77.70 percent.[21]

Initiation of Antidumping Investigation

Based upon the examination of the Petition on certain nickel-plated, flat-rolled steel from Japan, we find that the Petition meets the requirements of section 732 of the Act. Therefore, we are initiating the AD investigation to determine whether imports of certain nickel-plated, flat-rolled steel from Japan are being, or are likely to be, sold in the United States at less than fair value. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 140 days after the date of this initiation.

Respondent Selection

Following standard practice in AD investigations involving market economy countries, in the event the Department determines that the number of known exporters or producers for this investigation is large, the Department may select respondents based on U.S. Customs and Border Protection (''CBP'') data for U.S. imports under the HTSUS 7210.90.6000 and 7212.50.0000 for certain nickel-plated, flat-rolled steel from Japan. We intend to release the CBP data under Administrative Protective Order (''APO'') to all parties with access to information protected by APO within five days of publication of this **Federal Register** notice and make our decision regarding respondent selection within 20 days of publication of this notice. The Department invites comments regarding the CBP data and respondent selection within seven days of publication of this **Federal Register** notice.[22]

The Petition names three companies as producers of certain nickel-plated, flat-rolled steel from Japan: Toyo Kohan Co., Ltd., Sumitomo-Nippon Steel Corp., and Katayama Special Industries.[23] We currently do not know of any other producers of subject merchandise. We will consider comments from interested parties with respect to respondent selection.

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), the Government of Japan was provided access to a copy of the public version of the Petition via IA ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petition to each exporter named in the Petition, as provided under 19 CFR 351.203(c)(2).

ITC Notification

We have notified the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine no later than May 13, 2013, whether

Petition Supplement, at 24–26 and Revised Exhibits 14, 23 and Exhibit 32.

[19] *See* Initiation Checklist, at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Petition Covering Diffusion-Annealed, Nickel-Plated Flat-Rolled Steel Products from Japan.

[20] Zepol Corporation provides import data through its international trade tools (*http://www.zepol.com*).

[21] *See* Petition, at 30 and Exhibits 10, 11, 12 and 17 and Second Petition Supplement, dated April 5, 2013, at 23 and Revised Exhibits 12, 17 and 18.

[22] *See Bottom Mount Combination Refrigerator-Freezers From the Republic of Korea and Mexico: Initiation of Antidumping Duty Investigations,* 76 FR 23281, 23285 (April 26, 2011).

[23] *See* Petition, at 22.

there is a reasonable indication that imports of certain nickel-plated, flat-rolled steel from Japan are materially injuring or threatening material injury to a U.S. industry. A negative ITC determination will result in the investigation being terminated; otherwise, this investigation will proceed according to statutory and regulatory time limits.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures,* 73 FR 3634 (January 22, 2008). Parties wishing to participate in this investigation should ensure that they meet the requirements of these procedures (*e.g.,* the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

Any party submitting factual information in an AD/countervailing duty (''CVD'') proceeding must certify to the accuracy and completeness of that information.[24] Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives in all segments of any AD/CVD proceedings initiated on or after March 14, 2011.[25] The formats for the revised certifications are provided at the end of the *Interim Final Rule.* Foreign governments and their officials may continue to submit certifications in either the format that was in use prior to the effective date of the *Interim Final Rule,* or in the format provided in the *Supplemental Interim Final Rule.*[26] The Department intends to reject factual submissions in any proceeding segments initiated on or after March 14, 2011, if the submitting party does not comply with the revised certification requirements.

This notice is issued and published pursuant to section 777(i) of the Act.

[24] *See* section 782(b) of the Act.

[25] *See Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings: Interim Final Rule,* 76 FR 7491 (February 10, 2011) (*Interim Final Rule*) amending 19 CFR 351.303(g)(1) and (2) and supplemented by *Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings: Supplemental Interim Final Rule,* 76 FR 54697 (September 2, 2011) (*Supplemental Interim Final Rule*).

[26] *See Supplemental Interim Final Rule.*

Dated: April 16, 2013.

Ronald K. Lorentzen,

Acting Assistant Secretary for Import Administration.

Appendix I—Scope of the Investigation

The diffusion-annealed, nickel-plated flat-rolled steel products included in this investigation are flat-rolled, cold-reduced steel products, regardless of chemistry; whether or not in coils; either plated or coated with nickel or nickel-based alloys and subsequently annealed (*i.e.,* ''diffusion-annealed''); whether or not painted, varnished or coated with plastics or other metallic or nonmetallic substances; and less than or equal to 2.0 mm in nominal thickness. For purposes of this investigation, ''nickel-based alloys'' include all nickel alloys with other metals in which nickel accounts for at least 80 percent of the alloy by volume.

Imports of merchandise included in the scope of this investigation are classified primarily under Harmonized Tariff Schedule of the United States (''HTSUS'') subheadings 7212.50.0000 and 7210.90.6000, but may also be classified under HTSUS subheadings 7210.70.6090, 7212.40.1000, 7212.40.5000, 7219.90.0020, 7219.90.0025, 7219.90.0060, 7219.90.0080, 7220.90.0010, 7220.90.0015, 7225.99.0090, or 7226.99.0180. The foregoing HTSUS subheadings are provided only for convenience and customs purposes. The written description of the scope is dispositive.

[FR Doc. 2013–09572 Filed 4–22–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC632

Marine Mammals; File No. 14809

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that Douglas Nowacek, Ph.D., Duke University—Marine Laboratory, 135 Duke Marine Lab Rd, Beaufort, NC 28516, has applied in due form for a permit to conduct research on 34 cetacean species.

DATES: Written, telefaxed, or email comments must be received on or before May 23, 2013.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the *Features* box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 14809 from the list of available applications.

These documents are also available upon written request or by appointment in the following offices: see **SUPPLEMENTARY INFORMATION.**

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301)713–0376, or by email to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Carrie Hubard or Amy Hapeman, (301)427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).

The applicant is requesting a five-year permit to conduct comparative research on cetaceans in the North Atlantic, North Pacific and Southern Oceans. Methods to be used include suction cup tagging, acoustic playbacks, passive acoustics, biopsy sampling, photo-identification, and behavioral observations. The applicant proposes to take three endangered cetacean species: humpback (*Megaptera novaeangliae*), sperm (*Physeter macrocephalus*), and southern right (*Eubalaena australis*) whales, as well as 31 cetacean species that are not listed as threatened or endangered. Of the 25 species that would be targeted for tagging and active acoustic playbacks, a maximum of 50 individuals of each species or stock could be tagged and exposed to playbacks annually. The primary research objectives are to: (1) document baseline foraging and social behavior of cetacean species under different ecological conditions; (2) place these behaviors in a population-level context; and (3) determine how these species respond to various natural sound sources. Specifically, the applicant is interested in the influence of acoustic

stimuli on baseline behavioral patterns and behavioral variation between individuals and populations.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register,** NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Documents may be reviewed in the following locations:

Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)427–8401; fax (301)713–0376;

Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668; phone (907)586–7221; fax (907)586–7249;

Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; phone (562)980–4001; fax (562)980–4018;

Pacific Islands Region, NMFS, 1601 Kapiolani Blvd., Rm 1110, Honolulu, HI 96814–4700; phone (808)944–2200; fax (808)973–2941;

Northeast Region, NMFS, 55 Great Republic Drive, Gloucester, MA 01930; phone (978)281–9328; fax (978) 281–9394; and

Southeast Region, NMFS, 263 13th Avenue South, Saint Petersburg, FL 33701; phone (727)824–5312; fax (727)824–5309.

Dated: April 18, 2013.

P. Michael Payne,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2013–09485 Filed 4–22–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Hydrographic Services Review Panel Meeting

AGENCY: National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice of open meeting (via webinar and teleconference).

SUMMARY: The Hydrographic Services Review Panel (HSRP) is a Federal Advisory Committee established to advise the Under Secretary of Commerce for Oceans and Atmosphere on matters related to the responsibilities and authorities set forth in section 303 of the Hydrographic Services Improvement Act of 1998, as amended, and such other appropriate matters that the Under Secretary refers to the Panel for review and advice.

Date and Time: The public meeting will be held on May 7–8, 2013. May 7th from 1:00 p.m. to 5:00 p.m. EDT; May 8th from 1:00 p.m. to 5:00 p.m. EDT.

FOR FURTHER INFORMATION CONTACT: Kathy Watson, HSRP Program Coordinator, National Ocean Service (NOS), Office of Coast Survey, NOAA (N/CS), 1315 East West Highway, Silver Spring, Maryland 20910; Telephone: 301–713–2770 ext. 158; Fax: 301–713–4019; Email: *Kathy.Watson@noaa.gov* or visit the NOAA HSRP Web site at *http://nauticalcharts.noaa.gov/ocs/hsrp/hsrp.htm.*

SUPPLEMENTARY INFORMATION: The HSRP meeting will be held via webinar and teleconference. Members of the public who wish to participate in the meeting must register in advance by April 26, 2013. Please register by contacting Kathy Watson, HSRP Program Coordinator at email: *Kathy.Watson@noaa.gov* or tel: (301) 713–2770 ext. 158. Web and teleconference information will be provided to registrants prior to the meeting. While the meeting will be open to the public, web and teleconference capacity may be limited.

The meeting will include an opportunity for public comment. A 15 minute public comment period is scheduled near the end of the meeting on both days. Public comment periods will be included in the final agenda published before April 30, 2013, on the HSRP Web site listed above. Comments will be recorded. Written comments should be submitted to *Kathy.Watson@noaa.gov* by April 30, 2013. Written comments submitted by this date will be reviewed by the HSRP and discussed at the meeting. Written comments received after April 30, 2013, will be distributed to the HSRP, but may not be reviewed by the HSRP until the day of the web/teleconference meeting.

Matters To Be Considered: Information to be presented for discussion includes updates on: (1) FY13 Appropriations, FY14 Budget, Sandy Supplemental funding, and legislative updates; (2) Committee on Marine Transportation System; (3) Integrated Ocean and Coastal Mapping; and (4) NOAA Fleet Recapitalization Plan. Other matters being developed for discussion include activities relating to hydrography, geodesy, coastal mapping, and tides, currents and water levels, as well as administrative matters pertaining to the HSRP.

Dated: April 17, 2013.

Christopher C. Cartwright,

Associate Assistant Administrator for Management and CFO/CAO, Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration.

[FR Doc. 2013–09490 Filed 4–22–13; 8:45 am]

BILLING CODE 3510–JE–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA713

Endangered Species; Permit No. 16507–01

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; issuance of permit modification.

SUMMARY: Notice is hereby given that a request for modification of scientific research Permit No. 16507 submitted by Dewayne Fox, Ph.D., of Delaware State University, 1200 North DuPont Highway, Dover, DE 19901 has been granted.

ADDRESSES: The modification and related documents are available for review upon written request or by appointment:

Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)427–8401; fax (301)713–0376; and Northeast Region, NMFS, 55 Great Republic Drive, Gloucester, MA 01930–2298; phone (978)281–9328; fax (978)281–9394.

FOR FURTHER INFORMATION CONTACT: Colette Cairns or Malcolm Mohead, (301)427–8401.

SUPPLEMENTARY INFORMATION: The requested modification has been granted under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the provisions of § 222.306 of the regulations governing the taking, importing, and exporting of endangered and threatened fish and wildlife (50 CFR 222–226).

Permit No. 16507 authorizes researchers to use gill nets to capture adult and juvenile Atlantic sturgeon and egg mats to capture larval fish. Adult

and juvenile Atlantic sturgeon may be measured, weighed, photographed, passive integrated transponder and Floy tagged, and tissue sampled; a subset will be anesthetized, implanted with an internal sonic tag, fin ray sampled, and gonad tissue sampled. The objectives of this research are to provide more detailed information on the spawning location of sturgeon and to develop a fishery independent sampling program to help assess recovery of the species. The permit holder is now authorized to capture and sample up to 100 shortnose sturgeon annually in the Delaware River and Bay. All research objectives, capture methods, action areas, and activities remain unchanged. The modification is valid until the permit expires on April 5, 2017.

Issuance of this modification, as required by the ESA was based on a finding that such permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of such endangered or threatened species, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: April 17, 2013.

P. Michael Payne,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2013–09478 Filed 4–22–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC172

Taking of Marine Mammals Incidental to Specified Activities; Construction at Orcas Island and Friday Harbor Ferry Terminals

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; issuance of an incidental take authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA) regulations, notification is hereby given that NMFS has issued an Incidental Harassment Authorization (IHA) to the Washington State Department of Transportation (WSDOT) to take, by harassment, small numbers of 11 species of marine mammals incidental to vibratory pile driving and pile removal activities at the Orcas Island and Friday Harbor ferry terminals in Washington State between September 2013 and February 2014.

DATES: Effective September 1, 2013, through August 31, 2014.

ADDRESSES: Requests for information on the incidental take authorization should be addressed to P. Michael Payne, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910. A copy of the application containing a list of the references used in this document, NMFS' Environmental Assessment (EA), Finding of No Significant Impact (FONSI), and the IHA may be obtained by writing to the address specified above or visiting the Internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications.*

Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Shane Guan, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''* * * an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the U.S. can apply for a one-year authorization to incidentally take small numbers of marine mammals by harassment, provided that there is no potential for serious injury or mortality to result from the activity. Section 101(a)(5)(D) establishes a 45-day time limit for NMFS review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny the authorization.

Summary of Request

On May 25, 2012, WSDOT submitted a request to NOAA requesting an IHA for the possible harassment of small numbers of 11 marine mammal species incidental to construction associated with the replacement of dolphin structures at the Orcas Island and Friday Harbor ferry terminals in Washington State. On July 20, WSDOT submitted a revised IHA application. The action discussed in this document is based on WSDOT's July 20, 2012, IHA application.

Description of the Specified Activity

Detailed description of the WSDOT's dolphin replacement work at the Orcas Island and Friday Harbor ferry terminals is provided in the **Federal Register** notice for the proposed IHA (78 FR 9373; February 8, 2013). Since that time, no changes have been made to the dolphin replacement project at Orcas Island and Friday Harbor ferry terminals, except that WSDOT requested the incidental take coverage to be extended from February 28, 2014, through August 31, 2014, in case the project may be postponed. Nevertheless, the amount of activity and the duration of actual in-water construction has not changed. The potential change in work season will not affect marine mammal take estimates since the actual construction duration will not change and the initial calculation relied on marine mammal presence in the project area on annual basis.

The details of WSDOT's dolphin replacement work at Orcas Island and Friday Harbor ferry terminals are provided in the **Federal Register** notice for the proposed IHA (78 FR 9373; February 8, 2013). Please refer to that **Federal Register** notice for the description of the specific activity.

Comments and Responses

A notice of NMFS' proposal to issue an IHA to WSDOT was published in the **Federal Register** on February 8, 2013 (78 FR 9373). That notice described, in detail, WSDOT's activity, the marine mammal species that may be affected by

the activity, and the anticipated effects on marine mammals. During the 30-day public comment period, NMFS received comments from the Marine Mammal Commission (Commission) and the Aquatic Research and Monitoring (ARM). The Commission recommends NMFS issue the IHA to WSDOT, but has asked NMFS to condition the IHA in certain respects. Specific comments and responses are provided below.

Comment 1: The Commission requests that NMFS justify its conclusion that the taking will involve only a small number of southern resident killer whales (SRKWs) and work with the Fish and Wildlife Service and the Commission to develop a policy that sets forth the criteria and/or thresholds for determining what constitutes ''small numbers'' and ''negligible impact'' for the purpose of authorizing incidental takes of marine mammals

Response: As stated in the **Federal Register** for the proposed IHA, WSDOT is required to implement power-down and/or shutdown measures if the combined Level B takes of SRKWs reach to a total of 16 at both Orcas Island and Friday Harbor ferry terminals, which is equivalent to approximately 19% of the SRKW population. Historical sighting data of SRKWs in and around the action area reveals that relatively few animals are likely to be within the immediate vicinity of the terminals; thus, NMFS expects that actual take of SRKWs by Level B harassment will be lower than the modeled estimate of 16 animals (WSDOT 2012). In addition, we expect marine mammals will avoid areas of high intensity noise, thereby supporting our conclusion that the take of 19% of this population is unlikely. Further, as discussed in the **Federal Register** notice for the proposed IHA (78 FR 9373; February 8, 2013) and later in this document, the anticipated take would be low-intensity noise exposure for a brief time period during vibratory pile driving and pile removal. Any animals exposed to sound from the construction activities would exhibit no more than low-level behavioral disturbances and vacate the area temporarily. As we have done in the past, NMFS will continue to collaborate with the Commission and Fish and Wildlife Service on a variety of MMPA issues, including small numbers and negligible impact, to strengthen our collective understanding of how activities affect marine mammal species and stocks.

Comment 2: The Commission requests NMFS require WSDOT to monitor the Level B harassment zone at least 30 minutes before, during, and 30 minutes after the pile-removal and -driving activities to ensure that those activities are not having an unintended effect on marine mammals in or near the zone.

Response: NMFS agrees with the Commission and will require the WSDOT to monitor the Level B harassment zone for 30 minutes before, during, and 30 minutes after the pile driving and pile removal activities.

Comment 3: The Commission requests NMFS specify in its authorization that, after a delay, power down, or shutdown, the Ferries Division would not resume activities until the marine mammal (1) is observed to have left the Level B harassment zone or (2) has not been seen or otherwise detected within the Level B harassment zone for 15 minutes for small odontocetes and 30 minutes for mysticetes and large odontocetes, including killer whales.

Response: As described in detail in the **Federal Register** notice in the proposed IHA (78 FR 9373; February 8, 2013), WSDOT's dolphin replacement projects at Orcas Island and Friday Harbor ferry terminals will only use vibratory pile hammer for pile driving. Marine mammals are not expected to be injured (Level A harassment) by WSDOT's use of vibratory pile hammers, thereby obviating the need for an exclusion zone for this activity. Nevertheless, for initiation of pile driving and pile removal activities, WSDOT is required to monitor the Level B harassment zone for 30 minutes before, during, and 30 minutes after in-water construction, and to ramp up vibratory hammer for pile removal and pile driving, which will effectively reduce any startle behavior of marine mammals in the vicinity at the commencement of the piling activity.

However, WSDOT will be required to power down or shutdown when the potential takes of SRKWs is approaching to the allotted take limit. Therefore, under such circumstances, NMFS requires that WSDOT not resume activities until the killer whale (1) is observed to have left the Level B harassment zone or (2) has not been seen or otherwise detected within the Level B harassment zone 30 minutes after a power down or shutdown.

Comment 4: ARM comments that vessels used in marine mammal monitoring need to be of large size and have an observation platform that sit at least 8–10 ft off the water, and ideally there should be two vessels for monitoring, one at each end of the channel. And this two vessel scenario can replace the need for a land-based PSO.

Response: Although the commenter raises a good point, it is worthwhile to note that large vessels and the use of multiple vessels produce higher underwater sound levels than a single small vessel. In this particular situation, where the ZOI is not particularly big, there would be no added benefit to introducing multiple and larger vessels to facilitate marine mammal observation and it could result in unintended consequences, e.g., there would be more disturbances to marine life as larger and more vessels will contribute more noise underwater. Thus, we have determined that one small vessel and one land-based PSO will be able to monitor the zones effectively.

Description of Marine Mammals in the Area of the Specified Activity

The marine mammal species under NMFS jurisdiction most likely to occur in the construction area include Pacific harbor seal (*Phoca vitulina richardsi*), California sea lion (*Zalophus californianus*), northern elephant seal (*Mirounga angustirostris*), Steller sea lion (*Eumetopias jubatus*), harbor porpoise (*Phocoena phocoena*), Dall's porpoise (*Phocoenoides dalli*), Pacific white-sided dolphin (*Lagenorhynchus obliquidens*), killer whale (*Orcinus orca*), gray whale (*Eschrichtius robustus*), humpback whale (*Megaptera novaeangliae*), and minke whale (*Balaenoptera acutorostra*).

General information on the marine mammal species found in California waters can be found in Caretta *et al.* (2011), which is available at the following URL: *http://www.nmfs.noaa.gov/pr/pdfs/sars/po2011.pdf.* Specific information concerning these species in the vicinity of the action area is provided in the **Federal Register** notice for the proposed IHA (78 FR 9373; February 8, 2013) and in WSDOT's IHA application. Therefore, it is not repeated here.

Potential Effects of the Specified Activity on Marine Mammals

The effects of underwater noise from in-water vibratory pile driving and pile removal associated with the construction activities at Orcas Island and Friday Harbor ferry terminals has the potential to result in behavioral harassment of marine mammal species and stocks in the vicinity of the action area. The Notice of Proposed IHA (78 FR 9373; February 8, 2013) included a discussion of the effects of anthropogenic noise on marine mammals, which is not repeated here. No instances of hearing threshold shifts, injury, serious injury, or mortality are expected as a result of WSDOT's activities given the strong likelihood that marine mammals would avoid the immediate vicinity of the pile driving area.

Potential Effects on Marine Mammal Habitat

The primary potential impacts to marine mammals and other marine species are associated with elevated sound levels, but the project may also result in additional effects to marine mammal prey species and short-term local water turbidity caused by in-water construction due to pile removal and pile driving. These potential effects are discussed in detail in the **Federal Register** notice for the proposed IHA (78 FR 9373; February 8, 2013) and are not repeated here.

Potential Impacts on Availability of Affected Species or Stock for Taking for Subsistence Uses

No subsistence harvest of marine mammals occur in the action area.

Mitigation Measures

In order to issue an incidental take authorization under Section 101(a)(5)(D) of the MMPA, NMFS must prescribe, where applicable, the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable adverse impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses.

For WSDOT's dolphin replacement work at Orcas Island and Friday Harbor ferry terminals, NMFS is requiring WSDOT to implement the following mitigation measures to minimize the potential impacts to marine mammals in the project vicinity as a result of the in-water construction activities.

Since the measured source levels (at 10 and 16 m) of the vibratory hammer involved in pile removal and pile driving are below NMFS' current thresholds for Level A takes, i.e., below 180 dB re 1 μPa (rms), no exclusion zone will be established, and there will be no required power-down and shutdown measures except when take of SRKWs approaches to the limit authorized (see below). Instead, WSDOT is required to establish and monitor the 120 dB re 1 μPa (rms) zone of influence (ZOI, see below Monitoring and Reporting section).

One major mitigation measure for WSDOT's pile removal and pile driving activities is ramping up, or soft start, of vibratory pile hammers. The purpose of this procedure is to prevent the startling behavior of marine mammals in the vicinity of the construction activity from sudden loud noise.

Soft start requires contractors to initiate the vibratory hammer at reduced power for 15 seconds with a 1 minute interval, and repeat such procedures for an additional two times.

In addition, monitoring for marine mammal presence will take place 30 minutes before, during and 30 minutes after pile driving to document marine mammal occurrence and responses before, during and after the pile driving and pile removal activities (see Monitoring and Reporting section below).

Further, if the number of allotted SRKW takes (see *Estimated Take by Incidental Harassment* section below) reaches the limit under the IHA, WSDOT will implement shutdown and power down measures if such species/stock of animal approaches the 120 dB Level B harassment zone.

Finally, to avoid exceeding its SRKW take limit, NMFS has required WSDOT to not resume activities until any SRKW (1) is observed to have left the Level B harassment zone or (2) has not been seen or otherwise detected within the Level B harassment zone 30 minutes.

Mitigation Conclusions

Based on our evaluation of the prescribed mitigation measures, NMFS has determined the measures provide the means of effecting the least practicable impact on marine mammal species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring and Reporting

Monitoring Measures

Any ITA issued under Section 101(a)(5)(D) of the MMPA is required to prescribe, where applicable, ''requirements pertaining to the monitoring and reporting of such taking''. The MMPA implementing regulations at 50 CFR 216.104 (a)(13) state that requests for ITAs must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the action area.

(1) Protected Species Observers (PSOs)

WSDOT will employ qualified protected species observers (PSOs) to monitor the 120 dB re 1 μPa (rms) for marine mammals. Qualifications for marine mammal observers include:

- Visual acuity in both eyes (correction is permissible) sufficient for discernment of moving targets at the water's surface with ability to estimate target size and distance. Use of binoculars may be necessary to correctly identify the target.
- Advanced education in biological science, wildlife management, mammalogy or related fields (Bachelors degree or higher is preferred), but not required.
- Experience or training in the field identification of marine mammals (cetaceans and pinnipeds).
- Sufficient training, orientation or experience with the construction operation to provide for personal safety during observations.
- Ability to communicate orally, by radio or in person, with project personnel to provide real time information on marine mammals observed in the area as necessary.
- Experience and ability to conduct field observations and collect data according to assigned protocols (this may include academic experience).
- Writing skills sufficient to prepare a report of observations that would include such information as the number and type of marine mammals observed; the behavior of marine mammals in the project area during construction, dates and times when observations were conducted; dates and times when in-water construction activities were conducted; and dates and times when marine mammals were present at or within the defined ZOI.

(2) Monitoring Protocols

PSOs will be present on site at all times during pile removal and driving. Marine mammal behavior, overall numbers of individuals observed, frequency of observation, and the time corresponding to the daily tidal cycle will be recorded.

The following protocols will be used for marine mammal monitoring during Orcas Island and Friday Harbor ferry terminal construction work:

- A range finder or hand-held global positioning system device will be used to ensure that the 120 dB re 1 μPa (rms) Level B behavioral harassment ZOI is monitored.
- A 20-minute pre-construction marine mammal monitoring period will be required before the first pile driving or pile removal of the day. A 30-minute post-construction marine mammal monitoring period will be required after the last pile driving or pile removal of the day. If the construction personnel take a break between subsequent pile driving or pile removal for more than 30 minutes, then additional pre-construction marine mammal monitoring will be required before the next start-up of pile driving or pile removal.

• If marine mammals are observed, the following information will be document:

▪ Species of observed marine mammals;

▪ Number of observed marine mammal individuals;

▪ Behavioral of observed marine mammals;

▪ Location within the ZOI; and

▪ Animals' reaction (if any) to pile-driving activities.

• During vibratory pile removal and driving, one land-based biologist will monitor the area from the terminal work site, and one boat with a qualified PSO shall navigate the ZOI in a circular path.

• In addition, WSDOT will contact the Orca Network and/or Center for Whale Research to determine the location of the nearest marine mammal sightings. Sightings are called or emailed into the Orca Network and immediately distributed to other sighting networks including: the Northwest Fisheries Science Center of NOAA Fisheries, the Center for Whale Research, Cascadia Research, the Whale Museum Hotline, and the British Columbia Sightings Network.

• Marine mammal occurrence information collected by the Orca Network also includes detection by the following hydrophone systems: (1) The SeaSound Remote Sensing Network, a system of interconnected hydrophones installed in the marine environment of Haro Strait (west side of San Juan Island) to study killer whale communication, underwater noise, bottomfish ecology, and local climatic conditions, and (2) A hydrophone at the Port Townsend Marine Science Center that measures average underwater sound levels and automatically detects unusual sounds.

• Finally, after a delay, power down, or shutdown, each of which is designed to prevent WSDOT from exceeding its SRKW take limits, WSDOT will not resume activities until the SRKW (1) is observed to have left the Level B harassment zone or (2) has not been seen or otherwise detected within the Level B harassment zone 30 minutes.

NMFS has determined that these monitoring measures are adequate, particularly as it relates to assessing the level of taking or impacts to affected species. The land-based PSO is expected to be positioned in a location that will maximize his/her ability to detect marine mammals and will also utilize binoculars to improve detection rates. In addition, the boat-based PSO will cruise within the 120 dB ZOI, which is not a particularly large zone, thereby allowing him/her to conduct additional monitoring with binoculars. With respect to WSDOT's take limits, NMFS is primarily concerned that WSDOT could reach its Southern Resident killer whale limit. However, killer whales have large dorsal fins and can be easily spotted from great distances. Further, Southern Resident killer whales typically move in groups which makes visual detection much easier. In addition, added underwater acoustic monitoring by Orca Network in the region would further provide additional detection, since resident killer whales are very vocal.

Reporting Measures

WSDOT will provide NMFS with a draft monitoring report within 90 days of the conclusion of the construction work. This report will detail the monitoring protocol, summarize the data recorded during monitoring, and estimate the number of marine mammals that may have been harassed.

If comments are received from the NMFS Northwest Regional Administrator or NMFS Office of Protected Resources on the draft report, a final report will be submitted to NMFS within 30 days thereafter. If no comments are received from NMFS, the draft report will be considered to be the final report.

Notification of Injured or Dead Marine Mammals

In addition to the reporting measures listed above, NMFS will require that WSDOT notify NMFS' Office of Protected Resources and NMFS' Stranding Network of sighting an injured or dead marine mammal in the vicinity of marine operations. Depending on the circumstance of the incident, WSDOT shall take one of the following reporting protocols when an injured or dead marine mammal is discovered in the vicinity of the action area.

(a) In the unanticipated event that the construction activities clearly cause the take of a marine mammal in a manner prohibited by this Authorization, such as an injury, serious injury or mortality (e.g., ship-strike, gear interaction, and/or entanglement), WSDOT shall immediately cease all operations and immediately report the incident to the Supervisor of Incidental Take Program, Permits and Conservation Division, Office of Protected Resources, NMFS, and the Northwest Regional Stranding Coordinators. The report must include the following information:

(i) Time, date, and location (latitude/longitude) of the incident;

(ii) description of the incident;

(iii) status of all sound source use in the 24 hours preceding the incident;

(iv) environmental conditions (e.g., wind speed and direction, Beaufort sea state, cloud cover, visibility, and water depth);

(v) description of marine mammal observations in the 24 hours preceding the incident;

(vi) species identification or description of the animal(s) involved;

(vii) the fate of the animal(s); and

(viii) photographs or video footage of the animal (if equipment is available).

Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS shall work with WSDOT to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. WSDOT may not resume their activities until notified by NMFS via letter, email, or telephone.

(b) In the event that WSDOT discovers an injured or dead marine mammal, and the lead PSO determines that the cause of the injury or death is unknown and the death is relatively recent (i.e., in less than a moderate state of decomposition as described in the next paragraph), WSDOT will immediately report the incident to the Supervisor of the Incidental Take Program, Permits and Conservation Division, Office of Protected Resources, NMFS, and the Northwest Regional Stranding Coordinators. The report must include the same information identified above. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with WSDOT to determine whether modifications in the activities are appropriate.

(c) In the event that WSDOT discovers an injured or dead marine mammal, and the lead PSO determines that the injury or death is not associated with or related to the activities authorized in the IHA (e.g., previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), WSDOT shall report the incident to the Supervisor of the Incidental Take Program, Permits and Conservation Division, Office of Protected Resources, NMFS, and the Northwest Regional Stranding Coordinators, within 24 hours of the discovery. WSDOT shall provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Network. WSDOT can continue its operations under such a case.

Estimated Take by Incidental Harassment

As mentioned in the **Federal Register** notice for the proposed IHA (78 FR 9373; February 8, 2013), a worst-case

scenario for the Orcas Island ferry terminal project assumes that it may take 3 days to remove the existing piles and 2 days to install the new piles. The maximum total number of hours of pile removal activity is about 17.2 hours, and pile-driving activity is about 2.3 hours (averaging about 3.9 hours of active pile removal/driving for each construction day).

A worst-case scenario for the Friday Harbor ferry terminal project assumes that it may take 5 days to remove the existing piles and 5 days to install the new piles. The maximum total number of hours of pile removal activity is about 34.75 hours, and pile-driving activity is about 4.3 hours (averaging about 3.9 hours of active pile removal/driving for each construction day).

Also, as described in the **Federal Register** notice for the proposed IHA (78 FR 9373; February 8, 2013), for non-impulse noise, NMFS uses 120 dB re 1 μPa (rms) as the threshold for Level B behavioral harassment. The distance to the 120 dB re 1 μPa (rms) isopleth due to vibratory pile driving for the Orcas Island ferry terminal project extends a maximum of 3.5 km (2.2 miles) before land is intersected. For the Friday Harbor ferry terminal project, land is intersected at a maximum of 4.7 km (2.9 miles). To simplify the establishment of the 120 dB re 1 μPa (rms) zone of influence (ZOI) for monitoring, vibratory timber pile removal is assumed to extend the same distances as vibratory pile driving. Both of these areas will be monitored during construction to estimate actual harassment take of marine mammals (see below).

Airborne noises can affect pinnipeds, especially resting seals hauled out on rocks or sand spits. The airborne 90 dB re 20 μPa Level B threshold for hauled out harbor seals was estimated at 37 m, and the airborne 100 dB Level B re 10 μPa threshold for all other pinnipeds is estimated at 12 m. This is much closer than the distance to the nearest harbor seal haulout site for the Orcas Island ferry terminal (1 km) and Friday Harbor ferry terminal (4 km).

Incidental take is estimated for each species by estimating the likelihood of a marine mammal being present within a ZOI during active pile driving and removal. Expected marine mammal presence is determined by past observations and general abundance near the Orcas Island and Friday Harbor ferry terminals during the construction window. Typically, potential take is estimated by multiplying the number of animals likely to be present in the action area by the estimated number of days pile removal and pile driving would be conducted. Since there are no density estimates for any Puget Sound population of marine mammal, the number of marine mammals present is estimated using local marine mammal data sets (e.g., Orca Network, state and federal agencies), opinions from state and federal agencies, incidental observations from WSDOT biologists, and the duration for the vibratory pile removal and pile driving activities. Based on the estimates, approximately 150 Pacific harbor seals, 25 California sea lions, 15 northern elephant seals, 25 Steller sea lions, 50 harbor porpoises, 15 Dall's porpoises, 15 Pacific white-sided dolphins, 32 killer whales (24 transient, 8 Southern Resident killer whales), 4 gray whales, 4 humpback whales, and 10 minke whales could be exposed to received noise levels above 120 dB re 1 μPa (rms) from the dolphin replacement work at the Orcas Island ferry terminal. In addition, approximately 200 Pacific harbor seals, 50 California sea lions, 30 northern elephant seals, 50 Steller sea lions, 100 harbor porpoises, 30 Dall's porpoises, 30 Pacific white-sided dolphins, 32 killer whales (24 transient, 8 Southern Resident killer whales), 4 gray whales, 4 humpback whales, and 10 minke whales could be exposure to received noise levels above 120 dB re 1 μPa (rms) from the dolphin replacement work at the Friday Harbor ferry terminal. A summary of the estimated takes is presented in Table 1.

TABLE 1—ESTIMATED NUMBERS OF MARINE MAMMALS THAT MAY BE EXPOSED TO RECEIVED PILE DRIVING AND PILE REMOVAL LEVELS ABOVE 120 dB RE 1 μPa (RMS)

Species	Orcas Island ferry terminal	Friday Harbor ferry terminal	Total
Pacific harbor seal	150	200	350
California sea lion	25	50	75
Northern elephant seal	15	30	45
Steller sea lion	25	50	75
Harbor porpoise	50	100	150
Dall's porpoise	15	30	45
Pacific white-sided dolphin	15	30	45
Killer whale, transient	24	24	48
Killer whale, Southern Resident	8	8	16
Gray whale	4	4	8
Humpback whale	4	4	8
Minke whale	10	10	20

The takes represent 2.4% of the Inland Washington stock of harbor seals (estimated at 14,612), 0.03% of the U.S. stock California sea lion (estimated at 296,750), 0.04% of the California stock northern elephant seal (estimated at 124,000), 0.15% of the eastern stock Steller sea lion (estimated at 48,519), 1.4% of the Washington Inland waters stock harbor porpoise (estimated at 10,682), 0.08% of the California, Oregon, and Washington stock Dall's porpoise (estimated at 57,549), 0.18% of the California, Oregon, and Washington stock Pacific white-sided dolphin (estimated at 25,233), 13.6% of the West Coast transient killer whale (estimated at 354), 19.0% of Southern Resident killer whale (estimated at 84), 0.02% of the Eastern North Pacific stock gray whale (estimated at 26,000), 0.7% of the Eastern North Pacific stock humpback whale (estimated at 1,100), and 4% of the California/Oregon/Washington stock minke whale (estimated at 500).

Negligible Impact and Small Numbers Analysis and Determination

Pursuant to NMFS' regulations implementing the MMPA, an applicant is required to estimate the number of animals that will be ''taken'' by the specified activities (i.e., takes by harassment only, or takes by harassment, injury, and/or death). This estimate informs the analysis that NMFS must perform to determine whether the take resulting from the activity will have

a ''negligible impact'' on the species or stock. Level B (behavioral) harassment occurs at the level of the individual(s) and does not assume any resulting population-level consequences, though there are known avenues through which behavioral disturbance of individuals can result in population-level effects. A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (i.e., population-level effects). An estimate of the number of Level B harassment takes alone is not enough information on which to base an impact determination.

In addition to considering estimates of the number of marine mammals that might be ''taken'' through behavioral harassment, NMFS considers other factors, such as the likely nature of any responses (their intensity, duration, etc.), the context of any responses (critical reproductive time or location, migration, etc.), as well as the number and nature of estimated Level A takes, the number of estimated mortalities, and effects on habitat.

The WSDOT's Orcas Island and Friday Harbor ferry terminal construction projects would conduct vibratory pile removal and pile driving to replace dolphin structures. Elevated underwater noises are expected to be generated as a result of pile removal and pile driving activities. However, noise levels from the machinery and activities are not expected to reach to the level that may cause TTS, injury (PTS included), or mortality to marine mammals. Therefore, NMFS does not expect that any animals would experience Level A harassment or Level B harassment in the form of TTS from being exposed to in-water pile driving and pile removal associated with WSDOT construction project. Although the construction window has been extended to August 31, 2014 to allow for possible delays in work, the actual duration of in-water construction will remain the same. In addition, marine mammal occurrence, behavior, and distribution patterns have been factored within the initial analyses, therefore there will be no change in the effects during the six months window.

Based on long-term marine mammal monitoring and studies in the vicinity of the construction areas, it is estimated that a total of approximately 350 Pacific harbor seals, 75 California sea lions, 45 northern elephant seals, 75 Steller sea lions, 150 harbor porpoises, 45 Dall's porpoises, 45 Pacific white-sided dolphins, 64 killer whales, 8 gray whales, 8 humpback whales, and 20 minke whales could be exposure to received noise levels above 120 dB re 1 μPa (rms) from the construction work at Orcas Island and Friday Harbor ferry terminals. These numbers represent approximately 0.03%–19.0% of the stocks and populations of these species could be affected by Level B behavioral harassment. As mentioned earlier in this document, the worst case scenario for the construction work would only take a total of 5 days at Orcas Island ferry terminal and 10 days at the Friday Harbor ferry terminal.

In addition, these low intensity, localized, and short-term noise exposures (i.e., 120 dB re 1 μPa (rms) from vibratory pile removal and pile driving for a total of 15 days) are expected to cause brief startle reactions or short-term behavioral modification by the animals. These brief reactions and behavioral changes are expected to disappear when the exposures cease. In addition, no important feeding and/or reproductive areas of marine mammals is known to be near the action area. Therefore, these levels of received underwater construction noise from the Orcas Island and Friday Harbor ferry terminal construction projects are not expected to affect marine mammal annual rates of recruitment or survival. The maximum estimated 120 dB maximum isopleths from vibratory pile driving is approximately 3.5 km at Orcas Island and 4.7 km at Friday Harbor from the pile before being blocked by landmass, respectively.

The nearest known haulout site to the Orcas Island ferry terminal is 1 km away south of the terminal offshore of Shaw Island, and 4 km northeast of the Friday Harbor ferry terminal offshore of Shaw Island. However, it is estimated that airborne noise from pile driving and removal would fall below 90 dB and 100 dB re 1 μPa at 37 m and 12 m from the pile, respectively. Therefore, pinnipeds hauled out on Shaw Island will not be affected.

For the reasons discussed in this document, NMFS has determined that the impact of vibratory pile removal and pile driving associated with dolphin replacements at Orcas Island and Friday Harbor ferry terminals would result, at worst, in the Level B harassment of small numbers of 11 marine mammals that inhabit or visit the area. While behavioral modifications, including temporarily vacating the area around the construction site, may be made by these species to avoid the resultant visual and acoustic disturbance, the availability of alternate areas within Washington coastal waters and haul-out sites has led NMFS to determine that this action will have a negligible impact on these species in the vicinity of the construction area.

In addition, no take by TTS, Level A harassment (injury) or death is anticipated and harassment takes should be at the lowest level practicable due to incorporation of the mitigation and monitoring measures mentioned previously in this document.

National Environmental Policy Act (NEPA)

NMFS prepared an Environmental Assessment (EA) and analyzed the potential impacts to marine mammals that would result from WSDOT's dolphin replacement work at Orcas Island and Friday Harbor ferry terminals. A Finding of No Significant Impact (FONSI) was signed on April 16, 2013. A copy of the EA and FONSI is available upon request (see **ADDRESSES**).

Endangered Species Act (ESA)

The humpback whale, Southern Resident stock of killer whale, and the eastern population of Steller sea lions, are the only marine mammal species currently listed under the ESA that could occur in the vicinity of WSDOT's construction projects. NMFS' Permits and Conservation Division consulted with NMFS' Northwest Regional Office Division of Protected Resources under section 7 of the ESA on the issuance of an IHA to WSDOT under section 101(a)(5)(D) of the MMPA for this activity. A Biological Opinion was issued on February 13, 2013, which concludes that issuance of the IHA is not likely to jeopardize the continued existence of the ESA-listed marine mammal species. NMFS will issue an Incidental Take Statement under this Biological Opinion which contains reasonable and prudent measures with implementing terms and conditions to minimize the effects of take of listed species.

Authorization

NMFS has issued an IHA to WSDOT for the potential harassment of small numbers of 11 marine mammal species incidental to dolphin replacement construction activities at the Orcas Island and Friday Harbor ferry terminals in Washington State, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: April 18, 2013.

Helen M. Golde,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2013–09492 Filed 4–22–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Secrecy and License To Export

ACTION: Proposed collection; comment request.

SUMMARY: The United States Patent and Trademark Office (USPTO), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on the continuing information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before June 24, 2013.

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

- *Email: InformationCollection@uspto.gov.* Include ''0651–0034 comment'' in the subject line of the message.
- *Mail:* Susan K. Fawcett, Records Officer, Office of the Chief Information Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.
- *Federal Rulemaking Portal: http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Raul Tamayo, Legal Advisor, Office of Patent Legal Administration, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450; by telephone at 571–272–7728; or by email to *Raul.Tamayo@uspto.gov* with ''Paperwork'' in the subject line. Additional information about this collection is also available at *http://www.reginfo.gov* under ''Information Collection Review.''

SUPPLEMENTARY INFORMATION:

I. Abstract

In the interest of national security, patent laws and rules place certain limitations on the disclosure of information contained in patents and patent applications and on the filing of applications for patents in foreign countries.

In particular, whenever the publication or disclosure of an invention by the publication of an application or by the granting of a patent is, in the opinion of the head of an interested Government agency, determined to be detrimental to national security, the Commissioner for Patents at the United States Patent and Trademark Office (USPTO) must issue a secrecy order and withhold the grant of a patent for such period as the national interest requires. A patent will not be issued on the application as long as the secrecy order is in force. If a secrecy order is applied to an international application, the application will not be forwarded to the International Bureau as long as the secrecy order is in force.

Three types of secrecy orders, each of a different scope, can be issued. The first type, Secrecy Order and Permit for Foreign Filing in Certain Countries, is intended to permit the widest utilization of the technical data in the patent application while still controlling any publication or disclosure that would result in an unlawful exportation. The second type, the Secrecy Order and Permit for Disclosing Classified Information, is to treat classified technical data presented in a patent application in the same manner as any other classified material. The third type of secrecy order is used where the other types of orders do not apply, including orders issued by direction of agencies other than the Department of Defense.

Under the provision of 35 U.S.C. 181, a secrecy order remains in effect for a period of one year from its date of issuance. A secrecy order may be renewed for additional periods of not more than one year upon notice by a government agency that the national interest continues to so require. The applicant is notified of such renewal.

When the USPTO places a secrecy order on a patent application, the rules authorize the applicant to petition the USPTO for permits to allow disclosure, modification, or rescission of the secrecy order, or to obtain a general or group permit. In each of these circumstances, the petition is forwarded to the appropriate defense agency for decision. Also, the Commissioner for Patents at the USPTO may rescind any order upon notification by the heads of the departments and the chief officers of the agencies who caused the order to be issued that the disclosure of the invention is no longer deemed detrimental to the national security.

Unless expressly ordered otherwise, action on the application and prosecution by the applicant will proceed during the time the application is under secrecy order to a specific point as indicated under 37 CFR 5.3. Applications under secrecy order that come to a final rejection must be appealed or otherwise prosecuted to avoid abandonment. Appeals in such cases must be completed by the applicant, but unless specifically indicated by the Commissioner for Patents at the USPTO, will not be set for hearing until the secrecy order is removed.

In addition to the issuance of secrecy orders, the USPTO is required to grant foreign filing licenses to applicants. The filing of a patent application is considered a request for a foreign filing license. However, in some instances an applicant may need a license for filing patent application in foreign countries prior to a filing in the USPTO or sooner than the anticipated licensing of a pending patent application.

To file a patent application in a foreign country, the applicant can petition the USPTO for a foreign filing license either with or without a corresponding United States application. In addition, the applicant can petition to change the scope of a license and, when a patent application is filed through error in a foreign country without the appropriate filing license, an applicant can petition the USPTO for a retroactive license.

This collection includes the information needed by the USPTO to review and issue or revoke the various types of petition contemplated herein. This collection of information is required by 35 U.S.C. 181–188 and administered through 37 CFR 5.1–5.33.

There are no forms associated with this collection of information.

II. Method of Collection

By mail, facsimile or hand carried to the USPTO.

III. Data

OMB Number: 0651–0034.

Form Number(s): None.

Type of Review: Revision of a currently approved collection.

Affected Public: Businesses or other for-profits; not-for-profit institutions.

Estimated Number of Respondents: 2,294 responses per year. The USPTO estimates that approximately 25% (574) of these responses will be from small entities.

Estimated Time per Response: The USPTO estimates that it will take the public from 30 minutes (0.5 hours) to 4 hours to gather the necessary information, prepare the appropriate documents, and submit the information required for this collection.

Estimated Total Annual Respondent Burden Hours: 1,431 hours.

Estimated Total Annual Respondent Cost Burden: $570,598. The USPTO expects that the information in this collection will be prepared by attorneys at an estimated rate of $371 per hour. Therefore, the USPTO estimates that the respondent cost burden for this collection will be approximately $530,901 per year.

Item	Estimated time for response	Estimated annual responses	Estimated annual burden hours
Petition for Rescission of Secrecy Order	3 hours	8	24
Petition to Disclose or Modification of Secrecy Order	2 hours	12	24
Petition for General and Group Permits	1 hour	1	1
Petition for Expedited Handling of License (no corresponding application).	30 minutes	1,900	950
Petition for Expedited Handling of License (corresponding U.S. application).	30 minutes	300	150
Petition for Changing Scope of License	30 minutes	3	2
Petition for Retroactive License	4 hours	70	280
Totals		2,294	1,431

Estimated Total Annual (Non-hour) Respondent Cost Burden: $376,229. There are no capital start-up, maintenance, or record keeping costs associated with this information collection. However, this collection does have annual (non-hour) costs in the form of filing fees for the foreign filing petitions and postage costs. No fees are associated with the secrecy order petitions.

The license petitions all charge the 37 CFR 1.17(g) fee, for which small and micro entity discounts have recently been introduced. The USPTO estimates that 25% of responses will come from small entities and 25% of small entities qualify as micro entities.

Item	Responses (a)	Filing fee (b)	Total non-hour cost burden (a) × (b) = (c)
Petition for Rescission of Secrecy Order	8	$0.00	$0.00
Petition to Disclose or Modification of Secrecy Order	12	0.00	0.00
Petition for General and Group Permits	1	0.00	0.00
Petition for Expedited Handling of License (no corresponding application)	1,306	200.00	261,200.00
Petition for Expedited Handling of License (no corresponding application) (small entity)	475	100.00	47,500.00
Petition for Expedited Handling of License (no corresponding application) (micro entity)	119	50.00	5,950.00
Petition for Expedited Handling of License (corresponding U.S. application)	206	200.00	41,200.00
Petition for Expedited Handling of License (corresponding U.S. application) (small entity)	75	100.00	7,500.00
Petition for Expedited Handling of License (corresponding U.S. application) (micro entity)	19	50.00	950.00
Petition for Changing Scope of License	1	200.00	200.00
Petition for Changing Scope of License (small entity)	1	100.00	100.00
Petition for Changing Scope of License (micro entity)	1	50.00	50.00
Petition for Retroactive License	47	200.00	9,400.00
Petition for Retroactive License (small entity)	18	100.00	1,800.00
Petition for Retroactive License (micro entity)	5	50.00	250.00
Totals	2,294		376,100.00

The USPTO estimates that 99% of the petitions in this collection are submitted by facsimile or hand carried because of the quick turnaround required. For the 1% of the public that chooses to submit the petitions to the USPTO by mail through the United States Postal Service, the USPTO estimates that the average postage cost for a paper submission will be $5.60 (USPS Priority Mail, flat rate envelope) and that 23 submissions will be mailed to the USPTO per year for a total estimated postage cost of $129.

Therefore, the USPTO estimates that the total (non-hour) cost burden for this collection in the form of filing fees and postage costs is estimated to be approximately $376,229.

IV. 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.

The USPTO is soliciting public comments to: (a) 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; (b) 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; (c) Enhance the quality, utility, and clarity of the information to be collected; and (d) 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.

Dated: April 18, 2013.

Susan K. Fawcett,

Records Officer, USPTO, Office of the Chief Information Officer.

[FR Doc. 2013–09522 Filed 4–22–13; 8:45 am]

BILLING CODE 3510–16–P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC 2011–0081]

Request for Information Regarding Third Party Testing for Lead Content, Phthalate Content, and the Solubility of the Eight Elements Listed in ASTM F963–11

Correction

In notice document 2013–8858 appearing on pages 22518–22520 in the issue of Tuesday, April 16, 2013, make the following correction:

On page 22518, in the second column, in the **ADDRESSES** section, in the second and third lines, ''CPSC 2010–0037'' should read ''CPSC 2011–0081''.

[FR Doc. C1–2013–08858 Filed 4–22–13; 8:45 am]

BILLING CODE 1505–01–D

COURT SERVICES AND OFFENDER SUPERVISION AGENCY FOR THE DISTRICT OF COLUMBIA

Agency Information Collection Activities: Proposed Collection; Submission to OMB for Review and Approval for Collection of Qualitative Feedback on Agency Service Delivery; Public Comment Request

AGENCY: Pretrial Services Agency for the District of Columbia (PSA), CSOSA.

ACTION: Notice and request for comments.

SUMMARY: This notice announces the intention of the Pretrial Services Agency for the District of Columbia, an independent entity within the Court Services and Offender Supervision Agency (CSOSA) to request that the Office of Management and Budget (OMB) approve the proposed information collection project: ''Pretrial Services Agency for the District of Columbia 2013 Judicial Survey.'' In accordance with the Paperwork Reduction Act, 44 U.S.C. 3501–3521, this notice announces PSA's intent to submit this collection to OMB for approval. PSA invites the public to comment on this proposed information collection.

DATES: Consideration will be given to all comments received by June 24, 2013.

ADDRESSES: You may submit written comments, identified by ''Collection of Qualitative Feedback on Agency Service Delivery'' to: Rorey Smith, Deputy General Counsel and Chief Privacy Officer, Office of General Counsel, Court Services and Offender Supervision Agency, 633 Indiana Avenue NW., Room 1380, Washington, DC 20004 or to *Rorey.Smith@csosa.gov*.

Comments submitted in response to this notice may be made available to the public. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. If you send an email comment, your email address will be automatically captured and included as part of the comment that is placed in the public docket and may be made available on the Internet. Please note that responses to this public comment request containing any routine notice about the confidentiality of the communication will be treated as public comments that may be made available to the public notwithstanding the inclusion of the routine notice.

FOR FURTHER INFORMATION CONTACT: Rorey Smith, Deputy General Counsel and Chief Privacy Officer, Office of General Counsel, Court Services and Offender Supervision Agency, 633 Indiana Avenue NW., Room 1890, Washington, DC 20004, (202) 220–5797 or to *Rorey.Smith@csosa.gov*. For content support: Diane Bradley, Assistant General Counsel, Office of General Counsel, Court Services and Offender Supervision Agency, 633 Indiana Avenue NW., Room 1375, Washington, DC 20004, (202) 220–5364 or to *Diane.Bradley@csosa.gov*.

SUPPLEMENTARY INFORMATION:

Title: Pretrial Services Agency for the District of Columbia 2013 Judicial Survey.

Abstract: 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 collect or sponsor. Section 3506(c)(2)(A) of the PRA (944 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 of information to OMB for approval. To comply with this requirement, PSA is publishing notice of the proposed collection of information set forth in this document.

The proposed information collection activity provides a means to garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

The judicial officers at the District of Columbia Superior and District Courts are one of PSA's critical customers. The Agency's mission statement notes that ''assistance to the courts'' is critical to promoting pretrial justice and community safety. The proposed survey will assess judicial satisfaction with PSA's responsiveness, staff professionalism, the quality and benefit of PSA reports, PSA's supervision of higher risk defendants (including those with mental health and substance dependence issues), and the provision of treatment services. The judicial survey will represent the only qualitative or quantitative measure of this important metric. PSA will use the collected information to support several organizational improvements including: Enhancements to PSA's supervision of medium to higher-risk pretrial defendants; improve communications with the Court regarding defendant compliance and noncompliance with supervision requirements; provide better performance ratings of Senior Executive Services staff; and creation of a qualitative performance measure to gauge overall judicial satisfaction under PSA's ''partnerships'' strategic objective. This type of collection for qualitative information will be used for quantitative information collections that are designed to yield reliable actionable results, such as monitoring trends over time or documenting program performance.

As a general matter, information collections will not result in any new system of records containing privacy information and will not ask questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

This evaluation study addresses PSA's need for a report to inform strategic planning for dissemination and program activities to targeted 60 DC Superior Court and District Court judicial officers as survey participants—the universe of judicial officers hearing criminal matters in both courts and those with bail setting duties.

The survey is intended to assess judicial officers' perceptions and attitudes through a structured survey to measure judicial perceptions and attitudes about specific elements of

Agency performance. Given the qualitative nature of these data, PSA will use a customer satisfaction rank order response of customer satisfaction questionnaire format for its survey. These customer satisfaction questionnaires are a proven method to solicit and record critical input from primary customers and partner agencies for PSA to address customer-related issues more competently and resolve issues more quickly.

The outcome will best provide a detailed analysis of customer feedback and may also provide ''customer intelligence'' that can be used as a roadmap to spur innovation efforts, research and development and new programs and initiatives. The outcome will also include a recommendation for strategic planning for future efforts which will engage and develop information and programming for DC judicial official audience. Survey results will not be published independently, but will be part of PSA's Performance Budget submitted to the United States Congress every February and used as a metric for performance appraisals for Senior Executive Staff, submitted in September of each year.

Method of Collection

This survey will be conducted by PSA through its Office of Strategic Development. To achieve the goals that PSA hopes to obtain through its judicial survey, the following data collections will be implemented:

(1) On-line instrument: All responses to the survey will be solicited, collected and recorded via a web-based survey instrument. This method will increase participants' ease in completing the survey and returning results to PSA. Automatically-logged results also ensure greater quality control of entered data and easier recording and analysis of results.

(2) Rank-ordered responses: Most survey questions ask respondents to rank-order responses on a standard five-item Likert-scale, for example, ''Very Dissatisfied'' to ''Very Satisfied.'' The remaining questions are value neutral and open ended and allow respondents to give opinions on how PSA can improve specific functions.

(3) Limited question set: The survey consists of 15 questions, making it relatively easy to understand, navigate and complete.

(4) Anonymity: Survey results are anonymous, although respondents have the choice to identify themselves.

Since the survey targets all judicial officers that have direct exposure and knowledge of PSA services and supervision, there are no anticipated issues with sample selection, stratification or estimation procedures.

Estimated Annual Respondent Burden

Exhibit 1 shows the estimated annualized burden hours for the respondents' time to participate in this research. The judicial surveys will be conducted with 60 judicial officers and will take approximately 10–15 minutes to complete. The total burden is estimated to be 15 hours. Exhibit 2 shows the estimated annualized cost burden associated with the respondents' time to participate in this research. The total cost burden is estimated to be $1,200 annually. Exhibit 3 shows the total and annualized cost to the federal government for conducting this research. The total cost to the federal government is $150.00. The total annualized cost is estimated to be approximately $150.00. The total annual cost includes the questionnaire development, administration, analysis, and study management.

EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS

Survey form	Number of respondents	Number of responses per respondent	Minutes per response	Total burden hours
DC Superior Court Judicial Survey	40	15	10–15	10
DC District Court Judicial Survey	20	15	10–15	5

EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN

Form name	Number of respondents	Total burden	Average cost per survey	Total cost burden
DC Superior Court Judicial Survey	40	10	$20.00	$800.00
DC District Court Survey	20	5	20.00	400.00
Total	60	15	20.00	1,200.00

EXHIBIT 3—ESTIMATED TOTAL AND ANNUALIZED COST

Cost component	Total cost	Annualized cost
Project Development.	N/A	N/A
Data Collection Activities.	$150.00	$150.00
Project Management.	N/A	N/A
Overhead	N/A	N/A
Total	150.00	150.00

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. 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. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. 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.

Dated: April 18, 2013.

Rorey Smith,

Deputy General Counsel, Court Services and Offender Supervision Agency.

[FR Doc. 2013–09506 Filed 4–22–13; 8:45 am]

BILLING CODE 3129–04–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Extension of Public Comment Period for the Notice of Intent To Prepare the Commonwealth of the Northern Mariana Islands Joint Military Training Environmental Impact Statement/Overseas Environmental Impact Statement

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: Marine Corps Forces, Pacific (MARFORPAC), as the Executive Agent designated by the United States (U.S.) Pacific Command (PACOM), is extending the public scoping comment period for the Commonwealth of the Northern Mariana Islands (CNMI) Joint Military Training Environmental Impact Statement (EIS)/Overseas EIS (OEIS) until May 13, 2013. A Notice of Intent (NOI) was published in the **Federal Register** on Thursday, March 14, 2013 (Vol. 78, No. 50, Pages 16257–16259). The Notice announced the initial public scoping comment period, including three public scoping meetings that took place on Wednesday, April 10, 2013; Thursday, April 11, 2013 and Friday, April 12, 2013. The public scoping meetings provided an opportunity for the public to obtain additional information and provide comments on the proposed action. The NOI requested the submission of all public scoping comments to MARFORPAC by April 29, 2013 Chamorro Standard Time (ChST). With this Notice, MARFORPAC is extending the public scoping comment period until May 13, 2013 (ChST).

FOR FURTHER INFORMATION CONTACT: Please visit the project Web site or contact the CNMI Joint Military Training EIS/OEIS Project Manager by telephone at 808–472–1253 or by email via the project Web site (*www.cnmijointmilitarytrainingeis.com*).

SUPPLEMENTARY INFORMATION: Pursuant to section (102)(2)(c) of the National Environmental Policy Act (NEPA) of 1969, as implemented by the Council on Environmental Quality Regulations (40 Code of Federal Regulations parts 1500–1508), and Executive Order 12114, and United States Marine Corps NEPA implementing regulations in Marine Corps Order P5090.2A, MARFORPAC, as the Executive Agent designated by PACOM, announces its intent to prepare an EIS/OEIS to evaluate the potential impacts associated with preliminary alternatives for meeting PACOM Service Components' unfilled unit level and combined level military training requirements in the Western Pacific. The proposed action is to establish a series of live-fire and maneuver Ranges and Training Areas (RTAs) within the CNMI to meet this purpose.

Existing Department of Defense RTAs and support facilities in the Western Pacific, particularly those in the Mariana Islands, are insufficient to support PACOM Service Components' U.S. Code (U.S.C.) Title 10 training requirements for the region. The expansion of existing RTAs and construction of new RTAs will satisfy identified training deficiencies for PACOM forces that are based in or regularly train in the Mariana Islands. These RTAs will be available to U.S. forces and their allies on a continuous and uninterrupted schedule. These RTAs are needed to support ongoing operational requirements, changes to U.S. force structure and geographic positioning of forces, and U.S. training relationships with allied nations.

MARFORPAC, as the Executive Agent, has invited the Federal Aviation Administration; International Broadcasting Bureau; U.S. Army Corps of Engineers; National Marine Fisheries Service; U.S. Fish and Wildlife Service; and U.S. Department of Interior, Office of Insular Affairs, to participate as cooperating agencies in the preparation of the EIS/OEIS. MARFORPAC has also developed a Memorandum of Understanding with the military services regarding their support and engagement in the development of the EIS/OEIS.

More information on the proposed action can be found on the previously published NOI (see **Federal Register** on March 14, 2013 (Vol. 78, No. 50, Pages 16257–16259)). Federal, State, and local agencies, elected officials, and other interested parties and individuals, are invited and encouraged to review and comment on proposed action. Comments on the proposed action can be submitted via the project Web site (*www.cnmijointmilitarytrainingeis.com*) or submitted in writing to: Naval Facilities Engineering Command, Pacific, Attn: EV21, CNMI Joint Military Training EIS/OEIS Project Manager, 258 Makalapa Drive, Suite 100, JBPHH, HI 96860–3134.

All comments must be postmarked or electronically dated on or before May 13, 2013 (ChST).

C.K. Chiappetta,

Lieutenant Commander, Office of the Judge Advocate General, U.S. Navy. Federal Register Liaison Officer.

[FR Doc. 2013–09498 Filed 4–22–13; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Application for New Awards; Education Research and Special Education Research Grant Programs

AGENCY: Institute of Education Sciences, Department of Education.

ACTION: Notice.

Overview Information: Education Research and Special Education Research Grants Notice inviting applications for new awards for fiscal year (FY) 2014.

Catalog of Federal Domestic Assistance (CFDA) Numbers: 84.305A, 84.305B, 84.305C, 84.305D, and 84.305H.

SUMMARY: The Director of the Institute of Education Sciences (Institute) announces the Institute's FY 2014 competitions for grants to support education research and special education research. The Director takes this action under the Education Sciences Reform Act of 2002. The Institute's purpose in awarding these grants is to provide national leadership in expanding fundamental knowledge and understanding of developmental and school readiness outcomes for infants and toddlers with or at risk for disability, and of education outcomes for all students from early childhood education through postsecondary and adult education.

DATES: The dates when applications are available and the deadlines for transmittal of applications invited under this notice are indicated in the chart at the end of this notice.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The central purpose of the Institute's research grant programs is to provide parents, educators, students, researchers, policymakers, and the general public with reliable and valid information

about education practices that support learning and improve academic achievement and access to education opportunities for all students. In carrying out its grant programs, the Institute provides support for programs of research in areas of demonstrated national need.

The Institute's National Center for Education Research (NCER) will hold five competitions: One competition for education research, one competition for education research training, one competition for education research and development centers, one competition for statistical and research methodology in education, and one competition for partnerships and collaborations focused on problems of practice or policy.

The Institute's National Center for Special Education Research (NCSER) will not hold competitions in FY 2014.

NCER Competitions

The Education Research Competition. Under this competition, NCER will consider only applications that address one of the following education research topics:

- Cognition and Student Learning
- Early Learning Programs and Policies
- Education Technology
- Effective Teachers and Effective Teaching
- English Learners
- Improving Education Systems: Policies, Organization, Management, and Leadership
- Mathematics and Science Education
- Postsecondary and Adult Education
- Reading and Writing
- Social and Behavioral Context for Academic Learning

The Education Research Training Competition. Under this competition, NCER will consider only applications that address one of the following three topics:

- Predoctoral Interdisciplinary Research Training
- Methods Training for Education Researchers
- Training in Education Research Use and Practice

The Education Research and Development Centers Competition. Under this competition, NCER will consider only applications that address one of the following two topics:

- Developmental Education Assessment and Instruction
- Knowledge Utilization

The Statistical and Research Methodology in Education Competition. Under this competition, NCER will consider only applications that address one of the following two topics:

- Statistical and Research Methodology Grants
- Early Career Statistical and Research Methodology Grants

Partnerships and Collaborations Focused on Problems of Practice or Policy Competition. Under this competition, NCER will consider only applications that address one of the following three topics:

- Researcher-Practitioner Partnerships in Education Research
- Continuous Improvement in Education Research
- Evaluation of State and Local Education Programs and Policies

NCSER Competitions

The Institute's National Center for Special Education Research will not hold competitions for FY 2014. The Director intends to use the grant slates developed in FY 2013 for the Special Education Research Grants program and the Accelerating the Academic Achievement of Students with Learning Disabilities Research Initiative to make new grant awards in FY 2014. The Director takes this action because significant numbers of high quality applications remain on the FY 2013 grant slates and limited funding will be available for new grant awards in FY 2014. We will select grantees in FY 2014 from the existing slates of applicants developed during the FY 2013 competitions. We expect to make 13 grant awards across the two NCSER competitions in FY 2013.

Authority: 20 U.S.C. 9501 *et seq.*

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 77, 80, 81, 82, 84, 86, 97, 98, and 99. (b) The Education Department suspension and debarment regulations in 2 CFR part 3485. (c) The EDGAR regulations in 34 CFR part 75, except for 34 CFR 75.100, 75.101(b), 75.102, 75.103, 75.105, 75.109(a), 75.200, 75.201, 75.209, 75.210, 75.211, 75.217(a)–(c), 75.219, 75.220, 75.221, 75.222, and 75.230.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

II. Award Information

Type of Award: Discretionary grants and cooperative agreements.

Fiscal Information: Although Congress has not yet enacted an appropriation for fiscal year 2014, the Institute is inviting applications for these competitions now so that it may give applicants adequate time to prepare their applications before the competitions take place. The Department may announce additional topics later in 2013. The actual award of grants will depend on the availability of funds. The size of the awards will depend on the scope of the projects proposed. The number of awards made under each competition will depend on the quality of the applications received for that competition, the availability of funds, and the following limits on awards for specific competitions and topics set by the Institute.

For the National Center for Education Research's Education Research Training competition, no more than five grants will be awarded under the Predoctoral Interdisciplinary Research Training topic because of the large amount of funding required by these awards.

For the National Center for Education Research's Education Research and Development Centers competition, no more than one grant will be awarded under the Developmental Education Assessment and Instruction topic and no more than one grant will be awarded under the Knowledge Utilization topic because the Center only intends to establish one center for each topic.

For the National Center for Education Research's Partnerships and Collaborations Focused on Problems of Practice or Policy competition, no more than four grants will be awarded under the Continuous Improvement in Education Research topic because this topic is being competed for the first time.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2015 from the list of unfunded applicants from this competition.

III. Eligibility Information

1. *Eligible Applicants:* Applicants that have the ability and capacity to conduct scientifically valid research are eligible to apply. Eligible applicants include, but are not limited to, non-profit and for-profit organizations and public and private agencies and institutions, such as colleges and universities.

2. *Cost Sharing or Matching:* These programs do not require cost sharing or matching.

IV. Application and Submission Information

1. *Request for Applications and Other Information:* Information regarding program and application requirements for the competitions will be contained in the NCER Requests for Applications (RFAs), which will be available at the following Web site: *http://ies.ed.gov/funding/.*

RFAs Available: The RFAs for the Education Research, Education Research Training, Education Research and Development Centers Competition,

Statistical and Research Methodology in Education, and the Partnerships and Collaborations Focused on Problems of Practice or Policy competitions will be available at the Web site listed above on or before May 2, 2013. The dates on which the application packages for these competitions will be available are indicated in the chart at the end of this notice.

The selection criteria, requirements concerning the content of an application, and review procedures for the competitions are contained in the RFAs. The RFAs also include information on the maximum award available under each grant competition. Applications that include proposed budgets higher than the relevant maximum award will not be considered for an award. The Director of the Institute may change the maximum amount through a notice in the **Federal Register**.

2. *Deadline for Transmittal of Applications:* The deadline dates for transmittal of applications invited under this notice are indicated in the chart at the end of this notice and in the RFAs for the competitions.

3. *Submission Requirements:* Each competition will have its own application. Applications for grants under these competitions must be obtained from and 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 V. 1. *Electronic Submission of Applications* in 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 VIII of this notice and the chart at the end of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

4. *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 CCR registration annually. This may take three or more business days to complete. Information about SAM is available at SAM.gov.

In addition, if you are submitting your application via Grants.gov, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with Grants.gov as an AOR. Details on these steps are outlined at the following Grants.gov Web page: *www.grants.gov/applicants/get_registered.jsp.*

V. Submission of Applications

Applications for grants under these competitions must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

1. *Electronic Submission of Applications.*

Applications for grants under the Education Research, Education Research Training, Education Research and Development Centers, Statistical and Research Methodology in Education, and the Partnerships and Collaborations Focused on Problems of Practice or Policy competitions, CFDA Numbers 84.305A, 84.305B, 84.305C, 84.305D, and 84.305H 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 applications for the Education Research, Education Research Training, Education Research and Development Centers, Statistical and Research Methodology in Education, and the Partnerships and Collaborations Focused on Problems of Practice or Policy competitions at *www.Grants.gov*. You must search for the downloadable application package for each competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (e.g., search for 84.305, not 84.305A).

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 the 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: Application for Federal Assistance (SF 424 Research & Related (R&R)) and the other R&R forms including, Project Performance Site Locations, Other Project Information, Senior/Key Person Profile (Expanded), Research and Related Budget (Total Federal and Non-Federal), and all necessary assurances and certifications.

• You must upload any narrative sections and all other attachments to your application as files in a PDF (Portable Document) read-only, non-modifiable format. Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF or submit a password-protected file, we will not review that material.

• Your electronic application must comply with any page-limit requirements described in this notice.

• After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by email. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).

• We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VIII 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: Ellie Pelaez, U.S. Department of Education, 555 New Jersey Avenue NW., Room 602e, Washington, DC 20208. FAX: (202) 219–1466.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

2. *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: *[Identify the CFDA number, including suffix letter, if any, for the competition under which you are applying.]*), 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.

3. *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: *[Identify the CFDA number, including suffix letter, if any, for the competition under which you are applying.]*), 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 10 of the SF 424 (R&R) 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.

VI. Application Review Information

1. *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).

2. *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.

VII. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Grant Administration:* Applicants should budget for a three-day meeting for project directors to be held in Washington, DC.

4. *Reporting:* (a) If you apply for a grant under one of the competitions announced in this notice, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

5. *Performance Measures:* To evaluate the overall success of its education research grant program, the Institute annually assesses the number of IES-supported interventions with evidence of efficacy in improving student outcomes including school readiness, academic outcomes (reading, writing, mathematics, and science), high school graduation and dropout, postsecondary enrollment and completion, and in enhancing teacher characteristics that have been shown to have a positive effect on student outcomes. For the special education research grant program, the Institute annually assesses the number of IES-supported interventions with evidence of efficacy in improving student outcomes in school readiness, academics, and behavior. The data for these annual measures are based on What Works Clearinghouse (WWC) reviews of initial findings on interventions from IES research grants, such as findings that will have been presented as papers at a convention or working papers provided to IES by its grantees. The WWC reviews these reports and rates them using the WWC published standards to determine whether the evidence from these research grants meets evidence standards of the WWC and demonstrates a statistically significant positive effect in improving the relevant outcome. The Institute also annually assesses the performance of its research training and special education research training programs by measuring the number of individuals who have been or are being trained in IES-funded research training programs and the number of fellows working in the field of education after they have completed the training program.

6. *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).

VIII. Agency Contact

FOR FURTHER INFORMATION CONTACT: The contact person associated with a particular research competition is listed in the chart at the end of this notice and in the RFA package. The date on which applications will be available, the deadline for transmittal of applications, the estimated range of awards, and the project period are also listed in the chart and in the RFAs that are posted at the following Web sites: *http://ies.ed.gov/funding/. www.ed.gov/about/offices/list/ies/programs.html.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service, toll free, at 1–800–877–8339.

IX. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the RFA package in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the appropriate program contact person listed in the chart at the end 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 this 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: April 18, 2013.

John Q. Easton,

Director, Institute of Education Sciences.

INSTITUTE OF EDUCATION SCIENCES

CFDA No. and name	Application package available	Deadline for transmittal of applications	Estimated range of awards*	Project period	For further information contact
National Center for Education Research (NCER)					
84.305A Education Research: ■ Cognition and Student Learning. ■ Early Learning Programs and Policies. ■ Education Technology. ■ Effective Teachers and Effective Teaching. ■ English Learners. ■ Improving Education Systems: Policies, Organization, Management, and Leadership. ■ Mathematics and Science Education. ■ Postsecondary and Adult Education. ■ Reading and Writing. ■ Social and Behavioral Context for Academic Learning.	June 6, 2013	September 4, 2013	$100,000 to $1,000,000.	Up to 5 years	Emily Doolittle. *Emily.Doolittle@ed.gov.*
84.305B Research Training Programs in the Education Sciences: ■ Predoctoral Interdisciplinary Research Training. ■ Methods Training for Education Researchers. ■ Training in Education Research Use and Practice.	June 6, 2013	September 4, 2013	$50,000 to $800,000	Up to 5 years	Meredith Larson. *Meredith.Larson@ed.gov.*
84.305C Education Research and Development Centers:					

INSTITUTE OF EDUCATION SCIENCES—Continued

CFDA No. and name	Application package available	Deadline for transmittal of applications	Estimated range of awards *	Project period	For further information contact
■ National Research and Development Center on Developmental Education Assessment and Instruction. ■ National Research and Development Center on Knowledge Utilization.	June 6, 2013	September 4, 2013	$1,000,000 to $2,000,000.	Up to 5 years	Rebecca McGill-Wilkinson. *Rebecca.McGill@ed.gov.*
84.305D Statistical and Research Methodology in Education: ■ Statistical and Research Methodology Grants. ■ Early Career Statistical and Research Methodology Grants.	June 6, 2013	September 4, 2013	$40,000 to $300,000	Up to 3 years	Phill Gagne. *Phill.Gagne@ed.gov.*
84.305H Partnerships and Collaborations Focused on Problems of Practice or Policy: ■ Researcher-Practitioner Partnerships in Education Research. ■ Continuous Improvement Research in Education. ■ Evaluation of State and Local Education Programs and Policies.	June 6, 2013	September 4, 2013	$100,000 to $1,000,000.	Up to 5 years	Allen Ruby. *Allen.Ruby@ed.gov.*

* These estimates are annual amounts.
Note: The Department is not bound by any estimates in this notice.

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DEPARTMENT OF ENERGY

Extension of the Public Comment Period for the Draft Uranium Leasing Program Programmatic Environmental Impact Statement

AGENCY: Department of Energy.

ACTION: Extension of the public comment period.

SUMMARY: The U.S. Department of Energy (DOE) is extending the public comment period for the Draft *Uranium Leasing Program Programmatic Environmental Impact Statement* (Draft ULP PEIS, DOE/EIS–0472D), made available for public comment on March 15, 2013 (78 FR 16500). The public comment period for the Draft ULP PEIS was to complete on May 16, 2013, and has now been extended to close on May 31, 2013. This extension is being made in response to a public request for additional review time.

DATES: The public comment period will close on May 31, 2013. Comments received after the end of the comment period will be considered to the extent practicable.

ADDRESSES: The Draft ULP PEIS is available for review on the ULP PEIS Web site at *http://ulpeis.anl.gov/* or the DOE NEPA Web site at *http://www.energy.gov/nepa.* Please direct written comments on the Draft ULP PEIS to Mr. Raymond Plieness, ULP PEIS Document Manager, Office of Legacy Management, U.S. Department of Energy, 11025 Dover Street, Suite 1000, Westminster, CO 80021. Comments may also be submitted via email to *ulpeis@anl.gov* or via the internet at *http://ulpeis.anl.gov/.* DOE will give equal weight to written, email, and oral comments. Questions regarding the ULP PEIS process, requests to be placed on the ULP PEIS mailing list, and requests for copies of the document should be directed to Mr. Plieness.

For general information about the NEPA process, please contact: Ms. Carol M. Borgstrom, Director, Office of NEPA Policy and Compliance, GC–54, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, Telephone: (202) 586–4600, leave a message at 1–800–472–2756, or send an email to Ask *NEPA@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: DOE has scheduled four public hearings on the Draft ULP PEIS at the following locations, dates, and times:

• Grand Junction, Colorado, April 22, 2013 from 6:30 to 9 p.m. at the Colorado Mesa University, University Center Ballroom, 1455 N. 12th St., Grand Junction, CO.

• Montrose, Colorado, April 23, 2013 from 6:30 to 9 p.m. at the Johnson

Elementary School, 13820 6700 Road, Montrose, CO.

• Telluride, Colorado, April 24, 2013 from 6:30 to 9 p.m. at the Telluride Middle/High School, 725 W Colorado Avenue, Telluride, CO.

• Naturita, Colorado, April 25, 2013 from 6:30 to 9 p.m. at the Naturita School, 141 W Main St., Naturita, CO.

The public hearings will begin with an open-house format with subject matter experts from DOE available to answer questions on the ULP and Draft ULP PEIS. Individuals who would like to present comments verbally at these hearings should register upon arrival at the hearing or register via the internet at *http://ulpeis.anl.gov/* before the public hearing dates. Members of the general public are invited to attend the hearings at their convenience any time during hearing hours and submit their comments in writing, or in person to a court reporter.

Issued in Washington, DC, on April 17, 2013.

David Geiser,

Director, DOE-Office of Legacy Management.

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BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9804–1]

Forms and Procedures for Submitting Attest Engagements Under Various Subparts

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA's Office of Transportation and Air Quality (OTAQ) is announcing that attest engagements reports due on or after May 8, 2013 must be submitted via EPA's Central Data Exchange (CDX). The substance of the attest engagement report itself is unchanged. EPA is switching to all-electronic reporting using the Central Data Exchange (CDX) because it is simple, cost effective, and efficient. As of May 8, 2013, parties will no longer be permitted to submit attest engagements via any method but CDX. This notice affects parties subject to attest engagement requirements of fuels programs, including reformulated gasoline, anti-dumping, gasoline sulfur, benzene content, and the renewable fuel standard.

DATES: The attest engagement procedures described in this notice are effective starting with attest engagements due or submitted to EPA on or after May 8, 2013.

FOR FURTHER INFORMATION CONTACT: Scott Christian, Environmental Engineer, Environmental Protection Agency, 1200 Pennsylvania Avenue NW. (6406J), Washington, DC 20460; telephone number: 202–343–9498; fax number: 202–343–2800; email address: *support@epamts-support.com.*

SUPPLEMENTARY INFORMATION:

I. Does this notice apply to me?

This action affects regulated parties who submit attest engagements to EPA under various 40 C.F.R. Part 80 programs, including the reformulated gasoline, anti-dumping, gasoline sulfur, and benzene programs, and the renewable fuel standard. The specific programs and forms affected are discussed in *Section III—What Reports Must Be Submitted via CDX?* Reports due or submitted to EPA on or after May 8, 2013 must be submitted to the OTAQ Fuels Reporting System via the EPA Central Data Exchange (CDX). As of that date, regulated parties will no longer be permitted to submit attest engagements by any method other than CDX (e.g. EPA will no longer accept reports sent by mail). This notice also affects the resubmission of any attest engagement report to EPA, if the resubmission occurs on or after May 8, 2013. If you have further questions regarding the applicability of this action to a particular party, please contact the person listed in **FOR FURTHER INFORMATION CONTACT.**

II. Why is EPA switching to all-electronic submission of attest engagements using CDX?

The Central Data Exchange (CDX) enables fast, efficient, and secure submission of data to EPA. The EPA Administrator designated CDX in the Cross-Media Electronic Reporting Regulation (CROMERR), 40 CFR part 3, published in the **Federal Register** on October 13, 2005 (70 FR 59848) (FRL–7977–1). CROMERR provides the legal framework for electronic reporting under EPA's regulations, and requires any regulated entity that submits electronic documents directly to EPA to use CDX or an alternative system designated by the Administrator. CDX provides a single, centralized point of access for regulated entities to submit information electronically to EPA; and ensures the legal dependability of electronically submitted documents and provide a secure environment for data exchange.

Among the advantages offered by CDX are the following features, which will improve submission and handling of attest engagements required under various 40 CFR Part 80 fuels programs. CDX allows parties to:

• Submit data through one centralized and secure point of access;

• Receive confirmation from EPA when submissions are received;

• Identify and download a copy of record of what was submitted

• Submit data in a variety of formats including Excel and flat-file; and

• Reduce costs associated with submitting and processing data submissions.

• EPA does not charge the regulated party to set up a CDX account.

All active regulated parties subject to 40 CFR Part 80 already have CDX accounts and EPA's reporting forms and procedures already specify the submission of compliance reports using CDX. However, to date we have only permitted the submission of attest engagement reports by mail. Attest engagement reports due or submitted on or after May 8, 2013, may not be submitted by mail, and must be submitted using CDX.

There are several reasons for eliminating alternative submission options. Physical media such as paper, CDs, and diskettes submitted to EPA via postal mail is irradiated for security reasons, and is often damaged as a result. This type of damage cannot occur with a CDX transmission. Storing paper and physical media associated with attest engagements requires a significant amount of secure storage space. With CDX, no superfluous paper record or physical object requiring special storage is generated by the submitter. EPA is able to more quickly and efficiently process reports received through CDX, and the amount of paper and physical media that must be utilized, reviewed, stored, and eventually archived, is greatly reduced. Costs associated with physical storage are also reduced.

EPA believes there is no reason to provide for alternatives to CDX and that exclusive use of CDX will increase efficiency and lower the costs associated with the submission and processing of attest engagements. It will also enhance the availability and integrity of information stored in our compliance database. Attest engagement reports are generally not publicly available (since they often contain information claimed as confidential business information by the submitter), but the data must be made available to EPA program and enforcement personnel. By utilizing CDX, information is entered into our compliance database and available for use much more quickly. By fully utilizing CDX, we expect not only

enhanced availability, but enhanced data integrity as well. Parties using CDX are able to submit data in common file formats (including portable document format).

Requirements for submission of attest engagement reports via CDX are consistent with EPA, and government-wide, efforts to encourage secure electronic reporting and reduce costs associated with the processing and storage of paper formats and accompanying physical media. Since all active reporting parties already have CDX accounts and all other quarterly and annual compliance reports for these programs are required to be submitted via CDX we no longer believe attest engagement reports should be physically mailed to EPA. Any party requiring a new CDX account may set up an account at *http://cdx.epa.gov/epa_home.asp*.

III. What reports must be submitted via CDX?

Attest engagement reports submitted in accordance with 40 CFR Part 80, subparts D, E, F, H, J, L and M (including, but not limited to those attest engagement reports required under 40 CFR 80.125 through 80.130, 80.415, 80.1035, 80.1356 and 80.1464.) must be submitted via CDX, starting with reports due on or after May 31, 2013.

IV. Useful References

The following Web pages provide information about CDX and provide information, instructions, and tutorials to assist parties in submitting reports to EPA:

- General Information about the EPA Central Data Exchange (CDX)—*https://cdx.epa.gov/About/AboutRegulation*
- Submitting Reports—Central Data Exchange—*http://www.epa.gov/otaq/fuels/reporting/cdx.htm*
- Office of Transportation and Air Quality (OTAQ)—DCFUEL Registration Quick Start Guide (PDF)—*http://www.epa.gov/otaq/regs/fuels/420b11028b.pdf*
- Office of Transportation and Air Quality (OTAQ) DCFUEL User Guide (PDF)—*http://www.epa.gov/otaq/regs/fuels/420b11027b.pdf*
- Office of Transportation and Air Quality (OTAQ) DCFUEL Submission Quick Start Guide (PDF)—*http://www.epa.gov/otaq/regs/fuels/420b11029.pdf*
- DCFUEL On-Line Reporting Tutorial—*http://www.epa.gov/otaq/fuels/reporting/dcfuelstutorial/dcfuels.htm*

List of Subjects

Environmental protection; Administrative practice and procedure; Air pollution control; Confidential business information; Diesel fuel; Fuel additives; Gasoline; Imports; Motor vehicle pollution; Reporting and recordkeeping requirements; Attest engagements; Agreed upon procedures reports.

Dated: April 3, 2013.

Byron J. Bunker,

Director, Compliance Division, Office of Transportation and Air Quality.

[FR Doc. 2013–09534 Filed 4–22–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9805–3]

EPA Office of External Affairs and Environmental Education; Cancellation of the National Environmental Education Advisory Council Meetings Scheduled for May 22, 2013 and June 19th, 2013

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The U.S. Environmental Protection Agency (EPA or Agency) Office of External Affairs and Environmental Education (OEAEE) is issuing this notice to cancel the May 22, 2013 NEEAC Teleconference and the June 19th, 2013 NEEAC teleconference. The notice of this meeting was previously published in the **Federal Register** on February 21, 2013. FR Doc No: 2013–04028

FOR FURTHER INFORMATION CONTACT: For information regarding this cancellation of the meetings, please contact Mr. Javier Araujo, Designated Federal Officer (DFO), EPA National Environmental Education Advisory Council, at (202) 564–2642 or email at: *Araujo.javier@epa.gov*

Dated: April 11, 2013.

Javier Araujo,

Designated Federal Officer.

[FR Doc. 2013–09552 Filed 4–22–13; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection(s) Being Submitted for Review and Approval to the Office of Management and Budget (OMB)

AGENCY: Federal Communications Commission.

ACTION: Notice and 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. 3502–3520), 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 estimates; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid 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 23, 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 Nicholas A. Fraser, Office of Management and Budget (OMB), via fax at 202–395–5167 or via Internet at *Nicholas_A._Fraser@omb.eop.gov<mailto:Nicholas_A._Fraser@omb.eop.gov>* and 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<mailto:PRA@fcc.gov>.*

FOR FURTHER INFORMATION CONTACT: Judith B. Herman, Office of Managing Director, FCC, at 202–418–0214.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0496.

Title: ARMIS Operating Data Report.

Report No.: FCC Report 43–08.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 55 respondents; 55 responses.

Estimated Time per Response: 139 hours.

Frequency of Response: Annual reporting requirements.

Obligation to Respond: Mandatory. Statutory authority for this information collection is contained in 47 U.S.C. 11, 219(b) and 220 of the Communications Act of 1934, as amended.

Total Annual Burden: 7,645 hours.

Total Annual Cost: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: In most cases, ARMIS reports do not require submission of any confidential or commercially-sensitive data. The areas in which detailed information is required are fully subject to regulation. If a respondent finds it necessary to submit a confidential or commercially-sensitive data request, 47 CFR 0.459 of the Commission's rules contains the procedures for requesting confidential treatment of data.

Needs and Uses: The Commission will submit this expiring information collection after this comment period to obtain the full, three year clearance from the Office of Management and Budget (OMB). The Commission is requesting approval for an extension (no change in the reporting requirement). There is no change to the Commission's previous burden estimates.

The ARMIS (Automated Reporting Management Information System) reporting requirements were established by the Commission in 1987 to facilitate the timely and efficient analysis of carrier operating costs and rates of return that provide an improved basis for audits and other oversight functions; and to enhance the Commission's ability to quantify the effects of alternative policy proposals. Additional ARMIS Reports were added in 1991 and 1992. Certain incumbent local exchange carriers (LECs) were required to submit the ARMIS Reports to the Commission annually on or before April 1. *See Reporting Requirements of Certain Class A and Tier 1 Telephone Companies (Parts 31, 43, 67 and 69 of the Commission's rules) CC Docket No. 86–182, Order, 2 FCC Rcd 5770 (1987), modified on recon. 3 FCC Rcd 6375 (1988*); *see also 47 CFR Part 43, Sections 43.21.*

The information contained in FCC Report 43–08 has helped the Commission fulfill its regulatory responsibilities. These data facilitate the timely and efficient analysis of revenue requirements, rates of return and price caps, provide an improved basis for auditing and other oversight functions, and enhance the Commission's ability to quantify the effects of policy proposals. Automated reporting of these data also augments the Commission's ability to process and analyze the extensive amount of data provided in the reports.

The Commission has granted AT&T, Verizon, legacy Qwest and other similarly-situated carriers forbearance from FCC Report 43–08, except for Table III, columns FC, FD, FE and FI, business line count information. See Petition of AT&T Inc. for Forbearance under *47 U.S.C. 160 from Enforcement of Certain of the Commission's Cost Assignment Rules, WC Docket Nos. 07–21, 05–342, Memorandum Opinion and Order, 23 FCC Rcd 7302 (2008)* (AT&T Cost Assignment Forbearance Order), pet. for recon pending, pet.for review pending, NASUCA v. FCC, Case No. 08–1226 (D.C. Cir. Filed June 23, 2008); Service Quality, Customer Satisfaction, Infrastructure and Operating Data Gathering, WC Docket Nos. 08–190, 07–139, 07–204, 07–273, 07–21, Memorandum Opinion and Order and Notice of Proposed Rulemaking, *23 FCC Rcd 13747* (2008) (Verizon/Qwest Cost Assignment Forbearance Order), pet. for recon. pending, pet. for review pending, *NASCUA* v. *FCC,* Case No. 08–1353 (D.C. Cir. Filed Nov. 4, 2008).

Despite this forbearance, the Commission seeks OMB approval for the extension of this information collection for three years because petitions for reconsideration and review of those forbearance decisions are currently pending before the Commission and the U.S. Court of Appeals for the D.C. Circuit.

OMB Control Number: 3060–0816.

Title: Local Telephone Competition and Broadband Reporting (Report and Order, WC Docket No. 07–38, FCC 08–89; Order on Reconsideration, WC Docket No. 07–38 FCC 08–148).

Form Number: FCC Form 477.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities, not-for-profit institutions and state, local or tribal government.

Number of Respondents: 1,980 respondents; 3,960 responses.

Estimated Time per Response: 296 hours.

Frequency of Response: Semi-annual reporting requirement.

Obligation to Respond: Mandatory. Statutory authority for this information collection is contained in 47 U.S.C. 4(i), 201, 218–220, 251–252, 271, 303(r), 332, and 403 of the Communications Act of 1934, as amended and section 706 of the Telecommunications Act of 1996, as amended, codified in section 1302 of the Broadband Data Improvement Act, 47 U.S.C. section 1302.

Total Annual Burden: 1,172,160 hours.

Total Annual Cost: N/A.

Privacy Impact Assessment: N/A.

Nature and Extent of Confidentiality: The Commission will continue to allow respondents to certify, on the first page of the each submission, that some data contained in that submission are privileged or confidential commercial or financial information and that disclosure of such information would likely cause substantial harm to the competitive position of the entity making the submission. If the Commission receives a request for, or proposes to disclose the information, the respondent would be required to show, pursuant to Commission rules for withholding from public inspection information submitted to the Commission, that the information in question is entitled to confidential treatment. We will retain our current policies and procedures regarding the confidential treatment of submitted FCC Form 477 data, including use of the aggregated, non-company specific data in our published reports.

Needs and Uses: The Commission will submit this expiring information collection after this comment period to obtain the full, three year clearance from the Office of Management and Budget (OMB). The Commission is requesting approval for an extension (no change in the reporting requirements. There are changes to the Commission's previous burden estimates. The Commission has increased the estimated average time per response for this information collection from 289 hours to 296 hours. The adjustment is also due to the increased number of respondents and their types of operations, (e.g., interconnected VoIP service providers with multi-state operations.) There is no change to the FCC Form 477.

FCC Form 477 gathers information on the development of local telephone competition including telephone services and interconnected Voice over Internet Protocol (VoIP) services, and on the deployment of broadband also

known as advanced telecommunications services.

The data are necessary to evaluate the status of competition in local telecommunications services markets and to evaluate the status of broadband deployment. The information is used by the FCC staff to advice the Commission about the efficacy of Commission rules and policies adopted to implement the Telecommunications Act of 1996.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison, Office of the Secretary, Office of Managing Director.

[FR Doc. 2013–09444 Filed 4–22–13; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: The Federal Communications Commission (FCC), as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act (PRA) of 1995. Comments are requested concerning whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before June 24, 2013. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to the Federal Communications Commission via email to *PRA@fcc.gov* and *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0668.

Title: Section 76.936, Written Decisions.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for profit entities; State or Local, or Tribal government.

Number of Respondents and Responses: 600 respondents; 600 responses.

Estimated Hours per Response: 1 hour.

Frequency of Response: Third party disclosure requirement; On occasion reporting requirement.

Total Annual Burden: 600 hours.

Total Annual Costs: None.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Section 4(i) of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: There is no need for confidentiality required with this collection of information.

Privacy Impact Assessment: No impact(s).

Needs and Uses: 47 CFR 76.936 states that a franchising authority must issue a written decision in a rate-making proceeding whenever it disapproves an initial rate for the basic service tier or associated equipment in whole or in part, disapproves a request for a rate increase in whole or in part, or approves a request for an increase whole or in part over the objection of interested parties. Franchising authorities are required to issue a written decision in rate-making proceedings pursuant to Section 76.936 so that cable operators and the public are made aware of the proceeding.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison, Office of the Secretary, Office of Managing Director.

[FR Doc. 2013–09546 Filed 4–22–13; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection(s) Being Submitted for Review and Approval to the Office of Management and Budget (OMB)

AGENCY: Federal Communications Commission.

ACTION: Notice; request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burden and as required b y the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3502–3520), 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 estimates; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid 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 23, 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 Nicholas A. Fraser, Office of Management and Budget (OMB), via fax at 202–395–5167 or via Internet at

Nicholas_A._Fraser@omb.eop.gov <mailto:Nicholas_A._Fraser@omb.eop.gov> and 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 <mailto:PRA@fcc.gov>.*

FOR FURTHER INFORMATION CONTACT: Judith B. Herman, Office of Managing Director, FCC, at 202–418–0214.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0719.

Title: Quarterly Report of Local Exchange Carriers Listing Payphone Automatic Number Identifications (ANIs).

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 400 respondents; 1,600 responses.

Estimated Time per Response: 3.5 hours (8 hours for the initial submission; 2 hours per subsequent submission—for an average of 3.5 hours per response).

Frequency of Response: Quarterly reporting requirement, recordkeeping requirement and third party disclosure requirement.

Obligation to Respond: Mandatory. Statutory authority for this information collection is contained in 47 U.S.C. sections 151, 154, 201–205, 215, 218, 219, 220, 226 and 276 of the Communications Act of 1934, as amended.

Total Annual Burden: 5,600 hours.

Total Annual Cost: N/A.

Privacy Impact Assessment: N/A.

Nature and Extent of Confidentiality: The Commission is not requesting respondents to submit confidential information to the Commission. If the respondents wish confidential treatment of their information, they may request confidential treatment under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission will submit this expiring information collection during this comment period to obtain the full, three year clearance from the Office of Management and Budget (OMB). The Commission is requesting approval for an extension (no change in the reporting and/or third party disclosure requirements). There is no change to the Commission's previous burden estimates.

The Commission adopted rules and policies governing the payphone industry under section 276(b)(1)(A) of the Telecommunications Act of 1996 (the Act) and established ''a per call compensation plan to ensure that all payphone service providers are fairly compensated for each and every completed intrastate and interstate call.'' Pursuant to this mandate and as required by section 64.1310(d) of the Commission's rules, Local Exchange Carriers (LECs) must provide to carriers required to pay compensation pursuant to section 64.1300(a), a quarterly report listing payphone ANIs. Without provision of this report, resolution of disputed ANIs would be rendered very difficult. Carriers would not be able to discern which ANIs pertain to payphones and therefore would not be able to ascertain which dial-around calls were originated by payphones for compensation purposes. There would be no way to guard against possible fraud. Without this collection, lengthy investigations would be necessary to verify claims. The report allows carriers to determine which dial-around calls are made from payphones.

Without this collection, lengthy investigations would be necessary to verify claims. The report allows carriers to determine which dial-around calls are made from payphones. The information must be provided to third parties. The requirement would be used to ensure that LECs and the carriers required to pay compensation pursuant to 47 CFR 64.1300(a) of the Commission's rules, comply with their obligations under the Telecommunications Act of 1996.

OMB Control Number: 3060–0895.

Title: Numbering Resource Optimization.

Form Number: FCC Form 502.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities and state, local or tribal government.

Number of Respondents: 2,780 respondents; 7,385 responses.

Estimated Time per Response: 1 hour to 44.4 hours

Frequency of Response: On occasion and semi-annual reporting requirements and recordkeeping requirement.

Obligation to Respond: Mandatory. Statutory authority for this information collection is contained in 47 U.S.C. 151, 153, 154, 201–205 and 251 of the Communications Act of 1934.

Total Annual Burden: 131,782 hours.

Total Annual Cost: $3,462,800.

Privacy Impact Assessment: N/A.

Nature and Extent of Confidentiality: Disaggregated, carrier specific forecast and utilization data will be treated as confidential and will be exempt from public disclosure under 5 U.S.C. 552(b)(4).

Needs and Uses: The Commission will submit this expiring information collection after this comment period to obtain the full, three year clearance from the Office of Management and Budget (OMB). There are no changes to the reporting and/or recordkeeping requirements. There are no changes to the Commission's previous burden estimates.

The data collected on FCC Form 502 helps the Commission manage the ten-digit North American Numbering Plan (NANP), which is currently being used by the United States and 19 other countries. Under the Communications Act of 1934, as amended, the Commission was given ''exclusive jurisdictions over those portions of the North American Numbering Plan that pertains to the United States.'' Pursuant to that authority, the Commission conducted a rulemaking in March 2000 that the Commission found that mandatory data collection is necessary to efficiently monitor and manage numbering use. The Commission received OMB approval for this requirement and the following:

(1) Utilization/Forecast Report;

(2) Application for initial numbering resource;

(3) Application for growth numbering resources;

(4) Recordkeeping requirement;

(5) Notifications by state commissions;

(6) Demonstration to state commission; and

(7) Petitions for additional delegation of numbering authority.

The data from this information collection is used by the FCC, state regulatory commissions, and the NANPA to monitor numbering resource utilization by all carriers using the resource and to project the dates of area code and NANP exhaust.

OMB Control Number: 3060–0942.

Title: Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Low-Volume Long Distance Users, Federal-State Joint Board on Universal Service.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 20 respondents; 20 responses.

Estimated Time per Response: 2–15 hours.

Frequency of Response: Annual reporting requirements, third party disclosure requirements and recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection

is contained in 47 U.S.C. sections 1, 4(i), and (j), 201–209, 218–222, 254 and 403.

Total Annual Burden: 56 hours.

Total Annual Cost: No cost.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: The Commission is not requesting respondents to submit confidential information to the Commission. If the Commission requests respondents to submit information to the Commission that the respondents believe are confidential, respondents may wish request confidential treatment of such information pursuant to 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission will submit this expiring information collection to the Office of Management and Budget (OMB) as a revision after this comment period in order to obtain the full three year clearance from them.

The Commission adopted a *Report and Order,* FCC 00–193, which required the Commission to take further action to further accelerate the development of competition in the local and long-distance telecommunications markets, and to further establish explicit universal service support that will be sustainable in an increasingly competitive marketplace, pursuant to the mandate of the Telecommunications Act of 1996.

The Commission requires the following information to be reported to the following entities under the Coalitions for Affordable Local and Long Distance Service (CALLS) Proposal: (1) Modified tariff filings with the Commission; (2) quarterly and annual data filings (line counts, price cap and revenue data); and (3) cost support information. In the USF/ICC Transformation Order, FCC 11–161, the Commission eliminated the remaining universal service data filings previously contained in this information collection. The burdens associated with those filings are being removed from this information collection.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison, Office of the Secretary, Office of Managing Director.

[FR Doc. 2013–09443 Filed 4–22–13; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection Renewals; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on the renewal of existing information collections, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). Currently, the FDIC is soliciting comment on renewal of the information collection described below.

DATES: Comments must be submitted on or before June 24, 2013.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- *http://www.FDIC.gov/regulations/laws/federal/notices.html.*
- *Email: comments@fdic.gov* Include the name of the collection in the subject line of the message.
- *Mail:* Gary A. Kuiper (202.898.3877), Counsel, Room NYA–5046, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.

All comments should refer to the relevant OMB control number. A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Gary A. Kuiper, at the FDIC address above.

SUPPLEMENTARY INFORMATION: *Proposal to renew the following currently-approved collections of information:*

1. *Title:* Securities of Insured Nonmember Banks.

OMB Number: 3064–0030.

Form Numbers: 6800/03, 6800/04, and 6800/05.

Affected Public: Generally, any person subject to section 16 of the Securities Exchange Act of 1934 with respect to securities registered under 12 CFR part 335.

Estimated Number of Respondents: Form 6800/03–57; Form 6800/04–296; Form 6800/05–68.

Estimated Time per Response: Form 6800/03–1 hour; Form 6800/04–30 minutes; Form 6800/05–1 hour.

Frequency of Response: Form 6800/03–annually; Form 6800/04–quarterly; Form 6800/05–annually.

Total estimated annual burden: 717 hours

General Description of Collection: FDIC bank officers, directors, and persons who beneficially own more than 10% of a specified class of registered equity securities are required to publicly report their transactions in equity securities of the issuer.

2. *Title:* Activities and Investments of Savings Associations

OMB Number: 3064–0104.

Form Number: None.

Affected Public: Insured financial institutions.

Estimated Number of Respondents: 75.

Frequency of Response: On occasion.

Estimated Annual Burden Hours per Response: 5 hours.

Total estimated annual burden: 375 hours

General Description of Collection: Section 28 of the FDI Act (12 U.S.C. 1831e) imposes restrictions on the powers of savings associations, which reduce the risk of loss to the deposit insurance funds and eliminate some differences between the powers of state associations and those of federal associations. Some of the restrictions apply to all insured savings associations and some to state chartered associations only. The statute exempts some federal savings banks and associations from the restrictions, and provides for the FDIC to grant exemptions to other associations under certain circumstances. In addition, Section 18(m) of the FDI Act (12 U.S.C. 1828(m)) requires that notice be given to the FDIC prior to an insured savings association (state or federal) acquiring, establishing, or conducting new activities through a subsidiary.

3. *Title:* Forms Relating to Outside Counsel, Legal Support & Expert Services.

OMB Number: 3064–0122.

Affected Public: Insured financial institutions.

Estimated Number of Respondents and Burden Hours:

FDIC document	Estimated number of respondents	Estimated hours per response	Hours of burden
5000/26	85	.50	42.5
5000/31	376	.50	188
5000/33	63	.50	31.5
5000/35	722	.50	361
5200/01	500	.75	375
5210/01	100	.50	50
5210/02	55	.50	22.5
5210/03	50	1.0	50
5210/03A	50	1.0	50
5210/04	200	1.0	200
5210/04A	200	1.0	200
5210/06	100	1.0	100
5210/06(A)	100	1.0	100
5210/08	240	.50	120
5210/09	100	1.0	100
5210/10	100	1.0	100
5210/10(A)	100	1.0	100
5210/11	100	1.0	100
5210/12	100	1.0	100
5210/12A	100	1.0	100
5210/14	100	.50	50
5210/15	25	.50	12.5
Total	3,566		2,553

General Description of Collection: The information collected enables the FDIC to ensure that all individuals, businesses and firms seeking to provide legal support services to the FDIC meet the eligibility requirements established by Congress. The information is also used to manage and monitor payments to contractors, document contract amendments, expiration dates, billable individuals, minority law firms, and to ensure that law firms, experts, and other legal support services providers are in compliance with statutory and regulatory requirements.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Dated at Washington, DC, this 18th day of April 2013. Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2013–09544 Filed 4–22–13; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Proposed Agency Information Collection Activities: Proposed Collection Renewal; Comment Request Re Appraisal Standards

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity, as required by the Paperwork Reduction Act of 1995 (4 U.S.S. chapter 35), to comment on renewal of its information collection entitled, ''Appraisal Standards'' (OMB No. 3064–0103).

DATES: Comments must be submitted on or before June 24, 2013.

ADDRESSES: Interested parties are invited to submit written comments. All comments should refer to the name of the collection. Comments may be submitted by any of the following methods:

- *http://www.FDIC.gov/regulations/laws/federal/propose.html.*
- *Email: comments@fdic.gov.*
- *Mail:* Leneta G. Gregorie (202.898.3719), Counsel, Federal Deposit Insurance Corporation, 550 17th Street NW., Room NY–5050, Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.

A copy of the comments may also be submitted to the FDIC Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For further information about this information collection, please contact Leneta G. Gregorie, by telephone at (202) 898–3719 or by mail at the address identified above. In addition, copies of the forms contained in the collection can be obtained at the FDIC's Web site: *http://www.fdic.gov/regulations/laws/federal/notices.html.*

SUPPLEMENTARY INFORMATION: The FDIC is requesting OMB approval to renew the following information collection:

Title: Appraisal Standards.
OMB Number: 3064–0103.
Form Number: None.
Number of respondents: 4941.
Frequency of response: 56.1829.
Number of responses: 277,600.
Burden per respondent: 45 minutes.
Total annual burden: 208,200 hours.
General Description of Collection: This collection is provided for in 12 CFR part 323 of FDIC's regulations. Part 323 implements a portion of Title XI of

the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (''FIRREA''). Title XI of FIRREA is designed to provide protection for federal financial and public policy interests by requiring real estate appraisals used in connection with federally related transactions to be performed in writing, in accordance with uniform standards, by an appraiser whose competency has been demonstrated and whose professional conduct will be subject to effective supervision.

Request for Comment

Comments are invited on: (a) Whether these collections of information are necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimate of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Dated at Washington, DC, this 18th day of April, 2013.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2013–09523 Filed 4–22–13; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than May 8, 2013.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *LAF—GW Investments, LLC (''LAF–GW''), an Arkansas limited liability company, individually, with Stephen L. LaFrance, Jr., Little Rock, Arkansas, as the sole manager, and LAF–GW and Stephen L. LaFrance, Jr., together as a group acting in concert with JSJ Properties, LLC, a Missouri limited liability company, with Stephen L. LaFrance, Jr., Jason P. LaFrance, and Joe Courtright, both of Little Rock, Arkansas, as managers, LAF Brothers Properties, LLC, an Arkansas limited liability company, with Stephen L. LaFrance, Jr. and Jason P. LaFrance as managers, the Stephen L. LaFrance, Sr. GW Investments Trust, with Stephen L. LaFrance, Jr. and Jason P. LaFrance as trustees, Jason P. LaFrance, and the Amy LaFrance Bancroft GW Investments Trust, with Stephen L. LaFrance, Sr.,* Pine Bluff, Arkansas, as trustee, to acquire voting shares of Greenwoods Financial Group, Inc., and thereby indirectly acquire voting shares of The Greenwood's State Bank, both in Lake Mills, Wisconsin.

B. Federal Reserve Bank of Minneapolis (Jacqueline G. King, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *The Traxshares Trust U/A dated December 5, 2012, (''Trust'') and Greg Gerard Traxler,* Le Center, Minnesota, individually and as Co-Trustee, to retain voting shares of Traxshares, Inc., and thereby indirectly retain voting shares of The First National Bank of Le Center, both in Le Center, Minnesota.

Board of Governors of the Federal Reserve System, April 18, 2013.

Margaret McCloskey Shanks,

Deputy Secretary of the Board.

[FR Doc. 2013–09501 Filed 4–22–13; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than May 7, 2013.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Daniel Kumley, Mount Vernon, Iowa, Matthew Kumley, Monticello, Iowa, and Sarah Jones,* Dyer, Indiana, to join the Audrey G. Savage Family Control group and thereby acquire voting shares of Herky Hawk Financial Corp., and thereby indirectly acquire voting shares of Citizens State Bank, both in Monticello, Iowa.

Board of Governors of the Federal Reserve System, April 17, 2013.

Michael J. Lewandowski,

Assistant Secretary of the Board.

[FR Doc. 2013–09424 Filed 4–22–13; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications

must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 17, 2013.

A. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street NE., Atlanta, Georgia 30309:

1. *CedarStone Financial, Inc.,* Lebanon, Tennessee; to become a bank holding company by acquiring CedarStone Bank, Lebanon, Tennessee.

Board of Governors of the Federal Reserve System, April 18, 2013.

Margaret McCloskey Shanks,

Deputy Secretary of the Board.

[FR Doc. 2013–09502 Filed 4–22–13; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 17, 2013.

A. Federal Reserve Bank of Dallas (E. Ann Worthy, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *FBC Bancshares, Inc.,* Conroe, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of First Bank, N.A., Conroe, Texas.

Board of Governors of the Federal Reserve System, April 17, 2013.

Michael J. Lewandowski,

Assistant Secretary of the Board.

[FR Doc. 2013–09423 Filed 4–22–13; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0032; Docket 2012–0076; Sequence 66]

Federal Acquisition Regulation; Information Collection; Contractor Use of Interagency Fleet Management System Vehicles

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning contractor use of interagency fleet management system vehicles per the Federal Acquisition Regulation (FAR) 51.2 and clause 52.251–2.

DATES: Submit comments on or before June 24, 2013.

ADDRESSES: Submit comments identified by Information Collection 9000–0032, Contractor Use of Interagency Fleet Management System Vehicles, by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching the OMB control number. Select the link ''Submit a Comment'' that corresponds with ''Information Collection 9000–0032, Contractor Use of Interagency Fleet Management System Vehicles''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 9000–0032, Contractor Use of Interagency Fleet Management System Vehicles'' on your attached document.
- *Fax:* 202–501–4067.
- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street NE., Washington, DC 20417. ATTN: Hada Flowers/IC 9000–0032, Contractor Use of Interagency Fleet Management System Vehicles.

Instructions: Please submit comments only and cite Information Collection 9000–0032, Contractor Use of Interagency Fleet Management System Vehicles, in all correspondence related to this collection. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah Lague, Procurement Analyst, Office of Governmentwide Acquisition Policy, GSA (202) 694–8149 or email at *deborah.lague@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

If it is in the best interest of the Government, the contracting officer may authorize cost-reimbursement contractors to obtain, for official purposes only, interagency fleet management system (IFMS) vehicles and related services. Before a contracting officer may authorize cost-reimbursement contractors to obtain IFMS vehicles and related services, the contracting officer must have, among other requirements: (1) A written statement that the contractor will assume, without the right of reimbursement from the Government, the cost or expense of any use of the IFMS vehicles and services not related to the performance of the contract; (2) Evidence that the contractor has obtained motor vehicle liability insurance covering bodily injury and property damage, with limits of liability as required or approved by the agency, protecting the contractor and the Government against third-party claims arising from the ownership, maintenance, or use of an IFMS vehicle; and (3) Considered any recommendations of the contractor. The information is used by the Government to determine whether it is in the Government's best interest to authorize a cost-reimbursement contractor, for official purposes only, to use IFMS vehicles and related services.

Authorized contractors shall submit requests for IFMS vehicles and related services in writing to the appropriate GSA point of contact in accordance with the FAR. Contractors' requests for

vehicles or related services must include: (1) Two copies of the agency authorization; (2) The number of vehicles and related services required and period of use; (3) A list of employees who are authorized to request the vehicles or related services; (4) A listing of equipment authorized to be serviced; and (5) Billing instructions and address.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the Federal Acquisition Regulations (FAR), and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

B. Annual Reporting Burden

The time required to read and prepare information is estimated at 1 hour. Per a data search in the Federal Procurement Data System, approximately 120 contracting agencies awarded cost reimbursable contracts in Fiscal Year 2012. Of these agencies, it is estimated that approximately fifty percent, or 60, contracting agencies may utilize the IFMS to provide vehicles to contractors for official purposes only. We are not aware of a centralized database which captures information on agencies' use of the IFMS for this information collection; however, agencies annually report motor vehicle fleet data using the GSA Federal Automotive Statistical Tool (FAST), a web-based reporting tool cosponsored by GSA and the Department of Energy. Based on information in the Fiscal Year 2011 report, the estimate of 60 contracting agencies that may utilize the IFMS to provide vehicles to contractors is reasonable. It is estimated that an average of 3 contractors per agency may request to use the IFMS for a total of approximately 180 requests per year. The requests should be limited because certain travel costs are allowable under cost-reimbursement contracts, including the costs of contractor-owned or -leased automobiles. FAR 31.205–46(d) provides that these costs are allowable, if reasonable, to the extent that the automobiles are used for company business.

Estimated respondents/yr: 180.

Number of Responses annually: 1.

Total annual responses: 180.

Estimated hrs/response: 1.

Estimated total burden/hrs: 180.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (MVCB), 1275 First Street NE., Washington, DC 20417, telephone (202) 501–4755.

Please cite OMB Control No. 9000–0032, Contractor Use of Interagency Fleet Management System Vehicles, in all correspondence.

Dated: April 17, 2013.

William Clark,

Acting Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2013–09446 Filed 4–22–13; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Notice of Interest Rate on Overdue Debts

Section 30.18 of the Department of Health and Human Services' claims collection regulations (45 CFR part 30) provides that the Secretary shall charge an annual rate of interest, which is determined and fixed by the Secretary of the Treasury after considering private consumer rates of interest on the date that the Department of Health and Human Services becomes entitled to recovery. The rate cannot be lower than the Department of Treasury's current value of funds rate or the applicable rate determined from the ''Schedule of Certified Interest Rates with Range of Maturities'' unless the Secretary waives interest in whole or part, or a different rate is prescribed by statute, contract, or repayment agreement. The Secretary of the Treasury may revise this rate quarterly. The Department of Health and Human Services publishes this rate in the **Federal Register**.

The current rate of 10⅛%, as fixed by the Secretary of the Treasury, is certified for the quarter ended March 31, 2013. This rate is based on the Interest Rates for Specific Legislation, ''National Health Services Corps Scholarship Program (42 U.S.C. 250(B)(1)(A))'' and ''National Research Service Award Program (42 U.S.C. 288(c)(4)(B)).'' This interest rate will be applied to overdue debt until the Department of Health and Human Services publishes a revision.

Dated: April 17, 2013.

Margie Yanchuk,

Director, Office of Financial Policy and Reporting.

[FR Doc. 2013–09578 Filed 4–22–13; 8:45 am]

BILLING CODE 4150–04–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–9996–N4]

Early Retiree Reinsurance Program

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: This notice sets forth termination dates for several processes under the Early Retiree Reinsurance Program (ERRP) in preparation for the January 1, 2014 program sunset date. These operational processes, which involve plan sponsors and other parties, include: the submission of changes to information in a plan sponsor's ERRP application; the reporting of plan sponsor change of ownership; the submission of reimbursement requests; the reporting and correction of data inaccuracies; and the request for reopenings of reimbursement determinations.

DATES: *Effective Date:* This notice is effective April 19, 2013.

FOR FURTHER INFORMATION CONTACT: David Mlawsky, (410) 786–6851.

SUPPLEMENTARY INFORMATION:

I. Background

The Patient Protection and Affordable Care Act (Pub. L. 111–148) was enacted on March 23, 2010, and the Health Care and Education Reconciliation Act of 2010 (Reconciliation Act) (Pub. L. 111–152) was enacted on March 30, 2010. These laws are collectively referred to as ''Affordable Care Act.'' Section 1102 of the Affordable Care Act directs the Secretary of Health and Human Services (HHS) to establish the temporary Early Retiree Reinsurance Program (ERRP) to provide reimbursement to eligible sponsors of employment-based plans for a portion of the costs of providing health coverage to early retirees (and eligible spouses, surviving spouses, and dependents of such retirees), during the period beginning on the date on which the program is established, and ending on January 1, 2014 (the ERRP sunset date). Section 1102(a)(l) of the Affordable Care Act required the Secretary to establish the program

within 90 days of enactment of the law (by June 21, 2010). Section 1102(e) of the Affordable Care Act appropriates funding of $5 billion for the temporary program.

In the May 5, 2010 **Federal Register** (75 FR 24450), we published an interim final regulation with comment period, implementing the program as of June 1, 2010. Subsequently, we published several guidance documents that further detailed program requirements and operations in various sections of the rule (see the Regulations and Guidance section and the Common Questions section on the ERRP public Web site at *www.errp.gov*). Collectively, the regulations and guidance set forth various requirements and processes associated with participation in the ERRP. These requirements and processes include mandatory activities, such as how to report and correct previously submitted data inaccuracies, as well as elective activities, such as requesting a reopening of a reimbursement determination.

Several of these requirements and processes require access to the ERRP Secure Web site. The ERRP Secure Web site is used by plan sponsors to complete several important operations, such as submitting corrections to data inaccuracies and requesting reimbursement. As part of ending the program, we are planning for the ERRP Secure Web site to eventually be taken offline and archived and to conclude the remaining operational processes.

This notice sets forth the termination dates for several operational processes, including those that involve plan sponsors' reporting and submitting of information, in preparation for implementing the January 1, 2014 sunset date.

However, this notice does not limit the requirements in the ERRP regulations at 45 CFR 149.350, which require plan sponsors (and subcontractors, if applicable) to maintain and furnish to the HHS Secretary upon request, certain records enumerated in those regulations. Such records must be maintained for 6 years after the expiration of the plan year in which the costs were incurred, or longer if otherwise required by law. These timeframes set forth in 45 CFR 149.350 continue to apply, notwithstanding the ERRP sunset date or any other dates set forth in this notice.

II. Provisions of This Notice

This notice describes how five operational processes will be impacted by the January 1, 2014 sunset date: (1) Reporting changes to information in ERRP applications; (2) reporting change of ownership; (3) submitting reimbursement requests; (4) reporting and submitting corrections to data inaccuracies; and (5) requesting the Secretary to reopen and revise an adverse reimbursement determination. Presented below are the specifics of how these operational processes will be impacted.

A. Date After Which Plan Sponsors No Longer Must Report Changes to Information in Their ERRP Applications

The ERRP regulations at 45 CFR 149.35 require a plan sponsor that wishes to participate in the ERRP to submit an application to the Secretary, in the manner and at the time required by the Secretary, as specified in 45 CFR 149.40. The application must contain all the information specified in 45 CFR 149.40 to be approved. Currently, a plan sponsor with an approved application is required to report updates to information contained in its application.[1] CMS expects plan sponsors to update by December 31, 2013, all information that they know is inaccurate. Contact and banking information should be updated in the ERRP Secure Web site.

All other application information should be updated by amendment of the paper ERRP application. After December 31, 2013, plan sponsors will no longer be required to update information contained in either their paper application or the ERRP Secure Web site. Any plan sponsor that is the subject of an active audit as of December 31, 2013, still will be required to keep both CMS and the ERRP Program Integrity Contractor informed of the most current contact information for their Authorized Representative, Account Manager, and any other critical points of contact, until such time that the audit is completed. The plan sponsor must communicate changes to contact information by phone call or email to the ERRP Contact Center and ERRP Program Integrity Contractor.

B. Date After Which Plan Sponsors No Longer Must Report Change of Ownership

The ERRP regulations at 45 CFR 149.700 define change of ownership, and require plan sponsors that are considering or negotiating a change of ownership to notify the Secretary at least 60 days before the anticipated effective date of the change. In preparation for the ERRP sunset date, a plan sponsor need not notify the Secretary of any such change of ownership in instances where the anticipated effective date of the change would occur after December 31, 2013.

C. Last Date Plan Sponsors May Submit Reimbursement Requests

The ERRP regulations at 45 CFR 149.300 state: ''Reimbursement under this program is conditioned upon the provision of accurate information by the plan sponsor or its designee. The information must be submitted, in a form and manner and at the times provided in this subpart and other guidance specified by the Secretary.'' In various guidance documents published on *www.errp.gov*, CMS specified the form, manner, and times for submitting reimbursement requests. As part of ending the program, we are planning for the ERRP Secure Web site to eventually be taken offline and archived, and to conclude the remaining operational processes. In preparation for the ERRP sunset date, the last day upon which a plan sponsor may submit an ERRP reimbursement request is July 31, 2013.[2] This termination date will allow for a phase down of ERRP operational processes related to the ERRP Secure Web site.

D. Date After Which Plan Sponsors Are No Longer Required To Submit Corrections to Data Inaccuracies

The ERRP regulations at 45 CFR 149.600 state: ''A sponsor is required to disclose any data inaccuracies upon which a reimbursement determination is made, including inaccurate claims data and negotiated price concessions, in a manner and at a time specified by the Secretary in guidance.'' CMS specified the form, manner, and times for submitting corrections to data inaccuracies in various guidance documents published on *www.errp.gov*. The primary guidance document setting forth how plan sponsors must correct data inaccuracies states that plan sponsors must submit a reimbursement request that includes corrected data, no later than the end of the next calendar quarter after the plan sponsor knows, or should know, of the data inaccuracy.[3]

[1] See Common Question 100–8, under the Application tab in the Common Questions section of *www.errp.gov*.

[2] To meet this deadline, a plan sponsor must take into account the timeframe it may take to submit a new Early Retiree List (if its most recent one has expired), an error-free Claim List, and a Reimbursement Request. A plan sponsor must also take into account the timeframes for CMS to make available to the plan sponsor an Early Retiree List Response File (up to 7 business days), and a Claim List Response File (2–4 calendar days). See all relevant training and guidance materials at *www.errp.gov*.

[3] See *Explanation of the Processes for Reporting Early Retiree and Claims Data Inaccuracies, and for*

Continued

Because the process for submitting corrections to data inaccuracies leverages the process for submitting reimbursement requests, we have concluded that plan sponsors will no longer be required to submit corrections to data inaccuracies after July 31, 2013, that is, the last day upon which a plan sponsor may submit an ERRP reimbursement request. This means that plan sponsors that know or should know, before or on April 30, 2013, of any data inaccuracy contained in a reimbursement request for a plan year for which a reimbursement determination was made, must submit corrections to the data inaccuracy in a manner consistent with the ERRP regulations and guidance.[4] A plan sponsor that does not know with certainty its final amount of price concessions for a given plan year, but knows or should know, as of April 30, 2013, of estimates that vary from previously reported price concession amounts for that plan year, must consider those previous amounts to constitute data inaccuracies, and therefore is required to report and correct that data by July 31, 2013.

E. Last Day Plan Sponsors May Submit a Request To Reopen and Revise an Adverse Reimbursement Determination

The ERRP regulations at 45 CFR 149.610 permit the Secretary to reopen and revise a reimbursement determination upon the Secretary's own motion or upon the request of a plan sponsor. The regulations, as well as guidance published on *www.errp.gov*,[5] set forth the process by which a plan sponsor may request a reopening, as well as other information related to reopenings. In preparation for the ERRP sunset date, the last day upon which a plan sponsor may submit an ERRP reopening request is December 31, 2013.

III. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995, we are required to provide 60-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. The information collection requirements associated with the ERRP are currently approved under OMB control number 0938–1087, with an expiration date of September 30, 2014. This document does not impose any new information collection and recordkeeping requirements beyond the prior estimates in the supporting statement for the interim final rule, CMS–9995–IFC. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995.

Authority: Sections 1102(a)(l) of the Affordable Care Act (42 U.S.C. § 18002(a)(l) and(c)(4)).

Dated: April 16, 2013.

Marilyn Tavenner,

Acting Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 2013–09541 Filed 4–19–13; 11:15 am]

BILLING CODE 4120–01–P

Reopening, under the Regulations and Guidance section at *www.errp.gov.*

[4] See footnotes 2 and 3. However, as discussed above, a sponsor that knows or should know, before or on April 30, 2013, of any data inaccuracy contained in a reimbursement request for a plan year for which a reimbursement determination was made, must submit a reimbursement request with corrected data by July 31, 2013, rather than by no later than the end of the next calendar quarter after the sponsor knows or should know of the data inaccuracy.

[5] See footnote 3.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Privacy Act of 1974; Report of a New Routine Use for Selected CMS Systems of Records

AGENCY: Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

ACTION: Altered Systems Notice, Adding a New Routine Use to Selected CMS Systems of Records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974 (5 U.S.C. 552a), CMS is adding a new routine use for emergency preparedness and response to eight CMS systems of records. The new routine use will authorize CMS to disclose beneficiary-identifiable records to public health authorities and entities acting under a delegation of authority of a public health authority requesting such information for the purpose of identifying vulnerable individuals who may need health assistance in the event of an incident, emergency or disaster, and for purposes of planning and providing such assistance. Disclosures made pursuant to the new routine use will be limited to the minimum data necessary to carry out statutorily-authorized public health-related emergency preparedness and response activities, as provided in Section 1106 of the Social Security Act (42 U.S.C. 1306) and the HIPAA Privacy Rule at 45 CFR §§ 154.502, 164.512(b), 164.502(b) and 164.514(d)(3)(iii)(A). Requests and disclosures made pursuant to the routine use will be coordinated through HHS' Office of the Assistant Secretary for Preparedness and Response (ASPR). The eight systems of records that will include the new routine use are: the National Claims History (NCH), System No. 09–70–0558; Medicare Integrated Data Repository (IDR), System No. 09–70–0571; Common Working Files (CWF), System No. 09–70–0526; Enrollment Database (EDB), System No. 09–70–0502; Medicare Beneficiary Database (MBD), System No. 09–70–0536; Medicare Drug Data Processing System (DDPS), System No. 09–70–0553; Long Term Care-Minimum Data Set (MDS), System No. 09–70–0528; and Home Health Agency (HHA) Outcome and Assessment Information Set (OASIS), System No. 09–70–0522.

DATES: *Effective Date:* The new routine use described in this notice will become effective without further notice 30 days after publication of this notice in the **Federal Register**, unless comments received on or before that date result in revisions to this notice.

ADDRESSES: The public should send comments to: CMS Privacy Officer, Division of Privacy Policy, Privacy Policy and Compliance Group, Office of E-Health Standards & Services, Office of Enterprise Management, CMS, Room S2–24–25, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. Comments received will be available for review at this location, by appointment, during regular business hours, Monday through Friday from 9:00 a.m.–3:00 p.m., Eastern Time zone.

FOR FURTHER INFORMATION CONTACT: Kristen P. Finne, Senior Program Analyst U.S. Department of Health and Human Services, Office of the Assistant Secretary for Preparedness and Response (ASPR), Office of Policy and Planning, Division of Health System Policy (HSP), Patriots Plaza, 375 E Street SW., Office 11–1701, Washington DC 20024, Office telephone: 202–691–2013, Blackberry: 202–439–1140, Email: *kristen.finne@hhs.gov.*

SUPPLEMENTARY INFORMATION: The new routine use will improve the ability of HHS' Assistant Secretary for Preparedness and Response (ASPR), in partnership with HHS' Centers for Medicare & Medicaid Services, to assist public health authorities and entities acting under a delegation of authority of a public health authority in identifying vulnerable individuals who may need health assistance prior to, during, and in the aftermath of an incident, emergency or disaster that poses an adverse health

and/or public health impact, and in planning and providing such assistance. Disclosing beneficiary-identifiable records for public health-related emergency preparedness and response purposes is a necessary and proper use of the information in the systems of records being modified; the new routine use is compatible with the health care purposes for which the information was collected in the CMS systems of records. Disclosure purposes could include emergency planning for outreach to at-risk populations and individuals during a public health emergency. For example, a public health agency could match the records with publicly available power outage data from another department or agency. In the event of a public health emergency that involves power outages, the public health agency would then be able to use the results of the matched data to identify individuals in the affected community who are dependent on energy for meeting their medical needs, for example individuals living in the community who are dependent on dialysis. The term ''public health authority'' and the concepts of ''public health activity'' and ''minimum necessary'' disclosures are defined in the HIPAA Privacy Rule at 45 CFR §§ 154.502, 164.512(b), 164.502(b) and 164.514(d)(3)(iii)(A).

For the reasons described above, the following routine use is added to the eight systems of records listed below:

To disclose beneficiary-identifiable information to public health authorities, and those entities acting under a delegation of authority from a public health authority, when requesting such information to carry out statutorily-authorized public health activities pertaining to emergency preparedness and response. Disclosures under this routine use will be limited to ''public health authorities,'' ''public health activities,'' and ''minimum necessary data'' as defined in the HIPAA Privacy Rule (45 CFR §§ 154.502, 164.512(b), 164.502(b) and 164.514(d)(3)(iii)(A)).

1. National Claims History (NCH), System No. 09–70–0588, published at 71 **Federal Register** (Fed. Reg.), 67137 (November 20, 2006).
2. Medicare Integrated Data Repository (IDR), System No. 09–70–0571, published at 71 Fed. Reg., 74915 (December 13, 2006).
3. Common Working Files (CWF), System No. 09–70–0526, published at 71 Fed. Reg., 64955 (November 6, 2006).
4. Enrollment Database (EDB), System No. 09–70–0502, published at 73 Fed. Reg., 10249 (February 26, 2008).
5. Medicare Beneficiary Database (MBD), System No. 09–70–0536, published at 71 Fed. Reg., 70396 (December 4, 2006).
6. Medicare Drug Data Processing System (DDPS), System No. 09–70–0553, published at 73 Fed. Reg., 30943 (May 29, 2008).
7. Long Term Care (LTC)-Minimum Data Set (MDS), System No. 09–70–0528, published at 72 Fed. Reg., 12801 (March 19, 2007).
8. Home Health Agency (HHA) Outcome and Assessment Information Set (OASIS), System No. 09–70–0522, published at 72 Fed. Reg. 63906 (November 13, 2007).

Dated: April 11, 2013.

Michelle Snyder,

Deputy Chief Operating Officer, Centers for Medicare & Medicaid Services.

[FR Doc. 2013–09511 Filed 4–22–13; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–0176]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; Experimental Study: Examination of Corrective Direct-to-Consumer Television Advertising

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Experimental Study: Examination of Corrective Direct-to-Consumer Television Advertising'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Daniel Gittleson, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, 301–796–5156, *daniel.gittleson@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: On January 8, 2013, the Agency submitted a proposed collection of information entitled ''Experimental Study: Examination of Corrective Direct-to-Consumer Television Advertising'' to OMB for review and clearance under 44 U.S.C. 3507. 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. OMB has now approved the information collection and has assigned OMB control number 0910–0737. The approval expires on March 31, 2016. A copy of the supporting statement for this information collection is available on the Internet at *http://www.reginfo.gov/public/do/PRAMain.*

Dated: April 16, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–09482 Filed 4–22–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–0477]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; Investigational Device Exemptions Reports and Records

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Investigational Device Exemptions Reports and Records'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Daniel Gittleson, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, 301–796–5156, *daniel.gittleson@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: On January 3, 2013, the Agency submitted a proposed collection of information entitled ''Investigational Device Exemptions Reports and Records'' to OMB for review and clearance under 44 U.S.C. 3507. 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. OMB has now approved the information collection and has assigned OMB control number 0910–0078. The approval expires on March 31, 2016. A copy of the supporting statement for this information collection is available on the Internet at *http://www.reginfo.gov/public/do/PRAMain.*

Dated: April 15, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–09481 Filed 4–22–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–D–0049]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; Reporting Harmful and Potentially Harmful Constituents in Tobacco Products and Tobacco Smoke Under the Federal Food, Drug, and Cosmetic Act

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Reporting Harmful and Potentially Harmful Constituents in Tobacco Products and Tobacco Smoke Under the Federal Food, Drug, and Cosmetic Act'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Daniel Gittleson, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, 301–796–5156, *daniel.gittleson@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: On August 1, 2012, the Agency submitted a proposed collection of information entitled ''Reporting Harmful and Potentially Harmful Constituents in Tobacco Products and Tobacco Smoke Under the Federal Food, Drug, and Cosmetic Act'' to OMB for review and clearance under 44 U.S.C. 3507. 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. OMB has now approved the information collection and has assigned OMB control number 0910–0732. The approval expires on March 31, 2016. A copy of the supporting statement for this information collection is available on the Internet at *http://www.reginfo.gov/public/do/PRAMain.*

Dated: April 15, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–09480 Filed 4–22–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–D–0350]

Use of International Standard ISO–10993, ''Biological Evaluation of Medical Devices Part 1: Evaluation and Testing''; Draft Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the draft guidance entitled ''Use of International Standard ISO–10993, 'Biological Evaluation of Medical Devices Part 1: Evaluation and Testing.' '' FDA has developed this guidance document to assist industry in preparing premarket applications (PMAs), humanitarian device exemptions (HDEs), investigational device applications (IDEs), premarket notifications (510(k)s), and de novo requests for medical devices that come into direct or indirect contact with the human body in order to determine the potential toxicity resulting from contact of the component materials of the device with the body.

The purpose of this guidance is to provide further clarification and updated information on the use of the Office of Device Evaluation (ODE) General Program Memorandum #G95–1 entitled ''Use of International Standard ISO–10993, 'Biological Evaluation of Medical Devices Part 1: Evaluation and Testing,' '' dated May 1, 1995. When final, this guidance will therefore replace #G95–1.

This draft guidance is not final nor is it in effect at this time.

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 July 22, 2013.

ADDRESSES: Submit written requests for single copies of the draft guidance document entitled ''Use of International Standard ISO–10993, 'Biological Evaluation of Medical Devices Part 1: Evaluation and Testing' '' to the Division of Small Manufacturers, International, and Consumer Assistance, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, rm. 4613, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request, or fax your request to 301–847–8149. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

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. Identify comments with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Jennifer Goode, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, rm. 1212, Silver Spring, MD 20993–0002, 301–796–6374.

SUPPLEMENTARY INFORMATION:

I. Background

FDA has developed this guidance document to assist industry in preparing PMAs, HDEs, IDEs, 510(k)s, and de novo requests for medical devices that come into direct or indirect contact with the human body in order to determine the potential toxicity resulting from contact of the component materials of the device with the body.

The purpose of this guidance is to provide further clarification and updated information on the use of ODE General Program Memorandum #G95–1 entitled ''Use of International Standard ISO–10993, 'Biological Evaluation of Medical Devices Part 1: Evaluation and Testing,' '' dated May 1, 1995. When final, this guidance will therefore replace #G95–1. This guidance document also incorporates several new considerations, including assessment of known or potentially toxic chemicals (*e.g.,* color additives), and sample preparation for submicron or nanotechnology components, in situ polymerizing, and bioabsorbable materials, which were not previously discussed in #G95–1. The scope of this document is limited to the biological evaluation of sterile and nonsterile medical devices that come into direct or indirect contact with the human body. This document addresses the following issues: (1) Test selection; (2) general testing considerations, including sample preparation; (3) specific considerations for the following testing: Cytotoxicity, sensitization, hemocompatibility, pyrogenicity, implantation, genotoxicity, carcinogenicity, reproductive and developmental toxicity, and biodegradation; (4) use of

animal safety studies to justify omission of specific biocompatibility tests; (5) assessment of known or potentially toxic chemical entities; and (6) contents of a biocompatibility test report.

II. Significance of 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 the use of International Standard ISO–10993, ''Biological Evaluation of Medical Devices Part 1: Evaluation and Testing.'' 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 statute and regulations.

III. Electronic Access

Persons interested in obtaining a copy of the draft guidance may do so by using the Internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm.* Guidance documents are also available at *http://www.regulations.gov.*

To receive ''Use of International Standard ISO–10993, 'Biological Evaluation of Medical Devices Part 1: Evaluation and Testing,' '' you may either send an email request to *dsmica@fda.hhs.gov* to receive an electronic copy of the document or send a fax request to 301–847–8149 to receive a hard copy. Please use the document number 1811 to identify the guidance you are requesting.

IV. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 807, subpart E, have been approved under OMB control number 0910–0120; the collections of information in 21 CFR part 814, have been approved under OMB control number 0910–0231; the collections of information in 21 CFR part 814, subpart H, have been approved under OMB control number 0910–0332; and the collections of information in 21 CFR part 812, have been approved under OMB control number 0910–0078.

V. 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.*

Dated: April 16, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–09479 Filed 4–22–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0788]

Pilot Program for Early Feasibility Study Investigational Device Exemption Applications; Extending the Duration of the Program

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the extension of the Early Feasibility Study Investigational Device Exemption (IDE) Applications pilot program to May 8, 2014, for sponsors who have already been accepted for the program.

DATES: This notice is effective April 23, 2013.

FOR FURTHER INFORMATION CONTACT: Sheila Brown, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1676, Silver Spring, MD 20993–0002, 301–796–5640, *sheila.brown@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 10, 2011 (76 FR 70150), FDA announced the availability of a draft guidance entitled ''Investigational Device Exemptions (IDE) for Early Feasibility Medical Device Clinical Studies, Including Certain First in Human (FIH) Studies.'' This guidance document is intended to facilitate early feasibility studies of medical devices, using appropriate risk mitigation strategies, under the IDE requirements. Concurrent with the publication of the draft guidance, FDA also announced an Early Feasibility Study IDE Pilot Program (76 FR 70152; November 10, 2011) intended to collect information and experience on the application of the draft guidance in order to inform the final guidance document.

In the pilot program notice, FDA stated its intention to accept nominations to participate in the pilot program until May 8, 2012, and stated that the pilot program would terminate on May 8, 2012. In the **Federal Register** notice announcing the pilot program, FDA also stated its intention to limit the pilot program to nine candidates.

FDA began accepting nominations for the pilot program on December 12, 2011. After reviewing the nominations received in response to the pilot program notice, FDA accepted nine appropriate candidates for the pilot program. In the **Federal Register** of March 6, 2012 (77 FR 13343), FDA terminated the acceptance of applications into the program and extended the pilot program for the nine accepted sponsors until May 8, 2013. The pilot program will be further extended for the nine accepted sponsors until May 8, 2014.

Dated: April 18, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–09528 Filed 4–22–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Committee on Infant Mortality; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), notice is hereby given of the following meeting:

Name: Advisory Committee on Infant Mortality (ACIM).

Dates and Times: April 24, 2013, 8:00 a.m.–5:00 p.m., April 25, 2013, 8:00 a.m.–3:00 p.m.

Place: Virtual via Webinar.

Status: The meeting is open to the public. For more information on registration and webinar details, please visit the ACIM Web site: *http://www.hrsa.gov/advisorycommittees/mchbadvisory/InfantMortality.*

Adobe Connect: *https://hrsa.connectsolutions.com/infantmortality/.*

Teleconference Number: (888) 790–1958. Participant passcode: 461–8352.

Purpose: The Committee provides advice and recommendations to the Secretary of

Health and Human Services (HHS) on the following: HHS programs that focus on reducing infant mortality and improving the health status of infants and pregnant women; and factors affecting the continuum of care with respect to maternal and child health care. ACIM accesses the outcomes following childbirth; strategies to coordinate the myriad federal, state, local, and private programs and efforts that are designed to deal with the health and social problems impacting on infant mortality; and the implementation of the Healthy Start program and *Healthy People 2020* infant mortality objectives.

Agenda: Topics that will be discussed include the following: Updates from federal agencies including the Health Resources and Services Administration and Centers for Medicare and Medicaid Services; improving the health of women (Maternal Health Initiative); updates from partnering agencies and organizations; and, ACIM's recommendations for the HHS National Strategy to Address Infant Mortality.

Proposed agenda items are subject to change as priorities dictate. Time will be provided for public comments. Each public comment is limited to five minutes. Comments are to be submitted in writing no later than 5:00 p.m. ET on April 19, 2013.

For Further Information Contact: Anyone requiring information regarding the Committee should contact Michael C. Lu, M.D., M.P.H., Executive Secretary, ACIM, Health Resources and Services Administration, Room 18–05, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, telephone: (301) 443–2170.

Individuals who are submitting public comments or who have questions regarding the meeting should contact David S. de la Cruz, Ph.D., M.P.H., ACIM Designated Federal Official, Health Resources and Services Administration, Maternal and Child Health Bureau, telephone: (301) 443–0543, or email: *David.delaCruz@hrsa.hhs.gov*. The logistical challenges of scheduling the meeting hindered an earlier publication of this meeting notice.

Dated: April 16, 2013.

Bahar Niakan,

Director, Division of Policy and Information Coordination.

[FR Doc. 2013–09507 Filed 4–22–13; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; 60-Day Comment Request: The Agricultural Health Study: A Prospective Cohort Study of Cancer and Other Disease Among Men and Women in Agriculture (NCI)

SUMMARY: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Cancer Institute (NCI), National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

To Submit Comments and for Further Information: To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project contact: Jane Hoppin, Sc.D., Epidemiology Branch, National Institute of Environmental Health Sciences, NIH, 111 T.W. Alexander Drive, PO Box 12233, MD A3–05, Research Triangle Park, NC 27709, or call non-toll-free number 919–541–7622, or email your request, including your address to: *hoppin1@niehs.nih.gov*. Formal requests for additional plans and instruments must be requested in writing.

Comment Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Proposed Collection: The Agricultural Health Study: A Prospective Cohort Study of Cancer and Other Disease Among Men and Women in Agriculture, 0925–0406, Expiration Date 5/31/2013, REVISION, National Institute of Environmental Health Sciences (NIEHS), National Institutes of Health (NIH).

Need and Use of Information Collection: The purpose of this information collection is to request initiation of a new dust specimen component as part of the ongoing Study of Biomarkers of Exposures and Effects in Agriculture (BEEA) as well as continue and complete phase IV (2013–2015) of the Agricultural Health Study (AHS) and continue buccal cell collection. Phase IV will continue to update the occupational and environmental exposure information as well as medical history information for licensed pesticide applicators and their spouses enrolled in the AHS. The new BEEA dust component will include a brief paper-and-pen questionnaire mailed to the participant in advance of the home visit; at the home visit, the study phlebotomist will to collect and review the questionnaire, and collect the participant's disposable vacuum bag (or empty the dust from vacuums without disposable bags). The dust component will use similar procedures to ones that have been employed on other NCI studies to obtain information about the dust specimen and to collect and ship the dust specimen. The primary objectives of the study are to determine the health effects resulting from occupational and environmental exposures in the agricultural environment. Secondary objectives include evaluating biological markers that may be associated with agricultural exposures and risk of certain types of cancer. Phase IV questionnaire data are collected by using self-administered computer assisted web survey (CAWI); self-administered paper-and-pen (Paper/pen); or an interviewer administered computer assisted telephone interview (CATI) and in-person interview (CAPI) systems for telephone screeners and home visit interviews, respectively. Some respondents are also asked to participate in the collection of biospecimens and environmental samples, including blood, urine, buccal cells (loose cells from the respondent's mouth), and vacuum dust. The findings will provide valuable information concerning the potential link between agricultural exposures and cancer and other chronic diseases among Agricultural Health Study cohort members, and this information may be generalized to the entire agricultural community.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 10,679.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Instrument	Estimated annual number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual burden hours
Private and Commercial Applicators and Spouses.	Reminder, Missing, and Damaged Scripts for Buccal Cell.	100	1	5/60	8
Private Applicators	BEEA CATI Eligibility Script	480	1	20/60	160
Private Applicators	Mailed Paper/Pen Dust Questionnaire.	160	1	10/60	27
Private Applicators	BEEA Home Visit CAPI, Blood, Urine, & Dust × 1.	160	1	100/60	267
Private Applicators	BEEA Schedule Home Visit Scripts	20	3	5/60	5
Private Applicators	BEEA Home Visit CAPI, Blood, & Urine × 3.	20	3	30/60	30
Private Applicators	Paper/pen, CAWI or CATI	13,855	1	25/60	5,773
Spouses	Paper/pen, CAWI or CATI	10,201	1	25/60	4,250
Proxy	Paper/pen, CAWI or CATI	635	1	15/60	159

Dated: April 16, 2013.

Vivian Horovitch-Kelley,

NCI Project Clearance Liaison, NCI, NIH.

[FR Doc. 2013–09527 Filed 4–22–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; NIDCD SBIR and STTR Application Review.

Date: May 15, 2013.

Time: 11:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6120 Executive Blvd., Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Kausik Ray, Ph.D., Scientific Review Officer, National Institute on Deafness and Other Communication Disorders, National Institutes of Health, Rockville, MD 20850, 301–402–3587, *rayk@nidcd.nih.gov.*

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; Review of Applications on Hearing Health Care.

Date: May 16, 2013.

Time: 11:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6120 Executive Blvd., Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Shiguang Yang, DVM, Ph.D., Scientific Review Officer, Division of Extramural Activities, NIDCD, NIH, 6120 Executive Blvd., Bethesda, MD 20892, 301–496–8683.

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; Core Center Review Meeting.

Date: May 21, 2013.

Time: 12:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6120 Executive Blvd., Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Sheo Singh, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, Executive Plaza South, Room 400C, 6120 Executive Blvd., Bethesda, MD 20892, 301–496–8683, *singhs@nidcd.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: April 17, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–09453 Filed 4–22–13; 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 and Human Development; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Board of Scientific Counselors, NICHD.

The meeting will be open to the public as indicated below, with the attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the Eunice Kennedy Shriver National Institute of Child Health and Human Development, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NICHD.

Date: June 7, 2013.

Closed: 8:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 31, Room 2A48, 31 Center Drive, Bethesda, MD 20892.

Contact Person: Constantine A. Stratakis, MD, D(med)Sci, Scientific Director, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, Building 31, Room 2A46, 31 Center Drive, Bethesda, MD 20892, 301–594–5984, *stratakc@mail.nih.gov.*

Information is also available on the Institute's/Center's home page: *http://www.nichd.nih.gov/about/meetings/2013/Pages/060713.aspx,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: April 17, 2013.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–09451 Filed 4–22–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: 2014 National Survey on Drug Use and Health (OMB No. 0930–0110)—Revision

The National Survey on Drug Use and Health (NSDUH) is a survey of the U.S. civilian, non-institutionalized population aged 12 years old or older. The data are used to determine the prevalence of use of tobacco products, alcohol, illicit substances, and illicit use of prescription drugs. The results are used by SAMHSA, the Office of National Drug Control Policy (ONDCP), Federal government agencies, and other organizations and researchers to establish policy, direct program activities, and better allocate resources.

The introduction of a new sample design is planned for the 2014 NSDUH. In addition to moving towards a proportional allocation by state, the 2014 sample design places more sample in the 26 or older age groups than in previous designs to more accurately estimate drug use and related mental health measures among the aging drug use population. An additional stage of selection was also added to aid in the possible adoption of address-based sampling in the future. The questionnaire content for the 2014 NSDUH will remain identical to what was administered in 2013, with the exception of updates to year references and the State-specific Medicaid, Children's Health Insurance Program (CHIP), and Temporary Assistance for Needy Families (TANF) program names. Making minimal changes to the instrument will allow SAMHSA's Center for Behavioral Health Statistics and Quality (CBHSQ) to isolate the effects of the revised sample design in the 2014 NSDUH and to prepare for the 2015 NSDUH redesign.

As with all NSDUH/NHSDA [1] surveys conducted since 1999, the sample size of the survey for 2014 will be sufficient to permit prevalence estimates for each of the fifty States and the District of Columbia. The total annual burden estimate is shown in Table 1.

TABLE 1—ANNUALIZED ESTIMATED RESPONDENT BURDEN FOR 2014 NSDUH

Instrument	Number of respondents	Responses per respondent	Total number of responses	Hours per response	Total burden hours
Household Screening	119,181	1	119,181	0.083	9,892
Interview	67,507	1	67,507	1.000	67,507
Screening Verification	3,575	1	3,575	0.067	240
Interview Verification	10,126	1	10,126	0.067	678
Total	119,181		119,181		78,317

Send comments to Summer King, SAMHSA Reports Clearance Officer, Room 2–1057, One Choke Cherry Road, Rockville, MD 20857 or email her a copy at *summer.king@samhsa.hhs.gov.* Written comments should be received by June 24, 2013.

Summer King,

Statistician.

[FR Doc. 2013–09425 Filed 4–22–13; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

[1] Prior to 2002, the NSDUH was referred to as the National Household Survey on Drug Abuse (NHSDA).

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Confidentiality of Alcohol and Drug Abuse Patient Records—(OMB No. 0930–0092)—Revision

Statute (42 U.S.C. 290dd-2) and regulations (42 CFR part 2) require federally conducted, regulated, or directly or indirectly assisted alcohol and drug abuse programs to keep alcohol and drug abuse patient records confidential. Information requirements are (1) written disclosure to patients about Federal laws and regulations that protect the confidentiality of each patient, and (2) documenting ''medical personnel'' status of recipients of a disclosure to meet a medical emergency. Annual burden estimates for these requirements are summarized in the table below:

ANNUALIZED BURDEN ESTIMATES

	Annual number of respondents[1]	Responses per respondent	Total responses	Hours per response	Total hour burden
Disclosure					
42 CFR 2.22	11,724	166	[2] 1,994,632	.20	398,872
Recordkeeping					
42 CFR 2.51	11,724	2	23,448	.167	3,916
Total	11,724		2,017,810		402,788

[1] The number of publicly funded alcohol and drug facilities from SAMHSA's 2011 National Survey of Substance Abuse Treatment Services (N–SSATS).
[2] The average number of annual treatment admissions from SAMHSA's 2008–2010 Treatment Episode Data Set (TEDS).

Send comments to Summer King, SAMHSA Reports Clearance Officer, Room 2–1057, One Choke Cherry Road, Rockville, MD 20857 or email her a copy at *summer.king@samhsa.hhs.gov.* Written comments should be received by June 24, 2013.

Summer King,

Statistician.

[FR Doc. 2013–09426 Filed 4–22–13; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Agency Information Collection Activities: Entry and Immediate Delivery Application and Simplified Entry

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: 30-Day notice and request for comments; Extension of an existing information collection: 1651–0024.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Entry and Immediate Delivery Application (Forms 3461 and 3461 ALT) and Simplified Entry. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no change to the burden hours. This document is published to obtain comments from the public and affected agencies. This information collection was previously published in the **Federal Register** (78 FR 9719) on February 11, 2013, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before May 23, 2013.

ADDRESSES: Interested persons are invited to submit written comments on this information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for U.S. Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: CBP invites the general public and affected Federal agencies to submit written comments and suggestions on proposed and/or continuing information collection requests pursuant to the Paperwork Reduction Act (Pub. L. 104–13). Your comments should address one of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological techniques or other forms of information.

Title: Entry and Immediate Delivery Application and Simplified Entry

OMB Number: 1651–0024

Form Numbers: CBP Form 3461 and Form 3461 ALT

Abstract: All items imported into the United States are subject to examination before entering the commerce of the United States. There are two procedures available to effect the release of imported merchandise, including ''entry'' pursuant to 19 U.S.C. 1484, and ''immediate delivery'' pursuant to 19 U.S.C. 1448(b). Under both procedures, CBP Forms 3461 and 3461 ALT are the source documents in the packages presented to Customs and Border Protection (CBP). The information collected on CBP Forms 3461 and 3461 ALT allow CBP officers to verify that the information regarding the consignee and shipment is correct and that a bond is on file with CBP. CBP also uses these forms to close out the manifest and to establish the obligation to pay estimated duties in the time period prescribed by law or regulation. CBP Form 3461 is also a delivery authorization document and is given to the importing carrier to authorize the release of the merchandise.

CBP Forms 3461 and 3461 ALT are provided for by 19 CFR 141 and 142. These forms and instructions are accessible at: *http://www.cbp.gov/xp/cgov/toolbox/forms/*

Simplified Entry is a program for ACE entry summary filers in which importers or brokers may file Simplified Entry data in lieu of filing the CBP Form 3461. This data consists of 12 required elements: importer of record; buyer name and address; buyer employer identification number (consignee number), seller name and address; manufacturer/supplier name and address; Harmonized Tariff Schedule 10-digit number; country of origin; bill of lading; house air waybill number; bill of lading issuer code; entry number; entry type; and estimated shipment value. Three optional data elements are the container stuffing location; consolidator name and address, and ship to party name and address. The data collected under the Simplified Entry program is intended to reduce transaction costs, expedite cargo release, and enhance cargo security. The Simplified Entry filing minimizes the redundancy of data submitted by the filer to CBP through receiving carrier data from the carrier. This design allows the participants to file earlier in the transportation flow. Guidance on using Simplified Entry may be found at *http://www.cbp.gov/xp/cgov/trade/trade_transformation/simplified_entry/*

Current Actions: CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the information being collected.

Type of Review: Extension (without change)

Affected Public: Businesses

CBP Form 3461

Estimated Number of Respondents: 6,029.

Estimated Number of Responses per Respondent: 1,410.

Estimated Total Annual Responses: 8,500,890.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 2,125,223.

CBP Form 3461 ALT

Estimated Number of Respondents: 6,795.

Estimated Number of Responses per Respondent: 1,390.

Estimated Total Annual Responses: 9,444,069.

Estimated Time per Response: 3 minutes.

Estimated Total Annual Burden Hours: 472,203.

Simplified Entry

Estimated Number of Respondents: 500

Estimated Number of Responses per Respondent: 1,410.

Estimated Total Annual Responses: 705,000.

Estimated Time per Response: 10 minutes.

Estimated Total Annual Burden Hours: 117,030.

Dated: April 17, 2013.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2013–09475 Filed 4–22–13; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Extension of the Air Cargo Advance Screening (ACAS) Pilot Program and Reopening of Application Period for Participation

AGENCY: U.S. Customs and Border Protection, DHS.

ACTION: General notice.

SUMMARY: On October 24, 2012, U.S. Customs and Border Protection (CBP) published a notice in the **Federal Register** that announced the formalization and expansion of the Air Cargo Advance Screening (ACAS) pilot program that would run for six months. This document announces that CBP is extending the pilot period for an additional six months and reopening the application period for new participants for 30 days. The ACAS pilot is a voluntary test in which participants submit a subset of required advance air cargo data to CBP at the earliest point practicable prior to loading of the cargo onto the aircraft destined to or transiting through the United States.

DATES: CBP is extending the ACAS pilot program through October 26, 2013, and reopening the application period to accept applications from new ACAS pilot participants through May 23, 2013. Comments concerning any aspect of the announced test may be submitted at any time during the test period.

ADDRESSES: Applications to participate in the ACAS pilot must be submitted via email to *CBPCCS@cbp.dhs.gov.* Written comments concerning program, policy, and technical issues may also be submitted via email to *CBPCCS@cbp.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Regina Park, Cargo and Conveyance Security, Office of Field Operations, U.S. Customs & Border Protection, via email at *regina.park@dhs.gov.*

SUPPLEMENTARY INFORMATION:

Background

On October 24, 2012, CBP published a general notice in the **Federal Register** (77 FR 65006, corrected in 77 FR 65395 [1]) announcing that CBP is formalizing and expanding the ACAS pilot to include other eligible participants in the air cargo environment. The notice provides a description of the ACAS pilot, sets forth eligibility requirements for participation, and invites public comments on any aspect of the test. In brief, the ACAS pilot revises the time frame for pilot participants to transmit a subset of mandatory advance electronic information for air cargo. CBP regulations implementing the Trade Act of 2002 specify the required data elements and the time frame for submitting them to CBP. Pursuant to 19 CFR 122.48a, the required advance information for air cargo must be submitted no later than the time of departure of the aircraft for the United States (from specified locations) or four hours prior to arrival in the United States for all other locations.

The ACAS pilot is a voluntary test in which participants agree to submit a subset of the required 19 CFR 122.48a

[1] This **Federal Register** notice, published on October 26, 2012, corrected the email address under the **ADDRESSES** heading for submitting applications or comments. The correct email address is *CBPCCS@cbp.dhs.gov.*

data elements (ACAS data) at the earliest point practicable prior to loading of the cargo onto the aircraft destined to or transiting through the United States. The ACAS data is used to target high-risk air cargo. CBP is considering possible amendments to the regulations regarding advance information for air cargo. The results of the ACAS pilot will help determine the relevant data elements, the time frame within which data must be submitted to permit CBP to effectively target, identify and mitigate any risk with the least impact practicable on trade operations, and any other related procedures and policies.

Extension of the ACAS Pilot Period and Reopening of the Application Period

The October 2012 notice announced that the ACAS pilot would run for six months. The notice provided that if CBP determined that the pilot period should be extended, CBP would publish another notice in the **Federal Register**. The October 2012 notice also stated that applications from new ACAS pilot participants would be accepted until November 23, 2012. On December 26, 2012, CBP published a notice in the **Federal Register** reopening the application period for new participants until January 10, 2013 (77 FR 76064, corrected in 78 FR 315 [2]). Although there has been a significant increase in the diversity and number of pilot participants representing a strong sample size of the air cargo community, CBP continues to receive a number of requests to participate in the pilot. In order to ensure that the broader air cargo community has a sufficient opportunity to participate in the ACAS pilot and to prepare for possible proposed regulatory changes, CBP is extending the ACAS pilot period through October 26, 2013, and reopening the application period through May 23, 2013.

Anyone interested in participating in the ACAS pilot should refer to the notice published in the **Federal Register** on October 24, 2012, for additional application information and eligibility requirements

Dated: April 18, 2013.

David Murphy,

Acting Assistant Commissioner, Office of Field Operations.

[FR Doc. 2013–09516 Filed 4–22–13; 8:45 am]

BILLING CODE 9111–14–P

[2] The **Federal Register**, published on January 3, 2013, corrected the date of the close of the reopened application period from ''January 8, 2013'' to ''January 10, 2013''.

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R6–ES–2013–N092; FXES11130600000D2–123–FF06E00000]

Endangered and Threatened Wildlife and Plants; Recovery Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following application to conduct certain activities with endangered or threatened species. With some exceptions, the Endangered Species Act of 1973, as amended (Act), prohibits activities with endangered and threatened species unless a Federal permit allows such activity. The Act requires that we invite public comment before issuing these permits.

DATES: To ensure consideration, please send your written comments by May 23, 2013.

ADDRESSES: You may submit comments or requests for copies or more information by any of the following methods. Alternatively, you may use one of the following methods to request hard copies or a CD–ROM of the documents. Please specify the permit you are interested in by number (e.g., Permit No. TE–106182).

- *Email: permitsR6ES@fws.gov.* Please refer to the respective permit number (e.g., Permit No. TE–106182) in the subject line of the message.
- *U.S. Mail:* Ecological Services, U.S. Fish and Wildlife Service, P.O. Box 25486–DFC, Denver, CO 80225
- *In-Person Drop-Off, Viewing, or Pickup:* Call (303) 236–4212 to make an appointment during regular business hours at 134 Union Blvd., Suite 645, Lakewood, CO 80228.

FOR FURTHER INFORMATION CONTACT: Kathy Konishi, Permit Coordinator Ecological Services, (303) 236–4212 (phone); *permitsR6ES@fws.gov* (email).

SUPPLEMENTARY INFORMATION:

Background

The Act (16 U.S.C. 1531 *et seq.*) prohibits activities with endangered and threatened species unless a Federal permit allows such activity. Along with our implementing regulations in the Code of Federal Regulations (CFR) at 50 CFR 17, the Act provides for permits, and requires that we invite public comment before issuing these permits.

A permit granted by us under section 10(a)(1)(A) of the Act authorizes you to conduct activities with United States endangered or threatened species for scientific purposes, enhancement of propagation or survival, or interstate commerce (the latter only in the event that it facilitates scientific purposes or enhancement of propagation or survival). Our regulations implementing section 10(a)(1)(A) for these permits are found at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

Application Available for Review and Comment

We invite local, State, and Federal agencies, and the public to comment on the following application. Documents and other information the applicant has submitted are available for review, subject to the requirements of the Privacy Act (5 U.S.C. 552a) and Freedom of Information Act (5 U.S.C. 552).

Permit Application Number: TE–106182

Applicant: Denver Botanic Gardens, Inc., 909 York St., Department of Research and Conservation, Denver, CO 80206

The applicant requests an amendment to an existing permit to take (hold, propagate, and display) clay-loving wild buckwheat (*Eriogonum pelinophilum*), Knowlton's cactus (*Pediocactus knowltonii*), Mancos milk-vetch (*Astragalus humillimus*), North Park phacelia (*Phacelia formosula*), Osterhout milkvetch (*Astragalus osterhoutii*), Pagosa skyrocket (*Ipomopsis polyantha*), Penland beardtongue (*Penstemon penlandii),* and San Rafael cactus (*Pediocactus despainii*) under permit TE–106182 for the purpose of enhancing the species' survival.

National Environmental Policy Act

In compliance with the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), we have made an initial determination that the proposed activities in this permit are categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement (516 DM 6 Appendix 1, 1.4C(1)).

Public Availability of Comments

All comments and materials we receive in response to this request will be available for public inspection, by appointment, during normal business hours at the address listed in the **ADDRESSES** section of this notice.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority

We provide this notice under section 10 of the Act (16 U.S.C. 1531 *et seq.*)

Dated: April 17, 2013.

Michael G. Thabault,

Assistant Regional Director, Mountain-Prairie Region.

[FR Doc. 2013–09495 Filed 4–22–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R6–ES–2013–N017; FXES11130600000–134–FF06E00000]

Endangered and Threatened Wildlife and Plants; Black-Footed Ferret Draft Recovery Plan

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability for review and comment.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability of a draft recovery plan for the black-footed ferret (*Mustela nigripes*). This species is federally listed as endangered under the Endangered Species Act of 1973, as amended (Act). The Service solicits review and comment from the public on this draft revised plan.

DATES: Comments on the draft revised recovery plan must be received on or before June 24, 2013.

ADDRESSES: Copies of the draft revised recovery plan are available by request from the National Black-Footed Ferret Conservation Center, U.S. Fish and Wildlife Service, P.O. Box 190, Wellington, CO 80549; telephone: 970–897–2730. Submit comments on the draft recovery plan to the Recovery Coordinator at this same address. An electronic copy of the draft recovery plan is available at *http://www.fws.gov/endangered/species/recovery-plans.html.*

FOR FURTHER INFORMATION CONTACT: Recovery Coordinator, at the above address, or telephone 970–897–2730.

SUPPLEMENTARY INFORMATION:

Background

Restoring an endangered or threatened animal or plant to the point where it is again a secure, self-sustaining member of its ecosystem is a primary goal of the Service's endangered species program. To help guide the recovery effort, the Service prepares recovery plans for the federally listed species native to the United States where a plan will promote the conservation of the species. Recovery plans describe site-specific actions necessary for the conservation of the species; establish objective, measurable criteria which, when met, would result in a determination that the species no longer needs the protection of the Act (16 U.S.C. 1531 *et seq.*); and provide estimates of the time and cost for implementing the needed recovery measures.

The Act requires recovery plans for listed species unless such a plan would not promote the conservation of a particular species. The original plan for the species was approved in 1978. The recovery plan was revised in 1988.

Section 4(f) of the Act requires that public notice and opportunity for public review and comment be provided during recovery plan development. The Service will consider all information received during a public comment period when preparing each new or revised recovery plan for approval. The Service and other Federal agencies also will take these comments into consideration in the course of implementing approved recovery plans. It is our policy to request peer review of recovery plans. We will summarize and respond to the issues raised by the public and peer reviewers in an appendix to the approved recovery plan.

The black-footed ferret (*Mustela nigripes*) was historically found throughout the Great Plains, mountain basins, and semi-arid grasslands of North America wherever prairie dogs occurred. The species was listed as endangered in 1967 (32 FR 4001; March 11, 1967) under the Endangered Species Preservation Act of 1966 and again in 1970 under the Endangered Species Conservation Act of 1969 (35 FR 8491; June 2, 1970). On January 4, 1974, the black-footed ferret was listed under the Endangered Species Act of 1973 (39 FR 1171). The ferret's close association with prairie dogs was an important factor in the ferret's decline. From the late 1800s to approximately the 1960s, prairie dog-occupied habitat and prairie dog numbers were dramatically reduced by the effects of both temporal and permanent habitat loss caused by conversion of native grasslands to cropland, and poisoning and disease. The ferret population declined precipitously as a result.

The recovery of the black-footed ferret will be achieved by establishing a number of ferret populations where appropriate habitat exists and by ameliorating threats impacting the species so as to allow the ferret's persistence. Although ferret habitat has been dramatically reduced from historical times, a sufficient amount remains, if its quality and configuration is appropriately managed. This management, for the most part, is likely to be conducted by State, Tribal, and Federal fish and wildlife and land management agencies. Additionally, private parties, including landowners and conservation organizations, are key for ferret recovery. Many partners contributing to ferret recovery in many places will help minimize the risk of loss of wild populations.

Specifically, recovery of black-footed ferrets will depend upon: (1) Continued efforts of captive breeding facilities to provide suitable animals for release into the wild; (2) conservation of prairie dog habitat adequate to sustain ferrets in several populations distributed throughout their historical range; and (3) management of sylvatic plague. The single, most feasible action that would benefit black-footed ferret recovery is to improve prairie dog conservation. If efforts are undertaken to more proactively manage existing prairie dog habitat for ferret recovery, all other threats to the species will be substantially less difficult to address. Downlisting of the black-footed ferret could be accomplished in approximately 10 years if conservation actions continue at existing reintroduction sites and if additional reintroduction sites are established. Delisting will be possible if more intensive reintroduction efforts are conducted of the black-footed ferret.

Request for Public Comments

The Service solicits public comments on the draft revised recovery plan. All comments received by the date specified in **DATES** will be considered prior to approval of the plan. Written comments and materials regarding the plan should be addressed to the Recovery Coordinator (see **ADDRESSES** section). Comments and materials we receive, as well as supporting documentation we used in preparing this draft revised recovery plan will be available, by appointment, for public inspection during normal business hours at the above address. If you submit a comment that includes personal identifying

information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so.

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: April 3, 2013.

Matt Hogan,

Acting Regional Director, Denver, Colorado.

[FR Doc. 2013–09494 Filed 4–22–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R5–R–2012–N282; BAC–4311–K9–S3]

Sunkhaze Meadows National Wildlife Refuge and Carlton Pond Waterfowl Production Area, Penobscot, Kennebec, and Waldo Counties, ME; Draft Comprehensive Conservation Plan and Environmental Assessment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (we, the Service), announce the availability of a draft comprehensive conservation plan and environmental assessment (CCP and EA) for Sunkhaze Meadows National Wildlife Refuge (NWR) and Carlton Pond Waterfowl Production Area (WPA), located in Penobscot, Kennebec, and Waldo Counties, Maine, for public review and comment. The draft CCP and EA describes our proposal for managing the refuge and WPA for the next 15 years.

Also available for public review and comment are the draft findings of appropriateness and draft compatibility determinations for uses to be allowed upon initial completion of the plan, if alternative B is selected. These are included as appendix B in the draft CCP and EA.

DATES: To ensure consideration, please send your comments no later than May 31, 2013. We will announce upcoming public meetings in local news media, via our project mailing list, and on our regional planning Web site: *http://www.fws.gov/northeast/planning/Sunkhaze%20Meadows/ccphome.html.*

ADDRESSES: You may submit comments or requests for copies or more information by any of the following methods. You may request hard copies or a CD–ROM of the documents.

Email: northeastplanning@fws.gov. Please include ''Sunkhaze Meadows NWR and Carlton Pond WPA Draft CCP'' in the subject line of the message.

Fax: Attention: Lia McLaughlin, 413–253–8468.

U.S. Mail: Lia McLaughlin, Natural Resource Planner, U.S. Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, MA 01035.

In-Person Drop-off, Viewing, or Pickup: Call 207–594–0600 to make an appointment (necessary for view/pickup only) during regular business hours at Maine Coastal Islands NWR, 9 Water Street, Rockland, ME 04841. For more information on locations for viewing or obtaining documents, see ''Public Availability of Documents'' under **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Beth Goettel, Refuge Manager, 207–594–0600 (phone), or Lia McLaughlin, Planning Team Leader, 413–253–8575 (phone); *northeastplanning@fws.gov* (email).

SUPPLEMENTARY INFORMATION:

Introduction

With this notice, we continue the CCP process for Sunkhaze Meadows NWR and Carlton Pond WPA. We started this process through a notice in the **Federal Register** (76 FR 14984; March 18, 2011).

Currently, Sunkhaze Meadows NWR is comprised of three units: the Sunkhaze Meadows Unit, the Benton Unit, and the Sandy Stream Unit. The Sunkhaze Meadows Unit is the largest of the three, at 11,484 acres, located in the town of Milford in Penobscot County. The Benton Unit is a 334-acre former dairy farm in the town of Benton in Kennebec County. The Sandy Stream Unit is a 58-acre parcel in the town of Unity in Waldo County. Sunkhaze Meadows NWR was established in 1988 to preserve the Sunkhaze Meadows peat bog (now the Sunkhaze Meadows Unit) and to ensure public access to this unique environment. Sunkhaze Meadows NWR includes more than 3,450 acres of freshwater wetland-peatland that provides breeding and migrating habitat for waterfowl and other wetland species.

Carlton Pond WPA is a 1,068-acre artificial impoundment located in the town of Troy in Waldo County. The area was acquired by the Service in 1966 to protect the waterfowl and other wildlife associated with this area in central Maine. Carlton Pond WPA has historically provided good nesting habitat for waterfowl and other birds, and is one of the few areas in Maine that provides nesting habitat for the black tern, which is listed as endangered by the State. Many bird species that use Carlton Pond WPA have been listed by the Partners In Flight organization as species that are declining.

Sunkhaze NWR and Carlton Pond WPA are currently administered by staff from Maine Coastal Islands NWR. Both areas offer an abundance of wildlife observation and photography opportunities. Partners offer limited environmental education and interpretation programs. Visitors to the refuge and WPA also participate in outdoor recreation activities such as hiking, snowmobiling, hunting, and fishing.

Background

The CCP Process

The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) (Refuge Administration Act), as amended by the National Wildlife Refuge System Improvement Act of 1997, requires us to develop a CCP for each national wildlife refuge. The purpose for developing a CCP is to provide refuge managers with a 15-year plan for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and our policies. In addition to outlining broad management direction on conserving wildlife and their habitats, CCPs identify wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation and photography, and environmental education and interpretation. We will review and update the CCP at least every 15 years in accordance with the Refuge Administration Act.

Public Outreach

We started pre-planning for the Sunkhaze Meadows NWR and Carlton Pond WPA CCP on January 4, 2011. In March 2011, we published a notice of intent in the **Federal Register**, a press release, and a newsletter, all announcing our intent to prepare a CCP for the refuge and WPA. In March and April 2011, we had a formal public scoping period. The purpose of the public scoping period was to solicit comments from the community and other interested parties on the issues and impacts that should be evaluated in the draft CCP and EA. To help solicit public comments, we held two public meetings at the Milford Town Hall and one public meeting at Unity College during the formal public scoping period.

Throughout the rest of the planning process, we have conducted additional outreach by holding an additional public meeting on potential wilderness designation on February 9, 2012, and by participating in community meetings, events, and other public forums. In addition to the initial newsletter, we have published three newsletters updating the public on our progress with the CCP. We received comments on topics such as the potential effects of climate change, improving biological connectivity, forest management, potential wilderness designation, staffing needs, expanding partnerships, trail maintenance, and public uses of the refuge and WPA. We have considered and evaluated all of the comments we received and addressed them in various ways in the alternatives presented in the draft CCP and EA.

CCP Alternatives We Are Considering

During the public scoping process, we, the Maine Department of Inland Fisheries and Wildlife, other governmental partners, and the public raised several issues. To address these issues, we developed and evaluated three alternatives in the draft CCP and EA. Here we present a brief summary of each of the alternatives; a full description of each alternative is in the draft CCP and EA. All alternatives include measures to control invasive species, monitor and abate diseases affecting wildlife and plant health, and protect cultural resources. In addition, we have made the preliminary determination that Sunkhaze Stream and tributaries within the refuge boundary are eligible for Wild and Scenic River designation. Under all alternatives we would complete the suitability study to determine if the stream and its tributaries are suitable for this designation under the Wild and Scenic Rivers Act. Carlton Pond WPA would also continue to be managed primarily to benefit the State-listed black tern under all alternatives. There are also several actions that are common to both alternatives B and C. These include establishing climate change monitoring, expanding partnerships, and expanding cultural resource protection and interpretation.

Alternative A (Current Management)

Alternative A (current management) satisfies the National Environmental Policy Act (40 CFR 1506.6(b)) requirement of a ''No Action'' alternative, which we define as ''continuing current management.'' It describes our existing management priorities and activities, and serves as a baseline for comparing and contrasting alternatives B and C. It would maintain our present levels of approved refuge and WPA staffing and the biological and visitor programs now in place. We would continue to focus on preserving the freshwater wetland-peatland complex on the Sunkhaze Meadows Unit, which provides habitat for breeding waterfowl. We would also continue to preserve the open water and emergent marsh habitat at Carlton Pond WPA, the grassland habitat at the Benton Unit, and the shrubland and riparian habitat at the Sandy Stream Unit. Public use activities such as wildlife observation, photography, hiking, snowmobiling, and hunting would continue to be allowed. Our environmental education program would continue to allow visitor access to refuge units and the WPA for environmental education purposes and conducting interpretation programs.

Alternative B (Increased Habitat Enhancement and Improved Visitor Services)

This alternative is the Service-preferred alternative. It combines the actions we believe would most effectively achieve the refuge's and WPA's purposes, vision, and goals, and respond to the issues raised during the scoping period. Under alternative B, we would focus on the preservation of the peatland-wetland complex and mature forest within the Sunkhaze Meadow Unit. We would largely maintain existing forest and grassland habitat at the Benton Unit; however, we would convert about 22 acres of forest habitat to grasslands if feasible. We would expand the riparian forest at the Sandy Stream Unit to protect water quality; we would continue to maintain the rest as shrubland habitat.

We would expand and improve our visitor services programs by providing some Service-led environmental education and interpretation programs. We would also work with partners to offer more educational and interpretive opportunities. We would continue to offer hunting and fishing opportunities as well as allowing other existing uses of the refuge units such as snowmobiling. We would maintain the refuge's most popular walking trails at the Sunkhaze Meadows Unit, including creating some small connector trails. We would stop maintaining two of the unit's less-used trails. We would also create a small connector trail at the Benton Unit, develop new interpretive materials for all of the units and the WPA, and develop new interpretive panels for the Benton Unit. Refuge staff would update existing trail signs and interpretive panels.

Alternative C (Intensive Habitat Management and Increased Public Use)

Under alternative C, we would continue to focus on the preservation of the peatland-wetland complex at the Sunkhaze Meadows Unit. However, in contrast to alternatives A and B, this alternative includes shifting management of some mature forest and grasslands to shrubland and young forest habitat within the Sunkhaze Meadow Unit and the Benton Unit to benefit species that rely on shrubland and young forest habitat. Management of the Sandy Stream Unit and Carlton Pond WPA would be similar to alternative B. Under alternative C, we would also work closely with partners to increase and enhance public use activities, such as expanding the trails at the Benton Unit and providing more environmental education and interpretation programming.

Public Availability of Documents

In addition to any methods in **ADDRESSES**, you can view or obtain documents at the following locations:

- Our Web site: *http://www.fws.gov/northeast/planning/Sunkhaze%20Meadows/ccphome.html*

Public Libraries: *The Old Town Public Library, located at 46 Middle Street, Old Town,* ME 04468, and the DorothyWebb Quimby Library, located at Unity College, 90 Quaker Hill Road, Unity, ME 04988, during regular library hours.

Submitting Comments/Issues for Comment

We are seeking substantive comments, particularly on the following issues:

- Public uses of the refuge and WPA; and
- Potential for future wild and scenic river designation at the Sunkhaze Meadows Unit.

We consider comments substantive if they:

- Question, with reasonable basis, the accuracy of the information in the document.
- Question, with reasonable basis, the adequacy of the EA.
- Present reasonable alternatives other than those presented in the EA.
- Provide new or additional information relevant to the EA.

Next Steps

After this comment period ends, we will analyze the comments and address them in the form of a final CCP and finding of no significant impact.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your

comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: March 27, 2013.

Deborah Rocque,

Acting Regional Director, Northeast Region.

[FR Doc. 2013–09486 Filed 4–22–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWY922000–L13200000–EL0000]

Powder River Regional Coal Team Activities: Notice of Public Meeting in Casper, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: The Powder River Regional Coal Team (RCT) has scheduled a public meeting for June 19, 2013, to review coal management activities in the Powder River Coal Production Region.

DATES: The RCT meeting will begin at 9 a.m. MDT on June 19, 2013. The meeting is open to the public.

ADDRESSES: The meeting will be held at the Wyoming Oil and Gas Conservation Commission Hearing Room, 2211 King Boulevard, Casper, Wyoming.

FOR FURTHER INFORMATION CONTACT: Kathy Muller Ogle, Coal Coordinator, BLM Wyoming State Office, Division of Minerals and Lands, 5353 Yellowstone Road, Cheyenne, Wyoming 82009: Telephone 307–775–6206, or Greg Fesko, Coal Coordinator, BLM Montana State Office, Division of Resources, 5001 Southgate Drive, Billings, Montana 59101: Telephone 406–896–5080.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to discuss progress in processing pending coal leases by application (LBAs), to vote on a new LBA filing in the Powder River Coal Production Region, and to discuss other Federal coal-related actions in the region. Specific coal-related topics planned for the RCT meeting include:

1. Update on U.S. Geological Survey coal inventory work.
2. Update on progress in processing existing coal LBAs in the Powder River Coal Production Region.
3. Consider and vote on the following new LBA filing in the Powder River Coal Production Region.

• The Spring Creek LBA II Tract was filed by Spring Creek Coal LLC in the BLM Montana State office on February 15, 2013. The LBA will be presented to the RCT for their consideration and vote. The Spring Creek LBA II Tract is adjacent to the Spring Creek Mine located in Big Horn County, Montana. The RCT will vote on a recommendation for the BLM to either process or not process the application.

4. Presentation on potential exchange of Preference Right Lease Applications in New Mexico held by Ark Land Company, for competitive bidding rights in Wyoming, pursuant to 43 CFR part 3435.
5. Discussion on updating the Data Adequacy Standards for the Powder River Coal Region.
6. Update on BLM land use planning efforts in the Powder River Coal Production Region of Wyoming and Montana.

The RCT will also consider any or other coal-related issues that may arise prior to the meeting. During the public meeting the RCT may generate recommendation(s) for any or all of these topics and other topics that may arise prior to the meeting date.

The meeting will serve as a forum for public discussion on Federal coal management issues of concern in the Powder River Coal Production Region. Any party interested in providing comments or data related to existing pending applications, or any party proposing other issues to be considered by the RCT, may either do so in writing to the State Director (922), BLM Wyoming State Office, 5353 Yellowstone Road, Cheyenne, WY 82009, no later than June 6, 2013, or by addressing the RCT with your concerns at the meeting on June 19, 2013.

Following is the draft agenda for the meeting:

1. Introductions
2. Approval of the minutes from the last RCT meeting
3. Speaker on coal resources
4. Coal activity since the last RCT meeting
5. LBA presentations
6. Potential coal bidding rights exchange
7. Updating Data Adequacy Standards for the Powder River Coal Region
7. BLM land use planning update
8. Call for other coal related discussion items
9. Discussion of next meeting
10. Adjourn

Dated: April 12, 2013.

Donald A. Simpson,

State Director.

[FR Doc. 2013–09497 Filed 4–22–13; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNMA00000.L12200000.DF0000]

Notice of Public Meeting, Albuquerque District Resource Advisory Council Meeting, New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management (BLM), Albuquerque District Resource Advisory Council (RAC), will meet as indicated below.

DATES: The meeting date is May 21, 2013, at the BLM Albuquerque District Office, 435 Montano Rd., Albuquerque, NM. The meeting is from 9 a.m.–4 p.m. The public may send written comments to the RAC, 435 Montano Rd., Albuquerque, NM 87107.

FOR FURTHER INFORMATION CONTACT: Chip Kimball, BLM Albuquerque District Office, 435 Montano Rd., Albuquerque, NM 87107, 505–761–8734. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8229 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 10-member RAC advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with public land management in New Mexico.

Planned agenda items include presentations by the Socorro and Rio Puerco Field Office Managers on planned pipeline and transmission line projects, feral horse issues, Rio Puerco Resource Management Plan update from the subcommittee, and a field trip to BLM public lands near Placitas for the RAC.

The comment period during which the public may address the RAC begins at 11 a.m. on May 21, 2013. All RAC meetings are open to the public. Depending on the number of individuals wishing to comment and

time available, the time for individual oral comments may be limited.

William Merhege,

Deputy State Director, Resources.

[FR Doc. 2013–09489 Filed 4–22–13; 8:45 am]

BILLING CODE 4310–AG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLES956000–L14200000–BJ0000–LXSITRST0000]

Eastern States: Filing of Plats of Survey

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of filing of plats of survey; Mississippi and Minnesota.

SUMMARY: The Bureau of Land Management (BLM) will file the plats of survey of the lands described below in the BLM-Eastern States office in Springfield, Virginia, 30 calendar days from the date of publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management-Eastern States, 7450 Boston Boulevard, Springfield, Virginia 22153. Attn: Cadastral Survey. 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 surveys were requested by the Bureau of Indian Affairs.

The lands surveyed are:

Choctaw Meridian, Mississippi

T. 11 N., R. 11 E.

The plat of survey represents the dependent resurvey of a portion of the South and West boundaries and a portion of the subdivisional lines and the survey of the subdivision of Sections 30 and 31, Township 11 North, Range 11 East, of the Choctaw Meridian, in the state of Mississippi, and was accepted March 29, 2013.

Fifth Principal Meridian, Minnesota

T. 144 N., R. 38 W.

The plat of survey represents the dependent resurvey of a portion of the north boundary, a portion of the subdivisional lines, and the survey of subdivision of sections 2, 3, 5, 10 and 14, of Township 144 North, Range 38 West of the Fifth Principal Meridian, in the state of Minnesota, and was accepted March 29, 2013.

We will place a copy of the plats we described in the open files. They will be available to the public as a matter of information.

If BLM receives a protest against a survey, as shown on the plat, prior to the date of the official filing, we will stay the filing pending our consideration of the protest.

We will not officially file the plats until the day after we have accepted or dismissed all protests and they have become final, including decisions on appeals.

Dated: April 16, 2013.

Dominica Van Koten,

Chief Cadastral Surveyor.

[FR Doc. 2013–09491 Filed 4–22–13; 8:45 am]

BILLING CODE 4310–GJ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLMT926000–L14200000–BJ0000]

Notice of Filing of Plats of Survey; North Dakota

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of filing of plats of survey.

SUMMARY: The Bureau of Land Management (BLM) will file the plat of survey of the lands described below in the BLM Montana State Office, Billings, Montana, on May 23, 2013.

DATES: Protests of the survey must be filed before May 23, 2013 to be considered.

ADDRESSES: Protests of the survey should be sent to the Branch of Cadastral Survey, Bureau of Land Management, 5001 Southgate Drive, Billings, Montana 59101–4669.

FOR FURTHER INFORMATION CONTACT: Marvin Montoya, Cadastral Surveyor, Branch of Cadastral Survey, Bureau of Land Management, 5001 Southgate Drive, Billings, Montana 59101–4669, telephone (406) 896–5124 or (406) 896–5009, *Marvin_Montoya@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 survey was executed at the request of the Chief, Branch of Fluid Minerals, Bureau of Land Management, Montana State Office, Billings, Montana, and was necessary to determine Federal Leasable Mineral Lands.

The lands we surveyed are:

Fifth Principal Meridian, North Dakota

T. 148 N., R. 95 W.

The plat, in three sheets, representing the dependent resurvey of portions of the 14th Guide Meridian (west boundary) and the south boundary, a portion of the subdivisional lines, and the adjusted original meanders of the former left and right banks of the Little Missouri River through sections 29, 30, 31, and 32, the subdivision of sections 29, 30, 31, and 32, and the survey of the meanders of the present left and right banks of the Little Missouri River through sections 29, 31, and 32, the limits of erosion in sections 29, 30, 31, and 32, certain division of accretion lines, and a line dividing Lot 1 of section 29, Township 148 North, Range 95 West, Fifth Principal Meridian, North Dakota, was accepted April 12, 2013.

We will place a copy of the plat, in three sheets, and related field notes we described in the open files. They will be available to the public as a matter of information. If the BLM receives a protest against this survey, as shown on this plat, in three sheets, prior to the date of the official filing, we will stay the filing pending our consideration of the protest. We will not officially file this plat, in three sheets, until the day after we have accepted or dismissed all protests and they have become final, including decisions or appeals.

Authority: 43 U.S.C. Chap. 3.

Steve L. Toth,

Acting Chief Cadastral Surveyor, Division of Resources.

[FR Doc. 2013–09488 Filed 4–22–13; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[13X LLIDB00200 LF2200000.JS0000 LFESG1UM0000]

Notice of Temporary Closure on Public Lands in Elmore County, ID

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of temporary closure.

SUMMARY: Notice is hereby given that the Stout Fire closure to motorized vehicle use is in effect on public lands administered by the Four Rivers Field Office, Bureau of Land Management (BLM).

DATES: The Stout Fire closure will be in effect on the date this notice is published in the **Federal Register** and

will remain in effect for 2 years unless rescinded or modified before that by the authorized officer or designated Federal officer.

FOR FURTHER INFORMATION CONTACT: Larry Ridenhour, Four Rivers Field Office outdoor recreation planner, at 3948 Development Avenue, Boise, ID 83705, via email at *lridenhour@blm.gov,* or phone 208–384–3334. 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, seven 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 Stout Fire closure affects public lands burned July 11–14, 2012, by the Stout Fire, 10 miles northeast of Mountain Home, Idaho. According to the Stout Fire Temporary Motorized Use Closure Area map dated November 13, 2012, and located in the Boise District BLM Office, the affected public lands include: Portions of section 25, T. 2 S., R. 7 E.; portions of sections 19, 20, 21, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34 and 35, T. 2 S., R. 8 E.; portions of sections 30 and 31, T. 2 S., R. 9 E.; portions of sections 2, 3, 4, 5, 6, 10, 11, 12, 13, 14, 24 and 25, T. 3 S., R. 8 E.; and portions of sections 6, 7, 17, 18, 19, 20, 28, 29 and 30, T. 3 S., R. 9 E.; Boise Meridian, Elmore County, Idaho. The area encompasses approximately 11,994 acres. The Stout Fire closure is intended to protect critical winter habitat for elk and mule deer as well as important year-long sage-grouse habitat. The closure will help to slow the spread of noxious weeds; allow planted shrub, forb, and grass species to become established; and allow existing plants to recover. The closure will help ensure the long-term viability of habitat for wildlife populations in the area.

Approximately 2,938 acres of the burned area would be drill seeded with perennial grass species adapted to the ecological sites. Approximately 3,000 acres will be broadcast seeded with sagebrush using aerial application methods. The burned areas will be closed to livestock use until resource objectives have been achieved. Approximately 7,841 acres will be broadcast seeded with sagebrush using aerial application methods. Approximately 50,000 seedlings (40,000 bitterbrush, 10,000 sagebrush) a year for 3 years will be planted in strategic locations in the burned area to provide multiple age classes of shrubs in the burned area. Accessible areas of the burned area will be closed to motorized recreational vehicles while the soil and vegetation recovers. Noxious weed inventory and spot herbicide treatment would occur during the first year following the fire within the burned area. Noxious weeds would be treated with BLM-approved chemicals in accordance with the Vegetation Treatments Using Herbicides on Bureau of Land Management Lands in 17 Western States, approved September 29, 2007 (Vegetation Treatment EIS). Approximately 12 miles of allotment and pasture boundary fence burned in the fire will be repaired to restrict livestock from the burned area during recovery and seed establishment and provide soil stabilization.

The BLM will post closure signs at gates, main access points, key perimeter locations and main entry points to the closed areas. The closure notices will also be posted in the Boise District BLM office. Maps of the affected area and other documents associated with this closure are available at the Boise District BLM Office, 3948 Development Avenue, Boise, ID 83705 and on the BLM-Idaho Web site *http://www.blm.gov/id/st/en/advisories-closures.html.* Copies are also available at the United States Forest Service Mountain Home Ranger District Office, 2180 American Legion Blvd., Mountain Home, ID 83647.

The BLM will enforce the following rule within the Stout Fire closure:

Motorized vehicles must not be used within the closed area.

Exemptions: The following persons are exempt from this order: Federal, State, and local officers and employees in the performance of their official duties; members of organized rescue or fire-fighting forces in the performance of their official duties; and persons with written authorization from the BLM.

Penalties: Any person who violates the above rule may be tried before a United States Magistrate and fined, not to exceed $1,000, imprisoned for no more than 12 months, or both. Violators may also be subject to the enhanced fines provided for in 18 U.S.C. 3571.

Authority: 43 CFR 8360.0–7; 43 CFR 8364.1.

Terry A. Humphrey,

Four Rivers Field Manager.

[FR Doc. 2013–09517 Filed 4–22–13; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[N32–1852–7940–200–00–0–0, 2800000]

Draft Environmental Impact Statement/ Environmental Impact Report for Yolo Bypass Salmonid Habitat Restoration and Fish Passage, California

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice to reopen public comment period for the scoping process.

SUMMARY: The Bureau of Reclamation is reopening the comment period for the scoping process. The public comment period will now end on May 6, 2013. We published the notice of intent in the **Federal Register** on March 4, 2013 (78 FR 14117). The public comment period originally ended on April 3, 2013.

DATES: Written comments submitted as part of the scoping process will be accepted on or before May 6, 2013.

ADDRESSES: Send written comments to Traci Michel, Project Manager, Bureau of Reclamation, Bay-Delta Office, 801 I Street, Suite 140, Sacramento, CA 95814–2536; fax to 916–414–2439; or email at *tmichel@usbr.gov.*

FOR FURTHER INFORMATION CONTACT: Traci Michel, 916–414–2420, fax 916–414–2439, or email *tmichel@usbr.gov;* or Megan Sheely, FESSRO, Fish Passage Improvement Program, California Department of Water Resources, 901 P Street, Room 411A, Sacramento, CA 95814, 916–651–9623, fax 916–376–9688, or email *Megan.Sheely@water.ca.gov.*

Public Disclosure

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: March 29, 2013.

Russell W. Grimes,

Chief, Environmental Compliance and Conservation Branch, Mid-Pacific Region.

[FR Doc. 2013–09503 Filed 4–22–13; 8:45 am]

BILLING CODE 4310–MN–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. TA–131–037 and TA–2104–029]

U.S.-EU Transatlantic Trade and Investment Partnership Agreement: Advice on the Probable Economic Effect of Providing Duty-Free Treatment for Imports

AGENCY: United States International Trade Commission.

ACTION: Institution of investigations and scheduling of hearing.

SUMMARY: Following receipt on March 26, 2013, of a request from the United States Trade Representative (USTR), the Commission instituted investigation Nos. TA–131–037 and TA–2104–029, *U.S.-EU Transatlantic Trade and Investment Partnership Agreement: Advice on the Probable Economic Effect of Providing Duty-Free Treatment for Imports.*

DATES: May 16, 2013: Deadline for filing requests to appear at the public hearing.

May 17, 2013: Deadline for filing pre-hearing briefs and statements.

June 5, 2013: Public hearing.

June 11, 2013: Deadline for filing post-hearing briefs and statements.

June 18, 2013: Deadline for filing all other written submissions.

September 26, 2013: Transmittal of Commission report to the USTR.

ADDRESSES: All Commission offices, including the Commission's hearing rooms, are located in the United States International Trade Commission Building, 500 E Street SW., Washington, DC. All written submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://www.usitc.gov/secretary/edis.htm.*

FOR FURTHER INFORMATION CONTACT: Vincent Honnold, Project Leader (202–205–3314 or *vincent.honnold@usitc.gov*), or Jeffrey Clark, Deputy Project Leader (202–205–3318 or *jeffrey.clark@usitc.gov*), for information specific to these investigations. For information on the legal aspects of these investigations, contact William Gearhart of the Commission's Office of the General Counsel (202–205–3091 or *william.gearhart@usitc.gov*). The media should contact Margaret O'Laughlin, Office of External Relations (202–205–1819 or *margaret.olaughlin@usitc.gov*). Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). 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.

Background: In his letter of March 25, 2013, the USTR requested that the Commission provide certain advice under section 131 of the Trade Act of 1974 (19 U.S.C. 2151) and an assessment under section 2104(b)(2) of the Trade Act of 2002 (19 U.S.C. 3804(b)(2)) with respect to the effects of providing duty-free treatment for imports of products from all of the European Union (EU) member states.

More specifically, the USTR, under authority delegated by the President and pursuant to section 131 of the Trade Act of 1974, requested that the Commission provide a report containing its advice as to the probable economic effect of providing duty-free treatment for imports of products from all of the EU member states on (i) industries in the United States producing like or directly competitive products, and (ii) consumers. The USTR asked that the Commission's analysis consider each article in chapters 1 through 97 of the Harmonized Tariff Schedule of the United States (HTS) for which tariffs will remain, taking into account implementation of U.S. commitments in the World Trade Organization. The USTR asked that the advice be based on the HTS in effect during 2013 and trade data for 2012. The USTR also requested that the Commission, in preparing its advice, assume that any known U.S. nontariff barrier will not be applicable to such imports, and that the Commission note in its report any instance in which the continued application of a U.S. nontariff barrier would result in different advice with respect to the effect of the removal of the tariff.

In addition, the USTR requested that the Commission prepare an assessment, pursuant to section 2104(b)(2) of the Trade Act of 2002, of the probable economic effects of eliminating tariffs on imports from all of the EU member states of those agricultural products on the list attached to his letter on (i) industries in the United States producing the product concerned, and (ii) the U.S. economy as a whole. The USTR's request and list of agricultural products are posted on the Commission's Web site at *http://www.usitc.gov.*

As requested, the Commission will provide its report to the USTR by September 26, 2013. The USTR indicated that those sections of the Commission's report that relate to the advice and assessment of probable economic effects will be classified. The USTR also indicated that he considers the Commission's report to be an inter-agency memorandum that will contain pre-decisional advice and be subject to the deliberative process privilege.

Public Hearing: A public hearing in connection with these investigations will be held at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC, beginning at 9:30 a.m., June 5, 2013. Requests to appear at the public hearing should be filed with the Secretary not later than 5:15 p.m., May 16, 2013. All pre-hearing briefs and statements should be filed not later than 5:15 p.m., May 17, 2013; and all post-hearing briefs and statements should be filed not later than 5:15 p.m., June 11, 2013. All briefs should be filed in accordance with the requirements in the ''Submissions'' section below.

Written Submissions: In lieu of or in addition to participating in the hearing and filing briefs and statements relating to the hearing, interested parties are invited to file written submissions concerning these investigations. All written submissions should be addressed to the Secretary, and should be received not later than 5:15 p.m., June 18, 2013. All written submissions must conform to the provisions of section 201.8 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.8). Section 201.8 and the Commission's *Handbook on Filing Procedures* require that interested parties file documents electronically on or before the filing deadline and submit eight (8) true paper copies by 12:00 noon eastern time on the next business day. In the event that confidential treatment of a document is requested, interested parties must file, at the same time as the eight paper copies, at least four (4) additional true paper copies in which the confidential information must be deleted (see the following paragraph for further information regarding confidential business information). Persons with questions regarding electronic filing should contact the Secretary (202–205–2000).

Any submissions that contain confidential business information must also conform to the requirements of section 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the

''confidential'' or ''non-confidential'' version, and that the confidential business information be clearly identified by means of brackets. All written submissions, except for confidential business information, will be made available for inspection by interested parties.

The Commission may include some or all of the confidential business information submitted in the course of the investigations in the report it sends to the USTR. The Commission will not otherwise publish any confidential business information in a manner that would reveal the operations of the firm supplying the information.

By order of the Commission.

Issued: April 18, 2013.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2013–09487 Filed 4–22–13; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–829]

Certain Toner Cartridges and Components Thereof; Commission Determination Not To Review an Initial Determination Granting Complainant's Motion for Summary Determination of Violation by the Defaulting Respondents

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an ID (Order No. 25) of the administrative law judge (''ALJ'') granting summary determination of violation by the defaulting respondents.

FOR FURTHER INFORMATION CONTACT: James A. Worth, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–3065. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: This investigation was instituted on February 27, 2012, based upon a complaint filed on behalf of Canon, Inc. of Tokyo, Japan; Canon U.S.A., Inc. of Lake Success, New York; and Canon Virginia, Inc. of Newport News, Virginia (collectively, ''Canon'') on January 23, 2012. 77 FR 11586 (Feb. 27, 2012). The complaint alleged violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the sale for importation, importation, or sale in the United States after importation of certain toner cartridges and components thereof that infringe one or more of claims 128–130, 132, 133 and 139–143 of U.S. Patent Nos. 5,903,803 (''the '803 patent'') and claims 24–30 of U.S. Patent No. 6,128,454 (''the '454 patent''). The notice of investigation named numerous respondents.

The following respondents have previously been terminated from the investigation on the basis of a consent order or withdrawal of the complaint: Clover Holdings, Inc.; Clover Technologies Group LLC; Clover Vietnam Co., Ltd.; Dataproducts USA, LLC; Dataproducts Imaging Solutions S.A. de C.V.; CAU Acquisition Co., LLC d/b/a Cartridges Are Us; Nukote Internacional de Mexico, S.A. de C.V.; Atman, Inc. d/b/a pcRUSH.com; Dexxxon Digital Storage, Inc.; Discount Office Items, Inc. and Deal Express LLC d/b/a Discount Office Items; Green Project, Inc.; GreenLine Paper Co., Inc.; Myriad Greeyn LLC; Office World Inc. and OfficeWorld.com, Inc.; OnlineTechStores.com, Inc. d/b/a SuppliesOutlet.com; and Virtual Imaging Products, Inc.

The following respondents have previously been found in default: Shanghai Orink Infotech International Co., Ltd.; Orink Infotech International Co., Ltd.; Zuhai Rich Imaging Technology Co., Ltd.; Standard Image Co., Ltd. a/k/a Shanghai Orink Co., Ltd.; Zuhai National Resources & Jingjie Imaging Products Co., Ltd. d/b/a Huebon Co., Ltd. d/b/a Ink-Tank; Standard Image USA, Inc. d/b/a Imaging Standard Inc.; Printronic Corporation d/b/a Printronic.com d/b/a InkSmile.com; Nukote, Inc.; Acecome, Inc.—San Antonio d/b/a InkSell.com; Do It Wiser LLC d/b/a Image Toner; E-Max Group, Inc. d/b/a Databazaar.com; IJSS Inc. d/b/a TonerZone.com d/b/a InkJetSuperstore.com; Imaging Resources LLC; Ink Technologies Printer Supplies, LLC; SupplyBuy.com, Inc.; and Zinyaw LLC d/b/a TonerPirate.com. *See* Order No. 14, *nonreviewed* by Commission Notice (October 2, 2012). Accordingly, the only parties remaining active in this investigation are Canon and the Commission investigative attorney.

On September 21, 2012, Canon filed a motion for summary determination that it satisfies the economic prong of the domestic industry requirement. On February 26, 2013, the ALJ issued an ID (Order No. 24), granting the motion. On March 25, 2013, the Commission determined not to review the ID.

On November 16, 2012, Canon filed a motion for summary determination of violation with respect to the defaulting respondents. On February 28, 2013, the presiding ALJ issued the subject ID (Order No. 25) granting the motion. He also recommended issuance of a general exclusion order, issuance of cease and desist orders to the eleven domestic defaulting respondents, and the imposition of a bond of 100 percent of entered value during the period of Presidential review. No petitions for review were filed.

Having considered the subject ID and the relevant portions of the record, the Commission has determined not to review the ID based on the substantial, reliable, and probative evidence establishing a violation by the defaulting respondents.

In connection with the final disposition of this investigation, the Commission may (1) issue an order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) issue one or more cease and desist orders that could result in the respondent being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, see *Certain Devices for Connecting Computers via Telephone Lines,* Inv. No. 337–TA–360, USITC Pub. No. 2843 (December 1994) (Commission Opinion).

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an

exclusion order and/or cease and desist orders would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve or disapprove the Commission's action. *See* Presidential Memorandum of July 21, 2005. 70 FR 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

Written Submissions: Parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Complainants and the Commission investigative attorney are also requested to submit proposed remedial orders for the Commission's consideration. Complainants are also requested to state the HTSUS numbers under which the accused products are imported.

Written submissions must be filed no later than close of business on May 1, 2013. Reply submissions must be filed no later than the close of business on May 8, 2013. Such submissions should address the ALJ's recommended determinations on remedy and bonding which were made in Order No. 25. No further submissions on any of these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit eight true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the investigation number (''Inv. No. 337–TA–829'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, *http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf*). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. A redacted non-confidential version of the document must also be filed simultaneously with the any confidential filing. All non-confidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: April 17, 2013.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2013–09476 Filed 4–22–13; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).

On April 17, 2013, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Eastern District of Texas in the lawsuit entitled *United States and State of Texas* v. *City of Port Arthur, Texas, et al.,* Civil Action No. 1:13–cv–00235.

The United States filed this lawsuit under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). The Complaint, jointly filed by the United States and the State of Texas, names the City of Port Arthur, Texas; American Commercial Barge Line LLC; E.I. du Pont de Nemours & Company; Huntsman Petrochemical Corporation; Kirby Corporation; Kirby Inland Marine, LP; Phillips 66 Company; Port Neches Towing, Inc.; and Sabine Towing and Transportation Co. Inc., as defendants. The complaint requests recovery of costs that the United States and the State of Texas incurred responding to releases of hazardous substances at the State Marine Superfund Site near the city of Port Arthur, Texas. These nine defendants (''Settling Defendants'') signed the consent decree. Collectively, the Settling Defendants agreed to pay $1,029,000 of the United States' response costs (and $70,000 of the State's response costs). In return, the United States agrees not to sue the Settling Defendants under sections 106 and 107 of CERCLA or under section 7003 of the Resource Conservation and Recovery Act. The consent decree also includes a finding that Settling Defendants are entitled to protection from contribution actions or claims as provided by CERCLA Section 113(f)(2), 42 U.S.C. § 9613(f)(2), for ''matters addressed'' in the consent decree. With certain exceptions, the consent decree defines ''matters addressed'' in the consent decree to be all response actions taken or to be taken and all response costs incurred or to be incurred, at or in connection with the State Marine Site, by the United States, the State of Texas, or any other person.

The publication of this notice opens a period for public comment on the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States and State of Texas* v. *City of Port Arthur, Texas et al.,* D.J. Ref. No. 90–11–3–09504/1. 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.

Under section 7003(d) of RCRA, a commenter may request an opportunity for a public meeting in the affected area.

During the public comment period, the consent decree may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will provide a paper copy of the consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $9.00 (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. 2013–09500 Filed 4–22–13; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Water Act

On April 4, 2013, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the District of New Hampshire in the lawsuit entitled *United States* v. *Torromeo Industries, Inc.,* Civil Action No. 1:10–cv–509–JL. Torromeo Industries, Inc., is a Massachusetts corporation with a principal place of business at 33 Old Ferry Road, Methuen, Massachusetts. Torromeo operates a sand, gravel, crushed stone mining, and redi-mix concrete operation at 18 Dorre Road, Kingston, New Hampshire (''the Facility'').

The United States filed the underlying action against Torromeo Industries, Inc., pursuant to Sections 309(b) and (d) of the Clean Water Act (''CWA'' or ''Act''), 33 U.S.C. 1319(b) and (d). The United States sought civil penalties and injunctive relief for violations of Sections 301, 308, and 402 of the CWA, 33 U.S.C. 1311, 1318, and 1342, and applicable implementing regulations relating to Torromeo's discharge of process water and storm water to the waters of the United States in the course of its operations at the Kingston, NH facility.

In the proposed Consent Decree, Torromeo Industries, Inc., agrees to eliminate all process water discharges from the Facility except as specifically authorized by a National Pollutant Discharge Elimination System (''NPDES'') permit.

With respect to storm water runoff, Torromeo will complete and submit to EPA an Initial Comprehensive Facility Compliance Evaluation (''ICFCE'') for each Construction Materials Facility located in New England that it owns or operates, or which it subsequently acquires, which shall address all elements specified in the Consent Decree (''CD''). Torromeo shall also establish a Storm Water Pollution Protection Plan (''SWPPP'') addressing all elements specified in the CD.

Torromeo will implement a Supplemental Environmental Project (''SEP''), the Castleton Function Hall Pervious Concrete Project, as specified in the CD.

Torromeo shall pay a civil penalty in the amount of $135,000.

The publication of this notice opens a period for public comment on the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Torromeo Industries, Inc.,* Civil Action No. 1:10–cv–509–JL; DOJ Ref. No. 90–5–1–1–10014. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the proposed Consent Decree may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will provide a paper copy of the proposed Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $15.00 (25 cents per page reproduction cost) payable to the United States Treasury.

Maureen M. Katz,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2013–09521 Filed 4–22–13; 8:45 am]

BILLING CODE 4410–CW–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances, Notice of Application, Lipomed

Pursuant to Title 21 Code of Federal Regulations 1301.34 (a), this is notice that on January 29, 2013, Lipomed, One Broadway, Cambridge, Massachusetts 02142, made application by letter to the Drug Enforcement Administration (DEA) for registration as an importer of the following basic classes of controlled substances:

Drug	Schedule
JWH–250 (6250)	I
SR–18 also known as RCS–8 (7008).	I
JWH–019 (7019)	I
JWH–081 (7081)	I
SR–19 also known as RCS–4 (7104).	I
JWH–122 (7122)	I
AM–2201 (7201)	I
JWH–203 (7203)	I
2C–T–2 (7385)	I
JWH–398 (7398)	I
2C–D (7508)	I
2C–E (7509)	I
2C–H (7517)	I
2C–I (7518)	I
2C–C (7519)	I
2C–N (7521)	I
2C–P (7524)	I
2C–T–4 (7532)	I
AM–694 (7694)	I

The company plans to import analytical reference standards for distribution to its customers for research and analytical purposes.

Any bulk manufacturer who is presently, or is applying to be, registered with DEA to manufacture such basic classes of controlled substances listed in schedule I, which fall under the authority of section 1002(a)(2)(B) of the Act 21 U.S.C. 952(a)(2)(B) may, in the circumstances set forth in 21 U.S.C. 958(i), file comments or objections to the issuance of the proposed registration and may, at the same time, file a written request for a hearing on such application pursuant to 21 CFR § 1301.43, and in such form as prescribed by 21 CFR § 1316.47.

Any such written comments or objections should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), 8701 Morrissette Drive, Springfield, Virginia 22152; and must be filed no later than May 23, 2013.

This procedure is to be conducted simultaneously with, and independent of, the procedures described in 21 CFR § 1301.34(b), (c), (d), (e), and (f). As noted in a previous notice published in the **Federal Register** on September 23, 1975, 40 FR 43745–46, all applicants for registration to import a basic class of any controlled substance in schedules I or II are, and will continue to be, required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, that the requirements for such registration pursuant to 21 U.S.C. 958(a); 21 U.S.C. 823(a); and 21

CFR § 1301.34(b), (c), (d), (e), and (f) are satisfied.

Dated: April 16, 2013.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2013–09538 Filed 4–22–13; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances: Notice of Registration; Fisher Clinical Services, Inc.

By Notice dated November 27, 2012, and published in the **Federal Register** on December 5, 2012, 77 FR 72409, Fisher Clinical Services, Inc., 7554 Schantz Road, Allentown, Pennsylvania 18106, made application to the Drug Enforcement Administration (DEA) to be registered as an importer of Levorphanol (9220), a basic class of controlled substance in schedule II.

The company plans to import the listed substances for analytical research and clinical trials.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and § 952(a), and determined that the registration of Fisher Clinical Services, Inc., to import the basic class of controlled substance is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. DEA has investigated Fisher Clinical Services, Inc., to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems; verification of the company's compliance with state and local laws; and a review of the company's background and history.

Therefore, pursuant to 21 U.S.C. 952(a) and § 958(a), and in accordance with 21 CFR 1301.34, the above named company is granted registration as an importer of the basic class of controlled substance listed.

Dated: April 16, 2013.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2013–09537 Filed 4–22–13; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application; Research Triangle Institute

Pursuant to § 1301.33(a), Title 21 of the Code of Federal Regulations (CFR), this is notice that on March 26, 2013, Research Triangle Institute, Poonam G. Pande, Ph.D., RPH, RAC, Hermann Building, East Institute Drive, P.O. Box 12194, Research Triangle Park, North Carolina 27709, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Drug	Schedule
Marihuana (7360)	I
Cocaine (9041)	II

The Institute will manufacture marihuana, and cocaine derivatives for use by their customers in analytical kits, reagents, and reference standards as directed by the National Institute on Drug Abuse.

Any other such applicant, and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the proposed registration pursuant to 21 CFR 1301.33(a).

Any such written comments or objections should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, **Federal Register** Representative (ODL), 8701 Morrissette Drive, Springfield, Virginia 22152; and must be filed no later than June 24, 2013.

Dated: April 16, 2013.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2013–09533 Filed 4–22–13; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application; Wildlife Laboratories, Inc.

Pursuant to § 1301.33(a), Title 21 of the Code of Federal Regulations (CFR), this is notice that on March 7, 2013, Wildlife Laboratories Inc., 1230 W. Ash Street, Suite D, Windsor, Colorado 80550, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of Carfentanil (9743), a basic class of controlled substance listed in schedule II.

The company plans to manufacture the above listed controlled substance for sale to veterinary pharmacies, zoos, and for other animal and wildlife applications.

Any other such applicant, and any person who is presently registered with DEA to manufacture such substance, may file comments or objections to the issuance of the proposed registration pursuant to 21 CFR 1301.33(a).

Any such written comments or objections should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), 8701 Morrissette Drive, Springfield, Virginia 22152; and must be filed no later than June 24, 2013.

Dated: April 16, 2013.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2013–09535 Filed 4–22–13; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration; S & B Pharma Inc.

By Notice dated May 31, 2012, and published in the **Federal Register** on June 8, 2012, 77 FR 34073, S & B Pharma Inc., 405 South Motor Avenue, Azusa, California 91702–3232, made application to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Drug	Schedule
Gamma Hydroxybutyric Acid (2010).	I
Tetrahydrocannabinols (7370)	I
Methamphetamine (1105)	II
Pentobarbital (2270)	II
Nabilone (7379)	II

The company plans to manufacture bulk controlled substances for use in product development and for distribution to its customers.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a), and determined that the registration of S & B Pharma Inc., to manufacture the listed basic classes of controlled substances is consistent with the public

interest at this time. DEA has investigated S & B Pharma Inc., to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems; verification of the company's compliance with state and local laws; and a review of the company's background and history.

Therefore, pursuant to 21 U.S.C. 823(a), and in accordance with 21 CFR 1301.33, the above named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed.

Dated: April 17, 2013.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2013–09532 Filed 4–22–13; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration; Alltech Associates, Inc.

By Notice dated November 14, 2012 and published in the **Federal Register** on November 23, 2012, 77 FR 70188, Alltech Associates, Inc., 2051 Waukegan Road, Deerfield, Illinois 60015, made application to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Drug	Schedule
2C–T–2 (2-(4-Ethylthio-2,5-dimethoxyphenyl)ethanamine) (7385)	I
2C–1 (2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine) (7518)	I
2C–C (2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (7519)	I

The company plans to manufacture high purity drug standards used for analytical applications only in clinical, toxicological, and forensic laboratories.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Alltech Associates, Inc. to manufacture the listed basic classes of controlled substances is consistent with the public interest at this time. DEA has investigated Alltech Associates, Inc. to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history.

Therefore, pursuant to 21 U.S.C. 823(a), and in accordance with 21 CFR § 1301.33, the above named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed.

Dated: April 16, 2013.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2013–09531 Filed 4–22–13; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration; PCAS-Nanosyn, LLC

By Notice dated January 15, 2013, and published in the **Federal Register** on January 30, 2013, 78 FR 6350, PCAS-Nanosyn, LLC, 3331–B Industrial Drive, Santa Rosa, California 95403, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Drug	Schedule
Amphetamine (1100)	II
Methamphetamine (1105)	II
Methylphenidate (1724)	II
Phencyclidine (7471)	II
Codeine (9050)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Hydrocodone (9193)	II
Methadone (9250)	II
Morphine (9300)	II
Oxymorphone (9652)	II
Fentanyl (9801)	II

The company is a contract manufacturer. At the request of the company's customers, it manufactures derivatives of controlled substances in bulk form only.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of PCAS-Nanosyn, LLC., to manufacture the listed basic classes of controlled substances is consistent with the public interest at this time. DEA has investigated PCAS-Nanosyn, LLC., to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823(a), and in accordance with 21 CFR § 1301.33, the above named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed.

Dated: April 16, 2013.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2013–09529 Filed 4–22–13; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration; Cayman Chemical Company

By Notice dated November 14, 2012, and published in the **Federal Register** on November 23, 2012, 77 FR 70188, Cayman Chemical Company, 1180 East Ellsworth Road, Ann Arbor, Michigan 48108, made application to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Drug	Schedule
JWH–250 (6250)	I
SR–18 also known as RCS–8 (7008).	I
JWH–019 (7019)	I
JWH–081 (7081)	I
SR–19 also known as RCS–4 (7104).	I
JWH–122 (7122)	I
AM–2201 (7201)	I
JWH–203 (7203)	I
2C–T–2 (7385)	I
JWH–398 (7398)	I
Psilocybin (7437)	I
Psilocyn (7438)	I
2C–D (7508)	I
2C–E (7509)	I
2C–H (7517)	I
2C–I (7518)	I
2C–C (7519)	I
2C–N (7521)	I
2C–P (7524)	I
2C–T–4 (7532)	I
AM–694 (7694)	I
Phenylacetone (8501)	I

The company plans to manufacture the listed controlled substances for distribution to their research and forensic customers conducting drug testing and analysis.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Cayman Chemical Company to manufacture the listed basic classes of controlled substances is consistent with the public interest at this time. DEA has investigated Cayman Chemical Company to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history.

Therefore, pursuant to 21 U.S.C. 823(a), and in accordance with 21 CFR 1301.33, the above named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed.

Dated: April 16, 2013.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 2013–09530 Filed 4–22–13; 8:45 am]

BILLING CODE 4410–09–P

NUCLEAR REGULATORY COMMISSION

[NRC–2013–0001]

Sunshine Act Meetings

AGENCY HOLDING THE MEETINGS: Nuclear Regulatory Commission.

DATES: Weeks of April 22, 29, May 6, 13, 20, 27, 2013.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of April 22, 2013

Monday April 22, 2013

9:00 a.m. Meeting with the Department of Energy Office of Nuclear Energy (Public Meeting) (Contact: Brett Rini, 301–251–7615).

This meeting will be webcast live at the Web address—*www.nrc.gov.*

2:30 p.m. Discussion of Management and Personnel Issues (Closed—Ex. 2 and 6).

Tuesday April 23, 2013

9:00 a.m. Briefing on the Status of Lessons Learned from the Fukushima Dai'ichi Accident (Public Meeting) (Contact: William D. Reckley, 301–415–7490).

This meeting will be webcast live at the Web address—*www.nrc.gov.*

Week of April 29, 2013—Tentative

There are no meetings scheduled for the week of April 29, 2013.

Week of May 6, 2013—Tentative

There are no meetings scheduled for the week of May 6, 2013.

Week of May 13, 2013—Tentative

There are no meetings scheduled for the week of May 13, 2013.

Week of May 20, 2013—Tentative

Monday, May 20, 2013

9:30 a.m. Briefing on Human Capital and Equal Employment Opportunity (EEO) (Public Meeting) (Contact: Kristin Davis, 301–287–0707).

This meeting will be webcast live at the Web address—*www.nrc.gov.*

Week of May 27, 2013—Tentative

Wednesday, May 29, 2013

9:00 a.m. Briefing on Results of the Agency Action Review Meeting (AARM) (Public Meeting) (Contact: Rani Franovich, 301–415–1868).

This meeting will be webcast live at the Web address—*www.nrc.gov.*

* * * * *

* The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings, call (recording)—301–415–1292. Contact person for more information: Rochelle Bavol, 301–415–1651.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

* * * * *

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g., Braille, large print), please notify Kimberly Meyer, NRC Disability Program Manager, at 301–287–0727, or by email at *kimberly.meyer-chambers@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

This notice is distributed electronically to subscribers. If you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969), or send an email to *darlene.wright@nrc.gov.*

Dated: April 18, 2013.

Rochelle C. Bavol,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2013–09652 Filed 4–19–13; 4:15 pm]

BILLING CODE 7590–01–P

REAGAN-UDALL FOUNDATION FOR THE FOOD AND DRUG ADMINISTRATION

[BAC 416404]

Annual Public Meeting

ACTION: Notice of annual meeting.

SUMMARY: The Reagan-Udall Foundation for the Food and Drug Administration (FDA), which was created by Title VI of the Food and Drug Amendments of 2007, is announcing an annual open public meeting. The Foundation will provide an overview of its history, project updates, as well as projected activities going forward.

DATES: The open public meeting will be held on May 23, 2013, from 10 a.m. until 12 noon. Interested persons may sign up to attend in person and/or make comments at the meeting or submit written comments by visiting *http://*

www.ReaganUdall.org on or before May 17, 2013. Oral comments from the public will be scheduled between approximately 11 a.m. and 12 p.m. Time allotted for each registrant will be 3 minutes. The contact person will notify interested persons regarding their request to speak by May 23, 2013. Written comments are encouraged. Those individuals interested in making formal comments should notify the contact person and submit a brief statement of the general nature of the comments they wish to present. Written comments are encouraged through May 22, 2013.

Location: West Policy Center, 1909 K St. NW., Suite 730, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Jane Reese-Coulbourne, Reagan-Udall Foundation for the FDA, 202–828–1206, *Meetings@ReaganUdall.org.*

SUPPLEMENTARY INFORMATION:

I. Background

The Reagan-Udall Foundation for the FDA (the Foundation) is an independent 501(c)(3) not-for-profit organization created by Congress to advance the mission of FDA to modernize medical, veterinary, food, food ingredient, and cosmetic product development; accelerate innovation; and enhance product safety. With the ultimate goal of improving public health, the Foundation provides a unique opportunity for different sectors (FDA, patient groups, academia, other government entities, and industry) to work together in a transparent way to create exciting new research projects to advance regulatory science.

The Foundation acts as a neutral third party to establish novel, scientific collaborations. Much like any other independently developed information, FDA evaluates the scientific information from these collaborations to determine how Reagan-Udall Foundation projects can help the Agency to fulfill its mission.

The Foundation's projects include: The Innovation in Medical Evidence Development and Surveillance (IMEDS) Program, methods for using observational electronic health care data for postmarket evidence generation, including postmarket safety surveillance; the Systems Toxicology Project, an evaluation of a systems biology approach to preclinical safety testing; and the Critical Path to Tuberculosis Multidrug Regimens (CPTR) Project, looking at new ways to develop tuberculosis combination therapies. The Foundation seeks comments on these and other potential topics for future activities.

II. Agenda

The Foundation will be providing an overview of its history, project updates, as well as projected activities going forward. Find the Meeting Agenda at *http://www.ReaganUdall.org.*

Dated: April 17, 2013.

Jane Reese-Coulbourne,

Executive Director, Reagan-Udall Foundation for the FDA.

[FR Doc. 2013–09441 Filed 4–22–13; 8:45 am]

BILLING CODE 4164–04–P

REAGAN-UDALL FOUNDATION FOR THE FOOD AND DRUG ADMINISTRATION

[BAC 416404]

Request for Steering Committee Nominations

ACTION: Request for nominations to the Steering Committee for the Foundation's Innovation in Medical Evidence Development and Surveillance program.

SUMMARY: The Reagan-Udall Foundation for the Food and Drug Administration (FDA), which was created by Title VI of the Food and Drug Amendments of 2007, is requesting nominations for its Innovation in Medical Evidence Development and Surveillance (IMEDS) Steering Committee. The IMEDS Steering Committee will provide oversight and guidance of the IMEDS Program, and will report to the Reagan-Udall Foundation for the FDA's Board of Directors. Instructions on making nominations are listed in the ''Background'' section.

DATES: All nominations must be submitted to the Reagan-Udall Foundation for the FDA by April 30, 2013. IMEDS Steering Committee members will be selected by the Reagan-Udall Foundation for the FDA's Board of Directors on May 23, 2013; those selected will be notified by May 30 regarding the Board's decision.

Location: The Reagan-Udall Foundation for the FDA is located at 1025 Connecticut Ave. NW., Suite 1000, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Jane Reese-Coulbourne, Reagan-Udall Foundation for the FDA, 202–828–1206. Nominations should be sent to *IMEDS@ReaganUdall.org.*

SUPPLEMENTARY INFORMATION:

I. Background

The Reagan-Udall Foundation for the FDA (the Foundation or RUF) is an independent 501(c)(3) not-for-profit organization created by Congress to advance the mission of FDA to modernize medical, veterinary, food, food ingredient, and cosmetic product development; accelerate innovation; and enhance product safety. With the ultimate goal of improving public health, the Foundation provides a unique opportunity for different sectors (FDA, patient groups, academia, other government entities, and industry) to work together in a transparent way to create exciting new research projects to advance regulatory science.

The Foundation acts as a neutral third party to establish novel, scientific collaborations. Much like any other independently developed information, FDA evaluates the scientific information from these collaborations to determine how Reagan-Udall Foundation projects can help the Agency to fulfill its mission.

The IMEDS program is offered by the Foundation. IMEDS is a public-private partnership created to build upon the significant progress made on research methodology by the Sentinel Initiative, including its Mini-Sentinel pilot and the Observational Medical Outcomes Partnership (OMOP).

IMEDS's primary objective is to advance the science and tools necessary to support postmarket evidence generation on regulated products, including safety surveillance and evaluations, and to facilitate utilization of a robust electronic health care data platform for generating better evidence on regulated products in the post-market settings. To accomplish this objective, the IMEDS program includes three projects:

1. *IMEDS-Methods:* Supports the development of a methods research agenda and coordination of methods research in support of using electronic health data for safety surveillance conducted by FDA as well as the broader community of researchers.
2. *IMEDS-Education:* Offers educational opportunities in areas related to medical product safety surveillance, and methods research and application for scientific professionals.
3. *IMEDS-Evaluation:* Applies Methods and Education lessons learned for medical product assessments to facilitate leveraging Sentinel tools and capabilities toward a national resource for evidence generation.

The IMEDS Steering Committee will have oversight of all IMEDS projects.

II. IMEDS Steering Committee Positions and Selection Criteria

RUF is seeking nominations for seven voting members of the IMEDS Steering

Committee listed in this document. (The IMEDS Steering Committee will also have two members of FDA appointed by FDA, and a liaison from the Reagan-Udall Foundation Board of Directors who will be appointed by the Reagan-Udall Foundation Board of Directors; these three individuals will be nonvoting members).

1. Pharmaceutical Industry: Two members
2. Academia/Research Institute: One member
3. Provider (i.e., Clinician): One member
4. Data Partner: One member
5. Patient Advocate: One member
6. Consumer Advocate: One member

The following criteria will be used to evaluate nominees for the IMEDS Steering Committee.

1. Required Criteria for Each of Seven Positions

a. Currently employed by/volunteering for stakeholder field (e.g., pharmaceutical, academia, patient advocate, provider, etc.) with several years of relevant experience.

b. Leading expert in their relevant field (based on position/title, publications, or other experience).

2. Criteria across Steering Committee (It is not a requirement that all nominees meet all of these criteria, but collectively, the Steering Committee members should meet them.)

a. Ability to complete Steering Committee responsibilities (which can be accessed via the Reagan-Udall Foundation Web site: *http://www.reaganudall.org/*.)

b. Prior experience serving on a related or similar governance body.

c. Understanding of postmarket surveillance landscape and impact upon stakeholder group represented by Steering Committee seat, or understanding of issues around use of electronic health data for observational purposes.

d. Individuals both with and without past experience in Mini-Sentinel, OMOP, and similar research/regulatory science initiatives to ensure a diversity of perspectives.

e. Individuals from both U.S.- and international-based institutions.

3. The IMEDS Steering Committee Chair must be able to complete the additional responsibilities listed for this position in the IMEDS Charter (section 2.3.6.2).

III. Terms of Service

- The IMEDS Steering Committee meets in-person at least twice per year, with bimonthly teleconferences in between meetings (or monthly teleconferences as deemed necessary by the Chair).
- Members serve 2-year terms, and a maximum of two terms (based on IMEDS fiscal calendar).
- Members do not receive compensation from RUF.
- Members can be reimbursed by RUF for actual and reasonable expenses incurred in support of IMEDS in accordance with applicable law and their specific institutional policies.
- Members are subject to the IMEDS Conflict of Interest policies.

IV. Nomination Instructions

- In 200 words or less, please describe the relevant expertise and experience the nominee would bring while serving as the IMEDS Steering Committee Chair and/or a Member and to what extent they would meet the criteria.
- Individuals may be nominated for one or more of the seven voting positions, and those making nominations should specify for which of the seven voting positions the nominee is being nominated.
- Individuals may nominate themselves.

Dated: April 17, 2013.

Jane Reese-Coulbourne,

Executive Director, Reagan-Udall Foundation for the FDA.

[FR Doc. 2013–09448 Filed 4–22–13; 8:45 am]

BILLING CODE 4164–04–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:
Rule 10b–10.
SEC File No. 270–389, OMB Control No. 3235–0444.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (''PRA''), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in Rule 10b–10 (17 CFR 240.10b–10) under the Securities and Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 10b–10 requires broker-dealers to convey basic trade information to customers regarding their securities transactions. This information includes: the date and time of the transaction, the identity and number of shares bought or sold, and the trading capacity of the broker-dealer. Depending on the trading capacity of the broker-dealer, Rule 10b–10 requires the disclosure of commissions as well as mark-up and mark-down information. For transactions in debt securities, Rule 10b–10 requires the disclosure of redemption and yield information. Rule 10b–10 potentially applies to all of the approximately 5,178 firms registered with the Commission that effect transactions on behalf of customers.

Based on information provided by registered broker-dealers to the Commission in FOCUS Reports, the Commission staff estimates that on average, registered broker-dealers process approximately 1.4 billion order tickets per month for transactions on behalf of customers. Each order ticket representing a transaction effected on behalf of a customer results in one confirmation. Therefore, the Commission staff estimates that approximately 16.8 billion confirmations are sent to customers annually. The confirmations required by Rule 10b–10 are generally processed through automated systems. It takes approximately 30 seconds to generate and send a confirmation. Accordingly, the Commission estimates that broker-dealers spend 140 million hours per year complying with Rule 10b–10.

The amount of confirmations sent and the cost of sending each confirmation varies from firm to firm. Smaller firms generally send fewer confirmations than larger firms because they effect fewer transactions. The Commission staff estimates the costs of producing and sending a paper confirmation, including postage to be approximately 54 cents. The Commission staff also estimates that the cost of producing and sending a wholly electronic confirmation is approximately 39 cents. Based on informal discussions with industry participants as well as no-action positions taken in this area, the staff estimates that broker-dealers used electronic confirmations for approximately 35 percent of transactions. Based on these calculations, Commission staff estimates that 10,920,000,000 paper confirmations are mailed each year at a cost of $5,896,800,000. Commission staff also estimates that 5,880,000,000 wholly electronic confirmations are sent each year at a cost of $2,293,200,000. Accordingly, Commission staff estimates that total annual cost associated with generating and delivering to investors the information

required under Rule 10b–10 would be $8,190,000,000.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information subject to the PRA unless it displays a currently valid OMB control number. Please direct your written comments to: Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, Virginia 22312 or send an email to: *PRA_Mailbox@sec.gov*.

Dated: April 17, 2013.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–09484 Filed 4–22–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69388; File No. SR–NYSEMKT–2013–34]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the Members' Schedule of NYSE Amex Options LLC (the ''Company'') in Order To Reflect Changes to the Capital Structure of the Company

April 17, 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 April 9, 2013, NYSE MKT LLC (''NYSE MKT'' 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 the Members' Schedule (as defined in the Limited Liability Company Agreement of NYSE Amex Options LLC (the ''Company'') dated as of June 29, 2011 (the ''LLC Agreement'')) in order to reflect changes to the capital structure of the Company based on two transactions (such amendment, the ''Proposed Rule Change''). The first transaction involved the issuance of Annual Incentive Shares (as defined in the Members Agreement) to the Founding Firms (as defined below) pursuant to Section 2.1 of that certain Members Agreement, dated as of June 29, 2011, by and among the Company, NYSE MKT, NYSE Euronext, Banc of America Strategic Investments Corporation (''BAML''), Barclays Electronic Commerce Holdings Inc. (''Barclays''), Citadel Securities LLC (''Citadel''), Citigroup Financial Strategies, Inc. (''Citigroup''), Goldman, Sachs & Co. (''Goldman Sachs''), Datek Online Management Corp. (''TD Ameritrade'') and UBS Americas Inc. (''UBS'') (collectively, excluding the Company, NYSE MKT and NYSE Euronext, the ''Founding Firms'') (the ''Members Agreement''). The second transaction will involve the transfer of Interests (as defined in the LLC Agreement) by the Founding Firms to NYSE Market (DE), Inc. (''NYSE Market''), an affiliate of the Exchange, as soon as reasonably practicable following April 2, 2013 pursuant to Article XI of the LLC Agreement and Section 3.1 of the Members Agreement. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

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 the Members' Schedule as set forth herein. The amendment reflects changes to the capital structure of the Company due to (i) the issuance of Annual Incentive Shares to the Founding Firms effective February 28, 2013 pursuant to Section 2.1 of the Members Agreement and (ii) the transfer of Interests by the Founding Firms to NYSE Market as soon as reasonably practicable following April 2, 2013 pursuant to Article XI of the LLC Agreement and Section 3.1 of the Members Agreement.

Issuance of Annual Incentive Shares

Pursuant to Section 2.1 of the Members Agreement, each year (until 2015, unless extended by the Board) the Company must issue a number of Class B Common Interests (as defined in the LLC Agreement) equal to thirty percent (30%) of the then-outstanding Class B Common Interests as Annual Incentive Shares. These Annual Incentive Shares are allocated among the Members (as defined in the LLC Agreement) holding Class B Common Interests (such Members, the ''Class B Members'') based on each Class B Member's contribution to the volume of the Exchange relative to such Class B Member's Individual Target (as defined in the Members Agreement). The Annual Incentive Shares may change the relative economic and voting rights among the Class B Members but have no effect on the relative economic and voting rights as between Members holding Class A Common Interests (as defined in the LLC Agreement) and Class B Members.

Effective February 28, 2013, the Company issued 16.4736 Annual Incentive Shares in the aggregate to the Founding Firms (the ''Issuance of Annual Incentive Shares''). Because each Founding Firm achieved or exceeded its Individual Target, the Issuance of Annual Incentive Shares did not result in any change to any Member's economic or voting interest in the Company. The Exchange proposes to amend the Members' Schedule as set forth in Exhibit 5A attached hereto [3] (marked against the Members' Schedule in effect prior to such issuance) to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Commission notes that Exhibit 5A is attached to the filing, not to this Notice.

reflect the Issuance of Annual Incentive Shares.

Founding Firm Transfer

Pursuant to Article XI of the LLC Agreement and Section 3.1 of the Members Agreement, a Member may transfer Interests to a third party or to another Member in accordance with the conditions and limitations set forth therein. The Exchange is filing this Proposed Rule Change, in part, to provide notice that the Founding Firms collectively intend to transfer an aggregate equity interest of 10.4000% in the Company to NYSE Market, an affiliate of the Exchange (the ''Founding Firm Transfer''). Upon consummation of the Founding Firm Transfer and the acquisition by NYSE Market of the Class B Common Interests transferred by the Founding Firms, such Class B Common Interests will automatically convert into an appropriate number of Class A Common Interests.

Immediately following the Founding Firm Transfer, NYSE MKT will own an equity interest of 47.2000% in the Company, NYSE Market will own an equity interest of 20.9600%, and the Founding Firms, collectively, will own the remaining equity interest of 31.8400%. The Exchange proposes, upon consummation of the Founding Firm Transfer, to amend the Members' Schedule as set forth in Exhibit 5B attached hereto [4] (marked against the Members' Schedule following the Issuance of Annual Incentive Shares) to reflect the Founding Firm Transfer.

2. Statutory Basis

The Proposed Rule Change is consistent with Section 6(b) [5] of the Securities Exchange Act,[6] as amended (the ''Act''), in general, and furthers the objectives of Section 6(b)(1) [7] of the Act, which requires a national securities exchange to be so organized and have the capacity to carry out the purposes of the Act and to comply, and to enforce compliance by its members and persons associated with its members, with the provisions of the Act, the rules and regulations promulgated thereunder and the rules of the Exchange. The Proposed Rule Change does not modify the Company's trading or compliance rules and preserves the existing mechanisms for ensuring the Exchange's and the Company's compliance with the Act, the rules and regulations promulgated thereunder and the rules of the Exchange. The Proposed Rule Change also preserves the structure of the joint venture which retains NYSE MKT's regulatory control over the Company and the provisions specifically designed to ensure the independence of its self-regulatory function and to ensure that any regulatory determinations by NYSE MKT, as the Company's SRO, are controlling with respect to the actions and decisions of the Company.

Additionally, the Proposed Rule Change continues to require the Company, its Members and its directors to comply with the federal securities laws and the rules and regulations promulgated thereunder and to engage in conduct that fosters and does not interfere with the Exchange's or the Company's ability to carry out its respective responsibilities under the Act.

The Proposed Rule Change is also consistent with, and furthers the objectives of, Section 6(b)(5) [8] of the Act, in that it preserves all of NYSE MKT's existing rules and mechanisms 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 mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the Proposed Rule Change will have any impact on competition. The Proposed Rule Change solely relates to changes in the relative equity interests among existing Members of the Company pursuant to provisions of the LLC Agreement and Members Agreement that have been previously filed and approved by the Commission. In addition, neither the Issuance of Annual Incentive Shares nor the Founding Firm Transfer implicates the Commission's policies with respect to permissible ownership. Furthermore, because the Proposed Rule Change does not affect the availability or pricing of any goods or services, the Proposed Rule Change will not affect competition either between the Exchange and others that provide the same goods and services as the Exchange or among market participants.

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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [9] and Rule 19b–4(f)(6) thereunder.[10] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, 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 and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [11] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[12] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange stated that an immediate operative date is necessary to permit the efficient consummation of both the Issuance of Annual Incentive Shares and the Founding Firm Transfer. According to the Exchange, accomplishing the Founding Firm Transfer requires that the Members have certainty as to the amount of Common Interests owned by each, which in turn requires timely consummation of the Issuance of Annual Incentive Shares. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver

[4] The Commission notes that Exhibit 5B is attached to the filing, not to this Notice.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78.

[7] 15 U.S.C. 78f(b)(1).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires the Exchange to give the Commission written notice of the Exchange's 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 satisfied this requirement.

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii).

would allow the Company to consummate the transactions described in the filing in an efficient and predictable manner. Accordingly, the Commission hereby grants the Exchange's request and designates the proposal operative upon filing. [13]

At any time within 60 days of the filing of such 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–NYSEMKT–2013–34 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–NYSEMKT–2013–34. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such 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 publicly available. All submissions should refer to File Number SR–NYSEMKT–2013–34 and should be submitted on or before May 14, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–09525 Filed 4–22–13; 8:45 am]

BILLING CODE 8011–01–P

[13] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69387; File No. SR–BATS–2013–023]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt a Market Order Collar for BATS Options

April 17, 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 April 10, 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 and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(6) thereunder,[4] which renders it 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 filed a proposal for the BATS Options Market (''BATS Options'') to amend BATS Rule 21.1(d)(5) in order to add system functionality that will cancel any portion of a market order submitted to BATS Options (a ''BATS Market Order'') that would execute at a price that is more than 50 cents or 5 percent worse than the NBBO at the time the order initially reaches BATS Options (the ''Initial NBBO''), whichever is greater (a ''Market Order Collar''). The Exchange is also proposing to make two clean-up changes by eliminating references to discretionary orders in Rule 21.8.

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 purpose of the proposed rule change is to implement a Market Order Collar on BATS Options and to make two clean-up changes by eliminating references to discretionary orders in Rule 21.8.

The Exchange is proposing to protect market participants from executions at prices that are significantly worse than the NBBO at the time of order entry by amending the rules of BATS Options such that any portion of a BATS Market Order that would execute at a price that is the greater of 50 cents or 5 percentage points worse than the Initial NBBO will be cancelled by the BATS Options system (the ''System''). Any portion of a BATS Market Order that would otherwise execute outside of these thresholds will be immediately cancelled back to the User.[5] The

[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)(6).

[5] A User defined in Exchange Rule 1.5(cc) as any Member or sponsored participant with access to the Exchange.

Exchange believes that Users who submit market orders on BATS Options generally intend to receive executions for the full size of their orders at or near the Initial NBBO and are not always aware that there may not be enough liquidity at that price to fill the entire size of their orders. This could result in executions occurring at prices that have little or no relation to the theoretical price of the option.

Accordingly, the Exchange is proposing to adopt a mechanism that will help prevent dramatic price swings and, potentially, executions qualifying as obvious errors [6] on BATS Options. The following example demonstrates how the Market Order Collar would operate: Away Exchange Quotes:

Exchange	Bid size	Bid price	Offer price	Offer size
PHLX	10	$1.00	$1.05	10
NYSE Arca	10	1.00	1.05	10
NYSE MKT	10	1.00	1.10	10
BOX	10	1.00	1.15	10

BATS Options Price Levels:

Exchange	Bid size	Bid price	Offer price	Offer size
BATS	10	$1.00	$1.05	10
BATS			1.10	10
BATS			1.60	10
BATS			1.70	10

If BATS Options receives a routable market order to buy 80 contracts, the System will respond as described below:

- 10 contracts will be executed at $1.05 on BATS Options
- 10 contracts will be routed to PHLX at $1.05
- 10 contracts will be routed to NYSE Arca at $1.05
- 10 contracts will be executed at $1.10 on BATS Options
- 10 contracts will be routed to NYSE MKT at $1.10
- 10 contracts will be routed to BOX at $1.15

Assuming all orders routed away were in fact executed by such venues, the remaining shares of the BATS Market Order would be cancelled back to the User because the liquidity on BATS Options at the $1.60 price level exceeds the BATS Market Order thresholds set forth in proposed Rule 21.1(d)(5) and such order is also not eligible for routing outside of such thresholds. Such BATS Market Order could only be executed or routed by the Exchange up to and including a price of $1.55 ($0.50 worse than the Initial NBBO). To be clear, System behavior would be the exact same if all of the orders executed entirely in the above example were entered and executed on BATS Options.

Those Users who intend to trade against liquidity at multiple price points from the Initial NBBO beyond the BATS market order thresholds proposed in this rule filing can clearly and unambiguously specify that intent by submitting a marketable limit order to the Exchange. For example, using the scenario described above, if the User submitted a limit order to buy 80 contracts with a limit price of $2.00, such order would be executed up to its full size.

The Exchange notes that the proposed rule change is directly based on the Exchange's rule that collars market orders submitted to the Exchange's cash equities platform (''BATS Equities''). Specifically, pursuant to Rule 11.9(a), the Exchange collars for BATS Equities any portion of a BATS Market Order that would execute at a price that is the greater of 50 cents or 5 percentage points worse than the Initial NBBO. The Exchange believes that the proposed collar is reasonable and appropriate for BATS Options based largely upon the experience the Exchange has had in maintaining the collar for BATS Equities for several years. Due to the prices of most options trading on the Exchange, the Exchange notes that the collar will likely be triggered more frequently at the $0.50 level than at the 5% level (*i.e.,* there are fewer options that trade above $10.00 than trade below $10.00). In addition to believing the collar to be reasonable based on its experience in administering the collar for BATS Equities, the Exchange also believes that the collar is reasonable and appropriate because many market participants that are familiar with the collar on BATS Equities are also market participants trading on BATS Options.

In addition to the above proposed change, the Exchange is proposing to eliminate two instances in Rule 21.8 which refer to the handling of the discretionary portion of discretionary orders. The Exchange is proposing to eliminate these references because the Exchange has removed discretionary orders from the types of orders allowed by BATS Options,[7] making the references to the handling of discretionary orders obsolete. Specifically, the Exchange is proposing to delete Rules 21.8(a)(1)(B) and 21.8(a)(2)(C).

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [8] in general, and furthers the objectives of Section 6(b)(5) of the Act [9] in particular, in that it is designed 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, by helping to avoid executions of market orders on BATS Options at prices that are significantly worse than the NBBO at the time an order is initially received by BATS Options. The Exchange also believes that the Initial NBBO is a fair representation of then-available prices and accordingly provides for an appropriate pricing mechanism such

[6] *See* BATS Rule 20.6.

[7] *See* Securities Exchange Act Release No. 68752 (January 29, 2013), 78 FR 7826 (February 4, 2013) (SR–BATS–2013–003) (notice of filing and immediate effectiveness of proposed rule change to amend BATS rules in connection with the elimination of discretionary orders for BATS Options).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

that BATS Market Orders should not be executed at a significantly worse price. Also, this proposal is consistent with existing BATS Options rules that allow for the breaking of trades meeting the definition of an obvious error [10] as well as a recently adopted change to the rules of BATS Options to reject market orders received when the underlying security is subject to a ''Limit State'' or ''Straddle State'', as defined in the Limit Up-Limit Down Plan.[11] Accordingly, the Exchange believes that this proposal is designed to promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes the proposal will provide market participants with additional protection from anomalous executions. Thus, the Exchange does not believe the proposal creates any significant impact on competition.

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 written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, 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 [12] and Rule 19b–4(f)(6) thereunder.[13]

A proposed rule change filed under Rule 19b–4(f)(6) [14] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[15] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the Exchange may implement the protections proposed herein as soon as possible. The Exchange states that such waiver would benefit investors and market participants by providing additional protection from certain executions under all market conditions, but particularly in volatile market conditions, especially for market orders on BATS Options at prices that are significantly worse than the NBBO at the time the Exchange receives such orders. The Exchange further notes that waiver of the 30-day operative delay will permit the Exchange to collar market orders on BATS Options in the same manner that it currently collars market orders for BATS Equities. The Commission notes that waiving the 30-day operative delay would allow investors and market participants to benefit immediately from the proposed collar protection for market orders, and believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest.[16] Therefore, the Commission hereby waives the 30-day operative delay and designates the proposal 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–BATS–2013–023 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–2013–023. 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–2013–023 and should be submitted on or before May 14, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–09524 Filed 4–22–13; 8:45 am]

BILLING CODE 8011–01–P

[10] *See* BATS Rule 20.6.

[11] *See* Securities Exchange Act Release No. 69121 (March 12, 2013), 78 FR 16750 (March 18, 2013) (SR–BATS–2013–014) (notice of filing and immediate effectiveness of proposed rule change to modify the operation of market orders for BATS Options).

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission 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 satisfied this requirement.

[14] 17 CFR 240.19b–4(f)(6).

[15] 17 CFR 240.19b–4(f)(6)(iii).

[16] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69389; File No. SR–NYSEArca–013–38]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the NYSE Arca Equities Schedule of Fees and Charges for Exchange Services To Remove Certain Obsolete Text

April 17, 2013.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on April 4, 2013, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Arca Equities Schedule of Fees and Charges for Exchange Services (the ''Fee Schedule'') to remove certain obsolete text related to a fee that is no longer charged by the Exchange and a credit that is no longer offered by the Exchange. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule to remove certain obsolete text related to (i) a designated examining authority (''DEA'') fee that is no longer charged by the Exchange and (ii) a ''Liquidity Provider Credit'' that is no longer offered by the Exchange. The Exchange proposes to implement the fee change immediately.

Pursuant to Rule 17d–1 of the Act, the Exchange may act as the DEA for ETP Holders on NYSE Arca Equities.[4] The Exchange charges certain fees when it performs DEA services, as provided in the Fee Schedule. In this regard, the Fee Schedule currently includes a reference to a $75 one-time registration fee per trader. The Exchange no longer charges this particular DEA fee and therefore proposes to remove the obsolete text related thereto from the Fee Schedule.[5]

The first sentence of Footnote 12 in the Fee Schedule currently provides that an ETP Holder that submits certain order types that subsequently match against an inbound marketable order will not be entitled to receive a Liquidity Provider Credit. However, effective July 1, 2008 the Exchange eliminated the Liquidity Provider Credit.[6] Therefore, when the Liquidity Provider Credit was eliminated, the first sentence of current footnote 12 became obsolete and so it should have been removed. Because it was not, the Exchange proposes to remove the obsolete text now by deleting the first sentence in footnote 12 in the Fee Schedule.[7]

The Exchange notes that the proposed change is not otherwise intended to address any other issues, and the Exchange is not aware of any problems that ETP Holders would have in complying with the proposed change.

[4] 17 CFR 240.17d–1.

[5] The Exchange has not charged this fee since April 2007, which corresponds to the elimination of the same $75 one-time registration fee per trader on NYSE Arca Options. *See* Securities Exchange Act Release No. 55679 (April 27, 2007), 72 FR 26190 (May 8, 2007) (SR–NYSEArca–2007–35).

[6] *See* Securities Exchange Act Release No. 58006 (June 23, 2008), 73 FR 36943 (June 30, 2008) (SR–NYSEArca–2008–64). Prior to July 1, 2008, the Liquidity Provider Credit was offered to ETP Holders for purposes of market data revenue sharing in Tape B securities. *See Id.* At the time of SR–NYSEArca–2008–64, current footnote 12 was changed from footnote 9 in the Fee Schedule to footnote 8.

[7] The Exchange is proposing that the remaining text of footnote 12 remain unchanged.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[9] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that the proposed change is reasonable because it will result in greater specificity and precision within the Fee Schedule, which would contribute to reasonably ensuring that the fees and credits described therein are clear and accurate. Specifically, the proposed change is reasonable because it will remove obsolete text from the Fee Schedule related to a DEA fee that is no longer charged by the Exchange and a Liquidity Provider Credit that is no longer offered by the Exchange. The Exchange also believes that the proposed change is equitable and not unfairly discriminatory because all readers of the Fee Schedule, including all ETP Holders, would benefit from the increased specificity that this proposed change would provide.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change is not designed to address any competitive issues. Rather, the proposed change is designed to provide greater specificity and precision within the Fee Schedule, which would contribute to reasonably ensuring that the fees and credits described therein are clear and accurate.

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

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[10] of the Act and

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(4) and (5).

[10] 15 U.S.C. 78s(b)(3)(A).

subparagraph (f)(2) of Rule 19b–4 [11] thereunder, because it establishes a due, fee, or other charge imposed by NYSE Arca.

At any time within 60 days of the filing of such 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 under Section 19(b)(2)(B) [12] of the Act to determine whether the proposed rule change 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–NYSEArca–2013–38 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2013–38. This file number should be included on the subject line if email is used.

To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of NYSE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2013–38, and should be submitted on or before May 14, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–09526 Filed 4–22–13; 8:45 am]

BILLING CODE 8011–01–P

[11] 17 CFR 240.19b–4(f)(2).

[12] 15 U.S.C. 78s(b)(2)(B).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In the Matter of the Estate Vault, Inc.; Order of Suspension of Trading

April 19, 2013.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of The Estate Vault, Inc. (''Estate Vault'') because it has not filed a periodic report since it filed its Form 10–Q for the period ending February 28, 2009, filed on December 24, 2009.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of Estate Vault. Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of Estate Vault is suspended for the period from 9:30 a.m. EDT on April 19, 2013, through 11:59 p.m. EDT on May 2, 2013.

By the Commission.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–09638 Filed 4–19–13; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In the Matter of UC Hub Group, Inc.; Order of Suspension of Trading

April 19, 2013.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of UC Hub Group, Inc. (''UC Hub'') because it has not filed a periodic report since it filed its Form 10–Q for the period ending April 30, 2010, filed on June 14, 2010.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of UC Hub. Therefore, it is ordered, pursuant to Section 12(k) of the Exchange Act, that trading in the securities of UC Hub is suspended for the period from 9:30 a.m. EDT on April 19, 2013, through 11:59 p.m. EDT on May 2, 2013.

By the Commission.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–09636 Filed 4–19–13; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

Ewan 1, INC. n/k/a AccessKey IP, Inc.; Order of Suspension of Trading

April 19, 2013.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Ewan 1, Inc. n/k/a AccessKey IP, Inc. (''AccessKey'') because it has not filed a periodic report since it filed its registration pursuant to the Securities Exchange Act of 1934 (''Exchange Act'') on August 21, 2002.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of AccessKey. Therefore, it is ordered, pursuant to Section 12(k) of the Exchange Act, that trading in the securities of AccessKey is suspended for the period from 9:30 a.m. EDT on April 19, 2013, through 11:59 p.m. EDT on May 2, 2013.

By the Commission.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–09637 Filed 4–19–13; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In the Matter of China Organic Agriculture, Inc. and Guilin Paper, Inc.; Order of Suspension of Trading

April 19, 2013.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Biopharm Asia, Inc., China Organic Agriculture, Inc., and Guilin Paper, Inc. because Biopharm Asia, Inc. and China Organic Agriculture, Inc. have not filed any periodic reports for any reporting period subsequent to September 30, 2010, and Guilin Paper, Inc. has not filed any periodic reports for any reporting period subsequent to September 30, 2007.

The Commission is of the opinion that the public interest and the protection of the investors require a suspension of trading in securities of the above-listed companies.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EDT, April 19, 2013, through 11:59 p.m. EDT, on May 2, 2013.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2013–09635 Filed 4–19–13; 4:15 pm]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

Interagency Task Force on Veterans Small Business Development

AGENCY: U.S. Small Business Administration.

ACTION: Notice of open Federal Interagency Task Force Meeting.

SUMMARY: This document corrects the SBA's Interagency Task Force on Veterans Small Business Developments notice of a public meeting date.

The notice was in the **Federal Register** of April 10, 2013. This Correction provides the correct date for attending the meeting.

Correction

In the **Federal Register** of April 10, 2013, in FR Doc. 2013–08301, on page 214921, Volume 78, Number 69, correct the date section to read as follows:

DATES: Friday, May 10, 2013, from 9:00 a.m. to 12:00 Noon at the SBA Washington Area District Office Conference Room.

ADDRESSES: 740 15th Street NW., Suite 300, Washington, DC 20005.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2), SBA announces the meeting of the Interagency Task Force on Veterans Small Business Development. The Task Force is established pursuant to Executive Order 13540 and focused on coordinating the efforts of Federal agencies to improve capital, business development opportunities and pre-established Federal contracting goals for small business concerns owned and controlled by veterans (VOB's) and service-disabled veterans (SDVOSB'S). Moreover, the Task Force shall coordinate administrative and regulatory activities and develop proposals relating to ''three focus areas'': (1) Training, Counseling & Capital; (2) Federal Contracting & Verification; (3) Improved Federal Support.

On November 1, 2011, the Interagency Task Force on Veterans Small Business Development submitted its first report to the President, which included 18 Recommendations. In addition, the Task Force will allow time to obtain public comment from individuals and representatives of organizations regarding the areas of focus.

FOR FURTHER INFORMATION CONTACT: The meeting is open to the public, however, advance notice of attendance is requested. Anyone wishing to attend and/or make a presentation to the Task Force must contact Cheryl Simms, by April 26, 2013, by email in order to be placed on the agenda. Comments for the Record should be applicable to the ''three focus areas'' of the Task Force and emailed prior to the meeting for inclusion in the public record, verbal presentations; however, will be limited to five minutes in the interest of time and to accommodate as many presenters as possible. Written comments should be emailed to Cheryl Simms, Program Liaison, Office of Veterans Business Development, U.S. Small Business Administration, 409 3rd Street SW., Washington, DC 20416, at the email address for the Task Force, *vetstaskforce@sba.gov*. Additionally, if you need accommodations because of a disability or require additional information, please contact Cheryl Simms, Designated Federal Official for the Task Force at (202) 205–6773; or by email at: *cheryl.simms@sba.gov*. For more information, please visit our Web site at *www.sba.gov/vets*.

Dated: April 16, 2013.

Dan Jones,

SBA Committee Management Officer.

[FR Doc. 2013–09505 Filed 4–22–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[U.S. DOT Docket Number NHTSA–2013–0046]

Reports, Forms, and Record Keeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Request for public comment on proposed collection of information.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections.

This document describes one collection of information for which NHTSA intends to seek OMB approval.

DATES: Comments must be received on or before June 24, 2013.

ADDRESSES: You may submit comments, identified by the docket number in the heading of this document, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the instructions for submitting comments on the electronic docket site by clicking on ''Help'' or ''FAQ.''
- *Hand Delivery:* 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.

Regardless of how you submit comments, you should mention the docket number of this document.

You may call the Docket Management Facility at 202–366–9826.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the Supplementary Information section of this document. Note that all comments received will be posted without change to *http://*

www.regulations.gov, including any personal information provided.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *http://www.dot.gov/privacy.html.*

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov,* or the street address listed above. Follow the online instructions for accessing the dockets.

FOR FURTHER INFORMATION CONTACT: Kil-Jae Hong, NHTSA, 1200 New Jersey Avenue SE., W52–232, NPO–520, Washington, DC 20590. Ms. Hong's telephone number is (202) 493–0524 and email address is *kil-jae.hong@dot.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation (at 5 CFR 1320.8(d)),[1] an agency must ask for public comment on the following:

(i) 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;

(ii) 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;

(iii) how to enhance the quality, utility, and clarity of the information to be collected;

(iv) how to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks for public comments on the following proposed collection of information for which the agency is seeking approval from OMB:

Title: Buzzed Driving is Drunk Driving PSA Campaign Tracking Study.

OMB Control Number: Not Assigned.

Form Number: None.

Affected Public: Consumers 21+ years-old.

Requested Expiration Date of Approval: Three years from approval date.

Abstract: The National Traffic and Motor Vehicle Safety Act of 1966, Title 15 United States Code 1395, Section 106 (b), gives the Secretary of the United States Department of Transportation the authority to conduct research, testing, development, and training as authorized to be carried out by subsections of this title. The Vehicle Safety Act was subsequently re-codified under Title 49 of the U.S. Code in Chapter 301, Motor Vehicle Safety. Section 30168 of Title 49, Chapter 301, gives the Secretary authorization to conduct research, testing, development, and training to carry out this chapter.

The *Buzzed Driving is Drunk Driving* campaign is a public service communications campaign designed to prevent impaired driving by:

- Increasing awareness of the consequences of driving while impaired;
- Educating the public that if you are ''buzzed'' from drinking alcohol, you're too impaired to drive safely;
- Changing adult attitudes and intentions to drive while impaired; and
- Motivating adults to adopt and maintain anti-impaired driving behaviors.

In order to effectively achieve the objectives of the communications campaign and fulfill its statutory obligations, the National Highway Traffic Safety Administration (NHTSA) had previously conducted qualitative research to help guide the development of the campaign strategy and creative advertising that is now playing in the media. In order to understand if the communications are delivering against these objectives, the quantitative data captured in the tracking study will be used to monitor the impact of the advertising.

The tracking survey is intended to measure awareness, attitudes, intentions, and behaviors related to the objectives of the *Buzzed Driving is Drunk Driving* public service advertising campaign. Ongoing tracking will allow NHTSA to modify measures to reflect changes in strategy and the introduction of new advertising.

The survey for this tracking study will include questions that measure awareness, attitudes, and behaviors related to the campaign messages. The questions will be crafted to gain various perspectives on the issue of drinking and driving. The survey's key measures will include:

- Awareness of messaging about the issue and aided recognition of campaign advertisements;
- Likelihood to drive when ''buzzed'' or somewhat impaired; and
- Self-reported driving behavior when ''buzzed'' or somewhat impaired.

NHTSA is proposing to implement this data collection by using an online survey in order to facilitate the exposure to video, audio, and jpeg files in the advertising recognition section, a functionality that is not possible for a telephone survey. As a result of this need to use an online survey methodology, NHTSA is proposing to use a convenience sample: Self-selected adults 21+ who drive at least three times per week and drink alcohol at least once per month. For the purposes of this study, NHTSA believes that it is sufficient that the sample be a convenience sample as long as it is diverse in terms of gender, race/ethnicity, income, age, and region, and quotas will be implemented to ensure this diversity.

Because the study is not a probability-based sample, there is no statistical basis to drive unbiased estimates representative of the target population or to estimate sampling error. However, NHTSA believes that the benefits offered by an online survey, including the ability to present respondents with the campaign advertisements, outweigh the disadvantage of potential respondent bias that rises from using a convenience sample.

NHTSA understands that this kind of information has already been collected from consumers through past studies and has worked with other agencies and third-party partners to ensure all questioning is relevant, useful, and puts no undue burden on respondents. What differentiates this survey from any other information collection is the ability to link advertising awareness with attitudinal and behavioral metrics. NHTSA's primary interest is attempting to understand recognition of the advertising campaign and to assess any impact that the public service announcements (PSAs) from this campaign may have upon attitudes and behaviors towards impaired driving, which is an area that previous research has not covered.

Estimated Annual Burden: 325 hours.

Number of Respondents: 1,300.

[1] *Available at http://www.gpo.gov/fdsys/pkg/CFR-2012-title5-vol3/pdf/CFR-2012-title5-vol3-sec1320-5.pdf* (last accessed Dec. 11, 2012).

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents.

Public Participation

How do I prepare and submit comments?

Your comments must be written and in English. To ensure that your comments are filed correctly in the Docket, please include the docket number of this document in your comments. Your comments must not be more than 15 pages long (*see* 49 CFR 553.21). We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

If you are submitting comments in hard copy, please submit two copies of your comments, including the attachments, to DOT's Docket Management at the address given under **ADDRESSES**.

You may also submit your comments to the docket electronically by logging onto *http://www.regulations.gov.* Click on ''Help'' at the top of the screen to obtain instructions for filing the document electronically.

How can I be sure that my comments were received?

If you wish DOT's Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How do I submit confidential business information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT**. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above under **ADDRESSES**. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation (49 CFR part 512).

Will the Agency consider late comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we also will consider comments that Docket Management receives after that date. If Docket Management receives a comment too late for us to consider it, we will consider that comment as an informal suggestion for future rulemaking action.

How can I read the comments submitted by other people?

You may read the comments received by Docket Management at the address given under **ADDRESSES**. The hours of the Docket are indicated above in the same location. You also may see the comments on the Internet. To read the comments on the Internet, go to *http://www.regulations.gov,* and follow the instructions for accessing the Docket.

Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material.

Gregory A. Walter,

Senior Associate Administrator, Policy and Operations.

[FR Doc. 2013–09575 Filed 4–22–13; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2013–0061]

Pipeline Safety: Information Collection Activities

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, PHMSA invites comments on an information collection under Office of Management and Budget (OMB) Control No. 2137–0047, titled ''Transportation of Hazardous Liquids by Pipeline: Recordkeeping and Accident Reporting.'' PHMSA is preparing to revise Form PHMSA F 7000–1 ACCIDENT REPORT—HAZARDOUS LIQUID PIPELINE SYSTEMS which is included in this information collection. In an effort to streamline processes, PHMSA is also proposing to include within this information collection, information currently collected under OMB Control No. 2137–0598 regarding the incorporation by reference of the industry standard on leak detection. This recordkeeping requirement supports pipeline inspection and improves pipeline safety by providing early detection of a pipeline leak. PHMSA will request approval from OMB for the revision of the information collection.

DATES: Interested persons are invited to submit comments on or before June 24, 2013.

ADDRESSES: Comments may be submitted in the following ways:

E-Gov Web site: http://www.regulations.gov. This site allows the public to enter comments on any **Federal Register** notice issued by any agency.

Fax: 1–202–493–2251.

Mail: Docket Management Facility; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., West Building, Room W12–140, Washington, DC 20590–0001.

Hand Delivery: Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

Instructions: Identify the docket number, PHMSA–2013–0061, at the beginning of your comments. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. You should know that anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). Therefore, you may want to review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000, (65 FR 19477) or visit *http://www.regulations.gov* before submitting any such comments.

Docket: For access to the docket or to read background documents or

comments, go to *http://www.regulations.gov* at any time or to Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. If you wish to receive confirmation of receipt of your written comments, please include a self-addressed, stamped postcard with the following statement: ''Comments on PHMSA–2013–0061.'' The Docket Clerk will date stamp the postcard prior to returning it to you via the U.S. mail. Please note that due to delays in the delivery of U.S. mail to Federal offices in Washington, DC, we recommend that persons consider an alternative method (internet, fax, or professional delivery service) of submitting comments to the docket and ensuring their timely receipt at DOT.

FOR FURTHER INFORMATION CONTACT: Angela Dow by telephone at 202–366–1246, by email at *mailto:Angela.Dow@dot.gov,* by fax at 202–366–4566, or by mail at DOT, PHMSA, 1200 New Jersey Avenue SE, PHP–2, Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

A. Background

Section 1320.8(d), Title 5, Code of Federal Regulations, requires PHMSA to provide interested members of the public and affected agencies an opportunity to comment on information collection and recordkeeping requests. This notice identifies an information collection request that PHMSA will be submitting to OMB for revision and extension. The information collection expires January 31, 2014, and is identified under OMB Control No. 2137–0047, titled: ''Transportation of Hazardous Liquids by Pipeline: Recordkeeping and Accident Reporting.''

B. Hazardous Liquid Accident Report

PHMSA intends to revise the Form PHMSA F 7000–1 ACCIDENT REPORT—HAZARDOUS LIQUID PIPELINE SYSTEMS (Hazardous Liquid Accident Report, report) to collect more information for smaller spills, require additional fields, and revise the instructions. Background for these topics is as follows:

Collect additional information for certain low consequence events:

Currently, if a release is at least 5 gallons but is less than 5 barrels with no additional consequences such as, a release in the water, or a fire or explosion, and property damage is less than or equal to $50,000, and no death or injury is involved, operators submit a report with less information than for releases that do not meet this criteria. The required fields for the smaller releases with lesser impact are indicated on the form by grey shading. For accidents reported for calendar years 2011 and 2012, 47% of the reports were for releases that required minimal information. As a result, PHMSA is missing valuable data for approximately half of the reportable accidents. Therefore, PHMSA proposes to collect the same data for all releases. This will result in the collection of the following data for smaller releases with lesser consequences including: Part C—pipe characteristics and specification, Part D—consequence information, Part E—operating information, Part F—drug and alcohol testing information, and Part G—details of the cause. These reports are used for identifying long- and short-term trends at the national, state and operator-specific levels. The frequency, causes, and consequences of the accidents provide insight into the safety metrics currently used by PHMSA, state partners, and other pipeline safety stakeholders, including the pipeline industry and general public. PHMSA also uses the data for inspection planning and risk assessment. Based on previous reporting years, PHMSA estimates that 400 accident reports (responses) are submitted each year. PHMSA estimates that 200 forms report releases that use all data fields and take approximately 10 hours to file, while 200 forms require approximately five hours to complete because there is less information to report. If PHMSA's proposal to collect the same information for all types of reportable accidents is approved, all reports will take approximately 10 hours to file resulting in an additional 1,000 burden hours.

Revise instructions for Volume Spilled (Part A9) and Volume Recovered (Part A11):

The volume spilled is critical data used to assess the impact of an individual spill and the long-term performance of the hazardous liquid pipeline industry. Prior to 2010, the instructions provided no guidance for either the volume spilled or the volume recovered. In 2010, PHMSA added instructions for the volume spilled explaining that the reported volume should include all product exiting the pipeline system. The volume recovered should include all product collected during spill response. In 2012, PHMSA modified the instructions by ending the volume spilled at the point where the operator gained control of the release and began immediately collecting the product as it exited the system. Instructions for the volume recovered were modified to also exclude volume collected immediately as it exited the pipeline system. Since this change was implemented, several PHMSA staff members have expressed concerns about long term trending. Although specific guidance was not provided prior to 2010, operators generally included all product exiting the system as volume spilled, regardless of whether the operator immediately collected the product. Since the change implemented in 2012 appears to have resulted in a significant departure from past practice, PHMSA is proposing to revise the current instructions for reporting volume to stipulate that the reported volume spilled should include all product exiting the pipeline system. Likewise, the volume recovered should include all product collected during spill response, as was the general practice prior to the revision made in 2012.

Revise instructions for time sequence (Part A18):

In a report titled, ''PIPELINE SAFETY Better Data and Guidance Needed to Improve Pipeline Operator Incident Response,'' (GAO–13–168) the Government Accountability Office recommends that PHMSA improve the reliability of incident response data. PHMSA proposes to require the time sequence fields in part A18 for every report. PHMSA has modified the instructions to clarify that PHMSA will use the time sequence data to calculate accident response time.

Revise instructions for National Response Center Report (NRC) Number:

PHMSA proposes to require this field in every report. PHMSA recognizes that in some cases operators are not required to submit an NRC report. In others, operators may submit multiple NRC reports for a single accident. Operators will be able to enter a single NRC number or select one of the following: NRC notification not required; NRC notification required but not made; or NRC report number not known. When there is more than one NRC report for an accident, operators will be instructed to enter the first report in this field and remaining NRC report numbers in Part H—Narrative.

Revise instructions for City:

PHMSA proposes to require this field in every report of an accident that occurs onshore to facilitate understanding about the location of the accident. Operators will also be able to enter ''not within a municipality'' in this field.

Revise instructions for County or Parish:

PHMSA proposes to require this field in every report of an accident that occurs onshore to facilitate understanding about the location of the accident.

Revise instructions for Accident Preparer and Authorizer:

PHMSA proposes to require the name, email address, and phone number for each of these individuals in every report. PHMSA and state investigators need this contact information to facilitate communication with the operator. If an individual does not have a work email address, the individual will be able to enter ''no email address'' in this field.

C. Incorporation by Reference of Industry Standard on Leak Detection

Sections 195.134 and 195.444 of the Federal pipeline safety regulations require operators of hazardous liquid pipeline facilities installing new computational pipeline monitoring (CPM) leak detection systems or replacing components of existing CPM systems to comply with section 4.2 of the American Petroleum Institute's recommended practice API 1130 ''Computational Pipeline Monitoring for Liquid Pipelines'' (API 1130). API 1130 section 4.2 provides information collection and maintenance guidance on many factors such as measurement capabilities, communications reliability, pipeline operating condition, and product type. PHMSA reviews this information during pipeline inspection. The information supports the pipeline inspection and improves pipeline safety by providing early detection of a pipeline leak. This information is currently collected under OMB Control No. 2137–0598. Because this recordkeeping requirement is unique to hazardous liquid operators, PHMSA proposes to incorporate it into this package that currently contains recordkeeping and reporting requirements for hazardous liquid operators. The incorporation of this information collection will add 50 responses and 100 burden hours to OMB Control No. 2137–0047.

D. Summary of Impacted Collection

The following information is provided for this information collection: (1) Title of the information collection; (2) OMB control number; (3) Type of request; (4) Abstract of the information collection activity; (5) Description of affected public; (6) Estimate of total annual reporting and recordkeeping burden; and (7) Frequency of collection. PHMSA will request a three-year term of approval for this information collection activity. PHMSA requests comments on the following information collection:

Title: Transportation of Hazardous Liquids by Pipeline: Recordkeeping and Accident Reporting.

OMB Control Number: 2137–0047.

Current Expiration Date: 1/31/2014.

Type of Request: Revision.

Abstract: This information collection covers recordkeeping and accident reporting by hazardous liquid pipeline operators who are subject to 49 CFR Part 195. Section 195.444 requires operators of single-phase hazardous liquid pipeline facilities that use CPM leak detection systems to comply with the standards set out in American Petroleum Institute (API) publication API 1130. Compliance with API 1130, including its recordkeeping requirements, supports pipeline safety by ensuring the proper functioning of CPM leak detection systems. Section 195.50 specifies the definition of an ''accident'' and the reporting criteria for submitting a Hazardous Liquid Accident Report (PHMSA Form PHMSA F7000–1) is detailed in § 195.54. PHMSA is proposing to revise the Hazardous Liquid Accident Report to collect more data on small spills and to revise the instructions for completing the form.

Affected Public: Hazardous liquid pipeline operators.

Annual Reporting and Recordkeeping Burden:

Annual Responses: 897.

Annual Burden Hours: 52,429.

Frequency of collection: On Occasion.

Comments are invited on:

(a) The need for the proposed collection of information for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques.

Jeffrey D. Wiese,

Associate Administrator for Pipeline Safety.

[FR Doc. 2013–09474 Filed 4–22–13; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notice 2010–28

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 2010–28, Stripping Transactions for Qualified Tax Credit Bonds.

DATES: Written comments should be received on or before June 24, 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 notice should be directed to Sara Covington, at (202) 622–3945, or at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *sara.l.covington@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Stripping Transactions for Qualified Tax Credit Bonds.

OMB Number: 1545–2167.

Notice Number: Notice 2010–28.

Abstract: The IRS requires the information to ensure compliance with the tax credit bond credit coupon stripping requirements, including ensuring that no excess tax credit is taken by holders of bonds and coupons strips. The information is required in order to inform holders of qualified tax credit bonds whether the credit coupons relating to those bonds may be stripped as provided under § 54A(i). The respondents are issuers of tax credit bonds, including states and local governments and other eligible issuers.

Current Actions: There are no changes being made to the notice at this time.

Type of Review: Extension of currently approved collection.

Affected Public: State, local or tribal governments and not-for-profit institutions.

Estimated Number of Respondents: 1,000.

Estimated Average Time per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 1,000 hrs.

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: April 11, 2013.

Yvette Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2013–09449 Filed 4–22–13; 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 definition of a controlled foreign corporation, foreign base company income and foreign personal holding company income of a controlled foreign corporation.

DATES: Written comments should be received on or before June 24, 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 Allan Hopkins, (202) 622–6665, or at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington DC 20224, or through the internet, at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Definition of a Controlled Foreign Corporation, Foreign Base Company Income and Foreign Personal Holding Company Income of a Controlled Foreign Corporation.

OMB Number: 1545–1068.

Regulation Project Number: INTL–362–88.

Abstract: A U.S. shareholder of a controlled foreign corporation is subject to current U.S. taxation on the subpart F income of the foreign corporation, which consists of several categories of income. The election and recordkeeping requirements in the regulation are necessary to exclude certain high-taxed or active business income from subpart F income or to include certain income in the appropriate category of subpart F income. The record-keeping and election procedures allow the U.S. shareholders and the IRS to know the amount of the controlled foreign corporation's subpart F income.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of OMB approval.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents/Recordkeepers: 50,500.

Estimated Time per Respondent/Recordkeeper: 1 hour.

Estimated Total Annual Reporting/Recordkeeping Hours: 50,417.

The following paragraph applies to all of the collections of 1information 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 27, 2013.

Yvette Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2013–09462 Filed 4–22–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 4466

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 4466, Corporation Application for Quick Refund of Overpayment of Estimated Tax.

DATES: Written comments should be received on or before June 24, 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 Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Corporation Application for Quick Refund of Overpayment of Estimated Tax.

OMB Number: 1545–0170.

Form Number: Form 4466.

Abstract: Section 6425(a)(1) of the Internal Revenue Code provides that a corporation may file an application for an adjustment of an overpayment of estimated income tax. Form 4466 is used for this purpose. The IRS uses the information on Form 4466 to process the claim, so the refund can be issued.

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.

Estimated Number of Respondents: 16,125.

Estimated Time per Respondent: 4 hours, 44 minutes.

Estimated Total Annual Burden Hours: 76,433.

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 27, 2013.

Yvette Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2013–09456 Filed 4–22–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 6197

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 6197, Gas Guzzler Tax.

DATES: Written comments should be received on or before June 24, 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 Allan Hopkins at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–6665 or through the Internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Gas Guzzler Tax.

OMB Number: 1545–0242.

Form Number: 6197.

Abstract: Internal Revenue Code section 4064 imposes a gas guzzler tax on the sale, use, or first lease by a manufacturer or importer of automobiles whose fuel economy does not meet certain standards for fuel economy. The tax is computed on Form 6197. The IRS uses the information to verify computation of tax and compliance with the law.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and individuals or households.

Estimated Number of Respondents: 605.

Estimated Time per Respondent: 3 hours, 19 minutes.

Estimated Total Annual Burden Hours: 2,009.

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 27, 2013.

Yvette Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2013–09466 Filed 4–22–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8328

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 8328, Carryforward Election of Unused Private Activity Bond Volume Cap.

DATES: Written comments should be received on or before June 24, 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 Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Carryforward Election of Unused Private Activity Bond Volume Cap.

OMB Number: 1545–0874.

Form Number: Form 8328.

Abstract: Internal Revenue Code section 4146(f) requires that an annual volume limit be placed on the amount of private activity bonds issued by each State. Code section 146(f)(3) provides that the unused amount of the private activity bonds for specific programs can be carried forward for 3 years depending on the type of project. In order to carry forward the unused amount of the private activity bond, an irrevocable election can be made by the issuing authority. Form 8328 allows the issuer to execute the carryforward election.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and individuals or households.

Estimated Number of Respondents: 10,000.

Estimated Time per Respondent: 13 hours, 13 minutes.

Estimated Total Annual Burden Hours: 132,200.

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 27, 2013.

Yvette Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2013–09464 Filed 4–22–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1363

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 1363, Export Exemption Certificate.

DATES: Written comments should be received on or before June 24, 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 Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Export Exemption Certificate.

OMB Number: 1545–0685.

Form Number: Form 1363.

Abstract: Internal Revenue Code section 427(b)(2) exempts exported property from the excise tax on transportation of property. Regulation § 49.4271–1(d)(2) authorizes the filing of Form 1363 by the shipper to request tax exemption for a shipment or a series of shipments. The information on the form is used by the IRS to verify shipments of property made tax-free.

Current Actions: There are no changes being made to this form at this time.

Type of Review: Extension of a Revision of a currently approved collection.

Affected Public: Business or other for-profit organizations and individuals or households.

Estimated Number of Respondents: 100,000.

Estimated Time per Respondent: 4 hours, 15 minutes.

Estimated Total Annual Burden Hours: 425,000.

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 27, 2013.

Yvette Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2013–09468 Filed 4–22–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 2011–14 (as modified by and amplified RP 2011–22 and RP 2011–28)

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 2011–14 (as modified and amplified by RP 2011–22 and RP 2011–28), Changes in Methods of Accounting.

DATES: Written comments should be received on or before June 24, 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 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: Changes in Methods of Accounting.

OMB Number: 1545–1551.

Revenue Procedure Number: Revenue Procedure 2011–14 (as modified and amplified by RP 2011–22 and RP 2011–28).

Abstract: This revenue procedure (2011–14), provides the procedures by which a taxpayer may obtain automatic consent for a change in method of accounting described in the APPENDIX of this revenue procedure. This revenue procedure amplifies, clarifies, modifies, and supersedes Rev. Proc. 2008–52, 2008–2 C.B. 587, as amplified, clarified, and modified by Rev. Proc. 2009–39, 2009–38 I.R.B. 371, and provides additional changes in methods of accounting for which a taxpayer may obtain automatic consent.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This revenue procedure is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, not-for-profit institutions, and farms.

Estimated Number of Respondents: 14,065.

Estimated Time per Respondent: 1 hour, 5 minutes.

Estimated Total Annual Burden Hours: 15,191.85.

The following paragraph applies to all the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 16, 2013.

Yvette Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2013–09457 Filed 4–22–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[CO–11–91; (TD 8597); CO–24–95; (TD8660)]

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 existing final regulations, CO–11–91 (TD 8597), Consolidated Groups and Controlled Groups-Intercompany Transactions and Related Rules (§ 1.1502–13), and CO–24–95 (TD 8660), Consolidated Groups-Intercompany Transactions and Related Rules.

DATES: Written comments should be received on or before June 24, 2013 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, 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 Sara Covington, (202) 622–3945, or at Internal Revenue Service,

Room 6129, 1111 Constitution Avenue NW., Washington DC 20224, or through the Internet, at *sara.l.covington@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: CO–11–91, Consolidated Groups and Controlled Groups-Intercompany Transactions and Related Rules, and CO–24–95, Consolidated Groups-Intercompany Transactions and Related Rules.

OMB Number: 1545–1433.

Regulation Project Number: CO–11–91 (TD 8597), CO–24–95 (TD 8660).

Abstract: The regulations require common parents that make elections under regulation section 1.1502–13 to provide certain information. The information will be used to identify and assure that the amount, location, timing and attributes of intercompany transactions and corresponding items are properly maintained.

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.

Estimated Number of Respondents: 2,200.

Estimated Time per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 1,050.

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: April 11, 2013.

Yvette Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2013–09470 Filed 4–22–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8610 and Schedule A (Form 8610)

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 8610, Annual Low-Income Housing Credit Agencies Report, and Schedule A (Form 8610), Carryover Allocation of Low-Income Housing Credit.

DATES: Written comments should be received on or before *June 24, 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 forms and instructions should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Form 8610, Annual Low-Income Housing Credit Agencies Report, and Schedule A (Form 8610), Carryover Allocation of Low-Income Housing Credit.

OMB Number: 1545–0990.

Form Number: Form 8610 and Schedule A (Form 8610).

Abstract: State housing credit agencies (Agencies) are required by Code section 42(l)(3) to report annually the amount of low-income housing credits that they allocated to qualified buildings during the year. Agencies report the amount allocated to the building owners and to the IRS in Part I of Form 8609. Carryover allocations are reported to the Agencies in carryover allocation documents. The Agencies report the carryover allocations to the IRS on Schedule A (Form 8610). Form 8610 is a transmittal and reconciliation document for Forms 8609, Schedule A (Form 8610), binding agreements, and election statements.

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: State, local or tribal governments.

Estimated Number of Respondents: 53.

Estimated Time per Respondent: 105 hours, 38 minutes.

Estimated Total Annual Burden Hours: 5,599.

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 27, 2013.

Yvette Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2013–09459 Filed 4–22–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Publication 1075

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 Publication 1075, Tax Information Security Guidelines for Federal, State, and Local Agencies.

DATES: Written comments should be received on or before June 24, 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 publication should be directed to Allan Hopkins at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–6665, or through the Internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Tax Information Security Guidelines for Federal, State, and Local Agencies.

OMB Number: 1545–0962.

Form Number: Publication 1075.

Abstract: Section 6103(p) of the Internal Revenue Code requires the Internal Revenue Service to provide periodic reports to Congress describing safeguard procedures utilized by agencies which receive information from the IRS to protect the confidentially of the information. This Code section also requires that these agencies furnish reports to the IRS describing their safeguards.

Current Actions: There are no changes being made to Publication 1075 at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, not-for-profit institutions, and Federal, state, local, or tribal governments.

Estimated Number of Respondents: 5,100.

Estimated Time per Respondent: 40 hours.

Estimated Total Annual Burden Hours: 204,000.

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 25, 2013.

Yvette Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2013–09463 Filed 4–22–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8038–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 8038–B, Information Return for Build America Bonds and Recovery Zone Economic Development Bonds.

DATES: Written comments should be received on or before June 24, 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 notice should be directed to Allan Hopkins, at (202) 622–6665, or at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Information Return for Build America Bonds and Recovery Zone Economic Development Bonds.

OMB Number: 1545–2161.

Notice Number: Form 8038–B.

Abstract: Form 8038–B has been developed to assist issuers of the new types of Build America and Recovery Zone Economic Development Bonds enacted under the American Recovery and Reinvestment Act of 2009 to capture information required by IRC section 149(e).

Current Actions: Extension of currently approved collection. There are no changes being made to this collection at this time.

Type of Review: Extension of currently approved collection.

Affected Public: Not for profit institutions.

Estimated Number of Respondents: 5,880.

Estimated Average Time per Respondent: 19 hrs., 19 mins.

Estimated Total Annual Burden Hours: 113,661 hrs.

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.

Yvette Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2013–09458 Filed 4–22–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form SS–8

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 SS–8, Determination of Worker Status for Purpose of Federal Employment Taxes and Income Tax Withholding.

DATES: Written comments should be received on or before June 24, 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 Allan Hopkins at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–6665, or through the internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding.

OMB Number: 1545–0004.

Form Number: SS–8.

Abstract: Form SS–8 is used by employers and workers to furnish information to IRS in order to obtain a determination as to whether a worker is an employee for purposes of Federal employment taxes and income tax withholding. IRS uses the information on Form SS–8 to make the determination.

Current Actions: There are no changes being made to the Form SS–8 at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals, not-for-profit institutions, Federal government, farms, and state, local or tribal governments.

Estimated Number of Respondents: 4,554.

Estimated Time per Respondent: 22 hours, 17 minutes.

Estimated Total Annual Burden Hours: 101,464.

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 26, 2013.

Yvette Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2013–09452 Filed 4–22–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1041 and Related Schedules D, J, and K–1

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 1041 and related Schedules D, J, and K–1, U.S. Income Tax Return for Estates and Trusts.

DATES: Written comments should be received on or before June 24, 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 Allan Hopkins at

Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–6665, or through the Internet at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: U.S. Income Tax Return for Estates and Trusts (Form 1041), Capital Gains and Losses (Schedule D), Accumulation Distribution for Certain Complex Trusts (Schedule J), and Beneficiary's Share of Income, Deductions, Credits, etc. (Schedule K–1).

OMB Number: 1545–0092.

Form Number: 1041 and related Schedules D, J, and K–1.

Abstract: IRC section 6012 requires that an annual income tax return be filed for estates and trusts. The data is used by the IRS to determine that the estates, trusts, and beneficiaries filed the proper returns and paid the correct tax.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and individuals.

Estimated Number of Respondents: 10,513,150.

Estimated Time per Response: 35 hours, 41 minutes.

Estimated Total Annual Burden Hours: 375,066,476.

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 27, 2013.

Yvette Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2013–09454 Filed 4–22–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 5578

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 5578, Annual Certification of Racial Nondiscrimination for a Private School Exempt from Federal Income Tax.

DATES: Written comments should be received on or before June 24, 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 Sara Covington, at (202) 622–3945, or at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *sara.l.covington@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Annual Certification of Racial Nondiscrimination for a Private School Exempt from Federal Income Tax.

OMB Number: 1545–0213.

Form Number: Form 5578.

Abstract: Every organization that claims exemption from Federal income tax under Internal Revenue Code section 501(c)(3) and that operates, supervises, or controls a private school must file a certification of racial nondiscrimination. Such organizations, if they are not required to file Form 990, must provide the certification on Form 5578. The Internal Revenue Service uses the information to help ensure that the school is maintaining nondiscriminatory policy in keeping with its exempt status.

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: Not-for-profit institutions.

Estimated Number of Respondents: 1,000.

Estimated Time per Respondent: 3 hours, 44 minutes.

Estimated Total Annual Burden Hours: 3,730.

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: April 10, 2013 .

Yvette Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2013–09450 Filed 4–22–13; 8:45 am]

BILLING CODE 4830–01–P

FEDERAL REGISTER

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Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Threatened Status for *Eriogonum codium* (Umtanum Desert Buckwheat) and *Physaria douglasii* subsp. *tuplashensis* (White Bluffs Bladderpod); Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R1–ES–2012–0017; 4500030113]

RIN 1018–AX72

Endangered and Threatened Wildlife and Plants; Threatened Status for *Eriogonum codium* (Umtanum Desert Buckwheat) and *Physaria douglasii* subsp. *tuplashensis* (White Bluffs Bladderpod)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service, determine to list Umtanum desert buckwheat (***Eriogonum codium***) and White Bluffs bladderpod (***Physaria douglasii*** subsp. ***tuplashensis***) as threatened, under the Endangered Species Act of 1973, as amended (Act). This final rule implements the Federal protections provided by the Act for these species.

DATES: This rule becomes effective on May 23, 2013.

ADDRESSES: This final rule, comments and materials received, as well as supporting documentation used in preparing this rule, are available on the Internet at *http://www.regulations.gov* and at *http://www.fws.gov/wafwo/HanfordPlants.* These documents are also available for public inspection, by appointment, during normal business hours, at U.S. Fish and Wildlife Service, Washington Fish and Wildlife Office, 510 Desmond Drive SE., Suite 102, Lacey, WA 98503–1263; (360) 753–9440 (telephone); (360) 753–9008 (facsimile).

FOR FURTHER INFORMATION CONTACT: Ken Berg, Manager, U.S. Fish and Wildlife Service, Washington Fish and Wildlife Office, 510 Desmond Drive, Suite 102, Lacey, Washington, 98503–1263, by telephone (360) 753–9440, or by facsimile (360) 753–9405. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Executive Summary

Why we need to publish a rule. Under the Endangered Species Act (Act), a species warrants protection through listing if it is currently, or is likely to become, in danger of extinction throughout all or a significant portion of its range. Listing a species as an endangered or threatened species can only be completed by issuing a rule.

Purpose of Rule: This rule will list Umtanum desert buckwheat and White Bluffs bladderpod as threatened under the Act because both species are likely to become endangered within the foreseeable future due to continued threats.

The basis for our action. Under the Endangered Species Act, we can determine that a species is an endangered or threatened species based on any of five factors: (A) Destruction, modification, or curtailment of its habitat or range; (B) Overuse; (C) Disease or predation; (D) Inadequate existing regulations; or (E) Other natural or manmade factors. We have determined that Umtanum desert buckwheat is threated by wildfire, nonnative plants, seed predation, small population size, limited geographic range, and low recruitment. White Bluffs bladderpod is threatened by wildfire, irrigation-induced landslides and slope failure, harm by recreational activities and off-road vehicle use, nonnative plants, small population size, and limited geographic range.

Peer review and public comment. We sought comments from independent specialists to ensure that our designation is based on scientifically sound data, assumptions, and analyses. We invited these peer reviewers to comment on our listing proposal. We also considered all comments and information received during the public comment period.

Background

It is our intent to discuss only those topics directly relevant to the listing determinations for Umtanum desert buckwheat and White Bluffs bladderpod in this final rule. A summary of topics relevant to this final rule is provided below. Additional information on both species may be found in the Candidate Notice of Review, which was published October 26, 2011 (76 FR 66370).

Geography, Climate, and Landscape Setting

Umtanum desert buckwheat and White Bluffs bladderpod are found only on the Hanford Reach of the Columbia River, the last free-flowing stretch of the Columbia River within U.S. borders. The Hanford Reach lies within the semi-arid shrub steppe Pasco Basin of the Columbia Plateau in south-central Washington State. The region's climate is influenced by the Pacific Ocean, the Cascade Mountain Range to the west, and other mountain ranges located to the north and east. The Pacific Ocean moderates temperatures throughout the Pacific Northwest, and the Cascade Range generates a rain shadow that limits rain and snowfall in the eastern half of Washington State. The Cascade Range also serves as a source of cold air, which has a considerable effect on the wind regime on the Hanford reach. Daily maximum temperatures vary from an average of 1.7 °Celsius (C) (35 °Fahrenheit (F)) in late December and early January, to 36 °C (96 °F) in late July. The Hanford Reach is generally quite arid, with an average annual precipitation of 16 centimeters (cm) (6.3 inches (in)). The relative humidity at the Hanford Reach is highest during the winter months, averaging about 76 percent, and lowest during the summer, averaging about 36 percent. Average snowfall ranges from 0.25 cm (0.1 in) in October to a maximum of 13.2 cm (5.2 in) in December, decreasing to 1.3 cm (0.5 in) in March. Snowfall accounts for about 38 percent of all precipitation from December through February (USFWS 2008, pp. 3.8–3.10).

The Hanford Reach National Monument (Monument), which includes approximately 78,780 hectares (ha) (195,000 acres (ac)), contains much of the Hanford Reach of the Columbia River. All of the land is owned by the Department of Energy (DOE) and was formerly part of the 145,440-ha (360,000-ac) Hanford Site. The Hanford Site was established by the U.S. Government in 1943 as a national security area for the production of weapons grade plutonium and purification facilities. For more than 40 years, the primary mission at Hanford was associated with the production of nuclear materials for national defense. However, large tracts of land were used as protective buffer zones for safety and security purposes, and remained relatively undisturbed.

The Monument was established by Presidential Proclamation in June 2000, to connect these tracts of land, protecting the river reach and the largest remnant of the shrub steppe ecosystem in the Columbia River Basin. The Hanford Reach National Monument Proclamation identifies several nationally significant resources, including a diversity of rare native plant and animal species, such as Umtanum desert buckwheat and White Bluffs bladderpod (USFWS 2008, p. 1–4). The Proclamation also sets forth specific management actions and mechanisms that are to be followed: (1) Federal lands are withdrawn from disposition under public land laws, including all interests in these lands, such as future mining claims; (2) off-road vehicle use is prohibited; (3) the ability to apply for water rights is established; (4) grazing is

prohibited; (5) the Service and DOE (subject to certain provisions) are established as managers of the Monument; (6) a land management transfer mechanism from the DOE to the Service is established; (7) cleanup and restoration activities are assured; and (8) existing rights, including tribal rights, are protected.

All lands included in the Hanford Reach National Monument are Federal lands under the primary jurisdiction of the DOE. Approximately 66,660 ha (165,000 ac) of these acres are currently managed as an overlay refuge by the Service through agreements with the DOE. Overlay refuges exist where the Service manages lands for the benefit of fish and wildlife resources, but is not the primary holder in fee title of lands forming the refuge (USFWS 2008, p. 1–7). Because the Monument is administered as a component of the National Wildlife Refuge System, the legal mandates and policies that apply to any national wildlife refuge apply to the Monument. The Proclamation directs the DOE and the Service to protect and conserve the area's native plant communities, specifically recognizing the area's biologically diverse shrub steppe ecosystem (USFWS 2008, pp. 1.21, 3.5). The DOE manages approximately 11,716 ha (29,000 ac) of land within the Monument and retains land surface ownership or control on all Monument acreage. Thus, the Service and DOE have joint management responsibility for the Monument.

The parcel of land where Umtanum desert buckwheat occurs is on part of what was historically called the McGee Ranch, a historical homestead of more than 364 ha (900 ac) within the greater Hanford installation. Management of this parcel has been retained by DOE due to unresolved issues related to contaminants. This situation is expected to be resolved over time, and management conveyed to the Service, since this area is not essential to the operation of the Hanford facility. Umtanum desert buckwheat and White Bluffs bladderpod both occur in narrow, linear bands on bluffs above and on opposite sides of the Columbia River. The populations are approximately 15 kilometers (km) (9 miles (mi)) apart, and although relatively near to each other, their habitat has a widely disparate geologic history and subsequent soil development. These conditions create unique habitats and substrates that support these and other rare endemic plants (see *Species Information* sections) within the Hanford Reach.

Previous Federal Actions

Candidate History: Umtanum desert buckwheat (*Eriogonum codium*) and White Bluffs bladderpod (formerly *Lesquerella tuplashensis,* now *Physaria douglasii* subsp. *tuplashensis* (see ''Taxonomy'' section below)), were identified as candidates for possible addition to the Lists of Endangered and Threatened Wildlife and Plants in our Annual Candidate Notice of Review, published in the **Federal Register** on October 25, 1999 (64 FR 57542). We refer to both species by their common names throughout this rule. Both species were given a Listing Priority Number (LPN) of 5 at that time; the LPN is assigned to a species based on the immediacy and magnitude of threats and the species' taxonomic status. In 1999, threats to both species were considered to be of high magnitude, but not imminent. However, in 2002, the LPN for Umtanum desert buckwheat was revised to LPN 2, which is assigned when threats to a species are of high magnitude and imminence (67 FR 40663; June 13, 2002), based on new information revealing low reproduction for the species. The LPN for White Bluffs bladderpod was revised to LPN 9 in 2009 (74 FR 57810; November 9, 2009), to reflect new information indicating threats were now moderate to low in magnitude and imminence. In 2009, the Service completed a Spotlight Species Action Plan for White Bluffs bladderpod to set conservation targets and identify actions to achieve those targets for the next 5 years. This plan can be found on the Service's Web site at: *http://www.fws.gov/ecos/ajax/docs/action_plans/doc3090.pdf.* The 2011 Notice of Review, published October 26, 2011 (76 FR 66370), included Umtanum desert buckwheat and White Bluffs bladderpod; both species have been maintained as candidates since 1999.

Petition History: On May 4, 2004, the Service received a petition requesting that Umtanum desert buckwheat, White Bluffs bladderpod, and several other species be listed as endangered under the Act (Center for Biological Diversity *et al.* [CBD] 2004, pp. 49, 100). On July 12, 2011, the Service filed a multiyear work plan as part of a settlement agreement with the Center for Biological Diversity (CBD) and others in a consolidated case in the U.S. District Court for the District of Columbia. The settlement agreement was approved by the court on September 9, 2011, and will enable the Service to systematically review and address the conservation needs of more than 250 species, over a period of 6 years, including Umtanum desert buckwheat and White Bluffs bladderpod.

We proposed listing Umtanum desert buckwheat and White Bluffs bladderpod as threatened under the Act (16 U.S.C. 1531 *et seq.*) with critical habitat (77 FR 28704) on May 15, 2012, and announced the availability of a draft economic analysis. Proposed critical habitat included shrub steppe habitats within Benton County, Washington, for Umtanum desert buckwheat, and within Franklin County, Washington, for White Bluffs bladderpod. The final critical habitat rule can be found elsewhere in today's **Federal Register**.

Species Information

Umtanum Desert Buckwheat

Umtanum desert buckwheat is a long-lived, woody perennial plant that forms low mats. Individual plants may exceed 100 years of age, based on counts of annual growth rings on cross sections of the main stems of recently dead plants. Growth rates are also extremely slow, with stem diameters increasing an average of only 0.17 millimeters (mm) (0.007 in) per year (The Nature Conservancy (TNC) 1998, p. 9; Dunwiddie *et al.* 2001, p. 62). A detailed description of the identifying characteristics of Umtanum desert buckwheat is found in Reveal *et al.* (1995, pp. 350–351). Umtanum desert buckwheat is State-listed as Endangered, with a G1 (i.e., critically imperiled world-wide, and particularly vulnerable to extinction) global ranking and an S1 (i.e., critically imperiled State-wide, and particularly vulnerable to extinction) State ranking (WDNR 2011a, p. 5).

Taxonomy

In 1995, Florence Caplow and Kathryn Beck resumed large-scale rare plant surveys on the Hanford Site that were initiated in 1994 by TNC and the DOE, as part of the Hanford Biodiversity Project. Two previously undescribed plant taxa were discovered, including Umtanum desert buckwheat (Caplow and Beck 1996, p. 5). The species was fully described in Reveal *et al.* (1995), and the current nomenclature has been unchallenged since that time. Umtanum desert buckwheat is recognized as a distinct species, and there is no known controversy concerning its taxonomy.

Habitat/Life History

Umtanum desert buckwheat was discovered in 1995 during a botanical survey of the Hanford installation (Reveal *et al.* 1995, p. 353), and is found exclusively on soils over exposed basalt from the Lolo Flow of the Wanapum

Basalt Formation. As the basalt of the Lolo Flow weathers, a rocky soil type is formed that is classified as lithosol, a term describing the well-drained, shallow, generally stony soils over bedrock (Franklin and Dyrness 1973, p. 347), and talus slopes associated with eroding outcrops and cliffs. These cliffs (scarps), and loose rock at the base of cliffs or on slopes (defined as scree) are found along the crests and slopes of local hills and ridges, including east Umtanum Ridge, where Umtanum desert buckwheat occurs. This type of landform in the Columbia Basin is determined by the underlying basalts, which may be exposed above the soil on ridge tops or where wind and water erode the fine soils away (Sackschewski and Downs 2001, p. 2.1.1).

The Lolo Flow contains higher levels of titanium dioxide and lower levels of iron oxide than the neighboring Rosalia Flow, also of the Priest Rapids Member. The flow top material commonly has a high porosity and permeability and has weathered to pebble and gravel-sized pieces of vesicular basalt (Reveal *et al.* 1995, p. 354). This basalt typically contains small (< 5 mm (0.2 in)) crystals of the mineral olivine and rare clusters of plagioclase crystals (Reidel and Fecht 1981, pp. 3–13). It is unknown if the close association of Umtanum desert buckwheat with the lithosols of the Lolo Flow is related to the chemical composition or physical characteristics of the bedrock on which it is found, or a combination of factors not currently understood (Reveal *et al.* 1995, p. 354).

Preliminary counts indicate that seed set occurs in approximately 10 percent of flowers observed, potentially limiting reproductive capacity. Based on a pollinator exclusion study (Beck 1999, pp. 25–27), the species is probably capable of at least limited amounts of self-pollination, although the percentage of seed set in the absence of pollinators appears to be low. A variety of insect pollinators were observed on Umtanum desert buckwheat flowers, including ants, beetles, flies, spiders, moths and butterflies (TNC 1998, p. 8). Wasps from the families *Vespidae* and *Typhiidae* and a wasp from the species *Criosciolia* have been observed in the vicinity of Umtanum desert buckwheat, but not on the plant itself. A bumble bee, *Bombus centralis,* has been observed by Washington Department of Natural Resources (WDNR) specialists utilizing flowers of Umtanum desert buckwheat plants (Arnett 2011b, pers. comm.).

Common perennial plant associates of Umtanum desert buckwheat include *Artemisia tridentata* (big sagebrush), *Grayia spinosa* (spiny hopsage), *Krascheninnikovia lanata* (winterfat), *Eriogonum sphaerocephalum* (rock buckwheat), *Salvia dorrii* (purple sage), *Hesperostipa comata* (needle and thread), *Pseudoroegneria spicata* (bluebunch wheatgrass), *Poa secunda* (Sandberg's bluegrass), *Sphaeralcea munroana* (Munro's Globemallow), *Astragalus caricinus* (buckwheat milkvetch), and *Balsamorhiza careyana* (Carey's balsamroot). Common annual associates include *Bromus tectorum* (cheatgrass), *Sisymbrium altissimum* (tumblemustard), *Phacelia linearis* (threadleaf phacelia), *Aliciella leptomeria* (sand gilia). *Aliciella sinuata* (shy gilia), *Camissonia minor* (small evening primrose), and *Cryptantha pterocarya* (wingnut cryptantha).

Historical Range/Distribution

The only known population of Umtanum desert buckwheat occurs along the top edges of the steep slopes on Umtanum Ridge, a wide mountain ridge in Benton County, Washington, where it has a discontinuous distribution along a narrow (25–150 m (82–492 ft) wide by 1.6 km (1 mi) long) portion of the ridge (Dunwiddie *et al.* 2001, p. 59). The species was discovered in 1995 (Reveal *et al.* 1995, p. 354), and there are no verified records of any collections prior to that year.

Current Range/Distribution

It is unknown if the historic distribution of Umtanum desert buckwheat was different than the species' current distribution, but it is likely the species has been confined to this location during at least the last 150 years, as annual growth ring counts from fire-killed plants revealed individual ages in excess of 100 years. Individual plants with greater stem diameters (and, therefore, presumably older) are present, which supports the 150-year minimum locality occupation estimate.

Population Estimates/Status

The only known population of Umtanum desert buckwheat was fully censused (an accounting of the number of all individuals in a population) in 1995, 1997, 2005, and 2011 (see Table 1). In 1995, researchers counted 4,917 living individual plants, and in 1997, researchers counted 5,228 individuals (Dunwiddie *et al.* 2001, p. 61). The 1995 census was ''roughly counted'' (Beck 1999, p. 3) (i.e., there was a greater degree of estimation), while the 1997 count was more precise. In addition, the 1995 count may have overlooked an isolated patch with 79 plants to the east that was discovered in 2011. It is not uncommon for estimated population counts to be substantially lower than precise counts (Arnett 2011a, pers. comm.).

TABLE 1—UMTANUM DESERT BUCKWHEAT POPULATION COUNTS 1995–2011

Census year	Total plants counted
1995	4,917
1997	5,228
2005	4,408
2011	5,169

After a wildfire in 1997 burned through a portion of the population, a subsequent count found 5,228 living and 813 dead individual plants. A minimum of 75 percent of the 813 dead individual plants died as a direct result of the fire (Dunwiddie *et al.* 2001, p. 61). No survival or resprouting was noted in fire-killed plants in following years. Because a more accurate count was used to derive the number of dead individual plants (Beck 1999, p. 3), this total represents a fairly precise measure of the impact of the 1997 wildfire on Umtanum desert buckwheat (Arnett 2011a, pers. comm.), although it is likely some plants were totally consumed by the fire and thereby unidentifiable.

In 2005, researchers reported 4,408 living plants (Caplow 2005, p. 1), which represents a 15 percent decline in the population over an 8-year period. However, this result likely reflects some variability in how the census was performed over the years since the species was discovered in 1995. On July 12, 2011, a complete population census was conducted, which recorded 5,169 living individuals. This count was somewhat higher than average, which could be attributable to a more thorough census, the identification of plant clusters not previously documented, and the recording of larger clumps as containing more than one individual plant. These clumps were likely counted as individual plants in previous counts (Arnett 2011a, pers. comm.).

Demographic monitoring of the largest subpopulation within the main population commenced in 1997, and demonstrated an average 2 percent annual mortality of adult flowering plants. During the 9 years of monitoring, only 4 or 5 seedlings have been observed to survive beyond the year of their germination (Kaye 2007, p. 5). Since 2007, the demographic monitoring plots continue to reflect population declines and minimal recruitment (Arnett 2011b, pers. comm.). Dunwiddie *et al.* (2001, p. 67) documented a lack of plants in the

smallest size classes and the absence of any seed survival over 1 year. Their data did not indicate any spikes or gaps in the size distribution of plants that might reflect years of unusually high or low recruitment of plants, although evidence of such could have been obscured by the variable growth rates of the plants. Populations of long-lived species with low adult mortality can survive with relatively low recruitment rates (Harper 1977 in Dunwiddie *et al.* 2001, p. 67). Further, the survival of a few seedlings each year may be sufficient to replace the occasional adult that dies, or alternatively, an occasional bumper crop of seedlings surviving to maturity during several favorable years may ensure the long-term survival of the population (Dunwiddie *et al.* 2001, p. 67). However, no demographic data supported either of these scenarios for this species (Dunwiddie *et al.* 2001, p. 67).

An unpublished draft population viability analysis (PVA) was completed in 2007 by Thomas Kaye (2007, p. 5), based on 9 years of demographic data. A PVA is a quantitative analysis of population dynamics, with the goal of assessing the risk of extinction of a species. The 2007 study, which took into account observed environmental variability, determined there was little or no risk of a 90 percent population decline within the next 100 years; an approximate 13 percent chance of a decline of 50 percent of the population over the next 50 years; and a 72 percent chance of a 50 percent decline within the next 100 years. The PVA concluded the decline is gradual, consistent with the decline noted by Caplow (2005, p. 1) between 1997 and 2005, and will likely take several decades to impact the population (Kaye 2007, p. 7). Although census data indicates more individuals in 2011 compared to the number of individuals in 1995 and 2005, this increase likely reflects some variability in how the census was performed. The inflorescence for Umtanum desert buckwheat consists of a cluster of flowers arranged on a main stem or branch. As stated earlier, the fact that the 2011 census was somewhat higher than previous plant counts may be attributable to the identification of plant clusters not previously documented, or individually counting plants present in plant clusters (rather than counting the cluster itself as one plant) (Arnett 2011a, pers. comm.). Since 1995, numerous surveys have been conducted at other locations within the lower Columbia River Basin, within every habitat type that appears to be suitable for Umtanum desert buckwheat. However no other populations or individuals have been found to date.

Species Information

White Bluffs Bladderpod

White Bluffs bladderpod is a low-growing, herbaceous, perennial plant with a sturdy tap root and a dense rosette of broad gray-green pubescent leaves (WDNR 2010). The subspecies produces showy yellow flowers on relatively short stems in May, June, and July. The subspecies inhabits dry, steep upper zone and top exposures of the White Bluffs area of the Hanford Reach at the lower edge of the Wahluke Slope. Along these bluffs, a layer of highly alkaline, fossilized cemented calcium carbonate (caliche) soil has been exposed (Rollins *et al.* 1996, pp. 203–205). A detailed description of the identifying physical characteristics of White Bluffs bladderpod is in Rollins *et al.* (1996, pp. 203–205) and Al-Shehbaz and O'Kane (2002, pp. 319–320). White Bluffs bladderpod is State-listed as Threatened, with a G2 (i.e., imperiled world-wide, vulnerable to extinction) global ranking and an S2 (i.e., vulnerable to extirpation) State ranking (WDNR 2011).

Taxonomy

Although specimens of this taxon were originally collected from a population in 1883, the plant material was in poor condition, no definitive identification could be made, and the plant was not recognized as a species at that time. The population was rediscovered in 1994, and was described and published as a species, *Lesquerella tuplashensis,* by Rollins *et al.* (1996, pp. 319–322). A petition requesting that *L. tuplashensis* be listed as endangered under the Act stated that ''the taxonomic status of *Eriogonum codium* (Polygonaceae) as a valid species is uncontroversial (e.g., Reveal et al. 1996; Kartesz 1998)'' (Center for Biological Diversity *et al.* [CBD] 2004, pp. 49, 100). Since then, the nomenclature and taxonomy of the species have been investigated.

In a general paper on the taxonomy of *Physaria* and *Lesquerella,* O'Kane and Al-Shehbaz (2002, p. 321) combined the genera *Lesquerella* and *Physaria* and reduced the species *Lesquerella tuplashensis* to *Physaria douglasii* subsp. *tuplashensis* (O'Kane and Al-Shehbaz (2002, p. 322)), providing strong molecular, morphological, distributional, and ecological data to support the union of the two genera.

Rollins and Shaw (1973, entire) took a wide view of the degree of differentiation between species and subspecies (or varieties) of *Lesquerella,* although many species of *Lesquerella* are differentiated by only one or two stable characters. The research of Rollins *et al.* (1996, pp. 205–206) recognized that, although *L. tuplashensis* and *L. douglasii* were quite similar, they differed sufficiently in morphology and phenological traits to warrant recognition as two distinct species. Simmons (2000, p. 75) suggested in a Ph.D. thesis that *L. tuplashensis* may be an ecotype of the more common *L. douglasii.* Caplow *et al.* (2006, pp. 8–10) later argued that *L. tuplashensis* was sufficiently different from *douglasii* to warrant a species rank because it: (1) Was morphologically distinct, differed in stipe (a supporting stalk or stem-like structure) length and length-to-width ratio of stem leaves, and had statistically significant differences in all other measured characters; (2) was reproductively isolated from *L. douglasii* by nonoverlapping habitat and differences in phenology for virtually all *L. tuplashensis* plants; and (3) had clear differences in the ecological niche between the two taxa.

Based on molecular, morphological, phenological, reproductive, and ecological data, the conclusions in Al-Shehbaz and O'Kane (2002, p. 322) and Caplow *et al.* (2006, pp. 8–10) combining the genera *Lesquerella* and *Physaria* and reducing the species *Lesquerella tuplashensis* to *Physaria douglasii* subsp. *tuplashensis,* provide the most consistent and compelling information available to date. Therefore, we consider the White Bluffs bladderpod a subspecies of the species *Physaria douglasii,* with the scientific name *Physaria douglasii* subspecies *tuplashensis.*

Habitat/Life History

The only known population of White Bluffs bladderpod is found primarily on near-vertical exposures of weathered, cemented, alkaline, calcium carbonate paleosol (ancient, buried soil whose composition may reflect a climate significantly different from the climate now prevalent in the area) (*http://www.alcwin.org/Dictionary_Of_Geology_Description-84–P.htm*). The hardened carbonate paleosol caps several hundred feet of alkaline, easily eroded, lacustrine sediments of the Ringold Formation, a sedimentary formation made up of soft Pleistocene deposits of clay, gravel, sand, and silt (Newcomb 1958, p. 328). The uppermost part of the Ringold Formation is a heavily calcified and silicified cap layer to a depth of at least 4.6 m (15 ft). This layer is commonly called ''caliche'' although in this case, it

lacks the nitrate constituents found in true caliche. The ''caliche'' layer is a resistant caprock underlying the approximately 274–304 m (900–1,000 ft) elevation (above sea level) plateau extending north and east from the White Bluffs (Newcomb 1958, p. 330). The White Bluffs bladderpod may be an obligate calciphile, as are many of the endemic *Lesquerella* (now *Physaria*) (Caplow 2006, pp. 2–12). The habitat of White Bluffs bladderpod is arid, and vegetative cover is sparse (Rollins *et al.* 1996, p. 206).

Common associated plant species include: *Artemisia tridentata* (big sagebrush), *Poa secunda* (Sandberg's bluegrass), *Bromus tectorum* (cheatgrass), *Astragalus caricinus* (buckwheat milk-vetch), *Eriogonum microthecum* (slender buckwheat), *Achnatherum hymenoides* (Indian ricegrass), and *Cryptantha spiculifera* (Snake River cryptantha). Occasionally, White Bluffs bladderpod is numerous enough at some locations to be subdominant.

Because of its recent discovery and limited range, little is known of the subspecies' life-history requirements. In a presentation of preliminary life-history studies, Dunwiddie *et al.* (2002, p. 7) reported that most individuals reach reproductive condition in their first or second year, most adult plants flower every year, and the lifespan of this short-lived subspecies is probably 4 to 5 years. The population size appears to vary from year to year (see Table 2), and the survival of seedlings and adults appears to be highly variable (Dunwiddie *et al.* 2002, p. 8); however, more monitoring is needed to determine the magnitude and frequency of high- and low-number years, as well as to obtain an understanding of the causes of these annual fluctuations (Evans *et al.* 2003, p. 64). Monitoring by Monument staff (Newsome 2011, p. 5) suggests that the annual population fluctuations appear to be tied to environmental conditions, such as seasonal precipitation and temperature.

Historical Range/Distribution

In 1996, White Bluffs bladderpod was only known from a single population that occurred along the upper edge of the White Bluffs of the Columbia River in Franklin County, Washington. The population was described to occur intermittently in a narrow band (usually less than 10 m (33 ft) wide) along an approximately 17-km (10.6-mi) stretch of the river bluffs (Rollins *et al.* 1996, p. 205).

Current Range/Distribution

White Bluffs bladderpod is still known only from the single population that occurs along the upper edge of the White Bluffs of the Columbia River, Franklin County, Washington, although the full extent of the subspecies' occurrence has now been described. Most of the subspecies distribution (85 percent) is within lands owned by the Department of Energy (DOE) and once managed by the Washington Department of Fish and Wildlife as the Wahluke Wildlife Area (USFWS 2008, p. 1–3). This land remains under DOE ownership, and is managed by the Monument. The remainder of the subspecies' distribution is on private land (Newsome 2011, pers. comm.) and WDNR land (Arnett 2012, pers. comm.).

TABLE 2—ESTIMATED* POPULATION SIZE OF WHITE BLUFFS BLADDERPOD

Year	10-Transect sample	20-Transect sample
1997	14,034	N/A
1998	31,013	32,603
1999	20,354	21,699
2002	11,884	12,038
2007	29,334	28,618
2008	16,928	18,400
2009	16,569	20,028
2010	9,650	9,949
2011	47,593	58,887

* Mean number of plants per transect × total number of transects along permanent 100-m (328-ft) monitoring transects (from Newsome 2011, p. 3). An additional 20-transect sample was added to monitoring after 1997 to increase statistical confidence.

Population Estimates/Status

The size of the population varies considerably between years. Censuses in the late 1990s estimated more than 50,000 flowering plants in high population years (Evans *et al.* 2003, p. 3–2) (see Table 2). Since 1997 to 1998 when the monitoring transects currently used were selected, the population ranged between an estimated low of 9,650 plants in 2010 to an estimated high of 58,887 plants in 2011 (see Table 2). Following the monitoring period in 2007, a large wildfire burned through the northern portion of the population within the monitoring transects. Annual monitoring was conducted through 2011 to attempt to determine the effects of fire on White Bluffs bladderpod. The monitoring results indicated that when burned and unburned transects were compared, plants in burned transects appear to have rebounded to some extent (Newsome 2011, p. 5), although the data have too much variability to discern that difference. However, the burned transects appeared to have a mean of 24 percent fewer plants than in the unburned transects.

The high variability in estimated population numbers was confirmed by the 2011 data, which documented the highest population estimate since monitoring began in 1997, even though it immediately followed the year representing the lowest estimate (2010). May 2011 was identified by the Hanford Meteorological Station (*http://www.hanford.gov/page.cfm/HMS*) as the fifth coolest and seventh wettest month of May recorded on the installation since its establishment in 1944 (Newsome 2011, p. 2). This environment likely provided ideal conditions for germination, growth, and flowering for this year's population following a rather moist fall and mild winter season (Autumn 2010 precipitation was 4.6 cm (21.8 inches) above average; winter 2011 precipitation was 0.6 cm (0.24 inches) below average.) (*http://ww.hanford.gov/page.cfm/hms/products/seaprcp*).

Summary of Comments and Recommendations

In the proposed rule published on May 15, 2012 (77 FR 28704), we requested that all interested parties submit written comments on the proposal by July 16, 2012. We also contacted appropriate Federal and State agencies, scientific experts and organizations, and other interested parties and invited them to comment on the proposal. We did not receive any requests for a public hearing.

During the comment period, we received two public comment letters addressing the proposed listing. All substantive information provided during the comment periods has either been incorporated directly into this final determination or is addressed below.

Peer Review

In accordance with our peer review policy published on July 1, 1994 (59 FR 34270), we solicited expert opinions from five knowledgeable individuals with scientific expertise that included familiarity with the species, regional botanical knowledge, the geographical region in which the species occur, and conservation biology principles. We received responses from four of the peer reviewers.

We reviewed all comments received from peer reviewers for substantive issues and new information regarding the proposed listing for the two plant species. The peer reviewers generally concurred with our methods and conclusions, and provided editorial comments, taxonomic clarifications, additional citations, and information on

species distribution, arid lands ecology, geology, and habitat associations to improve the final rule. These comments have been incorporated into the final rule, but have not been individually addressed below. The more substantive peer reviewer comments are addressed in the following summary and have been incorporated into the final rule as appropriate.

Peer Reviewer Comments

(1) *Comment:* One peer reviewer presented recommendations with regard to the control of invasive plant species and the use of herbicides, in light of their effects on pollinators. He also recommended the development of a detailed plan that explicitly describes how noxious and invasive weeds such as cheatgrass (*Bromus tectorum*) would be managed, to minimize risks to Umtanum desert buckwheat, White Bluffs bladderpod, and their supporting habitat's native flora.

Our Response: We appreciate and agree with the comment. In accordance with section 4(f)(1) of the Act, recovery plans for the conservation and survival of both species will be developed and implemented after publication of this final rule. The plans will describe site-specific management actions and objective, measurable criteria, which, when met, would result in the recovery of these species. The recovery plans will address each of the threats described in the listing rule, including invasive species, and propose a series of prioritized actions (which could include pollinator conservation measures) to address those threats.

(2) *Comment:* For Umtanum desert buckwheat, one peer reviewer suggested it may be difficult to identify trends in the size of the population using the data presented in Table 1, because there are apparent differences in census methodologies and no statistical estimate of uncertainty in the values, making the figures less precise than one might normally expect in census counts of plant populations. As a result, he commented that the figures appear not to support the contention that the population is gradually declining. The peer reviewer suggested that ''it would be clearer (and perhaps make a more convincing argument) to present trends from the demographic monitoring in the subpopulation over this entire 15-year monitoring record, rather than summarize just the first 9 years and report that the declines have continued since then.'' The reviewer also recommended the development of a more rigorous monitoring program to improve the accuracy of population estimates.

Our Response: We agree that the total population counts for Umtanum desert buckwheat in Table 1 reflect considerable uncertainty, and that the method for estimating the total population needs to be improved in the future. Section 4(b)(1)(A) of the Act requires that we make determinations based on the best scientific and commercial data available. Demographic monitoring of a subset of the total population indicates a slow decline based on 9 years of high-quality data, in contrast to the census estimates shown in Table 1. That high-quality data represents the best available scientific information, and has been applied in this determination. The next population viability analysis is anticipated within or near 2016, and will be based on at least 15 years of annual data from the demographic study subpopulation, which will improve data precision.

(3) *Comment:* For Umtanum desert buckwheat, one peer reviewer indicated that, while the summary of factors in Table 4 is comprehensive and accurate in assessing individual threats, he did not feel that adequate consideration was given to how the threats interact collectively. The reviewer suggested that because Umtanum desert buckwheat is vulnerable to single catastrophic events such as wildfire, it should be listed as endangered rather than threatened.

Our Response: Pursuant to section 3(20) of the Act, a species is listed as threatened if it is likely to become an endangered species within the foreseeable future, throughout all or a significant portion of its range. Under section 3(6) of the Act, a species is endangered if it is in danger of extinction, throughout all or a significant portion of its range. Therefore, the key statutory difference between threatened and endangered status is the timing of when a species may be in danger of extinction (i.e., either now (endangered) or in the foreseeable future (threatened)). The primary threats to Umtanum desert buckwheat include wildfire, nonnative plants, and increased fuel loads resulting from nonnative plants becoming established. We have considered the combined effect of these threats.

The development of a comprehensive conservation plan (CCP) for the management of the Monument (i.e., any lands managed as part of the National Wildlife Refuge System) is a Service requirement under the National Wildlife Refuge System Improvement Act. This Act provides guidelines and directives for the administration and management of all lands within the system, including ''wildlife refuges, areas for the protection and conservation of fish and wildlife that are threatened with extinction, wildlife ranges, wildlife management areas, or waterfowl production areas.'' The Secretary of the Interior is authorized to permit by regulations the use of any area within the system provided ''such uses are compatible with the major purposes for which such areas were established.'' (USFWS 2228, p. 793).

The Service published a notice of intent to begin development of this CCP and environmental impact statement (EIS) in the **Federal Register** on June 12, 2002, for public comment. This began a multiyear process to identify issues that needed to be addressed and the management alternatives that would best address those issues (69 FR 40333). The CCP was developed by the Service to protect and conserve biological (and other) resources, and includes several management objectives, including treating invasive species and restoring upland habitat (USFWS 2008 pp. 19–22). In addition, the species is in a very gradual decline, and access to the area where the population occurs is prohibited without special authorization from the Department of Energy. Further, shrub and grass fuels on parts of the ridge where Umtanum desert buckwheat occurs are sparse, which reduces the likelihood that a wildfire event would affect the entire population. These factors collectively reduce the likelihood that extinction is imminent and certain due to a single catastrophic event. Accordingly, we have determined threatened status is appropriate for Umtanum desert buckwheat. Please refer to the ''Cumulative Impacts'' section for a discussion of how we view the collective interactions of each of the threats to this species.

(4) *Comment:* For White Bluffs bladderpod, one peer reviewer stated that ''fully half of the areal extent of the bladderpod population (the southern 5 miles) is immediately abutted by irrigated cropland, and occurs in areas of landslides and slumping bluffs.'' He commented that the southern area would be particularly vulnerable to landslides and slumping, putting the species in more danger of extinction. Because of this risk, the reviewer suggested the species was worthy of a status of endangered. Furthermore, the commenter stated there has been little or no monitoring of the status and trends of the population in the southern portion of the area where it occurs.

Our Response: The threat of active landslides and slumping is most prevalent in approximately 35 percent of the 17-km (10.6-mi) linear extent

(range) of the subspecies. The species is fairly numerous and continuous along the entire linear extent of its range, including those areas that are not experiencing landslides. Further, plants are presently persisting in some areas where landslides have occurred. The bluffs and cliffs outside of the influence of irrigation water are more stable, and presumably at a lower risk to slumping. Because the risk of landslides is relatively low over the majority of the area where the subspecies occurs (65 percent of the range), we have determined that threatened status is appropriate, in light of the definitions of endangered and threatened species in the Act. Please see our response to *Comment* (3) above for Umtanum desert buckwheat for additional information regarding the difference between endangered and threatened status under the Act. Regular monitoring in the southern portion of the area has not been conducted to date, which is primarily due to the presence of mixed ownerships and the physical difficulties of accessing the slumped areas. Identifying an appropriate monitoring plan for the entire White Bluffs bladderpod population will be a primary objective of the recovery planning process under section 4(f) of the Act.

(5) *Comment:* For White Bluffs bladderpod, one peer reviewer stated that, although possible effects of pesticides and herbicides on pollinators are mentioned briefly in the text as a potential threat, the use of chemicals is not included in Table 5 as a potential threat.

Our Response: Agricultural lands do not function as habitat for the White Bluffs bladderpod, but may support pollinators. Although pollinators that forage on agricultural lands may be at risk of being exposed to pesticides, we do not believe this situation rises to a level of threat to the overall population for the following reasons: (1) Agricultural land use is adjacent to approximately 35 percent (rather than a majority) of the population; (2) we presume pesticides and herbicides have been applied on these lands since their initial conversion to agricultural use; (3) White Bluffs bladderpod persists adjacent to the agricultural areas; and (4) we have no scientific evidence with which to base a conclusion that the application of these chemicals represents an indirect threat to White Bluffs bladderpod.

(6) *Comment:* For Umtanum desert buckwheat, one peer reviewer commented that he would rank the severity of threat for recreational activities and/or ORV use as moderate (rather than low), since an ATV or a couple of motorbikes moving through the population, however unlikely, could have at least moderate impacts.

Our Response: ''Scope'' as applied in our assessment refers to the extent of species numbers or habitat affected by a threat; ''Intensity'' refers to the intensity of effect by the threat on the species or habitat; and ''Timing'' refers to the likelihood of a threat currently affecting the species. Although a determined individual could trespass in the area, we believe the deterrents that are in place, including access restrictions, ''unauthorized entry prohibited'' signs, fencing, and enforcement, significantly reduce the likelihood of a trespass event. As a result, we have no substantive information that would indicate these activities represent an ongoing threat to the Umtanum desert buckwheat population.

(7) *Comment:* For White Bluffs bladderpod, one peer reviewer recommended that we provide a statistical test or present the numbers used to draw the conclusion that a comparison of burned and unburned transects indicate that plants in burned transects appear to have rebounded to some extent.

Our Response: The citation used to support this observation has been added. The author of the report acknowledges some uncertainty because the data has too much variability for us to discern that difference with any confidence; the final rule has been clarified in that regard.

(8) *Comment:* For White Bluffs bladderpod, one peer reviewer commented that the invasive plant species inventory and management plan developed for the Hanford Monument could be argued to be an inadequate existing regulatory mechanism under Factor D, since threats can be minimized through consistent invasive plant management.

Our Response: The purpose of the Biodiversity Studies of the Hanford Site 2002–2003 study (Evans *et al.* 2003, entire), was to address some of the outstanding questions related to a previous study, and was not intended to establish a regulatory program or mechanism. Regardless, our determination that the invasive species management plan is not a regulatory mechanism with regard to Factor D does not affect our status determination for this species.

Public Review Comments

(9) *Comment:* One commentor supported the listing of both species, and recommended that we clearly distinguish White Bluffs bladderpod *(Physaria douglasii* subsp. *tuplashensis)* from the more common and wide-ranging Columbia bladderpod *(Physaria douglasii).*

Our Response: The research that recognizes White Bluffs bladderpod as a species (currently a subspecies) is included in the ''Taxonomy'' section of this final rule (Caplow *et al.* (2006, pp. 8–10). This research established that the two species differ with regard to numerous measurable physical traits. They also occur in different habitats, have different reproductive timing, and occupy different ecological niches.

(10) *Comment:* One commentor recommended that public access not be restricted any further than it currently is, once the species is listed, and that neither species has been impacted to date by lawful public access.

Our Response: This rule serves only to list both species under the Act, thereby providing the Act's protections. Any decisions regarding changes in management of access to areas occupied by the species will be made through separate processes by the agencies that administer those lands.

Summary of Factors Affecting the Species

Section 4 of the Act (16 U.S.C. 1533), and its implementing regulations at 50 CFR part 424, set forth the procedures for adding species to the Federal Lists of Endangered and Threatened Wildlife and Plants. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1) of the Act: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; and (E) other natural or manmade factors affecting its continued existence. Listing actions may be warranted based on any of the above threat factors, singly or in combination. Each of these factors for both Umtanum desert buckwheat and White Bluffs bladderpod are discussed below.

Umtanum Desert Buckwheat

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Caplow and Beck (1996, pp. 40–41) and other studies indicate that threats to Umtanum desert buckwheat and its habitat are primarily due to wildfire and associated firefighting activities (Beck 1999, pp. 27–29; Dunwiddie *et al.* 2001, p. 66). The invasion of nonnative plants

that increase the availability of wildfire fuel sources is also a threat, as discussed below. Unauthorized livestock trespassing, prospecting, and off-road vehicle use represent potential threats, which appear to be presently reduced because of improved boundary integrity, access controls, fencing, and enforcement. Below is a detailed discussion of these threats and their potential effects on survival and recovery of the species.

Wildfire: Fire may be the primary threat to Umtanum desert buckwheat, and it is likely to become an even greater threat if the frequency or severity of fires increases (TNC 1998 p. 9; Dunwiddie *et al.* 2001, p. 62). Prior to manmade disturbances (livestock grazing, introduction of exotic species, and farming), the historic fire regime was a 32- to 70-year fire return interval of small, high-intensity fires that removed small patches of the fire-intolerant shrub overstory. Small, infrequent fires maintained bunchgrass openings within the shrub-steppe habitat, providing for both shrub and grassland communities. The historic fire regime has been significantly altered by sociopolitical and economic factors. After the 1900s, human activities interrupted the natural fire interval and patterns of burning. Agricultural development and livestock grazing reduced the light fuels that would normally carry a fire; livestock grazing also had the effect of suppressing native bunchgrasses and allowing nonnative invasive species such as *Bromus tectorum* (cheatgrass), *Sisymbrium altissimum* (tumblemustard), and native sagebrush densities to increase (USFWS 2008, p. 3–15). Cheatgrass may compete seasonally with Umtanum desert buckwheat for space and moisture. In turn, the establishment and growth of highly flammable cheatgrass increases the likelihood of fire (Link *et al.* 2006, p. 10), potentially further negatively (or adversely) impacting the Umtanum desert buckwheat population.

In mid-August 1984, approximately 80,800 ha (200,000 ac) both on and off the Hanford Site were burned in a fire that expanded 20 miles westward during a 24-hour period. The 1984 fire was initiated by a lightning strike on private land (DOE 2000, p. 3–1). During the summer of 1997, a fire escaped from the Yakima Training Center (U.S. Department of the Army) and traveled down the ridge occupied by Umtanum desert buckwheat. The fire burned on all sides and partially through the population, which caused considerable mortality of adult plants (Dunwiddie *et al.* 2001, p. 60). It was conservatively estimated that up to 20 percent of the population may have been killed by the fire event (Dunwiddie *et al.* 2001, p. 62). The fire was most severe where vegetative cover was dense and less severe on thinner soils supporting little or no vegetation. Shrub and grass fuels on parts of the ridge are sparse, and the fire was patchy in the area where Umtanum desert buckwheat is located (Newsome 2011, pers. comm.). In late July 1998, a wildfire triggered by a lightning strike burned approximately 2,828 ha (7,000 ac) before it was contained (DOE 2000, p. 3–1). From 2001 to 2011, there have been 84 wildfire incidents documented, affecting approximately 38,164 ha (94, 460 ac) of lands within the Monument (see Table 3).

TABLE 3—WILDFIRE HISTORY, HANFORD MONUMENT LANDS AND HANFORD REACH/SADDLE MOUNTAIN NATIONAL WILDLIFE REFUGE

Year	Number of fires	Acres burned	Hectares burned
2011	2	1	0.4
2010	3	3,350	1,353
2009	10	529	214
2008	6	1,340	542
2007	8	77,319	31,237
2006	5	34	14
2005	8	10,910	4,408
2004	8	41	17
2003	16	512	207
2002	7	299	121
2001	11	125	51
Totals	84	94,460	38,164.4

http://www.fws.gov/fire/program_statistics/ (acres/hectares rounded)

Umtanum desert buckwheat appears to be intolerant of fire, and plants were easily killed. Even plants that were singed but not visibly charred appeared to be negatively affected, and many died the year following the fire. The fire did not stimulate vigorous new growth on established plants or sprouting from the plants' root crowns, which is sometimes observed with other species. In addition, there was no apparent flush of seedlings the following spring. Based on this lack of regeneration, or resprouting from burned plants, the species does not appear to be fire-tolerant (Dunwiddie *et al.* 2001, p. 66). Due to the intensity of the fire in some areas, many plants were entirely consumed and no traces remained that could be definitively identified, which led researchers to believe that the total impact of the 1997 fire on the population was likely considerably higher than the 813 burned plants documented. The long-term impact of the fire to the population is unknown, but may be significant given the slow growth rates, minimal recruitment, and the increase in cheatgrass on the site following the fire. Cheatgrass plants are interspersed with Umtanum desert buckwheat plants, thus increasing their flammability (Dunwiddie *et al.* 2001, pp. 66, 68). Mortality from the fire occurred primarily among plants growing where associated vegetation was more abundant, thereby providing fuel to carry the fire. After the fire, a reduction in native plant diversity and loss of shrub components was also observed in areas adjacent to the population. Based on the best available information, wildfire represents an ongoing threat to Umtanum desert buckwheat.

Fire Suppression Activities: In addition to wildfire itself, fire suppression activities could present a threat to the species if they occur in the same area as the population, since this species appears to be highly sensitive to any physical damage (see discussion

under off-road vehicles below). The Umtanum desert buckwheat population is located on a flat natural fire break of rocky soils above steep-slopes, where fire lines and firefighting equipment would tend to be concentrated (Whitehall 2012, pers. comm.; Newsome 2011, pers. comm.). Although fire suppression activities did not take place within the Umtanum desert buckwheat population during the response to the 1997 fire, the surrounding area is at high risk of wildfire from human and natural (lightning) ignition sources. The Service's fire program statistics (see Table 3) indicate a recurrence of wildfire events within Monument lands, which would be anticipated to continue.

The 2001 Hanford Reach Wildlife Fire Management Plan prescription for this area states that ''except on existing roads, the use of any equipment (including light engines) within ¼ mile of the escarpment edge of the Umtanum Ridge is prohibited because of surface instability and potential for sloughing at the escarpment. Protection of sensitive resources is an objective unless achieving this objective jeopardizes either firefighter or public safety'' (USFWS 2001, p. 36). Accordingly, if a wildfire were to occur in the surrounding area, protection of the Umtanum desert buckwheat population may not be possible if fire direction and firefighter/public safety considerations were to necessitate establishing fire lines or response equipment staging areas within or near the population. Although the need for wildfire suppression activities near or within the Umtanum desert buckwheat population is unpredictable, this activity is considered a threat to this species based on the Monument's wildfire history (see Table 3).

Nonnative Plant Fuel Sources: Another potential consequence of fire and other disturbances that remove native plants from the shrub steppe communities of eastern Washington is the displacement of native vegetation by nonnative weedy species, particularly cheatgrass. As a result of the 1997 fire, a higher percent cover of weedy plant species, including cheatgrass, has become established within and around the Umtanum desert buckwheat population. Wildfire raises the percent cover of weedy species, thereby increasing the availability of ground fuels, which enhances the ability to carry wildfire across the landscape into previously fire-resistant cover types, including habitat for Umtanum desert buckwheat. Accordingly, nonnative weedy species represent an ongoing threat to the species.

Off-road Vehicles and Hikers: Trespassing by hikers and people driving off-road vehicles (ORVs) has occurred in the vicinity of and within the Umtanum desert buckwheat population (Caplow 2005, pers. comm.). The open cliff edge where the plants grow is an attractive place for human traffic because of the compact substrate, sparse vegetative cover, and the view overlooking the Columbia River. In 2004 and 2005, the Bonneville Power Administration (BPA) reopened and improved a steep road on the top of a ridge to the substation on China Bar below. The road was then passable to two-wheel drive vehicles and, up until the summer of 2005, was inadequately fenced and gated to prevent trespass (Caplow 2005, pers. com.). The entire known population exists within a narrow corridor where human traffic could be expected to concentrate. Umtanum desert buckwheat plants are easily damaged by trampling or crushing by ORVs, are sensitive to physical damage, and are very slow to recover if capable of recovering at all. Within 2 days of being run over by trespassing dirt bikes, portions of damaged plants showed signs of further decline, and some of the damaged plants subsequently died (TNC 1998, p. 62).

This threat appears to have been reduced since direct access to the site has been gradually fenced off over time, the site has been marked with prohibited entry signage, and consistent enforcement is taking place. Although unauthorized access is prohibited, there remains a potential for trespass since an open road is located approximately 0.5 km (0.3 mi) (slope distance) below the population through lands commonly used for recreation. A fence, located between the road and the Umtanum desert buckwheat population, should further discourage ORV or hiker trespass incidents. Based on the available evidence, we have no substantive information that would indicate ORV or hiking activities represent ongoing threats to the species, provided current security and boundary integrity efforts are maintained. We will continue to monitor these activities as additional information becomes available.

Livestock: A potential threat of trampling to Umtanum desert buckwheat could occur if livestock were to escape from a pasture area on China Bar, approximately 0.4 km (0.25 mi) (slope distance) below the population, although such an occurrence has not been observed or documented to date. If an escape were to happen, it could impact the species by direct means such as crushing and mortality through grazing, and indirect means, including soil disturbance, compaction, and importation of invasive species by seed carried on the body or through feces. In addition, areas disturbed by livestock could increase bare soil areas, making them more suitable for the establishment of invasive plant species. This potential threat has been reduced under the terms of a DOE permit issued to the rancher who conducts the seasonal pasturing operations. The DOE permit restricts the seasonal movement of livestock between pastures by way of a paved road directly below the Umtanum desert buckwheat population (Hathaway 2001, pers. comm.). In addition, there is a fence between the paved road and the population. Based on the available evidence regarding permit requirements and boundary integrity, we have no substantive information indicating livestock trespass represents an ongoing threat to the species.

Prospecting: Prospecting by rock collectors was initially thought to be a potential threat to Umtanum desert buckwheat. Excavations up to 1.5 m (5 ft) in diameter and 1.2 m (4 ft) deep occur throughout the area occupied by the species (Caplow 2005, pers. comm.), although their age is uncertain. Some may predate 1943, when the DOE acquired the land as part of the Hanford installation, and others may reflect more recent activity. Continuation of this activity could threaten a large portion of the Umtanum desert buckwheat population by trampling, uprooting, or burial of plants during these activities. Although prospecting could be a threat, it has not been observed since the species' discovery in 1995, likely because of increased boundary integrity, improved fencing, restrictive signage, and enforcement. We have no information that would indicate any recent prospecting or other unauthorized entry into the site has occurred. Therefore, based on the available evidence, we have no substantive information that would indicate prospecting activities represent an ongoing threat to the species.

Based on the information above, the specific activities discussed under Factor A: The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range present a threat to Umtanum desert buckwheat and its habitat. These include wildfire, nonnative plant fuel sources, and potentially wildfire suppression activities. Trespassing by off-road vehicles, hikers, and mineral prospectors are not considered ongoing threats at this time, based on permit requirements, access restrictions,

boundary fencing, signage, and enforcement actions that are in effect for the area where this population occurs.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

The regulations at 50 CFR 27.51 prohibit collecting any plant on any national wildlife refuge without a special use permit. Evidence of overutilization has not been documented since the discovery of Umtanum desert buckwheat in 1996. In order to maintain a secure source for seed and provide some assurance of maintaining the genome of Umtanum desert buckwheat over time, Berry Botanic Garden in Portland, Oregon, has collected and stored several seed accessions for the species. The facility currently has 401 seeds that were collected in 1997, and 1,108 seeds collected in 2001 and 2002 from an unknown number of plants (Gibble 2011, pers. comm.). Based on a thorough accounting of all activities on the site by researchers and DOE, there is no evidence that commercial, recreational, scientific, or educational use of this species is occurring at a level that would threaten the population.

C. Disease or Predation

Evidence of disease has not been documented in Umtanum desert buckwheat; however, predation of seeds by ants and removal of flower heads by an unknown species has been observed by researchers during demographic monitoring trips.

Researchers from The Nature Conservancy observed western harvester ants (*Pogonomyrmex occidentalis*), a common native species, gathering mature achenes (seeds) of Umtanum desert buckwheat plants and transporting them to their underground colonies (Dunwiddie *et al.* 2001, p. 66). Ants have also been observed discarding the inedible remains of achenes above ground, near the colony. Evidence of seed predation by ants was commonly observed by different researchers between 1999 and 2004 in numerous locations, although it has not been observed on Umtanum desert buckwheat in recent years (Arnett 2011c, pers. comm.). The percentage of achenes consumed by ants and other insects, and the degree of impact this activity may be having on the available seed bank is unknown, although no Umtanum desert buckwheat seedlings have been observed successfully germinating or becoming established near ant colonies. Ant predation of seeds has been shown to be a significant factor in the viability of at least one other rare *Eriogonum* taxon *(Eriogonum umbellatum* var. *torreyanum* (sulfur flower buckwheat)) (TNC 1998, p. 9).

Because ants have been observed moving on and between flowers, they may also be contributing to the pollination of Umtanum desert buckwheat. Whether seed predation by ants is a significant threat to the species based on its current demographic status, or to what degree the threat is offset by potential benefits of pollination is unclear. During the 2011 census of Umtanum desert buckwheat, numerous flower heads that had been clipped off and were lying on top of or very near the plants were observed. The species responsible is unknown, although there was no evidence of mutilation or consumption of the flower structure (Arnett 2011c, pers. comm.). As stated earlier, no Umtanum desert buckwheat seedlings have been observed successfully germinating or becoming established near ant colonies. Because seed predation and the removal of flowering structures could significantly reduce the reproductive potential of the species, which is already in gradual decline based on the results of the PVA, we consider these activities to be ongoing threats to Umtanum desert buckwheat. We are unaware of any other disease or predation interactions that represent potential threats to this species.

D. The Inadequacy of Existing Regulatory Mechanisms

Umtanum desert buckwheat is designated as endangered under the State of Washington's list of endangered, threatened, and sensitive vascular plants (WDNR 2011a, p. 5). The WDNR Status and Ranking System of the Washington Natural Heritage Program (*http://www1.dnr.wa.gov/nhp/refdesk/lists/stat_rank.html*) identifies the State ranking for buckwheat as (1) G1 (critically imperiled globally and at very high risk of extinction or elimination due to very restricted range, very few populations or occurrences, very steep declines, very severe threats, or other factors); (2) S1 (critically imperiled in the State because of extreme rarity or other factors making it especially vulnerable to extirpation (typically 5 or fewer occurrences or very few remaining individuals or acres)); and (3) endangered (any taxon in danger of becoming extinct or extirpated from Washington). Populations of these taxa are at critically low levels or their habitats have been degraded or depleted to a significant degree. Listing the species as threatened will invoke the protections under the Act, including consultation and development of a recovery plan. The State ranking does not provide any protections, whereas Federally listing the species will impose legal and regulatory requirements directed toward recovery. Therefore, the factors contributing to the species' decline with regard to the State ranking will be addressed and mitigated, over time. Further, some actions are already being taken to protect the population, as has been discussed earlier (e.g., fencing, prohibited entry signs, permit conditions for livestock movement, enforcement, etc.). We coordinated the proposed rule with the Washington Department of Natural Resources, who did not identify any concerns with regard to the proposed threatened status for this species under the Act.

The State of Washington's endangered, threatened, and sensitive plant program is administered through the Washington Natural Heritage Program (WNHP), which was created to provide an objective basis for establishing priorities for a broad array of conservation actions (WDNR 2011b, p. 2). Prioritizing ecosystems and species for conservation offers a means to evaluate proposed natural areas and other conservation activities (WDNR 2011b, p. 3). The WNHP is a participant in the Arid Lands Initiative, which is a public/private partnership attempting to develop strategies to conserve the species and ecosystems found within Washington's arid landscape. The WNHP assists in identifying conservation targets, major threats, and potential strategies to address them (WDNR 2011b, p. 4). The DOE does not have a rare plant policy that provides specific protection for the species, and presently retains management responsibility for the lands where Umtanum desert buckwheat occurs. Once contaminant issues are resolved in this area, management responsibility will be conveyed to the Service, as a part of the Monument, who would take the status of the species into account in their management strategies where the population occurs.

Agricultural development and livestock grazing reduced the light fuels that would normally carry a fire, and allowed nonnative invasive species like cheatgrass to increase (USFWS 2008, p. 3–15). The establishment of highly flammable cheatgrass within the Umtanum desert buckwheat population increases competition for space and moisture, and the likelihood that a wildfire could negatively impact the species. As fires become larger, the opportunity for seed dispersal is also increased as nonnative species invade burned areas. Nonnative species like cheatgrass can be dispersed in several

ways, including long-distance dispersal facilitated by humans and animals. The barbed florets are ideally adapted to being picked up by clothing, feathers, and fur. Seeds can also be dispersed by machinery or vehicles. Animals may carry cheatgrass seed in their feces and hooves, and seed-caching rodents and harvester ants can disperse seeds intermediate distances through caching activity. Cropland, particularly fields of winter wheat and dryland hay, may also be potential seed sources to nearby natural areas and rangelands, as cheatgrass is a common weed (*http://www.fs.fed.us/database/feis/plants/graminoid/brotec/all.html*).

The Hanford Fire Department maintains four fire stations on the Hanford Reservation (USFWS 2001, Appendix D, p. 74). The Service and the Hanford Fire Department have entered into a cooperative agreement, under which either organization can provide firefighting support (USFWS 2001, Appendix D, p. 75) on lands under the jurisdiction or responsibility of the other party (DOE 2011, p. 84). The concept of closest forces is the guiding principle of initial attack suppression. This agreement does not provide specific conservation measures for the protection of Umtanum desert buckwheat, but does acknowledge the presence of plants unique to the site. The objective for this area states that ''except on existing roads, the use of any equipment (including light engines) within ¼ mile of the escarpment edge of the Umtanum Ridge is prohibited because of surface instability and potential for sloughing at the escarpment. Protection of sensitive resources is an objective unless achieving this objective jeopardizes either firefighter or public safety'' (USFWS 2001, p. 36).

Numerous wildland fires occur annually on lands in and surrounding the Monument. Many are human-caused resulting from vehicle ignitions from roads and highways, unattended campfires, burning of adjacent agricultural lands and irrigation ditches, and arson. Fires of natural origin (lightning caused) also occur on lands within and adjacent to the Monument (USFWS 2001, p. 171). Since wildfires are unpredictable with regard to their location and intensity, a fire management plan is necessarily designed to be a response, rather than a regulatory activity. Appendix R in the CCP identifies the National Wildlife Refuge System Strategic Goals and the Monument RONS and MMS Project Lists. The Refuge Operating Needs System (RONS) documents and prioritizes staffing and operational needs, and reports accomplishments when projects are completed. The Maintenance Management System (MMS) documents and prioritizes field facility and equipment needs, and also includes a reporting component. The CCP identifies several activities and projects that would be implemented to reduce wildfire risks as funds become available, including conducting fire history studies, purchasing firefighting equipment, establishing a fire bunkhouse, and conducting fire effects/rehabilitation monitoring studies (USFWS 2008, Appendix R–6).

All collecting is prohibited on the Monument, including antlers, bones, rocks, artifacts, and plant life. Regulations also prohibit fires on Monument lands (Hanford Reach National Monument Hunting Regulations, 2011). The Revised Hanford Site 2011Wildland Fire Management Plan (DOE 2011, p. 176) addresses Umtanum desert buckwheat briefly in a specific accounting of sensitive resources located on the site. The plan states that ''due to the sensitive nature of the biology of the Hanford Site, an on-call Mission Support Alliance biologist will be requested to assist the command staff in protecting the environment during suppression efforts.'' This requirement does not remove the wildfire threat to the species, but may make damage during active fire suppression less probable.

The 1997 wildfire initiated by the U.S. Army Yakima Training Center fire resulted in mortality to 10–20 percent of the population (see Factor A and Table 1). The threat of wildfire originating on the nearby U.S. Army Yakima Training Center and spreading to the Umtanum desert buckwheat site remains, as does the potential for ignition to occur along the BPA transmission line corridor, which crosses the population. Fire could also originate below the Umtanum desert buckwheat site on China Bar and rapidly burn upslope, since this area is commonly used by recreationists. The Hanford Reach National Monument CCP acknowledges that wildland fire will be suppressed when possible, suppression techniques will be designed to minimize surface disturbance in the vicinity of sensitive resources, and fire control policies will be implemented to reduce the risk of human-caused wildland fire (USFWS 2008, p. 4–8). However, based on the recent wildfire history and acreage affected (see Table 3), fire planning documents are not able to address all possible scenarios. In addition, numerous agencies must coordinate firefighting on this landscape, ignitions from recreationists remain a risk, and timely and effective initial firefighting responses may be difficult. For example, before it was contained, the 24 Command Wildfire (discussed in Factor A above) charred nearly 66,256 ha (164,000 ac) of land both on and off the Hanford site, even though the Hanford Fire Department arrived on scene approximately 20 minutes after the incident was reported. At that time the fire was approximately 4 ha (10 ac) in size (DOE 2000, pp. ES–2–ES–3).

Although the WNHP and Monument CCP are important tools for identifying conservation actions that would benefit Umtanum desert buckwheat, these programs are not adequate to completely eliminate threats to the species. For example, the threat of wildfire cannot be completely eliminated because of the numerous potential ignition scenarios, including lightning, arson, recreational carelessness, cigarettes, motor vehicle accidents, or other actions. In addition, a fire management plan is necessarily designed to be a response, rather than prescriptive strategy, since wildfires are unpredictable with regard to their location and severity. Accordingly, the impact of wildfire to Umtanum desert buckwheat is not being eliminated by existing regulatory mechanisms, because of the many potential ignition scenarios on the lands within and surrounding the area where the species occurs.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

Umtanum desert buckwheat has a small population size and distribution, and suffers from low recruitment (Kaye 2007, p. 3; Caplow 2005, p. 3). These features make it particularly susceptible to potentially changing climate conditions. For instance, regional climate change models indicate a rise in hotter and drier conditions, which may increase stress on individuals as well as increase wildfire frequency and intensity.

Population structure: The typical size distribution of perennial plants consists of more individuals in smaller and presumably younger size-classes, than in larger or older ones. However, Umtanum desert buckwheat has fewer plants in smaller size-classes than in larger ones. The only known population of this species is dominated by mature plants with little successful establishment of seedlings. The majority of individual plants have a strong tendency to remain in the same size class, and presumably age class, from 1 year to the next. In addition, adult mortality averages 2 percent annually (Kaye 2007, p. 3). Between 1997 and

2006, only five to six seedlings in all demographic monitoring plots were observed to survive longer than 1 year, and in 2005, which was preceded by a dry winter, no germination was observed (Caplow 2005, p. 3).

The lack of establishment and survival of seedlings is a threat, as few plants are becoming established as replacements for plants that die. Several factors may be responsible, such as exposure of young plants to high winds and temperatures and very low spring and summer precipitation. Other possible factors include low seed production, low seed or pollen viability, low seedling vigor and survival, impacts to plant pollinators or dispersal mechanisms, and flowering structure removal/insect predation of seeds (as described under Factor C). Researchers have had some success in germinating and growing Umtanum desert buckwheat in containers, which may indicate that the failure to establish seedlings in the wild may not be due to low fertility, but may be related to conditions necessary for survival after germination (Arnett 2011c, pers. comm.). Long-term monitoring and research may determine the cause of the population's skewed size distribution. A seed bank study has shown that viability of buried seed decreases dramatically after the first year, suggesting a very small and short-lived seed bank for Umtanum desert buckwheat (Caplow 2005, p. 6).

Considered in total, these factors likely combine effects to create negative recruitment for Umtanum desert buckwheat. This theory is supported by Kaye's findings (2007, p. 5) that the population appears to be in a gradual decline of approximately ⅔ of 1 percent per year. Negative recruitment due to the factors described above combined with a small population size present a significant threat to the species.

Climate change: Our analyses under the Endangered Species Act include consideration of ongoing and projected changes in climate. The terms ''climate'' and ''climate change'' are defined by the Intergovernmental Panel on Climate Change (IPCC). ''Climate'' refers to the mean and variability of different types of weather conditions over time, with 30 years being a typical period for such measurements, although shorter or longer periods also may be used (IPCC 2007, p. 78). The term ''climate change'' thus refers to a change in the mean or variability of one or more measures of climate (e.g., temperature or precipitation) that persists for an extended period, typically decades or longer, whether the change is due to natural variability, human activity, or both (IPCC 2007, p. 78).

Various types of changes in climate can have direct or indirect effects on species. These effects may be positive, neutral, or negative and they may change over time, depending on the species and other relevant considerations, such as the effects of interactions of climate with other variables (e.g., habitat fragmentation) (IPCC 2007, pp. 8–14, 18–19). In our analyses, we use our expert judgment to weigh relevant information, including uncertainty, in our consideration of various aspects of climate change. The potential impacts of a changing global climate to Umtanum desert buckwheat are presently unclear. All regional models of climate change indicate that future climate in the Pacific Northwest will be warmer than the past. Together they suggest that rates of warming will be greater in the 21st century than those observed in the 20th century. Projected changes in annual precipitation, averaged over all models, are small (+1 to +2 percent), but some models project an enhanced seasonal precipitation cycle with changes toward wetter autumns and winters and drier summers (Littell, *et al.* 2009a, p. 1).

At a regional scale, two different temperature prediction models are presented in Stockle *et al.* (2009, p. 199), yet show similar results. Outputs from both models predict increases in mean annual temperature for eastern Washington State. Specifically, the Community Climate System Model General Circulation Model projects temperature increase as 1.4, 2.3 and 3.2 °C (2.5, 4.1, and 5.8 °F) at Lind, Washington, which is 64 km (40 mi) northeast of the Umtanum desert buckwheat population; approximately 1.7, 2.7, and 3.5 °C (3.1, 4.9, and 6.3 °F) at both Pullman, Washington, which is 169 km (105 mi) east of the population, as well as Sunnyside, Washington, which is 50 km (31 mi) southwest of the population, for the 2020, 2040, and 2080 modeling scenarios, respectively. For the Parallel Climate Model effort, the temperature change is expected to be 0.8, 1.7, and 2.6 °C (1.4, 3.1, and 4.7 °F) at Lind, Washington; 1.1, 2.0, and 2.9 °C (2.0, 3.6, and 5.2 °F) at Pullman, Washington; and 1.3, 2.2, and 3 °C (2.3, 4.0, and 5.5 °F) at Sunnyside, Washington, in the 2020, 2040, and 2080 scenarios, respectively.

The projected warming trend will increase the length of the frost-free period throughout the State, increasing the available growing season for plants, which will continue to be limited in eastern Washington by water availability, and likely by extreme heat events in some instances. This will continue the trend observed from 1948 to 2002, during which the frost-free period has lengthened by 29 days in the Columbia Valley (Jones, 2005 *in* Stockle *et al.* 2009, p. 199). Weeds and insects will adapt to the longer season with more favorable conditions (Stockle *et al.* 2009, p. 200).

Given the importance of water availability to plants, precipitation change needs to be included in predictions of climate change effects on invasive plants (Bradley 2009, p. 197). Regional climate models suggest that some local changes in temperature and precipitation may be quite different than average regional changes projected by the global models (Littell *et al.* 2009a, p. 6). Precipitation uncertainties are particularly problematic in the western United States, where complex topography coupled with the difficulty of modeling El Niño result in highly variable climate projections (Bradley 2009, p. 197). Cheatgrass, an invasive species, competes with native species by growing early in the spring season and using available water resources. It senesces in late spring, sets seed, and remains dormant through the summer (Rice *et al.,* 1992; Peterson, 2005; *in* Bradley 2009, p. 197; Bradley 2009, pp. 204–205). If summer precipitation were to increase, native perennial shrubs and grasses could be more competitive because they would be able to use water resources while cheatgrass is dormant (Loik, 2007 *in* Bradley 2009, pp. 204–205).

Littell *et al.* (2009b, p. 270) were successful in developing statistical models of the area burned by wildfire for six regions in Washington for the period 1980 to 2006. Future projections from these six models project mean-area-burned increases of between 0 and 600 percent, depending on the ecosystem in question, the sensitivity of the fire model, emissions scenario, and the timeframe of the projection. By the 2040s, the area burned in nonforested ecosystems (Columbia Basin and Palouse Prairie) increased on average by a factor of 2.2. Notably, the increase in area burned is accompanied by an increase in variability in some of the more arid systems, such as the Palouse Prairie and Columbia Basin (Littell *et al.* 2009b, p. 270).

We do not know what the future holds with regard to climate change; however, this species has a very limited distribution, small population size, and low recruitment. Despite the lack of site-specific data, increased average temperatures and reduced seasonal rainfall may further influence the current decline of the species and result

in a loss of habitat. Hotter and drier summer conditions may also increase the frequency and intensity of fires in the area, as cheatgrass and other invasive plants would become better competitors for resources than Umtanum desert buckwheat. Alternatively, warmer and wetter winter conditions could potentially benefit the species by extending the growing season and providing additional moisture to the soil in the spring. However, if the frequency, intensity, and timing of the predicted changes in climate for eastern Washington are not aligned with the phenology of Umtanum desert buckwheat, the survival and reproduction of the species could be threatened over time. Accordingly, although climate change represents a potential ongoing threat based on the best available information, more thorough investigations are needed to better understand the potential impacts of climate change to this species.

Conservation Efforts To Reduce Other Natural or Manmade Factors Affecting Its Continued Existence

Because Umtanum desert buckwheat was recently discovered and exists within a controlled perimeter, large-scale conservation or recovery efforts have not yet been undertaken. Due to firmly controlled access at the site, the only research currently occurring is the annual demographic monitoring of a subpopulation and periodic censuses estimated by the Washington National Heritage Program (WNHP). In addition to the protection of habitat described in Factor D above, a locked gate has been installed along BPA power lines right-of-way to prevent motorized access to the bluff area, thus reducing potential impacts to Umtanum desert buckwheat from unauthorized trespass by livestock, or vehicles. Umtanum desert buckwheat has been germinated by Monument staff and grown in pots to a size suitable for reintroduction during dormancy. The initial outplanting test was undertaken in December 2011 (Newsome 2012, pers. comm.).

Cumulative Impacts

Cumulative Effects From Factors A Through E

Some of the threats discussed in this finding could work in concert with one another to cumulatively create situations that potentially impact Umtanum desert buckwheat beyond the scope of the combined threats that we have already analyzed. Threats described in Factors A and E above would likely increase in timing or intensity when occurring at the same time or location. Additional ground fuels due to the presence of nonnative species are likely to increase the capacity of the landscape to carry wildfires (Factor A) and intensify their overall size and impact (Link *et al.* 2010, p 1). The occurrence of larger fires increases the potential for (1) the fire reaching the Umtanum desert buckwheat population, and (2) the impacts to the species of the wildfire itself and related firefighting activities. Although this relationship represents a significant threat to the species, the threats to the population are clearly increased when combined with a small and declining population size, limited spatial extent, and low recruitment described under Factor E. Any enhancement or reduction of the cumulative threats through climate change is unknown at this time, but could be significant under drier annual, or reduced seasonal, precipitation conditions.

Determination

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to Umtanum desert buckwheat (see Table 4). The 1997 fire that escaped from the Yakima Training Center killed 813 plants, or approximately 10–20 percent of the population (Dunwiddie *et al.,* 2001, pp. 61–62). The Revised Hanford Site 2011 Wildland Fire Management Plan (DOE 2011) acknowledges the sensitive nature of the biology of the Hanford Site, and provides for environmental protection during fire suppression activities. This plan may reduce the likelihood of a wildfire event within or near the population, but cannot remove the threat completely since wildfire locations, severity, and response needs are unpredictable. The 2007 unpublished draft Population Viability Analysis (PVA) estimated a 72 percent chance of a decline of 50 percent of the population within the next 100 years (Kaye 2007, p. 5). The PVA, which incorporated observed environmental variability, determined the Umtanum desert buckwheat population was in very gradual decline. The decline is very close to stable, but still suggests an annual decline of about ⅔ of one percent, which will take several decades to accumulate significant impacts (Kaye 2007, p. 5). The steady decline observed through demographic monitoring of numbers and recruitment since 1997 may be directly attributable to several of the known threats, although some have been reduced because of increased boundary integrity and access control. Because the population is small, limited to a single site, at risk of invasive species, and sensitive to fire and disturbance in a high fire-risk location, the species remains vulnerable to the threats summarized in Table 4.

TABLE 4—SUMMARY OF THREAT FACTORS UNDER THE ESA TO UMTANUM DESERT BUCKWHEAT

Factor	Threat	Timing*	Scope*	Intensity*
A	Wildfire	High	High	High.
	Fire suppression activities	High**	High	High.
	Harm by recreational activities and/or ORV use	Low***	Low	Low.
	Direct harm and habitat modification by livestock	Low***	Low	Low.
	Mineral prospecting	Low***	Low	Low.
	Competition, fuels load from nonnative plants	High	High	High.
C	Seed predation	Unknown	Unknown	Unknown.
	Flower predation	Unknown	Unknown	Unknown.
E	Small population size	High	High	High.
	Limited geographic range	High	High	High.
	Low recruitment	High	High	High.
	Climate change	Unknown	Unknown	Unknown.

* Timing: The likelihood of the threat currently affecting the species.
Scope: The extent of species numbers or habitat affected by the threat.
Intensity: The intensity of effect by the threat on the species or habitat.
** If avoidance is not possible due to fire direction or safety needs.
*** Based on ongoing restricted access, fencing, and enforcement.

As described above, Umtanum desert buckwheat is currently at risk throughout all of its range due to ongoing threats of habitat destruction and modification (Factor A), predation (Factor C), and other natural or manmade factors affecting its continued existence (Factor E). Specifically, these factors include the existing degradation or fragmentation of habitat resulting from wildfire, nonnative invasive vegetation that provides fuel for wildfires, predation of seed and flower structures, and potentially changing environmental conditions resulting from global climate change (although its magnitude and intensity are uncertain). Wildfire suppression activities could also threaten the species if they were to occur within the population, since this species appears to be highly sensitive to any physical damage. However, whether this potential threat would actually occur is unknown, given the unpredictable nature of wildfire events. Impacts to Umtanum desert buckwheat from livestock moving through the population, off-road vehicle use, hikers, and prospecting are conceivable, but unlikely, provided DOE permit conditions for livestock movement are followed, access to the site is effectively controlled, boundary integrity is monitored and maintained, and enforcement actions are taken as needed, each of which is presently occurring.

The area where Umtanum desert buckwheat is found is at high risk of frequent fire and is fully exposed to the elements. The population is extremely small, isolated, and in slow but steady decline, notwithstanding the somewhat higher count in the 2011 population census (which may be attributable to the way individual plants were counted as described earlier). These population demographics make the species particularly susceptible to extinction due to threats described in this final rule. The scope of the wildfire threat is high; other threats are moderate to low in scope. Because of the limited range of Umtanum desert buckwheat, any one of the threats may threaten its continued existence at any time. Since these threats are ongoing, they are also imminent.

The Act defines an endangered species as any species that is ''in danger of extinction throughout all or a significant portion of its range'' and a threatened species as any species ''that is likely to become endangered throughout all or a significant portion of its range within the foreseeable future.'' Since Umtanum desert buckwheat is highly restricted in its range and the threats occur uniformly throughout its range, we assessed the status of the species throughout its entire range. The number of individuals in the single population is very small and declining. Although some threats are more severe than others, the entire population is being affected by small population size, limited range, low recruitment, invasive cheatgrass presence that can fuel wildfire, wildfire (Table 4), seed predation, and flower predation. We find that Umtanum desert buckwheat is likely to become in danger of extinction throughout its entire range within the foreseeable future, based on the timing, intensity, and scope of the threats described above (see Table 4). As stated earlier, the Hanford Reach National Monument CCP was developed to protect and conserve the biological, geological, paleontological, and cultural resources described in the Monument Proclamation by creating and maintaining extensive areas within the Monument free of facility development (USFWS 2008, p. v). Several management objectives are identified that could benefit the Umtanum desert buckwheat population and result in reduction of threats; these include treating invasive species and restoring upland habitat (USFWS 2008, pp. 19–22).

As stated earlier, because the population is declining gradually, significant impacts will take several decades to accumulate (Kaye 2007, p. 5). Given the fact that (1) the population is in a very gradual decline; (2) the management objectives of the CCP will be beneficial to the species; (3) access is prohibited without special authorization from the DOE; (4) security fencing surrounds the population; (4) ''entry prohibited'' signs are in place; and (5) boundary enforcement is ongoing, the species is not presently in danger of extinction throughout all or a significant portion of its range. Therefore, on the basis of the best available scientific and commercial information, we are listing Umtanum desert buckwheat as threatened in accordance with sections 3(6) and 4(a)(1) of the Act.

Summary of Factors: White Bluffs bladderpod

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range.

Caplow and Beck (1996, p. 42) and others state that the threats to White Bluffs bladderpod and its habitat are primarily landslides caused by subsurface water seepage, invasive species, and ORV use (TNC 1998, p. 5; Evans *et al.* 2003, p. 67, Newsome 2007, p. 4). Of these threats, landslides and invasive species competition is of primary concern (Caplow and Beck 1996, p. 42; Newsome 2007, p. 4). Below is a detailed discussion of these threats and their potential effects on survival and recovery of the subspecies.

Landslides: Groundwater movement from adjacent, up-slope agricultural activities has caused mass-failure landslides in portions of the White Bluffs. As a result, the habitat in approximately 6.0 km (3.7 mi), or about 35 percent of the known range of White Bluffs bladderpod has been moderately to severely altered (Brown 1990, pp. 4, 39; Cannon *et al.* 2005, p. 4.25; Caplow *et al.* 1996, p. 65; Drost *et al.* 1997, pp. 48, 96; Lindsey 1997, pp. 4, 10, 11, 12, 14; U.S. Congress (H.R. 1031), 1999, p. 2; USFWS 1996, p. 1). White Bluffs bladderpod plants have not been observed in areas that have undergone recent landslides, regardless of whether the landslide disturbance is moderate or severe. They have not been observed to survive small slumping events, possibly because the mixed soils downslope post-event no longer have the soil horizon that White Bluffs bladderpod plants seem to require. Additionally, these slumped soils are typically more saturated because they end up below the groundwater seep zone. In the arid environment, White Bluffs bladderpod appears to be unable to successfully compete with the host of weedy and invasive drought-intolerant species in the seed bank. Where natural weathering has eroded occupied habitat, White Bluffs bladderpod plants have been observed to occasionally become established on the more gentle slopes. In very large events of rotational slumping or landslides, parts of the original surface horizon may remain somewhat undisturbed on the crest of the slumped block, preserving White Bluffs bladderpod plants, at least for the short term (Caplow *et al.* 1996, p. 42). All mass-failures occurring along the White Bluffs, with one historical exception, are found in association with water seepage (Bjornstad and Fecht 2002, p. 16).

In the 1960s, the Washington State Department of Game (currently known as the Washington Department of Fish and Wildlife) constructed artificial wetlands using irrigation water delivered to unlined wastewater ponds and canals in the vicinity of the White Bluffs for wildlife enhancement (Bjornstad 2006, p. 1). Water entered a preferential pathway for movement along a buried paleochannel, which connected the artificial wetlands with the White Bluffs escarpment near Locke Island 4.8 km (3 mi) to the southwest. Water percolating from artificial wetlands moved quickly down through

highly transmissive flood deposits, and then encountered the low-permeability soils of the Ringold Formation. The water then flowed laterally along the impermeable layer, and discharged through springs along the White Bluffs. Where they were wet, the unstable Ringold Formation sediments have slumped and slid along the steep White Bluffs escarpment (Bjornstad and Fecht 2002, p. 14). Although water flow to the pond has been halted due to concerns about landslides and the artificial wetlands no longer exist, water continues to seep out along the bluffs, apparently due to the large volume that accumulated in the underlying sediments over years of infiltration (Bjornstad and Fecht 2002, p. 15).

The erosional processes at work in the northern White Bluffs vicinity are somewhat different than those of the southern White Bluffs area, where White Bluffs bladderpod occurs. A record of slumping exists along the White Bluffs, beginning with periodic high-recharge, Ice Age flood events. Since the Pleistocene Epoch, landsliding on the southern bluffs where White Bluffs bladderpod is found was dormant until the 1970s, when increased infiltration of moisture from agricultural activities caused a resurgence of slumping (Bjornstad and Peterson 2009b; Cannon *et al.* 2005, p. 4.25; Bjornstad and Fecht 2002, p. 17; Drost *et al.* 1997, p. 76; Brown 1990, pp. 4, 38, 39). Excess irrigation water percolates downward before moving laterally upon lower-permeability Ringold strata. Spring water that discharges in the vicinity of the bluff face greatly reduces internal soil strength, and leads to slope failure. Heads of landslides characteristically consist of back-rotated slump blocks that transition to debris flows and often fan out into the Columbia River. Landslides and their damaging effects will likely continue until water that is currently being introduced subsurface through unlined irrigation canals, ponds, and over-irrigation is significantly reduced or eliminated (Bjornstad and Peterson 2009b).

The entire population of White Bluffs bladderpod is down-slope of irrigated agricultural land and is at risk of landslides induced by water seepage. The threat is greater in the southern portion of the subspecies' distribution where irrigated agriculture is closest in proximity, and in several locations directly adjacent to the bluffs (Bjornstad *et al.,* 2009a, p. 8; Lindsey 1997, p. 12). Wetted soils visible on the cliff faces directly below the private lands indicate that irrigation of the fields above is affecting the bluff. Irrigation water moves a considerable distance laterally across some of the more impermeable beds of the Ringold Formation, as described earlier, and also percolates downward. As the water increases the pore pressure between sediment grains, it reduces the soil material strength. At the steep bluff face, the loss of material strength results in slope failure and resultant landslides (Bjornstad and Fecht 2002, p. 17), which permanently destroy White Bluffs bladderpod habitat. The areas subject to mass-failure landslides are somewhat predictable, and appear as horizontal wetted zones in the cliff face. This threat is imminent and ongoing, potentially affecting most of the population, although to differing degrees.

Off-road vehicles: ORVs also threaten the subspecies by crushing plants, destabilizing the soil, increasing erosion, and spreading the seeds of invasive plants. Although ORV activity is prohibited on the Monument (USFWS 2008, p. 1–5), it occurs intermittently on the Federal lands that constitute approximately 85 percent of the subspecies' distribution. Currently, ORV activity is more common within the private portion (approx. 15 percent of the area) at the southern end of the subspecies distribution. The location and extent of this threat has been mapped by Monument staff on the land under their management (Newsome 2011, pers. comm.). Based on the best available information, ORV use is considered to be an ongoing threat to White Bluffs bladderpod, particularly within the southern extent of the subspecies' distribution.

Invasive species: An infestation of *Centaurea solstitialis* (yellow starthistle), a nonnative weed that is known as a rapid invader of arid environments even in the absence of disturbance, was discovered during 2003 within a portion of the range of White Bluffs bladderpod (Evans *et al.* 2003, p. 67). Invasive plants compete with White Bluffs bladderpod for space and moisture and increase the effects of fire. The infestation was mapped, plants were treated using aerial means, and the weeds are currently being controlled. Continued monitoring and timely followup treatment of this ongoing threat is necessary to protect White Bluffs bladderpod habitat. In addition, a portion of the White Bluffs bladderpod population is adjacent to a public access point along the Columbia River. Visitors could potentially transport invasive plant material or seeds into the area, increasing the risk of impacts of establishment of invasive species. Based on the best available information, nonnative invasive species represent an ongoing threat to White Bluffs bladderpod.

Pesticide or Herbicide Use: We initially considered whether White Bluffs bladderpod pollinators could potentially be negatively affected by pesticide or herbicide applications on orchards and other irrigated crops located adjacent to the population along the southern portion of its distribution. However, specific information on whether this situation poses a threat is not available, and we are not identifying it as an ongoing threat at this time.

Wildfire: In July 2007, a large wildfire burned through the northern portion of the White Bluffs bladderpod population and within the area of the monitoring transects after monitoring was completed for that year. Fire is considered to be a threat to White Bluffs bladderpod, although the decline in population numbers after the 2007 fire indicated the population estimate was still within the known range of variability. The 2008–2011 monitoring results demonstrated the negative impacts of the fire to be less than expected, as approximately 76 percent of the population remained viable the following year (Newsome and Goldie, 2008). Notwithstanding the subspecies' apparent ability to recover somewhat from the 2007 wildfire event, we believe that wildfire continues to be a threat to the existing population. This is because fire events tend to be large and unpredictable in the Hanford Reach (see Table 3) and can potentially affect large numbers of plants and significant areas of pollinator habitat.

In addition, wildfire also impacts pollinator communities by directly causing mortality, altering habitat, and reducing native plant species diversity. Since an increase in cheatgrass was observed within the White Bluffs bladderpod population and the surrounding areas affected by the 2007 fire, we presume a larger scale fire event would have similar results. Because of its invasive nature (see discussion below), cheatgrass may compete seasonally with native species and, once established, increase wildfire fuel availability (Link *et al.* 2006, p 10). White Bluffs bladderpod may be somewhat fire-tolerant based on the post-2007 wildfire response monitoring. However, the establishment and growth of highly flammable cheatgrass increases the likelihood of fire as well as its intensity, potentially elevating the risk of impacting the White Bluffs bladderpod population in the future. Given the invasive nature of cheatgrass, the increased fire frequency and wildfire history within and around the Monument (see Table 3), the increased

fuel that becomes available for future wildfire events as cheatgrass proliferates, and observations that cheatgrass presence increased within and around the population after the 2007 wildfire, wildfire is considered to be an ongoing threat to White Bluffs bladderpod.

Nonnative Plant Competition and Fuel Sources: A common consequence of fire is the displacement of native vegetation by nonnative weedy species, particularly cheatgrass. As a result of the 2007 fire, a higher percent cover of weedy plant species, including cheatgrass, has become established within and around the White Bluffs bladderpod population. Cheatgrass is an introduced annual grass that is widely distributed in the western United States, and has been documented in the White Bluffs bladderpod population. The plant is believed to have been introduced in contaminated grain from southwestern Asia via Europe in the 1890's. The species is adapted to climate and soils similar to those found in the Great Basin Desert (parts of Idaho, Nevada, Oregon, and Utah). This opportunistic grass is able to maintain superiority over native plants in part because it is a prolific seed producer, able to germinate in the autumn or spring, giving it a competitive advantage over native perennials, and is tolerant of increased fire frequency. Cheatgrass can outcompete native plants for water and nutrients in the early spring, since it is actively growing when native plants are initiating growth. It also completes its reproductive process and becomes senescent before most native plants (Pellant 1996, p. 1–2).

An infestation of yellow starthistle *(Centaurea solstitialis)* discovered during 2003 within a portion of the White Bluffs bladderpod range was mapped and treated aerially (TNC 2003, p. 67). Yellow starthistle infestations can reduce wildlife habitat and forage, displace native plants, and reduce native plant and animal diversity. It significantly depletes soil moisture reserves in both annual and perennial grasslands, and is able to invade and coexist within cheatgrass-dominated annual grasslands (TNC 2003, p. 55). Accordingly, nonnative plants that increase fuel availability for wildfires are considered an ongoing threat to White Bluffs bladderpod.

Fire Suppression Activities: Fire suppression activities, which often damage or remove native plants from the habitat and disturb soils, could potentially be as damaging as the wildfire itself. The Monument Fire Management Plan (USFWS 2001, p. 27) briefly addresses White Bluffs bladderpod by providing guidance for fire suppression activities on the White Bluffs. The plan states ''Fire Management will protect these sensitive resources by suppressing fires in this area either from existing roads or the use of flappers and water use. The use of hand tools that break the surface will be avoided when possible, and the use of any off-road equipment in these areas requires concurrence by the Project Leader.'' Protection of sensitive resources during a fire response is an objective unless achieving this objective jeopardizes either firefighter safety or public safety (USFWS 2001, p. 40). In the 2007 fire, damage to habitat from fire suppression activities within the White Bluffs bladderpod population was avoided by limiting soil disturbance to areas outside a 50–100 m (164–228 ft) buffer (Goldie 2012, pers. comm.).

However, the ability to avoid fire suppression impacts to the White Bluffs bladderpod population during future wildfire events would take into account the location, direction, magnitude, and intensity of the event, firefighter safety considerations, and proximity of the fire to the plant population. If a wildfire were to occur in the surrounding area, protection of the White Bluffs bladderpod population may not be possible if wildfire circumstances necessitate establishing fire lines or response equipment staging areas within or near the population. A potential consequence of fire or any soil disturbance during fire suppression activities is the displacement of native vegetation by nonnative weedy species, which increases intraspecific competition for resources and increases the accumulation of fuels. When these conditions occur, they contribute to increases in wildfire frequency and severity in a frequent fire landscape. Accordingly, although the need for wildfire suppression activities near or within the White Bluffs bladderpod population is unpredictable, this activity is considered a potential threat to this subspecies based on the Monument's wildfire history (see Table 3).

Based on the information above, the specific activities discussed under Factor A: The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range present a threat to White Bluffs bladderpod and its habitat. These activities include landslides, invasive species, wildfire, off-road vehicle use, and potentially fire suppression activities.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

The regulations at 50 CFR 27.51 prohibit collecting any plant material on any national wildlife refuge. There is no evidence of commercial, recreational, scientific, or educational use of White Bluffs bladderpod, other than occasional collection of relatively few specimens (e.g., dead plants and seed collection). The subspecies is very showy while flowering and may be subject to occasional collection by the public. The University of Washington Rare Care staff collected approximately 2,000 White Bluffs bladderpod seeds from 60 plants on July 29, 2011, and Berry Botanic Garden in Portland, Oregon, currently has 1,800 seeds collected in 1997 from 45 plants (Gibble 2011, pers. comm.). Because the public has access to the subspecies, and it occurs on private land, occasional collection may be expected. Collection for scientific purposes combined with sporadic collection by private individuals remains a possible, but unlikely, threat.

C. Disease or Predation

Evidence of disease has not been documented in White Bluffs bladderpod; however, predation of developing fruits and infestations on flowering buds has been observed.

Seed predation: Since 1996, some predation by larval insects on developing fruits of White Bluffs bladderpod has been observed. Larvae of a species of Cecidomyiid fly have been observed infesting and destroying flowering buds, and an unidentified insect species has been documented boring small holes into young seed capsules and feeding on developing ovules. However, the overall effect of these insect species on the plants or population is not known (TNC 1998, p. 5). Although insect predation may be a potential threat to White Bluffs bladderpod, more thorough investigations are necessary to determine its significance to seed production. Accordingly, we do not consider insect predation to be a threat to White Bluffs bladderpod at this time. We are unaware of any other disease or predation interactions that represent potential threats to the subspecies.

D. The Inadequacy of Existing Regulatory Mechanisms

White Bluffs bladderpod was added to the State of Washington's list of endangered, threatened, and sensitive vascular plants in 1997 (as *Lesquerella tuplashensis),* and is designated as threatened by the Washington

Department of Natural Resources (WDNR, 2011). The WDNR Status and Ranking System of the Washington Natural Heritage Program (*http://www1.dnr.wa.gov/nhp/refdesk/lists/stat_rank.html*) identifies the State ranking for White Bluffs bladderpod as (1) G4 (apparently secure globally and at fairly low risk of extinction or elimination due to an extensive range and/or many populations or occurrences, but with possible cause for some concern as a result of local recent declines, threats, or other factors); (2) S2 (imperiled and at high risk of extirpation in the State due to restricted range, few populations or occurrences, steep declines, severe threats, or other factors); and (3) threatened (likely to become endangered within the near future in Washington if the factors contributing to population decline or habitat loss continue).

Listing the species as threatened will invoke the protections under the Act, including consultation and development of a recovery plan. The State ranking does not provide any protections, whereas Federally listing the species will impose legal and regulatory requirements directed toward recovery. Therefore, the factors contributing to the species' decline with regard to the State ranking will be addressed and mitigated, over time. The State of Washington's endangered, threatened, and sensitive plant program is administered through the WNHP, and was created to provide an objective basis for establishing priorities for a broad array of conservation actions (WDNR 2011, p. 2). Prioritizing ecosystems and species for conservation offers a means to evaluate proposed natural areas and other conservation activities (WDNR p. 3). The WNHP is a participant in the Arid Lands Initiative, which is a public/private partnership attempting to develop strategies to conserve the species and ecosystems found within Washington's arid landscape. The WHNP assists in identifying conservation targets, major threats, and potential strategies to address them (WDNR 2011 p. 4).

The DOE does not have a rare plant policy that provides specific protection for the species, and the Service manages DOE lands where White Bluffs bladderpod is found as a part of the Hanford National Monument. A comprehensive conservation plan (CCP) for the Monument has been completed that provides a strategy and general conservation measures for rare plants that may benefit White Bluffs bladderpod. This strategy includes support for monitoring, inventory and control of invasive species, fire prevention, propagation, reintroduction, and Geographical Information Systems (GIS) support to map the impact area (USFWS 2008, pp. 2–64–2–65), but does not prescribe mandatory conservation elements. Although specific actions to conserve the subspecies are not identified, the plan acknowledges that protection of the population is needed, and that management actions are required to address its protection (USFWS 2008, p. 3–95).

The CCP states that fire control policies will be implemented to reduce the risk of human-caused wildland fire (USFWS 2008, p. 4–13). The CCP also identifies strategies to mitigate the potential for increased human-caused wildfire as a result of increased visitation, through informational signing educating visitors on the danger of wildfire, the adverse effects of wildfire on the shrub-steppe habitat, and how visitors can contribute to fire prevention. Seasonal closure of interpretive trails through high-risk areas would be established and enforced to mitigate the potential of visitor-caused wildfire (USFWS 2008, pp. 4–43–4–44). The CCP states that best management practices and current regulations that prohibit campfires, open fires, fireworks, and other sources of fire ignition on the Monument will be adequate to prevent human-caused wildfires that could potentially result from hunting activity (USFWS 2008, p. 4–46). During the recovery planning process, the specific management actions necessary to address each of the threats to the species (see Table 5) will be prioritized, costs will be estimated, and responsible parties will be identified. The recovery plan will build on the existing conservation actions identified in the CCP.

A Spotlight Species Action Plan has been developed for White Bluffs bladderpod, which briefly describes the subspecies and the major threats and identifies actions to conserve the subspecies (USFWS 2009). These actions include working with adjacent landowners to restore, manage, and reduce threats to the population, installation of fencing to eliminate ORV use, invasive species studies and potential eradication efforts, seed collection for augmentation/restoration purposes, pollinator species studies, wildfire studies, and climate change studies. However, many of these actions have not been implemented as funding sources have not been identified (Newsome 2011, pers. comm.).

Numerous wildland fires occur annually on lands in and surrounding the Monument. Many are human-caused resulting from vehicle ignitions from roads and highways, unattended campfires, burning of adjacent agricultural lands and irrigation ditches, and arson. Fires of natural origin (lightning caused) also occur on lands within and adjacent to the monument/refuge (USFWS 2001, p. 171). Since wildfires are unpredictable with regard to their location and intensity, a fire management plan is necessarily designed to be a response, rather than a regulatory strategy. The Wildland Fire Management Plan for the Monument is an operational guide for managing the Monument's wildland and prescribed fire programs. The plan defines levels of protection needed to promote firefighter and public safety, protect facilities and resources, and restore and perpetuate natural processes, given current understanding of the complex relationships in natural ecosystems (USFWS 2001, p. 9). The Monument CCP also has an educational and enforcement program in place that reduces the likelihood of human-caused wildfires.

An invasive plant species inventory and management plan has been developed by the Monument (Evans *et al.* 2003, entire). The plan identifies conservation targets, prevention, detection and response activities, prioritization of species and sites, inventory and monitoring, adaptive management, and several other strategies to address invasive species. Invasive species management presents significant management challenges because of the Monument's large size (78,780 ha) (195,000 ac), and the large number of documented or potential invasive plant species present (Evans *et al.* 2003, p. 5). The introduction and spread of invasive plant species is enhanced by the existence of disturbed lands and corridors; potential introduction pathways include the Columbia River, active irrigation canals, wasteways, and impoundments, State highways, and paved and unpaved secondary roads. In addition, recurrent wildfires, powerline development and maintenance, and slumping of the White Bluffs continually create new habitats for invasive species to colonize (Evans *et al.* 2003, p. 5).

Although the Hanford Monument Proclamation prohibits off-road vehicle (ORV) use, ORV use has been documented in the publicly accessible Wahluke Unit (where White Bluffs bladderpod occurs). Some of these violators enter the Monument from long-established access routes from adjacent private lands (USFWS 2002, p. 17), causing physical damage to plants and creating ruts in slopes that increase erosion (USFWS 2008, p. 3-57).

Although ORV trespass incidents have been documented on Monument lands, and are affecting some White Bluffs bladderpod individuals, we have no information indicating that they are occurring with significant frequency or are affecting a substantial portion of the population. The Presidential proclamation establishing the Monument states, in part, ''* * * the Secretary of the Interior and the Secretary of Energy shall prohibit all motorized and mechanized vehicle use off road, except for emergency or other federally authorized purposes, including remediation purposes.'' (White House 2000, p. 3). We have no information that would indicate ORV trespass incidents on Monument lands are taking place over a large area within the White Bluffs bladderpod population, although increased enforcement could further reduce the likelihood of such events. ORV use has been documented, and is more common, on private property where the southern extent of the population occurs. However, there are no constraints on ORV use on private property, and as such, this activity on private lands is not being controlled by existing regulatory mechanisms.

As described under Factor A, groundwater movement from adjacent, up-slope agricultural activities has caused mass-failure landslides caused by subsurface water seepage, which is a threat to White Bluffs bladderpod. This threat is greatest in the southern portion of the subspecies' distribution where irrigated agriculture is close in proximity, and in several locations directly adjacent to the bluffs (Bjornstat *et al.,* 2009a, p. 8; Lindsey 1997, p. 12). No existing regulatory mechanisms address this threat.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

Small Population Size: As stated earlier, since 1997 to 1998 when the monitoring transects currently used were selected, the population has ranged between an estimated low of 9,650 plants in 2010 and an estimated high of 58,887 plants in 2011 (see Table 2). Additionally, the subspecies is known from only a single population that occurs intermittently in a narrow band (usually less than 10 m (33 ft) wide) along an approximately 17-km (10.6-mi) stretch of the river bluffs (Rollins *et al.* 1996, p. 205), and approximately 35 percent of the known range has been moderately to severely affected by landslides. Accordingly, the subspecies is susceptible to being negatively impacted by the activities described in Factors A and C above, particularly if those threats are of a scope that affects a significant portion of the population. Therefore, based on the best available information, we consider White Bluffs bladderpod's small population size and limited geographic distribution to represent an ongoing threat to the subspecies.

Climate Change: Our analyses under the Endangered Species Act include consideration of ongoing and projected changes in climate. The terms ''climate'' and ''climate change'' are defined by the Intergovernmental Panel on Climate Change (IPCC). ''Climate'' refers to the mean and variability of different types of weather conditions over time, with 30 years being a typical period for such measurements, although shorter or longer periods also may be used (IPCC 2007, p. 78). The term ''climate change'' thus refers to a change in the mean or variability of one or more measures of climate (e.g., temperature or precipitation) that persists for an extended period, typically decades or longer, whether the change is due to natural variability, human activity, or both (IPCC 2007, p. 78). Various types of changes in climate can have direct or indirect effects on species. These effects may be positive, neutral, or negative and they may change over time, depending on the species and other relevant considerations, such as the effects of interactions of climate with other variables (e.g., habitat fragmentation) (IPCC 2007, pp. 8–14, 18–19). In our analyses, we use our expert judgment to weigh relevant information, including uncertainty, in our consideration of various aspects of climate change.

Regional climate change modeling indicates a potential threat to White Bluffs bladderpod if hotter and drier conditions increase stress on individual plants, or increase the effects of wildfire frequency and intensity (See discussion under Factor A). As described for Umtanum desert buckwheat above (see Factor E), the potential impacts of a changing global climate to White Bluffs bladderpod are presently unclear. All regional models of climate change indicate that future climate in the Pacific Northwest will be warmer than the past, and, together, they suggest that rates of warming will be greater in the 21st century than those observed in the 20th century. Projected changes in annual precipitation, averaged over all models, are small (+1 to +2 percent), but some models project an enhanced seasonal precipitation cycle with changes toward wetter autumns and winters and drier summers (Littell *et al.* 2009a, p. 1). Regional climate models suggest that some local changes in temperature and precipitation may be quite different than average regional changes projected by the global models (Littell *et al.* 2009a, p. 6). Precipitation uncertainties are particularly problematic in the western United States, where complex topography coupled with the difficulty of modeling El Niño result in highly variable climate projections (Bradley 2009, p. 197).

We do not know what the future holds with regard to climate change. Despite a lack of site-specific data, increased average temperatures and reduced average rainfall may promote a decline of the subspecies and result in a loss of habitat. Hotter and drier summer conditions could increase the frequency and intensity of fires in the area as cheatgrass or other invasive plants compete for resources with White Bluffs bladderpod. However, if summer precipitation were to increase, some native perennial shrubs and grasses could be more competitive if they are able to use water resources when cheatgrass or other nonnative species are dormant (Loik, 2007 *in* Bradley 2009, pp. 204–205). Nevertheless, if the frequency, intensity, and timing of the predicted changes in climate for eastern Washington are not aligned with the phenology of White Bluffs bladderpod, the survival and reproduction of the subspecies could be threatened over time. Although climate change represents a potential threat based on the available information, more thorough investigations are needed to determine the degree to which climate change may be affecting the subspecies.

Conservation Efforts To Reduce Other Natural or Manmade Factors Affecting Its Continued Existence

Certain conservation efforts that are not described above in Factor D are occurring at the Monument in the vicinity of the White Bluffs bladderpod, including fencing, placement of signs controlling human foot traffic, ongoing invasive weed treatments, and future planning for targeted treatments of *Centaurea solstitialis* (yellow starthistle). A Monument CCP has been developed (USFWS 2008), which includes management and monitoring actions for White Bluffs bladderpod based on the priorities of the refuge. The CCP states that protection of this population, and thus the species, requires that these issues be addressed in any management action. Long-term demographic monitoring was initiated on this species in 1997 (USFWS 2008, p. 3–95) and periodic aerial monitoring has been undertaken by the Monument since then. Other management actions may include restoration of priority areas, access control, and bluff

stabilization. There currently is a need for improved monitoring of White Bluffs bladderpod at the northern locations, where access is more difficult. White Bluffs bladderpod has been germinated by Monument staff and grown in pots to a size suitable for the first dormant outplanting project, planned for December 2012 or January 2013 (Newsome 2012, pers. comm.).

Cumulative Impacts

Cumulative Effects From Factors A Through E

Some of the threats discussed in this finding could interact to cumulatively create scenarios that potentially impact the White Bluffs bladderpod beyond the scope of the combined threats that we have already analyzed. Threats described in Factor A above could likely increase their timing or intensity when combined at the same time or location. Available ground fuels are increased in areas near the White Bluffs bladderpod. The presence of nonnative species increase the ability of wildfires to spread (Factor A) and can amplify their overall size (Link *et al.* 2010, p 1). The occurrence of larger fires may increase their potential to reach the White Bluffs bladderpod population, thereby impacting the species. Larger fires may also increase the potential for impacts to the population related to fire response activities. A higher fire frequency could also result in the expansion of ground cover by invasive species, which could (1) increase the cumulative risk of direct loss of plants by fire, (2) increase competition for available resources and space, and (3) result in negative impacts to pollinator species. Any additional increase or reduction of these cumulative threats through climate change is currently unknown, but could be significant under drier annual, or reduced seasonal, precipitation conditions.

TABLE 5—SUMMARY OF THREAT FACTORS UNDER THE ESA TO WHITE BLUFFS BLADDERPOD

Factor	Threat	Timing*	Scope*	Intensity*
A	Wildfire	High	High	Moderate.
	Fire suppression activities	High **	Moderate	High.
	Slope failure, landslides	High	High	High.
	Harm by recreational activities and/or ORV use	Moderate	Moderate	Low.
	Competition, fuels load from nonnative plants	Moderate	Moderate	Moderate.
E	Small population size	Moderate	Low	Low.
	Limited geographic range	Moderate	Low	Low.
	Climate change	Unknown	Unknown	Unknown.

* Timing: The extent of species' numbers or habitat affected by the threat.
Scope: The intensity of effect by the threat on the species or habitat.
Intensity: The likelihood of the threat currently affecting the species.
** If avoidance is not possible due to fire direction or safety needs.

Determination

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to White Bluffs bladderpod (see Table 5). Under the Act and our implementing regulations, a species may warrant listing if it is threatened or endangered throughout all or a significant portion of its range. We assessed the status of White Bluffs bladderpod throughout its entire range and found it to be highly restricted within that range. The threats to the survival of the subspecies occur throughout the subspecies' range and are not restricted to any particular significant portion of that range. Accordingly, our assessment and listing determination applies to the subspecies throughout its entire range.

Approximately 35 percent of the known range of the subspecies has been moderately to severely affected by landslides, resulting in an apparently permanent destruction of the habitat. The entire population of the subspecies is down-slope of irrigated agricultural land, the source of the water seepage causing the mass-failures and landslides, but the southern portion of the population is the closest to the agricultural land and most affected. Other significant threats include use of the habitat by recreational ORVs, which destroy plants, and the presence of invasive nonnative plants that compete with White Bluffs bladderpod for limited resources (light, water, nutrients). Additionally, the increasing presence of invasive nonnative plants may alter fire regimes and potentially increase the threat of fire to the White Bluffs bladderpod population.

Fire suppression activities could potentially be as great a threat as the fire itself, given the location of the subspecies on the tops of bluffs where firelines are often constructed. In addition, firefighting equipment and personnel are commonly staged on ridge tops for safety and strategic purposes (Whitehall 2012, pers. comm.), although this has not been necessary within the White Bluffs bladderpod population to date. During a wildfire response effort in 2007, responders were able to avoid damage to White Bluffs bladderpod habitat during suppression activities by limiting soil disturbance to areas outside a 50–100 m (164–228 ft) buffer around the population. The threats to the population from landslides, ORV use, and potentially fire suppression (contingent on location, safety, the ability to avoid, and other particulars) are ongoing, and will continue to occur in the future. In addition, invasion by nonnative plants is a common occurrence post-fire in the Hanford vicinity, and will likely spread or increase throughout the areas that were burned during the 2007 fire that occurred in the area of the existing population or in future events.

As described above, White Bluffs bladderpod is currently at risk throughout all of its range due to ongoing threats of habitat destruction and modification (Factor A), and other natural or manmade factors affecting its continued existence (Factor E). Specifically, these factors include the existing degradation or fragmentation of habitat resulting from landslides due to water seepage, invasive species establishment, ORV use, wildfire, potential fire suppression activities, and potential global climate change. Most of these threats are ongoing and projected to continue and potentially worsen in the future. The population is small and apparently restricted to a unique geological setting, making it vulnerable to extinction due to threats described in the final rule if they are not addressed. The scope of the threat of wildfire is high, while other threats are moderate to low in scope (see Table 5). Because of the limited range of the subspecies, any one of the threats could affect its continued existence at any time.

The Act defines an endangered species as any species that is ''in danger of extinction throughout all or a significant portion of its range,'' and a threatened species as any species ''that is likely to become endangered throughout all or a significant portion of its range within the foreseeable future.'' We find that White Bluffs bladderpod is likely to become endangered throughout all or a significant portion of its range within the foreseeable future, based on the immediacy and scope of the threats described above and, therefore, meets the definition of a threatened species under the Act. There are no portions of the species' range where threats are geographically concentrated such that the species is in imminent danger of extinction within that portion of its range. White Bluffs bladderpod is primarily surrounded by Federal ownership, where the lands are managed as an overlay national wildlife refuge for general conservation purposes.

The Monument CCP was developed to protect and conserve the biological, geological, paleontological, and cultural resources described in the Monument Proclamation by creating and maintaining extensive areas within the Monument free of facility development (USFWS 2008, p. v). Several management objectives are identified that could benefit the White Bluffs bladderpod population, including treating invasive species and restoring upland habitat (USFWS 2008, pp. 19–22). The subspecies is also fairly numerous and continuous where it occurs over 17 km (10.6 mi); however, the threats are not all acting with uniform timing, scope, or intensity throughout the subspecies' distribution. Although landslides are occurring within approximately 35 percent of the linear extent of the subspecies, plants are persisting, at present, in some areas where landslides have occurred. The risk to the overall population is proportional, as about 65 percent of the subspecies' habitat exists at a lower risk of landslides. The remaining primary threats to White Bluffs bladderpod, including wildfire, nonnative plants, and increased fuel loading from nonnative plants appear to be acting with uniform magnitude, intensity, and severity throughout the subspecies' distribution. Since a majority (85 percent) of the subspecies' distribution is on Federal lands managed as a national wildlife refuge for conservation purposes, and refuge management plans are in place to help protect and conserve the subspecies, we do not believe the subspecies is presently in danger of extinction throughout all or a significant portion of its range. Therefore, on the basis of the best available scientific and commercial information, we are listing White Bluffs bladderpod as threatened in accordance with sections 3(6) and 4(a)(1) of the Act.

Significant Portion of the Range Analysis for Umtanum Desert Buckwheat and White Bluffs Bladderpod

We evaluated the current range of Umtanum desert buckwheat and White Bluffs bladderpod to determine if there are any apparent geographic concentrations of potential threats for either species. Both species are highly restricted in their ranges, and the threats occur throughout their ranges. For Umtanum desert buckwheat, we considered the potential threats due to wildfire, competition and fuel loads from nonnative plants, seed predation, flower predation, small population size, limited geographic range, and low recruitment. For White Bluffs bladderpod, we considered the potential threats due to wildfire, irrigation-induced slope failure and landslides, harm by recreational activities and ORV use, competition and fuel loads from nonnative plants, small population size, and limited geographic range. We found no concentration of threats because of the species' limited and curtailed ranges, and a generally consistent level of threats throughout their entire range.

With regard to White Bluffs bladderpod, although the threat of groundwater-induced landslides affects the species' entire range, it is more noticeable along the southern extent of the population where the population occurs closest to areas that are irrigated for agricultural purposes. If all plants closest to the irrigated areas were to be lost, White Bluffs bladderpod would not be in danger of extinction throughout all or a significant portion of its range. Plants are persisting at present in some of the erosion-prone and eroded areas, which represent approximately 35 percent of the linear extent of the subspecies range. The plants are also fairly numerous and continuous along the entire 10.6-mile section of the White Bluffs where they occur. Having determined that Umtanum desert buckwheat and White Bluffs bladderpod are threatened throughout their entire range, we must next consider whether there are any significant portions of their range where they are in danger of extinction or likely to become endangered in the foreseeable future.

We found no portion of the range of either species where potential threats are significantly concentrated or substantially greater than in other portions of their range. Therefore, we find that factors affecting Umtanum desert buckwheat and White Bluffs bladderpod are essentially uniform throughout their range, indicating no portion of the range of either species warrants further consideration of possible endangered or threatened status under the Act. Therefore, we find there is no significant portion of the species' range that may warrant a different status.

Available Conservation Measures for Umtanum Desert Buckwheat and White Bluffs Bladderpod

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, the development of a recovery plan (including implementation of recovery actions), requirements for Federal protection, and prohibitions against certain practices. Recognition through listing actions results in public awareness and conservation by Federal, State, Tribal, and local agencies, private organizations, and individuals. The Act encourages cooperation with the States and requires that recovery actions be carried out for all listed species. The protection measures required of Federal agencies and the prohibitions against certain activities involving listed wildlife are discussed in Effects of Critical Habitat Designation and are further discussed, in part, below.

The primary purpose of the Act is the conservation of endangered and threatened species and the ecosystems upon which they depend. The ultimate goal of such conservation efforts is the recovery of these listed species, so that they no longer need the protective measures of the Act. Section 4(f) of the Act requires the Service to develop and implement recovery plans for the conservation of endangered and threatened species. The recovery planning process involves the identification of actions that are necessary to halt or reverse the species' decline by addressing the threats to its survival and recovery. The goal of this process is to restore listed species to a point where they are secure, self-sustaining, and functioning components of their ecosystems.

Recovery planning includes the development of a recovery outline shortly after a species is listed, preparation of a draft and final recovery plan, and revisions to the plan as significant new information becomes available. The recovery outline guides the immediate implementation of urgent recovery actions and describes the

process to be used to develop a recovery plan. The recovery plan identifies site-specific management actions that will achieve recovery of the species, measurable criteria that determine when a species may be downlisted or delisted, and methods for monitoring recovery progress. Recovery plans also establish a framework for agencies to coordinate their recovery efforts and provide estimates of the cost of implementing recovery tasks. Recovery teams (composed of species experts, Federal and State agencies, nongovernmental organizations, and stakeholders) are often established to develop recovery plans. When completed, the recovery outline, draft recovery plan, and the final recovery plan will be available on our Web site (*http://www.fws.gov/endangered*), or from our Washington Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Implementation of recovery actions generally requires the participation of a broad range of partners, including other Federal agencies, States, Tribal, nongovernmental organizations, businesses, and private landowners. Examples of recovery actions include habitat restoration (e.g., restoration of native vegetation), research, captive propagation and reintroduction, and outreach and education. The recovery of many listed species cannot be accomplished solely on Federal lands because their range may occur primarily or solely on non-Federal lands. To achieve recovery of these species requires cooperative conservation efforts on private, State, and Tribal lands.

The Monument CCP (2008, p. 4–31), identifies several strategies that will support recovery efforts, including (1) continuing ongoing partnerships for monitoring Umtanum desert buckwheat and White Bluffs bladderpod populations; (2) inventory and control of nonnative plant species; (3) consideration of rare plant species and locations when planning management, recreational, access, and other actions; (4) wildfire prevention when possible, and limiting their size; and (5) development of propagation techniques for rare species for reintroductions if populations go below thresholds.

Once these species are listed, funding for recovery actions will be available from a variety of sources, including Federal budgets, State programs, and cost share grants for non-Federal landowners, the academic community, and nongovernmental organizations. In addition, pursuant to section 6 of the Act, the State of Washington would be eligible for Federal funds to implement management actions that promote the protection and recovery of Umtanum desert buckwheat and White Bluffs bladderpod. Information on our grant programs that are available to aid species recovery can be found at: *http://www.fws.gov/grants.*

Please let us know if you are interested in participating in recovery efforts for Umtanum desert buckwheat and White Bluffs bladderpod. Additionally, we invite you to submit any new information on these species whenever it becomes available and any information you may have for recovery planning purposes (see **FOR FURTHER INFORMATION CONTACT**).

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any action that is likely to jeopardize the continued existence of a species proposed for listing or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the species or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with the Service.

Federal agency actions within the species' habitat that may require conference or consultation or both as described in the preceding paragraph include management and any other landscape-altering activities on Federal lands administered by the Department of Energy, Department of Defense, U.S. Fish and Wildlife Service, Bureau of Reclamation, Bureau of Land Management, Army Corps of Engineers, and construction and management of gas pipeline and power line rights-of-way by the Federal Energy Regulatory Commission.

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to all threatened plants. For threatened plants, it is unlawful to commit, to attempt to commit, to cause to be committed, or to solicit another to commit the following acts: (1) Import or export (into, out of, or through the United States); (2) remove and reduce to possession from Federal property; and (3) engage in interstate or foreign commerce. At this time, no existing regulatory mechanisms provide protection for State-listed plants in Washington, even if endangered. In addition, since Umtanum desert buckwheat occurs entirely on Federal land, and White Bluffs bladderpod occurs predominantly on Federal land, all Monument regulations that have protective or conservation relevance to either species would be applicable.

We may issue permits to carry out otherwise prohibited activities involving endangered and threatened plant species under certain circumstances. Regulations governing permits are codified at 50 CFR 17.62 for endangered plants, and at 50 CFR 17.72 for threatened plants. With regard to endangered plants, a permit may be issued for the following purposes: for scientific purposes or to enhance the propagation or survival of the species.

Regulations at 50 CFR 402.16 require Federal agencies to reinitiate consultation on previously reviewed actions in instances where we have listed a new species or subsequently designated critical habitat that may be affected and the Federal agency has retained discretionary involvement or control over the action (or the agency's discretionary involvement or control is authorized by law). Consequently, Federal agencies may sometimes need to request reinitiation of consultation with us on actions for which formal consultation has been completed, if those actions with discretionary involvement or control may affect subsequently listed species or designated critical habitat.

Questions regarding whether specific activities would constitute a violation of section 9 of the Act should be directed to our Washington Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**). Requests for copies of the regulations concerning listed animals and general inquiries regarding prohibitions and permits may be addressed to the U.S. Fish and Wildlife Service, Endangered Species Permits, Eastside Federal Complex, 911 NE 11th Avenue, Portland, Oregon 97232–4181 (telephone (503) 231–6158; facsimile (503) 231–6243).

Required Determinations

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This rule does not contain any new collections of information that require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This rule will not impose recordkeeping or reporting requirements

on State or local governments, individuals, businesses, or organizations. 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.

National Environmental Policy Act (NEPA) (42 U.S.C. 4321 et seq.)

We have determined that environmental assessments and environmental impact statements, as defined under the authority of the National Environmental Policy Act (NEPA: 42 U.S.C. 4321 *et seq.*), need not be prepared in connection with listing a species as endangered or threatened under the Endangered Species Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Clarity of the Rule

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(1) Be logically organized;

(2) Use the active voice to address readers directly;

(3) Use clear language rather than jargon;

(4) Be divided into short sections and sentences; and

(5) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the **ADDRESSES** section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

References Cited

A complete list of all references cited in this final rule is available on the Internet at *http://www.regulations.gov,* or upon request from the Manager, Washington Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT** section).

Author(s)

The primary authors of this final rule are the staff members of the Central Washington Field Office.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Regulation Promulgation

Accordingly, we hereby amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

■ 2. Amend § 17.12(h) by adding entries for *''Eriogonum codium''* (Umtanum desert buckwheat) and *''Physaria douglasii* subsp. *tuplashensis''* (White Bluffs bladderpod) to the List of Endangered and Threatened Plants in alphabetical order under Flowering Plants to read as follows:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
FLOWERING PLANTS							
*	*	*	*	*	*		*
Eriogonum codium ...	Umtanum desert buckwheat.	U.S.A. (WA)	Polygonaceae	T	811	17.96(a)	NA
*	*	*	*	*	*		*
Physaria douglasii subsp. *tuplashensis.*	White Bluffs bladderpod.	U.S.A. (WA)	Brassicaceae	T	811	17.96(a)	NA
*	*	*	*	*	*		*

Dated: April 8, 2013.

Rowan Gould,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 2013–09409 Filed 4–22–13; 8:45 am]

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Part III

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for *Eriogonum codium* (Umtanum Desert Buckwheat) and *Physaria douglasii* subsp. *tuplashensis* (White Bluffs Bladderpod); Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R1–ES–2013–0012; 4500030113]

RIN 1018–AZ54

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for *Eriogonum codium* (Umtanum Desert Buckwheat) and *Physaria douglasii* subsp. *tuplashensis* (White Bluffs Bladderpod)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service, designate critical habitat for Umtanum desert buckwheat (*Erigonum codium*) and White Bluffs bladderpod (*Physaria douglasii* subsp. *tuplashensis*) under the Act. In total, approximately 344 acres (139 hectares) are designated as critical habitat for *Eriogonum codium* in Benton County, Washington, and approximately 2,861 acres (1,158 hectares) are designated as critical habitat for *Physaria douglasii* subsp. *tuplashensis* in Franklin County, Washington. The effect of this regulation is to conserve both species' habitat under the Endangered Species Act.

DATES: This rule becomes effective on May 23, 2013.

ADDRESSES: This final rule is available on the Internet at *http://www.regulations.gov* and at *http://www.fws.gov/wafwo/HanfordPlants.* Comments and materials received, as well as supporting documentation used in preparing this final rule are available for public inspection, by appointment, during normal business hours, at U.S. Fish and Wildlife Service, Washington Fish and Wildlife Office, 510 Desmond Drive SE., Suite 102, Lacey, WA 98503–1263; (360) 753–9440 (telephone); (360) 753–9008 (facsimile).

The coordinates or plot points or both from which the maps are generated are included in the administrative record for this critical habitat designation and are available at (*http://www.fws.gov/wafwo/Hanford_Plants/FLFCH.html*), *www.regulations.gov* at Docket No. FWS–R1–ES–2013–0012, and at the (Washington Fish and Wildlife Office) (see **FOR FURTHER INFORMATION CONTACT**). Any additional tools or supporting information that we may develop for this critical habitat designation will also be available at the Fish and Wildlife Service Web site and Field Office set out above, and may also be included in the preamble and/or at *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Ken Berg, Manager, U.S. Fish and Wildlife Service, Washington Fish and Wildlife Office, 510 Desmond Drive, Suite 102, Lacey, Washington 98503–1263, by telephone (360) 753–9440, or by facsimile (360) 753–9405. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Executive Summary

Why we need to publish a rule. This is a final rule to designate critical habitat for Umtanum desert buckwheat and White Bluffs bladderpod. Under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act), any species that is determined to be an endangered or threatened species requires that critical habitat be designated, to the maximum extent prudent and determinable. Designations and revisions of critical habitat can only be completed by issuing a rule.

Elsewhere in today's **Federal Register**, we, the U.S. Fish and Wildlife Service, list Umtanum desert buckwheat and White Bluffs bladderpod as threatened species. On May 15, 2012, we published in the **Federal Register** a proposed listing and critical habitat designation for both species. Section 4(b)(2) of the Act states that the Secretary shall designate critical habitat on the basis of the best available scientific data after taking into consideration the economic impact, national security impact, and any other relevant impact of specifying any particular area as critical habitat.

The critical habitat areas we are designating in this rule constitute our current best assessment of the areas that meet the definition of critical habitat for Umtanum desert buckwheat and White Bluffs bladderpod. Here we are designating approximately 2,744 acres of Federal land, 42 acres of State land, and 419 acres of private land as critical habitat for both species.

We have prepared an economic analysis of the designation of critical habitat. In order to consider economic impacts, we have prepared an analysis of the economic impacts of the critical habitat designations and related factors. We announced the availability of the draft economic analysis (DEA) in the May 15, 2012, proposed rule (77 FR 28704), allowing the public to provide comments on our analysis. No comments were received in response to the DEA.

Peer review and public comment. We sought comments from independent specialists to ensure that our designation is based on scientifically sound data, assumptions, and analyses. We obtained opinions from four knowledgeable individuals with scientific expertise to review our technical assumptions, analysis, and whether or not we had used the best available information. These peer reviewers generally concurred with our methods and conclusions and provided additional information, clarifications, and suggestions to improve this final rule. Information we received from peer review is incorporated in this final designation. We did not receive any comments from the public regarding the proposed critical habitat designation or the draft economic analysis.

Previous Federal Actions

Candidate History: Umtanum desert buckwheat (*Eriogonum codium*) and White Bluffs bladderpod (formerly *Lesquerella tuplashensis,* now *Physaria douglasii* subsp. *tuplashensis)* (see ''Taxonomy'' section below), were identified as candidates for possible addition to the Lists of Endangered and Threatened Wildlife and Plants in our Annual Candidate Notice of Review, published in the **Federal Register** on October 25, 1999 (64 FR 57542). We refer to both species by their common names throughout this rule. Both species were given a Listing Priority Number (LPN) of 5 at that time; the LPN is assigned to a species based on the immediacy and magnitude of threats and the species' taxonomic status. In 1999, threats to both species were considered to be of high magnitude, but not imminent. However, in 2002, the LPN for Umtanum desert buckwheat was revised to LPN 2, which is assigned when threats to a species are of high magnitude and imminence (67 FR 40663; June 13, 2002), based on new information revealing low reproduction for the species. The LPN for White Bluffs bladderpod was revised to LPN 9 in 2009 (74 FR 57810; November 9, 2009), to reflect new information indicating threats were now moderate to low in magnitude and imminence. In 2009, the Service completed a Spotlight Species Action Plan for White Bluffs bladderpod to set conservation targets and identify actions to achieve those targets for the next 5 years. This plan can be found on the Service's Web site at: *http://www.fws.gov/ecos/ajax/docs/action_plans/doc3090.pdf.* The 2011 Notice of Review, published October 26, 2011 (76 FR 66370), included Umtanum

desert buckwheat and White Bluffs bladderpod; both species have been maintained as candidates since 1999.

Petition History: A petition requesting that Umtanum desert buckwheat, White Bluffs bladderpod, and several other species be listed as endangered under the Act was received on May 4, 2004 (Center for Biological Diversity *et al.* [CBD] 2004, pp. 49, 100). On July 12, 2011, the Service filed a multiyear work plan as part of a settlement agreement with the Center for Biological Diversity (CBD) and others in a consolidated case in the U.S. District Court for the District of Columbia. The settlement agreement was approved by the court on September 9, 2011, and will enable the Service to systematically review and address the conservation needs of more than 250 species, over a period of 6 years, including Umtanum desert buckwheat and White Bluffs bladderpod.

We proposed listing Umtanum desert buckwheat and White Bluffs bladderpod as threatened under the Act (16 U.S.C. 1531 *et seq.*) with critical habitat (77 FR 28704) on May 15, 2012, and announced the availability of a draft economic analysis. Proposed critical habitat included shrub steppe habitats within Benton County, Washington, for Umtanum desert buckwheat, and White Bluffs bladderpod within Franklin County, Washington. The final listing rule published elsewhere in today's **Federal Register**.

Background

It is our intent to discuss only those topics directly relevant to the listing and critical habitat designations for Umtanum desert buckwheat and White Bluffs bladderpod in this final rule. A summary of topics relevant to this final rule is provided below. Additional information on both species may be found in the Candidate Notice of Review, which was published October 26, 2011 (76 FR 66370).

Geography, Climate, and Landscape Setting

Umtanum desert buckwheat and White Bluffs bladderpod are found only on the Hanford Reach of the Columbia River, the last free-flowing stretch of the Columbia River within U.S. borders. The Hanford Reach lies within the semi-arid shrub steppe Pasco Basin of the Columbia Plateau in south-central Washington State. The region's climate is influenced by the Pacific Ocean, the Cascade Mountain Range to the west, and other mountain ranges located to the north and east. The Pacific Ocean moderates temperatures throughout the Pacific Northwest, and the Cascade Range generates a rain shadow that limits rain and snowfall in the eastern half of Washington State. The Cascade Range also serves as a source of cold air, which has a considerable effect on the wind regime on the Hanford reach. Daily maximum temperatures vary from an average of 1.7 °Celsius (C) (35 °F (F)) in late December and early January, to 36 °C (96 °F) in late July. The Hanford Reach is generally quite arid, with an average annual precipitation of 16 centimeters (cm) (6.3 inches (in)). The relative humidity at the Hanford Reach is highest during the winter months, averaging about 76 percent, and lowest during the summer, averaging about 36 percent. Average snowfall ranges from 0.25 cm (0.1 in) in October to a maximum of 13.2 cm (5.2 in) in December, decreasing to 1.3 cm (0.5 in) in March. Snowfall accounts for about 38 percent of all precipitation from December through February (USFWS 2008, pp. 3.8–3.10).

The Hanford Reach National Monument (Monument), which includes approximately 78,780 hectares (ha) (195,000 acres (ac)), contains much of the Hanford Reach of the Columbia River. All of the land is owned by the DOE and was formerly part of the 145,440-ha (360,000-ac) Hanford installation. The Hanford installation was established by the U.S. Government in 1943 as a national security area for the production of weapons grade plutonium and purification facilities. For more than 40 years, the primary mission at Hanford was associated with the production of nuclear materials for national defense. However, large tracts of land were used as protective buffer zones for safety and security purposes and remained relatively undisturbed.

The Monument was established by Presidential Proclamation in June 2000, to connect these tracts of land, protecting the river reach and the largest remnant of the shrub steppe ecosystem in the Columbia River Basin. The Hanford Reach National Monument Proclamation identifies several nationally significant resources, including a diversity of rare native plant and animal species, such as Umtanum desert buckwheat and White Bluffs bladderpod (USFWS 2008, p. 1–4). The Proclamation also sets forth specific management actions and mechanisms that are to be followed: (1) Federal lands are withdrawn from disposition under public land laws, including all interests in these lands, such as future mining claims; (2) off-road vehicle use is prohibited; (3) the ability to apply for water rights is established; (4) grazing is prohibited; (5) the Service and DOE (subject to certain provisions) are established as managers of the Monument; (6) a land management transfer mechanism from the DOE to the Service is established; (7) cleanup and restoration activities are assured; and (8) existing rights, including tribal rights, are protected.

All lands included in the Hanford Reach National Monument are Federal lands under the primary jurisdiction of the DOE. Approximately 66,660 ha (165,000 ac) of these acres are currently managed as an overlay refuge by the Service through agreements with the DOE. Overlay refuges exist where the Service manages lands for the benefit of fish and wildlife resources, but is not the primary holder in fee title of lands forming the refuge (USFWS 2008, p. 1–7). Because the Monument is administered as a component of the National Wildlife Refuge System, the legal mandates and policies that apply to any national wildlife refuge apply to the Monument. The Proclamation directs the DOE and the Service to protect and conserve the area's native plant communities, specifically recognizing the area's biologically diverse shrub steppe ecosystem (USFWS 2008, pp. 1.21, 3.5). The DOE manages approximately 11,716 ha (29,000 ac) of land within the Monument and retains land surface ownership or control on all Monument acreage. Thus, the Service and DOE have joint management responsibility for the Monument.

The parcel of land where Umtanum desert buckwheat occurs is on part of what was historically called the McGee Ranch, a historical homestead of more than 364 ha (900 ac) within the greater Hanford installation. Management of this parcel has been retained by DOE due to unresolved issues related to contaminants. This situation is expected to be resolved over time, and management conveyed to the Monument, since this area is not essential to the operation of the Hanford facility. Umtanum desert buckwheat and White Bluffs bladderpod both occur in narrow, linear bands on bluffs above and on opposite sides of the Columbia River. The populations are approximately 15 kilometers (km) (9 miles (mi)) apart, and although relatively near to each other, their habitat has a widely disparate geologic history and subsequent soil development. These conditions create unique habitats and substrates that support these and other rare endemic plants (see *Species Information* sections) within the Hanford Reach.

Species Information

Umtanum Desert Buckwheat

Umtanum desert buckwheat is a long-lived, woody perennial plant that forms low mats. Individual plants may exceed 100 years of age, based on counts of annual growth rings on cross sections of the main stems of recently dead plants. Growth rates are also extremely slow, with stem diameters increasing an average of only 0.17 millimeters (mm) (0.007 in) per year (The Nature Conservancy (TNC) 1998, p. 9; Dunwiddie *et al.* 2001, p. 62). A detailed description of the identifying characteristics of Umtanum desert buckwheat is found in Reveal *et al.* (1995, pp. 350–351). Umtanum desert buckwheat is State-listed as Endangered, with a G1 (i.e., critically imperiled worldwide, and particularly vulnerable to extinction) global ranking and an S1 (i.e., critically imperiled Statewide, and particularly vulnerable to extinction) State ranking (WDNR 2011a, p. 5).

Taxonomy

In 1995, Florence Caplow and Kathryn Beck resumed large-scale rare plant surveys on the Hanford Site that were initiated in 1994 by TNC and the DOE, as part of the Hanford Biodiversity Project. Two previously undescribed plant taxa were discovered, including Umtanum desert buckwheat (Caplow and Beck 1996, p. 5). The species was fully described in Reveal *et al.* (1995), and the current nomenclature has been unchallenged since that time. Umtanum desert buckwheat is recognized as a distinct species, and there is no known controversy concerning its taxonomy.

Habitat/Life History

Umtanum desert buckwheat was discovered in 1995 during a botanical survey of the Hanford installation (Reveal *et al.* 1995, p. 353), and is found exclusively on soils over exposed basalt from the Lolo Flow of the Wanapum Basalt Formation. As the basalt of the Lolo Flow weathers, a rocky soil type is formed that is classified as lithosol, a term describing the well-drained, shallow, generally stony soils over bedrock (Franklin and Dyrness 1973, p. 347), and talus slopes associated with eroding outcrops and cliffs. These cliffs (scarps) and loose rock at the base of cliffs or on slopes (defined as scree) are found along the crests and slopes of local hills and ridges, including east Umtanum Ridge, where Umtanum desert buckwheat occurs. This type of landform in the Columbia Basin is determined by the underlying basalts, which may be exposed above the soil on ridge tops or where wind and water erode the fine soils away (Sackschewski and Downs 2001, p. 2.1.1).

The Lolo Flow contains higher levels of titanium dioxide and lower levels of iron oxide than the neighboring Rosalia Flow, also of the Priest Rapids Member. The flow top material commonly has a high porosity and permeability and has weathered to pebble and gravel-sized pieces of vesicular basalt (Reveal *et al.* 1995, p. 354). This basalt typically contains small (<5 mm (0.2 in)) crystals of the mineral olivine and rare clusters of plagioclase crystals (Reidel and Fecht 1981, pp. 3–13). It is unknown if the close association of Umtanum desert buckwheat with the lithosols of the Lolo Flow is related to the chemical composition or physical characteristics of the bedrock on which it is found, or a combination of factors not currently understood (Reveal *et al.* 1995, p. 354).

Preliminary counts indicate that seed set occurs in approximately 10 percent of flowers observed, potentially limiting reproductive capacity. Based on a pollinator exclusion study (Beck 1999, pp. 25–27), the species is probably capable of at least limited amounts of self-pollination, although the percentage of seed set in the absence of pollinators appears to be low. A variety of insect pollinators were observed on Umtanum desert buckwheat flowers, including ants, beetles, flies, spiders, moths and butterflies (TNC 1998, p. 8). Wasps from the families *Vespidae* and *Typhiidae* and a wasp from the species *Criosciolia* have been observed in the vicinity of Umtanum desert buckwheat, but not on the plant itself. A bumble bee, *Bombus centralis,* has been observed by Washington Department of Natural Resources (WDNR) specialists utilizing flowers of Umtanum desert buckwheat plants (Arnett 2011b, pers. comm.).

Common perennial plant associates of Umtanum desert buckwheat include *Artemisia tridentata* (big sagebrush), *Grayia spinosa* (spiny hopsage), *Krascheninnikovia lanata* (winterfat), *Eriogonum sphaerocephalum* (rock buckwheat), *Salvia dorrii* (purple sage), *Hesperostipa comata* (needle and thread), *Pseudoroegneria spicata* (bluebunch wheatgrass), *Poa secunda* (Sandberg's bluegrass), *Sphaeralcea munroana* (Munro's globemallow), *Astragalus caricinus* (buckwheat milkvetch), and *Balsamorhiza careyana* (Carey's balsamroot). Common annual associates include *Bromus tectorum* (cheatgrass), *Sisymbrium altissimum* (tumblemustard), *Phacelia linearis* (threadleaf phacelia), *Aliciella leptomeria* (sand gilia), *Aliciella sinuata* (shy gilia), *Camissonia minor* (small evening primrose), and *Cryptantha pterocarya* (wingnut cryptantha).

Historical Range/Distribution

The only known population of Umtanum desert buckwheat occurs along the top edges of the steep slopes on Umtanum Ridge, a wide mountain ridge in Benton County, Washington, where it has a discontinuous distribution along a narrow (25–150 m (82–492 ft) wide by 1.6 km (1 mi) long) portion of the ridge (Dunwiddie *et al.* 2001, p. 59). The species was discovered in 1995 (Reveal *et al.* 1995, p. 354), and there are no verified records of any collections prior to that year.

Current Range/Distribution

It is unknown if the historic distribution of Umtanum desert buckwheat was different than the species' current distribution, but it is likely the species has been confined to this location during at least the last 150 years, as annual growth ring counts from fire-killed plants revealed individual ages in excess of 100 years. Individual plants with greater stem diameters (and, therefore, presumably older) are present, which supports the 150-year minimum locality occupation estimate.

Population Estimates/Status

The only known population of Umtanum desert buckwheat was fully censused (an accounting of the number of all individuals in a population) in 1995, 1997, 2005, and 2011 (see Table 1). In 1995, researchers counted 4,917 living individual plants, and in 1997, researchers counted 5,228 individuals (Dunwiddie *et al.* 2001, p. 61). The 1995 census was ''roughly counted'' (Beck 1999, p. 3) (i.e., there was a greater degree of estimation), while the 1997 count was more precise. In addition, the 1995 count may have overlooked an isolated patch with 79 plants to the east that was discovered in 2011. It is not uncommon for estimated population counts to be substantially lower than precise counts (Arnett 2011a, pers. comm.).

TABLE 1—UMTANUM DESERT BUCKWHEAT POPULATION COUNTS 1995–2011

Census year	Total plants counted
1995	4,917
1997	5,228
2005	4,408
2011	5,169

After a wildfire in 1997 burned through a portion of the population, a

subsequent count found 5,228 living and 813 dead individual plants. A minimum of 75 percent of the 813 dead individual plants died as a direct result of the fire (Dunwiddie *et al.* 2001, p. 61). No survival or resprouting was noted in fire-killed plants in following years. Because a more accurate count was used to derive the number of dead individual plants (Beck 1999, p. 3), this total represents a fairly precise measure of the impact of the 1997 wildfire on Umtanum desert buckwheat (Arnett 2011a, pers. comm.), although it is likely some plants were totally consumed by the fire and, therefore, unidentifiable.

In 2005, researchers reported 4,408 living plants (Caplow 2005, p. 1), which represents a 15 percent decline in the population over an 8-year period. However, this result likely reflects some variability in how the census was performed over the years since the species was discovered in 1995. On July 12, 2011, a complete population census was conducted, which recorded 5,169 living individuals. This count was somewhat higher than average, which could be attributable to a more thorough census, the identification of plant clusters not previously documented, and the recording of larger clumps as containing more than one individual plant. These clumps were likely counted as individual plants in previous counts (Arnett 2011a, pers. comm.).

Demographic monitoring of the largest subpopulation within the main population commenced in 1997, and demonstrated an average 2 percent annual mortality of adult flowering plants. During the 9 years of monitoring, only 4 or 5 seedlings have been observed to survive beyond the year of their germination (Kaye 2007, p. 5). Since 2007, the demographic monitoring plots continue to reflect population declines and minimal recruitment (Arnett 2011b, pers. comm.). Dunwiddie *et al.* (2001, p. 67) documented a lack of plants in the smallest size classes and the absence of any seed survival over 1 year. Their data did not indicate any spikes or gaps in the size distribution of plants that might reflect years of unusually high or low recruitment of plants, although evidence of such could have been obscured by the variable growth rates of the plants. Populations of long-lived species with low adult mortality can survive with relatively low recruitment rates (Harper 1977 in Dunwiddie *et al.* 2001, p. 67). Further, the survival of a few seedlings each year may be sufficient to replace the occasional adult that dies, or alternatively, an occasional bumper crop of seedlings surviving to maturity during several favorable years may ensure the long-term survival of the population (Dunwiddie *et al.* 2001, p. 67). However, no demographic data supported either of these scenarios for this species (Dunwiddie *et al.* 2001, p. 67).

An unpublished draft population viability analysis (PVA) was completed in 2007 by Thomas Kaye (2007, p. 5), based on 9 years of demographic data. A PVA is a quantitative analysis of population dynamics, with the goal of assessing the risk of extinction of a species. The 2007 study, which took into account observed environmental variability, determined there was little or no risk of a 90 percent population decline within the next 100 years; an approximate 13 percent chance of a decline of 50 percent of the population over the next 50 years; and a 72 percent chance of a 50 percent decline within the next 100 years. The PVA concluded the decline is gradual, consistent with the decline noted by Caplow (2005, p. 1) between 1997 and 2005, and will likely take several decades to impact the population (Kaye 2007, p. 7). Although census data indicates more individuals in 2011 compared to the number of individuals in 1995 and 2005, this increase likely reflects some variability in how the census was performed. The inflorescence for Umtanum desert buckwheat consists of a cluster of flowers arranged on a main stem or branch. As stated earlier, the fact that the 2011 census was somewhat higher than previous plant counts may be attributable to the identification of plant clusters not previously documented, or individually counting plants present in plant clusters (rather than counting the cluster itself as one plant) (Arnett 2011a, pers. comm.). Since 1995, numerous surveys have been conducted at other locations within the lower Columbia River Basin, within every habitat type that appears to be suitable for Umtanum desert buckwheat. However no other populations or individuals have been found to date.

Species Information

White Bluffs Bladderpod

White Bluffs bladderpod is a low-growing, herbaceous, perennial plant with a sturdy tap root and a dense rosette of broad gray-green pubescent (having any kind of hairs) leaves (WDNR 2010). The subspecies produces showy yellow flowers on relatively short stems in May, June, and July. The subspecies inhabits dry, steep upper zone and top exposures of the White Bluffs area of the Hanford Reach at the lower edge of the Wahluke Slope. Along these bluffs, a layer of highly alkaline, fossilized cemented calcium carbonate (caliche) soil has been exposed (Rollins *et al.* 1996, pp. 203–205). A detailed description of the identifying physical characteristics of White Bluffs bladderpod is in Rollins *et al.* (1996, pp. 203–205) and Al-Shehbaz and O'Kane (2002, pp. 319–320). White Bluffs bladderpod is State-listed as Threatened, with a G2 (i.e., imperiled world-wide, vulnerable to extinction) global ranking and an S2 (i.e., vulnerable to extirpation) State ranking (WDNR 2011).

Taxonomy

Although specimens of this taxon were originally collected from a population in 1883, the plant material was in poor condition, no definitive identification could be made, and the plant was not recognized as a species at that time. The population was rediscovered in 1994, and was described and published as a species, *Lesquerella tuplashensis,* by Rollins *et al.* (1996, pp. 319–322). A petition requesting that *L. tuplashensis* be listed as endangered under the Act stated that its status as a valid species is uncontroversial (Center for Biological Diversity *et al.* [CBD] 2004, pp. 49,100). Since then, the nomenclature and taxonomy of the species has been investigated.

In a general paper on the taxonomy of *Physaria* and *Lesquerella,* O'Kane and Al-Shehbaz (2002, p. 321) combined the genera *Lesquerella* and *Physaria* and reduced the species *Lesquerella tuplashensis* to *Physaria douglasii* subsp. *tuplashensis* (O'Kane and Al-Shehbaz (2002, p. 322)), providing strong molecular, morphological, distributional, and ecological data to support the union of the two genera.

Rollins and Shaw (1973, entire), took a wide view of the degree of differentiation between species and subspecies (or varieties) of *Lesquerella,* although many species of *Lesquerella* are differentiated by only one or two stable characters. The research of Rollins *et al.* (1996, pp. 205–206) recognized that, although *L. tuplashensis* and *L. douglasii* were quite similar, they differed sufficiently in morphology and phenological traits to warrant recognition as two distinct species. Simmons (2000, p. 75) suggested in a Ph.D. thesis that *L. tuplashensis* may be an ecotype of the more common *L. douglasii.* Caplow *et al.* (2006, pp. 8–10) later argued that *L. tuplashensis* was sufficiently different from *douglasii* to warrant a species rank because it: (1) Was morphologically distinct, differed in stipe (a supporting stalk or stemlike structure) length and

length-to-width ratio of stem leaves, and had statistically significant differences in all other measured characters; (2) was reproductively isolated from *L. douglasii* by nonoverlapping habitat and differences in phenology for virtually all *L. tuplashensis* plants; and (3) had clear differences in the ecological niche between the two taxa.

Based on molecular, morphological, phenological, reproductive, and ecological data, the conclusions in Al-Shehbaz and O'Kane (2002, p. 322) and Caplow *et al.* (2006, pp. 8–10) combining the genera *Lesquerella* and *Physaria* and reducing the species *Lesquerella tuplashensis* to *Physaria douglasii* subsp. *tuplashensis,* provide the most consistent and compelling information available to date. Therefore, we consider the White Bluffs bladderpod a subspecies of the species *Physaria douglasii,* with the scientific name *Physaria douglasii* subspecies *tuplashensis.*

Habitat/Life History

The only known population of White Bluffs bladderpod is found primarily on near-vertical exposures of weathered, cemented, alkaline, calcium carbonate paleosol (ancient, buried soil whose composition may reflect a climate significantly different from the climate now prevalent in the area) (*http://www.alcwin.org/Dictionary_Of_Geology_Description-84-P.htm*). The hardened carbonate paleosol caps several hundred feet of alkaline, easily eroded, lacustrine sediments of the Ringold Formation, a sedimentary formation made up of soft Pleistocene deposits of clay, gravel, sand, and silt (Newcomb 1958, p. 328). The uppermost part of the Ringold Formation is a heavily calcified and silicified cap layer to a depth of at least 4.6 m (15 ft). This layer is commonly called ''caliche'' although in this case, it lacks the nitrate constituents found in true caliche. The ''caliche'' layer is a resistant caprock underlying the approximately 274–304 m (900–1,000 ft) elevation (above sea level) plateau extending north and east from the White Bluffs (Newcomb 1958, p. 330). The White Bluffs bladderpod may be an obligate calciphile, as are many of the endemic *Lesquerella* (now *Physaria*) (Caplow 2006, pp. 2–12). The habitat of White Bluffs bladderpod is arid, and vegetative cover is sparse (Rollins *et al.* 1996, p. 206).

Common associated plant species include: *Artemisia tridentata* (big sagebrush), *Poa secunda* (Sandberg's bluegrass), *Bromus tectorum* (cheatgrass), *Astragalus caricinus* (buckwheat milk-vetch), *Eriogonum microthecum* (slender buckwheat), *Achnatherum hymenoides* (Indian ricegrass), and *Cryptantha spiculifera* (Snake River cryptantha). Occasionally, White Bluffs bladderpod is numerous enough at some locations to be subdominant.

Because of its recent discovery and limited range, little is known of the subspecies' life-history requirements. In a presentation of preliminary life-history studies, Dunwiddie *et al.* (2002, p. 7) reported that most individuals reach reproductive condition in their first or second year, most adult plants flower every year, and the lifespan of this short-lived subspecies is probably 4 to 5 years. The population size appears to vary from year to year (see Table 2), and the survival of seedlings and adults appears to be highly variable (Dunwiddie *et al.* 2002, p. 8); however, more monitoring is needed to determine the magnitude and frequency of high- and low-number years, as well as to obtain an understanding of the causes of these annual fluctuations (Evans *et al.* 2003, p. 64). Monitoring by Monument staff (Newsome 2011, p. 5) suggests that the annual population fluctuations appear to be tied to environmental conditions, such as seasonal precipitation and temperature.

Historical Range/Distribution

In 1996, White Bluffs bladderpod was only known from a single population that occurred along the upper edge of the White Bluffs of the Columbia River in Franklin County, Washington. The population was described to occur intermittently in a narrow band (usually less than 10 m (33 ft) wide) along an approximately 17-km (10.6-mi) stretch of the river bluffs (Rollins *et al.* 1996, p. 205).

Current Range/Distribution

White Bluffs bladderpod is still known only from the single population that occurs along the upper edge of the White Bluffs of the Columbia River, Franklin County, Washington, although the full extent of the subspecies' occurrence has now been described. Most of the subspecies distribution (85 percent) is within lands owned by the Department of Energy (DOE) and once managed by the Washington Department of Fish and Wildlife as the Wahluke Wildlife Area (USFWS 2008, p. 1–3). This land remains under DOE ownership, and is managed by the Hanford Reach National Monument/Saddle Mountain National Wildlife Refuge (Monument). The remainder of the subspecies' distribution is on private land (Newsome 2011, pers. comm.) and WDNR land (Arnett 2012, pers. comm.).

Population Estimates/Status

The size of the population varies considerably between years. Censuses in the late 1990s estimated more than 50,000 flowering plants in high population years (Evans *et al.* 2003, p. 3–2) (see Table 2). Since 1997 to 1998 when the monitoring transects currently used were selected, the population ranged between an estimated low of 9,650 plants in 2010 to an estimated high of 58,887 plants in 2011 (see Table 2). Following the monitoring period in 2007, a large wildfire burned through the northern portion of the population within the monitoring transects. Annual monitoring was conducted through 2011 to attempt to determine the effects of fire on White Bluffs bladderpod. The monitoring results indicated that, when burned and unburned transects were compared, plants in burned transects appear to have rebounded to some extent (Newsome 2011, p. 5), although the data have too much variability to discern that difference. However, the burned transects appeared to have a mean of 24 percent fewer plants than in the unburned transects.

TABLE 2—ESTIMATED* POPULATION SIZE OF WHITE BLUFFS BLADDERPOD

Year	10-Transect sample	20-Transect sample
1997	14,034	N/A
1998	31,013	32,603
1999	20,354	21,699
2002	11,884	12,038
2007	29,334	28,618
2008	16,928	18,400
2009	16,569	20,028
2010	9,650	9,949
2011	47,593	58,887

* Mean number of plants per transect × total number of transects along permanent 100-m (328-ft) monitoring transects (from Newsome 2011, p. 3). An additional 20-transect sample was added to monitoring after 1997 to increase statistical confidence.

The high variability in estimated population numbers was confirmed by the 2011 data, which documented the highest population estimate since monitoring began in 1997, even though it immediately followed the year representing the lowest estimate (2010). May 2011 was identified by the Hanford Meteorological Station (*http://www.hanford.gov/page.cfm/HMS*) as the fifth coolest and seventh wettest month of May recorded on the installation since its establishment in 1944 (Newsome 2011, p. 2). This environment likely provided ideal conditions for germination, growth, and flowering for this year's population following a rather moist fall and mild winter season. (Autumn 2010

precipitation was 4.6 cm (21.8 inches) above average; winter 2011 precipitation was 0.6 cm (0.24 inches) below average.) (*http://www.hanford.gov/page.cfm/hms/products/seaprcp*).

Summary of Comments and Recommendations

We requested written comments from the public on the proposed designation of critical habitat for the Umtanum desert buckwheat and White Bluffs bladderpod and the associated draft economic analysis. The comment period associated with the publication of the proposed rule (77 FR 28704) opened on May 15, 2012, and closed on July 16, 2012. We did not receive any requests for a public hearing. We also contacted appropriate Federal, State, and local agencies; scientific organizations; and other interested parties and invited them to comment on the proposed rule and draft economic analysis during the comment period.

During the comment period, we received two public comment letters addressing the proposed listing for both species. We did not receive any public comments on the proposed critical habitat designation or draft economic analysis. All substantive information provided during the comment period has either been incorporated directly into this final determination or is addressed below. Comments are addressed in the following summary and incorporated into the final rule as appropriate.

Peer Review

In accordance with our peer review policy published on July 1, 1994 (59 FR 34270), we solicited expert opinions from five knowledgeable individuals with scientific expertise that included familiarity with the species, regional botanical knowledge, the geographical region in which the species occur, and conservation biology principles. We received responses from four of the peer reviewers.

We reviewed all comments received from peer reviewers for substantive issues and new information regarding the listing and designation of critical habitat for the two plant species. The peer reviewers generally concurred with our methods and conclusions, and provided editorial comments, taxonomic clarifications, additional citations, and information on species distribution, arid lands ecology, geology, and habitat associations to improve the final rule. These comments have been incorporated into the final rule, but have not been individually addressed below. The substantial peer reviewer comments are addressed in the following summary and have been incorporated into the final rule as appropriate.

Peer Reviewer Comments

(1) *Comment:* One peer reviewer commented that delineating critical habitat for Umtanum desert buckwheat based on the presumed range of pollinators was questionable, as there is little evidence regarding the relative importance of pollinators for this species in comparison with any other critical aspect of its natural history. The reviewer recommended that the boundary be revised to include a several-thousand-acre polygon around the population, with focused actions to make the area less fire-prone (e.g., establishing firebreaks and controlling cheatgrass). Another peer reviewer commented that the proposed critical habitat would adequately provide for the needs of the species and potential pollinators as long as funds are allocated to minimize invasive species and increase the native flora that may have been reduced by invasive species.

Our Response: We acknowledge that the risk of wildfire poses a significant threat to Umtanum desert buckwheat. The larger landscape where this species occurs is within a conservation status, is federally owned, and has restricted public access. Threats, including wildfires, invasive species, and management actions will continue in the larger landscape regardless of whether the area is designated as critical habitat. The critical habitat designation for Umtanum desert buckwheat is based on the best available scientific information regarding the biological needs of the species. We used data regarding flight distances of generalist pollinators to delineate a critical habitat polygon that is large enough to support the existing population and ensure its survival and recovery. Areas designated as critical habitat must be essential to the conservation of a species under section 3(5)(A) of the Act. We are unaware of any scientific information that would support an argument that a several-thousand-acre polygon around each of the populations is essential to the conservation of either Umtanum desert buckwheat or White Bluffs bladderpod. As previously stated, management actions to improve habitat and reduce the threat of wildfire will be identified and incorporated within the recovery planning process, as required under section 4(f) of the Act. That process will consider each of the threats to the species, and develop recovery tasks necessary to address wildfire, invasive species, pollinator habitat, and the other factors impacting the population.

(2) *Comment:* For White Bluffs bladderpod, one peer reviewer stated that it seems illogical to define critical habitat using presumed pollinator movement ranges (see *Comment* 1), but not address adjacent croplands where agricultural activities (e.g., conversion of shrub steppe to cropland, use of herbicides and pesticides, etc.) may be detrimental to pollinators of the species. Another peer reviewer stated it would seem more prudent to define critical habitat in ways that address the most critical potential threats (i.e., slope failure and landslides), and questioned the rationale used to support a conclusion that ''lands that are under agricultural use are not included in the proposed critical habitat designation.''

Our Response: We appreciate the comments. However, in accordance with section 3(5)(A) of the Act, critical habitat can only be designated for: (1) Specific areas within the geographic area occupied by the species at the time of listing that contain the physical or biological features essential to the species' conservation, and which may require special management considerations or protections; and (2) specific areas outside the geographical area occupied by the species at the time of listing that are essential to its conservation. Lands that are under agricultural use do not satisfy either of these definitions, since they do not function as habitat for White Bluffs bladderpod or pollinators, as a result of land conversion, irrigation, loss of the soil horizon, and presence of agricultural chemicals. Each of the threats that have been identified for both species will be considered during the recovery planning process under section 4(f)(1) of the Act, and section 7 consultations with Federal agencies under section 7(a)(2).

Critical Habitat Designation for Umtanum Desert Buckwheat and White Bluffs Bladderpod

Background

Critical habitat is defined in section 3 of the Act as:

(1) The specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the Act, on which are found those physical and biological features

(a) Essential to the conservation of the species; and

(b) Which may require special management considerations or protection; and

(2) Specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Conservation, as defined under section 3 of the Act, means to use, and the use of, all methods and procedures that are necessary to bring an endangered or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.

Critical habitat receives protection under section 7 of the Act through the prohibition against Federal agencies carrying out, funding, or authorizing the destruction or adverse modification of critical habitat. Section 7(a)(2) requires consultation on Federal actions that may affect critical habitat. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. Such designation does not allow the government or public to access private lands. Such designation does not require implementation of restoration, recovery, or enhancement measures by non-Federal landowners. Where a landowner seeks or requests Federal agency funding or authorization for an action that may affect a listed species or critical habitat, the consultation requirements of section 7(a)(2) of the Act would apply, but even in the event of a destruction or adverse modification finding, the Federal action agency's and the applicant's obligation is not to restore or recover the species, but to implement reasonable and prudent alternatives to avoid destruction or adverse modification of critical habitat.

Under the first prong of the Act's definition of critical habitat, areas within the geographical area occupied by the species at the time it was listed are included in a critical habitat designation if they contain physical or biological features (1) which are essential to the conservation of the species, and (2) which may require special management considerations or protection. For these areas, critical habitat designations identify, to the extent known using the best scientific and commercial data available, those physical or biological features that are essential to the conservation of the species (such as space, food, cover, and protected habitat). In identifying those physical or biological features within an area, we focus on the principal biological or physical constituent elements (primary constituent elements such as roost sites, nesting grounds, seasonal wetlands, water quality, tide, soil type) that when combined compose the features essential to the conservation of the species.

Under the second prong of the Act's definition of critical habitat, we can designate critical habitat in areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. For example, an area currently occupied by the species but that was not occupied at the time of listing may be essential to the conservation of the species and may be included in the critical habitat designation. We designate critical habitat in areas outside the geographical area occupied by a species only when a designation limited to its current range would be inadequate to ensure the conservation of the species.

Section 4 of the Act requires that we designate critical habitat on the basis of the best scientific data available. Further, our Policy on Information Standards Under the Endangered Species Act (published in the **Federal Register** on July 1, 1994 (59 FR 34271)), the Information Quality Act (section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658)), and our associated Information Quality Guidelines, provide criteria, establish procedures, and provide guidance to ensure that our decisions are based on the best scientific data available. They require our biologists, to the extent consistent with the Act and with the use of the best scientific data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat.

When we are determining which areas should be designated as critical habitat, our primary source of information is generally the information developed during the listing process for the species. Additional information sources may include the recovery plan for the species, articles in peer-reviewed journals, conservation plans developed by States and counties, scientific status surveys and studies, biological assessments, or other unpublished materials and expert opinion or personal knowledge.

Habitat is dynamic, and species may move from one area to another over time. We recognize that critical habitat designated at a particular point in time may not include all of the habitat areas that we may later determine are necessary for the recovery of the species. For these reasons, a critical habitat designation does not signal that habitat outside the designated area is unimportant or may not be required for recovery of the species. Areas that are important to the conservation of the species, but are outside the critical habitat designation, will continue to be subject to: (1) Conservation actions we implement under section 7(a)(1) of the Act, (2) regulatory protections afforded by the requirement in section 7(a)(2) of the Act for Federal agencies to ensure their actions are not likely to jeopardize the continued existence of any endangered or threatened species, and (3) the prohibitions of section 9 of the Act if certain actions occurring in these areas may affect the species. Federally funded or permitted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. These protections and conservation tools will continue to contribute to recovery of this species. Similarly, critical habitat designations made on the basis of the best available information at the time of designation will not control the direction and substance of future recovery plans, habitat conservation plans (HCPs), or other species conservation planning efforts if new information available at the time of these planning efforts warrants otherwise.

Physical or Biological Features

In accordance with sections 3(5)(A)(i) and 4(b)(1)(A) of the Act and the regulations at 50 CFR 424.12, in determining which areas within the geographical area occupied at the time of listing to designate as critical habitat, we consider the physical and biological features (PBF's) essential to the conservation of the species that may require special management considerations or protection. These may include, but are not limited to:

(1) Space for individual and population growth and for normal behavior;

(2) Food, water, air, light, minerals, or other nutritional or physiological requirements;

(3) Cover or shelter;

(4) Sites for breeding, reproduction, or rearing (or development) of offspring; and

(5) Habitats that are protected from disturbance or are representative of the historical, geographical, and ecological distributions of a species.

We derive the specific PBFs required for Umtanum desert buckwheat and White Bluffs bladderpod from studies of each species' habitat, ecology, and life history as described above in the final listing rule. We have determined that the PBFs described below are essential for these species. The criteria used to identify the geographical location of the designated critical habitat areas for both species are described following the *Final Critical Habitat Designation* sections below (see *Criteria Used To Identify Critical Habitat*).

Criteria Used To Identify Critical Habitat

As required by section 4(b)(2) of the Act, in developing this final rule we used the best scientific data available to designate critical habitat for both Umtanum desert buckwheat and White Bluffs bladderpod. We reviewed available information that pertains to the habitat requirements of these species. In accordance with the Act and its implementing regulations at 50 CFR 424.12(e), we also consider whether designating additional areas outside those currently occupied as well as those occupied at the time of listing is necessary to ensure the conservation of the species. These sources of information included, but were not limited to:

1. Data used to prepare the final rule to list the species;
2. Information from biological surveys;
3. Peer-reviewed articles, various agency reports and databases from the Washington Department of Natural Resources Natural Heritage Program and the Hanford National Monument/Saddle Mountain National Wildlife Refuge;
4. Information from the U.S. Department of Energy and other governmental cooperators;
5. Information from species experts;
6. Data and information presented in academic research theses; and
7. Regional Geographic Information System (GIS) data (such as species occurrence data, land use, topography, aerial imagery, soil data, and land ownership maps) for area calculations and mapping.

The long-term survival and recovery of Umtanum desert buckwheat and White Bluffs bladderpod is dependent upon protecting existing populations by maintaining ecological function within these sites, including preserving the integrity of the unique soils and connectivity between occurrences to facilitate pollinator activity. It is also dependent on maintaining these areas free of habitat-disturbing activities, including trampling, the exclusion of invasive, nonnative plant species, and managing the risk of wildfire. Because the areas of unique soils cover a relatively small area within the larger shrub steppe matrix, we did not restrict the designation to individual occupied patches, but included adequate adjacent shrub steppe habitat to provide for ecosystem function. This contiguous habitat provides the requisite physical or biological features for both Umtanum desert buckwheat and White Bluffs bladderpod, including diverse native flowering plants and habitat to support pollinators, and provides the essential feature of habitat free from disturbances, such as invasive species and recreational trampling. We used the following criteria to select areas for inclusion in critical habitat: (a) The geographical areas containing the entire distribution of habitat occupied by Umtanum desert buckwheat and White Bluffs bladderpod at the time of listing, because they are each found in only single populations and our goal is to maintain the current species extent and genetic variability; (b) areas that provide the physical and biological features necessary to support the species' life-history requirements; and (c) areas that provide connectivity within and between habitat for each species, and adjacent shrub steppe habitat that provides for pollinator life-history needs.

The first step in delineating critical habitat units was to identify all areas that contained Umtanum desert buckwheat or White Bluffs bladderpod populations, which was accomplished during the summer of 2011. We are designating critical habitat within and around all occurrences of both populations to conserve genetic variability. These areas are representative of the entire known historical geographic distribution of the species. We then analyzed areas outside the populations to identify unoccupied habitat areas essential for the conservation of the species. The designations take into account those features that are essential to Umtanum desert buckwheat or White Bluffs bladderpod and the condition of the surrounding landscape features necessary to support pollination.

We do not know if the lack of pollinators is a limiting factor, but in the absence of other information and knowing that both species are largely insect-pollinated, we believe it is prudent to identify an area adjacent to the occupied areas as unoccupied critical habitat to support pollinator species. The outer boundary of the critical habitat designation was primarily determined based on the flight distances of insect pollinators, which are essential to the conservation of both species. Using GIS, we included an area of native shrub steppe vegetation approximately 300 m (980 ft) around the population to provide habitat of sufficient quantity and quality to support Umtanum desert buckwheat and White Bluffs bladderpod. This boundary was selected because we believe it provides the minimum area needed to sustain an active pollinator community for both species, based on the best available scientific information (see Arnett 2011b; Evans pers. comm., 2001, discussed below). This distance does not include all surrounding habitat potentially used by pollinators, but provides sufficient habitat for those pollinators that nest, feed, and reproduce in areas adjacent to the occupied critical habitat areas.

Although Umtanum desert buckwheat and White Bluffs bladderpod are visited by a variety of likely pollinators, only one insect pollinator species has been verified to date; the bumblebee (*Bombus centralis*) has been confirmed as a pollinator for Umtanum desert buckwheat (Arnett 2011b, pers. comm.). As stated earlier, *Bombus* did not appear to be an appropriate surrogate to determine pollinator distance for either Umtanum desert buckwheat or White Bluffs bladderpod because of their relatively long-distance foraging capabilities. Instead, we delineated an effective pollinator use area based on the flight distances of solitary bees, a group of important noncolonial pollinators with a relatively limited flight distance. Research literature on flight distances was available for this group (Gathmann and Tscharntke (2002, p. 758), of which numerous representatives of the genera *Chelostoma, Megachile,* and *Osmia* are found in shrub steppe habitat in the Hanford Reach area. Species within other solitary bee genera such as *Andrena, Anthophora, Habropoda, Hoplitis,* and *Lasioglossum* have also been identified on the Hanford Installation (Evans 2011, pers. comm.). This methodology assumes that potential pollinators with long-range flight capabilities would be able to use this proximal habitat as well (see *Physical and Biological Features* section).

Because the population occurrences of Umtanum desert buckwheat and White Bluffs bladderpod are linear in arrangement, we established the occupied critical habitat areas by

connecting the known coordinates for occurrences, using GIS. The mean width for the occupied areas was estimated based on monitoring and transect data compiled by species experts. The estimated mean width for Umtanum desert buckwheat was determined to be 30 m (100 ft), and 50 m (165 ft) for White Bluffs bladderpod. We then established a 300-m (980-ft) unoccupied critical habitat polygon surrounding the mean occupied habitat width to identify insect pollinator habitat that is essential for the conservation of both species. We then mapped the critical habitat unit boundaries for each of the two species based on the above criteria, using aerial imagery, 7.5 minute topographic maps, contour data, WDNR Wildlife Natural Heritage Program and Washington Department of Transportation data to depict the critical habitat designation, gather ownership, and acreage information.

When determining critical habitat boundaries, we made every effort to avoid including developed areas such as lands covered by buildings, pavement, other structures, tilled farm lands and orchards on private property, because such lands lack physical or biological features for Umtanum desert buckwheat and White Bluffs bladderpod. The scale of the maps we prepared under the parameters for publication within the Code of Federal Regulations may not reflect the exclusion of such developed lands. Therefore, once the critical habitat designation is finalized, a Federal action involving such developed lands would not trigger section 7 consultation with respect to critical habitat and the requirement of no adverse modification, unless the specific action would affect the physical and biological features in the adjacent critical habitat.

Umtanum Desert Buckwheat

Space for Individual Population Growth and for Normal Behavior

Umtanum desert buckwheat is highly restricted in its distribution. The only known population occurs at elevations ranging between 340–400 m (1,115–1,310 ft) on flat to gently sloping substrate at the top edge of a steep, north-facing basalt cliff of Umtanum Ridge overlooking the Columbia River. Approximately 5,000 plants occur in a narrow band 1.6 km (1 mi) in length and generally less than 30 m (100 ft) wide (Reveal *et al.* 1995, p. 353). However, individual plants have been found up to 150 m (490 ft) above the cliff breaks (Arnett 2011b, pers. comm.), and scattered plants occur on the steep cliff-face below the breaks (Dunwiddie *et al.* 2001, p. 60).

Umtanum desert buckwheat is found exclusively on soils over exposed basalt from the Lolo Flow of the Wanapum Basalt Formation at the far southeastern end of Umtanum Ridge in Benton County, Washington. This type of landform in the lower Columbia Basin is determined by the underlying basalts, which may be exposed above the soil on ridge tops or where wind and water erode the fine soils away (Sackschewski and Downs 2001, p. 2.1.1). The Lolo flow surface material commonly has a high porosity and permeability. The cliff area has weathered to pebble- and gravel-sized pieces of vesicular basalt (basalt that contains tiny holes formed due to gas bubbles in lava or magma) and is sparsely vegetated where the species is found. It is unknown if the close association of Umtanum desert buckwheat with the lithosols of the Lolo Flow is related to the chemical composition or physical characteristics of the particular parent bedrock on which it is found, or other factors (Reveal *et al.* 1995, p. 354); however, that particular mineralogy is not known from any other location.

Therefore, based on the information above, we identify weathered Wanapum basalt cliffs, and adjacent outcrops, cliff breaks, and flat or gently sloping cliff tops with exposed pebble and gravel soils as a physical or biological feature essential to the conservation for Umtanum desert buckwheat.

Food, Water, Air, Light, Minerals, or Other Nutritional or Physiological Requirements

The presence of unique soil structure and/or chemistry may determine where a rare plant species exists. Umtanum desert buckwheat is found exclusively on pebbly lithosol soils over exposed basalt from the Lolo Flow of the Priest Rapids Member of the Wanapum Basalt Formation. The flow surface material commonly has a high porosity and permeability and typically contains small (<5 mm, (0.2 in)) crystals of the mineral olivine and rare (occasional) clusters of plagioclase crystals, and differs from the other members of the Wanapum Formation. Basalts of the Lolo Flow contain higher levels of titanium dioxide and lower levels of iron oxide than the neighboring Rosalia Flow, also of the Priest Rapids Member (Reidel and Fecht 1981, p. 3–13).

It is unknown if the distribution of Umtanum desert buckwheat prior to European settlement was different from the species' current distribution, but it is likely that the species has been confined to this location during at least the last 150 years, which indicates an isolated soil exposure, unique within the broader Columbia Basin landscape. The physiological and soil nutritional needs of Umtanum desert buckwheat are not known at this time. Other locations containing apparently suitable habitat have been intensively searched since the species' discovery in 1995, and no additional individuals or populations have been found to date. The factors limiting the species' distribution are unknown, but could be related to microsite differences (such as nutrient availability, soil microflora, soil texture, or moisture). Additional research is needed to determine the specific nutritional and physiological requirements for Umtanum desert buckwheat.

Therefore, based on the information above, we identify the pebbly lithosol talus soils derived from surface weathering of the Lolo Flow of the Priest Rapids Member of the Wanapum Basalt Formation as a physical and biological feature essential to the conservation for Umtanum desert buckwheat. These areas are sparsely vegetated, with less than 10 percent estimated total cover (including Umtanum desert buckwheat) within the population and less than 5 percent cover by species other than Umtanum desert buckwheat, and less than 1 percent nonnative or invasive plants (Arnett 2001, pers. comm.). Areas of sparse vegetation are required to minimize nonnative plant competition, minimize conditions that promote the accumulation of fuels, and provide for the recovery of the species.

Sites for Breeding, Reproduction, or Rearing (or Development) of Offspring

The availability of insect pollinators is essential to conserve Umtanum desert buckwheat. Based on the results of a pollinator exclusion study, the species is probably capable of at least limited amounts of self-pollination, although the percentage of seedset in the absence of pollinators appears to be low (TNC 1998, p. 8; Reveal *et al.* 1995, p. 355). A variety of potential insect pollinators has been observed on Umtanum desert buckwheat flowers, including ants, beetles, flies, spiders, moths, and butterflies (TNC 1998, p. 8). Wasps from the families *Vespidae* and *Typhiidae* and from the species *Criosciolia* have been observed near, but not on, the species. A bumble bee species, *Bombus centralis* (no common name), has also been observed utilizing the flowers of Umtanum desert buckwheat (Arnett 2011b, pers. comm.). Insect collection and identification efforts by Washington State University on the Hanford Reach

documented approximately 2,500 different species of invertebrates, 42 of which were new to science (WNPS 2004, p. 3).

Since pollination is essential to the conservation of Umtanum desert buckwheat, we evaluated alternatives for determining the effective pollinator distance for this species. Since specific known pollinators are mostly unknown for the species and the species is likely frequented by several pollinators, we investigated delineating an effective pollinator distance based on foraging distances of the species' only known pollinator, the bumble bee *(Bombus* spp.). Bumble bee species are internally guided to use a plant species as long as flowers are rewarding and nearby, but will otherwise change to different species (Chittka *et al.* 1997, p. 248). Foraging ranges for *Bombus* are greater and consistent within species; however, there are substantial differences between species in foraging ranges and the size of the areas they utilize. Knight *et al.* (2005, p. 1,816) observed a maximum foraging distance between 450–760 m (1,475–2,500 ft), and foraging ranges between 62–180 ha (150–450 ac), based on studies of four *Bombus* species. Because of these conspecific differences, we concluded that bumble bee foraging distances may not be representative of the suite of pollinators that may be available to Umtanum desert buckwheat. Based on the limited distribution of Umtanum desert buckwheat and the lack of foraging data for *Bombus centralis,* we determined that generalized *Bombus* foraging range data may not be an appropriate surrogate for determining Umtanum desert buckwheat pollinator distance requirements.

We next considered using the flight distances of solitary bees (individual, noncolonial bees) to determine the effective pollinator distance for the species. Numerous Families of this Order *(Hymenoptera)* have been observed in shrub steppe habitats within the Hanford Reach, including the Genera *Andrena, Anthophora, Chelostoma, Habropoda, Hoplitis, Lasioglossum, Megachile,* and *Osmia,* among others (Evans 2011, pers. comm.) and are likely to be among the pollinators of Umtanum desert buckwheat.

Solitary bees have fairly short foraging distances within similar habitat types, which is suggested as being between 150–600 m (495–1,970 ft) (Gathmann and Tscharntke (2002, pp. 760–762)). Three genera are found in common with those studied in Gathmann and Tscharntke (2002) in the Hanford Reach; *Chelostoma, Megachile,* and *Osmia.* Although the specific insect pollinator species and their foraging distances are not known, we believe 300 m (980 ft) represents a reasonable mid-range estimate of the area needed around the Umtanum desert buckwheat population to provide sufficient habitat for the pollinator community. As noted above, many other insects likely contribute to the pollination of this species, and some may travel greater distances than solitary bees. However, these pollinators may also forage, nest, overwinter, or reproduce within 300 m (980 ft) of Umtanum desert buckwheat plants. As a result, we limited the Umtanum desert buckwheat pollinator support area to 300 m (980 ft) around the population, based on the rationale that pollinators using habitat farther away may not be as likely to contribute to the conservation and recovery of this species.

Vegetation cover in the vicinity of Umtanum desert buckwheat is low when compared with other shrub steppe sites, which may be related to substrate chemistry. Common perennial associates and habitat for the pollinators listed above include *Artemisia tridentata* (Wyoming big sagebrush), *Grayia spinosa* (spiny hopsage), *Krascheninnikovia lanata* (winterfat), *Eriogonum sphaerocephalum* (round-headed desert buckwheat), *Salvia dorrii* (purple sage), *Hesperostipa comata* (needle and thread grass), *Pseudoroegneria spicata* (bluebunch wheatgrass), *Poa secunda* (Sandberg's bluegrass), *Sphaeralcea munroana* (Munro's globemallow), *Astragalus caricinus* (buckwheat milkvetch), and *Balsamorhiza careyana* (Carey's balsamroot). Common annual associates include *Bromus tectorum* (cheatgrass), *Sisymbrium altissimum* (tumblemustard), *Phacelia linearis* (threadleaf phacelia), *Aliciella leptomeria* (great basin gilia), *Aliciella sinuata* (rosy gilia), *Camissonia minor* (small evening primrose), *Mentzelia albicaulis* (whitestem blazingstar), and *Cryptantha pterocarya* (wing-nut cryptantha) (Reveal *et al.* 1995, p. 354; Caplow and Beck 1996, p. 40, Beck 2012, pers. comm.). Although percent vegetative cover is low in close proximity to *E. codium,* species diversity within the adjacent plant community is fairly high. Nearby vegetative patches with more dense vegetative cover offer increased vertical habitat structure and plant species diversity within the foraging distances of potential pollinators.

In order for Umtanum desert buckwheat genetic exchange to occur, pollinators must be able to move freely between plants. Additional pollen and nectar sources (other plant species within the surrounding sagebrush vegetation) are also needed to support pollinators when the species is not flowering. This surrounding and adjacent habitat will protect soils and pollinators from disturbance, slow the invasion of the site by nonnative species, and provide a diversity of habitats needed by Umtanum desert buckwheat and its pollinators. Therefore, based on the information above, we identify the presence of insect pollinators as a physical and biological feature essential to the conservation for Umtanum desert buckwheat. Insect pollinators require a diversity of native plants, whose blooming times overlap to provide sufficient flowers for foraging throughout the seasons, nesting and egg-laying sites, appropriate nesting materials, and sheltered, undisturbed places for hibernation and overwintering.

Habitats Protected From Disturbance or Representing Historical, Geographical, and Ecological Distributions

The Umtanum desert buckwheat population has a discontinuous distribution along a narrow, 1.6-km (1-mi) long portion of Umtanum Ridge (Dunwiddie *et al.* 2001, p. 59). The entire known population exists within a narrow corridor at the top edge of the steep, north-facing basalt cliffs where human traffic could be expected to concentrate. The plants respond negatively to trampling or crushing and are extremely sensitive following such damage. In one instance, within 2 days of being run over by trespassing dirt bikes, portions of damaged plants showed signs of further decline, and in some cases mortality, as evidenced by damaged plants that later died (TNC 1998, p. 62).

Fire appears to readily kill the slow-growing Umtanum desert buckwheat plants, especially in areas with higher fuel levels. Because of the rocky talus soils and a relatively low fire frequency, the species is confined to a few meters of upper cliff slope, cliff breaks, and tops. Fires increase the risk of invasion of nonnative or invasive species, particularly cheatgrass, which competes with Umtanum desert buckwheat for space and moisture. In turn, the establishment and growth of highly flammable and often continuous cheatgrass increases the likelihood of fire, potentially elevating the risk of impacting the Umtanum desert buckwheat population in the future. The substrate that supports Umtanum desert buckwheat likely had a lower vegetation cover prior to the introduction of cheatgrass in the 1800s. Fire is a primary threat to Umtanum desert

buckwheat, and will likely become a greater threat if the frequency or severity of fires increases (TNC 1998 p. 9; Dunwiddie *et al.* 2001, pp. 59, 62, 66).

Therefore, based on the information above, we identify the stable cliff and soil structure that is protected from human-caused trampling and at a low risk of wildfire as a physical and biological feature essential to the conservation for Umtanum desert buckwheat. This habitat contains little or no surface disturbance and is surrounded by diverse native pollinator habitat.

Primary Constituent Elements for Umtanum Desert Buckwheat

Under the Act and its implementing regulations, we are required to identify the physical and biological features essential to the conservation of Umtanum desert buckwheat, focusing on the features' primary constituent elements. We consider primary constituent elements to be the specific compositional elements of physical and biological features that are essential to the conservation of the species.

Based on our current knowledge of the physical or biological features and the habitat characteristics required to sustain the species' life-history process, we have determined that the primary constituent elements specific to Umtanum desert buckwheat are:

1. Primary Constituent Element 1—North to northeast facing, weathered basalt cliffs of the Wanapum Formation at the eastern end of Umtanum Ridge in Benton County that contain outcrops, cliff breaks, slopes, and flat or gently sloping cliff tops with exposed pebble and gravel soils;

2. Primary Constituent Element 2—Pebbly lithosol talus soils derived from surface weathering of the top of the Lolo Flow of the Priest Rapids Member of the Wanapum Formation;

3. Primary Constituent Element 3—Sparsely vegetated habitat (less than 10 percent total cover), containing low amounts of nonnative or invasive plant species (less than 1 percent cover);

4. Primary Constituent Element 4—The presence of insect pollinator species; and

5. Primary Constituent Element 5—The presence of native shrub steppe habitat within the effective pollinator distance (300 m (approximately 980 ft)) around the population.

Umtanum desert buckwheat occurs only as a single population located within a single site. With this designation of critical habitat, we intend to identify the physical and biological features essential to the conservation of the species, through the identification of the features' primary constituent elements sufficient to support the life-history processes of the species.

Special Management Considerations or Protection

When designating critical habitat, we assess whether the specific areas within the geographical area occupied by the species at the time of listing contain features that are essential to the conservation of the species and that may require special management considerations or protection. All areas designated as critical habitat as described below may require some level of management to address the current and future threats to the physical and biological features essential to the conservation of Umtanum desert buckwheat. In all of the described units, special management may be required to ensure that the habitat is able to provide for the biological needs of the species.

Further studies leading to an enhancement or reintroduction plan may be necessary to increase population size and prepare for recovery post-wildfire. More research is needed to determine habitats most suitable for expansion of the current population. In summary, special management considerations or protections should address activities that would be most likely to result in the loss of Umtanum desert buckwheat plants or the disturbance, compaction, or other negative impacts to the species' habitat. These activities could include, but are not limited to, recreational activities and associated infrastructure, off-road vehicle activity, dispersed recreation, wildfire, and wildfire suppression activities.

Special management considerations or protection will conserve the primary constituent elements for the species. Management activities that could ameliorate these threats include, but are not limited to, the fire management plan that has been completed for the Hanford installation (DOE 2011, p. 93) and recently revised to incorporate more detailed management objectives and standards. Though not intended to specifically address Umtanum desert buckwheat, implementation of this plan will contribute to the protection of the primary constituent elements (and physical or biological features) by: (1) Using a map of ''sensitive resources'' on the site during implementation, including the location of Umtanum desert buckwheat habitat; (2) requiring a biologist to assist the command staff in protecting these environments during wildfire suppression efforts; and (3) restricting public access to the entire Umtanum desert buckwheat site, including the pollinator use area. Public access without security clearance is currently prohibited at the Umtanum desert buckwheat site, reducing the risk of trampling or crushing the plants by ORV use. Special management to protect the designated critical habitat areas and the features essential to the conservation of Umtanum desert buckwheat from the effects of the current wildfire regime may include preventing or restricting the establishment of invasive, nonnative plant species, post-wildfire restoration with native plant species, and reducing the likelihood of wildfires affecting the population and nearby plant community components. These actions may be achieved by detailed fire management planning by the DOE, including rapid response and mutual support agreements between the DOE, the Monument, the U.S. Department of the Army, Bureau of Land Management, and the Washington Department of Fish and Wildlife for wildfire control. These agreements should contain sufficient detail to identify actions by all partners necessary to protect habitat for Umtanum desert buckwheat from fire escaping from other ownerships.

Final Critical Habitat Designation

We are designating one unit as critical habitat for the Umtanum desert buckwheat population. The critical habitat area described below constitutes our best assessment of areas that meet the definition of critical habitat for Umtanum desert buckwheat. Within this unit, no subunits have been identified.

The approximate size and ownership of the designated Umtanum Ridge critical habitat unit is identified in Table 3 below. The single unit contains currently occupied critical habitat and unoccupied habitat surrounding it.

TABLE 3—DESIGNATED CRITICAL HABITAT UNIT FOR UMTANUM DESERT BUCKWHEAT

[Area estimates reflect all land within the critical habitat unit boundaries; values are rounded to the nearest tenth]

Unit name	Land ownership	Occupied critical habitat in hectares (acres)	Unoccupied critical habitat in hectares (acres)	Percent by ownership	Total hectares (acres)
Umtanum Ridge, WA	Federal	5.7 (14.2)	133.5 (329.9)	100	139.3 (344.1)
	State	0	0	0	0
	Private	0	0	0	0
Unit Total		5.7 (14.2)	135.5 (329.9)	100	139.3 (344.1)

White Bluffs Bladderpod

Physical and Biological Features

Space for Individual and Population Growth and for Normal Behavior

White Bluffs bladderpod is only known from a single population that occurs in a narrow band approximately 10 m (33 ft) wide by 17 km (10.6 mi) long, at the upper edge of the White Bluffs of the Hanford Reach. The subspecies only occurs at the upper surface areas of a near-vertical exposure of paleosol (ancient, buried soil whose composition may reflect a climate significantly different from the climate now prevalent in an area). This surface material overlies several hundred feet of easily eroded sediments of the Ringold Geologic Formation, a sedimentary formation made up of soft Pleistocene lacustrine deposits of clay, gravel, sand, and silt (Newcomb 1958, p. 328).

The upper part of the Ringold Formation is a heavily calcified and silicified cap layer that exists to a depth of at least 4.6 m (15 ft). This layer is geologically referred to as ''caliche,'' although it lacks the nitrate constituents found in true caliche. The caliche-like layer is a resistant caprock underlying a 275–305 m (900–1,000 ft) plateau extending north and east from the White Bluffs (Newcomb 1958, p. 330).

The entire population of White Bluffs bladderpod is down-slope of irrigated agricultural land, and is being impacted to differing degrees by landslides induced by water-seepage (see Factor A). The potential for landslide is greatest in the southern portion of the subspecies' distribution where irrigated lands are closer to, or directly adjacent to, the bluffs (Lindsey 1997, p. 12). In addition, field investigations have determined that *Lesquerella* (now *Physaria*) plants can be outcompeted by nonnative, weedy plant species associated with irrigation projects and other disturbance (TNC 1998, p. 5).

Therefore, based on the information above, we identify the weathered cliffs at approximately 210–275 m (700–900 ft) above sea level of the White Bluffs of the Ringold Formation exposed by natural erosion as a physical and biological feature essential to the conservation for White Bluffs bladderpod. The habitat includes the adjacent cliff breaks, moderate to gentle slopes (<100 percent slope) to the toe of slope, and flat or gently sloping cliff tops with exposed alkaline paleosols. This habitat is stable with a minimal amount of landslide occurrence.

Food, Water, Air, Light, Minerals, or Other Nutritional or Physiological Requirements

The White Bluffs area was submerged during the larger ice-age floods until about 3 million years ago and was protected from high flow events by the Saddle Mountains to the north. As a result, the area experienced little or no erosion. A thin layer of ancient slackwater flood deposits overlay the older paleosols and resistant cap deposits (Bjornstad and Fecht 2002, p. 15). White Bluffs bladderpod occurs only on or near exposed, weathered, highly alkaline, calcium carbonate cap deposits and may be an obligate calciphile (a plant which grows well on chalky or alkaline soils), as are many of the endemic *Lesquerella* (now *Physaria)* species (Caplow 2006, p. 3).

White Bluffs bladderpod plants are found on several different types of soil substrates, (e.g., paleosol, volcanic tuff, caliche, and ancient flood deposits), each of which presumably have a relatively high percentage of calcium carbonate (TNC 1998, p. 5). The subspecies is occasionally observed on the lower slopes of the White Bluffs, which may be related to ancient landslide zones or weathering and disturbance factors that deposit alkaline soils down slope (Caplow and Beck 1996, p. 42). Although there are scattered small exposures of similar caliche substrate in coulees (i.e., deep ravines or gulches that are usually dry, although formed by water) to the north, surveys have failed to detect the subspecies in those areas (Rollins *et al.* 1996, p. 206). The physiological relationship between White Bluffs bladderpod and the high-calcium carbonate soils of the White Bluffs is uncertain; however, the particular combination of exposed soil types where the subspecies occurs is not known from any other location.

Therefore, based on the information above, we identify the weathered alkaline paleosols and mixed soils of the Ringold Formation that occur in a narrow band within and around the exposed caliche-like cap containing a high percentage of calcium carbonate as a physical and biological feature essential to the conservation of White Bluffs bladderpod. This habitat is associated with the White Bluffs, and occurs between 210–275 m (700–900 ft) in elevation.

Sites for Reproduction

Washington State University researchers on the Hanford Reach have identified approximately 2,500 different species of invertebrates, 42 of which are new to science (WNPS 2004, p. 3). Larvae of a species of *Cecidomyiid* fly have been observed infesting and destroying flowering buds of White Bluffs bladderpod, and another unidentified insect species has been observed boring small holes in young seed capsules and feeding on developing ovules, although the overall positive or negative effects of these insect species to the plant are unknown. White Bluffs bladderpod appears to be served by several pollinators, including butterflies, flies, wasps, bumblebees, moths, beetles, and ant species. The presence of nearby habitat for pollinators is essential to conserving White Bluffs bladderpod, although little is currently known about the reproductive biology of the subspecies. The effective pollinator distance for this subspecies was determined by applying research on known flight distances of solitary bees (individual, noncolonial bees), which are known to pollinate native species and commonly observed in shrub steppe habitat within the Hanford Reach. Research suggests that

different species of solitary bees have fairly short foraging distances within similar habitat types (Gathmann and Tscharntke 2002, p. 762); we assume other pollinating insects with longer-range flight capabilities would also utilize this habitat.

Solitary bees foraging distances within similar habitat types is suggested as being between 150–600 m (495–1,970 ft) (Gathmann and Tscharntke (2002, pp. 760–762)). Absent specific data, we believe 300 m (980 ft) represents a reasonable mid-range estimate of the area needed around the White Bluffs bladderpod population to provide sufficient habitat for solitary bees and other pollinators. As noted above, many other insects likely contribute to the pollination of White Bluffs bladderpod, some may travel greater distances than solitary bees, and some likely use habitat within the 300-m (980-ft) pollinator area described above. However, we limited the White Bluffs bladderpod pollinator support habitat to 300 m (980 ft) around the population, based on the rationale that pollinators using habitat farther away may not be as likely to contribute to the conservation/recovery of this species.

Common plant species associated with White Bluffs bladderpod include: *Artemisia tridentata* (big sagebrush), *Poa secunda* (Sandberg's bluegrass), *Astragalus caricinus* (buckwheat milk-vetch), *Eriogonum microthecum* (slender buckwheat), and *Achnatherum hymenoides* (Indian ricegrass). Occasionally White Bluffs bladderpod is numerous enough at some locations to be subdominant.

Species diversity within the surrounding plant community is quite high, and the presence of increased vegetative cover nearby offers more habitat structure and plant species diversity within the presumed effective flight distances of potential pollinators. In order for genetic exchange to occur between White Bluffs bladderpod individuals, pollinators must be able to move freely between plants. Additional pollen and nectar sources (other plant species within the surrounding sagebrush vegetation) are also needed to support pollinators during times when White Bluffs bladderpod is not flowering. This surrounding and adjacent habitat will protect soils and pollinators from disturbance, slow the invasion of the site by nonnative species, and provide a diversity of habitats needed by White Bluffs bladderpod and its pollinators.

Therefore, based on the information above, we identify insect pollinators as a physical and biological feature essential to the conservation for White Bluffs bladderpod. Insect pollinators require a diversity of native plants, surrounding and adjacent to White Bluffs bladderpod, whose blooming times overlap to provide them with sufficient flowers for foraging throughout the seasons and to provide nesting and egg-laying sites, appropriate nesting materials, and sheltered, undisturbed places for hibernation and overwintering of pollinator species.

Habitats Protected From Disturbance or Representing Historical, Geographical, and Ecological Distributions

White Bluffs bladderpod grows exclusively on the upper edge and upper face of the White Bluffs adjacent to the Columbia River, where human use can be high. The majority of the population occurs within the Wahluke Unit of the Hanford Reach National Monument/Saddle Mountain National Wildlife Refuge. The Wahluke Unit is open for public access in some form in its entirety (USFWS 2008, p. 2–4). The habitat is arid, and vegetation is sparse within the population (Rollins *et al.* 1996, p. 206). The area supporting the population has approximately 10–15 percent total vegetative cover. Species other than White Bluffs bladderpod comprise less than 5 percent cover, and nonnative or invasive plant species comprise less than 1 percent cover (Arnett 2011c, pers. comm.). Much of this area (85 percent) is on public land that is managed as an overlay national wildlife refuge on the Monument, and accessible by vehicle from a nearby State highway. Off-road vehicle (ORV) use can impact the subspecies by crushing plants, destabilizing the soil, and spreading seeds of invasive plants. Within White Bluffs bladderpod habitat, ORV activity is prohibited on the Hanford Reach National Monument lands, intermittent on other Federal lands, and is most common on private lands. ORV use increases soil disturbance and erosion, and has been observed to destroy White Bluffs bladderpod individuals since this activity more often takes place on the more moderate slopes where the subspecies occurs (Caplow and Beck 1996, p. 42).

Fire threatens White Bluffs bladderpod by directly burning plants and opening new areas to the establishment of invasive species. A large wildfire burned through the northern portion of the population in July 2007. The observed decline in the number of plants counted after the 2007 fire was within a natural range of variability (between highest and lowest counts) determined during survey transects. The 2008–2011 monitoring indicated the negative impacts of the burn were less than expected, since 76 percent of the previous population numbers were observed the following year. However, large-scale wildfires continue to be a threat to the existing population (Newsome 2008, pers. comm.; Goldie 2008, pers. comm.) by destroying pollinator habitat and facilitating competition with nonnative and invasive plant species that become established in openings created by wildfires.

Therefore, based on the information above, we identify stable bluff formations and caliche-like alkaline soils as a physical and biological feature essential to the conservation for White Bluffs bladderpod. These areas (1) are at a low risk of wildfire, (2) are not open to motorized recreational use, (3) are protected from human-caused trampling, (4) have little or no surface disturbance, (5) are sparsely vegetated (i.e., have 10 to 15 percent total vegetation cover), and (6) are surrounded by native pollinator habitat.

Primary Constituent Elements for White Bluffs Bladderpod

Under the Act and its implementing regulations, we are required to identify the physical and biological features essential to the conservation of White Bluffs bladderpod in areas occupied at the time of listing, focusing on the features' primary constituent elements. We consider primary constituent elements to be the specific compositional elements of physical and biological features that are essential to the conservation of the subspecies.

Based on our current knowledge of the physical or biological features and the habitat characteristics required to sustain the subspecies' life-history process, we have determined that the primary constituent elements specific to White Bluffs bladderpod are:

1. Primary Constituent Element 1—Weathered alkaline paleosols and mixed soils overlying the Ringold Formation. These soils occur within and around the exposed caliche-like cap deposits associated with the White Bluffs of the Ringold Formation, which contain a high percentage of calcium carbonate. These features occur between 210–275 m (700–900 ft) in elevation.

2. Primary Constituent Element 2—Sparsely vegetated habitat (less than 10–15 percent total cover), containing low amounts of nonnative or invasive plant species (less than 1 percent cover).

3. Primary Constituent Element 3—The presence of insect pollinator species.

4. Primary Constituent Element 4—The presence of native shrub steppe

habitat within the effective pollinator distance (300 m (approximately 980 ft)).

5. Primary Constituent Element 5—The presence of stable bluff formations with minimal landslide occurrence.

White Bluffs bladderpod occurs only as a single population found within a single location. With this designation of critical habitat, we intend to identify the physical and biological features essential to the conservation of the subspecies, through the identification of the appropriate quantity and spatial arrangement of the primary constituent elements sufficient to support the life-history processes of the subspecies and the geographic areas outside of the range of the species that provide habitat for pollinators and are essential to conservation of the subspecies.

Special Management Considerations or Protection

When designating critical habitat, we assess whether the specific areas within the geographical area occupied by the species at the time of listing contain features that are essential to the conservation of the species and that may require special management considerations or protection. Because the public can access the White Bluffs bladderpod population, there is increased risk for plants being trampled and the spread of nonnative or invasive plants. To address this concern, the Hanford National Monument may develop a management plan on lands within its jurisdiction to protect the areas designated as critical habitat for White Bluffs bladderpod, while continuing to allow the public to enjoy the area. Recreational access may be managed and controlled by directing foot traffic away from the subspecies, installing fencing, and establishing appropriate signage for pedestrians and ORV traffic across unprotected boundaries with private and State land.

Special management to protect the designated critical habitat areas from irrigation-induced landslides could include working with landowners through the U.S. Department of Agriculture (Natural Resources Conservation Service) to support water conservation practices to reduce excessive groundwater charging. This program could be designed to increase water efficiency as a savings and benefit to agricultural producers as well. Management considerations could include coordination with the Bureau of Reclamation to make water delivery to its customers more efficient and route wastewater return such that it reduces groundwater infiltration. Special management to protect the designated critical habitat area from the effects of wildfire may include preventing or restricting the establishment of invasive, nonnative plant species, post-wildfire restoration with native plant species, and reducing the likelihood of wildfires affecting the nearby plant community components. Many of these actions are already in place, and need only refinement through detailed fire management planning to protect designated critical habitat by the Monument.

In summary, special management considerations or protections should address activities that would be most likely to result in the loss of White Bluffs bladderpod plants or the disturbance, compaction, or other negative impacts to the subspecies' habitat through landslides or other means. These activities could include, but are not limited to, dispersed recreation, off-road vehicle activity, wildfire, and wildfire suppression activities.

Existing Conservation Measures

The Service has completed a comprehensive conservation plan for the Hanford National Monument that provides a strategy and general conservation measures for rare plants that may benefit White Bluffs bladderpod. This strategy includes support for monitoring, invasive species control, fire prevention, propagation, reintroduction and GIS support (USFWS 2008, pp. 2–64—2–65). The conservation of White Bluffs bladderpod is addressed by acknowledging that protection is needed, and that the plant is required to be addressed in any management action (USFWS 2008, p. 3–95).

Final Critical Habitat Designation

We are designating one unit as critical habitat for the White Bluffs bladderpod population. The critical habitat area described below constitutes our best assessment of that portion of the landscape that meets the definition of critical habitat for this population. Within this unit, no subunits have been identified. The approximate size and ownership of the White Bluffs critical habitat unit is identified in Table 4. The unit includes both occupied and unoccupied habitat.

TABLE 4—DESIGNATED CRITICAL HABITAT AREA FOR WHITE BLUFFS BLADDERPOD

[Area estimates reflect all land within critical habitat unit boundaries; values are rounded to the nearest tenth]

Unit name	Land ownership	Occupied critical habitat in hectares (acres)	Unoccupied critical habitat in hectares (acres)	Percent by ownership	Total hectares (acres)
White Bluffs	Federal	87 (216)	884 (2,184)	84	971 (2,400)
	State	2 (6)	14 (36)	2	17 (42)
	Private	19 (47)	151 (372)	15	170 (419)
Total		109 (269)	1,049 (2,592)	100	1,158 (2,861)

Effects of Critical Habitat Designation

Section 7 Consultation

Section 7(a)(2) of the Act requires Federal agencies, including the Service, to ensure that any action they fund, authorize, or carry out is not likely to jeopardize the continued existence of any endangered or threatened species, or result in the destruction or adverse modification of designated critical habitat of such species. In addition, section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any action which is likely to jeopardize the continued existence of any species listed under the Act or result in the destruction or adverse modification of designated critical habitat.

Decisions by the Fifth and Ninth Circuit Courts of Appeals have invalidated our regulatory definition of ''destruction or adverse modification'' (50 CFR 402.02) (see *Gifford Pinchot Task Force* v. *U.S. Fish and Wildlife Service,* 378 F.3d 1059 (9th Cir 2004) and *Sierra Club* v. *U.S. Fish and Wildlife Service et al.,* 245 F.3d 434, 442F (5th Cir 2001)), and we do not rely

on this regulatory definition when analyzing whether an action is likely to destroy or adversely modify critical habitat. Under the statutory provisions of the Act, the key factor in determining whether an action will destroy or adversely modify critical habitat is whether, with implementation of the proposed Federal action, the affected critical habitat would continue to serve its intended conservation role for the species.

If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency (action agency) must enter into consultation with us. Examples of actions that are subject to the section 7 consultation process are actions that require a Federal permit (such as a permit from the U.S. Army Corps of Engineers under section 404 of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or a permit from the Service under section 10 of the Act) or that involve some other Federal action (such as funding from the Natural Resources Conservation Service or the Bureau of Reclamation). Federal actions not affecting listed species or critical habitat, and actions on State, tribal, local, or private lands that are not federally funded or authorized, do not require section 7 consultation.

As a result of section 7 consultation, we document compliance with the requirements of section 7(a)(2) through our issuance of:

(1) A concurrence letter for Federal actions that may affect, but are not likely to adversely affect, listed species or critical habitat; or

(2) A biological opinion for Federal actions that may affect, or are likely to adversely affect, listed species or critical habitat.

When we issue a biological opinion concluding that a project is likely to jeopardize the continued existence of a listed species or destroy or adversely modify critical habitat, we provide reasonable and prudent alternatives to the project, if any are identifiable. We define ''reasonable and prudent alternatives'' (at 50 CFR 402.02) as alternative actions identified during consultation that:

(1) Can be implemented in a manner consistent with the intended purpose of the action;

(2) Can be implemented consistent with the scope of the Federal agency's legal authority and jurisdiction;

(3) Are economically and technologically feasible; and

(4) Would, in the Director's opinion, avoid the likelihood of jeopardizing the continued existence of the listed species or avoid the likelihood of destroying or adversely modifying critical habitat.

Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project. Costs associated with implementing a reasonable and prudent alternative are similarly variable.

Regulations at 50 CFR 402.16 require Federal agencies to reinitiate consultation on previously reviewed actions in instances where we have listed a new species or subsequently designated critical habitat that may be affected and the Federal agency has retained discretionary involvement or control over the action (or the agency's discretionary involvement or control is authorized by law). Consequently, Federal agencies sometimes may need to request reinitiation of consultation with us on actions for which formal consultation has been completed, if those actions with discretionary involvement or control may affect subsequently listed species or designated critical habitat.

Application of the Jeopardy and Adverse Modification Standards

Jeopardy Standard

The jeopardy analysis usually expresses the survival and recovery needs of the species in a qualitative fashion without making distinctions between what is necessary for survival and what is necessary for recovery. Generally, the jeopardy analysis would focus on the rangewide status of Umtanum desert buckwheat or White Bluffs bladderpod, the factors responsible for those conditions, and what is necessary for the species to survive and recover. An emphasis would also be placed on characterizing the conditions of these species and their habitat in the area that would be affected by a proposed Federal action, and the role of affected populations in the survival and recovery of either Umtanum desert buckwheat or White Bluffs bladderpod. That context would then be used to determine the significance of the adverse and beneficial effects of the proposed Federal action, and any cumulative effects for purposes of making the jeopardy determination.

Application of the ''Adverse Modification'' Standard

The key factor related to the adverse modification determination is whether, with implementation of the proposed Federal action, the affected critical habitat would continue to serve its intended conservation role for the species. Activities that may destroy or adversely modify critical habitat are those that alter the physical or biological features to an extent that appreciably reduces the conservation value of the critical habitat for Umtanum desert buckwheat or White Bluffs bladderpod. As discussed above, the role of critical habitat is to support the various life-history needs and provide for the conservation of both species.

Section 4(b)(8) of the Act requires us to briefly evaluate and describe in any proposed or final regulation that designates critical habitat, activities involving a Federal action that may destroy or adversely modify such habitat, or that may be affected by such designation.

Activities that may affect critical habitat, when carried out, funded, or authorized by a Federal agency, should result in consultation for Umtanum desert buckwheat or White Bluffs bladderpod. These activities include, but are not limited to:

(1) Actions within or near designated critical habitat areas that would result in the loss, disturbance, or compaction of unique soils at cliff breaks, slopes, and flat to gently sloping upper surface areas. Such activities could include, but are not limited to:

- Recreational activities and associated infrastructure;
- Off-road vehicle activity;
- Dispersed recreation;
- New road construction or widening or existing road maintenance;
- New energy transmission lines, or expansion of existing energy transmission lines;
- Maintenance of existing energy transmission line corridors;
- Wildfire suppression and post-wildfire rehabilitation activities;
- Activities that result in the burial of seeds such that germinants do not successfully reach the soil surface to flower and set seed;
- Activities that result in compaction that smoothes the surface, causing seeds to be carried away by wind or water due to the lack of rough surface textures to capture seed;
- Activities that result in changes in soil composition leading to changes in the vegetation composition, such as an increase in invasive, nonnative plant cover within and adjacent to cliff break microsites, resulting in decreased density or vigor of individual Umtanum desert buckwheat or White Bluffs bladderpod plants; and
- Activities that result in changes in soil permeability and increased runoff that degrades, reduces, or eliminates habitat necessary for growth and reproduction of either species.

(2) Actions within or near designated critical habitat areas that would result in the significant alteration of intact, native, sagebrush-steppe habitat within the range of Umtanum desert buckwheat or White Bluffs bladderpod. Such activities could include:

- ORV activities and dispersed recreation;
- New road construction or widening or existing road maintenance;
- New energy transmission lines or expansion of existing energy transmission lines;
- Maintenance of existing energy transmission line corridors;
- Fuels management projects such as prescribed burning; and
- Rehabilitation or restoration activities using plant species that may compete with Umtanum desert buckwheat or White Bluffs bladderpod, or not adequately address habitat requirements for insect pollinators.

These activities could result in the replacement or fragmentation of sagebrush-steppe habitat through the degradation or loss of native shrubs, grasses, and forbs in a manner that promotes increased wildfire frequency and intensity, and an increase in the cover of invasive, nonnative plant species that would compete for soil matrix components and moisture necessary to support the growth and reproduction of either species.

(3) Actions within or near designated critical habitat that would significantly reduce pollination or seed set (reproduction). Such activities could include, but are not limited to:

- Recreational development and associated infrastructure; and
- Use of pesticides, mowing, fuels management projects such as prescribed burning, and post-wildfire rehabilitation activities using plant species that may compete with Umtanum desert buckwheat or White Bluffs bladderpod.

These activities could prevent or reduce successful reproduction by removal or destruction of reproductive plant parts and could impact the habitat needs of generalist insect pollinators through habitat degradation and fragmentation, reducing the availability of insect pollinators for either species.

The occupied areas designated as critical habitat contain the physical and biological features essential to the conservation of Umtanum desert buckwheat and White Bluffs bladderpod, and are within the geographic area occupied by the species at the time of listing under the Act. The unoccupied areas are essential to the conservation of the species because they provide adjacent habitats needed by insect pollinators. Federal agencies would need to consult with us if a proposed action may affect a listed species and/or designated critical habitat, to ensure that their actions do not jeopardize the continued existence of the species, or destroy or adversely modify designated critical habitat.

Exemptions

Application of Section 4(a)(3) of the Act

The Sikes Act Improvement Act of 1997 (Sikes Act) (16 U.S.C. 670a) required each military installation that includes land and water suitable for the conservation and management of natural resources to complete an integrated natural resources management plan (INRMP) by November 17, 2001. An INRMP integrates implementation of the military mission of the installation with stewardship of the natural resources found on the base. Each INRMP includes:

(1) An assessment of the ecological needs on the installation, including the need to provide for the conservation of listed species;

(2) A statement of goals and priorities;

(3) A detailed description of management actions to be implemented to provide for these ecological needs; and

(4) A monitoring and adaptive management plan.

Among other things, each INRMP must, to the extent appropriate and applicable, provide for fish and wildlife management; fish and wildlife habitat enhancement or modification; wetland protection, enhancement, and restoration where necessary to support fish and wildlife; and enforcement of applicable natural resource laws.

The National Defense Authorization Act for Fiscal Year 2004 (Pub. L. 108–136) amended the Act to limit areas eligible for designation as critical habitat. Specifically, section 4(a)(3)(B)(i) of the Act (16 U.S.C. 1533(a)(3)(B)(i)) now provides: ''The Secretary shall not designate as critical habitat any lands or other geographical areas owned or controlled by the Department of Defense (DOD), or designated for its use, that are subject to an integrated natural resources management plan prepared under section 101 of the Sikes Act (16 U.S.C. 670a), if the Secretary determines in writing that such plan provides a benefit to the species for which critical habitat is proposed for designation.''

There are no DOD lands with a completed INRMP within the proposed critical habitat designation. Therefore, we are not exempting lands from this final designation of critical habitat for Umtanum desert buckwheat or White Bluffs bladderpod pursuant to section 4(a)(3)(B)(i) of the Act.

Exclusions

Application of Section 4(b)(2) of the Act

Section 4(b)(2) of the Act states that the Secretary must designate and revise critical habitat on the basis of the best available scientific data after taking into consideration the economic impact, national security impact, and any other relevant impact of specifying any particular area as critical habitat. The Secretary may exclude an area from critical habitat if he determines that the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat, unless he determines, based on the best scientific data available, that the failure to designate will result in the extinction of the species. The statute on its face, as well as the legislative history, is clear that the Secretary has broad discretion regarding which factor(s) to use and how much weight to give to any factor in making that determination.

Under section 4(b)(2) of the Act, the Secretary may exclude an area from designated critical habitat based on economic impacts, impacts on national security, or any other relevant impacts. In considering whether to exclude a particular area from the designation, we identify the benefits of including the area in the designation, identify the benefits of excluding the area from the designation, and evaluate whether the benefits of exclusion outweigh the benefits of inclusion. If the analysis indicates that the benefits of exclusion outweigh the benefits of inclusion, the Secretary may exercise his discretion to exclude the area only if such exclusion would not result in the extinction of the species.

Exclusions Based on Economic Impacts

Under section 4(b)(2) of the Act, we consider the economic impacts of specifying any particular area as critical habitat. In order to consider economic impacts, we prepared a draft economic analysis of the proposed critical habitat designation and related factors (USFWS 2011). The draft analysis was made available for public review from May 15 through July 16, 2012 (77 FR 28704). Following the close of the comment period, a final analysis of the potential economic effects of the designation was developed, taking into consideration the public comments and any new information (USFWS 2012). The final economic analysis is summarized below, and is available at *http://www.regulations.gov,* or upon request from the Manager, Washington Fish and

Wildlife Office (see **FOR FURTHER INFORMATION CONTACT** section).

The intent of the final economic analysis (FEA) is to quantify the economic impacts of all potential conservation efforts for Umtanum desert buckwheat and White Bluffs bladderpod; some of these costs will likely be incurred regardless of whether we designate critical habitat (baseline). The economic impact of the final critical habitat designation is analyzed by comparing scenarios both ''with critical habitat'' and ''without critical habitat.'' The ''without critical habitat'' scenario represents the baseline for the analysis, considering protections already in place for the species (e.g., under the Federal listing and other Federal, State, and local regulations). The baseline, therefore, represents the costs incurred regardless of whether critical habitat is designated. The ''with critical habitat'' scenario describes the incremental impacts associated specifically with the designation of critical habitat for the species. The incremental conservation efforts and associated impacts are those not expected to occur absent the designation of critical habitat for the species. In other words, the incremental costs are those attributable solely to the designation of critical habitat above and beyond the baseline costs; these are the costs we consider in the final designation of critical habitat. The analysis looks retrospectively at baseline impacts incurred since the species was listed, and forecasts both baseline and incremental impacts likely to occur with the designation of critical habitat.

The FEA also addresses how potential economic impacts are likely to be distributed, including an assessment of any local or regional impacts of habitat conservation and the potential effects of conservation activities on government agencies, private businesses, and individuals. Decision-makers can use this information to assess whether the effects of the designation might unduly burden a particular group or economic sector. The FEA quantifies economic impacts of Umtanum desert buckwheat and White Bluffs bladderpod conservation efforts related to section 7 consultation for the following categories of activity: (1) DOE permitting for livestock relocation activities; (2) recreational activities on the Monument; (3) Natural Resources Conservation Service (NRCS) technical and financial assistance programs to landowners to address water management issues; (4) implementation of habitat improvement actions by the Service; and (5) Bureau of Reclamation irrigation water management programs. A final analysis of the economic impacts of this designation of critical habitat (FEA) (USFWS 2012), is available as supporting information for the critical habitat designation.

The FEA evaluates potential economic impacts of the designation, considering land ownership, reasonably foreseeable land use activities, potential Federal agency actions within the area and section 7 consultation requirements, baseline conservation measures (i.e., measures that would be implemented regardless of the critical habitat designation), and incremental conservation measures (i.e., measures that would be attributed exclusively to the critical habitat designation).

The FEA concludes that incremental economic impacts are unlikely, given the species' narrow geographic range and the fact that any economic impacts related to conservation efforts to avoid adverse modification or destruction of critical habitat would be, for the most part, indistinguishable from those that would be required because of the listing of the species under the Act. Although unoccupied critical habitat areas are typically where incremental effects would be expected, in this case unoccupied critical habitat areas that support insect pollinators are immediately adjacent to occupied critical habitat. We anticipate that, in most cases, conservation measures or conservation recommendations would be identical, regardless of the critical habitat type. The FEA concludes that any incremental costs would be limited to additional administrative costs that would be borne by Federal agencies associated with section 7 consultations. During the development of the final designation, we will consider economic impacts, public comments, and other new information. Certain areas may be excluded from the final critical habitat designation under section 4(b)(2) of the Act and or implementing regulations at 50 CFR 424.19.

Our economic analysis did not identify any disproportionate costs that are likely to result from the designation, and we did not receive any comments in response to our assessment of the potential economic impacts of the proposed critical habitat designation. Consequently, the Secretary is not exerting his discretion to exclude any areas from this designation of critical habitat for Umtanum desert buckwheat or White Bluffs bladderpod based on economic impacts.

Exclusions Based on National Security Impacts

Under section 4(b)(2) of the Act, we consider whether there are lands owned or managed by the Department of Defense where a national security impact might exist. In preparing this final rule, we have determined that the lands within the designation of critical habitat for Umtanum desert buckwheat and White Bluffs bladderpod are not owned or managed by the Department of Defense and, therefore, we anticipate no impact to national security. Consequently, the Secretary is not exerting his discretion to exclude any areas from the final designation based on impacts on national security.

Exclusions Based on Other Relevant Impacts

Under section 4(b)(2) of the Act, we consider any other relevant impacts, in addition to economic impacts and impacts on national security. We consider a number of factors including whether the landowners have developed any Habitat Conservation Plans (HCPs) or other management plans for the area, or whether there are conservation partnerships that would be encouraged by designation of, or exclusion from, critical habitat. In addition, we look at any Tribal issues, and consider the government-to-government relationship of the United States with Tribal entities. We also consider any social impacts that might occur because of the designation.

In preparing this final rule, we have determined that there are currently no HCPs or other management plans that specifically address management needs for Umtanum desert buckwheat or White Bluffs bladderpod, and the final designation does not include any tribal lands or trust resources. We anticipate no impact to tribal lands, partnerships, or HCPs from this critical habitat designation. Accordingly, the Secretary is not exercising his discretion to exclude any areas from the final designation based on other relevant impacts.

Required Determinations

Regulatory Planning and Review (Executive Orders 12866 and 13563)

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

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative,

and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

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

Under the Regulatory Flexibility Act (RFA; 5 U.S.C. 601 *et seq.),* as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996, whenever an agency must publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the RFA to require Federal agencies to provide a certification statement of the factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities. In this final rule, we are certifying that the critical habitat designation for White Bluffs bladderpod will not have a significant economic impact on a substantial number of small entities (an analysis is not relevant to Umtanum desert buckwheat, since this species occurs exclusively on Federal land). The following discussion explains our rationale.

According to the Small Business Administration (SBA), small entities include small organizations, such as independent nonprofit organizations; small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents; as well as small businesses (13 CFR 121.201). Small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than $5 million in annual sales, general and heavy construction businesses with less than $27.5 million in annual business, special trade contractors doing less than $11.5 million in annual business, and agricultural businesses with annual sales less than $750,000. To determine if potential economic impacts to these small entities are significant, we consider the types of activities that might trigger regulatory impacts under this rule, as well as the types of project modifications that may result. In general, the term ''significant economic impact'' is meant to apply to a typical small business firm's business operations.

To determine if the rule could affect a substantial number of small entities, we consider the number of small entities affected within particular types of economic activities most likely to be affected. We apply the ''substantial number'' test individually to each industry to determine if certification is appropriate. However, the SBREFA does not explicitly define ''substantial number'' or ''significant economic impact.'' Consequently, to assess whether a ''substantial number'' of small entities is affected by this designation, this analysis considers the relative number of small entities likely to be impacted in an area. In some circumstances, especially with critical habitat designations of limited extent, we may aggregate across all industries and consider whether the total number of small entities affected is substantial. In estimating the number of small entities potentially affected, we also consider whether their activities have any Federal involvement.

Designation of critical habitat only affects activities authorized, funded, or carried out by Federal agencies. Some kinds of activities are unlikely to have any Federal involvement and so will not be affected by critical habitat designation. In areas where the species is present, Federal agencies already are required to consult with us under section 7 of the Act on activities they authorize, fund, or carry out that may affect Umtanum desert buckwheat or White Bluffs bladderpod. Federal agencies also must consult with us if their activities may affect critical habitat. Designation of critical habitat, therefore, could result in an additional economic impact on small entities due to the requirement to reinitiate consultation for ongoing Federal activities (see *Application of the ''Adverse Modification Standard''* section).

In our final economic analysis of the critical habitat designation, we evaluated the potential economic effects on small business entities resulting from conservation actions related to the listing of White Bluffs bladderpod and the designation of critical habitat. In estimating the numbers of small entities potentially affected, we also considered whether their activities have any Federal involvement. Since the predominant private land use that could be impacted by the critical habitat designation for White Bluffs bladderpod appears to be irrigated agriculture, we focused our RFA and SBREFA analyses to that particular activity. The designation is focused on Federal, State, and private lands that contain occupied habitat and the adjacent areas with native shrub steppe vegetation that provides nearby habitat for insect pollinators. Lands that are under agricultural use are not included in the critical habitat designation.

In 2007, Franklin County, Washington, had 891 farms, which encompassed 246,664 ha (609,046 ac) and had an average farm size of 277 ha (684 ac), (*http://www.co.franklin.wa.us/assessor/demo_countywide.html*). The Franklin County data indicates that 393,025 acres were in irrigated agriculture. The market value of agricultural products sold was $467 million, and the net cash return from agricultural sales was $116.8 million. For purposes of this analysis, we assumed the entire critical habitat designation on private lands (170 ha (419 ac)) could be used for irrigated agriculture, to determine the scope of maximum impact for the designation on small entities (i.e., the worst-case scenario). Although the FEA does not differentiate between the acreage most likely suitable for agricultural use and the acreage not suitable for such use, much of the 170 ha (419 ac) is steep, and contains numerous cliffs, high gradient draws, and areas of active and dormant soil fracturing and sloughing. Accordingly, the FEA represents an upper bound, and likely overstates the potential economic impacts to small entities.

Based on Franklin County, Washington, 2007 agricultural data, the designation would overlay approximately 1/10 of 1 percent of the total irrigated acres (159,175 ha (393,025 ac)) in the county. Approximately 65 percent of the total land in farms (609,046 acres) consists of irrigated acreage (393,025 acres). The 2007 irrigated-acres value would proportionally represent approximately $304 million of the total market value of all agricultural products sold ($467 million). Each irrigated acre, therefore, proportionally represents approximately $724 in value/year, based on the 2007 data. Based on this calculation, the maximum economic impact for the entire 419 acres of private land

designated as critical habitat would be $303,559 if all acreage were conducive to and planned for irrigation agricultural use. However, since much of this acreage is not suitable for agriculture based on topography, the actual economic impact would likely be considerably less. Based on this analysis (see Table 5), the designation of critical habitat within the 419 acres of private property would not have a significant economic impact on a substantial number of small entities. Since the average size of a farm in Franklin County, Washington, is 277 ha (684 ac), 170 ha (419 ac) represents approximately 61 percent of the size of one average farm; there are 891 farms in the County. Each private property acre within the critical habitat designation potentially represents approximately $724 in annual value based on 2007 data, although a substantial percentage of this acreage is not conducive to agricultural use because of steep topography and erosion potential. In addition, the designation of critical habitat would not affect private property unless a proposed development activity required Federal authorization or involved Federal funding, which consideration is uncertain.

TABLE 5—POTENTIAL UPPER BOUND ECONOMIC IMPACT TO PRIVATE LAND OF THE CRITICAL HABITAT DESIGNATION FOR WHITE BLUFFS BLADDERPOD *

Description	Variable	Value
1. Total land in farms (acres)	(a)	609,046
2. Lands in irrigated farms (acres)	(b)	393,025
3. Market value agricultural products sold	(c)	$467,014,000
4. Net cash return from agricultural sales	(d)	$116,803,000
5. Designated critical habitat acres	(e)	419
6. Percent of (a) represented by (b): [(b) ÷ (a)]	(f)	65%
7. Proportional (d) represented by (b): [(b) × 0.65]	(g)	$303,559,100
8. Percentage of (b) represented by (e): [(e) ÷ (b)]	(h)	0.001%
9. Proportional value of (g) represented by (e): [(g) × (h)]	(i)	$303,559
10. Proportional value (i) per acre (e): [(i) ÷ (e)]	(j)	$724

* Based on 2007 Franklin County tax assessor data.

Other than the above 170 ha (419 ac), the remainder of the areas designated as critical habitat for White Bluffs bladderpod are either on State or Federal lands. Federal and State governments are not considered small entities for purposes of our RFA analysis.

Based on the best available scientific and commercial data, we have not identified a significant number of small entities that may be impacted by the critical habitat designation, based on land ownership information. Small entities are consequently anticipated to bear a relatively low-cost impact as a result of the designation of critical habitat for White Bluffs bladderpod. We did not receive any comments expressing disagreement, interest, or concern regarding our assessment of the potential economic impacts of the critical habitat designation. In summary, we considered whether this designation would result in a significant economic effect on a substantial number of small entities. Based on the above reasoning and currently available information, we concluded that this rule would not result in a significant economic impact on a substantial number of small entities. Therefore, we are certifying that the designation of critical habitat for White Bluffs bladderpod will not have a significant economic impact on a substantial number of small entities, and a regulatory flexibility analysis is not required.

Energy Supply, Distribution, or Use—Executive Order 13211

Executive Order 13211 (Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use) requires agencies to prepare Statements of Energy Effects when undertaking certain actions.

Seventeen high-voltage transmission lines cross the Monument boundaries, 11 of which cross the Hanford Reach. There are also two electric substations and several microwave towers located within the Monument boundaries. Periodic patrols and 24-hour access for emergency replacement of failed equipment are required for these facilities, and lines are patrolled by helicopter usually three times each year to assess potential problem areas. Helicopters may also be used in lieu of ground vehicles for maintenance or repairs (FWS 2008, p. 3–168). Other than an existing Bonneville Power Administration (BPA) overhead transmission line near the Umtanum desert buckwheat population on lands administered by the Department of Energy (DOE), there are no energy facilities within the footprint of the designated critical habitat boundaries. The BPA has existing agreements with the DOE (the agency managing the land where the Umtanum desert buckwheat population occurs) for management of transmission line rights-of-way, access roads, microwave tower lines-of-sight, electric power substations, and other sites. The BPA will likely need to expand its existing transmission system in the vicinity of the Monument to meet future needs for moving electricity from generation sources in Montana, northern Idaho, and northeastern Washington to load centers in the Pacific Northwest.

Any activities related to transmission system expansion would first require study and analysis under the National Environmental Policy Act and coordination with the DOE and FWS to ensure protection of the Monument's natural and cultural resources (USFWS 2008, p. 3–169). This analysis would be required regardless of the designation of critical habitat for Umtanum desert buckwheat or White Bluffs bladderpod. However, we have no information indicating that new energy projects are planned for areas within the boundaries of the designated critical habitat units, or that any of the maintenance activities described above would affect either the Umtanum desert buckwheat or White Bluffs bladderpod populations. Accordingly, we do not expect the designation of this critical habitat to significantly affect energy supplies, distribution, or use.

The Office of Management and Budget (OMB) has provided guidance for implementing this Executive Order when undertaking certain actions. OMB has provided guidance for implementing this Executive Order that outlines nine outcomes that may constitute ''a significant adverse effect'' when compared to not taking the regulatory action under consideration,

which include: (1) Reductions in crude oil supply in excess of 10,000 barrels per day; (2) reductions in fuel production in excess of 4,000 barrels per day; (3) reductions in coal production in excess of 5 million tons per year; (4) reductions in natural gas production in excess of 25 million cubic feet per year; (5) reductions in electricity production in excess of 1 billion kilowatts hours per year or in excess of 500 megawatts of installed capacity; (6) increases in energy use required by the regulatory action that exceed thresholds (1) through (6) above; (7) increases in the cost of energy production in excess of one percent; (8) increases in the cost of energy distribution in excess of one percent; and (9) other similarly adverse outcomes. None of these criteria are relevant to this analysis. Thus, based on information in the economic analysis, energy-related impacts associated with Umtanum desert buckwheat and White Bluffs bladderpod conservation activities within critical habitat are not expected. As such, the designation of critical habitat is not expected to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action, and no Statement of Energy Effects is required.

Unfunded Mandates Reform Act

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

This rule will not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute, or regulation that would impose an enforceable duty upon State, local, or Tribal governments, or the private sector, and includes both ''Federal intergovernmental mandates'' and ''Federal private sector mandates.'' These terms are defined in 2 U.S.C. 658(5)–(7). ''Federal intergovernmental mandate'' includes a regulation that ''would impose an enforceable duty upon State, local, or [T]ribal governments'' with two exceptions. It excludes ''a condition of Federal assistance.'' It also excludes ''a duty arising from participation in a voluntary Federal program,'' unless the regulation ''relates to a then-existing Federal program under which $500,000,000 or more is provided annually to State, local, and [T]ribal governments under entitlement authority,'' if the provision would ''increase the stringency of conditions of assistance'' or ''place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding,'' and the State, local, or Tribal governments ''lack authority'' to adjust accordingly. At the time of enactment, these entitlement programs were: Medicaid; Aid to Families with Dependent Children work programs; Child Nutrition; Food Stamps; Social Services Block Grants; Vocational Rehabilitation State Grants; Foster Care, Adoption Assistance, and Independent Living; Family Support Welfare Services; and Child Support Enforcement. ''Federal private sector mandate'' includes a regulation that ''would impose an enforceable duty upon the private sector, except (i) a condition of Federal assistance or (ii) a duty arising from participation in a voluntary Federal program.''

The designation of critical habitat does not impose a legally binding duty on non-Federal government entities or private parties. Under the Act, the only regulatory effect is that Federal agencies must ensure that their actions do not destroy or adversely modify critical habitat under section 7. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency. Furthermore, to the extent that non-Federal entities are indirectly impacted because they receive Federal assistance or participate in a voluntary Federal aid program, the Unfunded Mandates Reform Act would not apply, nor would critical habitat shift the costs of the large entitlement programs listed above onto State governments.

We do not believe that this rule will significantly or uniquely affect small governments because it would not produce a Federal mandate of $100 million or greater in any year; that is, it is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act. The final economic analysis concludes that, for Federal agencies, section 7 consultation costs under the section 7(a)(2) jeopardy standard for an informal consultation with third party involvement are estimated to be $7,200. Adding a critical habitat component to the section 7 consultation would increase that cost to $7,920. The section 7 consultation costs under the section 7(a)2 jeopardy standard for a formal consultation with third party involvement was estimated to be $15,000, and adding a critical habitat component to the section 7 consultation would increase that cost to $16,500. The lands within this critical habitat designation are predominantly owned by the Department of Energy and the Department of the Interior. By definition, Federal agencies are not considered small entities, although the activities they fund or permit may be proposed or carried out by small entities. Given the limited incremental costs and the predominant Federal ownership of lands affected by the critical habitat designation, we do not believe that the critical habitat would significantly or uniquely affect small government entities. As such, a Small Government Agency Plan is not required.

Takings—Executive Order 12630

In accordance with Executive Order 12630 (Government Actions and Interference with Constitutionally Protected Private Property Rights), this rule is not anticipated to have significant takings implications. As discussed above, the designation of critical habitat affects only Federal actions. Although private parties that receive Federal funding, assistance, or require approval or authorization from a Federal agency for an action may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency. Because of the relationship between occupied and unoccupied critical habitat and the status of the species, the draft economic analysis predicted an adverse modification determination would in most cases result in a jeopardy finding for the same action. In addition, we concluded in the final economic analysis that this rule would not result in a significant economic impact on a substantial number of small entities. Therefore, the designation of critical habitat for White Bluffs bladderpod will not have a significant economic impact. No comments were received on the draft economic analysis, and no additional information is available regarding its conclusion regarding incremental effects. We therefore believe the conclusions regarding incremental effects of the designation are valid. Any incremental regulatory burdens attributed to the designation of critical habitat would be expected to be minimal and predominantly associated with additional administrative costs related to section 7 consultations. The takings implications assessment concludes that the designation of critical habitat for Umtanum desert buckwheat and White Bluffs bladderpod does not pose a significant takings implication for lands within or affected by the designation.

Federalism—Executive Order 13132

In accordance with Executive Order 13132 (Federalism), this rule does not have significant Federalism effects. A federalism impact summary statement is not required. In keeping with Department of the Interior policy, we requested information from, and coordinated development of, this critical habitat designation with the appropriate State resource agencies in Washington. We did not receive comments from any State of Washington government agencies. The designation of critical habitat in areas currently occupied by Umtanum desert buckwheat and White Bluffs bladderpod may impose no additional regulatory restrictions to those currently in place and, therefore, has little incremental impact on State and local governments and their activities. The designation may have some benefit to these governments because the areas that contain the physical or biological features essential to the conservation of the species are more clearly defined, and the elements of the features of the habitat necessary to the conservation of the species are specifically identified. This information does not alter where and what federally sponsored activities may occur. However, it may assist local governments in long-range planning (rather than having them wait for case-by-case section 7 consultations to occur).

Where State and local governments require approval or authorization from a Federal agency for actions that may affect critical habitat, consultation under section 7(a)(2) would be required. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency.

Civil Justice Reform—Executive Order 12988

In accordance with Executive Order 12988 (Civil Justice Reform), the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the Executive Order. We are designating critical habitat in accordance with the provisions of the Act. This final rule identifies the elements of physical and biological features essential to the conservation of Umtanum desert buckwheat and White Bluffs bladderpod within the designated areas to assist the public in understanding the habitat needs of the species.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This rule does not contain any new collections of information that require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This rule will not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. 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.

National Environmental Policy Act (NEPA) (42 U.S.C. 4321 et seq.)

It is our position that, outside the jurisdiction of the U.S. Court of Appeals for the Tenth Circuit, we do not need to prepare environmental analyses as defined by NEPA (42 U.S.C. 4321 *et seq.*) in connection with designating critical habitat under the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This position was upheld by the U.S. Court of Appeals for the Ninth Circuit (*Douglas County* v. *Babbitt,* 48 F.3d 1495 (9th Cir. 1995), cert. denied 516 U.S. 1042 (1996)).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, Government-to-Government Relations with Native American Tribal Governments (59 FR 22951), Executive Order 13175, and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. In accordance with Secretarial Order 3206 of June 5, 1997, ''American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act'', we readily acknowledge our responsibilities to work directly with Tribes in developing programs for healthy ecosystems, to acknowledge that tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Native American Indian culture, and to make information available to Tribes. We determined that there are no tribal lands that are either occupied by Umtanum desert buckwheat or White Bluffs bladderpod at the time of listing that contain the features essential for conservation of the species, or unoccupied by these species and essential to their conservation. Therefore, we are not designating any Tribal lands as critical habitat for either Umtanum desert buckwheat or White Bluffs bladderpod. The Confederated Tribes and Bands of the Yakima Nation indicated they have interest in protecting and managing resources occurring in the Ceded Territories designated under the Treaty of 1855. The Tribe submitted a letter stating they are supportive of the ''Federal special status listing'' of Umtanum desert buckwheat and White Bluffs bladderpod.

References Cited

A complete list of all references cited in this final rule is available on the Internet at *http://www.regulations.gov,* or upon request from the Manager, Washington Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT** section).

Author(s)

The primary authors of this final rule are the staff members of the Central Washington Field Office.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Regulation Promulgation

Accordingly, we hereby amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; 4201–4245, unless otherwise noted.

■ 2. In § 17.96, amend paragraph (a) by adding an entry for ''*Physaria douglasii* subsp. *tuplashensis* (White Bluffs bladderpod)'' in alphabetical order under Family Brassicaceae and an entry for ''*Eriogonum codium* (Umtanum desert buckwheat)'' in alphabetical order under Family Polygonaceae to read as follows:

§ 17.96 Critical habitat—plants.

(a) *Flowering plants.*

* * * * *

Family Brassicaceae: *Physaria douglasii* subsp. *tuplashensis* (White Bluffs bladderpod)

(1) The critical habitat unit is depicted for Franklin County, Washington, on the map at paragraph (5) of this entry.

(2) The primary constituent elements of the physical and biological features essential to the conservation of critical habitat for *Physaria douglasii* subsp. *tuplashensis* are the following:

(i) Weathered alkaline paleosols and mixed soils overlying the Ringold Formation. These soils occur within and around the exposed caliche-like cap deposits associated with the White Bluffs of the Ringold Formation, which contain a high percentage of calcium carbonate. These features occur between 210–275 m (700–900 ft) in elevation.

(ii) Sparsely vegetated habitat (less than 10–15 percent total cover), containing low amounts of nonnative or invasive plant species (less than 1 percent cover).

(iii) The presence of insect pollinator species.

(iv) The presence of native shrub steppe habitat within the effective pollinator distance (300 m (approximately 980 ft)).

(v) The presence of stable bluff formations with minimal landslide occurrence.

(3) Critical habitat does not include irrigated private lands or manmade structures (such as buildings, pavement, or other structures) and the land on which they are located existing within the legal boundaries on the effective date of this rule.

(4) This critical habitat unit was mapped using Universal Transverse Mercator, Zone 11, North American Datum 1983 (UTM NAD 83) coordinates. These coordinates establish the vertices of the unit boundaries. The map in this entry, as modified by any accompanying regulatory text, establish the boundaries of the critical habitat designation. The coordinates or plot points or both on which the map is based are available to the public at the field office internet site (*http://www.fws.gov/wafwo/HanfordPlants/FLFCH.html*), *http://www.regulations.gov* at Docket No. FWS–R1–ES–2013–0012, and at the Service's Washington Fish and Wildlife Office. You may obtain field office location information by contacting one of the Service regional offices, the addresses of which are listed at 50 CFR 2.2.

(5) *Note:* Map of critical habitat for *Physaria douglasii* subsp. *tuplashensis* (White Bluffs bladderpod) follows:

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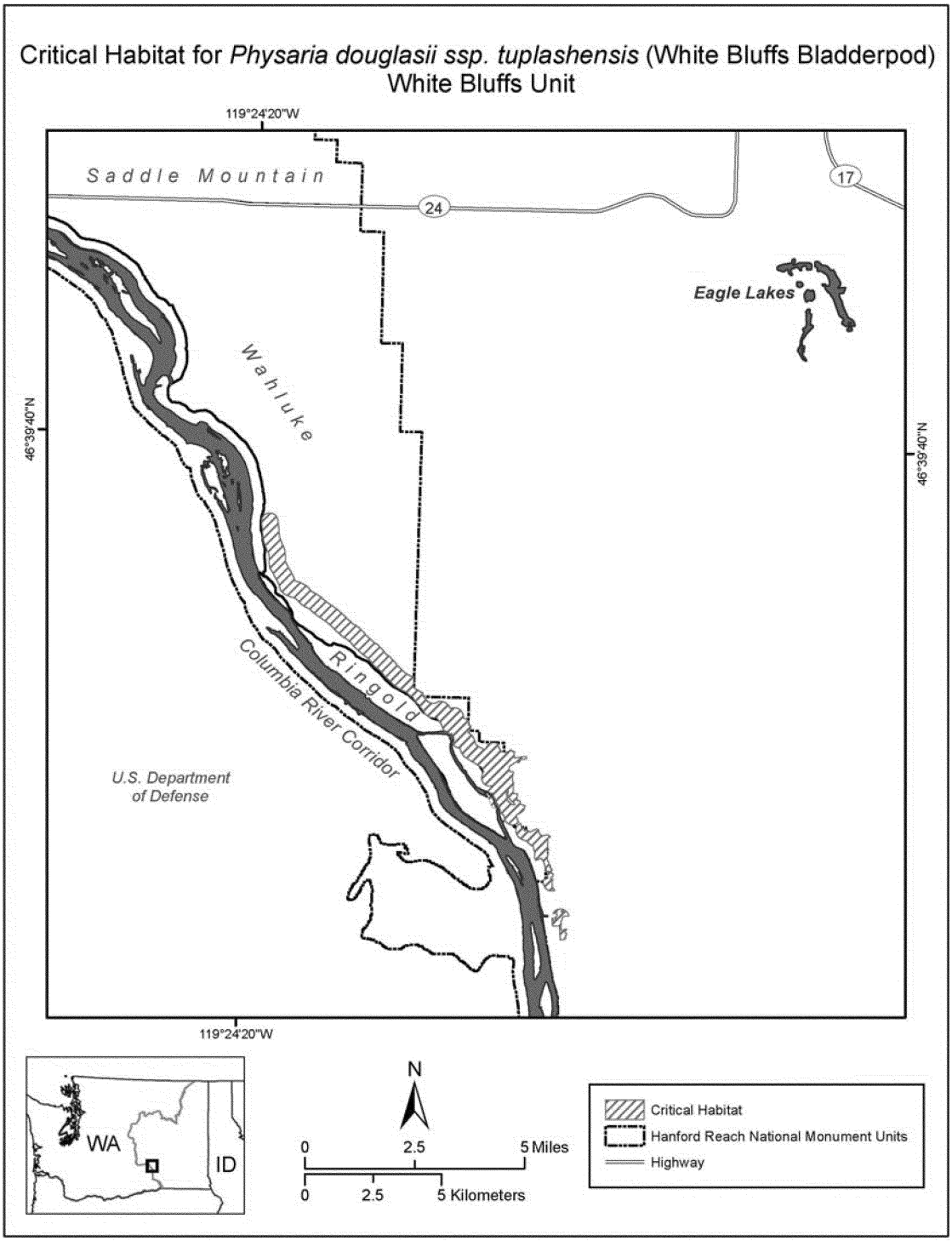


* * * * *

Family Polygonaceae: *Eriogonum codium* (Umtanum desert buckwheat)

(1) The critical habitat unit is depicted for Benton County, Washington, on the map at paragraph (5) of this entry.

(2) The primary constituent elements of the physical and biological features essential to the conservation of *Eriogonum codium* are the following:

(i) North- to northeast-facing, weathered basalt cliffs of the Wanapum Formation at the eastern end of Umtanum Ridge in Benton County that contain outcrops, cliff breaks, slopes, and flat or gently sloping cliff tops with exposed pebble and gravel soils.

(ii) Pebbly lithosol talus soils derived from surface weathering of the top of the Lolo Flow of the Priest Rapids Member of the Wanapum Formation.

(iii) Sparsely vegetated habitat (less than 10 percent total cover), containing low amounts of nonnative or invasive plant species (less than 1 percent cover).

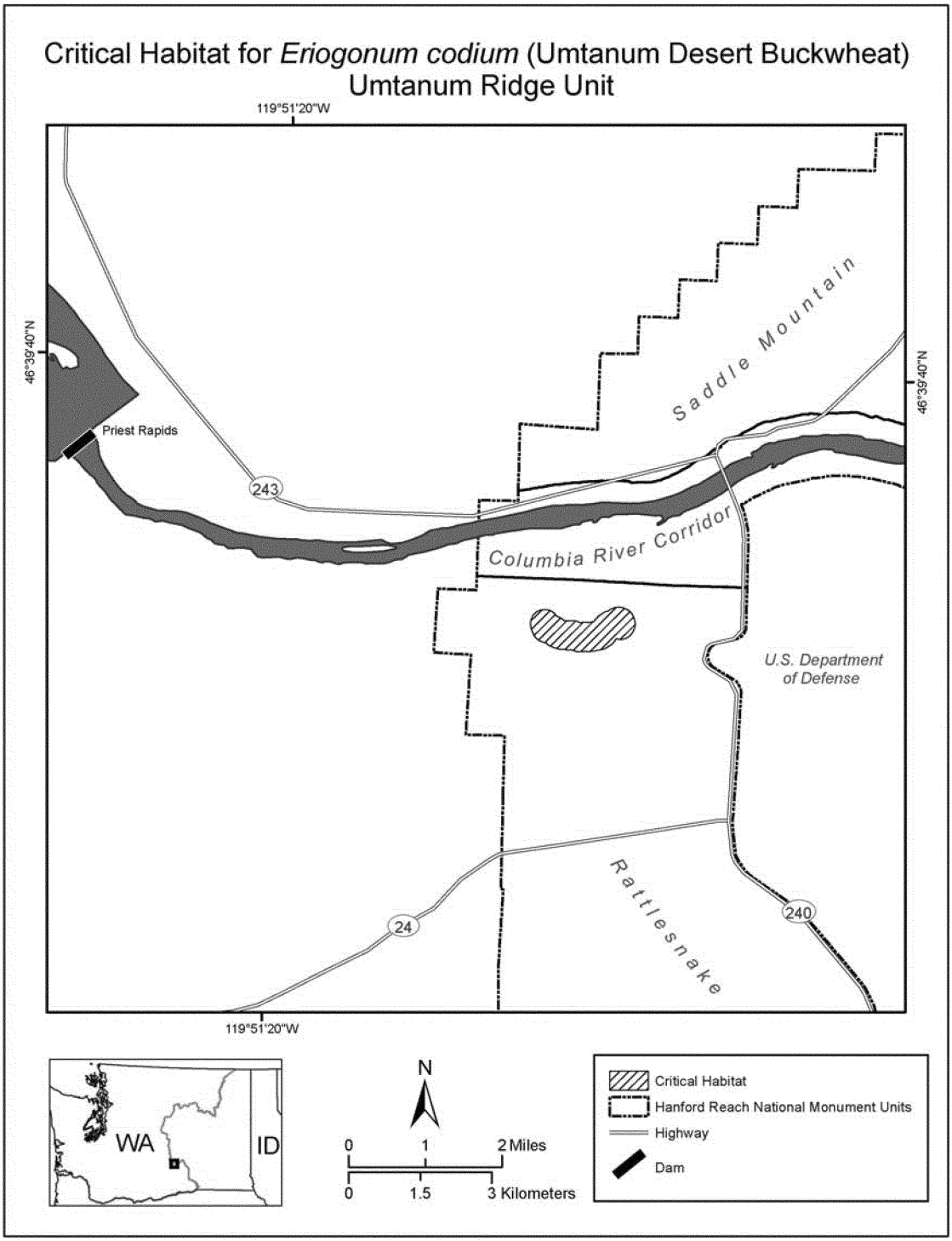
(iv) The presence of insect pollinator species.

(v) The presence of native shrub steppe habitat within the effective pollinator distance (300 m (approximately 980 ft)) around the population.

(3) Critical habitat does not include manmade structures (such as buildings, pavement, or other structures) and the land on which they are located existing within the legal boundaries on the effective date of this rule.

(4) This critical habitat unit was mapped using Universal Transverse Mercator, Zone 11, North American Datum 1983 (UTM NAD 83) coordinates. These coordinates establish the vertices of the unit boundaries. The maps in this entry, as modified by any accompanying regulatory text, establish the boundaries of the critical habitat designation. The coordinates or plot points or both on which the map is based are available to the public at the field office Internet site (*http://www.fws.gov/wafwo/HanfordPlants/FLFCH.html*), *http://www.regulations.gov* at Docket No. FWS–R1–ES–2013–0012, and at the Service's Washington Fish and Wildlife Office. You may obtain field office location information by contacting one of the Service regional offices, the addresses of which are listed at 50 CFR 2.2.

(5) *Note:* Map of critical habitat for *Eriogonum codium* (Umtanum desert buckwheat) follows:



* * * * *

Dated: April 12, 2013.

Rachel Jacobson,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2013–09404 Filed 4–22–13; 8:45 am]

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S. 716/P.L. 113–7
To modify the requirements under the STOCK Act regarding online access to certain financial disclosure statements and related forms. (Apr. 15, 2013; 127 Stat. 438)
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