persons to comment on this rule is provided. Thirty days is deemed appropriate because the review of these listings was widely publicized through an ANPR and two NOSB meeting notices; the use or prohibition of these substances, as applicable, are critical to organic production and handling; and this rulemaking must be completed before the sunset date of November 3, 2013.

List of Subjects in 7 CFR Part 205

Administrative practice and procedure, Agriculture, Animals, Archives and records, Imports, Labeling, Organically produced products, Plants, Reporting and recordkeeping requirements, Seals and insignia, Soil conservation.

For the reasons set forth in the preamble, 7 CFR part 205 is amended as follows:

PART 205—NATIONAL ORGANIC PROGRAM

■ 1. The authority citation for 7 CFR part 205 continues to read as follows:

Authority: 7 U.S.C. 6501–6522.

§ 205.605 [Amended]

■ 2. Section 205.605 is amended by removing ''Tartaric acid—made from malic acid'' from paragraph (b).

Dated: April 30, 2013.

David R. Shipman,

Administrator, Agricultural Marketing Service.

[FR Doc. 2013–10556 Filed 5–2–13; 8:45 am]

BILLING CODE 3410–02–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

RIN 3150–AI30

[NRC–2009–0044]

Revisions to the Petition for Rulemaking Process

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is proposing to amend its regulations to streamline its process for addressing petitions for rulemaking (PRMs). The proposed amendments are intended to improve transparency and make the PRM process more efficient and effective.

DATES: Submit comments by July 17, 2013. Comments received after this date will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2009–0044. Address questions about NRC dockets to Carol Gallagher; telephone: 301–492–3668; email: *Carol.Gallagher@nrc.gov*. For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Email comments to: Rulemaking.Comments@nrc.gov.* If you do not receive an automatic email reply confirming receipt, then contact us at 301–415–1677.
- *Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101.
- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.

FOR FURTHER INFORMATION CONTACT: Christina England, Office of Nuclear Reactor Regulation, telephone: 301–415–3138, email: *Christina.England@nrc.gov*, or Cindy Bladey, Office of Administration, telephone: 301–492–3667, email: *Cindy.Bladey@nrc.gov*; U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Accessing Information and Submitting Comments
II. Background
III. Discussion
IV. Availability of Documents
V. Section-by-Section Analysis
VI. Plain Writing
VII. Voluntary Consensus Standards
VIII. Environmental Impact: Categorical Exclusion
IX. Paperwork Reduction Act Statement
X. Regulatory Analysis
XI. Regulatory Flexibility Certification
XII. Backfitting and Issue Finality

I. Accessing Information and Submitting Comments

A. Accessing Information

Please refer to Docket ID NRC–2009–0044 when contacting the NRC about the availability of information for this proposed rule. You may access information related to this proposed rule, which the NRC possesses and is publicly available, by any of the following methods:

- Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2009–0044.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* In addition, for the convenience of the reader, the ADAMS accession numbers are provided in a table in the section of this document entitled, Availability of Documents.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2009–0044 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Background

The NRC's requirements, policies, and practices governing the PRM process have remained substantially unchanged since their initial issuance in 1979 (44 FR 61322; October 25, 1979). During the past 20 years, the NRC has received an average of nine PRMs per year and plans its budget and assigns resources based

on this average. Recently, however, some years have experienced a dramatic increase in the number of PRMs submitted for consideration, docketing 25 PRMs in Fiscal Year (FY) 2011 alone. Those increases in PRMs have presented a significant resource challenge to the NRC.

In a memorandum to the other Commissioners entitled ''Streamlining the NRR [Office of Nuclear Reactor Regulation] Rulemaking Process'' (COMNJD–06–0004/COMEXM–06–0006) and dated April 7, 2006 (ADAMS Accession No. ML060970295), Chairman Nils J. Diaz and Commissioner Edward McGaffigan, Jr., proposed that, because of the general increase in rulemaking activities, the NRC staff should streamline its rulemaking process by removing unnecessary constraints, while simultaneously enhancing transparency of and public participation in the process. The memorandum also invited the development of additional mechanisms for ''streamlining and increasing the transparency of the rulemaking process, thus allocating the appropriate level of resources for the most important rulemaking actions and ensuring that the staff's hands are not tied by perceived or real procedural prerequisites that are necessary for a given rulemaking.''

In a staff requirements memorandum (SRM) dated May 31, 2006 (ADAMS Accession No. ML061510316), responding to COMNJD–06–0004/COMEXM–06–0006, the Commission directed the NRC staff to undertake numerous measures to streamline the rulemaking process, including a direction to evaluate the overall effectiveness of the recently completed interoffice Rulemaking Process Improvement Implementation Plan (ADAMS Accession No. ML031360205) and to ''further seek to identify any other potential options that could streamline the rulemaking process.'' The Commission also instructed the NRC staff to identify other potential options that could streamline the rulemaking process for all program offices.

In response to the Commission's directives, the NRC staff provided its recommendations to the Commission in SECY–07–0134, ''Evaluation of the Overall Effectiveness of the Rulemaking Process Improvement Implementation Plan,'' dated August 10, 2007 (ADAMS Accession No. ML071780644). A recommendation to review the NRC's PRM process with the objective to reduce the time needed to complete an action was included in SECY–07–0134. The NRC staff also recommended that the NRC review the procedures used by other Federal agencies to process PRMs in order to identify best practices that could make the NRC's PRM process more timely and responsive, while also ensuring that PRMs are handled in an open and transparent manner and in compliance with the Administrative Procedure Act (APA), Title 5 of the *United States Code* (U.S.C.), Section 551 *et seq.* In an SRM responding to SECY–07–0134, dated October 25, 2007 (ADAMS Accession No. ML072980427), the Commission indicated support for the NRC staff's recommendation to review the PRM process: ''The Petition for Rulemaking process needs some increased attention and improvement. The staff's overall effort to improve the petition for rulemaking process should focus on provisions that would make the NRC's process more efficient while improving the process' transparency and consistency.''

Concurrently, in an SRM responding to COMGBJ–07–0002, ''Closing Out Task Re: Rulemaking on [part 51 of Title 10 of the *Code of Federal Regulations* (10 CFR)] Tables S–3 and S–4,'' dated August 6, 2007 (ADAMS Accession No. ML072180094), the Commission directed the NRC staff to ''consider developing a process for dispositioning a petition in a more effective and efficient manner so that existing petitions that are deemed old can be closed out in a more timely manner and prevent future petitions from remaining open for periods longer than necessary.''

To implement the Commission's directions, the NRC staff examined the regulations, policies, procedures, and practices that govern the NRC's PRM process, as well as the practices and processes used by several other Federal agencies to resolve PRMs. This proposed rule reflects the NRC's goal to make its PRM process more efficient and effective, while enhancing transparency and maintaining the opportunity for public participation.

III. Discussion

The administrative procedures that a Federal agency must follow in issuing a rule are codified in the APA, 5 U.S.C. 553. Paragraph 553(e) provides that ''[e]ach agency shall give an interested person the right to petition for the issuance, amendment, or repeal of a rule.'' In addition, 5 U.S.C. 555(e) provides that ''[p]rompt notice shall be given of the denial in whole or in part of a written application, petition, or other request of an interested person made in connection with any agency proceeding'' and that ''[e]xcept in affirming a prior denial or when the denial is self-explanatory, the notice shall be accompanied by a brief statement of the grounds for denial.'' However, the APA does not provide further detail on how agencies should disposition a PRM or what constitutes ''prompt'' notice.

The NRC's requirements for rulemaking are set forth in 10 CFR part 2, ''Agency Rules of Practice and Procedure,'' subpart H, ''Rulemaking.'' In particular, 10 CFR 2.802, ''Petition for rulemaking,'' and 2.803, ''Determination of petition,'' establish the NRC framework for disposition of a petition for rulemaking concerning NRC regulations. The NRC's requirements for PRMs have remained substantially unchanged since their initial issuance in 1979, and the NRC's processes and procedures for PRMs historically have been established by and implemented through internal NRC policies and practices. To improve the PRM process, the NRC has reviewed both its regulatory framework associated with the PRM process and its internal policies, procedures, and practices.

A. NRC's Current PRM Process

Much of the NRC's PRM process historically has been established by and implemented through internal policies and practices. The proposed rule would codify NRC requirements currently included in its internal policies and practices regarding PRMs to increase transparency, and provide greater clarity to the public.

In the current process, upon receipt of a PRM, the NRC acknowledges receipt to the petitioner and publishes a notice of receipt in the **Federal Register** to inform the public that the NRC has received the PRM. The NRC also notifies the petitioner in writing of the agency's action when it publishes a final rule or denial notice related to the PRM. The proposed rule would codify these actions. If the NRC determines that the petition has merit and should be considered in a rulemaking, the NRC's rulemaking process (including regulatory basis development, as described in the following paragraphs) may delay final disposition of a PRM by several years.

After docketing a PRM, the NRC evaluates the PRM and determines the course of action it will take with regard to the petitioner's requests. The NRC may deny the PRM, in whole or in part, and inform the petitioner of its reasons for the denial. In the alternative, the NRC may decide that the PRM has merit by considering it, in whole or in part, in a new, planned, or ongoing rulemaking. Though the NRC has made this determination, final disposition of the PRM does not occur until the NRC has completed all regulatory action on the

PRM by formally denying the PRM requests or by publishing a final rule that addresses the requested changes. For PRM issues considered in a new, planned, or ongoing rulemaking action, final disposition of the PRM issues does not occur until the final rule is published. If the new, planned, or ongoing rulemaking action is subsequently determined to be unnecessary and abandoned, final disposition does not occur until the NRC formally denies the PRM issues that were to be included in the abandoned rulemaking action.

Generally, the NRC strives to complete rulemakings within 2 years of initiation. However, initiation of a new rule does not occur until the regulatory basis for the rulemaking is complete. Developing the regulatory basis for a rulemaking requires consideration of all applicable technical, policy, and legal issues, as well as the costs and benefits, related to the potential rulemaking. This process may take several years. Because of resource constraints, completing a regulatory basis for rulemakings categorized as lower priority may take even longer. As such, 3 or more years may pass between the NRC's determination of which course of action to follow on a PRM and the agency's final disposition of the PRM by publishing the final rule addressing the PRM issues in the **Federal Register**.

Under current regulations, PRMs are considered ''open'' until the final rule is published, despite the NRC's decision to address the petitioner's issues in a rulemaking action and its progress toward final disposition of the PRM. Because of this ''open'' status, the petitioner, other stakeholders, and the public are likely to be unaware of the NRC's progress or determination of the PRM's merits. As part of its internal practice, the NRC strives to notify the petitioner and the public once it has made a determination on whether to consider the PRM issues in the rulemaking process. This proposed rule would codify and explain the process for administratively closing a PRM docket and notifying the public of the NRC's determination on the merits. This process would result in greater transparency of the NRC's course of action toward final disposition of a PRM.

B. Need for Improvements in the PRM Process

The NRC has limited resources available for processing PRMs, and the increases in PRMs have presented significant resource challenges to the NRC. For example, the NRC historically publishes for public review and comment the majority of PRMs that it receives. However, the PRMs published for public comment include some PRMs that do not provide sufficient information for NRC staff or public stakeholder evaluation. Additionally, some PRMs are published for public comment that do not warrant further consideration (i.e., when the NRC's regulations already provide what the PRM is requesting or when the scope of the PRM is outside the regulatory authority of the NRC). An earlier review identifying insufficient and infeasible PRMs would reduce the number of PRMs that are docketed and require full review by the NRC. Additionally, an initial sufficiency and feasibility screening review would promote more efficient use of rulemaking resources by focusing efforts on the remaining PRMs that contain sufficient information for a detailed review.

C. Proposed Changes to the PRM Process

The proposed rule would: (1) Clarify and codify NRC's current policies and practices on the NRC's actions upon receipt of a PRM and at other stages of the PRM process; (2) clarify and improve the current policies and practices for evaluating PRMs, and communicating to the petitioner and the public information on the status of PRMs and rulemaking activities addressing PRMs; and (3) improve the process for resolving PRMs, including establishing an administrative process for closing the PRM docket to reflect agency action for the PRM. The proposed amendments are intended to enhance the consistency, timeliness, and transparency of the NRC's actions and to increase the efficient use of the NRC's resources in the PRM process.

The NRC is proposing the following changes to its regulations for the PRM process:

1. Section 2.802(a) would be amended to reflect updates in the NRC's internal system for receiving electronic submissions of PRMs. Petitioners submitting PRMs through email would be instructed to send the PRM to *Rulemaking.Comments@nrc.gov.*

2. Section 2.802(b), which contains the requirements concerning consultation assistance that the NRC staff may provide to the petitioner, would be expanded beyond the pre-filing stage, allowing petitioners to consult directly with the NRC staff before and after filing a PRM with the NRC. The proposed language in paragraphs (b)(1)–(3) would clarify what consultation assistance is permitted.

3. The information that a petitioner must include in a PRM pursuant to § 2.802(c) would be clarified and expanded. With these revisions, the NRC intends to reduce the number of insufficient PRMs submitted at the onset of the PRM review process by specifying the information that must be included for a PRM to be accepted for docketing. The existing criteria at § 2.802(c)(1)–(3) used to determine whether a PRM is complete would be revised to improve clarity and to specify information requirements such as a statement of the problems or issues addressed in the petition; a statement of the petitioner's proposed solution; an analysis, discussion, or argument linking how the proposed solution would solve the identified problems or issues; and other relevant information, including specific technical, scientific, or other information needed to support the petitioner's request. It would also include a cross reference to the requirements of 10 CFR 51.68 that must be met by certain petitioners seeking exemptions from 10 CFR parts 30, 31, 32, 33, 34, 35, 36, 39, 40 or part 70 of this chapter concerning the exemption from licensing and regulatory requirements of or authorizing general licenses for any equipment, device, commodity or other product containing byproduct material, source material or special nuclear material. These revisions would reduce the potential for delay associated with requesting additional information needed to clarify or support insufficient PRMs.

4. The proposed amendments in § 2.802(e) would distinguish requirements for petitioners who are participants in an NRC licensing proceeding from requirements for petitioners who are not participants in an NRC licensing proceeding. Further, the proposed amendments would provide more precise instructions for petitioners requesting suspension of licensing proceedings related to a petition for rulemaking. Petitioners who are participants in an NRC licensing proceeding related to their PRMs would be required to file a motion that complies with the requirements in 10 CFR part 2, subpart C, ''Rules of General Applicability: Hearing Requests, Petitions to Intervene, Availability of Documents, Selection of Specific Hearing Procedures, Presiding Officer Powers, and General Hearing Management for NRC Adjudicatory Hearings.'' Requirements for petitioners who are not participants in an NRC licensing proceeding related to their PRMs would be listed in § 2.802(e)(2), including the following requirements: concurrent submission of both the suspension request and the PRM,

service on the applicant by the petitioner of both the suspension request and the PRM, and certification that copies of both the suspension request and the PRM have been provided to all participants and the presiding officer of the related licensing proceeding.

5. Section 2.802(e) would be replaced with new information that would inform petitioners where to submit a request to amend or withdraw their PRMs and what information to include in their request, namely the docket number the NRC assigned to the PRM (e.g., PRM–50–52) and the date the PRM was submitted originally. The proposed replacement language would ease administrative difficulties on the NRC staff because an amendment or withdrawal request would be linked more quickly with the related PRM docket, which would streamline the PRM process. Also, the proposed replacement language would advise the petitioner where to submit these requests, which would enhance the availability of information and transparency of the PRM process.

6. All current provisions in § 2.802 addressing the NRC's actions on a PRM would be removed from this section and transferred to § 2.803. As restructured, § 2.803 would contain all of the NRC's actions on a PRM, with the exception of PRMs on design certification rules from applicants that intend to supply the design (currently in §§ 2.811–2.817). The NRC currently performs the following actions upon receipt of a PRM: The NRC notifies the petitioner of receipt as described in proposed § 2.803(a) and evaluates the PRM, including any information submitted under proposed § 2.803(c), according to the acceptance criteria in proposed § 2.803(b). Internal policy has historically dictated this process, and the NRC is proposing to add a provision in the regulations to codify this process.

7. The acceptance criteria and acceptance review process described in existing § 2.802(e) would be moved to proposed § 2.803(b) and amended to state clearly that the NRC will not accept a PRM for review if it does not include the information required under current § 2.802(c). The acceptance review process also would be modified to add two new criteria in § 2.803(b) and (c): Before accepting a PRM for docketing, the NRC would perform a screening review to ensure that the changes requested in the petition are within the legal authority of the NRC and that the PRM raises a potentially valid issue that warrants further detailed consideration by the NRC (e.g., confirm that the NRC's regulations do not already provide what the PRM is requesting and that the issue is not already under consideration by the Commission).

8. Information on the NRC's discretion to request public comment on a PRM, currently in § 2.802(e), and the NRC's discretion to hold a hearing on a PRM, currently discussed in § 2.803, would be moved to proposed § 2.803(g) and amended for clarity.

9. The addition of specific criteria under proposed § 2.803(h) for the NRC's full review of a PRM would establish the considerations that the NRC may take into account when making a determination on the course of action to resolve a PRM. The NRC's process for disposition of a PRM historically has been contained in internal policy, and the NRC is proposing to place these considerations in the regulations to enhance the transparency of its PRM process. These proposed considerations for resolving a PRM are based on the NRC's last 30 years of experience in processing PRMs, insights from the NRC initiative to streamline its PRM process, and information from the NRC's review of other agencies' PRM regulations and practices. The proposed considerations would allow the NRC to examine the merits of the PRM, the immediacy of the concern, the availability of NRC resources, whether the NRC is already considering the issues in other NRC processes, the relative priority of the issues raised in the PRM, any public comments (if comments are requested), and the NRC's past decisions and current policy on the issues raised in the PRM.

10. The process for administrative closure of a PRM docket, once the NRC has determined its course of action for the PRM would be provided in § 2.803(h)(2). The proposed requirements would provide two categories, derived from the NRC's recent review of the PRM process, for closing a PRM docket once the NRC has determined its course of action: (1) Denial of the PRM in its entirety, indicating a determination not to pursue a rulemaking action to address the issues raised in the PRM (this would also constitute final ''resolution'' of the PRM); or (2) initiation of a rulemaking action addressing some or all the requested rule changes in the PRM. Initiation of a rulemaking action may take one of two forms: (i) Initiation of a new, ''standalone'' rulemaking focused on some or all of the matters raised in the PRM; or (ii) integration of the PRM into an existing or planned rulemaking process (including the early stages of an NRC effort to decide whether to pursue rulemaking, e.g., when the NRC is considering whether to develop a regulatory basis or to issue an advance notice of proposed rulemaking). In either case, the PRM docket would be closed, although the PRM itself would not be completely and finally ''resolved'' until the NRC acts on the last remaining portion of the PRM's request. Final NRC action on the PRM (''resolution'') would be a final rule addressing the petitioner's requested changes, a final rule addressing some (but not all) of the petitioner's requested changes, or a notice published in the **Federal Register** of the NRC's decision not to address the petitioner's requested changes in a rulemaking action.

11. In § 2.803(h)(2)(ii), three common examples of potential rulemaking actions would be provided to inform the petitioner of potential rulemaking paths for granting a PRM: (1) Initiate a new rulemaking; (2) address the PRM in an ongoing rulemaking; or (3) address the PRM in a planned rulemaking. The NRC would publish a **Federal Register** notice to inform the public of its determined course of action, which would enhance transparency of the NRC's PRM process and communicate better the NRC's planned approach to the PRM. Implementing this process would enhance the NRC's ability to close PRMs efficiently and effectively.

12. Section 2.803(i)(2) would explain that the NRC will notify the petitioner in writing and also publish a notice in the **Federal Register** if the NRC closes a PRM under § 2.802(h)(2)(ii) but subsequently decides not to carry out the planned rulemaking to publication of a final rule. These notices would explain the basis for the NRC's decision not to carry out the planned rulemaking to publication and not to include the PRM in a rulemaking action.

13. The addition of § 2.803(i) would explain how a PRM ultimately is resolved under the APA and would distinguish final resolution of a PRM from administrative closure of a PRM docket, described in proposed § 2.803(h)(2). Resolution of a PRM occurs when the NRC publishes a **Federal Register** notice informing the public that any planned regulatory action related to the PRM has been concluded. For rulemaking actions, resolution requires publication in the **Federal Register** of the final rule related to the PRM, which would include a discussion of how the published final rule addresses the issues raised in the PRM. Also, proposed § 2.803(i) would note that the NRC's denial of the PRM or the petitioner's withdrawal of the PRM at any stage of the regulatory process would conclude all planned regulatory action related to the PRM. As

applicable, the **Federal Register** notice resolving the PRM would include a discussion of the NRC's grounds for denial or information on the withdrawal request that the petitioner submitted. The NRC is no longer publishing a semiannual summary of PRMs, so language in existing § 2.802(g) would be removed. Proposed new paragraphs § 2.803(j)(1) and (3) would explain that the public may view the status of rulemakings currently active with the Commission at *http://www.nrc.gov/reading-rm/doc-collections/rulemaking-ruleforum/rulemaking-dockets/index.html* and the most current information on PRMs at *http://www.nrc.gov/reading-rm/doc-collections/rulemaking-ruleforum/petitions-by-year.html*. The new language would inform the public that it also may view the status of currently active rulemakings and PRMs at *http://www.regulations.gov*. Using the Federal rulemaking Web site, *http://www.regulations.gov* (regulations.gov), would meet the requirement in the e-Government Act of 2002 that agencies use a single, Governmentwide resource for rulemaking activities to enhance transparency to the public. Proposed § 2.803(j)(2) would establish that the NRC will include a summary of planned and ongoing rulemakings in the Governmentwide *Unified Agenda of Federal Regulatory and Deregulatory Actions* (Unified Agenda). The Unified Agenda is a semiannual compilation of summaries of the proposed and final rules that each Federal agency expects to issue during the next year. Summaries from the Unified Agenda for rules that are likely to have a significant economic impact on a substantial number of small entities are published in the **Federal Register**; and the full edition of the Unified Agenda is available online at the Office of Management and Budget (OMB) Web site *http://www.Reginfo.gov* and at the NRC Web site *http://www.nrc.gov/reading-rm/doc-collections/rulemaking-ruleforum/unified-agenda.html.* By providing information about using online resources to determine the status of disposition of PRMs, the proposed regulatory language would enhance the availability of information and transparency of the PRM process.

14. In addition, the NRC is proposing certain administrative changes to the regulations, including the reorganization of regulatory sections in §§ 2.802 and 2.803 as described herein. These changes would include amending § 2.811 to conform to the proposed changes to §§ 2.802 and 2.803.

IV. Availability of Documents

The following documents referenced in this **Federal Register** notice are available either through ADAMS or at the NRC's PDR:

Document	PDR	ADAMS	ADAMS Accession No.
COMNJD–06–0004/COMEXM–06–0006—"Streamlining the NRR Rulemaking Process"	X	X	ML060970295
SRM–COMNJD–06–0004/COMEXM–06–0006—"Streamlining the NRR Rulemaking Process"	X	X	ML061510316
SECY–03–0131—"Rulemaking Process Improvement Implementation Plan"	X	X	ML031360205
SECY–07–0134—"Evaluation of the Overall Effectiveness of the Rulemaking Process Improvement Implementation Plan"	X	X	ML071780644
SRM–SECY–07–0134—"Evaluation of the Overall Effectiveness of the Rulemaking Process Improvement Implementation Plan"	X	X	ML072980427
SRM–COMGBJ–07–0002—"Closing out Task Re: Rulemaking on Tables S–3 and S–4"	X	X	ML072180094

V. Section-by-Section Analysis

A. Section 2.802 Petition for Rulemaking—Requirements for Filing

Paragraph (a) of § 2.802, which informs petitioners on how to submit a PRM, would be revised to clarify and update the PRM filing process. Proposed paragraph (a) would describe the subject of the paragraph by providing a heading, *Filing a petition for rulemaking;* specify the regulations subject to a PRM by indicating that the regulations governing nuclear energy are contained under chapter I of Title 10 of the CFR; remove the option for petitioners to transmit PRMs by facsimile; establish that PRMs may be submitted electronically, by email, to *Rulemaking.Comments@nrc.gov*; and remove all references to the guidance available for electronic submissions.

Paragraph (b) of § 2.802, which provides the process by which a prospective petitioner may consult with the NRC before filing a PRM, would be revised to permit consultation with the NRC both before and after filing a PRM. Proposed paragraph (b) would add a heading, *Consultation with the NRC,* which would describe the subject of the paragraph; specify that consultation is permitted both before and after filing a PRM by adding ''and after'' and removing the word ''prospective'' to include all petitioners; clarify that a petitioner may consult directly with the NRC staff; and update the mailing address and telephone number for this consultation. Proposed paragraph (b) also would update the name of the rulemaking branch, which is now called the ''Rules, Announcements, and Directives Branch.''

Paragraph (b)(1), which establishes limitations on the content of petitioner consultations with the NRC staff regarding a PRM, would be revised to permit consultation with NRC staff both before and after filing of a PRM. Proposed paragraph (b)(1) would remove the phrase ''prior to the filing of'' and replace it with the phrase ''regarding the drafting or amendment of.''

Paragraph (b)(1)(i), which establishes that petitioners may consult with the NRC staff about the process of filing and responding to a PRM, would be revised to include other stages of the PRM process. Additionally, the word ''procedure'' would be removed from the paragraph. Proposed paragraph (b)(1)(i) would limit NRC staff consultation on a PRM to describing the process for filing, accepting, tracking, closing, amending, withdrawing, and resolving a PRM. These limitations would be consistent with the existing limitations on NRC participation in the filing of PRMs.

Paragraph (b)(1)(ii), which establishes that petitioners may consult with the NRC staff to clarify an existing NRC regulation and the basis for that regulation, would remain unchanged.

Paragraph (b)(1)(iii), which establishes that petitioners may consult with the NRC staff to clarify a potential PRM, would not be revised substantively. Proposed paragraph (b)(1)(iii) would remove the phrase ''nature of'' and the words ''prospective'' and ''potential'' to conform with other edits.

Paragraph (b)(2), which permits limited consultation with the NRC before filing a PRM, would continue to prohibit NRC staff from participating in

drafting or developing text or alternative approaches to address matters in a PRM. However, the revised language would permit consultation with NRC staff both before and after filing a PRM. Proposed paragraph (b)(2) would remove the phrase ''prior to the filing of'' and replace it with the phrase ''regarding the drafting or amendment of'' and would remove the word ''prospective.''

Proposed new paragraph (b)(3) would be added to specify clearly that the NRC staff will not advise a petitioner on whether a petition for rulemaking should be amended or withdrawn.

Paragraph (c), which generally describes the content requirements of a PRM, would be restructured and revised. The heading, *Content of petition,* would be added to describe the subject of the paragraph. Proposed paragraph (c)(1) would establish that a petitioner must clearly and concisely articulate the information required under proposed new paragraphs (c)(1)(i) through (c)(1)(viii) in a PRM. Proposed paragraph (c)(1) would add the terms ''clearly and concisely'' to convey the NRC's expectation that PRMs be ''clear'' (i.e., do not contain ambiguous or confusing arguments, terminology, or phraseology) and ''concise'' (i.e., do not present the perceived problem or proposed solution with longer than necessary description).

Proposed paragraphs (c)(1)(i) through (c)(1)(viii) would specify information that must be provided in each PRM. The existing text of paragraph (c)(1), which requires that a petition for rulemaking set forth a general solution to a problem or specify the regulation that is to be revoked or amended, would be revised and redesignated as proposed new paragraph (c)(1)(v). The additional text under proposed paragraphs (c)(1)(i) through (c)(1)(viii) would describe the specific information required to be included in a PRM. Most of the requirements generally are similar to the information requirements in the existing rule, except that each topic is listed separately for increased clarity.

Proposed new paragraph (c)(1)(i) would require all petitioners to specify contact information—including a name, telephone, mailing address, and email address (if available)—that the NRC may use to contact the petitioner. Proposed new paragraph (c)(1)(ii) would specify additional information for petitioners who are organizations or corporations to submit: the petitioner's organizational status, the petitioner's State of incorporation, the petitioner's registered agent, and the name and authority of the individual signing the PRM on behalf of the corporation or organization. By adding this proposed paragraph, the NRC intends to reduce the likelihood of misleading the public about the organizational or corporate status and identity of a petitioner.

Proposed new paragraph (c)(1)(iii) would include information from existing paragraph (c)(3) and would require a petitioner to present the problems or issues that the petitioner believes the NRC should address through rulemaking. This paragraph would be added to clarify that a petitioner must specifically state the problems or issues that the requested rulemaking would address, including any specific circumstances in which the NRC's codified requirements are incorrect, incomplete, inadequate, or unnecessarily burdensome. Proposed paragraph (c)(1)(iii) would clarify that the submittal of specific examples of incompleteness or unnecessary burden to support the petitioner's assertion that a problem or issue exists that the NRC should address through rulemaking, would be of interest to the NRC when reviewing the PRM. Providing this information in the PRM would result in clearer and more concise problems or issues being presented by a petitioner and would increase the efficiency of the NRC's review of the PRM.

Proposed new paragraph (c)(1)(iv) would require the petitioner to cite, enclose, or reference any publicly available data used to support the petitioner's assertion of a problem or issue. This requirement currently is in existing paragraph (c)(3) but would be modified to add the phrase ''Cite, enclose, or reference'' to provide options to the petitioner for providing the supporting data. Proposed paragraph (c)(1)(iv) would specify that the citations, enclosures, or references to technical, scientific, or other data would be submitted to support the petitioner's assertion that a problem or issue exists and that all submitted data must be publicly available, so the word ''relevant'' and the phrase ''reasonably available to the petitioner'' in current paragraph (c)(3) would be removed.

Proposed new paragraph (c)(1)(v) would include information from existing paragraph (c)(1) and would require a petitioner to present a proposed solution to the problems or issues identified in the PRM; this may include revision or removal of specific regulations under 10 CFR chapter I. Rather than providing a ''general solution'' as required by existing paragraph (c)(1), proposed paragraph (c)(1)(v) would require a petitioner to present a ''proposed solution'' to clarify that the solution is only a proposal for NRC consideration. Proposed paragraph (c)(1)(v) also would provide an example—including ''specific regulations or regulatory language to add, amend, or delete in 10 CFR chapter I''—to guide petitioners in preparing a proposed solution to the problems or issues identified in the PRM.

Proposed new paragraph (c)(1)(vi) would require a petitioner to provide an analysis, discussion, or argument linking the problems or issues identified in the PRM with the proposed solution. The first part of this requirement currently is in existing paragraph (c)(3). The second part is new and would require the petitioner to explain through an analysis, discussion, or argument how the proposed solution would solve the problems or issues raised in the PRM.

Proposed new paragraph (c)(1)(vii) would include information from existing paragraph (c)(1) and would require the petitioner to cite, enclose, or reference any other publicly available data or information that the petitioner deems necessary to support the proposed solution and otherwise prepare the PRM for the NRC's acceptance review under § 2.803(b). Similar to proposed paragraph (c)(1)(iv), the phrase ''Cite, enclose, or reference'' would be added to provide options to the petitioner for providing the supporting data.

Text from existing paragraph (c)(1) would be revised and incorporated into proposed new paragraph (c)(1)(v), as previously described. As a result, existing paragraph (c)(1) would be removed.

Text from existing paragraph (c)(2) would be removed because it is generally incorporated into proposed new paragraphs (c) and (c)(1)(i) through (c)(1)(iii), making the existing paragraph (c)(2) unnecessary.

Text from existing paragraph (c)(3), which requires a petitioner to include various kinds of supporting information, would be revised and incorporated into proposed new paragraphs (c)(1)(iii), (c)(1)(iv), (c)(1)(vi), and (c)(1)(vii), as previously described. As a result, existing paragraph (c)(3) would be removed.

In addition to the requirements in § 2.802(c)(1)(i)–(vii), proposed paragraph (c)(2) would encourage the petitioner to consider the two other acceptance review criteria listed in § 2.803(b) when preparing a PRM. The NRC does not intend to require specialized explanations that might preclude potential petitioners from submitting PRMs. Proposed paragraphs (c)(2)(i) and (ii) are intended to provide petitioners the opportunity to include information that would assist the NRC in its evaluation of the PRM under

§ 2.803(b). However, the NRC will not automatically deny a petition solely on the basis that the petition did not provide information addressing paragraphs (c)(2)(i) and (ii).

Proposed paragraph (c)(3) would require the PRM to designate a lead petitioner if the petition is signed by multiple petitioners. The NRC's current practice is to treat the first signature listed on a petition as that of the lead petitioner. Proposed new paragraph (c)(3) would require designation of a lead petitioner and codify the NRC's practice of sending communications about the petition to the lead petitioner. Proposed new paragraph (c)(3) also would alert the public of the lead petitioner's responsibility to disseminate communications received from the NRC to all petitioners.

Proposed paragraph (c)(1)(viii) would include a cross reference to the requirements of 10 CFR 51.68.

Paragraph (d) will be reserved and paragraph (e)—which provides that a petitioner may request a suspension, pending disposition of the PRM, of all or any part of a licensing proceeding to which the petitioner is a party—would be revised and expanded to permit submission of these types of requests by petitioners who are *not* part of the licensing proceeding. The title, *Request for suspension of adjudicatory licensing proceedings related to a petition for rulemaking* would be added to describe the subject of the paragraph.

Proposed new paragraph (e)(1) would explain that petitioners who are participants in an NRC adjudicatory licensing proceeding related to their PRM must file a motion in accordance with the requirements of 10 CFR part 2, subpart C, to request suspension of that proceeding. Proposed new paragraph (e) would specify that petitioners who are not participants in an NRC adjudicatory licensing proceeding related to their PRM also may request that the NRC suspend all or any part of an adjudicatory licensing proceeding pending disposition of the PRM. Proposed paragraphs (e)(2)(i)–(iii) would require petitioners who are not participants in an NRC proceeding related to their PRM to submit the suspension request concurrently with the PRM, serve the applicant in the licensing proceeding with both the suspension request and the PRM in accordance with service requirements in § 2.305, and certify that the petitioner has provided copies of the suspension request and the PRM to all of the participants and the presiding officer in the licensing proceeding.

Paragraphs (e), (f), and (g) in § 2.802 would be moved to § 2.803. As a result, existing paragraphs (e), (f), and (g) in § 2.802 would be removed.

Proposed new paragraph (f), which discusses amendment or withdrawal of a PRM by a petitioner, would be added to inform petitioners on where to submit these requests and what information should be included. The heading, *Amendment; Withdrawal,* would be added to describe the subject of the paragraph. The proposed paragraph encourages petitioners to include the docket number assigned to the PRM and the date the PRM was originally submitted with any request to amend or withdraw their PRMs. This amendment would result in greater efficiency for the NRC staff in retrieving and linking amendment and withdrawal requests with the associated PRM. Also, proposed paragraph (f) would clearly inform petitioners how and where to submit requests to amend or withdraw their PRMs.

B. Section 2.803 Petition for Rulemaking—NRC Action

Proposed new paragraph (a) would codify how the NRC processes a PRM upon its receipt. The heading, *Notification of Receipt,* would be added to describe the subject of the paragraph. Proposed new paragraph (a)(1) would codify the NRC's process of notifying the petitioner to acknowledge receipt of a PRM, and proposed new paragraph (a)(2) would state clearly that the NRC evaluates the submitted PRM in accordance with the acceptance criteria in proposed paragraph (b).

The acceptance criteria and acceptance review process described in current § 2.802(f) would be moved to proposed § 2.803(b) and amended to state clearly that the NRC will deny the PRM if it does not include the information required under § 2.802(c). The acceptance review process, currently described in § 2.802(f), also would be modified to add two new criteria in proposed new § 2.803(b). Before accepting a petition for docketing, the NRC would perform a screening review to ensure that the changes requested in the petition are within the legal authority of the NRC and that the PRM raises a potentially valid issue that warrants further detailed consideration by the NRC (e.g., confirm that the NRC's regulations do not already provide what the PRM is requesting). By adding the new criteria, the NRC would establish that a PRM would not be accepted for docketing if the issues in a PRM are outside the NRC's legal authority. Also, proposed new paragraph (b) would add the heading, *Acceptance Review,* to indicate the subject of the paragraph.

Proposed new paragraph (b) would remove the existing requirement that only the Executive Director for Operations may determine whether a PRM will be accepted, thus providing the NRC with the flexibility to make this determination at the most appropriate organizational level. Proposed new paragraph (b) also would remove the estimated timeframe in which a determination of acceptance will be completed (the existing text provides 30 days from the date of receipt of the PRM). The NRC would remove the 30-day timeframe to ensure that sufficient time would be available, if needed, for thorough examination of the issues raised in complex or complicated PRMs. Although the 30-day guideline would be removed from the regulations, the NRC still expects to complete the acceptance review of most PRMs within a 30-day period.

The existing text of § 2.802(f) provides a 90-day period for a petitioner to fix and resubmit an insufficient PRM, with the deficiencies corrected. However, in practice, petitioners may resubmit their PRM with the deficiencies corrected at any time during or after the 90 days, and the 90-day period for submitting additional data serves only to delay resolution of a deficient PRM. Proposed new paragraph § 2.803(b) would remove the 90-day period and would inform the petitioner that deficient PRMs may be resubmitted with deficiencies fixed or addressed at any time, without prejudice and without a time limitation.

The existing text of § 2.802(e), which identifies the process by which a PRM that is accepted for review is docketed and made available to the public, would be moved to § 2.803(c) and amended to add the heading, *Acceptance and Docketing* to indicate the subject of the paragraph, specify the NRC's acceptance review process for PRMs, require that the NRC assign a docket number to PRMs accepted for review, and describe how a PRM found acceptable for review would be made available to the public. Proposed new paragraph (c)(1) would state clearly that the NRC will accept and assign a docket number to a PRM if the NRC determines that it satisfies the acceptance review criteria in proposed new paragraphs (c)(1)(i) through (c)(1)(iii). Proposed new paragraphs (c)(1)(i) through (c)(1)(iii) would explain that a PRM would be accepted for review if it contains the information required by proposed § 2.802(c), if the requested changes are determined to be within the legal authority of the NRC, and if the PRM is determined to raise a potentially valid issue to warrant further consideration by the NRC.

Proposed new paragraph (c)(2) would describe how a docketed PRM would be made available to the public. Proposed paragraph (c)(2) of § 2.803 is not substantively changed from the first part of existing text in § 2.802(e), but the proposed paragraph does include an administrative change to the location of publicly available information associated with docketed PRMs. The proposed text would specify that a copy of the docketed PRM will be made available to the public through both ADAMS and *http://www.regulations.gov*, the Federal electronic rulemaking portal. It would also specify that the NRC would publish a **Federal Register** notice that identifies the docket number of the PRM, informs the public that the NRC is reviewing the merits of the PRM, and explains how the public may track the status of the PRM online at *http://www.nrc.gov/reading-rm/doc-collections/rulemaking-ruleforum/petitions-by-year.html* and track the status of rulemakings currently active with the NRC online at *http://www.nrc.gov/reading-rm/doc-collections/rulemaking-ruleforum/rulemaking-dockets/index.html*.

Proposed new paragraph (d) would notify the public that the NRC will send all communications to the lead petitioner identified in the petition, according to proposed new paragraph 2.802(c)(3), and that this communication would constitute notification to all petitioners. Thus, any NRC obligation to inform a petitioner is satisfied when the NRC sends the required notification to the lead petitioner. The heading, *NRC communications with multiple petitioners,* would be added to describe the subject of the paragraph.

Newly designated § 2.803(e) through (f) would be marked ''Reserved.''

Proposed new paragraph (g) would add the heading, *Public comment on a petition for rulemaking; Hearings,* to indicate the subject of the paragraph. Proposed new paragraph § 2.803(g)(1) would incorporate information from existing § 2.802(e) text pertaining to the NRC's discretion to request public comment on a docketed PRM. Information in existing § 2.802(e) that specifies how a PRM may be published for public comment in the **Federal Register** would be replaced by a concise statement specifying that the NRC, at its discretion, may solicit public comment on a docketed PRM.

When the NRC publishes an FRN requesting public comment on a PRM, the NRC's current practice is to include standard language in the FRN cautioning the public not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Proposed new § 2.803(g)(2) would include this caveat in the NRC's regulations to increase the likelihood that affected stakeholders will be aware of this practice.

Proposed new § 2.803(g)(3) would denote that no hearings will be held on a PRM unless the Commission determines to hold a hearing as a matter of discretion. This requirement currently exists in § 2.803, but it would be moved to new paragraph (g)(3) and amended for clarity. The text ''the Commission deems it advisable'' would be replaced with ''the Commission determines to do so, at its discretion.'' This proposed amendment would clarify that the NRC has discretionary authority to hold a hearing on a docketed PRM.

Proposed new paragraph (h) would add the heading, *Determination of a petition for rulemaking; closure of docket on a petition for rulemaking* to indicate the subject of the paragraph. Existing regulations in § 2.803 require the NRC to resolve PRMs by either issuing a notice of proposed rulemaking or denying the petition. Proposed new paragraph (h)(1) of § 2.803 would codify a nonexclusive list of the methods and criteria that the NRC uses to determine a course of action for a PRM. Those methods and criteria include consideration of the issues raised in the PRM about its merits, the immediacy of an identified safety or security concern, the relative availability of resources, the relative issue priority compared to other NRC rulemaking activities, whether the NRC is already considering the issues in other NRC processes, the substance of public comments received, if requested, and the NRC's past decisions and current policy.

Proposed new paragraph (h)(1)(i) would establish that determination of a PRM may be based upon the merits of the PRM. For the purpose of this rule, the term ''merits'' would include the completeness and technical accuracy of the documents, logic associated with the petitioner's desired rule changes, and the appropriateness or worthiness of the desired changes compared to the current regulatory structure (i.e., existing regulations, associated regulatory guidance, and inspection program guidance).

Proposed new paragraph (h)(1)(ii) would indicate that determination of a PRM may be based upon the immediacy of the safety or security concerns raised in the PRM. By adding this paragraph, the NRC intends to first determine whether immediate regulatory action (e.g., a regulatory order) is needed.

Proposed new paragraph (h)(1)(iii) would denote that determination of a PRM may be based upon the availability of NRC resources and priority of the issues raised in the PRM compared with other NRC rulemaking activities. By adding this paragraph, the NRC would establish that if immediate action is not necessary, the NRC would consider the availability of resources and compare the issues raised in the PRM to other NRC rulemaking issues to determine the PRM's priority relative to other rulemaking activities.

Proposed new paragraph (h)(1)(iv) would establish that determination of a PRM may be based on whether the NRC is already considering the issues raised in the PRM in other NRC processes. The NRC has multiple processes for considering potential issues related to its mission, which is to regulate the Nation's civilian use of byproduct, source, and special nuclear materials to ensure adequate protection of public health and safety, to promote the common defense and security, and to protect the environment. Other NRC processes include (non-exhaustive list) the allegation process, formal and informal hearings, and Commission deliberation to determine appropriate action on issues not related to rulemaking. Resulting action could be initiation of a rulemaking, but the Commission has other options available such as addressing the issue in a regulatory order or through a management directive. Proposed new paragraph (h)(1)(iv) would be included to prevent duplicative effort and inefficient use of NRC resources when the NRC is already considering issues raised by the PRM in other NRC processes.

Proposed new paragraph (h)(1)(v) would provide that determination of a PRM may be based on the substance of any public comments received, if public comments are requested. Although the NRC might not request public comments on all PRMs, if public comments are requested, the NRC would consider the information commenters provided when determining a course of action for a PRM.

Proposed new paragraph (h)(1)(vi) would denote that determination of a PRM may be based on the NRC's past decisions and current policy related to the issues raised in the PRM. This paragraph would establish that the NRC could consider past Commission decisions when determining a course of action for a PRM.

Proposed new paragraph (h)(2) would establish a process for administrative closure of a PRM docket once the NRC has determined its course of action for

the PRM using the methodology and criteria in proposed paragraph (h)(1). Proposed paragraph (h)(2) with the heading, *PRM Docket Closure,* would establish that a PRM docket would be administratively closed when the NRC responds to the PRM by taking a regulatory action and publishing a document in the **Federal Register** that describes this action. Proposed new paragraphs (h)(2)(i) and (ii) provide two specific categories for administrative closure of a PRM docket. In proposed paragraph (h)(2), the NRC would administratively close a PRM docket by taking a regulatory action in response to the PRM that establishes a course of action for the PRM. The NRC would publish a notice in the **Federal Register** describing the determined regulatory action, including the related Docket Identification Number (Docket ID), as applicable. Proposed paragraph (h)(2)(i) would explain that the NRC may administratively close a PRM docket by deciding not to undertake a rulemaking to address the issues that the PRM raised, effectively denying the PRM, and notifying the petitioner in writing why the PRM was denied. Proposed paragraph (h)(2)(ii) would explain that the NRC may administratively close a PRM docket by initiating a rulemaking action, such as addressing the PRM in an ongoing or planned rulemaking or initiating a new rulemaking activity. The NRC would inform the petitioner in writing of its determination and the associated Docket ID of the rulemaking action.

Proposed new paragraph (h)(2)(i) would provide that the NRC may administratively close a PRM docket if the NRC decides not to engage in rulemaking to address the issues in the PRM. The NRC would publish a notice in the **Federal Register** informing the public of the grounds for denial, addressing the petitioner's request and relevant public comments (if requested). The PRM docket would be closed by this method when the NRC concludes that rulemaking should not be conducted in response to the PRM. In certain cases, the NRC may deny some of the issues raised in a PRM but also decide to address the remaining issues by initiating a rulemaking action, as described in proposed paragraph (h)(2)(ii). In these instances, as applicable, the **Federal Register** notice would identify the rulemaking Docket ID for the related rulemaking.

With regard to new rulemakings, proposed new paragraph (h)(2)(ii) would provide that the NRC may administratively close a PRM docket if the NRC decides to address the subject matter of the PRM in a new rulemaking. The NRC would publish a notice in the **Federal Register** explaining the NRC's decision to initiate the new rulemaking and informing the public of the Docket ID of the new rulemaking. The NRC also would add a description of the new rulemaking in the Governmentwide Unified Agenda. The PRM docket would be closed by this method when the NRC determines that issues raised in the PRM merit consideration in a rulemaking and that there is currently no other rulemaking (ongoing or planned) into which the petitioner's requested rulemaking could be incorporated.

With regard to planned rulemakings, proposed paragraph (h)(2)(ii) would provide that a PRM docket may be administratively closed if the NRC is currently planning a rulemaking related to the subject of the PRM and the NRC decides to address the PRM in that planned rulemaking. The NRC would publish a notice in the **Federal Register** explaining the NRC's decision to address the PRM in a planned rulemaking and informing the public of the Docket ID of the planned rulemaking. A PRM docket would be closed by this method when the NRC determines that issues raised in the PRM merit consideration in a rulemaking and a planned rulemaking exists in which the issues raised in the PRM could be addressed.

With regard to ongoing rulemakings, proposed new paragraph (h)(2)(ii) would provide that a PRM docket may be administratively closed if the NRC has a rulemaking in progress that is related to the issues raised in the PRM. The NRC would publish a notice in the **Federal Register** notifying the public that the subject of the PRM will be addressed as part of the ongoing rulemaking. The PRM docket would be closed by this method when the NRC determines that issues raised in the PRM merit consideration in a rulemaking and an ongoing rulemaking exists in which the issues in the PRM can be addressed.

The list of potential rulemaking actions in proposed new paragraph (h)(2)(ii) is not intended to be exhaustive because the NRC may initiate other rulemaking actions, at its discretion, on issues raised in the PRM. For example, the NRC could extend the comment period for a proposed rule that addresses the subject matter of the PRM to allow it to be addressed in the ongoing rulemaking.

For all PRM dockets that are closed by initiating a rulemaking action, as described in proposed paragraph (h)(2), the NRC will include supplementary information in the published final rule discussing how the NRC decided to address the issues raised in the PRM.

As further discussed in proposed paragraph (i)(2), if the NRC closes a PRM docket under proposed paragraph (h)(2)(ii) by initiating a rulemaking action, resolution would require publication of a final rule discussing how the PRM is addressed in the published final rule. However, if later in the rulemaking process the NRC decides to terminate the associated rulemaking, termination of that rulemaking also constitutes denial of the PRM. The NRC would describe the agency's grounds for denial in a **Federal Register** notice, which would include the reason for the NRC's decision not to publish a final rule on the rulemaking associated with the PRM. The **Federal Register** notice also would address the issues raised in the PRM and significant public comments, if public comments were solicited. As with denials earlier in the PRM process, the NRC would notify the petitioner of denial of the PRM.

Under § 2.803, the NRC is currently required to resolve PRMs either by addressing the PRM issues in a final rule or by denying the petition. Proposed new paragraph (i) with heading, *PRM Resolution,* would expand and clarify how a PRM is resolved. Resolution of a PRM would require the NRC to conclude all planned regulatory action on the issues presented by the PRM and to publish a **Federal Register** notice to inform the public that all planned regulatory action on the PRM is concluded. Resolution of a PRM may occur in whole or in part; however, complete resolution of a PRM does not occur until all PRM issues are finally addressed by NRC. Proposed paragraph (i) would describe three methods for resolving a PRM: (1) Publication of a final rule; (2) withdrawal of the PRM by the petitioner at any stage of the regulatory process; or (3) denial of the PRM by the NRC at any stage of the process. For resolution of a PRM through publication of a final rule, the NRC would include a discussion in the **SUPPLEMENTARY INFORMATION** section of the published final rule of how the regulatory action addresses the issues raised by the petitioner. For resolution of a PRM through denial by the NRC at any stage of the regulatory process, the NRC would publish a **Federal Register** notice discussing the grounds for denial of the PRM. For resolution of a PRM through withdrawal by the petitioner, the NRC would publish a notice in the **Federal Register** to inform the public that the petitioner has withdrawn the docketed PRM. Although the NRC expects that withdrawal requests would be submitted infrequently, proposed

paragraph (i) would provide a mechanism for the NRC to resolve the petition and inform members of the public of the withdrawal and resolution of the PRM.

The existing text of § 2.802, paragraph (g), which indicates that a semiannual summary of PRMs before the Commission will be publicly available for inspection and copying, would be removed because the NRC no longer publishes this semiannual summary. Proposed new paragraph (j) of § 2.803 would explain where the public can view the status of PRMs and would add the heading, *Status of PRMs and rulemakings,* to indicate the subject of the paragraph. Proposed new paragraph (j)(1) would provide the Web site addresses for the most current information on PRMs and on rulemakings that are active with the Commission. Proposed new paragraph (j)(2) would indicate that the NRC will provide a summary of planned and existing rulemakings in the Governmentwide Unified Agenda. Proposed new paragraph (j)(3) would explain that information on all docketed PRMs, rulemakings, and public comments will be made available online in ADAMS and in the Federal Governmentwide rulemaking Web site at *http://www.regulations.gov*.

As previously discussed, if the NRC closes a PRM docket by initiating a rulemaking action under § 2.803(h)(2)(ii) but later determines that a final rule should not be published, the NRC will publish a notice in the **Federal Register** explaining the grounds for its denial of the PRM, including the reason for the NRC's decision not to issue a final rule. The notice will be added to the file of the previously closed PRM docket, and the status of the PRM will be updated and made available to the public as described in proposed paragraphs (j)(1) through (j)(3).

C. Section 2.811 Filing of Standard Design Certification Application; Required Copies

Paragraph (e), *Pre-application consultation,* of § 2.811 explains the pre-application consultation process for standard design certification applications and would be revised by correcting references and updating the email address for pre-application consultation. Proposed corrections to paragraph (e) consist of removing the references to ''§ 2.802(a)(1)(i) through (iii)'' and replacing them with ''§ 2.802(b)(1),'' with respect to the subject matters permitted for pre-application consultation; and replacing the reference ''§ 2.802(a)(2)'' with ''§ 2.802(b)(2),'' regarding limitations on pre-application consultations. In addition, the email address for pre-application consultation would be updated by replacing ''*NRCREP@nrc.gov*'' with ''*Rulemaking.Comments@nrc.gov*.''

VI. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, ''Plain Language in Government Writing,'' published June 10, 1998 (63 FR 31883). The NRC requests comment on the proposed rule with respect to the clarity and effectiveness of the language used.

VII. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995 (Pub. L. 104–113) requires Federal agencies to use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this proposed rule, the NRC would revise its regulations to streamline the process the NRC uses when it receives a PRM. This action concerns the NRC's procedures governing its consideration and resolution of petitions for rulemaking. These procedures would not constitute a ''government unique standard'' within the meaning and intention of the National Technology Transfer and Advancement Act of 1995.

VIII. Environmental Impact: Categorical Exclusion

The NRC has determined that this proposed rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(1). Therefore neither an environmental impact statement nor an environmental assessment has been prepared for this proposed rule.

IX. Paperwork Reduction Act Statement

This proposed rule does not contain information collection requirements and, therefore, is not subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid Office of Management and Budget control number.

X. Regulatory Analysis

The NRC did not prepare a draft regulatory analysis for this proposed rule because it is considered a minor, nonsubstantive amendment and does not meet the threshold economic and policy requirements of OMB Circular A–4 guidance for the preparation of regulatory analyses. The amendments will neither impose new safety requirements nor relax existing ones and therefore do not call for the sort of safety/cost analysis described in the NRC's regulatory analysis guidelines in NUREG/BR–0058, Revision 4, ''Regulatory Analysis Guidelines of the US NRC,'' September 2004 (ADAMS Accession No. ML042820192).

XI. Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the NRC certifies that this rule would not, if issued, have a significant economic impact on a substantial number of small entities.

XII. Backfitting and Issue Finality

The NRC has determined that the backfit rule does not apply to this proposed rule because these amendments are administrative in nature and do not involve any provisions that would impose backfitting as defined in 10 CFR chapter 1, or are inconsistent with any of the issue finality provisions in 10 CFR part 52.

List of Subjects in 10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Penalties, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552, the NRC is proposing to adopt the following amendments to 10 CFR part 2.

PART 2—AGENCY RULES OF PRACTICE AND PROCEDURE

■ 1. The authority citation for part 2 continues to read as follows:

Authority: Atomic Energy Act secs.161, 181, 191 (42 U.S.C. 2201, 2231, 2241); Energy Reorganization Act sec. 201 (42 U.S.C. 5841); FOIA 5 U.S.C. 552; Government Paperwork Elimination Act sec. 1704 (44 U.S.C. 3504 note).

Section 2.101 also issued under Atomic Energy Act secs. 53, 62, 63, 81, 103, 104 (42 U.S.C. 2073, 2092, 2093, 2111, 2133, 2134, 2135); Nuclear Waste Policy Act sec. 114(f) (42 U.S.C. 10143(f)); National Environmental Protection Act sec. 102 (42 U.S.C. 4332); Energy Reorganization Act sec. 301 (42 U.S.C. 5871).

Sections 2.102, 2.103, 2.104, 2.105, 2.321 also issued under Atomic Energy Act secs. 102, 103, 104, 105, 183i, 189 (42 U.S.C. 2132, 2133, 2134, 2135, 2233, 2239). Sections 2.200–2.206 also issued under Atomic Energy Act secs. 161, 186, 234 (42 U.S.C. 2201 (b), (i), (o), 2236, 2282); sec. 206 (42 U.S.C. 5846). Section 2.205(j) also issued under Pub. L. 101–410, as amended by section 3100(s), Pub. L. 104–134 (28 U.S.C. 2461 note). Subpart C also issued under Atomic Energy Act sec. 189 (42 U.S.C. 2239). Section 2.301 also issued under 5 U.S.C. 554. Sections 2.343, 2.346, 2.712 also issued under 5 U.S.C. 557. Section 2.340 also issued under Nuclear Waste Policy Act secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 2.390 also issued under 5 U.S.C. 552. Sections 2.600–2.606 also issued under sec. 102 (42 U.S.C. 4332). Sections 2.800 and 2.808 also issued under 5 U.S.C. 553. Section 2.809 also issued under 5 U.S.C. 553; AEA sec. 29 (42 U.S.C. 2039). Subpart K also issued under Atomic Energy Act sec. 189 (42 U.S.C. 2239); Nuclear Waste Policy Act sec. 134 (42 U.S.C. 10154). Subpart L also issued under Atomic Energy Act sec. 189 (42 U.S.C. 2239). Subpart M also issued under Atomic Energy Act sec. 184, 189 (42 U.S.C. 2234, 2239). Subpart N also issued under Atomic Energy Act sec. 189 (42 U.S.C. 2239).

■ 2. Revise § 2.802 to read as follows:

§ 2.802 Petition for rulemaking—requirements for filing.

(a) *Filing a petition for rulemaking.* Any person may petition the Commission to issue, amend, or rescind any regulation in 10 CFR chapter I. The petition for rulemaking should be addressed to the Secretary, Attention: Rulemakings and Adjudications Staff, and sent by mail addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; by email to *Rulemaking.Comments@nrc.gov;* or by hand delivery to 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. (Eastern time) on Federal workdays.

(b) *Consultation with the NRC.* A petitioner may consult with the NRC staff before and after filing a petition for rulemaking by contacting the Chief, Rules, Announcements, and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 1–800–368–5642.

(1) In any consultation regarding the drafting or amendment of a petition for rulemaking, the assistance that the NRC staff may provide is limited to the following:

(i) Describing the process for filing, accepting, tracking, closing, amending, withdrawing, and resolving a petition for rulemaking;

(ii) Clarifying an existing NRC regulation and the basis for the regulation; and

(iii) Assisting the petitioner to clarify a petition for rulemaking so that the Commission is able to understand the issues of concern to the petitioner.

(2) In any consultation regarding the drafting or amendment of a petition for rulemaking, in providing the assistance permitted in paragraph (b)(1) of this section, the NRC staff will not draft or develop text or alternative approaches to address matters in the petition for rulemaking.

(3) In any consultation regarding a petition for rulemaking, the NRC staff will not advise a petitioner on whether a petition should be amended or withdrawn.

(c) *Content of petition.* (1) Each petition for rulemaking filed under this section must clearly and concisely:

(i) Specify the name of the petitioner, a telephone number, a mailing address, and an email address (if available), which the NRC may use to communicate with the petitioner;

(ii) If the petitioner is an organization, provide additional identifying information (as applicable) including the petitioner's organizational or corporate status, the petitioner's State of incorporation, the petitioner's registered agent, the name and authority of the individual who signed the petition on behalf of the organizational or corporate petitioner.

(iii) Present the specific problems or issues that the petitioner believes should be addressed through rulemaking, including any specific circumstances in which the NRC's codified requirements are incorrect, incomplete, inadequate, or unnecessarily burdensome;

(iv) Cite, enclose, or reference publicly available technical, scientific, or other data supporting the petitioner's assertion of the problems or issues;

(v) Present the petitioner's proposed solution to the problems or issues raised in the petition for rulemaking (e.g., a proposed solution may include specific regulations or regulatory language to add, amend, or delete in 10 CFR chapter I);

(vi) Provide an analysis, discussion, or argument that explains how the petitioner's proposed solution solves the problems or issues identified by the petitioner; and

(vii) Cite, enclose, or reference any other publicly available data or information supporting the petitioner's proposed solution.

(viii) For petitions requesting amendments of 10 CFR parts 30, 31, 32, 33, 34, 35, 36, 39, 40, or 70 of this chapter concerning the exemption from licensing and regulatory requirements of or authorizing general licenses for any equipment, device, commodity or other product containing byproduct material, source material or special nuclear material, comply with 10 CFR 51.68 by submitting a separate document entitled ''Petitioner's Environmental Report,'' which must contain the information specified in 10 CFR 51.45.

(2) To assist the NRC in its evaluation of the PRM, the petitioner should clearly and concisely:

(i) Explain why the proposed rulemaking solution is within the authority of the NRC to adopt; and

(ii) Explain why rulemaking is the most favorable approach to address the problems or issues, as opposed to other NRC actions such as licensing, issuance of an order, or referral to another Federal or State agency.

(3) If the petition is signed by multiple petitioners, the petition must designate a lead petitioner who is responsible for disseminating communications received from the NRC with co-petitioners.

(d) [RESERVED]

(e) *Request for suspension of adjudicatory licensing proceedings related to a petition for rulemaking.* (1) A petitioner who is a participant in an NRC adjudicatory proceeding related to their petition for rulemaking may only request suspension of that proceeding by filing a motion in accordance with the requirements in 10 CFR part 2, subpart C, ''Rules of General Applicability: Hearing Requests, Petitions to Intervene, Availability of Documents, Selection of Specific Hearing Procedures, Presiding Officer Powers, and General Hearing Management for NRC Adjudicatory Hearings.''

(2) A petitioner who is not a participant in an NRC adjudicatory proceeding related to their petition for rulemaking may request that the Commission suspend all or any part of the proceeding, to which the petitioner is not a party, pending disposition of the petition for rulemaking.

(i) The request for suspension of adjudicatory licensing proceedings must be submitted to the NRC concurrent with the related petition for rulemaking.

(ii) The petitioner must serve, in accordance with the requirements of 10 CFR 2.305, a copy of the petition for rulemaking and the request for suspension of the adjudicatory licensing

proceeding on the applicant in the proceeding.

(iii) Copies of this request must be filed with all of the participants in the proceeding and with the presiding officer.

(f) *Amendment; Withdrawal.* If the petitioner wants to amend or withdraw a docketed petition for rulemaking, then the petitioner should include the docket number and the date that the original petition for rulemaking was submitted in a request addressed to the Secretary, Attention: Rulemakings and Adjudications Staff, and sent by mail addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; or by email to *Rulemaking.Comments@nrc.gov.*

■ 3. Revise § 2.803 to read as follows:

§ 2.803 Petition for rulemaking—NRC action.

(a) *Notification of Receipt.* Upon receipt of a petition for rulemaking, the NRC will:

(1) Acknowledge its receipt to the petitioner; and

(2) Evaluate the petition for rulemaking, including supporting data submitted under § 2.802(c), for sufficiency according to the acceptance review criteria in § 2.803(b).

(b) *Acceptance Review.* If the NRC determines that the petition for rulemaking does not include the information required by § 2.802(c), that the regulatory change sought by the petitioner is not within the legal authority of the NRC, or that the petition for rulemaking does not raise a potentially valid issue that warrants further consideration, then the NRC will notify the petitioner in writing and explain the deficiencies in the petition for rulemaking. The petitioner may resubmit the petition for rulemaking without prejudice. If the NRC determines that the petition for rulemaking includes the information required by § 2.802(c), then the NRC will docket the petition in accordance with the provisions of paragraph (c) of this section.

(c) *Acceptance and Docketing.* (1) The NRC will accept and assign a docket number to the petition for rulemaking if the NRC determines that:

(i) The petition for rulemaking includes the information required by paragraph 2.802(c),

(ii) The regulatory change sought by the petitioner is within the NRC's legal authority, and

(iii) The petition for rulemaking raises a potentially valid issue that warrants further consideration.

(2) A copy of the docketed petition for rulemaking will be posted in the NRC's Agencywide Documents Access and Management System (ADAMS) and on the Federal rulemaking Web site at: *http://www.regulations.gov.* The NRC will publish a notice of receipt in the **Federal Register** informing the public that the NRC is reviewing the merits of the petition for rulemaking. The notice of receipt will include the docket number and explain how the public may track the status of the petition for rulemaking.

(d) *NRC communications with multiple petitioners.* If the petition is signed by multiple petitioners, any NRC obligation to inform a petitioner (as may be required under 10 CFR part 2, Subpart H) is satisfied, with respect to all petitioners, when the NRC transmits the required notification to the lead petitioner.

(e) through (f) [Reserved]

(g) *Public comment on a petition for rulemaking; Hearings.* (1) At its discretion, the NRC may request public comment on a docketed petition for rulemaking.

(2) The NRC will post all comment submissions at *http://www.regulations.gov* and enter the comment submissions into ADAMS, without removing identifying or contact information from comment submissions. Anyone requesting or aggregating comments from other persons for submission to the NRC is responsible for informing those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submissions.

(3) No adjudicatory or legislative hearing under the procedures of 10 CFR part 2 will be held on a petition for rulemaking unless the Commission determines to do so, at its discretion.

(h) *Determination of a petition for rulemaking; closure of docket on a petition for rulemaking*—(1) *Determination.* Following acceptance of a petition for rulemaking, the NRC's determination on the petition for rulemaking may be based upon, but is not limited to, the following considerations:

(i) The merits of the petition for rulemaking;

(ii) The immediacy of the safety, environmental, or security concern raised in the petition for rulemaking;

(iii) The availability of NRC resources and the priority of the issues raised in the petition for rulemaking in relation to other NRC rulemaking issues;

(iv) Whether the problems or issues raised in the petition for rulemaking are already under consideration by the NRC in other NRC processes;

(v) The substance of any public comments received, if comments are requested; and

(vi) The NRC's past decisions and current policy on the issues raised in the petition for rulemaking.

(2) *PRM Docket Closure.* After making a determination on the PRM, the NRC will administratively close the docket for a petition for rulemaking by taking a regulatory action in response to the PRM and publishing a notice describing that action with the related Docket Identification number (Docket ID), as applicable, in the **Federal Register**. The NRC may make a determination on a petition for rulemaking and administratively close the docket for the PRM by:

(i) Deciding not to undertake a rulemaking to address the issues raised by the petition for rulemaking, and informing the petitioner in writing of the grounds for denial.

(ii) Initiating a rulemaking action (e.g., initiate new rulemaking, address the petition for rulemaking in an ongoing rulemaking, address the petition for rulemaking in a planned rulemaking) that considers the issues raised by a petition for rulemaking, and informing the petitioner in writing of its decision and the associated Docket ID of the rulemaking action, if applicable.

(i) *PRM Resolution*—(1) *PRM resolution published in the* ***Federal Register***. The NRC will publish a **Federal Register** notice informing the public that it has concluded all planned regulatory action with respect to some or all of the issues presented in a petition for rulemaking. This may occur by adoption of a final rule related to the petition for rulemaking, denial by the NRC of the petition for rulemaking at any stage of the regulatory process, or the petitioner's withdrawal of the petition for rulemaking at any stage of the regulatory process. As applicable, the **Federal Register** notice will include a discussion of how the regulatory action addresses the issues raised by the petitioner, the NRC's grounds for denial of the petition for rulemaking, or information on the withdrawal request submitted by the petitioner. The notice will also include the NRC's response to any public comments received (if comments are requested), unless the NRC has indicated that it will not be providing formal written responses to each comment received.

(2) *NRC decision not to proceed with rulemaking after closure of a PRM docket.* If the NRC closes a PRM docket under paragraph (h)(2) of this section but subsequently decides not to carry out the planned rulemaking to publication of a final rule, then the NRC

will notify the petitioner in writing of this decision and publish a notice in the **Federal Register** explaining the basis for its decision. The decision not to complete the rulemaking action will be documented as denial of the PRM in the docket file of the closed petition for rulemaking, in the Web sites, in the Unified Agenda, online in ADAMS and at *http://www.regulations.gov* as described in paragraph (j) of this section.

(j) *Status of PRMs and rulemakings.* (1) The NRC will document the most current information on active rulemakings at *http://www.nrc.gov/reading-rm/doc-collections/rulemaking-ruleforum/rulemaking-dockets/index.html* and the most current information on petitions for rulemaking at *http://www.nrc.gov/reading-rm/doc-collections/rulemaking-ruleforum/petitions-by-year.html.*

(2) The NRC will include a summary of the NRC's planned and ongoing rulemakings in the Governmentwide *Unified Agenda of Federal Regulatory and Deregulatory Actions* (the Unified Agenda), published semiannually. This Unified Agenda is available at *http://www.reginfo.gov/public/do/eAgendaMain/.*

(3) All docketed petitions, rulemakings, and public comments will be posted online in ADAMS and at *http://www.regulations.gov.*

■ 4. In § 2.811, revise paragraph (e) to read as follows:

§ 2.811 Filing of standard design certification application; required copies.

* * * * *

(e) *Pre-application consultation.* A prospective applicant for a standard design certification may consult with NRC staff before filing an application by writing to the Director, Division of New Reactor Licensing, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, with respect to the subject matters listed in § 2.802(b)(1). A prospective petitioner also may telephone the Rules, Announcements, and Directives Branch, toll free on 1–800–368–5642, or send an email to *Rulemaking.Comments@nrc.gov* on these subject matters. In addition, a prospective applicant may confer informally with NRC staff BEFORE filing an application for a standard design certification, and the limitations on consultation in § 2.802(b)(2) do not apply.

Dated at Rockville, Maryland, this 24th day of April 2013.

For the Nuclear Regulatory Commission.

Annette Vietti-Cook,

Secretary of the Commission.

[FR Doc. 2013–10117 Filed 5–2–13; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0364; Directorate Identifier 2011–NM–114–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede an existing airworthiness directive (AD) that applies to certain The Boeing Company Model 747 series airplanes. The existing AD currently requires inspection of the fuselage skin lap splice between body station (BS) 340 and BS 400 at stringers (S)–6L and S–6R, and repair, if necessary. Since we issued that AD, analysis results indicated that the protruding head fastener modification and related post-modification inspections currently required are not adequate to prevent cracking at the upper row of fasteners in the stringer 6 lap joint before the cracks reach a critical length. This proposed AD would add new repetitive inspections for cracking in the stringer 6 skin lap splice, which would terminate the existing inspections; and eventual modification of the lap splice, which would terminate the repetitive inspections; post-modification inspections; and corrective actions if necessary. This proposed AD would also add airplanes to the applicability. We are proposing this AD to detect and correct cracking at the upper row of fasteners in the stringer(s) 6 lap joint, which could result in a sudden loss of cabin pressurization and the inability of the fuselage to withstand failsafe loads.

DATES: We must receive comments on this proposed AD by June 17, 2013.

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

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

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Bill Ashforth, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6432; fax: 425–917–6590; email: *bill.ashforth@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2013–0364; Directorate Identifier 2011–NM–114–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. We