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WHEN: Tuesday, September 17, 2013
9 a.m.–12:30 p.m.

WHERE: Office of the Federal Register
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Washington, DC 20002

RESERVATIONS: (202) 741–6008

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Federal Register

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DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 310

[Docket No. FSIS–2012–0038]

Changes to the Salmonella Verification Sampling Program: Analysis of Raw Beef for Shiga Toxin-Producin Escherichia coli and Salmonella

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Request for comments.

SUMMARY: The Food Safety and Inspection Service (FSIS) is announcing changes to its procedures for *Salmonella* verification sampling program of raw beef products. On the date that FSIS will announce in the **Federal Register** document that responds to any comments on this document, FSIS will discontinue *Salmonella* sampling set procedures (''HC01'') in ground beef products, except in establishments with results that exceeded the standard for *Salmonella* in that establishment's most recently completed sample set (i.e., in those establishments in Category 3). At the same time, FSIS will begin analyzing for *Salmonella* all raw beef samples that it collects for Shiga toxin-producing *Escherichia coli* (STEC) analysis. Therefore, FSIS will begin analyzing for *Salmonella* all samples of raw ground beef, beef manufacturing trimmings, bench trim, and other raw ground beef components that it collects for STEC testing. To be consistent with the Agency's STEC analytic sample portions, FSIS laboratories will increase the raw ground beef analytic sample portion for *Salmonella* analysis from 25 grams to 325 grams. This notice describes how FSIS intends to use the results from its verification sampling program to develop new *Salmonella* performance standards for ground beef product and to estimate *Salmonella* prevalence in raw ground beef and beef manufacturing trimmings products. Finally, this document discusses changes that the Agency is considering related to FSIS *Salmonella* sampling and testing of other products.

DATES: Submit comments on or before September 27, 2013. Interested parties need to get their comments in on time because the Agency does not intend to grant any extensions of the comment period.

ADDRESSES: FSIS invites interested persons to submit comments on this document. Comments may be submitted by one of the following methods:

Federal eRulemaking Portal: This Web site provides the ability to type short comments directly into the comment field on this Web page or attach a file for lengthier comments. Go to *http://www.regulations.gov/.* Follow the on-line instructions at that site for submitting comments.

Mail, including CD–ROMs, etc.: Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, Patriots Plaza 3, 1400 Independence Avenue SW., Mailstop 3782, Room 8–163B, Washington, DC 20250–3700.

Hand- or courier-delivered submittals: Deliver to Patriots Plaza 3, 355 E. Street SW., Room 8–163B, Washington, DC 20250–3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2012–0038. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *http://www.regulations.gov.*

Docket: For access to background documents or to comments received, go to the FSIS Docket Room at Patriots Plaza 3, 355 E. Street SW., Room 164, Washington, DC 20250–3700 between 8 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Rachel Edelstein, Assistant Administrator, Office of Policy and Program Development; Telephone: (202) 205–0495; or by Fax: (202) 720–2025.

SUPPLEMENTARY INFORMATION: FSIS administers a regulatory program under the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 et seq.) that is intended to ensure that meat and meat food products distributed in commerce are wholesome; not adulterated; and properly marked, labeled, and packaged. As part of its inspection program, FSIS collects samples of these products for laboratory analysis (21 U.S.C. 642(a)).

History of the Salmonella Verification Sampling Program

The *Salmonella* verification sampling program formally began with the Agency's final rule, entitled ''Pathogen Reduction; Hazard Analysis and Critical Control Point (PR/HACCP) Systems,'' which FSIS published on July 25, 1996 (61 FR 38805–38989; *http://www.fsis.usda.gov/OPPDE/rdad/FRPubs/93-016F.pdf).* Among other things, the PR/HACCP rule set *Salmonella* performance standards for establishments producing selected classes of raw meat products, including ground beef, steers and heifers, and cows and bulls (9 CFR 310.25(b)). In 2011, FSIS stopped sampling and testing for *Salmonella* in steers and heifers and cows and bulls because percent positive findings were very low (less than one percent), and this carcass sampling was expensive for the Agency. As stated in the PR/HACCP rule (at 61 FR 38835), FSIS selected *Salmonella* for the performance standard because it is the most common cause of foodborne illness associated with meat and poultry products; it is present to varying degrees in all major species; and the interventions targeted at reducing *Salmonella* may help reduce contamination by other enteric pathogens.

FSIS uses the *Salmonella* performance standards to verify process control in slaughter and certain processing operations. The performance standard for ground beef is based on the industry average (percent positive samples) estimated from baseline surveys conducted before PR/HACCP was implemented.

Under the existing *Salmonella* verification sampling program, the Agency assesses whether establishments meet the *Salmonella* standard by collecting randomly selected product samples using the risk-based, 3-category establishment classification system announced on February 27, 2006 (71 FR 9772). FSIS inspection program personnel collect samples and submit them to FSIS laboratories for analysis over a defined number of sequential

days of production to complete a sample set. As detailed in the February 2006 notice, the maximum number of positive samples per set for the ground beef product category is 5 of 53.

FSIS presently categorizes establishment performance as follows:

I. Category 1. Consistent Process Control: Establishments with percent positive Salmonella samples at 50 percent or less of the performance standard in the two most recently completed sample sets.

II. Category 2T. Variable Process Control but Transitioning Towards Consistent Process Control: Establishments with percent positive Salmonella samples at 50 percent or less of the performance standard in the most recently completed sample set, but greater than 50 percent of the performance standard in the previously completed sample set.

III. Category 2. Variable Process Control: Establishments with percent positive Salmonella samples above 50 percent but not exceeding the standard in the most recently completed sample set.

IV. Category 3. Highly Variable Process Control: Establishments with percent positive Salmonella samples exceeding the performance standard in the most recently completed sample set.

FSIS collects ground beef samples under project code ''HC01'' as part of the *Salmonella* verification sampling program and under project code ''MT43'' as part of the *E. coli* O157:H7 verification sampling program.

Following the implementation of PR/HACCP, FSIS analyzed only one pathogen per sample. Then, in 2008, FSIS began analyzing for *Salmonella* and *E. coli* O157:H7 ground beef samples from establishments producing less than 1,000 pounds of product per day (under the MT43S code). Using this approach, FSIS effectively gained sampling efficiencies without overly burdening the establishment with additional sample collection.

Public Health Concerns

Salmonella bacteria are among the most frequently reported causes of foodborne illness. In December 2011, a multi-state outbreak linked to a multi-drug resistant strain of *Salmonella* sickened 19 people in the Northeast United States (*http://www.cdc.gov/salmonella/typhimurium-groundbeef/010512/index.html*). In June 2012, FSIS was notified of a cluster of *Salmonella enteriditis* illnesses linked to ground beef consumption with approximately 50 case-patients across nine states (*http://www.cdc.gov/salmonella/enteritidis-07-12/index.html*). The outbreaks referenced here and others suggest that *Salmonella* in ground beef is a continuing public health concern.

The changes described below will likely improve FSIS's ability to detect *Salmonella* by increasing the raw ground beef analytic sample portion for *Salmonella* analysis and increasing the number of establishments being sampled at any given time. As is also discussed below, FSIS intends to develop new performance standards that will likely lead establishments producing ground beef to strengthen their own *Salmonella* control measures. Such changes at establishments will likely have a positive impact on public health.

Changes to Salmonella Verification Sampling Programs for Raw Ground Beef Products

Beginning on the date FSIS will announce in the **Federal Register** notice that responds to any comments on this notice, FSIS will discontinue *Salmonella* sampling sets (''HC01'') for ground beef product except for establishments in Category 3. At the same time, FSIS will begin analyzing for *Salmonella* all raw beef samples it collects for STEC testing. Therefore, FSIS will begin analyzing for *Salmonella* all samples of raw ground beef, beef manufacturing trimmings, bench trim, and other raw ground beef components that its personnel collect for STEC testing, including raw ground beef products FSIS samples at retail stores and ground beef, trim, and other raw ground beef components FSIS samples at import establishments.

Whenever FSIS finds a product sample positive for *E. coli* O157:H7 or a non-O157 STEC, FSIS conducts follow-up sampling of product from the establishment that produced the positive product and at all suppliers that provided the source materials for the product. When FSIS begins analyzing for *Salmonella* the product collected for STEC analysis, FSIS will also begin analyzing for *Salmonella* the follow-up samples it collects in response to STEC positive results.

FSIS analyzes beef manufacturing trimmings for *E. coli* O157:H7 and the following non-O157 STECs: O26, O45, O103, O111, O121, and O145. FSIS analyzes raw ground beef and raw ground beef components other than beef manufacturing trimmings for E. coli O157:H7 only. FSIS is not making any changes to the STEC sampling and testing programs at this time.

The changes that FSIS is announcing to its *Salmonella* sampling procedures will permit FSIS to analyze more samples at the same time for lower Agency costs than the present method. Also, as noted above, FSIS stopped testing beef carcasses for *Salmonella* because the Agency sampling costs did not justify the results FSIS was able to obtain. Through this new approach, FSIS will be able to analyze for *Salmonella* beef manufacturing trimmings and other raw ground beef components at slaughter establishments. FSIS believes sampling these products will provide FSIS more information about *Salmonella* at these establishments than FSIS was able to gather through carcass testing.

FSIS will increase the raw ground beef analytic portion for *Salmonella* analysis from 25 grams to 325 grams to be consistent with the STEC analytic sample portions. To support an increase in the sample size analyzed, FSIS evaluated the FSIS *Salmonella* detection method (FSIS Microbiology Laboratory Guidebook Chapter 4.06) using 325 gram samples. Based on this analysis, FSIS expects the increase in the analytical portion size to have at least the same, but likely more of a positive, impact on public health because the likelihood of detecting positive samples increases with the analytical portion size. As is explained above, FSIS will continue to schedule sets for raw ground beef in those establishments in Category 3. FSIS laboratories will continue to evaluate raw ground beef product samples collected as part of a set using a 25-gram analytic sample portion.

FSIS intends to enumerate samples that confirm *Salmonella*-positive using the Most Probable Number (MPN) quantitative procedure. FSIS will continue to evaluate *Salmonella* isolates from the screen-positive samples for multi-drug resistance, to serotype the samples, and to use pulsed-field gel electrophoresis (PFGE) to identify specific strains of *Salmonella.*

Through this analysis, FSIS will determine whether Agency-positive *Salmonella* results are associated with illnesses or serotypes of human health significance. As is currently the case, if FSIS finds that establishments have produced product associated with illness, FSIS will typically conduct an Incident Investigation Team Review or Food Safety Assessment at the establishment.

Estimating Prevalence

In developing all of its prevalence estimates, FSIS defines prevalence as the proportion of applicable product that would test positive for a given pathogen if the entire population were sampled and analyzed during a specified time period. Although it provides a useful indication of process control within that establishment, set-based verification sampling that FSIS currently uses for *Salmonella* sampling and testing in many products is not

designed to estimate national prevalence of *Salmonella* by class of products. As is discussed above, under the set-based approach, FSIS collects samples from the same establishment on a daily basis until it has collected the necessary number of samples in the applicable performance standard. In 2012, FSIS evaluated many of its sampling programs as a means to calculate prevalence estimates for pathogens in FSIS-regulated products (*http://www.fsis.usda.gov/wps/wcm/connect/56b2ccbd-ad57-4311-b6df-289822d28115/Prevalence_Estimates_Report.pdf?MOD=AJPERES*). The Agency concluded, given the construction of the FSIS pathogen verification sampling programs at that time, that it was only possible to utilize the *E. coli* O157:H7 pathogen verification testing program for raw ground beef (''MT43'') to estimate national prevalence. Since that time, FSIS has redesigned its beef manufacturing trimmings verification sampling program such that, with a larger number of analyzed samples, it too is suitable for estimating prevalence (*http://www.fsis.usda.gov/wps/wcm/connect/15e75329-978f-43f0-b8fe-101845d898f0/Redesign_Beef_Trim_Sampling_Methodology.pdf?MOD=AJPERES*).

When FSIS begins analyzing all STEC samples for *Salmonella,* FSIS will be able to estimate the prevalence of *Salmonella* in raw ground beef and beef manufacturing trimmings. Therefore, FSIS will avoid the added expense of conducting separate baseline studies at periodic intervals to determine *Salmonella* prevalence in these products and will enhance the use of inspection resources. In addition, by using these continuous sampling programs rather than scheduled sets, FSIS will be able to analyze findings over time to determine trends and evaluate program effectiveness.

Because of the limited number of available samples scheduled and collected, FSIS does not believe it is possible to estimate prevalence for *Salmonella* in raw ground beef components other than beef manufacturing trimmings (such as bench trim).

New Performance Standards

After collecting at least three months of data using the new sampling and testing procedures, FSIS intends to conduct a risk assessment and develop a revised *Salmonella* performance standard for raw ground beef at a 325 gram sample size. FSIS will publish the revised *Salmonella* performance standard in the **Federal Register** before implementing the standard.

In 2011, FSIS estimated the national prevalence of *Salmonella* in beef manufacturing trimmings (*http://www.fsis.usda.gov/wps/wcm/connect/f07f5e1d-63f2-4ec8-a83a-e1661307b2c3/Baseline_Data_Domestic_Beef_Trimmings_Rev.pdf?MOD=AJPERES*). After careful consideration, FSIS does not believe the low incidence of *Salmonella* on beef manufacturing trimmings supports development of a *Salmonella* performance standard for beef manufacturing trimmings. FSIS is considering using the results of this estimation to develop guidance that will assist establishments in preventing *Salmonella* contamination in beef manufacturing trimmings.

FSIS recently revised other existing *Salmonella* performance standards to achieve a public health objective. In July 2011, FSIS implemented new performance standards for both *Salmonella* and *Campylobacter* for chilled carcasses in young chicken (broilers) and turkey slaughter establishments (76 FR 15282; March 21, 2011). By December 2011, the young chicken industry was meeting the acceptable *Campylobacter* percent positive reflected in the new standard at 9.43 percent (10.4 percent acceptable). Should FSIS develop new *Salmonella* performance standards for ground beef, FSIS believes that ground beef establishments would improve process control to meet the new performance standard in a similar manner.

Except for Category 3 establishments, FSIS will discontinue set testing at least until it establishes a revised *Salmonella* performance standard for ground beef. Meanwhile, FSIS is considering alternative sampling plans. One option that FSIS is considering is a ''moving window'' sampling plan in which FSIS would evaluate a set number of sequential results from single establishment to assess process control. For example, if FSIS chose to evaluate 20 results under the moving window approach, FSIS would assess the most recent 20 FSIS results for a particular establishment. This new approach would allow for on-going scheduled FSIS *Salmonella* sampling, similar to the approach FSIS uses for STEC testing, as compared to a set-based approach in which FSIS schedules a large number of sequential samples at an establishment as part of a set. The ''moving window'' approach would provide FSIS with more flexibility for scheduling sample collection at different establishments. The Agency requests comment on the ''moving window'' approach.

Other Sampling Procedures

Consistent with current sampling procedures, when an establishment either processes all raw ground beef product into ready-to-eat (RTE) product or moves it to another federally-inspected establishment for further processing into RTE product, the product will be excluded from Agency verification sampling for *E. coli* O157:H7 and *Salmonella.*

Individual sample results generated from this program will be reported through the Agency's Public Health Information System. FSIS will ensure that result information is made available to establishments. Because FSIS does not recognize *Salmonella* as a pathogen that would ordinarily render the product injurious to health, and thus as an adulterant within the meaning of 21 U.S.C. 601(m)(1), individual *Salmonella* sample results will not result in regulatory control actions. Therefore, after receiving STEC (O157:H7 and non-O157) results, establishments will not need to continue to hold product that has tested negative for STEC. If raw, non-intact beef product or raw, intact beef product that is intended for use as raw, non-intact product tests positive for STEC, the product is adulterated within the meaning of 21 U.S.C. 601(m)(1) (76 FR 58157; Sep. 20, 2011) unless further processed to destroy the pathogen.

Other Changes Under Consideration

In addition to ground beef, FSIS is considering moving *Salmonella* sampling from a set-based approach to a continuous sampling and ''moving window'' approach for all classes of products subject to FSIS sampling and testing for *Salmonella.* As is discussed above, this approach will allow FSIS more flexibility in scheduling and collecting samples.

In addition, FSIS is considering implementing new sampling of product classes not subject to FSIS sampling and testing for *Salmonella.* For example, FSIS is contemplating initiating sampling and testing for *Salmonella* in pork trim, pork parts, ground pork, chicken parts, and lamb carcasses.

Before FSIS makes any change of this type in its testing, it will provide notice and an opportunity for comment in the **Federal Register**.

Should FSIS decide to start testing new products for *Salmonella,* it would begin by sampling to assess the prevalence of *Salmonella* in each of the new products sampled. Upon completion of the exploratory sampling period (at least three months and possibly longer), FSIS would develop

new performance standards. FSIS would announce the tentative standards in the **Federal Register** and request comment on them before finalizing.

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Additional Public Notification

FSIS will announce this notice online through the FSIS Web page located at *http://www.fsis.usda.gov/wps/portal/fsis/topics/regulations/federal-register*.

FSIS will also make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to constituents and stakeholders. The Update is communicated via Listserv, a free electronic mail subscription service for industry, trade groups, consumer interest groups, health professionals, and other individuals who have asked to be included. The Update is also available on the FSIS Web page. In addition, FSIS offers an electronic mail subscription service which provides automatic and customized access to selected food safety news and information. This service is available at *http://www.fsis.usda.gov/wps/portal/fsis/programs-and-services/email-subscription-service*. Options range from recalls to export information to regulations, directives and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

Done at Washington, DC on: August 16, 2013.

Alfred V. Almanza,

Administrator.

[FR Doc. 2013–20995 Filed 8–27–13; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

10 CFR Part 110

[NRC–2012–0008]

Branch Technical Position on the Import of Non-U.S. Origin Radioactive Sources

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final Branch Technical Position.

SUMMARY: In 2010, the U.S. Nuclear Regulatory Commission (NRC) staff published a final rule amending its regulations concerning export and import of nuclear equipment and material. Among other things, it added the phrase ''of U.S. origin'' to the first exclusion to the definition of ''radioactive waste'' to confirm that the return of U.S. origin radioactive sources is not classified as the import of radioactive waste. The NRC staff drafted the Branch Technical Position (BTP) on the Import of Non-U.S. Origin Sources to provide additional guidance on the application of this exclusion in the regulations.

In developing this BTP, the NRC staff has engaged with States, Low-Level Waste Compacts, industry, and the public by providing two opportunities for public comment via **Federal Register** Notice and a public meeting in 2012. The exclusion in 10 CFR part 110 reflects the United States' commitments to the policy of safe storage and disposal of disused sources in the international context, including under the Code of Practice on the International Transboundary Movement of Radioactive Waste (Code of Practice), Joint Convention on the Safety of Spent Fuel Management and the Safety of Radioactive Waste Management (Joint Convention), and the International Atomic Energy Agency's (IAEA) Code of Conduct on the Safety and Security of Radioactive Sources (Code of Conduct—along with the supplementary Guidance on Import and Export). The United States' commitments include not exporting radioactive waste to other countries for disposal and, in light of the United States' strong domestic regulatory program, allowing return of disused sources manufactured or distributed from the United States in order to prevent sources from being orphaned overseas where regulatory programs may not exist or function to an optimal level.

DATES: The BTP is effective on September 27, 2013.

ADDRESSES: You can access publicly available documents related to this document using the following methods:

Federal e-Rulemaking Portal: Go to *http://www.regulations.gov* and search for documents filed under Docket ID [NRC–2007–0009]. Address questions about NRC dockets to Ms. Carol Gallagher at 301–492–3668 or by email *Carol.Gallagher@nrc.gov.*

NRC's Public Document Room (PDR): The public may examine and have copied, for a fee, publicly available documents at the NRC's PDR, Public File Area O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852.

NRC's Agencywide Documents Access and Management System (ADAMS): Publicly available documents created or received at the NRC are available electronically at the NRC's electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this page, the public can gain entry into ADAMS, which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*.

FOR FURTHER INFORMATION CONTACT: Jennifer C. Tobin, Office of International Programs, U.S. Nuclear Regulatory Commission, MS–O4E21, Washington, DC 20555–0001; telephone: (301) 415–2328; email: *jennifer.tobin@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. History
II. Branch Technical Position
III. Analysis of Public Comments on Proposed Branch Technical Position

I. History

The NRC published ''Notice of Public Meeting and Request for Comment on the BTP on the Import of Non-U.S. Origin Radioactive Sources,'' 77 FR 2924 (January 20, 2012), and received five comment letters as a result of that publication. The NRC staff made no substantive changes to the draft BTP based on these comment letters. However, minor editorial changes were made to the draft BTP to provide greater clarity.

The NRC published ''Request for Comment on the BTP on the Import of Non-U.S. Origin Radioactive Sources,''

77 FR 64435 (October 22, 2012), and received eight comment letters as a result of that publication. Many of those comments were on the existing regulations (10 CFR part 110) rather than the BTP. This final BTP does not amend the regulations in 10 CFR part 110; rather, it clarifies what is meant by ''U.S. origin'' and explains how the NRC staff interprets this exclusion to the definition of ''radioactive waste'' as used in 10 CFR 110.2. The NRC staff response to the eight comment letters can be found in this **Federal Register** Notice as well as at ML13177A163.

II. Branch Technical Position

A. Introduction

The NRC's regulations in 10 CFR part 110 (Part 110), ''Export and Import of Nuclear Equipment and Material,'' establish the general and specific export and import licensing requirements for special nuclear, source, and byproduct material including radioactive waste. ''Radioactive waste'' is defined in 10 CFR 110.2 as:

> ''. . . [a]ny material that contains or is contaminated with source, byproduct or special nuclear material that by its possession would require a specific radioactive material license in accordance with this Chapter [10 CFR Chapter I] and is imported or exported for the purposes of disposal in a land disposal facility as defined in 10 CFR Part 61, a disposal area as defined in Appendix A of 10 CFR Part 40, or an equivalent facility. . . .''

There are six exclusions in 10 CFR 110.2 to the definition of ''radioactive waste.'' The sealed source exclusion (exclusion one) is defined as radioactive material that is ''[o]f U.S. origin and contained in a sealed source, or device containing a sealed source, that is being returned to a manufacturer, distributor or other entity which is authorized to receive and possess the sealed source or the device containing a sealed source.'' [1] Disused sources that satisfy an exclusion to the definition of ''radioactive waste'' may be imported (returned) under the general license in 10 CFR 110.27, which requires that the U.S. consignee be authorized to receive and possess the material under the relevant NRC or Agreement State regulations and that the importer satisfy the terms for the general license set forth in 10 CFR 110.50.

The NRC staff has developed this BTP to provide guidance to source manufacturers, distributors, or other entities on the NRC's application of the sealed source exclusion to imports into the United States of non-U.S. origin disused sources.[2]

B. Background

On July 28, 2010, the NRC published a final rule in the **Federal Register** (75 FR 44072) that amended several provisions in 10 CFR part 110 to improve NRC's regulatory framework for the export and import of nuclear equipment, material, and radioactive waste. The sealed source exclusion to the definition of ''radioactive waste'' was revised, in response to a comment, to confirm that the exclusion only applies to sources of ''U.S. origin'' being returned to an authorized domestic licensee. The addition of the term ''U.S. origin'' to the sealed source exclusion was consistent with the original intent of the exclusion, initially adopted in a 1995 rule.[3]

In September 1990, the IAEA General Conference adopted the Code of Practice on the International Transboundary Movement of Radioactive Waste (Code of Practice) which provides that ''[t]he sending State should take the appropriate steps necessary to permit readmission into its territory of any radioactive waste previously transferred from its territory if such transfer is not or cannot be completed in conformity with this Code . . ., unless an alternate safe arrangement can be made.'' This Code of Practice served as a basis for the sealed source exclusion in the 1992 proposed rule (57 FR 17859) that described a United States policy of encouraging the return of disused sources to the country of origin for the purposes of helping to ensure that the sources will be handled responsibly at the end of their life cycle. The regulatory history of this rule, finalized in 1995 (60 FR 375567), was in principal and intent identical to the sealed source exclusion embraced by the proposed rule. In the Statements of Consideration, the NRC described industry practice as limited to return of disused sources to the original supplier or country of origin.

Shortly thereafter, the adoption of the Code of Practice resulted in the international development of the Joint Convention on the Safety of Spent Fuel Management and the Safety of Radioactive Waste Management (Joint Convention) that opened for signature in September 1997 and entered into force in 2001. In terms of this BTP, a key point in the legally-binding Joint Convention to which the United States is a party, is found in Article 28, ''Disused Sealed Sources,'' which states:

> ''A Contracting Party shall allow for reentry into its territory of disused sealed sources if, in the framework of its national law, it has accepted that they be returned to a manufacturer qualified to receive and possess the disused sealed sources.''

Nearly identical language was included in the non-legally binding Code of Conduct on the Safety and Security of Radioactive Sources (Code of Conduct), along with the supplementary Guidance on Import and Export, that was internationally approved in 2003 and to which the United States made a political commitment in 2004. In accordance with the Code of Practice, the Joint Convention, and the Code of Conduct (including the supplemental Guidance on Import and Export), the NRC believed that encouraging return of disused sources to the country of origin would help prevent sources from becoming ''orphaned'' by facilitating responsible handling of sources at the end of their life cycle. See *Import and Export of Radioactive Waste,* 57 FR 17859, 17861 (July 21, 1992) (proposed rule):

> (''the return of used or depleted sealed sources, gauges, and similar items to the U.S. or to another original exporting country for reconditioning, recycling or disposal may . . . help ensure that such materials are handled responsibly and not left in dispersed and perhaps unregulated locations around the world'').

The NRC's willingness to embrace this policy was in large part informed by U.S. industry comments that there is a:

> ''widely accepted practice, usually rooted in a sales or leasing contract or other agreement, of returning depleted sealed radioactive sources, used gauges, and other instruments containing radioactive materials . . . to the original supplier/manufacturer for recycle or disposal.'' (57 FR 17864)

See also, e.g., id. at 17861 (''the sale of a source is often conditioned on later return of the source for disposal''). Accordingly, central to the sealed source exclusion was the NRC's understanding, based on U.S. industry representations, that new and disused sources are routinely exchanged on a ''one-for-one'' basis—*i.e.,* a new source

[1] The NRC provided the following guidance on the scope of ''U.S. origin'' on NRC's Export and Import Web page at (*http://www.nrc.gov/about-nrc/ip/export-import.html*): ''U.S. origin was added in the first exclusion to the definition of radioactive waste to clarify that the exclusion only applies to sources of U.S. origin. U.S. origin sources may include sources with U.S. origin material and sources or devices manufactured, assembled or distributed by a U.S. company from a licensed domestic facility. Disused sources that originated in a country other than the United States would require a specific license if being exported or imported for disposal.''

[2] The terms ''supplier'' and ''importer'' are used interchangeably in this document with ''manufacturers, distributors, or other entity.''

[3] Import and Export of Radioactive Waste, 60 FR 37556 (July 21, 1995).

is exchanged for a disused source[4] —with the result that the number of disused sources imported is not greater than the number of new sources exported.

After the addition of ''U.S. origin'' to the sealed source exclusion in the 2010 rule, it came to the NRC staff's attention that, while it remains a widespread industry practice to exchange new and disused sources on a ''one-for-one'' basis, the current global supply market does not always allow a supplier to definitively ascertain the origin of a particular disused source that is exchanged for a new one before import and receipt of the disused source. With established customers, the disused sources will generally be of U.S. origin; however, for new customers, some of the sources initially being returned may not be of U.S. origin. The result is still a ''one-for-one'' exchange, resulting in the number imported not being greater than new sources exported.

Once a source is imported and received, the manufacturer, distributor, or other entity technically has the ability to determine the source's origin. However, the only way for the supplier to accomplish this is by exposing its personnel to additional radiation doses. Specifically, the supplier must use a glove-box to take the source out of its casing to read the serial numbers and correlate those numbers to different manufacturer's coding patterns.

C. Regulatory Position

The NRC staff has construed the ''U.S. origin'' provision in the context of the industry's recent clarification of international source exchange practices. The NRC staff recognizes that in some circumstances it may not be feasible for the importer to determine the country of origin for disused sources it seeks to exchange prior to import. If, after a good faith effort and without exposing personnel to additional doses, the U.S. manufacturer, distributor, or other entity cannot determine whether an imported disused source that has been exchanged for a new source is of U.S. origin, the source in question shall be deemed to be of U.S. origin for the purposes of the sealed source exclusion to the definition of ''radioactive waste'' in 10 CFR 110.2.[5] This application of the sealed source exclusion is limited to disused sources imported into the United States that have been exchanged for a new source in a foreign country on a ''one-for-one'' basis. Accordingly, it is the NRC's expectation that the number of disused sources imported by the manufacturer or distributor into the United States must not be greater than the number of new or refurbished sources exported by that manufacturer or distributor.

The NRC staff believes that this application of the sealed source exclusion reasonably balances the interests of public health and safety and international policy interests in responsible handling of sources at the end of their useful life. The approach preserves the fundamental policy rationale underlying the original exclusion—to prevent sources from being dispersed in unregulated locations around the world by facilitating a ''one-for-one'' exchange of U.S.-supplied new and disused sources—while achieving occupational doses to workers that are as low as reasonably achievable, as specified in 10 CFR 20.1101(b).

The NRC staff expects U.S. manufacturers, distributors, and suppliers to make a good faith effort to determine source origin before an import occurs. A good faith effort by the importer includes, but is not limited to, communication of U.S. import requirements with its foreign customers, examination of a photograph of the source the customer seeks to exchange, and obtaining other relevant information related to the disused sources' origin. It is recommended that U.S. importers retain copies of their communications with their foreign customers regarding U.S. import requirements. At all times, the U.S. importer must comply with the specific license requirement for disused sources known to be of non-U.S. origin prior to import into the United States. The specific license requirements include meeting the provisions/conditions of the material possession license which may limit the quantity/activity held in storage on site. Licensees should consider the potential ramifications and costs of extended storage due to lack of disposal options. Licensees should recognize that the low-level radioactive waste compacts have legal jurisdiction for the availability and access to disposal options.

Consistent with 10 CFR 110.53, the NRC staff may inspect the licensee's records, premises, and activities pertaining to its exports and imports to ensure compliance with the sealed source exclusion to the definition of ''radioactive waste.''

This position was distributed to all Agreement States and material licensees as a proposed document for comment and is publicly available for use by all potentially affected parties. Additionally, the NRC staff has coordinated this position with the Department of Energy/National Nuclear Safety Administration's (DOE/NNSA) Global Threat Reduction Initiative (GTRI) and confirmed that NRC does not have jurisdiction over the GTRI program.

D. Implementation

This technical position reflects the current NRC staff position on acceptable use of the general license for import of disused radioactive sources. Therefore, except in those cases in which the source manufacturer or distributor proposes an acceptable alternative method for complying with the definition of ''radioactive waste'' in Section 110.2, the guidance described herein will be used in the evaluation of the use of the general import license for disused sources.

III. Analysis of Public Comments on Proposed Branch Technical Position

The NRC received responses from eight organizations including States, licensees, and others on the proposed BTP on the Import of Non-U.S. Origin Radioactive Sources, 77 FR 64435 (October 22, 2012) that was published for a 60-day public comment period. The commenters were: the Northwest Interstate Compact on Low-Level Radioactive Waste Management (Northwest Compact), the State of Utah's Department of Environmental Quality (UDEQ), the State of Virginia's Department of Health–Division of Radiological Health (State of Virginia), the Organization of Agreement States (OAS), the Nuclear Energy Institute (NEI), the International Source Suppliers and Producers Association (ISSPA), QSA Global Inc. (QSA), the Low-Level Radioactive Waste Forum Inc.–Disused Sources Working Group (LLW Forum), and International Isotopes Inc. (International Isotopes).

Most of the comments did not disagree with the underlying rationale for the regulation in Part 110 and justification for the BTP's interpretation (i.e., to construe non-U.S. origin disused

[4] The sealed sources are changed out when the decay of the source limits the usefulness of the material. At this point, a supplier typically will send a new source and the user will return the used source in the same shielded container. This practice is typically formalized in the contract between the user and the supplier. Sometimes the sources are still useful and can be recycled for re-use in a different application. In that case, the sixth exclusion to the definition of ''radioactive waste'' applies and the source can be imported under a general license even if it is non-U.S. origin. Guidance on this exclusion can be found on NRC's Export and Import Web page at *http://www.nrc.gov/about-nrc/ip/export-import.html* and is in harmony with this position paper.

[5] The definition of ''radioactive waste'' in this BTP paper pertains solely to export and import. It does not affect or alter the domestic regulations of ''waste'' as defined in 10 CFR 20.1003.

sources as U.S. origin under certain circumstances for purpose of exclusion one to the definition of radioactive waste in 10 CFR 110.2.) Instead, many of the comments appear to request that NRC revise or clarify the existing exclusions to the definition of radioactive waste in Part 110. Although only minimal changes are being made to the proposed BTP (mainly to provide more historical background and context and to explicitly point out costs and access to limited disposal options), the NRC staff found the comments useful in identifying concerns and is formally responding to those comments in conjunction with publication of the final BTP in the **Federal Register**.

Comment Response

Comment: Four commenters (NEI, OAS, ISSPA, and the State of Virginia) agreed with the guidance provided in the proposed BTP and urged NRC staff to publish the final document in the **Federal Register** in the near future.

Response: The comment resolution document will be published in the **Federal Register** in conjunction with the final BTP.

Comment: International Isotopes and NEI requested that clarification regarding disused sources containing byproduct material as defined under section 11e(3) or section 11e(4) of the Atomic Energy Act be included in the BTP. The commenters asked for ''additional language to be added to the BTP to address the import of non-U.S. origin sources containing accelerator produced radioisotopes or Radium-226 which can be disposed of in non-Part 61 or equivalent facilities'' as it was unclear to them if ''equivalent facility'' could include Resource Conservation and Recovery Act (RCRA) facilities.

To address this concern, International Isotopes suggested that a footnote be added to the BTP such as the following:

> ''Non-U.S. origin radioactive sources containing byproduct material, as defined in paragraphs (3) and (4) of the definition of ''byproduct material'' set forth in 20.1003, does not require a specific import license if it [the material] is intended for disposal at a disposal facility authorized to dispose of such material in accordance with any Federal or State solid or hazardous waste law, including the Solid Waste Disposal Act, as authorized under the Energy Policy Act of 2005.''

Response: Any disused source imported for disposal in a RCRA facility would not be treated as ''radioactive waste'' under NRC's definition of radioactive waste found in 10 CFR part 110.2 since it is not being disposed of in a Part 61, Part 40 (Appendix A) or equivalent facility. Conversely, any disused source imported for disposal in a Part 61 or Part 40 (Appendix A), or equivalent facility, even if it contains section 11e(3) or section 11e(4) material, would qualify as radioactive waste under the Part 110 definition of ''radioactive waste'' since disposal would ''. . . require a specific radioactive material license in accordance with this Chapter and is imported or exported for the purposes of disposal in a land disposal facility . . .'' pursuant to NRC's regulations. The term ''equivalent facility'' used here refers to Part 61 equivalent facilities in foreign countries for export purposes and does not relate to import of disused sources. This clarification is not directly related to the discussion of U.S. origin in the BTP and therefore has been included as a frequently asked question (FAQ) on NRC's Web site at *http://www.nrc.gov/about-nrc/ip/faq.html.*

Comment: QSA requested that the final BTP include clarification of Footnote 1 in the BTP.[6] Specifically, QSA commented that:

> ''We understood that the draft BTP was going to further clarify, that if a non-U.S. origin source is contained in a U.S. device, and that U.S. device needs to be returned to the U.S. for use, then that can be considered a legitimate import regardless of the source origin. We suggest the BTP add further clarification on this point for sources returned in a device under footnote 1. This change will continue to support international commerce, and will not impose unfair competitive restrictions on U.S. manufacturers since many other countries do not have this restriction.''

QSA explained that disused sources (both U.S. and foreign origin) are loaded into U.S. shipping containers, presumably when customers order replacement sources and if they have limited or no storage capacity for spent sources. QSA's interpretation of ''U.S. origin'' devices include U.S. shipping containers. Specifically, QSA uses the terms ''device'' and ''shipping container'' interchangeably in the 10 CFR 110.2 definition of ''radioactive material.''

The NRC staff believes that the guidance for ''U.S. origin'' in Footnote 1 is clearly addressing medical, industrial, or other types of sources that are included in devices. For those radiographic exposure devices, as defined in 10 CFR 34.3, which meet the performance requirement of 10 CFR 34.20(b)(2) and qualify as Type B transport containers in accordance with the applicable requirements of 10 CFR part 71, the radiographic exposure device houses the source and is integral to the use of the material for its intended purpose. The sealed source exclusion is applicable as is the ''one-for-one'' discussion. These are not the same as shipping containers that are used solely for transferring new or used sources. NRC does not consider a Type B shipping container that is not integral to the use of the material for its intended purpose to be a device, as the term is commonly used and understood in NRC's domestic regulatory program. A device typically only contains one source whereas a shipping container can include a number of sources with different origins. All of the sources in the shipping container need to be taken into account in the one-to-one exchange and determining origin.

Comment: The LLW Forum requested that further interactions with the NRC take place regarding the first and sixth exclusions of the definition of ''radioactive waste'' in 10 CFR 110.2. The first exclusion addresses U.S. origin. The sixth exclusion concerns legitimate recycling of radioactive sources.

Response: As stated in the final rule, the NRC added a sixth exclusion to the definition of ''radioactive waste'' to clarify that the definition does not include material imported solely for the purposes of recycling and not for waste management or disposal where there is a market for the recycled material and evidence of a contract or business agreement can be produced upon request by the NRC.

In addition to the LLW Forum's comment, the NRC also received several questions from industry regarding the applicability of the sixth exclusion to long-lived isotopes sealed in radioactive sources. Specifically, the NRC has been asked for clarification on the applicability of exclusion six in cases where sources were imported for recovery and reuse of the radioactive material but, upon import, due to the condition of the source or device, it was determined that the material could not be recovered or reused as intended. The NRC staff recognizes that in some circumstances sources imported with the intent to recycle may be discovered to be not recyclable. The NRC staff construes the sixth exclusion in 10 CFR 110.2 to authorize import for recycle

[6] The NRC provided the following guidance on the scope of ''U.S. origin'' on NRC's Export and Import Web page at (*http://www.nrc.gov/about-nrc/ip/export-import.html*): ''U.S. origin was added in the first exclusion to the definition of radioactive waste to clarify that the exclusion only applies to sources of U.S. origin. U.S. origin sources may include sources with U.S. origin material and sources or devices manufactured, assembled or distributed by a U.S. company from a licensed domestic facility. Disused sources that originated in a country other than the United States would require a specific license if being exported or imported for disposal.''

and/or reuse under the general license to apply in a situation where, based on the best available information and after a good faith effort to determine recyclability of the source(s) prior to the import taking place, a U.S. company imports a source with the intent of recovering the radioactive material for reuse in another application but upon import discovers that a source is not recyclable. A good faith effort by the importer includes, but is not limited to, communication of U.S. import requirements with its foreign customers, examination of a photograph of the source(s) the customer seeks to exchange, and other relevant information related to the source's recyclability such as current activity level.

At all times, the U.S. importer must comply with the specific license requirement for ''radioactive waste'' as defined in 10 CFR 110.2. Any person who imports materials under a general license for recycling using exclusion six, but with the intent of disposing of that material in the United States would be subject to NRC enforcement action. In addition, there may be instances in which some small value may be obtained from the materials that are imported, but the primary intention is for disposal. In such cases, to avoid possible enforcement action the NRC staff should be consulted before any such imports are made. It is recommended that U.S. importers retain copies of their communications with their foreign customers regarding U.S. import requirements and records of efforts taken to determine recyclability of the source(s) prior to import. This guidance is also posted as an FAQ on the import/export Web site at *http://www.nrc.gov/about-nrc/ip/faq.html.*

Comment: The Northwest Compact pointed out that NRC's definition of radioactive waste to exclude U.S. origin disused sources is not consistent with the Compact's definition of radioactive waste in its ''Resolution Clarifying the Third Amended Resolution and Order,'' which the Compact claims requires treating U.S.-manufactured disused sources that are used outside the U.S. as foreign radioactive waste. According to the Northwest Compact:

> ''A depleted sealed source means that the useful life of the returned radioactive sealed sources is exhausted or used up which means the Compacts would view such sources as radioactive waste. Following purchase from a U.S. manufacturer, the source spent its entire useful life employed for its specific purpose in the foreign country. So although the BTP would allow such sources to be returned to the manufacturer as material, in reality the radioactive sealed source actually became waste following its use within a foreign country, prior to its return to the U.S. manufacturer.''

Furthermore, The Northwest Compact stated that:

> ''It is difficult to envision the return of a ''depleted'' radioactive sealed source as anything other than the return of waste that was generated within a foreign country. Without such a policy, there is little incentive for out-of-region states or foreign countries to develop the capacity to properly handle radioactive sealed sources following their useful life.''

The Northwest Compact recommended that the NRC add a statement such as the following to the BTP:

> ''Returned sources may have limited disposal access as the interstate compacts in which three of the four operating Part 61 commercial disposal facilities in the U.S. are located may view the returned radioactive sealed sources as foreign low-level waste and would not provide access for disposal.''

Response: The NRC disagrees that a U.S.-manufactured source that was used outside the U.S. should be treated as foreign-generated radioactive waste for purposes of import under Part 110. As stated in the BTP, facilitating return of U.S.-manufactured disused sources through the use of a general license, among other things, furthers international policy objectives regarding disused sources committed to by the United States, including the United States' implementation of the Code of Conduct. Specifically, paragraph 27 of the Code of Conduct states:

> ''Every State should allow for re-entry into its territory of disused radioactive sources if, in the framework of its national law, it has accepted that they be returned to a manufacturer authorized to manage the disused sources.''

The return of disused sources to the country of origin is a well-established industry practice not only in the United States but in many other countries. Global implementation of the Code of Practice, Joint Convention, and Code of Conduct (including the supplementary Guidance on Import and Export) provides responsible end-of-life management for all international parties (see Background section of BTP for additional details). The practice of allowing return to the U.S. under general license of U.S.-manufactured disused sources has been in use in the United States at least since the mid-1990's.

The NRC staff recognizes that differences in interpretation of the meaning of ''foreign'' radioactive waste may limit disposal options for licensees. The Northwest Compact's current ''Resolution Clarifying the Third Amended Resolution and Order'' would appear not to allow sources used in foreign jurisdictions (to the end of useful life) to be disposed of at a Compact facility even if a source originated in a Northwest Compact member state and is considered to be ''U.S. origin'' and excluded from the definition of radioactive waste by the NRC for purposes of import. The Northwest Compact thus purports to have the authority to prevent return to the U.S. of disused sources originating in the U.S. but used in a foreign country.

The NRC staff believes that the Northwest Compact's interpretation of country of origin and what is ''foreign'' waste is inconsistent with the commonly understood and accepted interpretation of country of origin for disused sources (i.e., the country where the disused sources were manufactured rather than used) under the international agreements to which the U.S. is a signatory, including the Code of Practice, the Joint Convention, and the Code of Conduct, all of which expect that signatory countries be responsible for the disposition of disused sources originating within their own country.

To the extent that the Northwest Compact is suggesting that its Compact authority may be exercised in a manner that is contrary to federal law, including NRC regulations, and underlying U.S. policy objectives to promote responsible handling of disused sources on an international scale, the NRC staff disagrees. Section 4(b)(4) of the Low Level Radioactive Waste Policy Act of 1985, as amended, provides that, ''[e]xcept as expressly provided in this Act, nothing contained in this Act or any compact may be construed to limit the applicability of any Federal law or to diminish or otherwise impair the jurisdiction of any Federal agency. . . .'' The NRC staff questions whether application of the Northwest Compact's ''Resolution'' in a manner that would interfere with the federal scheme for responsible disposition of U.S. origin disused sources used overseas, including disused sources originating within a Northwest Compact member state, would be a permissible exercise of Compact authority consented to by Congress under the Northwest Interstate Compact on Low-Level Radioactive Waste Management. The NRC staff recognizes, however, that legal and policy issues regarding the interface between federal authority and state compact authority have yet to be tested in this particular context and, in any event, are beyond the scope of the BTP. We reiterate that the BTP itself is

consistent with the NRC rule regarding import and export of radioactive waste that has been in place since 1995, and, through its limitation to one-for-one exchanges, has a neutral effect on disposal capacity constraints within the U.S. The NRC staff also notes that the other nine Low-Level Waste Compacts and ten unaffiliated States have not expressed specific views on the waste management practices that apply to disused radioactive sources.

By addressing this aspect of the Northwest Compact's comment in this comment resolution document (published at the same time as the BTP), the NRC is reiterating to licensees the potential limits both to disposal options for disused sources and long-term storage capacity at the licensees' respective sites.

Comment: Three commenters (Northwest Compact, LLW Forum and UDEQ) would like additional language added to the BTP to acknowledge the lack of current disposal options for non-U.S. origin disused radioactive sources. UDEQ commented that ''[t]he importation of sources/devices not directly attributable to U.S.-origin certainly raises a concern regarding disposal site access in Utah.'' UDEQ suggested adding clarification to the BTP to state that where disposal of such sources is not an option, a licensee

''. . . would still be required to store these sources safely, to meet the financial assurance provisions as applicable in the regulations, and would have to dispose of the sources in an authorized facility at some time. The DEQ staff expects that licensees would consider the additional costs for potential storage and out-of-compact disposal in deciding whether to import sources . . .''

UDEQ also suggested adding more explanatory text regarding potential storage and disposal considerations and requirements directly into the BTP as a clarifying footnote. The Northwest Compact and LLW Forum raised similar concerns about potential impacts on capacity for domestic long-term storage and ultimate disposal by NRC and Agreement State licensees. Specifically, the LLW Forum observed that

''. . . although NRC may allow certain radioactive sources to be imported into the country under the proposed BTP, the agency should be aware that there may not be a disposal option for the sources depending upon the policies of the particular Compact and/or sited state to which the sources are being returned.''

Response: A specific license for the import of radioactive waste must ''. . . name an appropriate facility that has agreed to accept and is authorized to possess the waste for *management* or disposal . . .'' (10 CFR 110.43(d) (emphasis added)) where ''management'' includes authorization for long-term storage under a company's NRC or Agreement State issued possession license. A general license (10 CFR 110.27) is contingent on ''the U.S. consignee [being] authorized to receive and possess the material under a general or specific NRC or Agreement State license . . .'' Among other things, the domestic authorization sets possession limits and provisions for long-term storage. The NRC staff is aware that there may not be disposal options for some sources due to current Compact policies on admittance of out-of-Compact waste.

Agreement State and NRC possession license holders historically have not differentiated use or storage of radioactive sources based on origin. In terms of their possession limits and storage capacity, licensees handle the sources identically regardless of origin in order to protect public health and safety. With the ''one-for-one'' exchange required under the BTP, there should be no increase in the volume of disused sources for management or disposal as a result of the BTP. The application of this BTP is limited to those radioactive sources that have been exchanged on a ''one-for-one'' basis and after a good faith effort has been made by the importer to determine the origin. Accordingly, it is the NRC's expectation that the number of disused sources imported by the manufacturer or distributor into the United States must not be greater than the number of new or refurbished sources exported by that manufacturer or distributor.

Comment: The Northwest Compact and the UDEQ suggested that the final BTP include language explicitly:

''. . . informing U.S. licensees to consider the ramifications and costs of the potential need for extended storage in the absence of a recycling or subsequent disposal option for imported sources and devices as well as the legal jurisdictions of low-level radioactive waste compacts in terms of the availability of or access to disposal activities.''

Response: The NRC is aware that the costs of long term storage may be an issue for some licensees. For this reason, NRC has added language to the final BTP to reflect the Northwest Compact and State of Utah concerns regarding the availability and access to the limited disposal options currently available.

Comment: The LLW Forum expressed that ''the NRC should show greater deference to the LLW Compacts and host states through earlier and more active involvement in the import of potentially non-U.S. origin radioactive sources for disposal.'' They suggest that:

''. . . when the NRC is in the process of developing policy positions on the disposal of disused sources, the NRC should evaluate whether the position is consistent with the policies of interstate compacts that host Part 61 commercial low-level radioactive waste disposal facilities and should also include consultation and communication with affected compacts and sited states.''

Response: The NRC staff works within the confines of the Atomic Energy Act of 1954, as amended, and recognizes the authorities granted to the States and Compacts in the Low Level Waste Policy Act of 1985. The LLW Compacts are provided multiple opportunities to comment on publications for rulemaking in Part 110, Part 110 specific license applications for import of radioactive waste, and guidance documents such as the BTP (see pre-emption response above).

Comment: International Isotopes suggested that the final BTP should ''recognize the practice of a ''one-for-one'' source exchange and acknowledge that there are complexities associated the radioactive source supply chain.'' More specifically, International Isotopes points out that the timing of exports and imports over the course of a timeframe might not align specifically with the ''one-for-one'' principle on which the BTP is based.

Response: The NRC staff recognizes that importing/exporting trends and an importer's intent are licensee and isotope-specific and will be considered on a case-by-case basis by NRC staff.

Dated at Rockville, Maryland, this 22nd day of August, 2013.

For the Nuclear Regulatory Commission.

Charlotte Abrams,

Acting Director, Office of International Program.

[FR Doc. 2013–20975 Filed 8–27–13; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 141

[Docket No. FAA–2010–0100; Amdt. No. 141–17A]

RIN 2120–AJ67

Pilot Certification and Qualification Requirements for Air Carrier Operations; Correction

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: The FAA is correcting a final rule published on July 15, 2013 (78 FR

42324). In that final rule, which became effective on the date of publication, the FAA amended its regulations to create new certification and qualification requirements for pilots in air carrier operations. The FAA inadvertently listed an incorrect amendment number for that final rule. This document corrects that error.

DATES: Effective: August 28, 2013.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this correction contact Barbara Adams, Air Transportation Division, AFS–200, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–8166; facsimile (202) 267–5299, email *barbara.adams@faa.gov.*

For legal questions concerning this correction contact Anne Moore, Office of the Chief Counsel—International Law, Legislation, and Regulations Division, AGC–240, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–3123; facsimile (202) 267–7971, email *anne.moore@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

On July 15, 2013, the FAA published a final rule entitled, ''Pilot Certification and Qualification Requirements for Air Carrier Operations'' (78 FR 42324). In that final rule, which became effective July 15, 2013, the FAA amended part 141. The FAA inadvertently listed the incorrect amendment number for part 141 in the header information of the final rule as 141–1. The correct amendment number is 141–17.

Correction

In the final rule, FR Doc. 2013–16849, published on July 15, 2013, at 78 FR 42324, make the following correction:

1. On page 42324 in the heading of the final rule, revise ''Amdt. No. 141–1'' to read as ''Amdt. No. 141–17''.

Issued in Washington, DC, under the authority provided by 49 U.S.C. 106(f), 44701(a) and Secs. 216–217, Public Law 111–216, 124 Stat. 2348 on August 23, 2013.

Brenda D. Courtney,

Acting Director, Office of Rulemaking.

[FR Doc. 2013–20962 Filed 8–27–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9619]

RIN 1545–BD84

Regulations Enabling Elections for Certain Transaction Under Section 336(e); Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document describes corrections to final regulations [TD 9619] that provide guidance under section 336(e) of the Internal Revenue Code (CODE), which authorizes the issuance of regulations under which an election may be made to treat sale, exchange or distribution of at least 80 percent of the voting power and value of the stock of a corporation (target) as a sale of all its underlying assets. These regulations were published in the **Federal Register** on Wednesday, May 15, 2013.

DATES: This correction is effective on August 28, 2013, and is applicable beginning May 15, 2013.

FOR FURTHER INFORMATION CONTACT: Mark J. Weiss, (202) 622–7930 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations (TD 9619) that are the subject of this correction are under section 336(e) of the Code.

Need for Correction

As published May 15, 2013 [78 FR 28467] TD 9619 contains errors that may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of the final regulations [TD 9619], which were the subject of FR Doc. 2013–11522, is corrected as follows:

1. On page 28467, column 2, in the preamble under the caption ''Paperwork Reduction Act'', the fourth line from the top, the language, ''in §§ 1.336–2(h) and 1.336–4(c)(4). This'' is corrected to read ''in §§ 1.336–2(h) and 1.336–4(c). This''.

2. On page 28467, column 2, in the preamble under the caption ''Background'', second paragraph, fifth line, the language, ''947 [73 FR 49965–02]) (the proposed'' is corrected to read ''947 [73 FR 49965]) (the proposed''.

Martin V. Franks,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. 2013–20495 Filed 8–27–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9619]

RIN 1545–BD84

Regulations Enabling Elections for Certain Transaction Under Section 336(e); Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendment.

SUMMARY: This document contains amendments to correct errors in final regulations [TD 9619] that provide guidance under section 336(e) of the Internal Revenue Code (CODE), which authorizes the issuance of regulations under which an election may be made to treat sale, exchange or distribution of at least 80 percent of the voting power and value of the stock of a corporation (target) as a sale of all its underlying assets. These regulations were published in the **Federal Register** on Wednesday, May 15, 2013.

DATES: This correction is effective on August 28, 2013, and is applicable beginning May 15, 2013.

FOR FURTHER INFORMATION CONTACT: Mark J. Weiss, (202) 622–7930 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations (TD 9619) that are the subject of this correction are under section 336(e) of the Code.

Need for Correction

As published May 15, 2013 [78 FR 28467] TD 9619 contains errors that may prove to be misleading and is in need of clarification.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Correction of Publication

Accordingly, 26 CFR part 1 is corrected by making the following correcting amendments:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

■ **Par. 2.** In § 1.336–2, paragraphs (b)(1)(i)(C) and (h)(8) *Example 2.* (ii) are revised to read as follows:

§ 1.336–2 Availability, mechanics, and consequences of section 336(e) election.

* * * * *

(b) * * *

(1) * * *

(i) * * *

(C) *Tiered targets.* In the case of parent-subsidiary chains of corporations making section 336(e) elections, the deemed asset disposition of a higher-tier subsidiary is considered to precede the deemed asset disposition of a lower-subsidiary.

* * * * *

(h) * * *

(8) * * *

Example 2. * * *

(ii) *Making of election for S Corporation Target.* Because S Corporation Target is an S Corporation Target, in order to make a section 336(e) election for the qualified stock disposition of S Corporation Target, the requirements of paragraph (h)(3) of this section must be satisfied. On or before the due date of S Corporation Target's Federal income tax return that includes Date 1, A, B, C, and S Corporation Target must enter into a written, binding agreement to make a section 336(e) election; S Corporation Target must retain a copy of the written agreement; and S Corporation Target must attach the section 336(e) election statement to its timely filed Federal income tax return for the taxable year that includes Date 1.

* * * * *

■ **Par. 3.** Section 1.1502–13 is amended by revising the heading of paragraph (f)(5)(ii)(C) to read as follows:

§ 1.1502–13 Intercompany transactions.

* * * * *

(f) * * *

(5) * * *

(ii) * * *

(C) *Sections 338(h)(10) and 336(e).* * * *

* * * * *

Martin V. Franks,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).

[FR Doc. 2013–20491 Filed 8–27–13; 8:45 am]

BILLING CODE 4830–01–P

POSTAL SERVICE

39 CFR Part 111

Balloting Materials Postage

AGENCY: Postal Service™.

ACTION: Final rule.

SUMMARY: The Postal Service will revise *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM®) 703.8.0 to require that all ballot types include in the balloting materials a marking to indicate that the proper amount of postage must be paid and the balloting materials must also indicate the specific amount of postage for the return of ballots, unless mailed under certain specified exceptions.

DATES: *Effective date:* October 7, 2013.

FOR FURTHER INFORMATION CONTACT: Steven Monteith at (202) 268–6983, or Garry Rodriguez at 202–268–7281.

SUPPLEMENTARY INFORMATION: On May 2, 2013, the Postal Service published a proposed rule (78 FR 25677–25678) inviting comments on revisions to the standards for balloting materials. In response to this proposed rule, the Postal Service received several comments that are summarized and discussed below.

After considering the comments received, the Postal Service will revise the DMM to require that the balloting materials for all types of ballots, whether disseminated hardcopy or electronically, must indicate in a prominent location the proper amount of First-Class Mail® postage that must be paid. This information must be included in the balloting materials (i.e., on the ballot, ballot instructions, mailing instructions, or the envelope) with the marking ''First-Class Mail postage must be applied.'' Alternatively, the marking ''Apply First-Class Mail postage here'' could be printed in the upper right corner of the address side of the envelope used by the voter to return the ballot to election officials. The Postal Service will also accept approved variations of the above markings.

Additionally, this final rule requires that the balloting materials indicate in a prominent location the specific amount of First-Class Mail postage required for the return of the ballot to election officials.

The marking requirements will not apply to balloting materials that meet one of the following exceptions:

- The balloting materials are qualified under the special exemption for military and overseas voting.
- The ballot is returned under Business Reply Mail® service.
- Return postage is guaranteed through a postage due account.
- Postage on the ballot is prepaid by stamps, meter, or Permit Reply Mail.

Comments and Discussion

The Postal Service received fourteen formal responses to the proposed rule. Thirteen responses were received from State election officials and one comment was received from a consumer. Several responses included comments about more than one issue. Comments and responses are as follows.

One commenter pointed out that in the preamble the word ''sufficient'' was included in the markings to indicate that the proper amount of postage must be paid, but was omitted in the proposed text of DMM 703.8.1.2. We regret any confusion, and note that the word ''sufficient'' will not be required in the markings required by the final rule.

Some commenters indicated that they are already including different variations of the proposed markings. The Postal Service appreciates this proactive approach and will make the necessary changes to also allow the use of approved versions.

One commenter questioned the requirement to indicate the specific amount of postage required, based on the current use of Forever™ stamps. The value of a Forever stamp is widely publicized as the current First-Class Mail single-piece 1-ounce price. When a Forever stamp is used on a piece requiring postage greater than the First-Class Mail single-piece 1-ounce price, additional postage must be affixed.

Other commenters voiced practical concerns about the requirement to indicate the specific amount of postage for the return of the ballot. These concerns included the need to order election envelopes in bulk, management of excess inventory, and the effect of annual price changes. In response to these concerns, the definition of ''balloting materials'' has been broadened to include ''mailing instructions.'' This will provide election officials an alternative to printing the markings on the ballot, voting instructions, or return envelope.

Some commenters expressed concerns regarding the ability of election officials to determine the specific postage required to return the ballot. The amount of postage communicated to voters should be based only on what is required to be returned. Local postal personnel are available to work with election officials to determine the amount of postage which should be applied.

One commenter suggested the use of a static URL or telephone number in lieu of the proposed markings. We believe that placing the correct postage due notification in a prominent location within the balloting materials will have higher visibility and encourage voter compliance. A link to an ancillary information source may be provided as a supplement.

One commenter raised concerns over the ability to provide the postage amount for the return of the ballot on electronic ballots that are printed by the voter. The Postal Service recognizes the potential for inconsistency when voters self-print ballots and use unspecified paper and envelope configurations. The Postal Service recommends that election officials include a supplementary notification specifically directed to voters who self-print and return ballots, such as: ''Please be sure to affix the correct amount of First-Class Mail postage when returning ballots through the U.S. Mail.''

Some commenters suggested an exception to the proposed requirements should be made based on an arrangement with the USPS® to pay for all ballots returned with insufficient postage. The Postal Service recognizes and appreciates the local partnerships that many election officials have with the Postal Service. Therefore, we have included use of a postage due account to pay postage due on all short-paid ballots as an exception to the markings.

One commenter questioned the means of verification to ensure compliance with the marking requirements. As part of the verification procedure, mailers are required to provide a sample of balloting materials to the Business Mail Entry Unit (BMEU) at the time of mailing. If a sample is not provided, BME staff will contact the mail provider or mail owner and request that the required sample be provided to the BMEU the same day. To ensure consistency and provide clarity, the requirement to provide a sample with each mailing will be added to the DMM.

One commenter questioned the treatment of balloting materials that do not comply with the marking requirements. The Postal Service will actively assist election officials to comply with the applicable postal laws and regulations governing mail preparation and mailability. Information about USPS standards is available from postmasters, BME managers, the Pricing and Classification Service Center manager, and Postal Explorer® at *pe.usps.com.* Election officials also have the option of using Business Reply Mail service or establishing a ''postage due'' account in lieu of using the markings.

Some commenters questioned the treatment of ballots returned with insufficient postage. Generally, mail of any class received at either the office of mailing or office of address without enough postage is marked to show the total deficiency of postage and is delivered to the addressee on payment of the charges marked on the mail. If ballots are returned with insufficient postage, the Postal Service will deliver these ballots to election officials and collect postage due from election officials who accept delivery of short paid ballots. The Postal Service recommends that all election officials have a postage due account for the payment of postage due or use Business Reply Mail service. If election officials decline to pay the postage due for short paid ballots, the ballots will be handled under the standards provided in DMM 604.8.0.

One commenter stated that implementation of the new standards would lead not only to increased printing costs, but also to voter disenfranchisement. To the contrary, the Postal Service anticipates that the new standards will improve the vote-by-mail process for all participants, and thus encourage an increase in voter participation. While some election officials have arrangements in place to process ballots with insufficient postage, many do not. Since each election cycle presents a different set of parameters for ballot creation and for the size and weight of the mail piece, we believe that voters need to be better informed of the correct postage required to return a ballot by mail. Informing voters will enhance the vote-by-mail process:

- Voters will know what postage is required to return their ballot and will be more likely to apply the correct First-Class Mail postage.
- Election officials will incur less expense to pay the postage due on returned ballots.
- The Postal Service will be able to process ballots in a timely manner and expedite their return to election officials, without the added delay and expense of calculating and collecting postage due.

In sum, the requirement to inform the voter about the correct postage required to return a ballot by mail has numerous benefits. The design and prominent placement of the notification will assist in this process. Election officials will have several options for compliance, including the choice to establish a postage due or Business Reply Mail account and can select the one they believe is the easiest and least costly to implement.

One commenter inquired regarding the treatment of matter sent as Free Matter for the Blind and Other Physically Handicapped Persons. Subject to the standards in DMM 703.5.0, acceptable matter sent to the blind or other physically handicapped persons may be entered as domestic mail free of postage. Under DMM 703.5.2, reading matter in braille or 14-point or larger sightsaving type is considered acceptable matter subject to opening and inspection by the USPS. In accordance with DMM 703.5.3 matter may also be mailed free of postage by blind or other physically handicapped persons. This matter includes unsealed letters in braille or in 14-point or larger sightsaving type containing no advertising. Where requested, the Postal Service will cooperate with election officials regarding any modification of the vote-by-mail process to accommodate the needs of blind or other physically handicapped voters.

Some additional comments were received, generally pertaining to mail classification, pricing, special exemptions, delivery, and postage payment methods. These comments have been deemed by the Postal Service to be beyond the scope of this rule.

In addition, based on subsequent communication with election officials, the Postal Service has revised its original proposal to include the prepayment of postage by stamps, meter, or Permit Reply Mail, as an additional exception to the marking standards.

The Postal Service adopts the following changes to *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM), incorporated by reference in the *Code of Federal Regulations.* See 39 CFR 111.1.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

Accordingly, 39 CFR part 111 is amended as follows:

PART 111—[AMENDED]

■ 1. The authority citation for 39 CFR part 111 continues to read as follows:

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

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

* * * * *

Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM)

* * * * *

700 Special Standards

[Revise the heading of 703 as follows:]

703 Nonprofit Standard Mail and/or Other Unique Eligibility

* * * * *

[Revise the heading of 8.0 as follows:]

8.0 Balloting Materials

[Renumber 8.1 and 8.2 as 8.2 and 8.3. Add new 8.1 as follows:]

8.1 Basic Standards

8.1.1 Definition

Balloting materials include postcard applications, all ballot types, voting instructions, mailing instructions, and return envelopes.

8.1.2 Exceptions to Standards

An exception to the marking and verification standards in 8.1.3 through 8.1.5 is granted for one of the following reasons:

a. Ballots are mailed under 8.2, Special Exemption.

b. Ballots are returned under 505.1.0, Business Reply Mail.

c. A postage due account has been established to guarantee the payment of return postage.

d. Prepayment of return postage is made by stamps, meter, or Permit Reply Mail.

8.1.3 Postage

Except for ballots meeting one of the exceptions under 8.1.2, balloting materials for any election, whether disseminated hardcopy or electronically, must indicate in a prominent location that the proper amount of postage must be paid. This information must be included in the balloting materials with the marking ''First-Class Mail postage must be applied.'' Alternatively, the marking ''Apply First-Class Mail postage here'' may be printed in the upper right corner of the address side of the return envelope. Approved versions will also be acceptable in either location. Election officials should consult with postal officials to assist with mailpiece design, barcode placement, and to determine the proper amount of postage required for mailing ballots to voters and the return of ballots to election officials.

8.1.4 Notification of Postage Requirement on Return Ballots

Except for ballots meeting one of the exceptions under 8.1.2, all ballot types for any election, whether disseminated hardcopy or electronically, must indicate in a prominent location on the balloting materials the specific amount of First-Class Mail postage required for return by mail to election officials.

8.1.5 Verification

Except for ballots meeting one of the exceptions under 8.1.2, each mailing must be accompanied by a complete sample mailpiece.

[Revise the heading of renumbered 8.2 as follows:]

8.2 Special Exemption

8.2.1 Definition

[Revise the introductory text of renumbered 8.2.1 as follows:]

Balloting materials may be sent through the mail without prepayment of postage to enable persons in the following categories to apply for registration and vote by absentee ballot when absent from the place of voting residence and otherwise eligible to vote as an absentee:

* * * * *

[Delete renumbered heading 8.3, Marking, and renumber 8.3.1 as 8.2.5, Exhibit 8.3.1 as Exhibit 8.2.5, 8.3.2 as 8.2.6, Exhibit 8.3.2 as Exhibit 8.2.6, and 8.3.3 as 8.2.7.]

* * * * *

We will publish an appropriate amendment to 39 CFR part 111 to reflect these changes.

Stanley F. Mires,

Attorney, Legal Policy and Legislative Advice.

[FR Doc. 2013–20799 Filed 8–27–13; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[EPA–HQ–OAR–2012–0393; FRL–9844–3]

RIN 2060–AR67

Air Quality: Revision to Definition of Volatile Organic Compounds—Exclusion of *trans* 1-chloro-3,3,3-trifluoroprop-1-ene [Solstice™ 1233zd(E)]

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is taking final action to revise the regulatory definition of volatile organic compounds (VOCs) for purposes of preparing state implementation plans (SIPs) to attain the national ambient air quality standards (NAAQS) for ozone under title I of the Clean Air Act (CAA). This final action adds *trans* 1-chloro-3,3,3-trifluoroprop-1-ene (also known as Solstice™ 1233zd(E)) to the list of compounds excluded from the regulatory definition of VOCs on the basis that this compound makes a negligible contribution to tropospheric ozone formation. As a result, if you are subject to certain federal regulations limiting emissions of VOCs, your emissions of Solstice™ 1233zd(E) may not be regulated for some purposes. This action may also affect whether Solstice™ 1233zd(E) is considered as a VOC for state regulatory purposes, depending on whether the state relies on the EPA's regulatory definition of VOCs. An exemption for Solstice™ 1233zd(E) was promulgated first as a direct final rulemaking but was withdrawn because EPA received an adverse comment.

DATES: This rule is effective on September 27, 2013.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2012–0393. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Docket ID No. EPA–HQ–OAR–2012–0393, EPA/DC, EPA West, Room 3334, 1301 Constitution Avenue NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air and Radiation Docket and Information Center is (202) 566–1742. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at: *http://www.epa.gov/epahome/dockets.htm.*

FOR FURTHER INFORMATION CONTACT: David Sanders, Office of Air Quality Planning and Standards, Air Quality Policy Division, Mail Code C539–01, Research Triangle Park, NC 27711; telephone: (919) 541–3356; fax number: 919–541–0824; email address: *sanders.dave@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

Entities potentially affected by this final rule include, but are not necessarily limited to, state and local air pollution control agencies that adopt and implement regulations to control air emissions of VOCs; industries involved in the manufacture or use of refrigerants, aerosol and non-aerosol solvents and blowing agents for insulating foams; and manufacturers of refrigeration equipment, hot water heaters and waste heat recovery equipment. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section. This action has no substantial direct effects on industry because it does not impose any new mandates on these entities, but, to the contrary, removes Solstice™ 1233zd(E) from the regulatory definition of VOCs. The use of this compound remains subject to other restrictions under the CAA. Specifically, the use of this compound as an aerosol propellant, blowing agent or refrigerant, or any other use in which it would substitute for chlorofluorocarbons, hydrochlorofluorocarbons or their substitutes, is subject to restrictions under the Significant New Alternatives Policy (SNAP) program (CAA § 612; 40 CFR part 82 subpart G). The SNAP program has issued final approvals for Solstice™ 1233zd(E) as a suitable foam and refrigerant substitute and as a propellant (74 FR 50129, September 30, 2009; 75 FR 34017, June 16, 2010), and as a solvent for metals, electronics, and precision cleaning and in adhesives, coatings, and inks.

B. How is this preamble organized?

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II. Background

A. The EPA's VOC Exemption Policy

Tropospheric ozone, commonly known as smog, is formed when VOCs and nitrogen oxides (NO_X) react in the atmosphere in the presence of sunlight. Because of the harmful health effects of ozone, the EPA and state governments limit the amount of VOCs that can be released into the atmosphere. VOCs are those organic compounds of carbon that form ozone through atmospheric photochemical reactions. Different VOCs have different levels of reactivity. That is, they do not react to form ozone at the same speed or do not form ozone to the same extent. Some VOCs react slowly or form less ozone; therefore, changes in their emissions have less and, in some cases, very limited effects on local or regional ozone pollution episodes. It has been the EPA's policy that organic compounds with a negligible level of reactivity should be excluded from the regulatory definition of VOCs so as to focus VOC control efforts on compounds that do significantly increase ozone concentrations. The EPA also believes that exempting such compounds creates an incentive for industry to use negligibly reactive compounds in place of more highly reactive compounds that are regulated as VOCs. The EPA lists compounds that it has determined to be negligibly reactive in its regulations as being excluded from the regulatory definition of VOCs (40 CFR 51.100(s)).

Section 302(s) of the CAA specifies that the EPA has the authority to define the meaning of ''VOC,'' and hence what compounds shall be treated as VOCs for regulatory purposes. The policy of excluding negligibly reactive compounds from the regulatory definition of VOCs was first set forth in the ''Recommended Policy on Control of Volatile Organic Compounds'' (42 FR 35314, July 8, 1977) and was supplemented most recently with the ''Interim Guidance on Control of Volatile Organic Compounds in Ozone State Implementation Plans'' (Interim Guidance) (70 FR 54046, September 13, 2005). The EPA uses the reactivity of ethane as the threshold for determining whether a compound has negligible reactivity. Compounds that are less reactive than, or equally reactive to, ethane under certain assumed conditions may be deemed negligibly reactive and therefore suitable for exemption from the regulatory definition of VOCs. Compounds that are more reactive than ethane continue to be considered VOCs for regulatory purposes and therefore are subject to control requirements. The selection of ethane as the threshold compound was based on a series of smog chamber experiments that underlay the 1977 policy.

The EPA has used three different metrics to compare the reactivity of a specific compound to that of ethane: (i) The reaction rate constant (known as k_{OH}) with the hydroxyl radical (OH); (ii) the maximum incremental reactivity (MIR) on a reactivity per unit mass basis; and (iii) the MIR expressed on a reactivity per mole basis. A full description of each metric and how it is derived can be found in the direct final rulemaking (78 FR 11101, February 15, 2013) and is not repeated here.

B. Petition to List Solstice™ 1233zd(E) as an Exempt Compound

Honeywell Inc. submitted a petition to the EPA on July 19, 2011, requesting that Solstice™ 1233zd(E) (CAS number 102687–65–0) be exempted from VOC control based on its low reactivity relative to ethane.[1] The petitioner indicated that Solstice™ 1233zd(E) may be used in a variety of applications, including as a solvent in aerosol and non-aerosol applications, as a blowing agent in insulating foams for refrigerators/freezers and hot water heaters and as a refrigerant in commercial chillers and waste heat recovery (Rankin cycle) systems. A fuller description of the petition regarding Solstice™ 1233zd(E), including a discussion of other compounds for which it would substitute, is found in the direct final rulemaking (78 FR 11101, February 15, 2013) and is not repeated here.

C. Contribution to Tropospheric Ozone

Detailed information on the ozone reactivity of Solstice™ 1233zd(E) was presented in the direct final rulemaking

[1] *Trans* 1-chloro-3,3,3-trifluoroprop-1-ene will also be marketed by Honeywell under the trade names Solstice™ N12 Refrigerant, Solstice™ Liquid Blowing Agent (Solstice™ LBA), and Solstice™ Performance Fluid.

(78 FR 11101, February 15, 2013) and is summarized here.

Solstice™ 1233zd(E) has a higher k_{OH} value than ethane, meaning that it initially reacts more quickly in the atmosphere than ethane. However, a molecule of Solstice™ 1233zd(E) is less reactive than a molecule of ethane in terms of complete ozone forming activity as shown by the molar-based MIR (g O_3/mole VOC) values. Also, a gram of Solstice™ 1233zd(E) has a lower MIR value than a gram of ethane. Thus, under the Interim Guidance, Solstice™ 1233zd(E) is eligible to be exempted from the regulatory definition of VOCs, based on both mass-based and molar-based MIR.

D. Health and Environmental Risks

The preamble to the direct final rulemaking (78 FR 11101, February 15, 2013) provided background information on the Premanufacture Notice (PMN) review and SNAP program review of Solstice™ 1233zd(E). That preamble also presented other information relevant to any potential health or environmental risks. This information is summarized here.

As a chemical not yet introduced into commerce, Solstice™ 1233zd(E) completed a PMN review on January 30, 2012. After considering all relevant data currently available, the EPA was unable to find any unreasonable risks to human health or the environment from the expected use of the substance. Based on this finding, the EPA did not find it necessary to take any actions to prevent unreasonable risk under the Toxic Substance Control Act (TSCA).

The SNAP program review of Solstice™ 1233zd(E) described the potential health effects of Solstice™ 1233zd(E) as being common to many refrigerants, foam agents and solvents, including many of those already listed as acceptable under SNAP. Potential health effects of this substitute include serious eye irritation, skin irritation and frostbite. EPA anticipates that users will be able to meet the manufacturer's recommended workplace exposure limit and address potential health risks by following requirements and recommendations in the material safety data sheet and in any other safety precautions common to the refrigeration and air conditioning industry, the foam blowing industry and the solvent-based cleaning industry and common when using adhesives and coatings.[2]

Solstice™ 1233zd(E) is not flammable. Solstice™ 1233zd(E) is not expected to undergo wet or dry deposition to an appreciable extent.

Solstice™ 1233zd(E) has a 100-yr global warming potential (GWP) reported as 4.7 to 7 and an atmospheric lifetime of approximately 26 to 31 days or less. The net GWP effect of increased use of Solstice™ 1233zd(E) in place of certain other compounds will be advantageous.

III. Proposed Action and Response to Comments

Based on both the mass and molar MIR values for Solstice™ 1233zd(E) being equal to or less than that of ethane, the EPA issued a direct final rule (78 FR 11101, February 15, 2013) and a parallel notice-and-comment proposal (78 FR 11119, February 15, 2013) to find that Solstice™ 1233zd(E) is ''negligibly reactive'' and to exempt Solstice™ 1233zd(E) from the regulatory definition of VOCs at 40 CFR 51.100(s).

Comments: The EPA received three comments on the parallel notice-and-comment proposal during its comment period. Only one commenter, an individual, expressed reservations about the proposed exemption.[3] This commenter believes that the low ozone reactivity of Solstice™ 1233zd(E) is not sufficient to exempt it from the regulatory definition of VOCs in light of what the commenter says are its hazards to humans and the environment. The commenter characterizes Solstice™ 1233zd(E) as being a toxin and a halogen and notes that it has an occupational exposure limit (OEL) of 300 parts per million (ppm). The commenter says that removing Solstice™ 1233zd(E) from the regulatory definition of VOCs would trivialize the safety hazards posed by its use and that keeping Solstice™ 1233zd(E) within the regulatory definition of VOCs would incline people who work near and on it to treat it with caution.

Two comments, one from the petitioner Honeywell and the other from an individual, supported the proposed exemption. Honeywell's comments directly address the assertions made by the commenter who expressed the reservations noted above. Honeywell notes that Solstice™ 1233zd(E) does not meet the common definition of a ''toxin'' and that it is not itself a halogen. Honeywell also explains that the OEL of 300 ppm is Honeywell's own recommendation and that this level is higher than three other particular chemicals that have already been excluded from the regulatory definition of VOCs. Honeywell states that Solstice™ 1233zd(E) is not a listed chemical substance in the regulations of the Occupational Safety and Health Administration (OSHA), nor would it be classified as acutely toxic based on OSHA health hazard criteria. Honeywell also notes that Solstice™ 1233zd(E) is not a hazardous air pollutant under the Clean Air Act.

EPA Response: The EPA agrees with the factual information provided in the comments from Honeywell. The EPA notes that the only fact cited in the single adverse comment is that the (Honeywell-recommended) OEL for Solstice™ 1233zd(E) is 300 ppm. The commenter does not argue or present any evidence that exposures to workers or the public will approach this level. The EPA does not agree that keeping Solstice™ 1233zd(E) within the regulatory definition of VOCs would increase worker or public awareness of its potential toxicity at high exposure levels or help them to limit their exposures, in the context of other mechanisms operating to inform and protect workers and the public from high exposures, because such individuals are unlikely to be aware of the details of the EPA's regulatory definition of VOCs and because individuals do not necessarily associate mere qualification as a VOC with hazard. There are more direct and customary ways for people likely to be exposed to the chemical to become aware of needed precautions (e.g., material safety data sheets). Issues of workplace exposure were considered in the EPA's reviews of this compound under the PMN and SNAP program and the EPA felt that existing measures were appropriate to prevent unreasonable risk.

As stated previously, the EPA finds that Solstice™ 1233zd(E) qualifies as negligibly reactive with respect to its contribution to tropospheric ozone formation. In addition, we believe that risks not related to tropospheric ozone associated with currently allowed uses of the chemical are acceptable and that any new or increased risk from potential new uses are adequately addressed by other existing programs and policies, specifically the SNAP program. We also believe that the comparable or lower GWP of Solstice™ 1233zd(E) compared to other acceptable substitutes is an additional reason to approve the Solstice™ 1233zd(E) petition given that

[2] Since publication of the direct final rule and parallel proposed rule, the SNAP program found Solstice™ 1233zd(E) acceptable for use as a solvent for metals, electronics, and precision cleaning and in adhesives, coatings, and inks (78 FR 29034, May 17, 2013). The SNAP program is currently still reviewing Solstice™ 1233zd(E) for use as a refrigerant for non-mechanical heat transfer.

[3] The EPA considered this comment to be an adverse comment and accordingly withdrew the direct final rule before it became effective. 78 FR 23149, April 18, 2013.

applying the Interim Guidance itself supports such approval.

IV. Final Action

The EPA is taking final action to approve the petition for exemption of Solstice™ 1233zd(E) from the regulatory definition of VOCs.

If an entity uses or produces Solstice™ 1233zd(E) and is subject to the EPA regulations limiting the use of VOC in a product other than an aerosol coating, limiting the VOC emissions from a facility, or otherwise controlling the use of VOC for purposes related to attaining the ozone NAAQS, then the compound will not be counted as a VOC in determining whether these regulatory obligations have been met. Emissions of this compound will not be considered in determining whether a proposed new or modified source triggers the applicability of Prevention of Significant Deterioration (PSD) requirements, in areas where the PSD program is implemented by the EPA or a delegated state, local or tribal agency. This action may also affect whether Solstice™ 1233zd(E) is considered as a VOC for state regulatory purposes to reduce ozone formation, if a state relies on the EPA's regulatory definition of VOCs. States are not obligated to exclude from control as a VOC those compounds that the EPA has found to be negligibly reactive. However, states may not take credit for controlling these compounds in their ozone control strategies.

This action is consistent with the Interim Guidance in that two of the three reactivity metric values for Solstice™ 1233zd(E) compare favorably to the corresponding values for ethane. This action is also supported by our inability in the Premanufacture Notification Review Program to find any unreasonable risks to human health or the environment from the expected use of the substance, our finding in the SNAP program review of this chemical that use of this chemical in currently allowed applications poses lower or comparable overall risk to human health and the environment than other acceptable options for the same uses, and on our confidence that the SNAP program would prevent the use of this chemical in any additional applications subject to review by the SNAP program where such use would pose a significant risk to human health or the environment.

V. Statutory and Executive Order Reviews

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

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

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq*. Burden is defined at 5 CFR 1320.3(b). It does not contain any recordkeeping or reporting requirement.

C. Regulatory Flexibility Act

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

For purposes of assessing the impacts of this action on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration (SBA) regulation (see 13 CFR 121.201); (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives ''which minimize any significant economic impact of the rule on small entities.'' 5 USC 603 and 604. Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule. This final rule removes Solstice™ 1233zd(E) from the regulatory definition of VOCs and thereby relieves users of the compound from requirements to control emissions of the compound. We have, therefore, concluded that today's final rule will relieve regulatory burden for all affected small entities.

D. Unfunded Mandates Reform Act

This action contains no federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for state, local or tribal governments or the private sector. The action imposes no enforceable duty on any state, local or tribal governments or the private sector. Therefore, this action is not subject to the requirements of sections 202 and 205 of the UMRA.

This action is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. This final rule removes Solstice™ 1233zd(E) from the regulatory definition of VOCs and thereby relieves users of the compound from requirements to control emissions of the compound.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This final rule removes Solstice™ 1233zd(E) from the regulatory definition of VOCs and thereby relieves users from requirements to control emissions of the compound. Thus, Executive Order 13132 does not apply to this rule.

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

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). It would not have substantial direct effects on tribal governments, on the relationship between the federal government and Indian Tribes, or on the distribution of power and responsibilities between the federal government and Indian Tribes, as specified in Executive Order 13175.

Thus, Executive Order 13175 does not apply to this rule.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

This action is not subject to EO 13045 (62 FR 19885, April 23, 1997) because it is not economically significant as defined in EO 12866. While this final rule is not subject to the Executive Order, the EPA has reason to believe that ozone has a disproportionate effect on active children who play outdoors (62 FR 38856; 38859, July 18, 1997). The EPA has not identified any specific studies on whether or to what extent Solstice™ 1233zd(E) may affect children's health.

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

This action is not subject to Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, section 12(d), (15 U.S.C. 272 note) directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs the EPA to provide Congress, through OMB, explanations when the agency decides not to use available and applicable voluntary consensus standards. This rulemaking does not involve technical standards. Therefore, the EPA has not considered the use of any voluntary consensus standards.

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

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

The EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it will not affect the level of protection provided to human health or the environment.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective on September 27, 2013.

L. Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the District of Columbia Circuit Court within 60 days from the date the final action is published in the **Federal Register**. Filing a petition for review by the Administrator of this final action does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review must be final, and shall not postpone the effectiveness of such action. Thus, any petitions for review of this action related to the exemption of Solstice™ 1233zd(E) from the regulatory definition of VOCs must be filed in the Court of Appeals for the District of Columbia Circuit within 60 days from the date final action is published in the **Federal Register**.

List of Subjects in 40 CFR Part 51

Environmental protection, Administrative practice and procedure, Air pollution control, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 16, 2013.

Gina McCarthy,

Administrator.

For reasons set forth in the preamble, part 51 of chapter I of title 40 of the Code of Federal Regulations is amended as follows:

PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

■ 1. The authority citation for Part 51, Subpart F, continues to read as follows:

Authority: 42 U.S.C. 7401, 7411, 7412, 7413, 7414, 7470–7479, 7501–7508, 7601, and 7602.

§ 51.100—[Amended]

■ 2. Section 51.100 is amended at the end of paragraph (s)(1) introductory text by removing the words ''and perfluorocarbon compounds which fall into these classes:'' and adding in their place the words ''*trans* 1-chloro-3,3,3-trifluoroprop-1-ene; and perfluorocarbon compounds which fall into these classes:''.

[FR Doc. 2013–21014 Filed 8–27–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2013–0148; FRL–9843–8]

Approval and Promulgation of Air Quality Implementation Plans; Nevada; Regional Haze Federal Implementation Plan; Extension of BART Compliance Date for Reid Gardner Generating Station

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to extend the compliance date for NO_X emission limits, under the Best Available Retrofit Technology (BART) requirements of the Regional Haze Rule, for Units 1, 2, and 3 at the Reid Gardner Generating Station (RGGS) by 18 months from January 1, 2015, to June 30, 2016. EPA's BART determination was promulgated in a Federal Implementation Plan (FIP) on August 23, 2012. On March 26, 2013, EPA granted reconsideration of the compliance date and proposed to extend the compliance date for the NO_X emission limits applicable to Units 1, 2, and 3 at RGGS.

DATES: This rule is effective on September 27, 2013.

ADDRESSES: EPA established a docket for this action at EPA–R09–OAR–2013–0148. Generally, documents in the docket are available electronically at *www.regulations.gov* or in hard copy at the EPA Region 9 office. Documents from EPA's final BART determination and FIP for RGGS, promulgated on August 23, 2012, are generally available electronically in a different docket: EPA–R09–OAR–2011–0130. Please note that while many of the documents in the docket are available electronically at *www.regulations.gov,* some information may not be specifically listed in the index to the docket or may be publicly available only in hard copy at the EPA Region 9 office (e.g., copyrighted material, large maps, multi-volume reports, or otherwise voluminous materials), and some may not be publicly available in electronic or hard copy form (e.g., confidential business information). To view the hard copy materials, please schedule an appointment during normal business hours with the contact person listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Anita Lee, U.S. EPA, Region 9, 75 Hawthorne Street (AIR–2), San Francisco, CA 94105. Anita Lee can also be reached at (415) 972–3958, or via electronic mail at *r9_airplanning@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we'', ''us'', and ''our'' refer to the United States Environmental Protection Agency (EPA).

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IV. Statutory and Executive Order Reviews

I. Background

EPA provided a detailed description of the BART requirements of the Regional Haze Rule and our analysis of the Nevada Division of Environmental Protection's (NDEP) BART determination for RGGS elsewhere. See 77 FR 21896 (April 12, 2012). EPA took final action on the BART determination for NO_X emissions from Unit 1, 2, and 3 at RGGS on August 23, 2012 (77 FR 50936). On October 19, 2012, Nevada Energy (NV Energy, also known as Nevada Power Company), filed a petition to the EPA Administrator for reconsideration of the BART compliance date. On March 26, 2013, EPA granted the petition for reconsideration and also proposed to extend the BART compliance date for NO_X for the affected units by 18 months, from January 1, 2015 to June 30, 2016. The notice of proposed rulemaking published on March 26, 2013, provides additional detail regarding the history of EPA actions related to BART for RGGS, the petition for reconsideration, a summary of supplemental information submitted by NV Energy to demonstrate that the extended compliance date of June 30, 2016, is as expeditious as practicable, and EPA's demonstration that the extension does not interfere with attainment, reasonable further progress, or any other applicable requirement of the Clean Air Act (CAA). This information is not restated here. See 78 FR 18280 (March 26, 2013).

II. EPA Responses to Public Comments

EPA provided a 60-day public comment period for our proposed rulemaking that was scheduled to close on May 28, 2013. On April 4, 2013, EPA provided notice in the **Federal Register** of a public hearing and a short extension of the comment period to May 30, 2013 (78 FR 20290). The public hearing was held on April 29, 2013, in Moapa, Nevada. EPA received oral comments from 12 individuals during the public hearing. Prior to the close of the public comment period, EPA also received three written comment letters.

Oral comments made during the public hearing are summarized below and are followed by EPA's responses to those comments. In general, comments made during the public hearing expressed concerns related to the health impacts on the Moapa community from RGGS and expressed opposition to the proposed extension of the BART compliance date for NO_X. Members of the Moapa Band of Paiute Indians (Moapa Band) and the Sierra Club, as well as legal counsel representing the Moapa Band and the Sierra Club, provided oral testimony during the public hearing.[1] Subsequent to the public hearing, and prior to the close of the comment period, the legal counsel representing the Moapa Band, the Sierra Club, and the National Parks Conservation Association, submitted a written comment letter stating that the groups took no position on the proposed compliance date extension.[2] EPA also received comment letters in support of the proposed extension of the compliance date, from NV Energy and NDEP.[3] NDEP noted that the extended compliance date would still result in the installation and operation of new NO_X controls more than 1 year earlier than the 5-year maximum period allowed for BART under the Clean Air Act and the Regional Haze Rule.

In its comment letter to EPA dated May 14, 2013, NV Energy also provided additional information regarding an amendment to Senate Bill 123 introduced to the Nevada Legislature in April, 2013 (known as ''NVision''). NVision proposed to retire some of the coal-fired units owned by NV Energy on an accelerated schedule and to replace retired generation with energy from new natural gas-fired units and renewable sources. NVision would require early retirement of Units 1, 2, and 3 at RGGS by the end of 2014, prior to the original compliance date in our August 23, 2012 final rulemaking and the extended compliance date we proposed on March 26, 2013. Because NV Energy must also file its plan to the Nevada Public Utilities Commission for review and approval, NV Energy states that the earliest date it would receive a decision on the plan would be in the first quarter of 2014. Given the current uncertainty regarding approval of NVision, NV Energy stated in its letter that it will continue to move forward on an expeditious schedule to comply with BART emission limits for NO_X at RGGS by June 30, 2016.[4]

All written comments submitted to EPA express either no position on, or are in support of, our proposed action to extend the BART compliance date. Because our final action extends the compliance date as proposed, we are not providing any further responses to those written comments. Oral comments made during the public hearing express additional concerns related to RGGS and the proposed compliance date extension. We respond below to the comments received during the public hearing that are relevant to our proposed action.

Comment 1: In general, the commenters opposed extending the compliance date for meeting the NO_X emission limits at RGGS. A number of

[1] The transcript for the April 29, 2013 public hearing is available as document 0014 in the docket for this rulemaking (EPA–R09–OAR–2013–0148).

[2] See comment letter from Dan Galpern, Law Offices of Charles M. Tebbutt, on behalf of the Sierra Club, the National Parks Conservation Association, and the Moapa Band of Paiute Indians, to EPA, dated May 28, 2013, available as document 0013 in the docket for this rulemaking.

[3] See comment letter from Starla Lacy, NV Energy, to EPA, dated May 14, 2013, available as document 0010 in the docket for this rulemaking. See also comment letter from Rob Bamford, NDEP, to EPA, dated May 15, 2013, available as document number 0009 in the docket for this rulemaking.

[4] The schedule for compliance with BART emission limits for NO_X is outlined in greater detail in the letter from Starla Lacy, NV Energy to Anita Lee, EPA, dated January 31, 2013, available as document 0004 in the docket for this rulemaking.

commenters indicated that the plant has been in operation for many years and should no longer be allowed to operate without controls. Some commenters stated that an extension is not necessary in light of the plan to shut the plant down next year, and one added that maintaining the current compliance schedule will give NV Energy added incentive to go through with the shutdown.

Response 1: EPA disagrees with the comment that RGGS is operating without controls. RGGS currently operates with SO_2 and particulate matter controls, as well as older low-NO_X burners with overfire air. Units 1, 2, and 3 at RGGS are subject to BART based on their age, emissions of visibility-impairing pollutants, and their impact on visibility at Class I areas. The CAA and the Regional Haze Rule require BART controls to be installed as expeditiously as practicable, but in no event later than five years from the date of the final rulemaking. As discussed in greater detail in our notice of reconsideration and proposed rulemaking, our proposed extension of the compliance date by 18 months, from January 1, 2015 to June 30, 2016, is consistent with the CAA and the Regional Haze Rule. The extension is justified by an expeditious schedule for the installation of multiple control technologies that require detailed engineering, procurement, construction, installation, and testing of new controls, as well as regulatory approvals from the Nevada Public Utilities Commission and the Nevada Division of Environmental Protection, with an average time of 14 months per unit to meet new BART emission limits. RGGS is following its plan to install new controls to comply with BART emission limits as expeditiously as practicable and within a timeframe that is less than five years from the final BART rulemaking.

As stated previously, although NV Energy plans to retire Units 1, 2, and 3 at RGGS by the end of 2014, NV Energy must also file its plan to the Nevada Public Utilities Commission for review and approval. NV Energy states that the earliest date it would receive a decision on the plan would be in the first quarter of 2014. Given the current uncertainty regarding the approval of NVision, NV Energy stated in its letter that it continues to move forward on its expeditious schedule to comply with BART emission limits for NO_X at RGGS by June 30, 2016. Therefore, EPA's action is still necessary despite NV Energy's plans to retire Units 1, 2 and 3 at RGGS. This final action requires that in the event Units 1, 2, and 3 continue operation and are not retired by the end of 2014, these units must comply with BART emission limits by June 30, 2016, a date which is as expeditious as practicable and within five years of the final rule.

Comment 2: Some commenters expressed skepticism about NV Energy's pledge to retire its coal-fired boilers at RGGS and the passage of pending state legislation, which would codify the proposed retirement schedule. These commenters encouraged the EPA to follow through with the existing compliance schedule in the event that NV Energy does not retire the plant voluntarily or at the behest of state legislation.

Response 2: EPA understands that the NVision plan has been approved by the Nevada Legislature and signed by Governor Brian Sandoval on June 11, 2013.[5] NV Energy must also file its plan that includes early retirement of Units 1, 2, and 3 at RGGS to the Nevada Public Utilities Commission for review and approval.

As stated in *Response 1,* EPA is taking final action to extend the compliance date by 18 months based on our determination that the schedule for compliance that provides approximately 14 months per unit for the procurement, installation, and testing of new BART controls, is reasonable and as expeditious as practicable. For this reason, the extended compliance date of June 30, 2016 is consistent with the CAA and the Regional Haze Rule.

Comment 3: Several commenters stated that residents of southern Nevada and the Moapa Band of Paiute Indians suffer from a variety of health issues, including asthma attacks, lung disease, cancer, and heart disease, which they believe are attributable to emissions from RGGS. A few commenters recounted their personal experiences with deteriorating health or the health problems of loved ones. Two commenters argued that emissions produced by the RGGS are not restricted to the area around the plant, but impact neighboring cities and states as well.

Response 3: EPA understands that the health of the Moapa community is an important issue. Our final BART determination for RGGS is expected to significantly reduce emissions of NO_X.[6] Ozone and fine particles are formed in the atmosphere from reactions between NO_X and other pollutants. Nitrogen dioxide, or NO_2, is a component of NO_X. Ozone, fine particles and NO_2 have all been associated with various effects on human health and the environment. As discussed in our proposed rulemaking, EPA has promulgated standards, known as the national ambient air quality standards (NAAQS), for seven pollutants, including NO_2, ozone and particulate matter with a diameter less than or equal to 2.5 micrometers ($PM_{2.5}$).[7] The primary NAAQS standards protect public health, including the health of ''sensitive'' populations, such as asthmatics, children, and the elderly, while the secondary NAAQS standards protect public welfare, including damage to animals, crops, vegetation, and buildings. Using a process that considers air quality data and other factors, EPA designates areas as ''nonattainment'' if those areas cause or contribute to violations of a NAAQS.

RGGS is located in Clark County, Nevada. Portions of Clark County (the Las Vegas Valley) have previously been designated nonattainment for PM_{10}, carbon monoxide, and the 1997 8-hour ozone standard. RGGS is not located in the portion of Clark County that was designated nonattainment for PM_{10}. Additionally, Clark County is now in attainment with the NAAQS for carbon monoxide and ozone.[8] This means that the air quality in the area surrounding RGGS is meeting all the NAAQS set by EPA to protect human health.

Comment 4: Two commenters urged the EPA to consider the broader ramifications of BART controls, warning that more stringent control of air emissions would lead to an increased waste stream and more contaminants flowing into wastewater ponds and eventually into nearby landfills that burden the Moapa community.

Response 4: EPA understands that impacts from the landfills near the Moapa community are important issues. However, EPA's proposed rulemaking addressed only the compliance date by which the affected units at RGGS must meet emission limits required under the BART provisions of the CAA and Regional Haze Rule. Therefore, comments related to additional waste resulting from emission control technologies are not relevant to our current action. Discussions and

[5] *http://www.leg.state.nv.us/Session/77th2013/Reports/history.cfm?billname=SB123.*

[6] See 77 FR 50936 (August 23, 2012).

[7] The other pollutants are sulfur dioxide, carbon monoxide, lead, and PM_{10}.

[8] See: ''Determination of Attainment for PM_{10} for the Las Vegas Valley Nonattainment Area, NV,'' 75 FR 45485 (August 3, 2012); ''Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of Nevada; Redesignation of Las Vegas Valley to Attainment for the Carbon Monoxide Standard,'' 75 FR 59090 (September 27, 2010); and ''Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of Nevada; Redesignation of Clark County to Attainment for the 1997 8-Hour Ozone Standard,'' 78 FR 1149 (January 8, 2013).

considerations of non-air quality environmental impacts of potential controls were addressed in the proposed rule dated April 12, 2012 (77 FR 21896) and in the final rulemaking dated August 23, 2012 (77 FR 50942).

Comment 5: Two commenters discussed how emissions from the RGGS have impacted local vegetation and wildlife, making it difficult for the tribal community to exercise its cultural practices (e.g., herbal medicine).

Response 5: EPA understands that the health of local vegetation and wildlife are important issues to the Moapa community. In addition to ozone production, emissions of NO_X also contribute to acid and nutrient deposition. These processes can affect the health of terrestrial and aquatic ecosystems through acidification or eutrophication.[9] Our final BART determination for RGGS is expected to significantly reduce emissions of NO_X. In addition, EPA sets secondary standards to protect public welfare, including damage to animals and vegetation. In general, the secondary standards for the criteria pollutants are less stringent than, or equal to, the primary standards. Because RGGS is not located in an area that is designated nonattainment for any NAAQS, air quality in the area surrounding RGGS is meeting the NAAQS set by EPA to protect human health and public welfare, including animals and vegetation.

III. Summary of EPA Action

EPA is taking final action to extend the date by which Units 1, 2, and 3 at RGGS must comply with NO_X emission limits under the BART requirement of the Regional Haze Rule, by 18 months, from January 1, 2015 to June 30, 2016.

IV. Statutory and Executive Order Reviews

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

This final action extends the compliance date for a single source to comply with the emission limits in an existing FIP. This type of action is exempt from review under Executive Orders (EO) 12866 (58 FR 51735, October 4, 1993) and EO 13563 (76 FR 3821, January 21, 2011).

B. Paperwork Reduction Act

This final action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. Burden is defined at 5 CFR 1320.3(b). Because the action merely extends a compliance date, it does not impose an information collection burden and the Paperwork Reduction Act does not apply.

C. Regulatory Flexibility Act

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

For purposes of assessing the impacts of today's proposed rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this final action on small entities, I certify that this final action will not have a significant economic impact on a substantial number of small entities. The owner of the affected units at Reid Gardner Generating Station, Nevada Energy, also known as Nevada Power Company, is not a small entity and the final extended compliance date is supported by this entity. See Mid-Tex Electric Cooperative, Inc. v. FERC, 773 F.2d 327 (D.C. Cir. 1985).

D. Unfunded Mandates Reform Act (UMRA)

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538, requires Federal agencies, unless otherwise prohibited by law, to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Federal agencies must also develop a plan to provide notice to small governments that might be significantly or uniquely affected by any regulatory requirements. The plan must enable officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates and must inform, educate, and advise small governments on compliance with the regulatory requirements.

This final rule does not contain a Federal mandate that may result in expenditures of $100 million or more for state, local, and tribal governments, in the aggregate, or the private sector in any one year. This action merely finalizes an 18-month extension of a compliance date. Thus, this rule is not subject to the requirements of sections 202 or 205 of UMRA.

This final rule is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. This rule does not impose regulatory requirements on any government entity.

E. Executive Order 13132: Federalism

This final action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or in the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This action finalizes an 18-month extension of a compliance date. Thus, Executive Order 13132 does not apply to this action. EPA further notes that we received a comment letter from the Nevada Division of Environmental Protection in support of the extended compliance date for RGGS.

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

Under Executive Order 13175 (65 FR 67249, November 9, 2000), EPA may not issue a regulation that has tribal implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the federal government provides the funds necessary to pay the direct compliance costs incurred by tribal governments, or EPA consults with tribal officials early in the process of developing the proposed regulation and develops a tribal summary impact statement.

EPA has concluded that this final rule may have tribal implications because the Reid Gardner Generating Station is located adjacent to reservation lands of the Moapa Band of Paiute Indians. However, it will neither impose substantial direct compliance costs on tribal governments, nor preempt tribal law.

During a telephone call on March 15, 2013, and in a letter of the same date, Regional Administrator Blumenfeld invited Chairman William Anderson of the Moapa Band of Paiute Indians to

[9] See, for example, 77 FR 20218 (April 3, 2012).

consult on our proposed action to extend the compliance date for Reid Gardner. On April 29, 2013, EPA held a public hearing in the Administration Building of the Moapa Band of Paiute Indians, in Moapa, Nevada, to accept comment on the proposed action. During the public hearing, EPA received comments from 12 individuals, including Chairman Anderson, several members of the Moapa Band, and the Sierra Club. A letter from the attorney jointly representing the Moapa Band of Paiute Indians, the Sierra Club, and the National Parks Conservation Association, expressed no position on our action to extend the compliance date for RGGS by 18 months. EPA did not receive a response regarding government-to-government consultation from Chairman Anderson.

Additionally, for prior actions related to regional haze and the Reid Gardner Generating Station, EPA consulted with Chairman Anderson and other tribal representatives early in the process to allow the Moapa Band of Piute Indians to have meaningful and timely input into its development. During the comment period for those prior actions, the Moapa Band raised concerns to EPA about the environmental impacts of this facility. For those previous rulemakings, EPA consulted the Moapa Band regarding these concerns and visited the reservation and the facility. Additional details of our consultation with the Moapa Band are provided in section IV.F of our final rulemaking published on August 23, 2012 (77 FR 50936).

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

EPA interprets EO 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the EO has the potential to influence the regulation. This action is not subject to EO 13045 because it does not establish an environmental standard intended to mitigate health or safety risks. This final action addresses regional haze and visibility protection.

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

This action is not subject to Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is exempt under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, 12(10) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards (VCS) in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. VCS are technical standards (e.g., materials specifications, test methods, sampling procedures and business practices) that are developed or adopted by the VCS bodies. The NTTAA directs EPA to provide Congress, through annual reports to OMB, with explanations when the Agency decides not to use available and applicable VCS.

This final rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any VCS.

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

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

EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because, while the final rule provides an 18-month extension in the compliance date, the facility will still achieve significant reductions in NO_X emissions. The new compliance date for reducing emissions is less than five years from the effective date of the final BART determination, consistent with the BART provisions under the CAA.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804 exempts from section 801 the following types of rules (1) rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's final action under section 801 because this is a rule of particular applicability and only applies to one facility, the Reid Gardner Generating Station.

L. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 28, 2013. Filing a petition for reconsideration by the administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See CAA section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide.

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

Dated: August 16, 2013.

Gina McCarthy,

Administrator.

For the reasons stated in the preamble, Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for Part 52 continues to read as follows:

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

Subpart DD—Nevada

■ 2. Section 52.1488 is amended by revising paragraph (f)(3) to read as follows:

§ 52.1488 Visibility protection.

* * * * *

(f) * * *

(3) *Compliance date.* The owners and operators subject to this section shall comply with the emission limitations

and other requirements of this section by June 30, 2016, and thereafter.

* * * * *

[FR Doc. 2013–20749 Filed 8–27–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2013–0534; FRL–9900–36–Region 9]

Interim Final Determination to Stay and Defer Sanctions; California; San Joaquin Valley

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Interim final rule.

SUMMARY: EPA is making an interim final determination to stay the imposition of offset sanctions and to defer the imposition of highway sanctions based on a proposed approval of revisions to the San Joaquin Valley portion of the California State Implementation Plan published elsewhere in this **Federal Register**. The revisions concern the Clean Air Act nonattainment area contingency measure requirement for the 1997 annual and 24-hour national ambient air quality standards for fine particulate matter ($PM_{2.5}$) in the San Joaquin Valley.

DATES: This interim final determination is effective on August 28, 2013. However, comments will be accepted until September 27, 2013.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2013–0534, by one of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the on-line instructions.
- *Email: wicher.frances@epa.gov.*
- *Mail or deliver:* Frances Wicher (AIR–2), U.S. Environmental Protection Agency Region 9, 75 Hawthorne Street, San Francisco, CA 94105.

Instructions: All comments will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *www.regulations.gov* or email. *www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send email directly to EPA, your email address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Docket: Generally, documents in the docket for this action are available electronically at *www.regulations.gov* and in hard copy at EPA Region 9, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed at *www.regulations.gov,* some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Frances Wicher, EPA Region 9, (415) 972–3957, *wicher.frances@epa.gov.*

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

I. Background

On November 9, 2011 (76 FR 69896), we published a partial approval and partial disapproval of the San Joaquin Valley Unified Air Pollution Control District's (SJVUAPCD or District) 2008 $PM_{2.5}$ Plan and the California Air Resources Board's (CARB) 2007 State Strategy (collectively the ''SJV $PM_{2.5}$ SIP''). As part of this action, EPA disapproved the contingency measure provisions in the SJV $PM_{2.5}$ SIP as failing to meet the requirements of Clean Air Act (CAA) section 172(c)(9) and 40 CFR 51.1012, which require that the SIP for each $PM_{2.5}$ nonattainment area contain contingency measures to be implemented if the area fails to make reasonable further progress or to attain the NAAQS by the applicable attainment date. *See* 76 FR 41338, 41357 to 41559 (July 13, 2011) and 76 FR 69896, 69924 (November 9, 2011). This disapproval action became effective on January 9, 2012 and started a sanctions clock for imposition of offset sanctions 18 months after January 9, 2012 and highway sanctions 6 months later, pursuant to CAA section 179 and our regulations at 40 CFR 52.31. As such, offset sanctions applied on July 9, 2013 and will continue to apply, and highway sanctions will apply on January 9, 2014, unless EPA determines that the deficiency forming the basis of the disapproval has been corrected.

On July 3, 2013, the State of California submitted as a SIP revision the SJVUAPCD's ''Quantifying Contingencies for the *2008 $PM_{2.5}$ Plan*'' (dated June 20, 2013) (''Contingency Measure SIP''). In the Proposed Rules section of today's **Federal Register**, we are proposing to approve this SIP revision because we believe that it corrects the deficiency identified in our November 9, 2011 partial disapproval action. Based on today's proposed approval, we are taking this final rulemaking action, effective on publication, to stay the imposition of the offset sanctions and to defer the imposition of the highway sanctions triggered by our November 9, 2011 partial disapproval.

EPA is providing the public with an opportunity to comment on this stay and deferral of sanctions. If comments are submitted that change our assessment described in this final determination and the proposed full approval of the Contingency Measure SIP, we intend to take subsequent final action to re-impose sanctions pursuant to 40 CFR 52.31(d). If no comments are submitted that change our assessment, then all sanctions and sanction clocks will be permanently terminated on the effective date of a final rule approval.

II. EPA Action

We are making an interim final determination to stay the imposition of the offset sanctions and to defer the imposition of the highway sanctions associated with our partial disapproval of the SJV $PM_{2.5}$ SIP, based on our concurrent proposal to approve the State's SIP revision as correcting the deficiency that initiated these sanctions.

Because EPA has preliminarily determined that the State has corrected the deficiency identified in EPA's partial disapproval action, relief from sanctions should be provided as quickly as possible. Therefore, EPA is invoking the good cause exception under the Administrative Procedure Act (APA) in not providing an opportunity for comment before this action takes effect (5 U.S.C. 553(b)(3)). However, by this action EPA is providing the public with a chance to comment on EPA's determination after the effective date, and EPA will consider any comments received in determining whether to reverse such action.

EPA believes that notice-and-comment rulemaking before the effective date of this action is impracticable and contrary to the public interest. EPA has reviewed the State's submittal and, through its proposed

action, is indicating that it is more likely than not that the State has corrected the deficiency that started the sanctions clocks. Therefore, it is not in the public interest to initially impose sanctions or to keep applied sanctions in place when the State has most likely done all it can to correct the deficiency that triggered the sanctions clocks. Moreover, it would be impracticable to go through notice-and-comment rulemaking on a finding that the State has corrected the deficiency prior to the rulemaking approving the State's submittal. Therefore, EPA believes that it is necessary to use the interim final rulemaking process to stay and defer sanctions while EPA completes its rulemaking process on the approvability of the State's submittal. Moreover, with respect to the effective date of this action, EPA is invoking the good cause exception to the 30-day notice requirement of the APA because the purpose of this notice is to relieve a restriction (5 U.S.C. 553(d)(1)).

III. Statutory and Executive Order Reviews

This action stays and defers federal sanctions and imposes no additional requirements.

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget.

This action is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action.

The Administrator certifies that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

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

This rule does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

This action does not have federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999).

This rule is not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

The requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272) do not apply to this rule because it imposes no standards.

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report to Congress and the Comptroller General. However, section 808 provides that any rule for which the issuing agency for good cause finds that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest, shall take effect at such time as the agency promulgating the rule determines. 5 U.S.C. 808(2). EPA has made such a good cause finding, including the reasons therefore, and established an effective date of August 28, 2013. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 28, 2013. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purpose of judicial review nor does it extend the time within which petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental regulations, Ozone, Particulate matter, Reporting and recordkeeping requirements.

Dated: August 15, 2013.

Jared Blumenfeld,

Regional Administrator, Region 9.

[FR Doc. 2013–21011 Filed 8–27–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2012–0549; FRL–9395–5]

Pyraclostrobin; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of pyraclostrobin in or on multiple commodities which are identified and discussed later in this document. This regulation additionally removes several permanent and time-limited tolerances that will be superseded by tolerances established by this action. Interregional Research Project Number 4 (IR–4) and BASF Corporation requested tolerances associated with pesticide petition (PP) numbers 2E8069 and 2F8038, respectively, under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective August 28, 2013. Objections and requests for hearings must be received on or before October 28, 2013, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2012–0549, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), EPA West Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Lois Rossi, Registration Division (7505P),

Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 305–7090; email address: *RDFNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2012–0549 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before October 28, 2013. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2012–0549, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.htm.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

II. Summary of Petitioned-for Tolerances

In the **Federal Register** of January 16, 2013 (78 FR 3377) (FRL–9375–4), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 2E8069) by IR–4, 500 College Road East, Suite 201 W, Princeton, NJ 08540. The petition requested that 40 CFR 180.582 be amended by establishing tolerances for residues of the fungicide pyraclostrobin, carbamic acid, [2-[[[1-(4-chlorophenyl)-1H-pyrazol-3-yl]oxy]methyl]phenyl]methoxy-, methyl ester and its metabolite methyl-N-[[[1-(4-chlorophenyl) pyrazol-3-yl]oxy]otolyl] carbamate (BF 500–3), expressed as the parent compound, in or on artichoke, globe at 3.0 parts per million (ppm); endive, belgium at 3.0 ppm; and persimmon at 3.0 ppm. The petition additionally requested that EPA establish tolerances in or on vegetable, bulb, group 3–07 at 0.9 ppm; vegetable, fruiting, group 8–10 at 1.4 ppm; fruit, citrus, group 10–10 at 2.0 ppm; fruit, pome, group 11–10 at 1.5 ppm; oilseed, group 20 at 0.45 ppm; caneberry subgroup 13–07A at 4.0 ppm; bushberry subgroup 13–07B at 4.0 ppm; small fruit, vine climbing subgroup (except fuzzy kiwi) 13–07F at 2.0 ppm; and low growing berry subgroup 13–07G at 1.2 ppm. Further, upon approval of these subgroup/crop group tolerances the petition also requested that the following existing tolerances be removed for berry, group 13 at 4.0 ppm; fruit, citrus, group 10 at 2.0 ppm; fruit, pome, group 11 at 1.5 ppm; grape at 2.0 ppm; strawberry at 1.2 ppm; vegetable, bulb, group 3 at 0.9 ppm; vegetable, fruiting, group 8 at 1.4 ppm; borage, seed at 0.45 ppm; castor oil plant, seed at 0.45 ppm; chinese tallowtree, seed at 0.45 ppm; crambe, seed at 0.45 ppm; cuphea, seed at 0.45 ppm; echium, seed at 0.45 ppm; euphorbia, seed at 0.45 ppm; evening primrose, seed at 0.45 ppm; flax seed at 0.45 ppm; gold of pleasure, seed at 0.45 ppm; hare's ear mustard, seed at 0.45 ppm, jojoba, seed at 0.45 ppm; lesquerella, seed at 0.45 ppm, lunaria, seed at 0.45 ppm; meadowfoam, seed at 0.45 ppm; milkweed, seed at 0.45 ppm; mustard, seed at 0.45 ppm; niger seed, seed at 0.45 ppm; oil radish, seed at 0.45 ppm; poppy, seed at 0.45 ppm; rapeseed, seed at 0.45 ppm; rose hip, seed at 0.45 ppm; safflower, seed at 0.45 ppm; sesame, seed at 0.45 ppm; stokes aster, seed at 0.45 ppm; sunflower, seed at 0.45 ppm; sweet rocket, seed at 0.45 ppm; tallowwood, seed at 0.45 ppm; tea oil plant, seed at 0.45 ppm; and ternonia, seed at 0.45 ppm. That document referenced a summary of the petition prepared on behalf of IR–4 by BASF Corporation, the registrant, which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

Additionally, in the **Federal Register** of August 22, 2012 (77 FR 50661) (FRL–9358–9), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 2F8038) by BASF Corporation, 26 Davis Drive, P.O. Box 13528, Research Triangle Park, NC, 27709–3528. The petition requested that 40 CFR 180.582 be amended by establishing tolerances for residues of the fungicide pyraclostrobin, carbamic acid, expressed as the parent compound, in or on sugarcane, cane at 0.2 ppm. No tolerances were proposed for the processed commodities refined sugar and molasses, as no concentration of pyraclostrobin residues are expected in these commodities. That document referenced a summary of the petition prepared by BASF Corporation, the registrant, which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

Based upon review of the data supporting the petition, EPA has revised the proposed tolerance level in or on endive, belgium. Further, the petitioner later requested to amend low growing berry subgroup 13–07G to exclude cranberry. The reasons for these changes are explained in Unit IV.C.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for pyraclostrobin including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with pyraclostrobin follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

There are no concerns for reproductive susceptibility, neurotoxicity, mutagenicity, genotoxicity, or immunotoxicity. The most consistently observed effects resulting from pyraclostrobin exposure across species, genders, and treatment durations were diarrhea and decreased body weight, body weight gain, and food consumption. Pyraclostrobin also causes intestinal disturbances, as indicated by increased incidence of diarrhea or duodenum mucosal thickening. These intestinal effects appeared to be related to the irritating action on the mucus membranes as demonstrated by irritation seen in the primary eye irritation study. In the rat acute and subchronic neurotoxicity studies, neuropathology and behavior changes were not observed.

In the rat developmental toxicity study, developmental toxicity including an increased incidence of dilated renal pelvis and cervical ribs occurred at a dose greater than the dose causing maternal toxicity (including decreased body weights and body weight gains and reduced food consumption and reduced food efficiency). The rabbit developmental toxicity study indicates qualitative evidence of increased developmental susceptibility based on increased resorptions per litter, increased post-implantation loss and dams with total resorptions, in the presence of maternal toxicity (reduced body weight gain, food consumption, and food efficiency). In a dose range-finding one-generation reproduction study, systemic toxicity was manifested as decreased body weight and body weight gain in both the parents and offspring. The effects occurred at the same dose levels for both parental and the offspring, but the decrease in pup weight was more than that in the parental animals. However, the body weight effect was not found in the guideline 2-generation reproduction study in either parental or offspring animals at similar dose level. No reproductive toxicity was seen.

Pyraclostrobin has been classified as not likely to be carcinogenic to humans based on the lack of treated related increase in tumor incidence in adequately conducted carcinogenicity studies in rats and mice. Pyraclostrobin did not cause mutagenicity or genotoxicity in the *in vivo* and *in vitro* assays, nor did it cause immunotoxicity in T-cell dependent antibody response assays in mice with preliminary review.

Specific information on the studies received and the nature of the adverse effects caused by pyraclostrobin as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in document: ''Pyraclostrobin—Human Health Risk Assessment for a Section 3 Registration of New Uses on Sugarcane, Globe Artichoke, Belgium Endive, Persimmon, Greenhouse Grown Tomato Transplants for Home Consumer Market, and Residential Ornamentals, Landscape Gardens, Fruit Trees, and Nut Trees; Plus Crop Group Expansions/Revisions for Bulb Vegetable Group 3–07, Fruiting Vegetable Group 8–10, Citrus Fruit Group 10–10, Pome Fruit Group 11–10, Berry Subgroups 13–07A, B, F, and G, and Oilseed Group 20'' at pages 43–49 in docket ID number EPA–HQ–OPP–2012–0549.

B. Toxicological Points of Departure/Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm.*

A summary of the toxicological endpoints for pyraclostrobin used for human risk assessment is shown in Table 1. of this unit.

TABLE 1—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR PYRACLOSTROBIN FOR USE IN HUMAN HEALTH RISK ASSESSMENT

Exposure/scenario	Point of departure and uncertainty/safety factors	RfD, PAD, LOC for risk assessment	Study and toxicological effects
Acute dietary (Females 13–49 years of age).	NOAEL = 5.0 mg/kg/day. UF_A = 10x UF_H = 10x FQPA SF = 1x	Acute RfD = 0.05 mg/kg/day. aPAD = 0.05 mg/kg/day	Developmental toxicity—rabbit. LOAEL = 10.0 mg/kg/day based on developmental toxicity findings of increased resorptions.
Acute dietary (General population including infants and children).	NOAEL = 300 mg/kg/day. UF_A = 10 x UF_H = 10 x FQPA SF = 1x	Acute RfD = 3.0 mg/kg/day. aPAD = 3.0 mg/kg/day	Acute neurotoxicity—rat. LOAEL = 1000 mg/kg/day based on decreased body weight gain in males.
Chronic dietary (All populations)	NOAEL= 3.4 mg/kg/day. UF_A = 10x UF_H = 10 x FQPA SF = 1x	Chronic RfD = 0.034 mg/kg/day. cPAD = 0.034 mg/kg/day	Carcinogenicity—rat. LOAEL = 9.2 mg/kg/day based on decreased body weight/body weight gain, kidney tubular casts and atrophy in both sexes; increased incidence of liver necrosis and erosion/ulceration of the glandular-stomach and fore-stomach in males.
Incidental oral short-term (1 to 30 days) and intermediate-term (1 to 6 months).	NOAEL= 5.8 mg/kg/day. UF_A = 10 x UF_H = 10x FQPA SF = 1x	LOC for MOE = 100	Subchronic toxicity—dog. LOAEL = 12.9 mg/kg/day based on increased incidence of diarrhea, clinical chemistry changes, duodenum mucosal hypertrophy, and decreased body weight and food intake/efficiency.
Dermal short-term (1 to 30 days) and intermediate-term (1 to 6 months).	Oral study NOAEL = 5.0 mg/kg/day (dermal absorption rate = 14%). UF_A = 10 x UF_H = 10x FQPA SF = 1x	LOC for MOE = 100	Developmental toxicity—rabbit. LOAEL = 10.0 mg/kg/day based on developmental toxicity findings of increased resorptions and maternal toxicity based on decreased body weight gain and decreased food intake/efficiency.
Inhalation short-term ..... (1 to 30 days) and intermediate-term (1 to 6 months).	Inhalation study NOAEL = 0.23 mg/kg/day. UF_A = 10 x UF_H = 10 x FQPA SF = 1x	LOC for MOE = 100	Inhalation toxicity—rat. LOAEL = 6.9 mg/kg/day (air concentration = 0.03 mg/L) based on duodenum mucosal hyperplasia and respiratory system findings including alveolar histiocytosis and olfactory atrophy/necrosis in nasal tissue.
Cancer (Oral, dermal, inhalation).	Classification: "not likely to be carcinogenic to humans" based on the absence of significant tumor increases in two adequate rodent carcinogenicity studies.		

FQPA SF = Food Quality Protection Act Safety Factor. LOAEL = lowest-observed-adverse-effect-level. LOC = level of concern. mg/kg/day = milligram/kilogram/day. MOE = margin of exposure. NOAEL = no-observed-adverse-effect-level. PAD = population adjusted dose (a = acute, c = chronic). RfD = reference dose. UF = uncertainty factor. UF_A = extrapolation from animal to human (interspecies). UF_H = potential variation in sensitivity among members of the human population (intraspecies).

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to pyraclostrobin, EPA considered exposure under the petitioned-for tolerances as well as all existing pyraclostrobin tolerances in 40 CFR 180.582. EPA assessed dietary exposures from pyraclostrobin in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure. Such effects were identified for pyraclostrobin.

In estimating acute dietary exposure, EPA used Dietary Exposure Evaluation Model software with the Food Commodity Intake Database (DEEM–FCID) Version 3.16, which uses food consumption data from the U.S. Department of Agriculture's (USDA's) National Health and Nutrition Examination Survey, What We Eat in America (NHANES/WWEIA) from 2003 through 2008. As to residue levels in food, EPA used tolerance-level residues or highest field trial residues and empirical or default processing factors. Experimentally-derived processing factors were used for fruit juices, tomato, sugarcane, and wheat commodities. For all other processed commodities, DEEM default processing factors were assumed.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA's 2003–2008 NHANES/WWEIA. As to residue levels in food, EPA included tolerance-level or average field trial residues, average percent crop treated (PCT) estimates when available, and empirical processing factors. Experimentally-derived processing factors were used for fruit juices, tomato, sugar cane, and wheat commodities. For all other processed commodities, DEEM default processing factors were assumed.

iii. *Cancer.* Based on the data summarized in Unit III.A., EPA has concluded that pyraclostrobin does not pose a cancer risk to humans. Therefore, a dietary exposure assessment for the purpose of assessing cancer risk is unnecessary.

iv. *Percent crop treated (PCT) information.* Section 408(b)(2)(F) of FFDCA states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if:

- Condition a: The data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain the pesticide residue.

• Condition b: The exposure estimate does not underestimate exposure for any significant subpopulation group.

• Condition c: Data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area.

In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of PCT as required by FFDCA section 408(b)(2)(F), EPA may require registrants to submit data on PCT.

The following average PCT estimates were used in the chronic dietary risk assessments for the crops that are currently registered for pyraclostrobin: almonds 40%; apples 15%; apricots 25%; barley 10%; green beans 5%; blueberries 45%; broccoli 5%; cabbage 10%; caneberries 50%; cantaloupes 15%; carrots 35%; cauliflower 2.5%; celery 2.5%; cherries 50%; corn 10%; cotton 2.5%; cucumber 5%; dry beans/peas 10%; garlic 15%; grapefruit 25%; grapes 30%; hazelnuts (filberts) 15%; lemons 2.5%; lettuce 5%; nectarines 10%; onions 20%; oranges 5%; peaches 20%; peanuts 25%; pears 15%; green peas 5%; pecans 2.5%; peppers 10%; pistachios 30%; plums/prunes 5%; potatoes 15%; pumpkins 20%; soybeans 5%; spinach 5%; squash 15%; strawberries 65%; sugar beets 45%; sweet corn 5%; tangelos 15%; tangerines 10%; tomatoes 25%; walnuts 1%; watermelons 30%; wheat 5%.

In most cases, EPA uses available data from United States Department of Agriculture/National Agricultural Statistics Service (USDA/NASS), proprietary market surveys, and the National Pesticide Use Database for the chemical/crop combination for the most recent 6–7 years. EPA uses an average PCT for chronic dietary risk analysis. The average PCT figure for each existing use is derived by combining available public and private market survey data for that use, averaging across all observations, and rounding to the nearest 5%, except for those situations in which the average PCT is less than one. In those cases, 1% is used as the average PCT and 2.5% is used as the maximum PCT. EPA uses a maximum PCT for acute dietary risk analysis. The maximum PCT figure is the highest observed maximum value reported within the recent 6 years of available public and private market survey data for the existing use and rounded up to the nearest multiple of 5%.

The Agency believes that the three conditions discussed in Unit III.C.1.iv. have been met. With respect to condition a, PCT estimates are derived from Federal and private market survey data, which are reliable and have a valid basis. The Agency is reasonably certain that the percentage of the food treated is not likely to be an underestimation. As to conditions b and c, regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available reliable information on the regional consumption of food to which pyraclostrobin may be applied in a particular area.

2. *Dietary exposure from drinking water.* The Agency used screening level water exposure models in the dietary exposure analysis and risk assessment for pyraclostrobin in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of pyraclostrobin. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm.*

Based on the Pesticide Root Zone Model/Exposure Analysis Modeling System (PRZM/EXAMS) and Screening Concentration in Ground Water (SCI–GROW) models, the estimated drinking water concentrations (EDWCs) of pyraclostrobin for acute exposures are estimated to be 35.6 parts per billion (ppb) for surface water and 0.06 ppb for ground water. Chronic exposures for non-cancer assessments are estimated to be 2.3 ppb for surface water and 0.02 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For acute dietary risk assessment, the water concentration value of 35.6 ppb was used to assess the contribution to drinking water. For chronic dietary risk assessment, the water concentration of value 2.3 ppb was used to assess the contribution to drinking water.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). Pyraclostrobin is currently registered for the following uses and additional proposed uses that could result in residential handler and postapplication exposures: Treated gardens, fruit or nut trees, tomato transplants, and turf. EPA assessed residential exposure using the following assumptions: Short-term adult handler exposures via the dermal and inhalation routes resulting from application of pyraclostrobin to gardens, trees, and turf. Short-term dermal postapplication exposures were assessed for adults, youth 11 to 16 years old, and children 6 to 11 years old. Short-term dermal and incidental oral exposures were assessed for children 1 to < 2 years old. Based on the registered uses of pyraclostrobin on residential and golf course turf, intermediate-term postapplication exposures are possible. However, since the short- and intermediate-term endpoints and PODs for dermal and oral routes are the same, the short-term exposure and risk estimates are considered to be protective of potential intermediate-term exposure and risk.

For the aggregate assessment, inhalation and dermal exposures were not aggregated together because the toxicity effect from the inhalation route of exposure was different than the effect from the dermal route of exposure. The scenarios with the highest residential exposures that were used in the short-term aggregate assessment for pyraclostrobin are as follows:

• Adult short-term aggregate assessment—Residential inhalation exposure from application pyraclostrobin to turf via manually pressurized hand wand or backpack sprayer; residential dermal postapplication exposure via activities on treated turf.

• Youth (11–16 years old) short-term aggregate assessment—Residential dermal exposure from postapplication golfing on treated turf.

• Children (6–11 years old) short-term aggregate assessment—Residential dermal exposures from postapplication activities in treated gardens.

• Children (1 < 2 years old) short-term aggregate assessment—Residential dermal and hand-to-mouth exposures from postapplication exposure to treated turf.

Further information regarding EPA standard assumptions and generic inputs for residential exposures may be found at *http://www.epa.gov/pesticides/trac/science/trac6a05.pdf.*

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA

requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA has not found pyraclostrobin to share a common mechanism of toxicity with any other substances, and pyraclostrobin does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that pyraclostrobin does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www.epa.gov/pesticides/cumulative.*

D. Safety Factor for Infants and Children

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA Safety Factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* There is no evidence that pyraclostrobin results in increased susceptibility in rats or rabbits in the prenatal developmental studies or in young rats in the 2-generation reproduction study. Although there is qualitative evidence of increased susceptibility in the prenatal development study in rabbits, the Agency did not identify any residual uncertainties after establishing toxicity endpoints and traditional UFs to be used in the risk assessment of pyraclostrobin. The degree of concern for prenatal and/or postnatal toxicity is low.

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X. That decision is based on the following findings:

i. The toxicity database for pyraclostrobin is complete.

ii. There is no indication that pyraclostrobin is a neurotoxic chemical. Effects seen in the acute and subchronic neurotoxicity studies in rats are considered to reflect perturbations in mitochondrial respiration leading to effects on energy production rather than signs of neurotoxicity; therefore, there is no need for a developmental neurotoxicity study or additional UFs to account for neurotoxicity

iii. There is no evidence that pyraclostrobin results in increased susceptibility in rats in the prenatal developmental study or in young rats in the 2-generation reproduction study. The prenatal rabbit developmental toxicity study showed qualitative evidence of increased susceptibility to prenatal rabbits; however, this study was chosen for endpoint selection for the acute dietary (females 13–49) and short-term dermal exposure scenarios. This study has a clearly defined NOAEL of 5.0 mg/kg/day. EPA did not identify any residual uncertainties after establishing toxicity endpoints and traditional UFs to be used in the risk assessment of pyraclostrobin. The degree of concern for prenatal and/or postnatal toxicity is low.

iv. There are no residual uncertainties identified in the exposure databases. The acute dietary exposure assessments were performed assuming 100 PCT and tolerance-level or highest field trial residues. The chronic dietary exposure assessments were performed using average PCT estimates, when available, and tolerance-level or highest field trial residues. These data are reliable and are not expected to underestimate risks to adults or children. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to pyraclostrobin in drinking water. EPA used similarly conservative assumptions to assess postapplication exposure of children as well as incidental oral exposure of toddlers. These assessments will not underestimate the exposure and risks posed by pyraclostrobin.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* An acute aggregate risk assessment takes into account acute exposure estimates from dietary consumption of food and drinking water. Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to pyraclostrobin will occupy 87% of the aPAD for females 13–49 years old; and 2.8% for children 1–2 years old, the population group receiving the greatest exposure for the general U.S. population, including infants and children.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to pyraclostrobin from food and water will utilize 27% of the cPAD for children 1–2 years old, the population group receiving the greatest exposure. Based on the explanation in Unit III.C.3., regarding residential use patterns, chronic residential exposure to residues of pyraclostrobin is not expected.

3. *Short-term risk.* Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Pyraclostrobin is currently registered for uses that could result in short-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short-term residential exposures to pyraclostrobin.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded the combined short-term food, water, and residential exposures result in aggregate MOEs of 120 for children 1–2 years old, 360 for children 6–11 years old, 1,500 for youth 11–16 years old, 760 for adult handlers, and 230 for adults from postapplication exposures. Because EPA's level of concern for pyraclostrobin is a MOE of 100 or below, these MOEs are not of concern.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Pyraclostrobin is currently registered for uses that could result in intermediate-term residential exposure; however, since the short- and intermediate-term endpoints and PODs for dermal and oral routes are the same, the short-term exposure and risk estimates are considered to be protective of potential

intermediate-term exposure and risk and an intermediate-term aggregate assessment was not performed.

5. *Aggregate cancer risk for U.S. population.* Based on the lack of evidence of carcinogenicity in two adequate rodent carcinogenicity studies, pyraclostrobin is not expected to pose a cancer risk to humans.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population or to infants and children from aggregate exposure to pyraclostrobin residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Two adequate methods are available to enforce the tolerance expression for residues of pyraclostrobin and the metabolite BF 500–3 in or on plant commodities: A liquid chromatography with tandem mass spectrometry (LC/MS/MS) method, BASF Method D9908; and a high-performance LC with ultraviolet detection (HPLC/UV) method, Method D9904. The methods may be found in the *Pesticide Analytical Manual,* Volume I.

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The Codex has not established a MRL for pyraclostrobin in or on sugarcane, endive, belgium, and persimmon. A Codex MRL has been established for pyraclostrobin in or on globe artichoke at 2.0 ppm. EPA has determined that the U.S. tolerance should be set at 3.0 ppm. The field trials comprising the data set used by Codex are from Europe, and these trials were conducted under an application rate and preharvest interval different from that on the U.S. trials. The U.S. tolerance is based on application of the Organization for Economic Cooperation and Development (OECD) tolerance calculation procedures to the validated field trial data, which shows that the U.S. tolerance for globe artichoke must be at 3.0 ppm to avoid violations for crops treated in accordance with the EPA approved label. These different tolerance levels may be due, in part, to the different residue definitions for pyraclostrobin for the U.S. tolerances and the Codex MRLs. Codex established MRLs for residues of pyraclostrobin only, and in the U.S. tolerances, are currently established for parent and its desmethoxy metabolite (methyl-N-[[[1-(4-chlorophenyl)-1H-pyrazol-3-yl]oxy]methyl] phenylcarbamate). Currently, pyraclostrobin has over 100 tolerances for multiple commodities and crop groups. When this chemical goes through registration review the U.S. EPA will determine if it is possible to change the existing residue definition to align with Codex which would potentially allow for harmonization of MRL and tolerance levels. However, given the number of existing tolerances it is not appropriate to consider such a change for this petition only. Therefore, because the residue definitions are currently different and pyraclostrobin field trials in the U.S. show higher residue levels than Codex MRL levels, it is not possible to harmonize the U.S. tolerance for globe artichoke with the Codex MRL. Additionally, the following U.S. crop group tolerances established in this action could not be harmonized because of the difference in residue definitions between U.S. tolerances for pyraclostrobin and Codex MRLs. The crop group tolerances which could not be harmonized with Codex MRLs for commodities in these crop group tolerances include: The bulb vegetable group 3–07; the fruiting vegetables group 8–10; the pome fruit group 11–10; the caneberry subgroup 13–07A; the bushberry subgroup 13–07B; the small fruit vine climbing subgroup 13–07F; and the low growing berry subgroup 13–07G. The Codex has established an MRL for the Codex equivalent of the U.S. citrus fruit group 10–10 and for the oilseed group 20, but although the numerical levels for the U.S. and Codex crop groups are the same, the numerical values refer to different residues.

C. Revisions to Petitioned-for Tolerances

Based on the data submitted with the petition, EPA is revising the proposed tolerance in or on endive, belgium from 3.0 ppm to 4.0 ppm. The Agency revised this tolerance level based on analysis of the residue field trial data using the OECD tolerance calculation procedures. EPA is additionally removing the time-limited tolerance in or on sugarcane, cane at 0.02 ppm as it will be superseded by the permanent tolerance at 0.2 ppm. Finally, EPA is removing the time-limited tolerance in or on sugarcane, molasses at 0.4 ppm, as the Agency has determined that no concentration of pyraclostrobin residues are expected in these commodities and the tolerance is therefore not necessary. The information regarding sugarcane, molasses was included in the August 22, 2012 (77 FR 50661) notice of filing for PP number 2F8038.

V. Conclusion

Therefore, tolerances are established for residues of pyraclostrobin, carbamic acid, [2-[[[1-(4-chlorophenyl)-1*H*-pyrazol-3-yl]oxy]methyl]phenyl]methoxy-, methyl ester) and its desmethoxy metabolite (methyl *N*-[[[1-(4-chlorophenyl)-1*H*-pyrazol-3-yl]oxy]methyl]phenyl carbamate), calculated as the stoichiometric equivalent of pyraclostrobin in or on artichoke, globe at 3.0 ppm; endive, belgium at 4.0 ppm; persimmon at 3.0 ppm; sugarcane, cane at 0.20 ppm; vegetable, bulb, group 3–07 at 0.9 ppm; vegetable, fruiting, group 8–10 at 1.4 ppm; fruit, citrus, group 10–10 at 2.0 ppm; fruit, pome, group 11–10 at 1.5 ppm; oilseed group 20 at 0.45 ppm; caneberry subgroup 13–07A at 4.0 ppm; bushberry subgroup 13–07B at 4.0 ppm; fruit, small vine climbing, except fuzzy kiwifruit, subgroup 13–07F at 2.0 ppm; and berry, low growing, subgroup 13–07G, except cranberry at 1.2 ppm. This regulation additionally removes established tolerances in or on vegetable, bulb, group 3; vegetable, fruiting, group 8; fruit, citrus, group 10; fruit, pome, group 11; cotton, undelinted seed; borage, seed; castor oil plant, seed; Chinese tallowtree, seed; crambe, seed; cuphea, seed; echium, seed; euphorbia, seed; evening primrose, seed; flax, seed; gold of pleasure, seed; hare's ear mustard, seed; jojoba, seed; lesquerella, seed; lunaria, seed; meadowfoam, seed; milkweed, seed; mustard, seed; niger seed, seed; oil radish, seed; poppy, seed; rapeseed, seed; rose hip, seed; safflower, seed; sesame, seed; stokes aster, seed; sunflower, seed; sweet rocket, seed; tallowwood, seed; tea oil plant, seed; vernonia, seed; berry, group 13; grape; and strawberry. This regulation finally removes the time-limited tolerances in or on sugarcane, cane and sugarcane, molasses.

VI. Statutory and Executive Order Reviews

This final rule establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children From Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA) (15 U.S.C. 272 note).

VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: August 14, 2013.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.582:

■ a. Revise the table in paragraph (a)(1).

■ b. Remove the commodities ''Sugarcane, cane'' and ''Sugarcane, molasses'' in the table in paragraph (b).

■ c. Revise the table in paragraph (b).

The revisions read as follows:

§ 180.582 Pyraclostrobin; tolerances for residues.

(a) *General.* (1) * * *

Commodity	Parts per million
Alfalfa, forage	10
Alfalfa, hay	30
Almond, hulls	7.0
Apple, wet pomace	8.0
Artichoke, globe	3.0
Avocado	0.6
Banana	0.04
Barley, grain	1.4
Barley, hay	25
Barley, straw	6.0
Bean, succulent shelled	0.5
Beet, sugar, dried pulp	1.0
Beet, sugar, roots	0.2
Beet, sugar, tops	8.0
Berry, low growing, subgroup 13–07G, except cranberry	1.2
Brassica, head and stem, subgroup 5A	5.0
Brassica, leafy greens, subgroup 5B	16.0
Bushberry subgroup 13–07B	4.0
Caneberry subgroup 13–07A	4.0
Canistel	0.6
Citrus, dried pulp	12.5
Citrus, oil	9.0
Coffee, green bean	[1] 0.3
Corn, field, forage	5.0
Corn, field, grain	0.1
Corn, field, refined oil	0.2
Corn, field, stover	17.0
Corn, pop, grain	0.1
Corn, pop, stover	17.0
Corn, sweet, forage	5.0
Corn, sweet, kernel plus cob with husks removed	0.04
Corn, sweet, stover	23.0
Cotton, gin byproducts	30
Endive, belgium	4.0
Fruit, citrus, group 10–10	2.0
Fruit, pome, group 11–10	1.5
Fruit, small vine climbing, except fuzzy kiwifruit, subgroup 13–07F	2.0
Fruit, stone, group 12	2.5
Grain, aspirated fractions	2.5
Grape, raisin	7.0
Grass, forage	10
Grass, hay	4.5
Grass, seed screenings	27
Grass, straw	14
Hop, dried cones	23.0
Mango	0.6
Nut, tree, group 14	0.04
Oat, grain	1.2
Oat, hay	18
Oat, straw	15
Oilseed group 20	0.45
Papaya	0.6
Pea, succulent	0.2
Pea and bean, dried shelled, except soybean, subgroup 6C	0.5
Peanut	0.05
Peanut, refined oil	0.1
Peppermint, tops	8.0
Persimmon	3.0
Pistachio	0.7
Radish, tops	16
Rye, grain	0.04
Rye, straw	0.5
Sapodilla	0.6
Sapote, black	0.6
Sapote, mamey	0.6
Sorghum, grain, forage	5.0
Sorghum, grain, grain	0.60
Sorghum, grain, stover	0.80
Soybean, forage	11
Soybean, hay	14
Soybean, hulls	0.06
Soybean, seed	0.04
Spearmint, tops	8.0
Star apple	0.6
Sugarcane, cane	0.20
Vegetable, bulb, group 3–07	0.9

Commodity	Parts per million
Vegetable, cucurbit, group 9	0.5
Vegetable, foliage of legume, except soybean, subgroup 7A	25.0
Vegetable, fruiting, group 8–10	1.4
Vegetable, leafy, except brassica, group 4	29.0
Vegetable, leaves of root and tuber, group 2, except sugar beet	16.0
Vegetable, legume, edible podded, subgroup 6A	0.5
Vegetable, root, except sugar beet, subgroup 1B	0.4
Vegetable, tuberous and corm, subgroup 1C	0.04
Vegetables, foliage of legume, group 7	25
Wheat, grain	0.02
Wheat, hay	6.0
Wheat, straw	8.5

* * * * *

(b) *Section 18 emergency exemptions.* * * *

Commodity	Parts per million	Expiration/revocation date
Endive, belgium	11.0	12/31/13

* * * * *

[FR Doc. 2013–20921 Filed 8–27–13; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2012–0586; FRL–9393–8]

Halosulfuron-methyl; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of halosulfuron-methyl in or on artichoke and caneberry subgroup 13–07A. The Interregional Research Project Number 4 (IR–4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective August 28, 2013. Objections and requests for hearings must be received on or before October 28, 2013, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2012–0586, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), EPA West Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Lois Rossi, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 305–7090; email address: *RDFRNotice@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2012–0586 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before October 28, 2013. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2012–0586, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.* Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of September 28, 2012 (77 FR 59578) (FRL–9364–6), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 2E8050) by IR–4, IR–4 Project Headquarters, 500 College Rd. East, Suite 201 W., Princeton, NJ 08540. The petition requested that 40 CFR 180.479 be amended by establishing tolerances for residues of the herbicide halosulfuron-methyl, methyl 5-[(4,6-dimethoxy-2-pyrimidinyl)amino] carbonylaminosulfonyl]-3-chloro-1-methyl-1H-pyrazole-4-carboxylate, including its metabolites and degradates, in or on artichoke and caneberry subgroup 13–07A at 0.05 parts per million (ppm). That document referenced a summary of the petition prepared by Gowan Company, the registrant, which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for halosulfuron-methyl including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with halosulfuron-methyl follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered their validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. With repeated dosing, halosulfuron-methyl produces non-specific effects, which are frequently characterized by reduced body weight/body weight gain in the test animals. In the prenatal developmental toxicity study in rats, increases in resorptions, soft tissue (dilation of the lateral ventricles) and skeletal variations, and decreases in body weights were seen in the fetuses compared to clinical signs and decreases in body weights and food consumption in the maternal animals at a similar dose level. In the rabbit developmental toxicity study, increases in resorptions and post-implantation losses and decrease in mean litter size were seen in the presence of decreases in body weight and food consumption in maternal animals were observed. However, a clear no observed adverse effect level (NOAEL) for these effects was established in both rat and rabbit developmental toxicity studies. Halosulfuron-methyl did not produce reproductive effects. No neurotoxic effects were observed in the acute or subchronic neurotoxicity studies.

Halosulfuron-methyl is classified as ''not likely to be carcinogenic to humans.'' It is negative for mutagenicity in a battery of genotoxicity studies.

Although there is no immunotoxicity study for halosulfuron-methyl, the available data indicate that halosulfuron-methyl is unlikely to be an immuno toxicant. EPA is currently reviewing a waiver request for these data.

Specific information on the studies received and the nature of the adverse effects caused by halosulfuron-methyl as well as the NOAEL and Lowest Observed-Adversed-Effective-Level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in document: ''Halosulfuron-Methyl: Human Health Risk Assessment for Proposed New Uses on Artichoke and Caneberry (Crop subgroup 13–07A),'' dated March 25, 2013, pp. 30–34, docket ID number EPA–HQ–OPP–2012–0586–0004.

B. Toxicological Points of Departure/ Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/ safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm.*

A summary of the toxicological endpoints for halosulfuron-methyl used for human risk assessment is discussed in Unit III. of the final rule published in the **Federal Register** of December 3, 2012 (77 FR 71555) (FRL–9370–6).

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to halosulfuron-methyl, EPA considered exposure under the petitioned-for tolerances as well as all existing halosulfuron-methyl tolerances in 40 CFR 180.479. EPA assessed dietary exposures from halosulfuron-methyl in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure. There was no indication of an adverse effect attributable to a single dose for the general U.S. population including infants and children. Therefore, an acute dietary assessment was not conducted for the U.S. general population. However, such effects were identified for females 13–49 years old

for halosulfuron-methyl. In estimating acute dietary exposure, EPA used the Dietary Exposure Evaluation Model—Food Consumption Intake Database (DEEM–FCID, ver. 3.16), which incorporates consumption information from the United States Department of Agriculture (USDA) National Health and Nutrition Examination Survey, What We Eat in America (NHANES/WWEIA); 2003–2008). As to residue levels in food, EPA conducted an unrefined assessment that assumed 100 percent crop treated (PCT), dietary exposure evaluation model (DEEM) 7.81 default processing factors, and tolerance-level residues for all existing and proposed uses.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the DEEM–FCID, ver. 3.16 which incorporates consumption information from the USDA NHANES/WWEIA; 2003–2008. As to residue levels in food, EPA conducted an unrefined assessment that assumed 100 PCT, DEEM 7.81 default processing factors, and tolerance-level residues for all existing and proposed uses.

iii. *Cancer.* Based on the data summarized in Unit III.A., EPA has concluded that halosulfuron methyl does not pose a cancer risk to humans. Therefore, a dietary exposure assessment for the purpose of assessing cancer risk is unnecessary.

iv. *Anticipated residue and PCT information.* EPA did not use anticipated residue or PCT information in the dietary assessment for halosulfuron-methyl. Tolerance level residues and100 PCT were assumed for all food commodities.

2. *Dietary exposure from drinking water.* The Agency used screening level water exposure models in the dietary exposure analysis and risk assessment for halosulfuron-methyl in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of halosulfuron-methyl. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm.*

Based on the Tier 1 Rice Model v.1.0 and Screening Concentration in Ground Water (SCI–GROW) models, respectively, the estimated drinking water concentrations (EDWCs) of halosulfuron-methyl for acute exposures are estimated to be 59.2 parts per billion (ppb) for surface water and 0.065 ppb for ground water.

For chronic exposures for non-cancer assessments EDWC's are estimated to be 59.2 ppb for surface water and 0.065 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For both the acute and chronic dietary risk assessments, the water concentration value of 59.2 ppb was used to assess the contribution to drinking water.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Halosulfuron-methyl is currently registered for the following uses that could result in residential exposures: Residential turf use. EPA assessed residential exposure using the following assumptions: Residential handler short-term (1–30 days) dermal and inhalation exposures, and residential post-application short-term dermal and incidental oral (hand-to-mouth, object-to-mouth, and soil ingestion) exposures are expected from activities associated with the existing uses. Intermediate-term exposures are not likely because of the intermittent nature of applications by homeowners.

Further information regarding EPA standard assumptions and generic inputs for residential exposures may be found at *http://www.epa.gov/pesticides/trac/science/trac6a05.pdf.*

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA has not found halosulfuron-methyl to share a common mechanism of toxicity with any other substances, and halosulfuron-methyl does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that halosulfuron-methyl does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www.epa.gov/pesticides/cumulative.*

D. Safety Factor for Infants and Children

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the Food Quality Protection Act (FQPA) Safety Factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* The prenatal and postnatal toxicity database for halosulfuron-methyl includes rat and rabbit developmental toxicity studies and a 2-generation reproduction toxicity study in rats. As discussed in Unit III.A., there was no quantitative evidence for increased susceptibility following prenatal and/or postnatal exposure. However, there was qualitative evidence for increased susceptibility of fetuses in the rat and rabbit developmental studies. In the rat study, increases in resorptions, soft tissue (dilation of the lateral ventricles) and skeletal variations, and decreases in body weights were seen in the fetuses compared to clinical signs and decreases in body weights and food consumption in the maternal animals. In the rabbit study, increases in resorptions and post-implantation losses and decrease in mean litter size was seen in the presence of decreases in body weight and food consumption in maternal animals. Thus, in both species, the developmental effect was considered to be qualitatively more severe than maternal effects (i.e., qualitative evidence for susceptibility). Nevertheless, the degree of concern for these effects is low, and there are no residual uncertainties for prenatal toxicity in both rats and rabbits for the following reasons:

i. In both studies, there are clear NOAELs/LOAELs for developmental and maternal toxicities.

ii. Developmental effects were seen in the presence of maternal toxicity.

iii. The effects were only seen at the high dose.

iv. In rats, developmental effects were seen at a dose which approached the limit-dose.

3. *Conclusion.* EPA has determined that reliable data show the safety of

infants and children would be adequately protected if the FQPA SF were reduced to 1X. That decision is based on the following findings:

i. The toxicity database for halosulfuron-methyl is complete except for an immunotoxicity study. In the absence of specific immunotoxicity studies, EPA has evaluated the available halosulfuron-methyl toxicity data to determine whether an additional uncertainty factor is needed to account or potential immunotoxicity. The toxicology database for halosulfuron-methyl does not show any evidence of biologically relevant effects on the immune system following exposure to this chemical. The overall weight-of-evidence suggests that this chemical does not directly target the immune system. Based on these considerations, EPA does not believe that conducting immunotoxicity testing will result in a point of departure lower than those already selected for halosulfuron-methyl risk assessment, and an additional database uncertainty factor is not needed to account for the lack of this study.

ii. There is no indication that halosulfuron-methyl is a neurotoxic chemical and there is no need for a developmental neurotoxicity study or additional uncertainty factors to account for neurotoxicity.

iii. Although there is qualitative evidence of increased susceptibility in the prenatal developmental studies in rats and rabbits, as discussed in Unit III.D.2., there are no residual uncertainties after establishing toxicity endpoints and the degree of concern for pre- and/or postnatal toxicity is low.

iv. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed based on 100 PCT and tolerance-level residues. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to halosulfuron-methyl in drinking water. EPA used similarly conservative assumptions to assess postapplication exposure of children as well as incidental oral exposure of toddlers. These assessments will not underestimate the exposure and risks posed by halosulfuron-methyl.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute population adjusted dose (aPAD) and chronic population adjusted dose (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-term, intermediate-term, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to halosulfuron-methyl will occupy <1% of the aPAD for females 13–49 years, the population group receiving the greatest exposure.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to halosulfuron-methyl from food and water will utilize 5.5% of the cPAD for all children 1–2 years old, the population group receiving the greatest exposure. Chronic residential exposure to residues of halosulfuron-methyl is not expected. Therefore, the chronic aggregate risk would be equivalent to the chronic dietary exposure estimate.

3. *Short-term risk.* Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Halosulfuron-methyl is currently registered for uses that could result in short-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short-term residential exposures to halosulfuron-methyl.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded the combined short-term food, water, and residential exposures result in aggregate MOEs of 1,800 for adults and 840 for children. Residential exposure for use in the aggregate assessment of adults and children 1 to <2 years old reflects the combined post-application dermal plus hand-to-mouth exposures from turf treated with liquid applications of halosulfuron-methyl. Because EPA's level of concern for halosulfuron-methyl is a MOE of 100 or below, these estimates of aggregate risk do not exceed the Agency's level of concern.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). An intermediate-term adverse effect was identified; however, halosulfuron-methyl is not registered for any use patterns that would result in intermediate-term residential exposure pathway. Because there is no intermediate-term residential exposure, the intermediate-term aggregate risk would be equivalent to the chronic dietary exposure estimate. Chronic dietary exposure has already been assessed under the appropriately protective cPAD (which is at least as protective as the equivalent POD value used to assess intermediate-term risk), no further assessment of intermediate-term risk is necessary.

5. *Aggregate cancer risk for U.S. population.* Based on the lack of evidence of carcinogenicity in two adequate rodent carcinogenicity studies, halosulfuron-methyl is not expected to pose a cancer risk to humans.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to halosulfuron-methyl residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

An adequate analytical method is available for enforcement of tolerances for halosulfuron-methyl residues in plants. The gas chromatography (GC) method quantifies halosulfuron-methyl as its rearrangement ester (RRE; 1-*H*-pyrazole-4-carboxylic acid, 3-chloro-5-[(4,6-dimethoxy-2-pyrimidinyl)amino]-1-methyl, methyl ester) using thermionic-specific detection (TSD, nitrogen specific). For confirmation, the RRE can be determined by gas chromatography mass spectroscopic detection (GC/MS).

The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov.*

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to

which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level. There are no Codex MRLs established for residues of halosulfuron-methyl in/on any commodity.

V. Conclusion

Therefore, tolerances are established for residues of the herbicide halosulfuron-methyl, methyl 5-[(4,6-dimethoxy-2-pyrimidiny)amino] carbonylaminosulfonyl]-3-chloro-1-methyl-1H-pyrazole-4-carboxylate, including its metabolites and degradates, in or on the commodities artichoke at 0.05 ppm and caneberry subgroup 13–07A at 0.05 ppm.

VI. Statutory and Executive Order Reviews

This final rule establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA) (15 U.S.C. 272 note).

VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: August 14, 2013.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.479, add alphabetically the following commodities to the table in paragraph (a)(2) to read as follows:

§ 180.479 Halosulfuron-methyl; tolerances for residues.

(a) * * *

(2) * * *

Commodity	Parts per million
* * * * *	
Artichoke	0.05
* * * * *	
Caneberry subgroup 13–07A	0.05
* * * * *	

* * * * *

[FR Doc. 2013–20906 Filed 8–27–13; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2011–1018; FRL–9396–8]

Ethyl-2E,4Z-Decadienoate (Pear Ester); Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of the biochemical pesticide ethyl-2E,4Z-decadienoate (pear ester) in or on all food commodities. This regulation eliminates the need to establish a maximum permissible level for residues of ethyl-2E,4Z-decadienoate (pear ester).

DATES: This regulation is effective August 28, 2013. Objections and requests for hearings must be received on or before October 28, 2013, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2011–1018, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), EPA West Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review

the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Gina Burnett, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 605–0513; email address: *burnett.gina@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2011–1018 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before October 28, 2013. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2011–1018, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.htm.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

II. Background and Statutory Findings

In the **Federal Register** of March 14, 2012 (77 FR 15012) (FRL–9335–9), EPA issued a notice pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide tolerance petition (PP 1F7901) by Wagner Regulatory Associates, Inc. (the Petitioner), on behalf of Bedoukian Research, Inc., 21 Finance Drive, Danbury, CT 06810. The petition requested that 40 CFR part 180 be amended by establishing an exemption from the requirement of a tolerance for residues of ethyl-2E,4Z-decadienoate (pear ester). The notice referenced a summary of the petition prepared by the Petitioner, which is available in the docket, *http://www.regulations.gov.* No relevant comments were received on this notice of filing.

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement of a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is ''safe.'' Section 408(c)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Pursuant to FFDCA section 408(c)(2)(B), in establishing or maintaining in effect an exemption from the requirement of a tolerance, EPA must take into account the factors set forth in FFDCA section 408(b)(2)(C), which require EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue . . . .'' Additionally, FFDCA section 408(b)(2)(D) requires that the Agency consider ''available information concerning the cumulative effects of a particular pesticide's residues'' and ''other substances that have a common mechanism of toxicity.''

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides. Second, EPA examines exposure to the pesticide through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings.

III. Toxicological Profile

Consistent with FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability, and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

A. Overview of Pear Ester

Ethyl-2E,4Z-decadienoate (pear ester) is a naturally occurring, volatile substance emitted from mature, ripening fruit, that is attractive to the codling moth (CM), *Cydia pomonella,* a major agricultural pest of pome fruit worldwide. Male and female moths are attracted to pear ester and fly to the ripening fruit, where they mate and lay their eggs. Synthetic pear ester is structurally and functionally identical to the natural compound, and its intended pesticidal use is to disrupt CM mating behavior by attracting the moths away from the fruit, reducing their chances of finding mates and laying eggs in fruit orchards.

B. Biochemical Pesticide Toxicology Data Requirements

All applicable mammalian toxicology data requirements supporting the

petition to exempt residues of pear ester from the requirement of a tolerance in or on all food commodities have been fulfilled. No toxic endpoints were identified in studies conducted and data obtained from open technical literature. Moreover, pear ester is not likely a mutagen or developmental toxicant. There are no known effects on endocrine systems via oral, dermal, or inhalation routes of exposure. For a more in-depth synopses of the data upon which EPA relied and its human health risk assessment based on that data can be found in the document entitled, ''Federal Food, Drug, and Cosmetic Act (FFDCA) Considerations for Ethyl-2E,4Z-decadienoate (Pear Ester),'' available in the docket for this action as described under **ADDRESSES**.

IV. Aggregate Exposures

In examining aggregate exposure, FFDCA section 408 directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures, including drinking water from ground water or surface water and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor uses).

A. Dietary Exposure

The proposed use patterns may result in dietary exposure to pear ester, although its residues are not expected to be any greater than that of current exposure due to use of pear ester as a flavoring agent. No significant exposure via drinking water is expected when pear ester is used according to the product label directions. The reason for this conclusion is that pear ester is applied at low rates, degrades rapidly, and is not directly applied to water. Should exposure occur, however, minimal to no risk is expected for the general population, including infants and children, due to the low toxicity of pear ester as demonstrated in the data submitted and evaluated by the Agency.

B. Other Non-Occupational Exposure

Non-occupational exposure is not expected because pear ester will be applied as a codling moth mating disruptor for agricultural purposes only.

V. Cumulative Effects From Substances With a Common Mechanism of Toxicity

Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA has determined pear ester to have a non-toxic mode of action, and does not appear to produce any toxic metabolites; therefore, 408(b)(2)(D)(v) does not apply. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www.epa.gov/pesticides/cumulative.*

VI. Determination of Safety for U.S. Population, Infants and Children

FFDCA section 408(b)(2)(C) provides that, in considering the establishment of a tolerance or tolerance exemption for a pesticide chemical residue, EPA shall assess the available information about consumption patterns among infants and children, special susceptibility of infants and children to pesticide chemical residues, and the cumulative effects on infants and children of the residues and other substances with a common mechanism of toxicity. In addition, FFDCA section 408(b)(2)(C) provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure, unless EPA determines that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the Food Quality Protection Act Safety Factor. In applying this provision, EPA either retains the default value of 10X, or uses a different additional or no safety factor when reliable data are available to support a different additional or no safety factor. As part of its qualitative assessment, EPA evaluated the available toxicity and exposure data on pear ester and considered its validity, completeness, and reliability, as well as the relationship of this information to human risk. EPA considers the toxicity database to be complete and has identified no residual uncertainty with regard to prenatal and postnatal toxicity or exposure. No hazard was identified based on the available studies. Based upon its evaluation, EPA concludes that there are no threshold effects of concern to infants, children, or adults when pear ester is applied as a mating disruptor of codling moth and used in accordance with label directions and good agricultural practices. As a result, EPA concludes that no additional margin of exposure (safety) is necessary.

VII. Other Considerations

A. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes because EPA is establishing an exemption from the requirement of a tolerance without any numerical limitation.

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The Codex has not established a MRL for ethyl-2E,4Z-decadienoate (pear ester).

VIII. Conclusion

EPA concludes that there is a reasonable certainty that no harm will result to the U.S. population, including infants and children, from aggregate exposure to residues of ethyl-2E,4Z-decadienoate (pear ester). EPA is therefore establishing an exemption from the requirement of a tolerance for residues of ethyl-2E,4Z-decadienoate (pear ester) in or on all food commodities when applied as a codling moth mating disruptor and used in accordance with good agricultural practices.

IX. Statutory and Executive Order Reviews

This final rule establishes an exemption from the requirement of a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled ''Actions

Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.,* nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA) (15 U.S.C. 272 note).

X. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: August 22, 2013.

Steven Bradbury,

Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Add § 180.1323 to subpart D to read as follows:

§ 180.1323 Ethyl-2E,4Z-decadienoate (Pear Ester); exemption from the requirement of a tolerance.

An exemption from the requirement of a tolerance is established for residues of the biochemical pesticide, ethyl-2E,4Z-decadienoate (pear ester), in or on all food commodities, when used in accordance with label directions and good agricultural practices.

[FR Doc. 2013–21019 Filed 8–27–13; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[FCC 13–105; MB Docket No. 02–266; RM–10557]

Radio Broadcasting Services; Chillicothe, Dublin, Hillsboro, and Marion, Ohio

AGENCY: Federal Communications Commission.

ACTION: Final rule; application for review.

SUMMARY: This document denies an Application for Review filed by the Committee for Competitive Columbus Radio (''Committee'') of a *Memorandum Opinion and Order* in this proceeding, which denied the Committee's Petition for Reconsideration of an earlier Bureau action, granting the reallotment, class downgrade, and change of community of license of an Ohio FM station. The document finds that the Bureau properly applied the Commission's then-existing policy of not considering compliance with the multiple ownership rule at the allotment stage.

DATES: August 28, 2013.

FOR FURTHER INFORMATION CONTACT: Andrew J. Rhodes, Media Bureau, (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Memorandum Opinion and Order,* MM Docket No. 02–266, adopted July 31, 2013, and released August 1, 2013. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or *www.BCPIWEB.com.*

In the *Report and Order* in this proceeding, the Bureau granted a Petition for Rulemaking filed by Clear Channel Communications for the reallotment, downgrade in class of channel, and change of community of license for its Station WCGX(FM) (formerly WMRN–FM) from Channel 295B at Marion, Ohio to Channel 294B1 at Dublin, Ohio, over the objection of the Committee. *See* 70 FR 19337 (April 13, 2005). The Committee had argued that the reallotment to Dublin could not be implemented because it would violate the local radio ownership rule. However, the *Report and Order* rejected this argument, explaining that multiple ownership issues are not considered in FM allotment proceedings. The Committee sought reconsideration on the same ground, and the Bureau denied the petition in the *Memorandum Opinion and Order. See* 71 FR 40927 (July 19, 2006).

On review, the Commission finds that, contrary to the Committee's contention, the Bureau did not err in deferring the issue of compliance with the multiple ownership rule until an implementing application was filed because such an approach is consistent with then-existing policy. Additionally, the Commission concludes that the Bureau did not err in referring to Station WCGX(FM) as formerly licensed to Marion because the *Report and Order* did modify the Station WCGX(FM) license to specify Dublin. However, that modification had no immediate impact on competition in the Columbus radio market as Clear Channel was required to file an implementing application and

demonstrate compliance with the multiple ownership rule, which Clear Channel did. This document is not subject to the Congressional Review Act. (The Commission, is, therefore, not required to submit a copy of this Memorandum Opinion and Order to GAO, pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A) because the Application for Review was denied.)

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2013–21031 Filed 8–27–13; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Part 1002

[Docket No. EP 542 (Sub-No. 21)]

Regulations Governing Fees for Services Performed in Connection With Licensing and Related Services—2013 Update

AGENCY: Surface Transportation Board, DOT.

ACTION: Final rule.

SUMMARY: The Board updates for 2013 the fees that the public must pay to file certain cases and pleadings with the Board. The update will increase 28 fees by $100 or less, increase 47 fees by more than $100, and keep the remaining 50 fees at their existing level.

DATES: These rules are effective September 27, 2013.

FOR FURTHER INFORMATION CONTACT: David T. Groves, (202) 245–0327, or Barbara Saddler (202) 245–0362. [TDD for the hearing impaired: 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: The Board's regulations at 49 CFR 1002.3 provide for an annual update of the Board's entire user-fee schedule. Fees are generally revised based on the cost study formula set forth at 49 CFR 1002.3(d). The fee changes adopted here reflect a combination of the unchanged salary costs from the 2012 User Fee Update decision; no change in the publication cost levels of that decision; plus increase changes to two of the three Board overhead cost factors (the other overhead factor remains unchanged from its 2012 level), resulting from the mechanical application of the update formula in 49 CFR 1002.3(d). Results from the formula application indicate that justified fee amounts in this 2013 update decision either remain unchanged (50 fees) or increase (75 fees) from their respective 2012 update levels. No new fee items are proposed in this proceeding. Therefore, the Board finds that notice and comment are unnecessary for this proceeding. *See Regulations Governing Fees For Services—1990 Update,* 7 I.C.C.2d 3 (1990); *Regulations Governing Fees For Services—1991 Update,* 8 I.C.C.2d 13 (1991); and *Regulations Governing Fees For Services—1993 Update,* 9 I.C.C.2d 855 (1993).

Additional information is contained in the Board's decision. To obtain a free copy of the full decision, visit the Board's Web site at *http://www.stb.dot.gov* or call the Board's Information Officer at (202) 245–0245. [Assistance for the hearing impaired is available through Federal Information Relay Services (FIRS): (800) 877–8339.]

List of Subjects in 49 CFR Part 1002

Administrative practice and procedure, Common carriers, and Freedom of information.

Decided: August 22, 2013.

By the Board, Chairman Elliott, Vice Chairman Begeman, and Commissioner Mulvey.

Derrick A. Gardner,

Clearance Clerk.

For the reasons set forth in the preamble, title 49, chapter X, part 1002, of the Code of Federal Regulations is amended as follows:

PART 1002—FEES

■ 1. The authority citation for part 1002 continues to read as follows:

Authority: 5 U.S.C. 552(a)(4)(A) and 553; 31 U.S.C. 9701 and 49 U.S.C. 721(a).

■ 2. Amend § 1002.1 by revising paragraphs (a) and (e) to read as follows:

§ 1002.1 Fees for record search, review, copying, certification, and related service.

* * * * *

(a) Certificate of the Records Officer, $18.00.

* * * * *

(e) Fees for courier services to transport agency records to provide on-site access to agency records stored off-site will be set at the rates set forth in the Board's agreement with its courier service provider. Rate information can be obtained from the Board's Records Officer, Room 1200, Surface Transportation Board, Washington, DC 20423–0001.

* * * * *

■ 3. In § 1002.2, paragraph (f) is revised to read as follows:

§ 1002.2 Filing fees.

* * * * *

(f) *Schedule of filing fees.*

Type of proceeding	Fee
PART I: Non-Rail Applications or Proceedings to Enter Upon a Particular Financial Transaction or Joint Arrangement:	
(1) An application for the pooling or division of traffic	$4,700.
(2)(i) An application involving the purchase, lease, consolidation, merger, or acquisition of control of a motor carrier of passengers under 49 U.S.C. 14303.	$2,100.
(ii) A petition for exemption under 49 U.S.C. 13541 (other than a rulemaking) filed by a non-rail carrier not otherwise covered.	$3,400.
(iii) A petition to revoke an exemption filed under 49 U.S.C. 13541(d)	$2,800.
(3) An application for approval of a non-rail rate association agreement. 49 U.S.C. 13703	$29,600.
(4) An application for approval of an amendment to a non-rail rate association agreement:	
(i) Significant amendment	$4,900.
(ii) Minor amendment	$100.
(5) An application for temporary authority to operate a motor carrier of passengers. 49 U.S.C. 14303(i)	$500.
(6) A notice of exemption for transaction within a motor passenger corporate family that does not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with motor passenger carriers outside the corporate family.	$1,800.
(7)–(10) [Reserved]	
PART II: Rail Licensing Proceedings other than Abandonment or Discontinuance Proceedings:	
(11)(i) An application for a certificate authorizing the extension, acquisition, or operation of lines of railroad. 49 U.S.C. 10901.	$7,800.

Type of proceeding	Fee
(ii) Notice of exemption under 49 CFR 1150.31–1150.35	$1,900.
(iii) Petition for exemption under 49 U.S.C. 10502	$13,400.
(12)(i) An application involving the construction of a rail line	$80,000.
(ii) A notice of exemption involving construction of a rail line under 49 CFR 1150.36	$1,900.
(iii) A petition for exemption under 49 U.S.C. 10502 involving construction of a rail line	$80,000.
(iv) A request for determination of a dispute involving a rail construction that crosses the line of another carrier under 49 U.S.C. 10902(d).	$250.
(13) A Feeder Line Development Program application filed under 49 U.S.C. 10907(b)(1)(A)(i) or 10907(b)(1)(A)(ii)	$2,600.
(14)(i) An application of a class II or class III carrier to acquire an extended or additional rail line under 49 U.S.C. 10902.	$6,600.
(ii) Notice of exemption under 49 CFR 1150.41–1150.45	$1,900.
(iii) Petition for exemption under 49 U.S.C. 10502 relating to an exemption from the provisions of 49 U.S.C. 10902.	$7,100.
(15) A notice of a modified certificate of public convenience and necessity under 49 CFR 1150.21–1150.24	$1,800.
(16) An application for a land-use-exemption permit for a facility existing as of October 16, 2008 under 49 U.S.C. 10909.	$6,400.
(17) An application for a land-use-exemption permit for a facility not existing as of October 16, 2008 under 49 U.S.C. 10909.	$22,700.
(18)–(20) [Reserved]	
PART III: Rail Abandonment or Discontinuance of Transportation Services Proceedings:	
(21)(i) An application for authority to abandon all or a portion of a line of railroad or discontinue operation thereof filed by a railroad (except applications filed by Consolidated Rail Corporation pursuant to the Northeast Rail Service Act [Subtitle E of Title XI of Pub. L. 97–35], bankrupt railroads, or exempt abandonments).	$23,700.
(ii) Notice of an exempt abandonment or discontinuance under 49 CFR 1152.50	$3,900.
(iii) A petition for exemption under 49 U.S.C. 10502	$6,700.
(22) An application for authority to abandon all or a portion of a line of a railroad or operation thereof filed by Consolidated Rail Corporation pursuant to Northeast Rail Service Act.	$500.
(23) Abandonments filed by bankrupt railroads	$2,000.
(24) A request for waiver of filing requirements for abandonment application proceedings	$1,900.
(25) An offer of financial assistance under 49 U.S.C. 10904 relating to the purchase of or subsidy for a rail line proposed for abandonment.	$1,600.
(26) A request to set terms and conditions for the sale of or subsidy for a rail line proposed to be abandoned	$24,300.
(27)(i) A request for a trail use condition in an abandonment proceeding under 16 U.S.C.1247(d)	$250.
(ii) A request to extend the period to negotiate a trail use agreement	$450.
(28)–(35) [Reserved]	
PART IV: Rail Applications to Enter Upon a Particular Financial Transaction or Joint Arrangement:	
(36) An application for use of terminal facilities or other applications under 49 U.S.C. 11102	$20,300.
(37) An application for the pooling or division of traffic. 49 U.S.C. 11322	$10,900.
(38) An application for two or more carriers to consolidate or merge their properties or franchises (or a part thereof) into one corporation for ownership, management, and operation of the properties previously in separate ownership. 49 U.S.C. 11324:	
(i) Major transaction	$1,599,600.
(ii) Significant transaction	$319,900.
(iii) Minor transaction	$7,900.
(iv) Notice of an exempt transaction under 49 CFR 1180.2(d)	$1,800.
(v) Responsive application	$7,900.
(vi) Petition for exemption under 49 U.S.C. 10502	$10,000.
(vii) A request for waiver or clarification of regulations filed in a major financial proceeding as defined at 49 CFR 1180.2(a).	$5,900.
(39) An application of a non-carrier to acquire control of two or more carriers through ownership of stock or otherwise. 49 U.S.C. 11324:	
(i) Major transaction	$1,599,600.
(ii) Significant transaction	$319,900.
(iii) Minor transaction	$7,900.
(iv) A notice of an exempt transaction under 49 CFR 1180.2(d)	$1,400.
(v) Responsive application	$7,900.
(vi) Petition for exemption under 49 U.S.C. 10502	$10,000.
(vii) A request for waiver or clarification of regulations filed in a major financial proceeding as defined at 49 CFR 1180.2(a).	$5,900.
(40) An application to acquire trackage rights over, joint ownership in, or joint use of any railroad lines owned and operated by any other carrier and terminals incidental thereto. 49 U.S.C. 11324:	
(i) Major transaction	$1,599,600.
(ii) Significant transaction	$319,900.
(iii) Minor transaction	$7,900.
(iv) Notice of an exempt transaction under 49 CFR 1180.2(d)	$1,200.
(v) Responsive application	$7,900.
(vi) Petition for exemption under 49 U.S.C. 10502	$10,000.
(vii) A request for waiver or clarification of regulations filed in a major financial proceeding as defined at 49 CFR 1180.2(a).	$5,900.
(41) An application of a carrier or carriers to purchase, lease, or contract to operate the properties of another, or to acquire control of another by purchase of stock or otherwise. 49 U.S.C. 11324:	
(i) Major transaction	$1,599,600.
(ii) Significant transaction	$319,900.
(iii) Minor transaction	$7,900.

Type of proceeding	Fee
(iv) Notice of an exempt transaction under 49 CFR 1180.2(d)	$1,400.
(v) Responsive application	$7,900.
(vi) Petition for exemption under 49 U.S.C. 10502	$7,100.
(vii) A request for waiver or clarification of regulations filed in a major financial proceeding as defined at 49 CFR 1180.2(a).	$5,900.
(42) Notice of a joint project involving relocation of a rail line under 49 CFR 1180.2(d)(5)	$2,500.
(43) An application for approval of a rail rate association agreement. 49 U.S.C. 10706	$74,900.
(44) An application for approval of an amendment to a rail rate association agreement. 49 U.S.C. 10706:	
(i) Significant amendment	$13,800.
(ii) Minor amendment	$100.
(45) An application for authority to hold a position as officer or director under 49 U.S.C. 11328	$850.
(46) A petition for exemption under 49 U.S.C. 10502 (other than a rulemaking) filed by rail carrier not otherwise covered.	$8,500.
(47) National Railroad Passenger Corporation (Amtrak) conveyance proceeding under 45 U.S.C. 562	$250.
(48) National Railroad Passenger Corporation (Amtrak) compensation proceeding under Section 402(a) of the Rail Passenger Service Act.	$250.
(49)–(55) [Reserved]	
PART V: Formal Proceedings:	
(56) A formal complaint alleging unlawful rates or practices of carriers:	
(i) A formal complaint filed under the coal rate guidelines (Stand-Alone Cost Methodology) alleging unlawful rates and/or practices of rail carriers under 49 U.S.C. 10704(c)(1).	$350.
(ii) A formal complaint involving rail maximum rates filed under the Simplified-SAC methodology	$350.
(iii) A formal complaint involving rail maximum rates filed under the Three Benchmark methodology	$150.
(iv) All other formal complaints (except competitive access complaints)	$350.
(v) Competitive access complaints	$150.
(vi) A request for an order compelling a rail carrier to establish a common carrier rate	$250.
(57) A complaint seeking or a petition requesting institution of an investigation seeking the prescription or division of joint rates or charges. 49 U.S.C. 10705.	$9,500.
(58) A petition for declaratory order:	
(i) A petition for declaratory order involving a dispute over an existing rate or practice which is comparable to a complaint proceeding.	$1,000.
(ii) All other petitions for declaratory order	$1,400.
(59) An application for shipper antitrust immunity. 49 U.S.C. 10706(a)(5)(A)	$7,500.
(60) Labor arbitration proceedings	$250.
(61)(i) An appeal of a Surface Transportation Board decision on the merits or petition to revoke an exemption pursuant to 49 U.S.C. 10502(d).	$250.
(ii) An appeal of a Surface Transportation Board decision on procedural matters except discovery rulings	$400.
(62) Motor carrier undercharge proceedings	$250.
(63)(i) Expedited relief for service inadequacies: A request for expedited relief under 49 U.S.C. 11123 and 49 CFR part 1146 for service emergency.	$250.
(ii) Expedited relief for service inadequacies: A request for temporary relief under 49 U.S.C. 10705 and 11102, and 49 CFR part 1147 for service inadequacy.	$250.
(64) A request for waiver or clarification of regulations except one filed in an abandonment or discontinuance proceeding, or in a major financial proceeding as defined at 49 CFR 1180.2(a).	$600.
(65)–(75) [Reserved]	
PART VI: Informal Proceedings:	
(76) An application for authority to establish released value rates or ratings for motor carriers and freight forwarders of household goods under 49 U.S.C. 14706.	$1,300.
(77) An application for special permission for short notice or the waiver of other tariff publishing requirements	$100.
(78) The filing of tariffs, including supplements, or contract summaries	$1 per page, ($26 min. charge).
(79) Special docket applications from rail and water carriers:	
(i) Applications involving $25,000 or less	$75.
(ii) Applications involving over $25,000	$150.
(80) Informal complaint about rail rate applications	$650.
(81) Tariff reconciliation petitions from motor common carriers:	
(i) Petitions involving $25,000 or less	$75.
(ii) Petitions involving over $25,000	$150.
(82) Request for a determination of the applicability or reasonableness of motor carrier rates under 49 U.S.C. 13710(a)(2) and (3).	$250.
(83) Filing of documents for recordation. 49 U.S.C. 11301 and 49 CFR 1177.3(c)	$44 per document.
(84) Informal opinions about rate applications (all modes)	$250.
(85) A railroad accounting interpretation	$1,200.
(86)(i) A request for an informal opinion not otherwise covered	$1,600.
(ii) A proposal to use on a voting trust agreement pursuant to 49 CFR 1013 and 49 CFR 1180.4(b)(4)(iv) in connection with a major control proceeding as defined at 49 CFR 1180.2(a).	$5,500.
(iii) A request for an informal opinion on a voting trust agreement pursuant to 49 CFR 1013.3(a) not otherwise covered.	$550.
(87) Arbitration of Certain Disputes Subject to the Statutory Jurisdiction of the Surface Transportation Board under 49 CFR 1108:	
(i) Complaint	$75.
(ii) Answer (per defendant), Unless Declining to Submit to Any Arbitration	$75.
(iii) Third Party Complaint	$75.
(iv) Third Party Answer (per defendant), Unless Declining to Submit to Any Arbitration	$75.

Type of proceeding	Fee
(v) Appeals of Arbitration Decisions or Petitions to Modify or Vacate an Arbitration Award	$150.
(88) Basic fee for STB adjudicatory services not otherwise covered	$250.
(89)–(95) [Reserved]	
PART VII: Services:	
(96) Messenger delivery of decision to a railroad carrier's Washington, DC, agent	$34 per delivery.
(97) Request for service or pleading list for proceedings	$26 per list.
(98) Processing the paperwork related to a request for the Carload Waybill Sample to be used in a Surface Transportation Board or State proceeding that:	
(i) Does not require a Federal Register notice:	
(a) Set cost portion	$150.
(b) Sliding cost portion	$50 per party.
(ii) Does require a Federal Register notice:	
(a) Set cost portion	$400.
(b) Sliding cost portion	$50 per party.
(99)(i) Application fee for the Surface Transportation Board's Practitioners' Exam	$200.
(ii) Practitioners' Exam Information Package	$25.
(100) Carload Waybill Sample data:	
(i) Requests for Public Use File for all years prior to the most current year Carload Waybill Sample data available, provided on CD–R.	$250 per year.
(ii) Specialized programming for Waybill requests to the Board	$112 per hour.

* * * * *

[FR Doc. 2013–20999 Filed 8–27–13; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 424

[Docket No. FWS–R9–ES–2011–0073; Docket No. 120606146–3505–01; 4500030114]

RIN 1018–AY62; 0648–BC24

Endangered and Threatened Wildlife and Plants; Revisions to the Regulations for Impact Analyses of Critical Habitat

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

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) (collectively referred to as the ''Services'' or ''we''), are finalizing a revision to our regulations pertaining to impact analyses conducted for designations of critical habitat under the Endangered Species Act of 1973, as amended (the Act). This regulation is being finalized as directed by the President's February 28, 2012, memorandum, which directed us to take prompt steps to revise our regulations to provide that the economic analysis be completed and made available for public comment at the time of publication of a proposed rule to designate critical habitat.

DATES: This final rule is effective on October 30, 2013.

ADDRESSES: This final rule is available on the Internet at *http://www.regulations.gov.* Comments and materials received, as well as supporting documentation used in preparing this final regulation, are available for public inspection, by appointment, during normal business hours, at U.S. Fish and Wildlife Service, Division of Conservation and Classification, 4401 N Fairfax Drive, Suite 420, Arlington, VA 22203, telephone 703/358–2171; facsimile 703/358–1735.

FOR FURTHER INFORMATION CONTACT: Douglas Krofta, Chief, Endangered Species Branch of Listing, U.S. Fish and Wildlife Service, Division of Conservation and Classification, 4401 N. Fairfax Drive, Suite 420, Arlington, VA 22203, telephone 703/358–2171; facsimile 703/358–1735; or Marta Nammack, National Marine Fisheries Service, Office of Protected Resources, 1315 East-West Highway, Silver Spring, MD 20910, telephone 301/427–8469; facsimile 301/713–0376. If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Executive Summary

Why we need to publish a rule. On August 24, 2012, we published a proposed rule in the **Federal Register** to revise our regulations to provide the public earlier access to the draft economic analysis supporting critical habitat designations, as directed by the President's February 28, 2012, memorandum (Memorandum for the Secretary of the Interior, Proposed Revised Habitat for the Spotted Owl: Minimizing Regulatory Burdens, 77 FR 12985 (March 5, 2012)). 77 FR 51503 (Aug. 24, 2012). The President's February 28, 2012, memorandum directed the Secretary of the Interior to revise the regulations implementing the Endangered Species Act to provide that a draft economic analysis be completed and made available for public comment at the time of publication of a proposed rule to designate critical habitat. Both transparency and public comment will be improved if the public has access to both the scientific analysis and the draft economic analysis at the same time. We are now issuing a final rule to achieve these goals. Because the Act and its implementing regulations are jointly administered by the Departments of the Interior and Commerce, the rule has been developed jointly. This final rule also addresses several court decisions and is informed by conclusions from a 2008 legal opinion by the Solicitor of the Department of the Interior. Specifically, we revise 50 CFR 424.19 to clarify the instructions for making information available to the public, considering the impacts of critical habitat designations, and considering exclusions from critical habitat. Except for the revision to the timing of making draft economic analyses available to the public, these revisions will not change how we implement the Act; rather, the revisions serve to codify the current practices of the agencies. This final rule is consistent with Executive Order 13563, and in particular with the requirement of retrospective analysis of existing rules, designed ''to make the

agency's regulatory program more effective or less burdensome in achieving the regulatory objectives.''

This rule makes the following changes:

(1) We changed the title of section 424.19 from *''Final Rules—impact analysis of critical habitat''* to *''Impact analysis and exclusions from critical habitat.''* We removed the reference to ''[f]inal rules'' to allow this section to apply to both proposed and final critical habitat rules. We added the term ''exclusions'' in the title to more fully describe that this section addresses both impact analyses and how they inform the exclusion process under section 4(b)(2) of the Act for critical habitat.

(2) We divided section 424.19 into three paragraphs. The division into three paragraphs closely tracks the requirements of the Act under section 4(b)(2) and provides for a clearly defined process for consideration of exclusions as required under the Act.

(3) Paragraph (a) implements the direction of the President's February 28, 2012, memorandum by stating that, at the time of proposing a designation of critical habitat, the Secretary will make available for public comment the draft economic analysis of the designation. As it was proposed, paragraph (a) included a third sentence, relating to section 4(b)(8) of the Act, which would have been carried over from the existing regulations with modifications. This sentence is not being implemented in this final rule to sharpen this regulation's focus on implementing section 4(b)(2) of the Act and to ensure consistency with other sections of part 424. Please see the discussion in the ''Rationale for Revised Paragraph (a),'' below.

(4) Paragraph (b) implements the first sentence of section 4(b)(2) of the Act, which directs the Secretary to consider the economic impact, the impact on national security, and any other relevant impact of specifying any particular area as critical habitat. This paragraph states that the impact analysis should focus on the incremental effects resulting from the designation of critical habitat.

(5) Paragraph (c) implements the second sentence of section 4(b)(2) of the Act, which allows the Secretary to exclude areas from the final critical habitat designation under certain circumstances.

Background

The purposes of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act), are to provide a means to conserve the ecosystems upon which listed species depend, to develop a program for the conservation of listed species, and to achieve the purposes of certain treaties and conventions. Moreover, the Act states that it is the policy of Congress that the Federal Government will seek to conserve threatened and endangered species, and use its authorities in furtherance of the purposes of the Act.

In passing the Act, Congress viewed habitat loss as a significant factor contributing to species endangerment. Habitat destruction and degradation have been a contributing factor causing the decline of a majority of species listed as threatened or endangered under the Act (Wilcove *et al.* 1998). The present or threatened destruction, modification, or curtailment of a species' habitat or range is included in the Act as one of the factors on which to base a determination that a species may be a threatened or an endangered species. One of the tools provided by the Act to conserve species is designation of critical habitat.

Critical habitat represents the habitat essential for the species' recovery. Once designated, critical habitat provides for the conservation of listed species in several ways. Specifying the geographic location of critical habitat facilitates implementation of section 7(a)(1) of the Act by identifying areas where Federal agencies can focus their conservation programs and use their authorities to further the purposes of the Act. Designating critical habitat also helps focus the efforts of other conservation partners, such as State and local governments, nongovernmental organizations, and individuals. Furthermore, when designation of critical habitat occurs near the time of listing, it provides early conservation planning guidance to bridge the gap until the Services can complete more thorough recovery planning.

In addition to serving as a notification tool, the designation of critical habitat also provides a significant regulatory protection—the requirement that Federal agencies consult with the Services under section 7(a)(2) of the Act to ensure that their actions are not likely to destroy or adversely modify critical habitat. The Federal Government, through its role in water management, flood control, regulation of resource-extraction and other industries, Federal land management, and funding, authorization, or conduct of myriad other activities, may propose actions that are likely to affect critical habitat. The designation of critical habitat ensures that the Federal Government considers the effects of its actions on habitat important to species' conservation and avoids or modifies those actions that are likely to destroy or adversely modify critical habitat. This benefit should be especially valuable when, for example, species presence or habitats are ephemeral in nature, species presence is difficult to establish through surveys (e.g., when a species such as a plant's ''presence'' may be limited to a seed bank), or protection of unoccupied habitat is essential for the conservation of the species.

The Secretaries of the Interior and Commerce (the ''Secretaries'') share responsibilities for implementing most of the provisions of the Act. Generally, marine and anadromous species are under the jurisdiction of the Secretary of Commerce and all other species are under the jurisdiction of the Secretary of the Interior, though jurisdiction is shared between the two departments for some species, such as sea turtles and Atlantic salmon. Authority to administer the Act has been delegated by the Secretary of the Interior to the Director of the FWS and by the Secretary of Commerce to the Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration.

This final rule addresses two developments related to 50 CFR 424.19. First, the Solicitor of the Department of the Interior issued a legal opinion on October 3, 2008, regarding the Secretary of the Interior's authority to exclude areas from critical habitat designation under section 4(b)(2) of the Act (M–37016, ''The Secretary's Authority to Exclude Areas from a Critical Habitat Designation under Section 4(b)(2) of the Endangered Species Act'' (Oct. 3, 2008)) (DOI 2008). The Solicitor concluded, among other things, that, while the Act requires the Secretary to consider the economic impact, the impact on national security, and any other relevant impact, the decision whether to make exclusions under section 4(b)(2) of the Act is at the discretion of the Secretary; that the Secretary has wide discretion when weighing the benefits of exclusion against the benefits of inclusion; and that it is appropriate for the Secretary to consider impacts of a critical habitat designation on an incremental basis. These conclusions have been confirmed by judicial decision. *See Building Industry Ass'n of the Bay Area* v. *U.S. Dep't of Commerce,* 2012 U.S. Dist. Lexis 170688 (N.D. Cal. Nov. 30, 2012).

Second, the President's February 28, 2012, memorandum directed the Secretary of the Interior to revise the implementing regulations of the Act to provide that an analysis of the economic impacts of a proposed critical habitat designation be completed by the Services and made available to the

public at the time of publication of a proposed rule to designate critical habitat. The memo stated: ''Uncertainty on the part of the public may be avoided, and public comment improved, by simultaneous presentation of the best scientific data available and the analysis of economic and other impacts.'' The Services have based this final rule on the reasoning and conclusions of the Solicitor's opinion and the President's February 28, 2012, memorandum.

Discussion of the Revisions to 50 CFR 424.19

This final rule revises 50 CFR 424.19 to clarify the instructions for making information available to the public, considering the impacts of critical habitat designations, and considering exclusions from critical habitat.

In making the specific changes to the regulations that follow, and setting out the accompanying clarifying discussion in this preamble, the Services are establishing prospective standards only. Nothing in this final rule to revise the regulations is intended to require that any previously completed critical habitat designation be reevaluated on this basis. Furthermore, we will implement the requirements of this regulation following the effective date. For proposed critical habitat designations published prior to the effective date of this final regulation, the Services will continue to follow their current practices.

Statutory Authority

The regulatory changes described below derive from sections 4(b)(2) of the Act. For the convenience of the reader, we are reprinting section 4(b)(2) of the Act here:

> (2) The Secretary shall designate critical habitat, and make revisions thereto, under subsection (a)(3) on the basis of the best scientific data available and after taking into consideration the economic impact, the impact on national security, and any other relevant impact, of specifying any particular area as critical habitat. The Secretary may exclude any area from critical habitat if he determines that the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat, unless he determines, based on the best scientific and commercial data available, that the failure to designate such area as critical habitat will result in the extinction of the species concerned.

Definition of Key Phrases

Under the first sentence of section 4(b)(2) of the Act, the Services are required to take ''into consideration the economic impact, the impact on national security, and any other relevant impact, of specifying any particular area as critical habitat.'' This evaluation is referred to as the ''impact analysis.'' Under the second sentence of section 4(b)(2) of the Act, the Secretary (via delegated authority to the Services) proceeds to a process of considering whether to exclude an area from critical habitat after identifying and weighing the benefits of inclusion and exclusion. This process is referred to as the ''discretionary 4(b)(2) exclusion analysis.''

Based on public comment and for clarity, in this final rule, we have changed the reference to the analysis under the second sentence of 4(b)(2) of the Act from ''optional weighing of benefits'' to ''discretionary 4(b)(2) exclusion analysis.''

An economic analysis is a tool that informs both the required impact analysis and the discretionary 4(b)(2) exclusion analysis. Additionally, the draft economic analysis informs the determinations established under other statutes, regulations, Executive Orders, or directives that apply to rulemakings generally, including critical habitat designations. However, the draft economic analysis addresses only the consideration of the potential economic impact of the designation of critical habitat.

An ''incremental analysis'' is a method of determining the probable impacts of the designation; it seeks to identify and focus solely on the impacts over and above those resulting from existing protections. This method applies to the impact analysis, discretionary 4(b)(2) exclusion analysis, and economic analysis.

Relationship of the Key Phrases

The purpose of the impact analysis is to inform the Secretaries' decision about whether to engage in the discretionary exclusion analysis under the second sentence of section 4(b)(2) of the Act. Information that is used in the impact analysis can come from a variety of sources, one of which is the draft economic analysis of the proposed designation of critical habitat. The Secretaries must consider the probable economic, national security, and other relevant impacts of the designation of critical habitat. This comparison is done through the method of an incremental analysis of economic, national security, and other relevant impacts. The incremental-analysis methodology compares conditions with and without the designation of critical habitat.

Revisions to 50 CFR 424.19

We changed the title of this section from that of the previous regulation, which read, ''Final rules—impact analysis of critical habitat'' to ''Impact analysis and exclusions from critical habitat.'' The reference to ''[f]inal rules'' was deleted to allow for the application of this section to both proposed and final critical habitat rules. We added the term ''exclusions'' to the title to more fully describe that this section addresses both impact analyses and how they inform the exclusion process under section 4(b)(2) of the Act for critical habitat.

In the following text, we frequently refer to the previous regulatory language at 50 CFR 424.19 and then give detailed information about how we revised that language. For your convenience, we set out the previous text of section 424.19 here:

> The Secretary shall identify any significant activities that would either affect an area considered for designation as critical habitat or be likely to be affected by the designation, and shall, after proposing designation of such an area, consider the probable economic and other impacts of the designation upon proposed or ongoing activities. The Secretary may exclude any portion of such an area from the critical habitat if the benefits of such exclusion outweigh the benefits of specifying the area as part of the critical habitat. The Secretary shall not exclude any such area if, based on the best scientific and commercial data available, he determines that the failure to designate that area as critical habitat will result in the extinction of the species concerned.

Rationale for the Revised Paragraph (a)

We divided the previous section 424.19 into three paragraphs. The two sentences of paragraph (a) are new and have been added to comply with the Presidential memorandum. They read:

> At the time of publication of a proposed rule to designate critical habitat, the Secretary will make available for public comment the draft economic analysis of the designation. The draft economic analysis will be summarized in the **Federal Register** notice of the proposed designation of critical habitat.

The President's February 28, 2012 memorandum directed the Secretary of the Interior to take 'prompt steps' to revise the regulations. The first sentence of the revised regulations will comply with the President's direction. The second sentence specifies that a summary of the draft economic analysis is to be published in the **Federal Register** notice of the proposed designation of critical habitat. The draft economic analysis itself is to be made available on *http://www.regulations.gov* along with the proposed designation of critical habitat or on other Web sites as deemed appropriate by the Services. It is this summary of the draft economic

analysis that will constitute the Services' consideration of the economic impact, as required under the first sentence of section 4(b)(2) of the Act, of the proposed designation of critical habitat for a species.

As set out in the proposed rule, paragraph (a) included a third sentence which would have carried over the first half of the first sentence of the previous section 424.19, with modifications. As a result of public comment and review of the provisions for proposed and final rules at 50 CFR 424.16(b) (Proposed rules) and 424.18(a)(2) (Final rules—general), respectively, we have removed the proposed third sentence from this final regulation.

Sections 424.16(b) and 424.18(a)(2) govern the contents of **Federal Register** notices for proposed and final rules, respectively. Each states that the rule will, to the maximum extent practicable, ''include a brief description and evaluation of those activities (whether public or private) that . . . may adversely modify such habitat or [may] be affected by such designation.'' (The edited language varies slightly between the two provisions.) This language implements section 4(b)(8) of the Act. The third sentence of the proposed rule was similar. In this final rule, we are deleting that sentence because it is redundant with the language in sections 424.16(b) and 424.18(a)(2). Compliance with section 4(b)(8) of the Act fits more logically in those provisions, as they address the contents of **Federal Register** notices, which is the subject of section 4(b)(8) of the Act. This change also has the benefit of simplifying section 424.19 so that it addresses only one statutory provision (section 4(b)(2) of the Act), rather than two different provisions.

Although the language in sections 424.16(b) and 424.18(a)(2) repeats the statutory language, we note that the ''may adversely modify'' language could be misinterpreted to suggest that certain activities necessarily must undergo section 7 consultation, or that the Services must predetermine the result of any future section 7 consultation. Properly interpreted, this language reflects Congress's intent that the Services alert the public to the general relationship between the designation of critical habitat and types of activities that may occur on the landscape, without definitively asserting that consultations are required for such activities, or what the results of any consultations might be. Congress's use of the word ''may'' in this phrase supports our interpretation. Thus, notwithstanding any statement in the proposed or final critical habitat designation about the relationship between the designation and particular types of activities, Federal agencies must determine whether their individual proposed actions trigger the requirement for section 7 consultations. And if an agency does consult on an action, the Services will make an adverse modification determination by applying the standards of section 7 to the facts of the action at issue, rather than by looking to the general statements made in compliance with section 4(b)(8) of the Act in the preamble to the critical habitat designation.

Rationale for the Revised Paragraph (b)

Paragraph (b) implements the first sentence of section 4(b)(2) of the Act (''The Secretary shall designate critical habitat . . . after taking into consideration the economic impact, the impact on national security, and any other relevant impact, of specifying any particular area as critical habitat.''). The first sentence of new section 424.19(b) carries over the second half of the first sentence of the previous section 424.19, with modifications, and thus repeats the basic statutory requirement. We replaced ''after proposing designation of such an area'' with ''[p]rior to finalizing the designation of critical habitat'' to expressly provide for more flexibility in the timing of the consideration. Thus the first sentence of paragraph (b) reads:

> Prior to finalizing the designation of critical habitat, the Secretary will consider the probable economic, national security, and other relevant impacts of the designation upon proposed or ongoing activities.

The statute itself requires only that the consideration occur—it does not specify when in the rulemaking process it must occur. Furthermore, the Presidential memorandum only required the Services to change the timing of the availability of the economic analysis of designations of critical habitat and did not speak to the timing of the mandatory considerations specified in the Act. That being said, we stress that the Act's legislative history is clear that Congress intended consideration of economic impacts to neither affect nor delay the listing of species. Therefore, regardless of the point in the rulemaking process at which consideration of economic impacts of a designation of critical habitat begins, that consideration must be kept analytically distinct from, and have no effect on the outcome or timing of, listing determinations. We also note that a draft economic analysis of a critical habitat designation is only one of many pieces of information the Secretaries use in determining whether to exclude areas under section 4(b)(2) of the Act, if the Secretary decides to engage in that discretionary analysis.

Also in paragraph (b), we retained from previous section 424.19 the phrases ''probable'' and ''upon proposed or ongoing activities.'' These phrases provide guidance that the Services should not consider improbable or speculative impacts. However, the Services do not intend that the term ''probable'' requires a showing of statistical probability or any specific numeric likelihood. Moreover, the ''activities'' at issue are only those that would require consultation under section 7 of the Act. *See* DOI 2008 at 10–12. Although impact analyses are based on the best scientific data available, any predictions of future impacts are inherently uncertain and subject to change. Thus, the Services should consider the likely general impact of the designation and not make specific predictions of the outcome of particular section 7 consultations that have not in fact been completed.

We added the phrase ''national security'' to reflect statutory amendments to section 4(b)(2) of the Act (National Defense Authorization Act for Fiscal Year 2004, Pub. L. 108–136). Also, we added the word ''relevant'' to the other impacts that the Services must consider to more closely track the statutory language.

The first sentence of paragraph (b) uses the term ''consider,'' which reflects the statutory term ''consideration'' in section 4(b)(2) of the Act. This final regulation does not further define this term. However, we agree with the Solicitor's 2008 Opinion that, in the context of section 4(b)(2) of the Act, to ''consider'' impacts the Services must gather available information about the impacts on proposed or ongoing activities that would be subject to section 7 consultation, and then must give careful thought to the relevant information in the context of deciding whether to proceed with the discretionary 4(b)(2) exclusion analysis. *See* DOI 2008 at 14–16.

The second and third sentences of paragraph (b) are additions that provide further guidance on how the Services will consider impacts of critical habitat designation. They read:

> The Secretary will consider impacts at a scale that the Secretary determines to be appropriate, and will compare the impacts with and without the designation. Impacts may be qualitatively or quantitatively described.

The first phrase of the second sentence, ''[t]he Secretary will consider impacts at a scale that the Secretary

determines to be appropriate,'' clarifies that the Secretary has the discretion to determine the scale at which impacts are considered. The Secretary would determine the appropriate scale based on what would most meaningfully or sufficiently inform the decision in a particular context. For example, for a wide-ranging species covering a large area of potential habitat across several States, a relatively coarse-scale analysis would be sufficiently informative, while for a narrow endemic species, with specialized habitat requirements and relatively few discrete occurrences, it might be appropriate to engage in a relatively fine-scale analysis for the designation of critical habitat. The Secretary may also use this discretion to focus the analysis on areas where impacts are more likely. *See* DOI 2008 at 17.

The second phrase of the second sentence, ''and will compare the impacts with and without designation,'' clarifies that impact analyses evaluate the incremental impacts of the designation. This evaluation is sometimes referred to as an ''incremental analysis'' or ''baseline approach.'' For the purpose of the impacts analysis required by the first sentence of section 4(b)(2) of the Act, the incremental impacts are those probable economic, national security, and other relevant impacts of the proposed critical habitat designation on ongoing or potential Federal actions that would not otherwise occur without the designation. Put another way, the incremental impacts are the probable impacts on Federal actions for which the designation is the ''but for'' cause.

To determine the incremental impacts of designating critical habitat, the Services compare the protections provided by the critical habitat designation (the world with the particular designation) to the combined effects of all conservation-related protections for the species and its habitat in the absence of the designation of critical habitat (the world without designation, i.e., the baseline condition including listing). Thus, determining the incremental impacts requires identifying at a general level the additional protections that a critical habitat designation would provide for the species. This determination does not require prejudging the precise outcomes of hypothetical section 7 consultations. Finally, the Services determine the probable impacts of those incremental protections on Federal actions, in terms of economic, national security, or other relevant impacts (the incremental impacts). *See* DOI 2008 at 11. Probable impacts to Federal actions could occur on private as well as public lands.

In addition to using an incremental analysis in the impacts analysis, the Secretary will use an incremental analysis in the discretionary analysis under the second sentence of section 4(b)(2), if the Secretary decides to undertake that discretionary analysis. In that context, the Secretary will use an incremental analysis to identify the benefits (economic and otherwise) of excluding an area from critical habitat, and will likewise use an incremental analysis to identify the benefits of specifying an area as critical habitat.

Benefits that may be addressed in the discretionary 4(b)(2) exclusion analysis can result from additional protections, in the form of project modifications or conservation measures due to consultation under section 7 of the Act; conversely, a benefit of exclusion can be avoiding costs associated with those protections. In addition, benefits (and associated costs) can result if the designation triggers compliance with separate authorities that are exercised in part as a result of the Federal critical habitat designation (e.g., additional reviews, procedures, or protections under legal authorities of States or local jurisdictions). *See* DOI 2008 at 22–23.

Finally, because the primary purpose of an economic analysis is to facilitate the mandatory consideration of the economic impact of a designation of critical habitat, to inform the discretionary 4(b)(2) exclusion analysis, and to determine compliance with relevant statutes and Executive Orders, the economic analysis should focus on the incremental impact of the designation.

Use of an incremental analysis in each of these contexts is the only logical way to implement the Act. The purpose of the impact analysis is to inform the Secretary's decision about whether to engage in the discretionary exclusion analysis under the second sentence of section 4(b)(2) of the Act (addressed in paragraph (c)). To understand the difference that designation of an area as critical habitat makes and, therefore, the benefits of including an area in the designation or excluding an area from the designation, one must compare the hypothetical world with the designation to the hypothetical world without the designation. For this reason, the Services compare the protections provided by the designation to the protections without the designation. This methodology is consistent with the general guidance given by the Office of Management and Budget to executive branch agencies as to how to conduct cost-benefit analyses. *See* Circular A–4 (available at *http://www.whitehouse.gov/omb/circulars/a004/a-4.pdf*).

Nonetheless, between 2002 and 2007, the Services generally did not conduct an incremental analysis; instead, they conducted a broader analysis of impacts pursuant to the guidance from the United States Court of Appeals for the Tenth Circuit in *New Mexico Cattlegrowers Ass'n* v. *FWS,* 248 F.3d 1277 (10th Cir. 2001). The genesis of the court's conclusion in that case was the definitions of ''jeopardize the continued existence of'' and ''destruction or adverse modification,'' which are the standards for section 7 consultations in the Services' 1986 joint regulations. *See* 50 CFR 402.02. Both phrases were defined in a similar manner in that each looked to impacts on both survival and recovery of the species.

The court in *New Mexico Cattle Growers* noted the similarity of the definitions, concluding that they were ''virtually identical'' and that the definition of ''destruction or adverse modification'' was in effect subsumed into the jeopardy standard. 248 F.3d at 1283. According to the court, these definitions thus led FWS to conclude that designation of critical habitat usually had no incremental impact beyond the impacts of the listing itself. Thus, given these definitions, the court concluded that doing only an incremental analysis rendered meaningless the requirement of considering the impacts of the designation, as there were no incremental impacts to consider. Although the court noted that the regulatory definitions had previously been called into question, *id.* at 1283 n.2 (citing *Sierra Club* v. *U.S. Fish & Wildlife Serv.,* 245 F.3d 434 (5th Cir. 2001)), the validity of the regulations had not been challenged in the case before it. Instead, to cure this apparent problem, the court held that the FWS must analyze ''all of the impacts of a critical habitat designation, regardless of whether those impacts are attributable co-extensively to other causes.'' *Id.* at 1285.

In 2004, the Ninth Circuit (*Gifford Pinchot Task Force* v. *USFWS,* 378 F.3d 1059 (9th Cir. 2004)) invalidated the prior regulatory definition of ''destruction or adverse modification.'' The court held that the definition gave too little protection to critical habitat by not giving weight to Congress's intent that designated critical habitat support the recovery of listed species. Since then, the Services have been applying ''destruction or adverse modification'' in a way that allows the Services to define an incremental effect of

designation. This process eliminated the predicate for the Tenth Circuit's analysis. Therefore, the Services have concluded that it is appropriate to consider the impacts of designation on an incremental basis.

Indeed, no court outside of the Tenth Circuit has followed *New Mexico Cattle Growers* after the Ninth Circuit issued *Gifford Pinchot Task Force*. In particular, the Ninth Circuit recently concluded that the ''faulty premise'' that led to the invalidation of the incremental analysis approach in 2001 no longer applies. *Arizona Cattle Growers Ass'n* v. *Salazar,* 606 F.3d 1160, 1173 (9th Cir. 2010). The court held, in light of this change in circumstances, that ''the FWS may employ the baseline approach in analyzing a critical habitat designation.'' *Id.* In so holding, the court noted that the baseline approach is ''more logical than'' the coextensive approach. *Id.; see also:*

- *Maddalena* v. *FWS,* No. 08–CV–02292–H (AJB) (S.D. Cal. Aug. 5, 2010);
- *Otay Mesa Property L.P.* v. *DOI,* 714 F. Supp. 2d 73 (D.D.C. 2010), *reversed on other grounds,* 646 F.3d 914 (D.C. Cir. 2011).
- *Fisher* v. *Salazar,* 656 F. Supp. 2d 1357 (N.D. Fla. 2009);
- *Home Builders Ass'n of No. Cal.* v. *USFWS,* 2006 U.S. Dist. Lexis 80255 (E.D. Cal. Nov. 2, 2006), *reconsideration granted in part,* 2007 U.S. Dist. Lexis 5208 (Jan. 24, 2007), *aff'd,* 616 F.3d 983 (9th Cir. 2010);
- *CBD* v. *BLM,* 422 F. Supp. 2d 1115 (N.D. Cal. 2006);
- *Cape Hatteras Access Preservation Alliance* v. *DOI,* 344 F. Supp. 2d 108 (D.D.C. 2004).

The Solicitor's opinion also reaches this conclusion. *See* DOI 2008 at 18–22.

The Services may still, in appropriate circumstances, also analyze the broader impacts of conserving the species at issue to put the incremental impacts of the designation in context, or for complying with the requirements of other statutes or policies. *See:*

- *Arizona Cattle Growers' Ass'n* v. *Kempthorne,* 534 F. Supp. 2d 1013 (D. Ariz. 2008), *aff'd,* 606 F.3d 1160 (9th Cir. 2010);
- *Home Builders Ass'n of No. Cal.* v. *USFWS,* 2007 U.S. Dist. Lexis 5208 (E.D. Cal. Jan. 24, 2007), *aff'd,* 616 F.3d 983 (9th Cir. 2010);
- DOI 2008 at 21.

The third sentence of paragraph (b) clarifies that impacts may be qualitatively or quantitatively described. In other words, there is no absolute requirement that impacts of any kind be expressed numerically. *See Cape Hatteras Access Preservation Alliance* v. *DOI,* 731 F. Supp. 2d 15 (D.D.C. Aug. 17, 2010).

Rationale for the Revised Paragraph (c)

Paragraph (c) implements the second sentence of section 4(b)(2) of the Act, which allows the Secretary to exclude areas from the final critical habitat designation under certain circumstances. Paragraph (c) reads:

> The Secretary has discretion to exclude any particular area from the critical habitat upon a determination that the benefits of such exclusion outweigh the benefits of specifying the particular area as part of the critical habitat. In identifying those benefits, in addition to the impacts considered pursuant to paragraph (b) of this section, the Secretary may consider and assign the weight given to any benefits relevant to the designation of critical habitat. The Secretary, however, will not exclude any particular area if, based on the best scientific and commercial data available, the Secretary determines that the failure to designate that area as critical habitat will result in the extinction of the species concerned.

The first sentence of paragraph (c) carries over the second sentence of the existing section, with modifications. The phrase ''the Secretary has discretion'' has been added to emphasize that the exclusion of particular areas under section 4(b)(2) of the Act is always discretionary. *See* DOI 2008 at 6–9, 17. For example, the Secretary may choose not to exclude an area even if the impact analysis and subsequent discretionary 4(b)(2) exclusion analysis indicate that the benefits of exclusion exceed the benefits of inclusion, and even if such exclusion would not result in the extinction of the species.

Additional minor changes to the first sentence make it more closely track the statutory language.

The second sentence of paragraph (c) is new. It codifies aspects of the legislative history, the case law, and the Services' practices with respect to exclusions. The second sentence clarifies the breadth of the Secretary's discretion with respect to the types of benefits to consider. *See:*

- *CBD* v. *Norton,* 240 F. Supp. 2d 1090 (D. Ariz. 2003);
- *Home Builders Ass'n of No. Cal.* v. *USFWS,* 2006 U.S. Dist. Lexis 80255 (E.D. Cal. Nov. 2, 2006), *reconsideration granted in part* 2007 U.S. Dist. Lexis 5208 (Jan. 24, 2007), *aff'd,* 616 F.3d 983 (9th Cir. 2010);
- DOI 2008 at 25–28.

For example, the Secretary may consider effects on tribal sovereignty and the conservation efforts of non-Federal partners when considering excluding specific areas from a designation of critical habitat. Similarly, the House Committee report that accompanied the 1978 amendments that added section 4(b)(2) to the Act stated that ''[t]he consideration and weight given to any particular impact is completely within the Secretary's discretion.'' H.R. Rep. No. 95–1625, at 17. Subsequent case law and the Solicitor's Opinion have reflected that view, as does this final rule. *See:*

- *CBD* v. *Salazar,* 2011 U.S. Dist. Lexis 26967 (D.D.C. Mar. 16, 2011);
- *Wyoming State Snowmobile Ass'n* v. *USFWS,* 741 F. Supp. 2d 1245 (D. Wyo. 2010);
- DOI 2008 at 24.

The third sentence of paragraph (c) essentially repeats the third sentence of the previous § 424.19. This sentence incorporates the limitation in the last clause of section 4(b)(2) of the Act. *See* DOI 2008 at 25.

Summary of Comments and Recommendations

On August 24, 2012, we published a proposed rule (77 FR 51503) that requested written comments and information from the public on the proposed revisions to the regulations pertaining to impact analyses conducted for designations of critical habitat under the Act. The first comment period opened on August 24, 2012, and closed on October 23, 2012. In response to that proposed rule, we received numerous requests for an extension of the first comment period, and we subsequently published a notice (77 FR 66946) that reopened the comment period from November 8, 2012, through February 6, 2013. Comments received from both comment periods are grouped into general categories specifically relating to the proposed regulation revisions.

General Comments

Comment (1): Many commenters, including federally-elected officials, requested an extension of the public comment period announced in the proposed regulation revision.

Response: On November 8, 2012 (77 FR 66946), we reopened the public comment period for an additional 90 days to accommodate this request and allow for additional review and public comment.

Comment (2): The Services should set out the clear expectations and consequences for publishing and implementing the final regulation.

Response: We agree with the commenter, and have further clarified to the extent possible within this final rule our expectations of the implications of this final rule, most specifically in our responses to comments. We have

specifically provided clarifications on: paragraph (a) of the regulation, regarding the shift in timing of the economic analysis to comply with the intent of the Presidential memorandum of February 28, 2012; paragraph (b), concerning the incremental approach to impact analysis, the use of either a quantitative or qualitative analysis of economic impacts as permissible under the Office of Management and Budget (OMB) Circular A–4, and the scale of the impact analysis; and paragraph (c), the codification of Secretarial discretion as defined by the Act and case law. The desired consequences of this revision to the regulation are to further provide clarity, promote predictability and reduce uncertainty, and to codify established interpretation, practices, and prevailing case law.

Comment (3): One commenter disagrees that the proposed rule would not have significant takings implications because the Services should apply the *Penn Central* three-prong test for a taking. Also, the commenter states that the ''legitimate governmental interest'' test has been invalidated by the U.S. Supreme Court, and the Services erred in relying on this test.

Response: To clarify any confusion in our required determination related to these comments, we have amended the language in the takings assessment. Again, we reiterate that these revisions to section 50 CFR 424.19 do not affect private property. They only govern the process by which the Services will consider the impacts of designation of critical habitat and possible exclusions from those designations, and codify the Services' current practices. Therefore, these revisions cannot affect areas that have already been designated as critical habitat nor change the outcome with respect to future designations, and therefore will not affect private property. Contrary to the assertion of the commenter, in *Penn Central Transportation Co.* v. *City of New York,* 438 U.S. 104 (1978), the Supreme Court did not set forth a discrete test for determining whether a constitutional taking has occurred. Rather, the court noted that there was no set formula for what were ''essentially ad hoc, factual inquiries,'' although it did identify three factors of particular significance: economic impact, reasonable investment-backed expectations, and the character of the government action. For a government action whose character and effect are limited to improving the efficiency and transparency of government procedures and that has no on-the-ground impact, there would not be any economic impact or interference with reasonable investment-backed expectations.

Comment (4): One commenter believes that because Federal critical habitat triggers additional state or local regulations, this rule should perform a takings assessment because ''a landowner is denied economically beneficial or productive use of its land'' from the designation. The commenter gives an example of Washington's state environmental policy act (SEPA) that Federal critical habitat triggers Class IV special forest practice restrictions.

Response: We reiterate that these regulations are procedural or administrative in nature, and will have no effect on the environment or on private property. These regulations do not designate critical habitat themselves, nor will they result in any change to the outcome of, public involvement in, or standards used for making any critical habitat determination. Therefore, the commenter's example of a state statute in which additional protections are triggered when critical habitat is designated, would not be affected by these regulatory revisions. We have revised the required determination for takings to make this more clear.

Comment (5): Several commenters commented on the rationale for our certifications and statements regarding the statutes and executive orders in the Required Determinations.

Response: We have incorporated responses to these comments under the appropriate statutes or executive orders in the appropriate Required Determinations section, below.

Comment (6): The Services should recognize the central purpose of impact analyses, namely improving the information available to those potentially affected by critical habitat designations, and explain how this regulation will further that purpose.

Response: The Services recognize the importance of this regulation in providing information to the public and those entities potentially affected by the designation of critical habitat. The President's February 28, 2012, memorandum directed the Services to promulgate this rule ''in order to provide more complete information in the future regarding potential economic impacts when critical habitat proposals are first offered to the public.'' Another important purpose of the impact analysis is to provide information to the Secretaries in order for them to consider economic impacts, the impacts to national security, and any other relevant impacts under section 4(b)(2) of the Act. Additionally, the Secretaries may exclude particular areas from a designation of critical habitat based on a discretionary 4(b)(2) exclusion analysis using this information.

Comment (7): Several commenters suggested specific line edits or word usage.

Response: We addressed these comments as appropriate in this document.

Comment (8): Several commenters suggested a change in the title of the regulation to ''Analysis of Economic and Other Impacts and Exclusions from Critical Habitat.''

Response: The revised title identified in the proposed and this final rule gives equal weight and consideration to all factors under section 4(b)(2) of the Act. Changing the title to that suggested by the commenter could imply greater consideration of economics, above that of national security and other relevant impacts. The Services do not agree that economics should be given greater consideration than other impacts. Therefore, we rejected this suggested edit.

Comment (9): The same commenters suggested substantial revisions to paragraphs (b) and (c) of the proposed regulation revision, and the addition of several paragraphs, and provided specific language edits. One commenter stated that the Services should amend paragraph (b) to add language directing that analyses are to be consistent with the Data Quality Act (i.e., best available data standard), to ensure the scale of impact analysis is sufficient to evaluate particular areas for exclusion under section 4(b)(2), and to indicate that quantitative assessments will be done to the maximum extent practicable. The commenter's suggested paragraph (c) would cover data disclosure requirements, and the suggested new paragraph (d) would detail the use of coextensive and incremental analyses to more fully analyze what the commenter viewed as the economic impacts. Finally, the suggested new paragraph (e) would state that the Secretaries will use the best available scientific and commercial data with respect to quantitative and qualitative analyses of the economic impacts of a proposed critical habitat designation.

Response: We disagree with the commenter's suggested edits for both procedural and substantive reasons. First, to adopt the changes suggested by the commenter would be a significant deviation from the previous and proposed text of the regulation and go well beyond the Services' intent in undertaking this regulation. Furthermore, because they would raise new substantive issues not discussed in the proposed rule, any such changes

likely would need to be proposed as a new regulation, and go through a new rulemaking procedure, which would take a significant amount of time. To adopt these changes and go through a new rulemaking would be counter to the intent of the Presidential memorandum, which was to promptly revise our regulations. Moreover, the Services do not find that there is a good basis for the substantive suggestions advanced by the commenter. Accordingly, the Services decline to expand the scope of the rule to address such issues.

In conducting impact analyses, of which an economic analysis is part, the Services use the best available scientific and commercial data available. However, the further analysis and interpretation of those data are subject to persons seeking correction to the resulting disseminated information. As a result of this final regulation, the draft economic analysis of the proposed critical habitat designation will be available concurrently with the proposed critical habitat designation and the Services will seek public comment on both. Any concerns identified by the public in analysis or data could be identified and considered in the final rule. If someone requests a correction under the Information Quality Act (also known as the Data Quality Act), the Services will consider the original source of the information used (best available scientific and commercial data) will be considered against the correction suggested by the complainant. Therefore, this recommendation need not be adopted. Further, the recommendation for disclosure of data is addressed by the requirements for Federal electronic rulemaking as part of the e-Government Act, the Administrative Procedure Act (APA), and the Freedom of Information Act and would be redundant. We address the commenter's remaining specific suggested changes below in our responses grouped by subject matter.

Comments on Paragraph (a) of the Proposed Revision—Shift in Timing of Economic Analysis

Comment (10): The majority of commenters supported the shift in timing of the draft economic analysis, and stated that this approach will improve the regulatory process. Several commenters expressed concern that the shift in timing of the draft economic analysis would lead to a reduction in regulatory efficiency. They suggested that the Services need to clarify what measures will be taken to ensure that the proposed revisions to the economic analysis process will not introduce additional delays in the designation of critical habitat.

Response: We appreciate the concerns expressed by commenters on the shift in timing of the draft economic analysis, and we do not anticipate a reduction in regulatory efficiencies as a result. The Services are committed to doing an analysis sufficient, given the shift in timing and process, to provide the information needed by the Secretaries to make informed decisions on a factual basis. We do not anticipate that the shift in timing of the analysis will introduce delays in the designation process, as a summary of the draft economic analysis will be made available concurrently with the publication of the proposed rule.

Comment (11): Many commenters stated that shifting the timing of the draft economic analysis to be earlier in the rulemaking process will provide for earlier, more meaningful participation by the public. However, other commenters were concerned that this approach would limit public participation by interested and affected stakeholders in the decision-making process. They believe it may reduce the time the public has to comment on the proposed rule. Further, they stated this approach will lead to an overly narrow consideration of economic impacts, or might allow economic analyses to be ignored. Several commenters stated that, by changing the timing of the economic analysis to be earlier in the rulemaking process, the Services may fail to identify and adequately analyze impacts.

Response: Upon publication of the proposed designation of critical habitat, which will include a summary of the draft economic analysis, we will solicit information from the public through at least a 60-day comment period in accordance with our regulations, 50 CFR 424.16(c)(2), and the APA. During this comment period, the public will have opportunity to review the proposed designation and the supporting draft economic analysis, and provide information and comments on both the proposed rule and the draft economic analysis simultaneously. The Act requires the Secretaries to consider economic impacts of a designation of critical habitat, and the Services are committed to conducting an economic analysis, based on the best data available, given the shift in timing and process, sufficient to provide the information needed by the Secretaries to make informed decisions on a factual basis. The economic analysis is the vehicle by which we take economic impacts into consideration. We do not anticipate that the shift in timing of the analysis will result in a failure of the Services to consider probable economic impacts.

Comment (12): The Services should publish an initial notice of impact analysis calling for submission of information to be evaluated prior to proposing a critical habitat designation. Only following the notice of the impact evaluation should the Services publish the proposed critical habitat.

Response: In general, the Services do not anticipate publishing an advanced notice of proposed rulemaking (ANPR) for our critical habitat actions prior to publication of a proposed designation. However, the Services are committed to providing the public with notice and materials related to planned actions for each upcoming year. The notice and materials will be made available on the Services' Web sites, and will include appropriate contact information, which will allow the public to provide information to the Services in advance of particular rulemakings. Further, the Services will be coordinating with potentially affected Federal agencies during the development of the critical habitat designation to assess the probable impacts of critical habitat designation. Information obtained from this coordination or otherwise provided by the public will be used to inform our proposed designation and economic analysis. Further, we will request public comment and any additional information available on the proposed designation and our draft economic analysis at the time the proposed rule publishes.

Comment (13): Several commenters expressed concern over the shift in timing of the economic analysis, as the proposed revision would allow for the draft economic analysis to take place at the same time that critical habitat designation is proposed, creating the potential for the analysis of economic impacts to inappropriately interfere with the designation process. The economic analysis should not influence the identification of critical habitat, which should be based solely on the best scientific data available. Any exclusion of critical habitat must be supported by the record and be made only at the final rulemaking stage.

Response: We appreciate and are cognizant of this concern. We base our identification of critical habitat solely on the best scientific data available. Although the relevant Service will have an economic analysis at the time it proposes to designate critical habitat, that analysis will not influence the biological determination of which areas meet the definition of critical habitat. The economic information, along with information related to national security

and other relevant impacts, may be used in the discretionary analysis under the second sentence of section 4(b)(2) of the Act. A final decision on exclusions from critical habitat will be made at the final rulemaking stage and will be supported by information in the supporting record for the rulemaking.

Comment (14): Some commenters expressed concern that when the Services propose listing and critical habitat simultaneously, having available a draft economic analysis of the proposed critical habitat designation might result in that analysis influencing the determination of whether a species warrants listing as a threatened or endangered species.

Response: Section 4(b)(1)(A) of the Act states that determinations required by section 4(a)(1) of the Act (i.e., determinations regarding the listing status of a species) be made solely on the basis of the best scientific and commercial data available. While having the draft economic analysis for a proposed critical habitat designation completed and available concurrent with the proposed listing determination may provide the opportunity for a real or perceived influence on the listing status ultimately given the species, the Services will ensure a separation of the two analyses and determinations. For example, one step that FWS has taken to ameliorate this concern is to develop listing determinations and critical habitat designation (if prudent and determinable) concurrently, but in separate rulemakings. Furthermore, the House of Representatives conference report (97–835) for the 1982 amendments to the Act specifically states that economic considerations have no relevance to determinations of species status under the Act.

Comment (15): Requiring the draft economic analysis to be completed at time of critical habitat proposal could result in more findings by the Services that critical habitat is not determinable.

Response: The regulations at 50 CFR 424.12 (a)(2) state that ''critical habitat is not determinable when one or both of the following situations exist: (i) Information sufficient to perform required analyses of the impacts of the designation is lacking, or (ii) The biological needs of the species are not sufficiently well known to permit identification of an area as critical habitat.'' Thus, the Services may invoke subparagraph (i) of this provision to find that the designation of critical habitat is not determinable if the information to perform the economic analysis is lacking. However, it has generally not been our practice to find that a designation of critical habitat is not determinable on this basis. We do not anticipate using this provision with greater frequency in the future as a result of this rulemaking.

Comment (16): Several commenters were concerned that only a draft of the economic analysis, and not a final analysis, will be available at proposal.

Response: As a result of this final rule, the Services will be providing a summary of our economic analyses within our proposed designations of critical habitat. Furthermore, we will make available the economic analysis on *http://www.regulations.gov* in the docket of the proposed rulemaking. However, it is the draft economic analysis that should be available for the public to review and comment on concurrent with the proposed rule. Further, the Services have generally found in their experience that most economic analyses do not substantively change following public review and comment, so most draft analyses can be viewed as approximating the final analysis. However, we will incorporate comments and information received on the draft analysis as appropriate into the text of our final rule.

Comment (17): A commenter requested that, in addition to the analysis of economic impacts being made available prior to the proposal, the regulation be amended to include the analysis of all other impacts specified in the statute, and the balancing of all relevant benefits be done prior to publication of a proposed rule as well.

Response: While we appreciate the commenter's position, we do not agree that it is wise to mandate that these additional analyses and the discretionary 4(b)(2) exclusion analysis be available at that stage of the designation process in all circumstances. The statute does not specify when these additional analyses should be undertaken, and the Services find that the purposes of the statute are best served by retaining flexibility on this point to respond to the degree of available data and agency priorities in a particular circumstance. As a matter of practice, NMFS's current procedure is consistent with the commenter's request. FWS, as a matter of practice, prefers to retain a greater degree of discretion as to the timing of making these analyses available, although in cases where specific data on other impacts is available at the proposed rule stage, FWS may set forth the evaluation of these data and, if applicable, its provisional 4(b)(2) exclusion analysis in the proposed rule.

Comment (18): Providing a summary of the findings of the draft economic analysis in the proposed rule as published in the **Federal Register** is redundant if the draft economic analysis is otherwise available on the internet.

Response: This final regulation will require the Services to provide a summary of our draft economic analyses within our proposed designations of critical habitat. Additional supporting documents will be available in the supporting record and *http://www.regulations.gov*. The Services conclude that we will further the purposes of the Act and the APA by including the summary of the draft economic analysis in the body of the proposed rule, as doing so will facilitate public review by having the key information available in one place. Further, that summary will provide the supporting information and factual basis for the certification of specific required determinations.

Comment (19): The proposed regulation would require description of any significant activities that are known to have the ''potential to affect'' an area considered for designation as critical habitat. But this language introduces a new standard not in the Act (potential to affect). Potential to affect is a broader standard; the standard ''may adversely modify'' from the statute should be used. Further, by using a new standard, critical habitat proposals would have to segregate activities that have the potential to affect from those that may adversely modify.

Response: We have removed the language containing this phrase from this final regulation. See the preamble discussion for further information.

Comment (20): The Services should add to paragraph (a), ''To the maximum extent practicable'' to lead off. And they should qualify that the economic analysis will be released at the same time as the proposed rule ''or as soon thereafter as it is available.''

Response: We have removed the language containing this phrase from this final regulation. However, to use this phrase to preface the requirements of paragraph (a) would indicate that the Services would provide a draft economic analysis to the maximum extent practicable, implying that the Services might elect not to release the draft economic analysis at the time of the proposed rule if inconvenient, which is contrary to the Presidential memorandum of February 29, 2012. The Presidential memorandum directs the Services to make available the draft economic analysis at the time of publication of the proposed critical habitat rule, and the Services intend to fulfill the President's direction because it is consistent with the purposes of both the Act and the APA.

Comments on Paragraph (b) of the Proposed Revision—Incremental vs. Coextensive Analyses

Comment (21): Absent a clear regulatory definition of adverse modification, the Service cannot reasonably assess the economic impact of any critical habitat designation.

Response: Courts invalidated the previous regulatory definition of destruction or adverse modification because they found it to be contrary to the language of the Act. However, at this time the Services are operating under a 2004 Director's memorandum and a 2005 Assistant Administrator's memorandum, which confirm that the Services use the statutory conservation standard in implementing the prohibition on destruction or adverse modification of critical habitat under section 7 of the Act. These memoranda provide a clear and reasonable basis for the Services to evaluate incremental impacts due to the designation of critical habitat in a manner consistent with the purposes and text of the Act. Further, the Services plan to propose a new regulatory definition for destruction or adverse modification of critical habitat in the near future.

Comment (22): Many commenters oppose the incremental approach to conducting economic analyses, arguing that this approach does not capture the full impact of a critical habitat designation and that it would be less transparent than a coextensive approach. Other commenters were supportive of the incremental-analysis approach.

Response: As we discussed above in the preamble and in the proposed rule, we have concluded that an incremental analysis is consistent with the Act and general OMB guidance, and is the most logical way of analyzing impacts. The Services have consistently been evaluating the incremental impacts of a designation in the section 4(b)(2) evaluation process. FWS has been using the incremental analysis approach for economic analyses since 2007 in areas outside the jurisdiction of the Tenth Circuit Court. The Services have not found that there is a diminishment or lack of transparency in the process relative to the coextensive evaluation.

Comment (23): The incremental approach is contrary to the Services' prior practice and the Presidential memorandum.

Response: The incremental approach is not contrary to the Services' prior practices, nor is it contrary to the Presidential memorandum. The Presidential memorandum does not specify the type of analysis to use for consideration of impacts. The Services have consistently been evaluating the incremental impacts of a designation in the section 4(b)(2) evaluation process for some time, and this approach has been judicially recognized as more logical and appropriate. FWS has been using the incremental analysis approach for economic analyses since 2007 in areas outside the jurisdiction of the Tenth Circuit Court. The OMB Circular A–4 supports the use of the incremental approach of evaluating the effects of Federal rulemakings, including the evaluation of probable economic impacts.

Comment (24): The incremental approach is not consistent with Congressional intent in the Act and legislative history as it relates to section 4(b)(2) of the Act. To be more consistent with the Act, the Services should conduct an analysis that sums both a baseline and an incremental analysis (i.e., coextensive analysis). The Act does not qualify the mandatory consideration of economics and other relevant factors and, therefore, all impacts should be considered. Another commenter stated that the significant lag time between listing and critical habitat often done by the Services should not be used to hide the costs of the Act as ''listing costs.''

Response: Congressional intent is reflected in the language of the Act. The purpose of consideration of impacts is to inform decisions on possible exclusions from critical habitat; in turn, the purpose of exclusions is to avoid the probable negative impacts of designating particular areas as critical habitat. Fundamentally, it is not an ''impact'' of a designation if an impact will happen with or without the designation—those impacts will not be avoided by exclusion. For example, the impacts due to the listing of a species will occur regardless of designation of critical habitat or exclusion of areas from critical habitat. Exclusion of a particular area because of an impact that will occur regardless of the exclusion will be completely ineffective at avoiding the impact and is illogical. We conclude that Congress did not intend to mandate consideration of impacts that cannot be avoided by exclusion from critical habitat, and therefore that Congress did not intend to mandate a coextensive analysis.

With respect to the commenter's assertion that a delay of the critical habitat designation may hide the costs of the designation as listing costs, we disagree. As discussed above, the incremental-analysis approach is the correct approach regardless of whether the designation occurs at the time of listing, and that approach does not serve to ''hide'' the costs of the Act. Under the Act, the costs that stem from listing are simply not relevant, except as setting the baseline against which to measure the incremental impacts of designation. Moreover, as a factual matter, in the vast majority of cases, there is no longer a significant time lag between listing and critical habitat designation.

Comment (25): The total economic impact that should be considered is the impacts both before and after critical habitat is designated; in other words, both the baseline and the incremental together. This approach does not contradict the prohibition on consideration of economic impacts due to the original listing of a species, but it does allow consideration of the full magnitude of all economic pressures on a particular community, industry, or activity when considering imposing the additional economic cost associated with a critical habitat designation, or granting exclusion (i.e., cumulative regulatory and economic impact).

Response: An economic analysis serves to inform the relevant Service's consideration of the economic impact of a critical habitat designation. That consideration is mandatory under the first sentence of section 4(b)(2) of the Act. That consideration, in turn, informs the Service's decision as to whether to undertake the discretionary exclusion analysis under the second sentence of section 4(b)(2) of the Act, and, if the Service chooses to do so, the ultimate outcome of that exclusion analysis. As discussed above, only incremental impacts of designation can be relevant to this analysis, because those impacts are the only ones that can be avoided by excluding a particular area from the designation. In other words, it would be illogical to exclude an area based on benefits of exclusion that will not in fact follow from the exclusion. Because implementation of the exclusions process of section 4(b)(2) of the Act necessarily depends on a weighing of the incremental benefits of exclusion and inclusion, and because there is an implied consistency between the two sentences of 4(b)(2) given that the process of the first sentence informs the process of the second, we conclude that the consideration of impacts required under the first sentence of section 4(b)(2) of the Act is likewise limited to incremental impacts.

The OMB Circular A–4 supports the use of the incremental approach of evaluating the effects of Federal rulemakings, including the evaluation of probable economic impacts, in complying with other statutes and Executive Orders (which the economic analysis also informs). Further, as

discussed in the preamble of our proposal, use of an incremental analysis is supported by relevant case law and the Solicitor's M-Opinion. It has also been the general practice of the Services (outside the jurisdiction of the 10th Circuit Court). Moreover, even if there was some nonstatutory policy benefit to doing a broader analysis of the economic impacts of species conservation, in most circumstances it is not practical to conduct a robust evaluation of baseline effects due to data limitations and resource and time constraints.

Comment (26): The incremental approach is overly narrow and allows the Services to easily discount the economic impacts of critical habitat designations or only consider those immediately visible. The Services currently narrowly interpret economic impact as the administrative costs incurred by the section 7 consultation process and discounts to zero virtually all other economic impacts because they are too speculative or are unquantifiable.

Response: The incremental approach is not overly narrow, as it properly focuses on the probable costs resulting from the designation of critical habitat. When the Services develop a draft economic analysis to consider the economic impacts of designating critical habitat, we include reasonably known or probable impacts reasonably likely to occur. Using the incremental approach, we often identify administrative costs that will result from section 7 consultation in critical habitat units that are occupied by the species. Substantive changes in the form of project modifications are less likely to be attributable solely to critical habitat, as they may also be required to avoid jeopardy to the species, which is prohibited regardless of the designation of critical habitat. With respect to designation of critical habitat units that are unoccupied by the species, the Services may more frequently identify higher probable impacts. In that circumstance, any project modifications stemming from the consultation process would be due solely to the designation of critical habitat and the requirement of avoiding its adverse modification, because the species is not present in the area. By contrast, certain conservation measures that are attributable to the species' listed status, such as project modifications undertaken to avoid jeopardy to a species, fall under the baseline costs, and are not part of the incremental cost of a critical habitat designation.

Comment (27): Some commenters suggested that the Services use the incremental approach on all Federal lands and the coextensive approach on all State and private lands. They assert that this dual approach would fully analyze any economic impacts and would meet the intent of the President in considering maximum exclusion of the final revised critical habitat on private and State lands.

Response: For consistency, the incremental approach should be used for the entire designation, and not for specific land ownership. Further, based on OMB guidance in Circular A–4, as well as supportive case law, the Services' interpretation is that the incremental approach is the correct approach for impact analyses (see Comment (19) above for further elaboration on use of the incremental approach). Critical habitat receives regulatory protection under section 7 of the Act where there is a Federal nexus, regardless of land ownership. Even if the Services were to use the approach suggested by the commenter, any potential exclusion analysis under section 4(b)(2) of the Act would be difficult, as two different standards would be applied based on landownership, thereby increasing complexity and decreasing transparency and credibility of such balancing.

The last part of the comment, regarding maximizing exclusions from critical habitat, is specifically in reference to the directives in the Presidential memorandum regarding revision of critical habitat for the northern spotted owl. We note that those directives in the Presidential memorandum do not apply to all critical habitat rulemaking. However, the Services do consider other relevant impacts of a designation of critical habitat, including probable impacts to private and State lands, in all critical habitat rulemakings. Designation of critical habitat on Federal lands provides clear conservation benefits because Federal land managers have an obligation under section 7(a)(1) of the Act to carry out programs to conserve listed species. A designation of critical habitat helps focus such programs. As a result of these considerations, the Secretaries may enter into the discretionary 4(b)(2) exclusion analysis to consider exclusion of non-Federal lands, and may exclude particular areas from a designation of critical habitat if the benefits of exclusion outweigh the benefits of inclusion.

Comment (28): Since the Act requires critical habitat to be designated concurrent with listing to the maximum extent prudent and determinable, if the Services follow the incremental approach, there is no regulatory baseline against which the impacts of critical habitat may be compared.

Response: While we agree that in some cases regulatory baseline information may be limited at the time of listing, the Services will use the best data available in considering the impacts of designating critical habitat. Thus, when developing a critical habitat designation for a species not yet listed, the Services will use their experience and the data that is available, including the regulatory baseline condition of comparable surrogate listed species, to establish a probable baseline condition, as well as to determine the probable incremental impacts. The Services conclude that the use of information derived from an evaluation of comparable surrogate species or conditions is reasonable and consistent with standard economic methodology.

Comment (29): The incremental approach erroneously assumes that occupied critical habitat will forever remain occupied. As a result, areas considered occupied critical habitat within the impact analysis will have little or no incremental impacts over baseline.

Response: Neither coextensive nor incremental approaches to evaluating impacts are dependent upon the occupancy of a particular area in a designation. While we acknowledge that the occupancy of a particular area may change over time regardless of designation of critical habitat or listing, the Act directs us to designate critical habitat at the time a species is listed, to the maximum extent prudent and determinable, based on best scientific data available at the time of the designation.

Should an occupied portion of a critical habitat unit become unoccupied over time, and a future project is initiated in that area, the probable incremental costs associated with any project modifications needed to avoid adverse modification generally may be higher as they are no longer considered to be part of the baseline. However, as impact analyses are done at the time of critical habitat designation, it may not be possible to reliably predict when or where a range contraction may occur and whether this scenario would occur. In any event, the effects of an action on a designation would be evaluated in a section 7 consultation within the scope of that consultation and will be addressed on a case-by-case basis, and changes in occupancy that may result in range contraction as compared to the original designation, will be evaluated within the scope of future consultations. In some cases, the Services may elect to revise a critical habitat designation in

the event of a serious or unanticipated range contraction to reflect a change in a species' range. In a revised rulemaking, the Services could reconsider prior exclusions from critical habitat or consider new exclusions from critical habitat.

Comment (30): One commenter cited a 2012 study of 4,000 biological opinions conducted under section 7 of the Act that identified no instances where a consultation concluded that the action resulted in an adverse modification of critical habitat, absent a comparable determination that the action would also jeopardize the continued existence of the species. As a consequence, the incremental approach for evaluating the impacts of critical habitat is of little value.

Response: Frequently, conservation measures and project modifications are negotiated with the Federal action agency during the informal and formal consultation processes, which can have the effect of precluding an adverse modification determination. The cost of these conservation measures and project modifications, if resulting solely from the designation, and the cost of the consultation itself constitute the incremental impacts of the designation, which must be evaluated under section 4(b)(2) of the Act. Thus, the lack of a determination of adverse modification in a section 7 consultation does not mean there is no incremental impact resulting from the designation.

Comment (31): The Services have a burden to clearly delineate the difference between jeopardy and adverse modification when using the incremental approach.

Response: As part of our evaluation of the probable incremental effects, the Services make a reasonable effort to explain the distinction between the results of application of the jeopardy and destruction or adverse modification standards to the facts of each species within the limits of what can be predicted from the best available information. In the evaluation of incremental impacts, we acknowledge the distinction between jeopardy and adverse modification is often most difficult to determine and articulate.

Comment (32): The Tenth Circuit found that the incremental approach is meaningless. Through the use of this approach, the Service has found that critical habitat designations covering vast expanses of private and public lands have no economic impacts other than incremental administrative costs associated with future section 7 consultations. The incremental approach does not require the Services to consider all economic impacts of a critical habitat designation and is, therefore, contrary to the Act and unlawful.

Response: In the preamble of our proposal and this final rule, the Services set forth in detail the rationale as to why the incremental approach is permissible and supported by the Act, relevant case law, and OMB Circular A–4. In particular, as the Ninth Circuit has noted, the Tenth Circuit's conclusion in *New Mexico Cattle Growers* was based on a faulty premise. We also note that there has been confusion as to what constitutes ''all'' economic impacts of a designation. OMB Circular A–4 states that agencies should evaluate the specific cost and benefit of the subject regulation relative to a baseline, which is ''the way the world would look absent the proposed action. It may be reasonable to forecast that the world absent the regulation will resemble the present.'' This approach captures all of the impacts that are actually relevant to the decision to be made. As applied to the decision of whether to exclude an area from a critical habitat designation, an incremental approach evaluates the cost solely resulting from a specific designation, which equates to the incremental difference between the world with and without the designation in place. Thus, in determining the incremental impacts of a designation, the Services do consider ''all'' of the reasonably likely or probable economic impacts of a designation.

Comment (33): Federal agencies have no authorities to resolve circuit court splits involving matters of statutory interpretation. The proposed rule is, therefore, unlawful because it represents an improper attempt by the Services to resolve a circuit split involving a matter of statutory interpretation. Rulemaking is not the way to resolve the judicial split between 10th and 9th circuit decisions. Congress or the Supreme Court should decide this issue. How would this rule, if finalized, apply in the 10th circuit?

Response: Federal agencies are empowered by Congress to interpret the laws that they implement. Courts also interpret the laws, and give varying degrees of deference to preexisting agency interpretations. Agencies may promulgate a rule that interprets a law differently than does a prior judicial opinion. *See Nat'l Cable & Telecomms. Ass'n* v. *Brand X Internet Servs.,* 545 U.S. 967, 982–85 (2005). This is precisely what we are doing here. In other words, it is completely appropriate for an agency to issue a rule that has the effect of resolving a split in the circuit courts, so long as the agency's interpretation of the statute is permissible. And once it becomes effective, this regulation will apply to all subsequent critical habitat designations, whether or not that designation includes area within the geographic scope covered by the Tenth Circuit. Further, as we have explained, the more recent Ninth Circuit case law examined the predicate for the Tenth Circuit decision and found it no longer applied.

Comment (34): The incremental approach is not consistent with the ''best scientific data'' requirement.

Response: The Act specifies that we are to designate critical habitat based on the best scientific data available. The incremental approach broadly applies to analysis of probable impacts stemming from the designation of critical habitat. As stated above, when evaluating probable impacts of a critical habitat designation, the Services' practice is to consider only those impacts resulting from the critical habitat (i.e., incremental approach), and not those impacts associated with a species' listed status or other conservation measures undertaken for that species. Furthermore, the purpose of the impact analysis is to inform decisions regarding exclusions from critical habitat. If the Secretaries exercise their discretion to exclude particular areas, the incremental impacts will be avoided. Data used to inform the impact analysis that are based on probable incremental impacts are the most useful in this evaluation. Therefore, the Services do use the best scientific information available to evaluate the incremental impacts of a critical habitat designation.

Comment (35): Commenters requested that the Services provide clarification of baseline and explain what is meant by ''existing protections''?

Response: ''Existing protections'' make up the ''baseline.'' As discussed in the preamble of our proposed regulation revision, the baseline condition for impact analyses is the evaluation of the combined effects of all conservation-related protections for a species (including listing) and its habitat, in the absence of the designation of critical habitat. The baseline includes the effects of all conservation measures and regulations that are in place as a result of the species being listed under the Act (i.e., the world without critical habitat for the subject species). An analysis of incremental impacts identifies and evaluates those impacts due solely to the designation of critical habitat, above and beyond those already in place (i.e., baseline condition).

Examples of existing protections may include: (1) Conservation measures such as Service-approved habitat

conservation plans (HCPs) and safe harbor agreements (SHAs); (2) tribal and Federal wildlife-management and wildlife-conservation plans; (3) State endangered species act regulations; (4) other conservation measures at the State and local levels; and (5) project modifications resulting from section 7 consultations to avoid jeopardy to listed species.

Comments on Paragraph (b) of the Proposed Revision—Qualitative vs. Quantitative Analyses

Comment (36): Several commenters opposed the use of qualitative analyses in estimating potential economic impacts, and stated that all analyses should be quantitative in nature. Others suggested that consistency with the Act, the President's March 9, 2010, Scientific Integrity memorandum, and the Data Quality Act require the Secretary to use, to the maximum extent practicable, a quantitative assessment method, and only use qualitative assessments if data required to conduct the analysis are not available. Further, if the Services adopt the incremental approach, the need for robust, quantitative economic impact assessments is even greater. The Services should closely examine the existing economic conditions and quantitatively compare the impacts of any critical habitat designation to ensure they obtain a complete picture of the consequences of the regulatory action.

Response: As described in OMB Circular A–4, ''Sound quantitative estimates of benefits and costs, where feasible, are preferable to qualitative descriptions of benefits and costs because they help decisionmakers understand the magnitudes of the effects of alternative actions. However, some important benefits and costs (e.g., privacy protection) may be inherently too difficult to quantify or monetize given current data and methods.'' Based on our years of designating critical habitat and evaluating resulting impacts, the Services have found that, in most instances, the data available to provide quantified estimates of specific impacts are limited, and as a result, the Services have relied on a combination of quantitative and qualitative approaches in performing our impact analyses. This approach is consistent with Circular A–4, which states ''If you are not able to quantify the effects, you should present any relevant quantitative information along with a description of the unquantified effects, such as ecological gains, improvements in quality of life, and aesthetic beauty.'' Our practice is also consistent with the President's March 9, 2010, Scientific Integrity memorandum, and the Data Quality Act.

Comment (37): The qualitative approach makes sense under environmental law, but could be seen as subjective. However, quantitative analysis could be just as subjective based on how the numbers are assembled.

Response: We appreciate the observation. The Services are committed to using the best scientific information available in evaluating reasonably probable incremental impacts of a critical habitat designation in our impact analyses. We use these data, whether quantitative or qualitative, to make objective, substantiated conclusions.

Comments on Paragraph (b) of the Proposed Revision—Scale of Analyses and Other Issues Related to Paragraph (b)

Comment (38): The Services should establish guidelines for determining appropriate and meaningful scale of analyses. Another commenter noted that paragraph (b) gives the Secretaries additional flexibility to determine the scale of the analysis.

Response: Setting out defined guidelines for the scale of an analysis in regulations would not be practical. Each critical habitat designation is different in terms of area proposed, the scope of the applicable Federal actions, economic activity, and the scales for which data are available. Additionally, the scale of the analysis is very fact specific. Therefore, the Services must have flexibility to evaluate these different areas in whatever way is most meaningful. For example, for a narrow-endemic species, a critical habitat proposal may cover a small area; in contrast, for a wide-ranging species, a critical habitat proposal may cover an area that is orders of magnitude greater. The appropriate scale of the impact analysis for these two species may not be the same. For the narrow-endemic species, an impact analysis may look at a very fine scale with a great level of detail. In contrast, the impact analysis for the wide-ranging species, which may cover wide expanses of land or water, may use a coarser scale of analysis, due to the sheer size of the proposed designation. Each critical habitat proposal includes a description of the scope of the area being proposed, and uses the scale of analysis appropriate to that situation.

Comment (39): Commenters requested that the Services define ''proposed and ongoing'' activities and ''other relevant impacts,'' to promote consistent consideration of impacts of critical habitat designations.

Response: The Services interpret the Act as requiring us to consider and evaluate only activities that are proposed or ongoing. We note that the regulation sets out the minimum that is required to comply with the mandate of the first sentence of section 4(b)(2) of the Act. The Services may in appropriate circumstances choose to consider other reasonably probable impacts, especially in the discretionary exclusion analysis under the second sentence of section 4(b)(2) of the Act. The Services cannot speculate about what projects may occur in the future, but must rely on information available regarding reasonably foreseeable or probable projects as indicated in the original text of this revised regulation. To do otherwise would not provide for a reasonable or credible impact analysis. Proposed and ongoing also captures those section 7 consultations that have already occurred or are in progress, so that the possible effects of critical habitat may already be known, which allows for a more accurate and credible impact assessment.

Comment (40): The Services should add the phrase ''domestic energy security'' following the term ''national security,'' as it is a critical component of national security.

Response: The current language in section 4(b)(2) of the Act includes the phrase ''and any other relevant impact.'' The legislative history indicates that Congress intended to give the Secretaries broad discretion as to what impacts to consider and what weight to give particular impacts. H.R. Rep. 95–1625, at 17*; see, e.g., Cape Hatteras Access Preservation Alliance* v. *DOI,* 731 F. Supp. 2d 15 (D.D.C. 2010) (''the Service has considerable discretion as to what it defines to be ''other relevant impacts'' under the ESA''). Therefore, if the relevant Service determines in a particular designation that domestic energy security is a relevant impact of that designation, that Service will consider the impacts of designation on domestic energy security.

Comment (41): The change in the proposed revision of the standard of ''potential'' to ''probable'' would place a burden on landowners and users that is not authorized by the Act. This change is inconsistent with the statute because there are no such limitations on impacts considered by the Secretaries.

Response: The word ''potential'' was not in the previous language of this regulation. However, the word ''probable'' was in the original language of this regulation. As discussed in the preamble of our proposal, we are not

changing the term ''probable.'' The use of this word reflects a reasonable interpretation of the statute. Realistically, the Services can only consider activities reasonably likely to occur, which we interpret for purposes of this rule to mean the same thing as the term ''probable.''

Comments on Paragraph (c) of the Proposed Revision—Secretarial Discretion

Comment (42): The proposed regulation change would give too much latitude to the Services to make inconsistent and arbitrary decisions when designating critical habitat, including the discretion to assign weights to the benefits of critical habitat designations. The proposed rule lacks criteria or guidance, which deprives the public of the opportunity to comment on how the rule will be implemented. Although the Act affords the Secretaries significant discretion in making these determinations, the Secretaries should articulate how they will exercise this discretion by regulation. The criteria and guidelines should be set forth in the final rule. The final regulation should outline how the Secretaries will exercise discretion with requirements and guidance to provide public understanding in the analysis of designation of critical habitat.

Response: One purpose of this paragraph of the revised regulations is to clarify the relationship between the mandatory consideration of impacts under the first sentence of section 4(b)(2) of the Act and the discretionary exclusion authority under the second sentence of section 4(b)(2) of the Act. This distinction has been recognized by courts. *Building Industry Ass'n of the Bay Area* v. *U.S. Dep't of Commerce,* 2012 U.S. Dist. Lexis 170688 (N.D. Cal. Nov. 30, 2012). We disagree that it would be helpful to include specific guidance as to how this authority will be applied in binding regulations. However, the Solicitor's Section 4(b)(2) memorandum (M–37016, ''The Secretary's Authority to Exclude Areas from a Critical Habitat Designation under Section 4(b)(2) of the Endangered Species Act'' (Oct. 3, 2008)) (DOI 2008) provides general guidance on how to implement section 4(b)(2) of the Act, and we are developing additional guidance in a forthcoming joint agency policy on section 4(b)(2) exclusions. Ultimately, the weight given to any impact or benefit and the decision to exercise discretion to exclude a particular area is fact specific and will continue to be addressed in each individual rulemaking. As a matter of practice, the Services set forth the 4(b)(2) exclusion analysis in the final rule or supporting record for any area that the Secretaries exercise their discretion to exclude.

Comment (43): The preamble of the proposed regulation states that the weighing of benefits (exclusion analysis) under section 4(b)(2) is ''optional,'' which raises serious concerns. Section 4(b)(2) requires that economic and other impacts be considered in designating critical habitat. This step is mandatory. The revisions to section 424.19 should make clear that the requirement to consider economic and other impacts when designating critical habitat is an integral part of the designation process and will be utilized to reduce adverse impacts on land and resource users, as Congress intended. With this new approach, the Services may consider the economic analysis to be discretionary. The Secretary's discretion to exclude or not exclude arises only after the Secretary has first engaged in a mandatory consideration of economic impacts, followed by a nondiscretionary weighing of benefits. The third and final step is a discretionary decision whether to exclude or not.

Response: There are two distinct processes under section 4(b)(2) of the Act—one mandatory and one discretionary—and this interpretation has been confirmed by the courts (*Building Industry Ass'n of the Bay Area* v. *U.S. Dep't of Commerce,* 2012 U.S. Dist. Lexis 170688 (N.D. Cal. Nov. 30, 2012)). The first sentence of section 4(b)(2) of the Act sets out a mandatory requirement that the Services consider the economic impact, impact on national security, and any other relevant impacts prior to designating an area as part of a critical habitat designation. The Services will always consider such impacts as required under this sentence for each and every designation of critical habitat. The economic analysis is the vehicle by which we consider the probable economic impacts of a critical habitat designation. Thus, contrary to the suggestion in the comment, we do not consider the consideration of the probable economic impacts of a critical habitat designation to be discretionary.

The second sentence of section 4(b)(2) of the Act outlines a separate discretionary exclusion-analysis process that the Services may elect to conduct depending on the specific facts of the designation. The Services are particularly likely to conduct this discretionary analysis if the consideration of impacts mandated under the first sentence suggests that the designation will have significant incremental impacts. In this exclusion analysis the Services analyze whether the benefits of excluding a particular area outweigh the benefits of including the area and determine whether to exclude such an area from the designation if the exclusion will not result in the extinction of the species.

The exclusion analysis outlined in the second sentence of section 4(b)(2) of the Act is not required under the statute, and for some designations the Services may choose not to engage in such an analysis. Thus, for the reasons discussed above and in the Solicitor's M-Opinion, we disagree with the commenter that the exclusion analysis is nondiscretionary.

However, separate and different from the 4(b)(2) exclusion analysis discussed above, agencies are required under E.O. 12866 to assess both the costs and the benefits of the intended regulation and, recognizing that some costs and benefits are difficult to quantify, propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. The requirement of E.O. 12866 is applicable to the process of designating critical habitat.

To minimize confusion between the two analyses, we have changed the reference to the analysis under the second sentence of 4(b)(2) of the Act in this final rule from ''optional weighing of benefits'' to ''discretionary 4(b)(2) exclusion analysis.''

Comment (44): Some commenters were concerned that the Secretaries might not exclude areas even if the benefits of exclusion outweigh those of inclusion. They argued that this approach would conflict with the general principles of E.O. 13563 and the intent of the 2012 Presidential memorandum. The Secretaries do not have discretion to ignore economic or other impacts in designating critical habitat, as implied by the Services' claim in having broad discretion in development of an economic impact analysis. If agency discretion is absolute, then this situation renders criteria set forth in section 4(b)(2) as serving no purpose. We understand the commenters to mean that this would render the Act's requirement that the Services consider the impacts of a designation of critical habitat illusory.

Response: We agree that the requirement of E.O. 12866 (and incorporated by E.O. 13563) to assess the costs and benefits of a rule, and, to the extent permitted by law, to propose or adopt the rule only upon a reasoned determination that the benefits of the intended regulation justify the costs is applicable to the process of designating critical habitat. However, as discussed above, the authority for the assessment

of costs and benefits to satisfy the provisions of E.O. 12866 and E.O. 13563 is separate and different from the authority for the discretionary exclusion analysis conducted under the second sentence of section 4(b)(2) of the Act. Because the discretionary 4(b)(2) exclusion analysis and the assessment under the Executive Orders serve different purposes, we do not find that the discretionary 4(b)(2) exclusion analysis conflicts with the general principles of the Executive Orders. In fact, we believe that, in general, excluding an area because the benefits of exclusion outweigh the benefits of inclusion, and not excluding an area because the benefits of exclusion do not outweigh the benefits of inclusion, is fully consistent with the E.O. requirements discussed above.

In this final rule, we acknowledge that the first sentence of section 4(b)(2) of the Act sets forth a mandatory consideration of the economic, national security, or other relevant impacts of designating critical habitat. So we agree with the commenter that there is a mandatory consideration of economics and other impacts of designating critical habitat. However, we also acknowledge that the second sentence of section 4(b)(2) of the Act outlines a separate discretionary exclusion-analysis process that the Services may elect to conduct depending on the specific facts of the designation. The discretionary nature of this process has most recently been upheld in *Building Industry Ass'n of the Bay Area* v. *U.S. Dep't of Commerce,* 2012 U.S. Dist. Lexis 170688 (N.D. Cal. Nov. 30, 2012). We note that the Services are particularly likely to conduct this discretionary analysis if the consideration of impacts mandated under the first sentence suggests that the designation will have significant incremental impacts, and, generally, the Services' practice is to exclude an area from a designation when the benefits of exclusion outweigh the benefits of inclusion, provided that the exclusion will not result in the extinction of the species.

There is no single approach for evaluating and weighing incremental impacts resulting from a designation of critical habitat against the conservation needs of a species. Thus, the Secretaries must retain discretion in choosing the methods of evaluating these issues in the context of a particular designation. The Secretaries have broad discretion whether to exclude or not (*Building Industry Ass'n of the Bay Area* v. *U.S. Dep't of Commerce,* 2012 U.S. Dist. Lexis 170688 (N.D. Cal. Nov. 30, 2012)); the only conditions are that we must consider economic impacts, impacts to national security, and other relevant impacts; and we may not exclude an area when such exclusion will result in the extinction of the species. As discussed above, The Services' ability to apply this discretion is fully consistent with E.O. 12866, E.O. 13563, or the Presidential memorandum. The existence of the agencies' broad discretion does not mean that section 4(b)(2) of the Act serves no purpose. Section 4(b)(2) of the Act gives the agencies authority to exclude, absent which exclusions from critical habitat would not be possible. This authority serves an important purpose (although not the purpose of allowing others to force the agencies to exercise that authority).

Comment (45): The Act requires that, when the economic costs outweigh the benefits of designating critical habitat in a certain area, the Secretaries must exert their discretion to exclude that area from the designation.

Response: We disagree. The Act is quite clear and specifically states that the Secretaries ''may exclude''—we interpret this to mean exclusions are always discretionary and never mandatory. This interpretation has been upheld by the courts (*Building Industry Ass'n of the Bay Area* v. *U.S. Dep't of Commerce,* 2012 U.S. Dist. Lexis 170688 (N.D. Cal. Nov. 30, 2012)). Therefore, exclusion of a particular area is never mandatory.

Comment (46): The Services' section 4(b)(2) impact analyses should be reviewable. The proposed regulation would establish that the Secretaries' decision not to exclude an area from critical habitat regardless of the result of the economic impact analyses would not be reviewable. Under the APA, agencies must respond to ''significant comments.'' The failure of the Services to provide a meaningful response to a request made by the public or other entity, such as by providing findings regarding relative costs and benefits of designating a particular area, would be arbitrary, capricious, and in violation of the law. Further, if the Secretaries reject a request to exclude an area from critical habitat, and provide an explanation for that decision, that decision would be subject to APA review.

Response: Recent case law supports our conclusion that exclusions are discretionary and the discretion not to exclude an area is judicially unreviewable (*Building Industry Ass'n of the Bay Area* v. *U.S. Dep't of Commerce,* 2012 U.S. Dist. Lexis 170688 (N.D. Cal. Nov. 30, 2012)). While the Services will consider all significant comments, this process does not alter the fact that the Secretary has discretion as to whether to enter into the exclusion analysis under section 4(b)(2) of the Act and whether to exclude any particular areas. For example, an appropriate response to a comment seeking to force an exclusion analysis and subsequent exclusion would be that the Secretary has considered the relevant impacts under the first sentence of section 4(b)(2) of the Act but declines to exercise the Secretary's discretion to make an exclusion.

Comment (47): The public should be able to review and comment on the Secretary's rationale for an exclusion.

Response: In some cases, the Services are able to provide the public with opportunity to review and comment on particular areas considered for, or proposed for, exclusion from a designation of critical habitat. In other instances, the Services may not know which areas will be considered or ultimately excluded from the final designation of critical habitat until after receiving public comment. If the Secretary chooses to exercise his or her discretion to exclude a particular area, the discretionary 4(b)(2) exclusion analysis will be presented in the final rule designating critical habitat and supporting information will be contained in the administrative record for the action. The rationale supporting the exclusion is then available for review. This procedure is consistent with the APA. *See Home Builders Ass'n of No. Cal.* v. *USFWS,* 2006 U.S. Dist. Lexis 80255 (E.D. Cal. Nov. 2, 2006), *reconsideration granted in part* 2007 U.S. Dist. Lexis 5208 (Jan. 24, 2007), *aff'd,* 616 F.3d 983 (9th Cir. 2010) (specific exclusion from critical habitat in final rule was a logical outgrowth of the proposed rule because the proposed rule had sought comment on whether any areas should be excluded).

Comment (48): The second sentence indicates that ''the Secretary may consider and assign the weight to any benefits relevant to the designation of critical habitat.'' This language is an attempt to authorize the Secretary to consider factors beyond those specified in the Act, which are those directly related to the conservation of the species that is the subject of the designation.

Response: We disagree. The first sentence of section 4(b)(2) of the Act requires consideration of ''any'' relevant impacts of designation, and the second sentence of section 4(b)(2) of the Act places no limitations as to the nature of the benefits that may be weighed in the discretionary process of considering exclusions. Nothing in the Act suggests that only factors directly related to conservation of the species can be

considered in implementing section 4(b)(2) of the Act. Section 4(b)(2) of the Act is inherently broad, and the regulation reflects the manner in which the Secretary should use that authority.

Comment (49): Paragraph (c) should be revised to specifically acknowledge and analyze the combined State, local, and volunteer conservation-related protections for a species, and the Services should compare these protections to the benefits of a critical habitat designation. Paragraph (c) should be revised to include language defining benefits as including, but not limited to, local and regional economic development and sustainability, energy development and security, American job security, and volunteer conservation mitigation measures.

Response: While items such as those enumerated in the comment may well be relevant in a particular designation and may be considered if there is available information, the Services' intent in promulgating this revised regulation is to preserve the discretion and flexibility to shape the analysis as appropriate for each situation rather than to prescribe certain criteria for the discretionary analysis under the second sentence of section 4(b)(2) of the Act. Our intent in setting forth paragraph (c) is only to restate Secretarial discretion as provided by the Act and Congressional intent, and confirmed in relevant case law.

Comment (50): One commenter suggested that we revise paragraph (c) to clarify that any exclusion is not set forth until the rule is finalized; the commenter suggested the language ''exclude any particular area from the [final] critical habitat.''

Response: While we appreciate the comment, we find that the edit is not necessary, because anything set forth in a proposed regulation does not have the force of law until the rule is finalized and effective.

Comment (51): Add language to paragraph (c) to clarify that the Secretary has discretion to exclude areas from the ''final'' critical habitat ''designation'' upon a determination ''supported by the record.''

Response: We agree that decisions set forth in each rulemaking must be supported by the record. In fact, rational decisionmaking supported by the administrative record is a bedrock principle of the APA that applies to all final agency actions, and as such, does not need to be codified within this regulation.

Comment (52): The discretionary 4(b)(2) exclusion analysis must occur prior to including any specific area as critical habitat or excluding any specific area from critical habitat in the proposed rule.

Response: Initially, to the maximum extent prudent and determinable, the Services are required to identify those specific areas that meet the definition of critical habitat (in 16 U.S.C. 1532(5)), based on the best scientific data available. Subsequently, the Secretaries must consider the economic impact, the impact to national security, and any other relevant impact of designating any particular area as critical habitat. *See* 16 U.S.C. 1533(b)(2). We agree with the commenter that the Secretaries may exclude a particular area from critical habitat only after conducting a discretionary 4(b)(2) exclusion analysis (though such weighing and development of a 4(b)(2) report could be undertaken prior to release of the proposed rule). However, we note that the determination of areas meeting the definition of critical habitat is a biological determination and not done via a discretionary 4(b)(2) exclusion analysis.

Comments Regarding the Services' Response to the Presidential Memorandum

Comment (53): The proposed rule does not meet the Executive Order 13563 (January 18, 2011) objectives of promoting predictability and reducing uncertainty in regulatory processes. The Services should implement the Presidential memorandum of February 28, 2012, in a way that is consistent with the entire suite of regulation reform directives. The proposed regulation revision is inconsistent with the intent of the Presidential memorandum in that it does not promote ''economic growth, innovation, competitiveness, and job creation,'' nor does it avoid the imposition of unnecessary costs and burdens to enhance regulatory flexibility. The Services go beyond the Presidential memorandum to advance vague standards that can further weaken economic impact analysis.

Response: Many commenters misinterpreted the scope of the Presidential memorandum. The Presidential memorandum was issued in response to the proposed revised critical habitat designation for the northern spotted owl, and focused specifically on the rulemaking process for that regulation, as evidenced in the title, *Presidential Memorandum—Proposed Revised Habitat for the Spotted Owl: Minimizing Regulatory Burdens.* Due to: (1) Concern for not having the economic analysis available with the proposed revised critical habitat for the northern spotted owl that would allow for the evaluation of effects, and (2) FWS' interpretation that the existing regulations limited the ability to provide the economic analysis concurrent with proposal, the memorandum further directed the Secretary to revise the relevant regulation to shift the timing of the economic analysis such that all subsequent critical habitat proposals would be published with a concurrent economic analysis. As a result, the core of the memorandum speaks to the designation process of the rulemaking for the northern spotted owl. This regulation addresses only that portion of the memorandum that requires a shift in the timing of the economic analysis. Further, the Services chose to revise the regulation to codify established interpretation, practices, and prevailing case law. We conclude that doing so will in fact provide clarity, promote predictability, and reduce uncertainty, consistent with Executive Order 13563.

Comment (54): One commenter asked the Services to explain how the proposed regulation change will decrease uncertainty and improve public participation, as directed by the Presidential memorandum.

Response: The revisions set forth in this regulation will provide clarity, promote predictability, and reduce uncertainty by making the economic analyses available concurrently with proposals to designate critical habitat so that the public has both the impact analysis and the proposal available for comment concurrently earlier in the process. The Presidential memorandum states ''Uncertainty on the part of the public may be avoided, and public comment improved, by simultaneous presentation of the best scientific data available and the analysis of economic and other impacts.'' We conclude that this regulation will achieve that goal. Further, the Services chose to address other relevant points within the revised regulation to codify established interpretation, practices, and prevailing case law, which also should decrease uncertainty and improve public participation.

Comment (55): Several commenters interpreted the Presidential memorandum to broadly instruct the Services to consider lessening the regulatory impacts on private and State land owners, and consider impacts to jobs.

Response: Please refer to our response under Comment 53, above.

Comment (56): The Services assert that they will use their current regulation until the new regulation is finalized, yet it used the proposed process in the recent rulemaking for the

northern spotted owl. This appears to be a predecisional process approach for the final northern spotted owl regulation and for this proposed regulation.

Response: For the rulemaking for the northern spotted owl proposed revised critical habitat, the FWS followed the existing regulatory procedure set forth in 50 CFR 424.19 regarding the timing of the draft economic analysis, because it was made available following the publication of the proposed designation. The draft analysis used the incremental approach to evaluating impacts, which is consistent with agency practice since 2007, the Solicitor's memorandum (M–37016, ''The Secretary's Authority to Exclude Areas from a Critical Habitat Designation under Section 4(b)(2) of the Endangered Species Act'' (Oct. 3, 2008)) (DOI 2008) and case law in the Ninth Circuit. Thus we did not use a predecisional approach for the northern spotted owl revised critical habitat, but followed our normal practice.

Comment (57): The Services are improperly interpreting the February 28, 2012, Presidential memorandum, in which the Secretary of the Interior was simply directed to provide a draft economic analysis at the time of publication of the proposed northern spotted owl critical habitat rule. The Presidential memorandum did not require the Service to proceed with national rulemaking nor provide direction to utilize the incremental analysis in future critical habitat rulemaking.

Response: The Presidential memorandum specifically directs the Secretary of the Interior to ''take prompt steps to propose revisions to the current rule (which, as noted, was promulgated in 1984 and requires that an economic analysis be completed after critical habitat has been proposed) to provide that the economic analysis be completed and made available for public comment at the time of publication of a proposed rule to designate critical habitat.'' While the Presidential memorandum directed the Secretary of the Interior to revise the regulations to shift the timing of the economic impact analysis for critical habitat designation, it did not limit the scope of the revision to the regulations. To further provide clarity, promote predictability, and reduce uncertainty, the Services chose to address other relevant points within the revised regulation to codify established interpretation, practices, and prevailing case law.

Comments Not Directly Relevant to This Regulation

Comment (58): We received numerous specific comments in several categories which were not directly relevant to the regulation and are, therefore, not addressed in this section. Below, we provide a summary of the topic areas that these comments encompass. While not directly relevant to this regulation, we may address some of these issues in future rulemaking and policy development by the Services.

(1) Providing guidance for the methodology for conducting economic analyses including data collection from and coordinating with potentially affected parties;

(2) Specific methodology for evaluation of direct and indirect economic effects;

(3) The relationship between critical habitat and recovery;

(4) The detrimental effect critical habitat may have on partnerships; and

(5) Tribal sovereignty and coordination.

Required Determinations

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Management and Budget's Office of Information and Regulatory Affairs (OIRA) will review all significant rules. The Office of Information and Regulatory Affairs has determined that this rule is significant.

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

Regulatory Flexibility Act

Under the Regulatory Flexibility Act (as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996; 5 U.S.C. 601 *et seq.*), whenever a Federal agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare, and make available for public comment, a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency, or his designee, certifies that the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities. We certified at the proposed rule stage that this action would not have a significant economic effect on a substantial number of small entities. The following discussion explains our rationale.

This final rule revises and clarifies the regulations governing how the Services analyze and communicate the impacts of a possible designation of critical habitat, and how the Services may exercise the Secretary's discretion to exclude areas from designations. The final revisions to the regulations apply solely to the Services' procedures for the timing, scale, and scope of impact analyses and considering exclusions from critical habitat. The revisions discussed in this final regulatory revision serve to clarify, and do not expand the reach of, potential designations of critical habitat.

NMFS and FWS are the only entities that are directly regulated by this rule because we are the only entities that can designate critical habitat. No external entities, including any small businesses, small organizations, or small governments, will experience any economic impacts from this rule. Therefore, the only effect on any external entities large or small would likely be positive through reducing any uncertainty on the part of the public by simultaneous presentation of the best scientific data available and the economic analysis of the designation of critical habitat.

We received no comments on the economic impact of this rule or the certification. A final regulatory flexibility analysis is not required, and one was not prepared.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*):

(a) On the basis of information contained in the ''Regulatory Flexibility Act'' section above, these final regulations would not ''significantly or uniquely'' affect small governments. We have determined and certify pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502, that these regulations would not impose a cost of $100 million or more in any given year on local or State governments or private entities. A Small Government Agency Plan is not required. As explained above, small governments would not be affected because the final regulations would not place additional requirements on any city, county, or other local municipalities.

(b) These final regulations would not produce a Federal mandate on State, local, or tribal governments or the private sector of $100 million or greater in any year; that is, this final rule is not a ''significant regulatory action''' under the Unfunded Mandates Reform Act. These final regulations would impose no obligations on State, local, or tribal governments.

Takings (E.O. 12630)

In accordance with Executive Order 12630, these final regulations would not have significant takings implications. These final regulations would not have any actual impacts to the environment or to private property interests, because they will not result in changes to applicable standards for identifying and designating critical habitat, the level of opportunity for public comment on critical habitat designations, or the outcome of critical habitat determinations. Because these final regulations affect only procedural or administrative matters, such as the timing of when the draft economic analysis will be prepared, they would not have the effect of compelling a property owner to suffer any physical invasion of their property; and would not deny any use of the land or aquatic resources. Moreover, there would be neither any burden to public property from the regulations nor any barrier to reasonable and expected beneficial use of private property.

Federalism (E.O. 13132)

In accordance with Executive Order 13132, we have considered whether these final regulations would have significant Federalism effects and have determined that a Federalism assessment is not required. These final regulations pertain only to determinations to designate critical habitat under section 4 of the Act, and would not have substantial direct effects on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government.

Civil Justice Reform (E.O. 12988)

These final regulations do not unduly burden the judicial system and they meet the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988. These final regulations would clarify how the Services will make designations of critical habitat under section 4 of the Act.

Government-to-Government Relationship with Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. In our final regulations, we explain that the Secretaries have discretion to exclude any particular area from the critical habitat upon a determination that the benefits of exclusion outweigh the benefits of specifying the particular area as part of the critical habitat. In identifying those benefits, the Secretaries may consider effects on tribal sovereignty.

Paperwork Reduction Act

This final rule does not contain any new collections of information that require approval by the OMB under the Paperwork Reduction Act. This final rule would not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act

We have analyzed this rule in accordance with the criteria of the National Environmental Policy Act (NEPA) (42 U.S.C. 4332(c)), the Council on Environmental Quality's Regulations for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500–1508), the Department of the Interior's NEPA procedures (516 DM 2 and 8; 43 CFR part 46), and NOAA's Administrative Order regarding NEPA compliance (NAO 216–6 (May 20, 1999)).

We have determined that this rule is categorically excluded from NEPA documentation requirements consistent with 40 CFR 1508.4 and 43 CFR 46.210(i). This categorical exclusion applies to policies, directives, regulations, and guidelines that are ''of an administrative, financial, legal, technical, or procedural nature.'' This action does not trigger an extraordinary circumstance, as outlined in 43 CFR 46.215, applicable to the categorical exclusion. Therefore, this rule does not constitute a major Federal action significantly affecting the quality of the human environment.

We have also determined that this action satisfies the standards for reliance upon a categorical exclusion under NOAA Administrative Order (NAO) 216–6. Specifically, this action fits within the categorical exclusion for ''policy directives, regulations and guidelines of an administrative, financial, legal, technical or procedural nature.'' NAO 216–6, section 6.03c.3(i). This action would not trigger an exception precluding reliance on the categorical exclusion because it does not involve a geographic area with unique characteristics, is not the subject of public controversy based on potential environmental consequences, will not result in uncertain environmental impacts or unique or unknown risks, does not establish a precedent or decision in principle about future proposals, will not have significant cumulative impacts, and will not have any adverse effects upon endangered or threatened species or their habitats. *Id.* section 5.05c. As such, it is categorically excluded from the need to prepare an Environmental Assessment. In addition, NMFS finds that because this rule will not result in any effects to the physical environment, much less any adverse effects, there would be no need to prepare an Environmental Assessment even aside from consideration of the categorical exclusion. *See Oceana, Inc.* v. *Bryson,* No. C–11–6257–EMC, 2013 WL 1563675, *24–25,—F. Supp. 2d—(N. D. Cal. April 12, 2013). Issuance of this rule does not alter the legal and regulatory status quo in such a way as to create any environmental effects. *See Humane Soc. of U.S.* v. *Johanns,* 520 F. Supp. 2d. 8, 12 (D.D.C. 2007).

Energy Supply, Distribution or Use (E.O. 13211)

Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. These final regulations are not expected to affect energy supplies, distribution, and use. Therefore, this action is not a significant energy action, and no Statement of Energy Effects is required.

References Cited

A complete list of all references cited in this document is available on the Internet at *http://www.regulations.gov* at Docket No. FWS–R9–ES–2011–0073 or upon request from the U.S. Fish and Wildlife Service (see **FOR FURTHER INFORMATION CONTACT**).

Authority

We are taking this action under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.).

List of Subjects in 50 CFR Part 424

Administrative practice and procedure, Endangered and threatened species.

Regulation Promulgation

PART 424—[AMENDED]

■ 1. The authority citation for part 424 is revised to read as follows:

Authority: 16 U.S.C. 1531 *et seq.*

■ 2. Revise § 424.19 to read as follows:

§ 424.19 Impact analysis and exclusions from critical habitat.

(a) At the time of publication of a proposed rule to designate critical habitat, the Secretary will make available for public comment the draft economic analysis of the designation. The draft economic analysis will be summarized in the **Federal Register** notice of the proposed designation of critical habitat.

(b) Prior to finalizing the designation of critical habitat, the Secretary will consider the probable economic, national security, and other relevant impacts of the designation upon proposed or ongoing activities. The Secretary will consider impacts at a scale that the Secretary determines to be appropriate, and will compare the impacts with and without the designation. Impacts may be qualitatively or quantitatively described.

(c) The Secretary has discretion to exclude any particular area from the critical habitat upon a determination that the benefits of such exclusion outweigh the benefits of specifying the particular area as part of the critical habitat. In identifying those benefits, in addition to the mandatory consideration of impacts conducted pursuant to paragraph (b) of this section, the Secretary may assign the weight given to any benefits relevant to the designation of critical habitat. The Secretary, however, will not exclude any particular area if, based on the best scientific and commercial data available, the Secretary determines that the failure to designate that area as critical habitat will result in the extinction of the species concerned.

Dated: May 14, 2013.

Rachel Jacobson,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks, U.S. Department of the Interior.

Dated: August 20, 2013.

Alan D. Risenhoover,

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

[FR Doc. 2013–20994 Filed 8–27–13; 8:45 am]

BILLING CODE 4310–55–P; 3520–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 121018563–3148–02]

RIN 0648–XC831

Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pacific Cod in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; reallocation.

SUMMARY: NMFS is reallocating the projected unused amounts of Pacific cod from vessels using jig gear and catcher vessels greater than 60 feet (18.3 meters) length overall (LOA) using hook-and-line gear to catcher vessels less than 60 feet (18.3 meters) LOA using hook-and-line or pot gear in the Bering Sea and Aleutian Islands management area. This action is necessary to allow the 2013 total allowable catch of Pacific cod to be harvested.

DATES: Effective August 23, 2013, through 2400 hrs, Alaska local time (A.l.t.), December 31, 2013.

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907–586–7269.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the Bering Sea and Aleutian Islands (BSAI) according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2013 Pacific cod total allowable catch (TAC) specified for vessels using jig gear in the BSAI is 3,251 metric tons (mt) as established by the final 2013 and 2014 harvest specifications for groundfish in the BSAI (78 FR 13813, March 1, 2013). The Administrator, Alaska Region, NMFS, (Regional Administrator) has determined that jig vessels will not be able to harvest 2,500 mt of the remaining 2013 Pacific cod TAC allocated to those vessels under § 679.20(a)(7)(ii)(A)(*1*). Therefore, in accordance with § 679.20(a)(7)(iii)(A), NMFS apportions 2,500 mt of Pacific cod to catcher vessels less than 60 feet (18.3 meters(m)) LOA using hook-and-line or pot gear.

The 2013 Pacific cod TAC specified for catcher vessels greater than or equal to 60 feet LOA using hook-and-line gear in the BSAI is 463 mt as established by the final 2013 and 2014 harvest specifications for groundfish in the BSAI (78 FR 13813, March 1, 2013). The Regional Administrator has determined that catcher vessels greater than or equal to 60 feet LOA using hook-and-line gear will not be able to harvest 450 mt of the remaining 2013 Pacific cod TAC allocated to those vessels under § 679.20(a)(7)(ii)(A)(*3*). Therefore, in accordance with § 679.20(a)(7)(iii)(A), NMFS apportions 450 mt of Pacific cod to catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear.

The harvest specifications for Pacific cod included in the final 2013 harvest specifications for groundfish in the BSAI (78 FR 13813, March 1, 2013) are revised as follows: 751 mt for vessels using jig gear, 13 mt for catcher vessels greater than or equal to 60 feet (18.3 m) LOA using hook-and-line gear, and 7,577 mt to catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the reallocation of Pacific cod specified from other sectors to catcher vessels less than 60 feet (18.3 m) LOA

using hook-and-line or pot gear. Since the fishery is currently open, it is important to immediately inform the industry as to the revised allocations. Immediate notification is necessary to allow for the orderly conduct and efficient operation of this fishery, to allow the industry to plan for the fishing season, and to avoid potential disruption to the fishing fleet as well as processors. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of August 21, 2013.

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

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

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

Dated: August 23, 2013.

Kelly Denit,

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

[FR Doc. 2013–21018 Filed 8–23–13; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 78, No. 167
Wednesday, August 28, 2013

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0704; Directorate Identifier 2013–NM–074–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 adopt a new airworthiness directive (AD) for certain The Boeing Company Model 747–200B, –200C, –200F, –300, and 747SR series airplanes. This proposed AD was prompted by reports of cracks of both lower chords and web on certain outboard struts. This proposed AD would require repetitive inspections for cracking of the lower spar chords and web, web lower spar chord modification, which includes inspections for cracking of the lower spar chords, and repetitive post modification inspections for cracking of the lower spar web and chord; and applicable corrective actions. We are proposing this AD to prevent cracked chords and web on certain outboard struts, which, if the chord severs, could result in reduced structural integrity of the diagonal brace load path and of the strut-to-wing attachment, and consequent separation of a strut and engine from the airplane during flight.

DATES: We must receive comments on this proposed AD by October 15, 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, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov*; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this 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: Nathan Weigand, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6428; fax: 425–917–6590; *email: nathan.p.weigand@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2013–0704; Directorate Identifier 2013–NM–074–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

We received reports of cracks at nacelle station 300 on both lower chords and the web on outboard strut no. 1. Outboard strut no. 1 had approximately 41,300 total flight cycles and 63,300 total flight hours. The cracking was due to fatigue from normal operating loads. The chords are the main load path for the diagonal brace attach fitting. Cracked and severed chords and web on certain outboard struts could result in reduced structural integrity of the diagonal brace load path, and compromise the strut-to-wing attachment, which could result in consequent separation of a strut and engine from the airplane during flight.

Relevant Service Information

We reviewed Boeing Alert Service Bulletin 747–54A2237, dated March 14, 2013. For information on the procedures and compliance times, see this service information at *http://www.regulations.gov* by searching for Docket No. FAA–2013–0704.

FAA's Determination

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

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in the service information identified previously, except as discussed under ''Differences Between the Proposed AD and the Service Information.''

The phrase ''corrective actions'' is used in this proposed AD. ''Corrective actions'' are actions that correct or address any condition found. Corrective actions in an AD could include, for example, repairs.

Differences Between the Proposed AD and the Service Information

The service bulletin specifies to contact the manufacturer for instructions on how to repair certain conditions, but this proposed AD would require repairing those conditions in one of the following ways:

- In accordance with a method that we approve; or
- Using data that meet the certification basis of the airplane, and that have been approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) whom we have authorized to make those findings.

Costs of Compliance

We estimate that this proposed AD affects 25 airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspections	27 work-hours × $85 per hour = $2,295 per inspection cycle.	$0	$2,295 per inspection cycle.	$57,375 per inspection cycle.
Modification	11 work-hours × $85 per hour = $935	95	1,030	25,750.
Post Modification Inspection.	27 work-hours × $85 per hour = $2,295 per inspection cycle.	0	2,295 per inspection cycle.	$57,375 per inspection cycle.

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this proposed AD.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

The Boeing Company: Docket No. FAA–2013–0704; Directorate Identifier 2013–NM–074–AD.

(a) Comments Due Date

We must receive comments by October 15, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 747–200B, 747–200C, 747–200F, 747–300, and 747SR series airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin 747–54A2237, dated March 14, 2013.

(d) Subject

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 54, Nacelles/Pylons.

(e) Unsafe Condition

This AD was prompted by reports of cracks of both lower chords and web on certain outboard struts. We are issuing this AD to prevent cracked chords and web on certain outboard struts, which, if the chord severs, could result in reduced structural integrity of the diagonal brace load path and of the strut-to-wing attachment, and consequent separation of a strut and engine from the airplane during flight.

(f) Compliance

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

(g) Initial and Repetitive Inspections

(1) Except as required by paragraph (j)(1) of this AD, at the compliance time specified in table 1 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–54A2237, dated March 14, 2013: Do a detailed inspection for cracking of the lower spar chords and web, a high frequency eddy current (HFEC) inspection for cracking of the lower spar chords, and all applicable repairs and modifications, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–54A2237, dated March 14, 2013, except as required by paragraph (j)(2) of this AD. If no cracking is found, repeat the inspections thereafter at intervals not to exceed 600 flight cycles, until the actions specified in paragraph (h) of this AD have been accomplished. Do all applicable corrective actions before further flight. Accomplishing a repair and modification, including open-hole HFEC inspections for cracking and applicable corrective actions required by this paragraph terminates the actions required by paragraphs (g) and (h) of this AD for the repaired and modified strut only. The open-hole HFEC inspection for cracking must be done before the modification.

(h) Inspection and Modification

Except as required by paragraph (j)(1) of this AD, at the compliance time specified in

paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–54A2237, dated March 14, 2013: Do a detailed inspection for cracking of the lower spar chords and web, an HFEC inspection for cracking of the lower spar chords, a lower spar chord modification, including open-hole HFEC inspections for cracking in the chord and all applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–54A2237, dated March 14, 2013, except as required by paragraph (j)(2) of this AD. Do all applicable corrective actions before further flight. Doing the actions specified in this paragraph terminates the requirements of paragraph (g) of this AD for the modified strut only. The open-hole HFEC inspection for cracking must be done before the modification.

(i) Post Modification Repetitive Inspections

For airplanes on which a modification required by paragraph (g) or (h) of this AD has been done: At the compliance time specified in table 2 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–54A2237, dated March 14, 2013, do a detailed inspection for any cracking of the lower spar web and chord, and do all applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–54A2237, dated March 14, 2013, except as required by paragraph (j)(2) of this AD. Repeat the inspection thereafter at intervals not to exceed 18 months. Do all applicable corrective actions before further flight.

(j) Exceptions

(1) Where Boeing Alert Service Bulletin 747–54A2237, dated March 14, 2013, specifies a compliance time after the original issue date on the service bulletin, this AD requires compliance within the specified compliance time after the effective date of this AD.

(2) Where Boeing Alert Service Bulletin 747–54A2237, dated March 14, 2013, specifies to contact Boeing for appropriate action: Before further flight, repair the crack using a method approved in accordance with the procedures specified in paragraph (k) of this AD.

(k) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD. Information may be emailed to: *9–ANM-Seattle-ACO–AMOC-Requests@faa.gov.*

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

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

(l) Related Information

(1) For more information about this AD, contact Nathan Weigand, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6428; fax: 425–917–6590; email: *nathan.p.weigand@faa.gov.*

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

Issued in Renton, Washington, on August 21, 2013.

Stephen P. Boyd,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–20969 Filed 8–27–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0703; Directorate Identifier 2013–NM–004–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Bombardier, Inc. Model DHC–8–102, –103, –106, –201, –202, –301, –311, and –315 series airplanes. This proposed AD was prompted by a report of a pilot commanding an in-flight engine shut down in response to a low oil pressure warning indication. Further investigation revealed the mounting studs in the engine mounted alternating current (AC) generator mounting plate were pulled out of position and the threaded interface in the plate was corroded. This proposed AD would require repetitive inspections for discrepancies on certain AC generator mounting adapters, and replacing discrepant adapters with serviceable ones. This proposed AD would also require revising the maintenance program to incorporate a repetitive task specified in certain temporary revisions. We are proposing this AD to detect and correct corrosion in the AC generator mounting plate, which could result in a gap between the AC generator and the generator mounting plate, and cause loss of engine oil and consequent engine failure.

DATES: We must receive comments on this proposed AD by October 15, 2013

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

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

For service information identified in this proposed AD, contact Bombardier, Inc., Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email *thd.qseries@aero.bombardier.com*; Internet *http://www.bombardier.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Assata Dessaline, Aerospace Engineer, Avionics and Flight Test Branch, ANE–

172, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7301; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2013–0703; Directorate Identifier 2013–NM–004–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive, CF–2012–29, dated November 22, 2012 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> An incident has been reported on the DHC–8 aeroplane of a pilot commanded in-flight engine shut down in response to a[n] engine low oil pressure warning indication.
>
> Further investigation revealed the mounting studs in the engine mounted AC generator mounting plate were pulled out of position and the threaded interface in the plate corroded. This resulted in a gap between the AC generator and the generator mounting plate, leading to the loss of engine oil and the ensuing illumination of the associated engine low oil pressure warning indication.
>
> To ensure the integrity of the affected units, Part I of this [TCCA] AD mandates an [general visual and mechanical] inspection of the affected AC generator mounting adapters part numbers (P/N) 31708–500 or 31708–501, and, as applicable, replacement with new or serviceable mounting plates.
>
> Part II of this [TCCA] AD mandates the incorporation of a repeat Maintenance Review Board (MRB) inspection applicable to the replacement of the AC generator mounting adapters P/Ns 31708–510 or 31708–511 only.

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

Relevant Service Information

Bombardier has issued the following service information:

- Bombardier Service Bulletin 8–24–88, dated December 13, 2011.
- de Havilland Dash 8 Series 100 Temporary Revision MRB–153, dated July 10, 2012, Part 1 Section 2–Systems, of the de Havilland Dash 8 Series 100 Maintenance Program Manual PSM 1–8–7 MRB Report.
- de Havilland Dash 8 Series 200 Temporary Revision MRB 2–31, dated July 10, 2012, Part 1 Section 2–Systems of the de Havilland Dash 8 Series 200 Maintenance Program Manual PSM 1–82–7 MRB Report.
- de Havilland Dash 8 Series 300 Temporary Revision MRB 3–162, dated July 10, 2012, Part 1 Section 2–Systems of the de Havilland Dash 8 Series 300 Maintenance Program Manual PSM 1–83–7 MRB Report.

The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

This AD requires revisions to certain operator maintenance documents to include new actions (e.g., inspections). Compliance with these inspections is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these actions, the operator may not be able to accomplish the inspections described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (j)(1) of this AD. The request should include a description of changes to the required inspections that will ensure the continued operational safety of the airplane.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 88 products of U.S. registry. We also estimate that it would take about 5 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $4,000 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $389,400, or $4,425 per product.

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this proposed AD.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;
2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and
4. Will not have a significant economic impact, positive or negative,

on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new AD:

Bombardier, Inc.: Docket No. FAA–2013–0703; Directorate Identifier 2013–NM–004–AD.

(a) Comments Due Date

We must receive comments by October 15, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc. Model DHC–8–102, –103, –106, –201, –202, –301, –311, and –315 series airplanes; certificated in any category; serial numbers 019 through 672 inclusive.

(d) Subject

Air Transport Association (ATA) of America Code 24, Electrical Power.

(e) Reason

This AD was prompted by a report of a pilot commanding an in-flight engine shut down in response to a low oil pressure warning indication. Further investigation revealed the mounting studs in the engine mounted alternating current (AC) generator mounting plate were pulled out of position and the threaded interface in the plate corroded. We are issuing this AD to detect and correct corrosion in the AC generator mounting plate, which could result in a gap between the AC generator and the generator mounting plate, and cause loss of engine oil and consequent engine failure.

(f) Compliance

You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

(g) Inspection and Removal of AC Generator Mounting Adaptor

Within 6,000 flight hours or 36 months or when the AC generator is removed for service, whichever occurs first, after the effective date of this AD: Do a general visual inspection and a mechanical inspection for discrepancies (i.e., damage, corrosion, and failed mechanical inspection) on AC generator mounting adapters having P/N 31708–500 and P/N 31708–501, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 8–24–88, dated December 13, 2011. If any discrepancy (i.e., damage, corrosion, or failed mechanical inspection) is found, before further flight replace the AC generator mounting adapter with a serviceable mounting adapter having P/N 31708–510, P/N 31708–511, P/N 31708–500, or 31708–501, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 8–24–88, dated December 13, 2011.

(1) For in-service mounting adapters that have P/N 31708–500 or P/N 31708–501, repeat the general visual and mechanical inspection thereafter at intervals not to exceed 6,000 flight hours or 36 months after the most recent inspection or when the AC generator is removed for service, whichever occurs first.

(2) For airplanes having AC generator mounting adapters that have P/N 31708–500 or 31708–501: Within the later of the times specified in paragraphs (g)(2)(i) and (g)(2)(ii) of this AD, replace the AC generator mounting adapter with a new AC generator mounting adapter having P/N 31708–510 or 31708–511.

(i) Before the accumulation of 120 months on the part.

(ii) Within 12 months or 2,000 flight hours or when the generator is removed from service, whichever occurs first, after the effective date of the AD.

(h) Airplane Maintenance Program Revision

For airplanes having AC generator mounting adapters that have P/N 31708–510 or 31708–511: Within 30 days after the effective date of this AD, revise the airplane maintenance program by incorporating MRB Task 2420/14 in the applicable maintenance program manual specified in paragraph (h)(1), (h)(2), or (h)(3) of this AD. The initial compliance time for MRB Task 2420/14 is prior to the accumulation of 10,000 total flight hours or within 60 months since installation of the part, whichever occurs first.

(1) For Model DHC–8–102, –103, and –106 airplanes: de Havilland Dash 8 Series 100 Temporary Revision MRB–153, dated July 10, 2012, Part 1 Section 2—Systems, of the de Havilland Dash 8 Series 100 Maintenance Program Manual PSM 1–8–7 MRB Report.

(2) For Model DHC–8–201 and –202 airplanes: de Havilland Dash 8 Series 200 Temporary Revision MRB 2–31, dated July 10, 2012, Part 1 Section 2—Systems of the de Havilland Dash 8 Series 200 Maintenance Program Manual PSM 1–82–7 MRB Report.

(3) For Model DHC–8–301, –311, and –315 airplanes: de Havilland Dash 8 Series 300 Temporary Revision MRB 3–162, dated July 10, 2012, Part 1 Section 2—Systems of the de Havilland Dash 8 Series 300 Maintenance Program Manual PSM 1–83–7 MRB Report.

(i) No Alternative Actions or Intervals

After accomplishing the revision required by paragraph (h) of this AD, no alternative actions (e.g., inspections) or intervals may be used, unless the actions and intervals are approved as an AMOC in accordance with the procedures specified in paragraph (j)(1) of this AD.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York Aircraft Certification Office (ACO), ANE–170, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the ACO, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

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

(k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF–2012–29, dated November 22, 2012, and the service information specified in paragraphs (l)(1)(i) through (l)(1)(iv) of this AD, for related information.

(i) Bombardier Service Bulletin 8–24–88, dated December 13, 2011.

(ii) de Havilland Dash 8 Series 100 Temporary Revision MRB–153, dated July 10, 2012, Part 1 Section 2–Systems, of the de Havilland Dash 8 Series 100 Maintenance Program Manual PSM 1–8–7 MRB Report.

(iii) de Havilland Dash 8 Series 200 Temporary Revision MRB 2–31, dated July 10, 2012, Part 1 Section 2–Systems of the de Havilland Dash 8 Series 200 Maintenance Program Manual PSM 1–82–7 MRB Report.

(iv) de Havilland Dash 8 Series 300 Temporary Revision MRB 3–162, dated July 10, 2012, Part 1 Section 2–Systems of the de Havilland Dash 8 Series 300 Maintenance Program Manual PSM 1–83–7 MRB Report.

(2) For service information identified in this AD, contact Bombardier, Inc., Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email *thd.qseries@aero.bombardier.com;*

Internet *http://www.bombardier.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on August 21, 2013.

Stephen P. Boyd,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–20968 Filed 8–27–13; 8:45 am]

BILLING CODE 4910–13–P

PEACE CORPS

22 CFR Part 303

RIN 0420–AA29

Freedom of Information Act Administration

AGENCY: Peace Corps.

ACTION: Proposed rule; correction.

SUMMARY: The Peace Corps is correcting a typographical error in a proposed rule that appeared in the **Federal Register** of August 7, 2013. The proposed rule updates Peace Corps regulations on the Freedom of Information Act (FOIA) to implement guidance given by the President and the Attorney General regarding discretionary disclosures of records or information exempt from disclosure under the FOIA, whenever disclosure would not foreseeably harm an interest protected by a FOIA exemption. The proposed rule is based on language used by Department of Justice in its FOIA regulations. Additionally, the proposed rule deletes unnecessary and superfluous language and ensures the rule is consistent with current law.

FOR FURTHER INFORMATION CONTACT: Anne Passmore, 202–692–2164.

Correction

In proposed rule FR Doc. 2013–19050 published on August 7, 2013 (78 FR 48083), make the following correction:

On page 48084, in the third column, third paragraph, in § 303.10(c)(2)(ii), remove ''Executive Order 13525'' and add ''Executive Order 13526'' in its place.

Dated: August 22, 2013.

Garry W. Stanberry,

Deputy Associate Director, Management.

[FR Doc. 2013–20926 Filed 8–27–13; 8:45 am]

BILLING CODE 6051–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 226

[BIA–2013–0003; 134/A0A511010/AAK1001000]

RIN 1076–AF17

Leasing of Osage Reservation Lands for Oil and Gas Mining

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Indian Affairs is proposing to revise the regulations addressing oil and gas mining on reservation land of the Osage Nation. This rule updates the leasing procedures and rental, production, and royalties requirements for oil and gas on Osage Mineral lands and is the result of a negotiated rulemaking.

DATES: Comments on this proposed rule must be received by October 28, 2013. Comments on the information collections contained in this proposed regulation are separate from those on the substance of the rule. Comments on the information collection burden should be received by September 27, 2013 to ensure consideration, but must be received no later than October 28, 2013.

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

—*Federal rulemaking portal:* The rule is listed under the agency name ''Bureau of Indian Affairs'' and has been assigned Docket ID ''BIA–2013–0003'' at *http://www.regulations.gov.*

—*Email: osageregneg@bia.gov.* Include the number 1076–AF17 in the subject line of the message.

—*Mail* or *hand-delivery:* Mr. Eddie Streater, Designated Federal Officer, Bureau of Indian Affairs, P.O. Box 8002, Muscogee, OK 74402. Include the number 1076–AF17 on the outer envelope.

We cannot ensure that comments received after the close of the comment period (see **DATES**) will be included in the docket for this rulemaking and considered. Comments sent to an address other than those listed above will not be included in the docket for this rulemaking.

Comments on the information collections contained in this proposed regulation are separate from those on the substance of the rule. Send comments on the information collection burden to OMB by facsimile to (202) 395–5806 or email to the OMB Desk Officer for the Department of the Interior at *OIRA_submission@omb.eop.gov.* Please send a copy of your comments to the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

FOR FURTHER INFORMATION CONTACT: Mr. Eddie Streater, Designated Federal Officer, Bureau of Indian Affairs, P.O. Box 8002, Muscogee, OK 74402; telephone (918) 781–4608; fax (918) 718–4604; or email *osageregneg@bia.gov.* Additional information on the negotiated rulemaking can be found at: *http://www.bia.gov/osageregneg.*

SUPPLEMENTARY INFORMATION:

I. Executive Summary of Rule

This rule updates the oil and gas regulations governing Osage County. It is intended to strengthen the management and administration of the Osage mineral estate for the benefit of the Osage. These provisions provide updated reporting and inspection requirements, further specify lessee obligations with respect to operations, revise royalty rate calculations and update the amounts for bonds, fines and penalties.

II. Background

On October 14, 2011, the United States and the Osage Nation (formerly known as the Osage Tribe) signed a Settlement Agreement to resolve litigation regarding alleged mismanagement of the Osage Nation's oil and gas mineral estate, among other claims. In the Settlement Agreement, the parties agreed that it would be mutually beneficial ''to address means of improving the trust management of the Osage Mineral Estate, the Osage Tribal Trust Account, and Other Osage Accounts.'' The parties agreed that a review and revision of the existing regulations is warranted to better assist the Bureau of Indian Affairs (BIA) in managing the Osage Mineral Estate. The parties agreed to engage in a negotiated rulemaking for this purpose. For additional information on the negotiated rulemaking, please visit *http://www.bia.gov/osageregneg/.* The Committee submitted its report to BIA on April 25, 2013. BIA has based this proposed rule on the report.

III. Detailed Explanation of Revisions

This rule revises 25 CFR part 226 by changing all references to the ''Osage Tribal Council'' to the ''Osage Minerals Council'' because the Osage Tribal Council no longer exists and the Osage Minerals Council has the authority to make decisions regarding the Osage minerals estate. To avoid confusion in terminology, this rule changes all

references to ''lease cancellation'' to ''lease termination,'' unless it is a voluntary lease cancellation by a lessee. In addition, this rule adds the term ''other marketable product'' to the regulations to ensure that the regulations do not leave a gap as to other minerals.

In § 226.1, this rule:

- Inserts definition of ''lease'' because the prior regulations did not include a definition;
- Changes references to a ''contract'' or ''agreement'' to ''lease'';
- Adds the phrase ''or an authorized representative'' to all lessee definitions to clarify that an authorized representative of a lessee is bound by the regulations;
- Deletes the definition of ''major purchaser'' because it is no longer necessary due to changes in the provisions dealing with royalty payments;
- Combines the definitions for ''casinghead gas'' and ''natural gas'' for simplification to make one new definition of ''raw natural gas'' or ''gas'';
- Adds new definitions for ''avoidably lost,'' ''condensate,'' ''drainage,'' ''marketable condition,'' ''maximum ultimate economic recovery,'' ''natural gas liquids,'' ''notice to lessee,'' ''onshore oil and gas order,'' ''other marketable product,'' ''production in paying quantities,'' and ''waste of oil and gas or other marketable product'' to define new terms being introduced in the proposed regulations.

This rule also adds new sections and redesignates other sections, as shown in the table below.

Current 25 CFR section	Proposed section	Proposed change
N/A	226.2 (New)	Clarifies what requirements govern oil and gas activities in Osage County.
N/A	226.3 (New)	Clarifies the types of notices and orders BIA can issue.
N/A	226.4 (New)	More clearly delineates and specifies the responsibilities of the Superintendent with respect to management and administration of the Osage mineral estate.
226.2	226.5	Breaks each current requirement into its own paragraph for readability and extends the time for a successful bidder to deposit his payment; requires that payment be made in a specified form other than cash; increases the filing fee for submitting a completed lease form; enumerates the circumstances in which a portion of the bonus bid will be forfeited; requires that the Superintendent post legal descriptions within 30 days of a lease sale; and allows the Osage Minerals Council to request comparables from the Superintendent for lease sales.
226.3	226.6	Increases the filing fee.
226.4	226.7	Amends the provision to allow the Superintendent to specify how and where payment is made.
226.5	226.8	(No substantive change.)
226.6	226.9	Amends the current provision to allow personal bonds as well as surety bonds and specifies the requirements for personal and surety bonds; the bonding amount was changed from a per lease area bond to requiring that a $5,000 per well bond is required for up to 25 wells.
226.6(d)	226.10	Moves provision allowing the Superintendent to increase the amount of a required bond to its own section. Clarifies the conditions for increasing a bond.
N/A	226.11 (New)	Specifies the circumstances in which the Superintendent must release a bond.
226.7	226.12	(No substantive change.)
226.8	226.13	(No substantive change.)
226.9	226.14	Increases rental rates; clarifies the lessee's responsibility for diligent development; adds new procedures for determining diligent development of a lease; and adds in new procedures for automatic termination of a lease for failure to diligently develop.
N/A	226.15 (New)	Sets forth the lessee's obligation relating to drainage, which is not included in the current regulations.
N/A	226.16 (New)	Specifies the Superintendent's remedies when drainage has occurred.
226.10	226.17	(No substantive change.)
226.11	(See below)	Divides into several new sections for simplicity and readability, as shown below.
226.11(a)	226.18	Amends the royalty rate calculation for oil, subject to a price adjustment for gravity.
226.11(a)	226.19	Specifies how the gravity adjustment is calculated.
226.11(b)	226.20	Amends the royalty rate calculation for gas and specifies how gross proceeds are calculated.
N/A	226.21	Provides that royalty is due on all oil and gas avoidably lost and sets forth the procedure for such determination.
226.11(c)	226.22	Amends the date for payment of royalty and adds a new provision for adjusting minimum royalty.
N/A	226.23 (New)	Addresses minimum royalty for other marketable products.
226.12	226.24	Amends the references to royalty consistent with the new proposed changes.
226.13(a)	226.25	Describes how royalty payments are made, extends the deadline for reporting, and adds a provision allowing the Superintendent to set an alternative rate for late charges after consultation with the Osage Minerals Council.
226.13(b)	226.26	Describes what reports are required to be submitted to the Superintendent and adds new provisions further specifying the format of reports and information required to be submitted and includes a new provision requiring that the Osage Minerals Council receive copies of reports.
226.14	226.27	Extends the due date in paragraph (b) for a purchaser to submit reporting statement for oil and gas sold.
226.15	(See below)	Divides in to several new sections for simplicity and readability, as shown below.
226.15(a)	226.28	(No substantive change.)
226.15(b)	226.29	(No substantive change.)
226.15(c)	226.30	(No substantive change.)
226.15(d)	226.31	(No substantive change.)
226.15(e)	226.32	(No substantive change.)
N/A	226.33 (New)	More clearly specifies the general requirements governing leasing operations.
226.16	226.34	(No substantive change.)
226.17	226.35	(No substantive change.)
226.18	226.36	Reformats for readability; adds new requirements for notice to surface owners before conducting certain activities; deletes the requirements for notice depending on surface owner residence; and applies new uniform standards regardless of residence within or outside Osage County.
226.19(a)	226.37	(No substantive change.)

Current 25 CFR section	Proposed section	Proposed change
226.19(b), (c)	226.38	(No substantive change.)
226.19(d)	226.39	Increases tank siting fees and area of occupancy.
226.20	226.40	(No substantive change.)
226.21	226.41	(No substantive change.)
N/A	226.42 (New)	Further specifies the lessee's obligation for production.
N/A	226.43 (New)	Requires documentation for transportation of oil, gas or other marketable product to enable the Superintendent to inspect and confirm proper transportation.
226.22	226.44	(No substantive change.)
N/A	226.45 (New)	Further clarifies and specifies the lessee's environmental responsibilities and obligations while conducting operations.
N/A	226.46 (New)	Requires certain safety standards for lessee operations and equipment.
226.23	226.47	(No substantive change.)
226.24	226.48	(No substantive change.)
226.25	226.49	Deletes the requirements that wells be plugged if no apportionment agreement is accepted, making the Superintendent's decision on apportionment final.
226.26	226.50	(No substantive change.)
226.27	226.51	Adds a general provision to require that gas used by the tribe must be odorized and treated to ensure human and public safety.
226.28	226.52	(No substantive change.)
226.29	226.53	Deletes the fee for submitting an application to plug a well; requires no fee.
226.30	226.54	Divides paragraph (b) into two provisions, thereby adding a paragraph (c). Adds a new paragraph (d) requiring that lessee maintain records for a period of 6 years, unless notified to maintain certain records for a longer period.
226.31	226.55	(No substantive change.)
226.32	226.56	Reformats for readability.
226.33	226.57	(No substantive change.)
226.34	226.58	Adds a requirement that wells and tank batteries also be marked with lessee's name.
226.35	226.59	(No substantive change.)
226.36	226.60	Adds new paragraphs (b)–(f) to require safety precautions for drilling wells generally, drilling vertical wells, maintaining and controlling high pressure or loss of circulation in wells, protecting fresh water and other minerals and ensuring safety and protection when hydrogen sulfide gas is present at certain levels.
226.37	226.61	(No substantive change.)
226.38	226.62	Adds new paragraphs (b)–(d) specifying requirements for measuring, calibrating and adjusting meters, including notice to and follow-up by the Superintendent; adds new provisions that require notification to the Superintendent when an oil tank is ready for removal or for witnessing gaugings, and adds that repeated failures to comply with the new provisions subject the lessee to lease termination after consultation with the Osage Minerals Council.
226.39	226.63	Adds new paragraphs requiring measurement of gas to be done in accordance with BLM Onshore Oil and Gas Order 5, and specifying lessee's obligations for calibrating, inspecting and adjusting meters, including notification and inspection by the Superintendent. Also, adds a provision that repeated failures to comply will subject the lease to termination after consultation with the Osage Minerals Council.
226.40	226.64	(No substantive change.)
N/A	226.65 (New)	Specifies safety and other requirements to ensure proper site security.
226.41	226.66	Adds requirements to ensure that all reporting of incidents is done in a timely manner.
226.42	226.67	Increases the fine from $500 to $1000 and adds provisions allowing for fine adjustments and termination of a lease for failure to comply with the regulations after consultation with the Osage Minerals Council.
226.43	226.68	Increases fines that are currently $50 to $150; fines that are $100 to $250; fines that are $200 to $400; and fines that are $500 to $1000. Adds a new fine of $500 per day for failure to maintain adequate bonding and a new fine of up to $1000 per day (not to exceed 20 days) for failure of a transporter to carry proper documentation.
226.43(j)	226.69	More clearly sets forth the criminal procedures for providing false, misleading, or inaccurate information.
N/A	226.70 (New)	Explains how fees and penalties are scaled, including specifying the interest rate for late fees.
226.44	226.71	(No substantive change.)
226.45	226.72	(No substantive change.)
226.46	226.73	(No substantive change.)

The BIA invites comments on all of the proposed changes, but would also like comments specifically addressing the following:

- Whether the impact of changes in the regulations on existing leases as set forth in proposed section 226.8 (changes in regulations) needs to be clarified;
- Whether there should be a specific reference to nationwide bonding in proposed section 226.9 (bonding) and/or comments on the current proposed bonding amount;
- Whether proposed section 226.18 (royalty) should include a deduction for transportation costs;
- Whether to extend the time period for automatic termination of a lease that does not produce in paying quantities from 90 consecutive days to 180 consecutive days (or some other time period) in proposed section 226.14 (e)(1) (requirements for rental, drilling and production).

IV. Procedural Requirements

A. Regulatory Planning and Review (E.O. 12866 and 13563)

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

E.O. 13563 reaffirms the principles of E.O. 12866 while calling for

improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The E.O. directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements. This rule is also part of the Department's commitment under the Executive Order to reduce the number and burden of regulations and provide greater notice and clarity to the public.

B. Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

C. Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. It will not result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. The rule's requirements will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. Nor will this rule have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of the U.S.-based enterprises to compete with foreign-based enterprises because the rule is limited to management and administration of the Osage mineral estate.

D. Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

E. Takings (E.O. 12630)

Under the criteria in Executive Order 12630, this rule does not affect individual property rights protected by the Fifth Amendment nor does it involve a compensable ''taking.'' A takings implication assessment is therefore not required.

F. Federalism (E.O. 13132)

Under the criteria in Executive Order 13132, this rule has no substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

G. Civil Justice Reform (E.O. 12988)

This rule complies with the requirements of Executive Order 12988. Specifically, this rule has been reviewed to eliminate errors and ambiguity and written to minimize litigation; and is written in clear language and contains clear legal standards.

H. Consultation With Indian Tribes (E.O. 13175)

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments,'' Executive Order 13175 (59 FR 22951, November 6, 2000), and 512 DM 2, we have evaluated the potential effects on federally recognized Indian tribes and Indian trust assets. This rule was developed by negotiated rulemaking with representatives of the affected tribe.

I. Paperwork Reduction Act

This rule includes information collections requiring approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.* These information collections have not been approved previously because the last update to 25 CFR part 226 was prior to amendments to the PRA subjecting these information collection requirements to OMB approval.

OMB Control Number: 1076–NEW.

Title: Leasing of Osage Reservation Lands for Oil and Gas Mining.

Brief Description of Collection: This part contains leasing procedures and requirements and rental, production, and royalty requirements for leasing the reservation lands of the Osage Nation for oil and gas mining. The Secretary must perform the information collection requests in this part to obtain the information necessary to complete leasing transactions and monitor leased property. Responses to these information collection requests are required to obtain a benefit (e.g., commercial transactions).

Type of Review: New information collection.

Respondents: Indians, businesses, and tribal authorities.

Number of Respondents: 965.

Frequency of Collection: On occasion.

Estimated Hours per Response: Ranges from 15 minutes to 8 hours (see table below).

Estimated Total Annual Responses: 14,414.

Estimated Total Annual Burden Hours: 21,932.

Non-Hour Cost Burden: $496.

The table showing the burden of the information collection is included below for your information.

Section	Information collection	Respondents	Annual responses	Hourly burden per response	Total annual hourly burden
226.5	Lessee must submit completed lease form	160	160	0.5	80
226.9	Lessee must submit bonds	160	160	0.5	80
226.13	Corporate lessees must submit evidence of is officers' authority to execute papers and a copy of its Articles of Incorporation.	150	150	0.25	*38
226.26, 226.27(a)	Lessee must provide certified monthly reports covering operations and on value of all oil/gas used off premises for development and operation.	700	8,400	0.5	4,200
226.27(b)	Purchaser of oil or gas to furnish statement of gross barrels of oil or gross Mcf of gas sold and sales price per barrel or gross McF during the preceding month.	45	540	0.5	270
226.28	Submit agreement to unitize or terminate unitization of oil or gas leases to Secretary.	1	1	1	1

Section	Information collection	Respondents	Annual responses	Hourly burden per response	Total annual hourly burden
226.29	Submit assignment or transfer of lease to Secretary.	500	500	0.5	250
226.34(b), 226.52	Lessee must submit applications on BIA forms for well drilling, treating, or workover operations, removing casing from well. Application to shut down or plug well, with justification.	600	600	8	4,800
226.36	Lessee must notify and request meeting with surface owners by certified mail, provide copy to Superintendent, and provide info at meeting.	160	160	1	160
226.40, 226.41	Any person claiming an interest in the leased tract or in damages must provide a statement showing the claimed interest.	1	1	1	1
226.43	Drivers must carry documentation showing the amount, origin and intended first purchaser of the oil or gas or marketable product.	60	60	0.5	30
226.45(d)	Lessee must submit a contingency plan, when required.	160	160	5	800
226.54	Lessee must keep a full and correct account of all operations, receipts, and disbursements and make reports thereof, as required, make available for inspection, and maintain for 6 yrs.	700	700	1	700
226.56	Lessee must keep records of drilling, redrilling, deepening, repairing, treating, plugging or abandonment of all wells and furnish reports as required in manner and method specified by Superintendent.	700	700	1	700
226.56	Lessee must transmit to Superintendent applicable information of completion of operations on any well on BIA forms; a copy of electrical, mechanical or radioactive log, or other types of survey of well bore, and core analysis of well.	700	700	8	5,600
226.56	Upon request, Lessee must furnish plat of wells in manner, form, and method prescribed by Superintendent.	700	700	2	1,400
226.65	Lessee must maintain site security plan, including facility diagram.	700	700	4	2,800
226.66	Lessee must report accidents, fires, vandalism including an estimate of the volume of oil involved.	22	22	1	22
Total			14,414		21,932

BIA invites comments on the information collection requirements in the proposed regulation. You may submit comments to OMB by facsimile to (202) 395–5806 or you may send an email to the attention of the OMB Desk Officer for the Department of the Interior: *OIRA_submission@omb.eop.gov.* Please send a copy of your comments to the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice. Note that the request for comments on the rule and the request for comments on the information collection are separate.

To best ensure consideration of your comments on the information collection, we encourage you to submit them by September 27, 2013; while OMB has 60 days from the date of publication to act on the information collection request, OMB may choose to act on or after 30 days. Comments on the information collection should address: (a) The necessity of this information collection for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) ways we could enhance the quality, utility and clarity of the information to be collected; and (d) ways we could minimize the burden of the collection of the information on the respondents, such as through the use of automated collection techniques or other forms of information technology. Please note that an agency may not sponsor or request, and an individual need not respond to, a collection of information unless it has a valid OMB Control Number.

J. National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. It is categorically excluded from further review under 43 CFR 46.210(i) because these are regulations ''whose environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis and will later be subject to the NEPA process either collectively or case by case.'' No extraordinary circumstances exist that would require greater NEPA review.

K. Effects on the Energy Supply (E.O. 13211)

This rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

L. Clarity of This Regulation

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(a) Be logically organized;

(b) Use the active voice to address readers directly;

(c) Use clear language rather than jargon;

(d) Be divided into short sections and sentences; and

(e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the ''COMMENTS'' section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you believe lists or tables would be useful, etc.

M. Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

List of Subjects in 25 CFR Part 226

Indians-lands.

For the reasons stated in the preamble, the Department of the Interior, Bureau of Indian Affairs, proposes to amend part 226 in Title 25 of the Code of Federal Regulations by revising part 226 to read as follows:

PART 226—LEASING OF OSAGE RESERVATION LANDS FOR OIL AND GAS MINING

Sec.
226.1 Definitions.
226.2 What requirements govern oil and gas activities?

Subpart A—Leasing Procedure

226.3 What orders and notices can BIA issue?
226.4 What responsibilities does the Superintendent have?
226.5 What are the requirements for lease sales and approvals?
226.6 How does a lessee surrender a lease?
226.7 What forms of payment are acceptable?
226.8 How do changes in the current regulations impact leases?
226.9 What are the bonding requirements for leases?
226.10 Can the Superintendent increase the amount of the bond required?
226.11 When can the Superintendent release a bond?
226.12 What forms are made a part of the regulations?
226.13 What information must a corporation submit?

Subpart B—Rental, Production and Royalty

Rental, Drilling and Production Obligations

226.14 What are the requirements for rental, drilling, and production?
226.15 What are the lessee's obligations regarding drainage?
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226.17 What is the term of a lease?

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226.60 What are a lessee's obligations to maintain control of wells?
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226.62 How does a lessee measure and store oil?
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Subpart F—Penalties

226.67 What are the penalties for violations of lease terms?
226.68 What are the penalties for violation of certain operating regulations?
226.69 What are the penalties for providing false, inaccurate, or misleading information; or engaging in unlawful acts?
226.70 How are fees and penalties scaled?

Subpart G—Appeals and Notices

226.71 Who can file an appeal?
226.72 Are the notices by the Superintendent binding?
226.73 Information collection.

Authority: Sec. 3, 34 Stat. 543; secs. 1, 2, 45 Stat. 1478; sec. 3, 52 Stat. 1034, 1035; sec. 2(a), 92 Stat. 1660.

§ 226.1 Definitions.

As used in this part, terms shall have the meanings set forth in this section.

Authorized representative of an oil lessee, gas lessee, or oil and gas lessee means any person, group, or groups of persons, partnership, association,

company, corporation, organization or agent employed by or contracted with a lessee or any subcontractor to conduct oil and gas operations or provide facilities to market oil and gas.

Avoidably lost means the venting or flaring of produced gas or other marketable product without the prior authorization, approval, ratification, or acceptance of the Superintendent and the loss of produced oil or gas or other marketable product when the Superintendent determines that such loss occurred as a result of:

(1) Negligence on the part of the lessee; or

(2) The failure of the lessee to take all reasonable measures to prevent and/or control the loss; or

(3) The failure of the lessee to comply fully with the applicable lease terms and regulations, applicable orders and notices, or the written orders of the Superintendent; or

(4) Any combination of the foregoing.

Condensate means liquid hydrocarbons (normally exceeding 40 degrees of API gravity) recovered at the surface without resorting to processing. Condensate is the mixture of liquid hydrocarbons that results from condensation of petroleum hydrocarbons existing initially in a gaseous phase in an underground reservoir.

Drainage means the migration of hydrocarbons, inert gases, or associated resources caused by production from other wells.

Gas lessee means any person, firm, or corporation to whom a gas mining lease is made under the regulations in this part, or an authorized representative.

Gas well means any well that:

(1) Produces raw natural gas not associated with crude petroleum oil at the time of production; or

(2) Produces more than 15,000 standard cubic feet of raw natural gas to each barrel of crude petroleum oil from the same producing formation.

Lease means any contract approved by the United States under the Act of June 28, 1906 (34 Stat. 539), as amended, that authorizes exploration for, extraction of, or removal of oil or gas.

Marketable condition means a condition in which lease products are sufficiently free from impurities and otherwise so conditioned that a purchaser will accept them under a sales contract typical for the field or area.

Maximum ultimate economic recovery means the recovery of oil and gas and any other marketable product from leased lands that a prudent lessee could be expected to make from that field or reservoir given existing knowledge of reservoir and other pertinent facts and using common industry practices for primary, secondary or tertiary recovery operations.

Natural gas liquids (NGLs) means those gas plant products consisting of ethane, propane, butane, or heavier liquid hydrocarbons.

Notice to lessees (NTLs) means a written notice issued or adopted by the Superintendent. NTLs implement the regulations in this part and operating orders, and serve as instructions on specific item(s) of importance.

Oil and gas lessee means any person, firm, or corporation to whom an oil and gas mining lease is made under the regulations in this part, or an authorized representative.

Oil lessee means any person, firm, or corporation to whom an oil mining lease is made under the regulations in this part, or an authorized representative.

Oil well means any well that produces one barrel or more of crude petroleum oil for each 15,000 standard cubic feet of raw natural gas.

Onshore oil and gas order means a formal order issued or adopted by the Director of the Bureau of Indian Affairs that implements and supplements the regulations in this part.

Osage Minerals Council means the duly elected governing body of the Osage Nation or Tribe of Indians of Oklahoma vested with authority to enter into leases or take other actions on oil and gas mining pertaining to the Osage Mineral Estate.

Other marketable product means a non-hydrocarbon product, including but not limited to helium, nitrogen, and carbon-dioxide, for which there is a market.

Primary term means the basic period of time for which a lease is issued during which the lease contract may be kept in force by payment of rentals.

Production in paying quantities means production from a lease of oil and/or gas of sufficient value to exceed direct operating costs and the cost of lease rentals or minimum royalties.

Raw natural gas or *gas* means gas produced from oil and gas wells, including all natural gas liquids before any treating or processing.

Secretary means the Secretary of the Interior or the Secretary's authorized representative acting under delegated authority.

Superintendent means the Superintendent of the Osage Agency, Pawhuska, Oklahoma, or the Superintendent's authorized representative acting under delegated authority, or such other person as the Secretary or Superintendent may delegate to fulfill the responsibilities and exercise the authorities under this part.

Waste of oil or gas or other marketable product means any act or failure to act by the lessee that is not sanctioned by the Superintendent as necessary for proper development and production and that results in:

(1) A reduction in the quantity or quality of oil and gas or other marketable product ultimately producible from a reservoir under prudent and proper operations; or

(2) Avoidable surface loss of oil or gas or other marketable product.

§ 226.2 What requirements govern oil and gas activities?

All oil and gas activities conducted in Osage County are subject to:

(a) The regulations in this part;

(b) Lease terms;

(c) Orders of the Superintendent; and

(d) All other applicable laws, regulations, and authorities.

Subpart A—Leasing Procedure

§ 226.3 What orders and notices can BIA issue?

(a) In accordance with the Administrative Procedure Act, the Bureau of Indian Affairs (BIA), after consultation with the Osage Minerals Council, is authorized to:

(1) Issue and make effective in Osage County oil and gas orders or notices to lessees (NTLs); or

(2) Adopt onshore oil and gas orders, NTLs, or related oil and gas regulations issued by the Bureau of Land Management.

(b) Adoptions by the Bureau of Indian Affairs shall remain in effect according to their terms and shall not be modified by any action of the Bureau of Land Management unless the Director issues further orders to that effect in accordance with the Administrative Procedure Act.

§ 226.4 What responsibilities does the Superintendent have?

(a) The Superintendent is authorized and directed to:

(1) Approve unitization, communitization, gas storage and other contractual agreements;

(2) Assess compensatory royalty;

(3) Approve suspensions of operations or production, or both;

(4) Approve and monitor other lessee proposals for drilling, development or production of oil and gas and any other marketable product;

(5) Perform administrative reviews;

(6) Impose monetary assessments or penalties;

(7) Provide technical information and advice relative to oil and gas and any other marketable product development and operations;

(8) Approve, inspect, and regulate the operations that are subject to the regulations in this part;

(9) Require compliance with lease terms, with the regulations in this title and all other applicable regulations and laws; and

(10) Require that all operations be conducted in a manner which protects natural resources and environmental quality, protects life and property, and results in the maximum ultimate recovery of oil and gas and any other marketable product with minimum waste and with minimum adverse effect on the ultimate recovery of other mineral resources.

(b) The Superintendent may issue written or oral orders to govern specific lease operations. Any oral orders shall be confirmed in writing by the Superintendent within 10 working days from issuance thereof. Before approving operations on a leasehold, the Superintendent shall determine that the lease is in effect, that acceptable bond coverage has been provided, and that the proposed plan of operations is sound.

(c) The Superintendent shall establish procedures to ensure that each lease site which has a history of noncompliance with applicable provisions of law or regulations, lease terms, orders or directives shall be inspected at least once annually.

§ 226.5 What are the requirements for lease sales and approvals?

(a) The steps in a lease sale are as follows:

(1) A written application, together with any nomination fee, for tracts to be offered for lease shall be filed with the Superintendent.

(2) The Superintendent, with the consent of the Osage Minerals Council, shall publish notices for the sale of oil leases, gas leases, and oil and gas leases to the highest responsible bidder on specific tracts of the unleased Osage Mineral Estate. The Superintendent may require any bidder to submit satisfactory evidence of his good faith and ability to comply with all provisions of the notice of sale.

(3) A successful bidder must deposit with the Superintendent within 5 days following the sale, a cashier's check, money order, or electronic funds transfer in an amount not less than 25 percent of the cash bonus offered as a guaranty of good faith. Any and all bids shall be subject to acceptance by the Osage Minerals Council and approval by the Superintendent.

(4) Within 20 days after being notified, the successful bidder must submit to the Superintendent the balance of the bonus, a $75 filing fee, and a completed lease form.

(i) The Superintendent may extend the deadline for submitting the completed lease form, but no extension shall be granted for remitting the balance of moneys due.

(ii) Twenty-five percent of the bonus bid will be forfeited for the use and benefit of the Osage Mineral Estate if any of the following occur:

(A) The bidder fails to pay the full consideration by the required deadline; or

(B) The bidder fails to file the completed lease by the required deadline or extension thereof; or

(C) The lease is rejected through no fault of the Osage Minerals Council or the Superintendent.

(5) The Superintendent may reject a lease made on an accepted bid, upon satisfactory evidence of collusion, fraud, or other irregularity in connection with the notice of sale.

(b) The Superintendent may approve oil leases, gas leases, and oil and gas leases made by the Osage Minerals Council in conformity with the notice of sale, regulations in this part, bonds, and other instruments required.

(c) Within 30 days following approval of a lease, the Superintendent shall post at the Agency, a legal description of the Mineral Estate that was leased.

(d) Prior to approval by the Superintendent, each oil and/or gas lease and activities and installations associated therewith subject to these regulations shall be assessed and evaluated for its environmental impact.

(e) The lessee shall accept a lease with the understanding that a mineral not covered by the lease may be leased separately.

(f) No lease, assignment thereof, or interest therein will be approved to any employee or employees of the Government and no such employee shall be permitted to acquire any interest in leases covering the Osage Mineral Estate by ownership of stock in corporations having leases or in any other manner.

(g) The Osage Minerals Council may utilize the following procedures among others, in entering into a lease:

(1) A lease may be entered into through competitive bidding as outlined in § 226.5(a)(2), negotiation, or a combination of both;

(2) The Osage Minerals Council may request the Superintendent undertake the preparation, advertisement and negotiation of leases; and/or

(3) The Osage Minerals Council may request the Superintendent to provide information regarding the current estimated value of any or all or each of the leases to the Osage Minerals Council based on comparable sales of Federal, Indian, State, and private leases.

(h) The Superintendent may approve any lease made by the Osage Minerals Council.

§ 226.6 How does a lessee surrender a lease?

(a) The lessee may, with the approval of the Superintendent and payment of a $75 filing fee, surrender all or any portion of any lease, have the lease cancelled as to the portion surrendered and be relieved from all subsequent obligations and liabilities.

(b) If the lease, or portion, being surrendered is owned in undivided interests by more than one party, then the following requirements apply:

(1) All parties shall join in the application for cancellation;

(2) If the lease has been recorded, then the lessee shall execute a release and record the same in the proper office;

(3) Surrender shall not the entitle the lessee to a refund of the unused portion of rental paid in lieu of development, nor shall it relieve the lessee and his or her sureties of any obligation and liability incurred prior to the surrender;

(4) When there is a partial surrender of any lease and the acreage to be retained is less than 160 acres, or there is a surrender of a separate horizon, the surrender shall become effective only with consent of the Osage Minerals Council and approval of the Superintendent.

§ 226.7 What forms of payment are acceptable?

Sums due under a lease contract and/or the regulations in this part shall be paid in the manner and method specified by the Superintendent, unless otherwise specified in these regulations. Such sums shall be a prior lien on all equipment and unsold oil on the leased premises.

§ 226.8 How do changes in the current regulations impact leases?

Leases issued pursuant to this part shall be subject to the current regulations of the Secretary, all of which are made a part of such leases: Provided, that no amendment or change of such regulations made after the approval of any lease shall operate to affect the term of the lease, rate of royalty, rental, or acreage unless agreed to by both parties and approved by the Superintendent.

§ 226.9 What are the bonding requirements for leases?

Lessees shall furnish surety bonds or personal bonds acceptable to the Superintendent as follows:

(a) The per-well ''Bonding Amount'' shall be $5,000.

(b) A surety bond or personal bond equal to the Bonding Amount shall be filed at the time an Application for Permit to Drill is approved and/or the lessee acquires liability for existing wells on a lease.

(c) A lessee shall at all times maintain on file with the Superintendent surety bonds and/or personal bonds in an amount equal to the Bonding Amount times the number of wells on the lessee's leases, up to a maximum of 25 wells.

(d) To meet the requirements of this section, a surety bond must be issued by a qualified surety company approved by the Department of the Treasury (see Department of the Treasury Circular No. 570).

(e) Personal bonds shall be accompanied by at least one of the following:

(1) A certificate of deposit issued by a financial institution, the deposits of which are Federally insured, explicitly granting the Secretary full authority to demand immediate payment in case of default in the performance of the terms and conditions of the lease. The certificate shall explicitly indicate on its face that Secretarial approval is required prior to redemption of the certificate of deposit by any party.

(2) A cashier's check.

(3) A certified check.

(4) Negotiable Treasury securities of the United States of a value equal to the amount specified in the bond. Negotiable Treasury securities shall be accompanied by a proper conveyance to the Superintendent of full authority to sell such securities in case of default in the performance of the terms and conditions of a lease.

(5) An irrevocable letter of credit issued by a financial institution, the deposits of which are Federally insured, for a specific term, identifying the Superintendent as sole payee with full authority to demand immediate payment in the case of default in the performance of the terms and conditions of a lease. Letters of credit shall be subject to the following conditions:

(i) The letter of credit shall be issued only by a financial institution organized or authorized to do business in the United States;

(ii) The letter of credit shall be irrevocable during its term. A letter of credit used as security for any lease upon which drilling has taken place and final approval of all abandonment has not been given shall be collected by the Superintendent if not replaced by other suitable bond or letter of credit at least 30 days before its expiration date;

(iii) The letter of credit shall be payable to the Superintendent upon demand, in part or in full, upon receipt from the Superintendent of a notice of attachment stating the basis therefor, e.g., default in compliance with the lease terms and conditions or failure to file a replacement in accordance with paragraph (c)(5)(ii) of this section;

(iv) The initial expiration date of the letter of credit shall be at least 1 year following the date it is filed; and

(v) The letter of credit shall contain a provision for automatic renewal for periods of not less than 1 year in the absence of notice to the Superintendent at least 90 days prior to the originally stated or any extended expiration date.

§ 226.10 Can the Superintendent increase the amount of the bond required?

(a) The Superintendent may require an increase in the amount of any bond in appropriate circumstances, including, but not limited to, a history of previous violations, uncollected royalties due, or when the total cost of plugging existing wells and reclaiming lands exceeds the present bond amount based on the estimates determined by the Superintendent.

(b) The increase in bond amount may be to any level specified by the Superintendent, but in no circumstances shall it exceed the total of the estimated costs of plugging and reclamation, the amount of uncollected royalties due, plus the amount of monies owed to the lessor due to previous violations remaining outstanding.

§ 226.11 When can the Superintendent release a bond?

Within 45 calendar days of receiving written notice from a lessee that a well has been plugged or a lease has expired, the Superintendent shall confirm that:

(a) The well has been properly plugged and the well site has been reclaimed,or the lease site has been reclaimed;

(b) All property has been removed (unless otherwise agreed to in writing by the surface owner); and

(c) All wells have been properly plugged, and then release the bond.

§ 226.12 What forms are made a part of the regulations?

Leases, assignments, and supporting instruments shall be in the form prescribed by the Secretary, and such forms are hereby made a part of the regulations.

§ 226.13 What information must a corporation submit?

(a) If the applicant for a lease is a corporation, it shall file evidence of authority of its officers to execute papers; and with its first application it shall also file a certified copy of its Articles of Incorporation and, if foreign to the State of Oklahoma, evidence showing compliance with the corporation laws thereof.

(b) Whenever deemed advisable, the Superintendent may require a corporation to file any additional information necessary to carry out the purpose and intent of the regulations in this part, and such information shall be furnished within a reasonable time.

Subpart B—Rental, Production and Royalty

Rental, Drilling and Production Obligations

§ 226.14 What are the requirements for rental, drilling, and production?

(a) *Oil leases, gas leases, and combination oil and gas leases.* Unless the lessee shall complete and place in production a well producing and selling oil and/or gas in paying quantities on the land embraced within the lease within 12 months from the date of approval of the lease, or as otherwise provided in the lease terms, or 12 months from the date the Superintendent consents to drilling on any restricted homestead selection, the lease shall terminate unless rental at the rate of not less than $3 per acre for an oil or gas lease, or not less than $6 per acre for a combination oil and gas lease, is paid at the beginning of the first year of the lease. These dollar amounts shall be adjusted as specified in § 226.70.

(1) The lease may also be held for the remainder of its primary term without drilling upon payment of the specified rental annually in advance, commencing with the second lease year.

(2) The lease shall terminate as of the due date of the rental unless such rental shall be received by the Superintendent on or before said date.

(3) The completion of a well producing in paying quantities shall, for so long as such production continues, relieve the lessee from any further payment of rental, except that, should such production cease during the primary term the lease may be continued only during the remaining primary term of the lease by payment of advance rental which shall commence on the next anniversary date of the lease. Rental shall be paid on the basis of a full year and no refund will be made of advance rental paid in

compliance with the regulations in this part.

(b) The Superintendent may, with the consent of and under terms approved by the Osage Minerals Council, grant an extension of the primary term of a lease on which actual drilling of a well shall have commenced within the term thereof, or for the purpose of enabling the lessee to obtain a market for his oil and/or gas production.

(c) Irrespective of whether the lessee has drilled or paid rental, the Superintendent in his discretion may order further development of any leased acreage or separate horizon in any lease term if, in his opinion, a prudent lessee would conduct further development. A prudent lessee will diligently develop the minerals underlying the leasehold. The Osage Minerals Council shall have the right to request a determination of whether there is diligent development by the Superintendent as to any lease and may submit any materials or analysis to support its request. Upon receipt of a request, the Superintendent shall issue such a determination within 90 days.

(d) If the lessee refuses to comply with an order by the Superintendent to diligently develop its leasehold as a result of a determination under paragraph (c) of this section, the refusal will be considered a violation of the lease terms and said lease shall be terminated as to the acreage or horizon the further development of which was ordered, after any appeal of an order. The Superintendent shall promptly notify the lessee of such termination.

(e) Except for a lease during its primary term for which rental payment has been paid, a lease that does not produce in paying quantities for 90 consecutive days is thereby terminated, effective immediately. The Superintendent shall notify the lessee of such termination.

(1) The Superintendent shall have the authority before termination to approve in writing a temporary suspension of operations tolling the 90-day period for a specified number of days, due to force majeure, other hardship, or other extenuating circumstance.

(2) Any request for a temporary suspension of operations shall be made in writing to the Superintendent no later than the 45th day that the lease has not produced in paying quantities. The Superintendent may waive this requirement.

(3) The Superintendent in his discretion may extend in writing the time of any temporary suspension of operations.

(4) The Superintendent shall provide a copy of any decision under this paragraph (e) to the Osage Minerals Council at the same time it is delivered to the lessee.

(f) Whenever the Osage Minerals Council identifies any lease that has terminated or may be subject to termination for any reason, the Osage Minerals Council shall have the right to request in writing appropriate action by the Superintendent, including but not limited to the issuance of a notice of termination to the lessee, and may submit any materials or analysis in support of its request. Upon receipt of such a request, within 90 days the Superintendent shall either take the requested action or issue a written decision responsive to the request.

(g) The Superintendent may impose restrictions as to time of drilling and rate of production from any well or wells when the Superintendent judges these restrictions to be necessary or proper for the protection of the natural resources of the leased land and the interests of the Osage Mineral Estate. The Superintendent may consider, among other things, Federal and Oklahoma laws regulating either drilling or production.

(h) If a lessee holds both an oil lease and a gas lease covering the same acreage, such lessee is subject to the provisions of this section as to both the oil lease and the gas lease.

§ 226.15 What are the lessee's obligations regarding drainage?

(a) Where lands in any leases are being drained of their oil or gas content by wells outside the lease, the lessee shall drill or modify and produce all wells necessary to protect the leased lands from drainage within a reasonable time after the earlier of when the lessee knew or should have known of the drainage. In lieu of drilling or modifying necessary wells, the lessee may, with the consent of the Superintendent, pay compensatory royalty for drainage that has occurred or is occurring.

(b) Actions under paragraph (a) of this section are not required if the lessee proves to the Superintendent that when it first knew or had constructive notice of drainage it could not produce a sufficient quantity of oil or gas from a protective well on the lease in paying quantities above the cost of drilling and completing the protective well.

(c) A lessee has constructive notice that drainage may be occurring when well completion or first production reports for the draining well are publicly available, or, if the lessee operates or owns any interest in the draining well or lease, upon completion of drill stem, production, pressure analysis, or flow tests of the draining well.

(d) If a lessee assigns its interest in a lease or transfers its operating rights, it is liable for drainage that occurs before the date the assignment or transfer is approved by the Superintendent. Any lessee who acquires an interest in a lease that is being drained is liable for all drainage obligations accruing on and after the date the assignment or transfer is approved by the Superintendent.

§ 226.16 What can the Superintendent do when drainage occurs?

(a) The Superintendent may send a demand letter by certified mail, return receipt requested, or personally serve the lessee with notice, if the Superintendent believes that drainage is occurring. However, the lessee's responsibility to take protective action arises when it first knew or had constructive notice of the drainage, even when that date precedes the demand letter.

(b) Since the time required to drill and produce a protective well varies according to the location and conditions of the oil and gas reservoir, the Superintendent will determine this on a case-by-case basis. The Superintendent will consider several factors, including, but not limited to:

(1) The time required to evaluate the characteristics and performance of the draining well;

(2) Rig availability;

(3) Well depth;

(4) Required environmental analysis;

(5) Special lease stipulations that provide limited time frames in which to drill; and

(6) Weather conditions.

(c) If the Superintendent determines that a lessee did not take protective action in a timely manner, the lessee will owe compensatory royalty for the period of the delay.

(d) The Superintendent will assess compensatory royalty beginning on the first day of the month following the earliest reasonable time the lessee should have taken protective action and continuing until:

(1) The lessee drills sufficient economic protective wells and the wells remain in continuous production;

(2) The draining well stops producing; or

(3) The lessee relinquishes its interest in the lease.

Lease Term

§ 226.17 What is the term of a lease?

Leases issued under this part shall be for a primary term as established by the Osage Minerals Council, approved by the Superintendent, and so stated in the

notice of sale of such leases and so long thereafter as the minerals specified are produced in paying quantities.

Royalty Payments

§ 226.18 What is the royalty rate for oil?

(a) The lessee shall pay or cause to be paid to the Superintendent, as royalty, the sum of not less than 20 percent of the value of the oil determined under paragraph (b) of this section.

(b) Unless the Osage Minerals Council, with approval of the Secretary, shall elect to take the royalty in kind, payment is owing at the time of sale or removal of the oil, except where payments are made on division orders, and settlement value per barrel shall be the greater of:

(1) The average NYMEX daily price of oil at Cushing, Oklahoma, for the month in which the produced oil was sold, adjusted for gravity using the scale applicable under § 226.19; or

(2) The actual selling price as adjusted for gravity. The applicable average NYMEX daily price of oil at Cushing, Oklahoma and gravity adjustment scale shall be available from the Superintendent upon request, on or before the fifth day of the month following production.

(c) Should the lessor, with approval of the Secretary, elect to take the royalty in kind, the lessee shall furnish free storage for royalty oil for a period not to exceed 60 days from date of production after notice of such election.

§ 226.19 How is the gravity adjustment calculated?

(a) The gravity adjustment of Average Daily NYMEX Price of oil at Cushing, Oklahoma under § 226.18(b)(1) shall be a deduction from the price per barrel, as follows:

If the gravity of the oil is . . .	the rate is . . .	for each . . .
(1) Between 40.0 and 44.9 degrees	zero.	
(2) Between 35.0 and 39.9 degrees	$0.02	degree or fraction thereof below 40.0.
(3) Below 35.0 degrees	$0.10 plus an additional $0.015	one-tenth of one degree below 35.0.
(4) Above 44.9 degrees	$0.015	for each one-tenth of one degree above 44.9.

(b) The Superintendent may, on or before the fifth day of the month following production, publish a gravity adjustment scale for oil of gravity below 40.0 degrees or above 44.9 degrees that supersedes this paragraph, but only if the Superintendent determines, based on substantial evidence, that market conditions so warrant.

§ 226.20 How is the royalty on gas calculated?

(a) All gas removed from the lease from which it is produced shall be metered before removal unless otherwise approved by the Superintendent and be subject to a royalty of not less than 20 percent of the gross proceeds of the gas. Unless the Osage Minerals Council, with approval of the Secretary, shall elect to take the royalty in kind, gross proceeds shall be calculated under paragraph (b) of this section; except that the Superintendent may direct (and the Osage Minerals Council may request that the Superintendent direct) any lessee, upon no less than 30 days notice, to calculate gross proceeds at the higher royalty value of paragraph (b) or paragraph (c) of this section.

(b) Under this paragraph, gross proceeds of the gas shall be determined by multiplying the entire volume of gas at the well times the heating value of the gas measured in MMBtu as determined by periodic gas analysis, times the Monthly Index Price in dollars per MMBtu for Oklahoma Zone 1 published by the Department of the Interior's Office of Natural Resources Revenue. If that Monthly Index Price ceases to be published and is not otherwise available, the price shall be calculated in a comparable manner to be determined by the Superintendent. If any lessee supplies gas produced from one lease for operation and/or development of any other lease, including another lease held by the same lessee, the royalty calculated under this section shall be paid on all gas so used.

(c) Under this paragraph, gross proceeds of the gas shall be 100 percent of the actual proceeds from sales of all residue gas produced from the lease and one hundred percent of the actual proceeds from sales of all natural gas liquids produced from the lease (including drip condensate) minus the actual, reasonable cost of processing not to exceed 50 percent of the actual sales value of the natural gas liquids (including drip condensate). If the actual reasonable cost of processing cannot be obtained, upon approval by the Superintendent, the lessee may determine such cost in accordance with the alternative methodology and procedures in 30 CFR 1206.173. There shall be no other deductions of any kind, whether monetary or volumetric or otherwise, for any purpose, including but not limited to compression, dehydration, gathering, treating, or transportation.

§ 226.21 Who determines royalty on lost or wasted minerals?

Royalty on minerals wasted or avoidably lost. Royalty shall be due on all oil and gas wasted or avoidably lost, the volume and quality of which shall be determined by the Superintendent after taking into consideration information provided by the lessee, but resolving all doubts about volume and quality in favor of the lessor.

§ 226.22 What is the minimum royalty payment for all leases?

Royalty paid from producing leases during any year shall not be less than an amount equal to the annual rental specified for the lease. Any underpayment of minimum royalty shall be due and payable at the end of the lease year.

(a) After the primary term, the lessee shall submit with his payment evidence that the lease is producing in paying quantities.

(b) The Superintendent is authorized to determine whether the lease is actually producing in paying quantities or has terminated for lack of such production.

(c) Payment for any underpayment not made within the time specified shall be subject to a late charge at the rate of not less than 1½ percent per month for each month or fraction thereof until paid, or such other rate as may be set by the Superintendent after consultation with the Osage Minerals Council.

(d) The minimum royalty shall be adjusted in the same manner as the annual rental, consistent with §§ 226.14(a) and 226.70.

§ 226.23 What royalty is due on other marketable products?

A royalty on other marketable products shall be paid at the rate of not less than 20 per cent of the actual sales value of the other marketable products sold, irrespective of any other royalty due on oil or gas.

§ 226.24 What purchase options does the Federal Government have?

Any of the executive departments of the U.S. Government shall have the option to purchase all or any part of the oil produced from any lease at not less than the price as defined in § 226.18.

§ 226.25 How are royalty payments made?

(a) Royalty payments due may be paid by either the purchaser or the lessee.

(b) Unless otherwise provided by the Osage Minerals Council and approved by the Superintendent, all payments shall be due by the end of the month following the month during which the oil and gas is produced and sold, except when the last day of the month falls on a weekend or holiday. In such cases, payments are due on the first business day of the succeeding month. All payments shall cover the sales of the preceding month.

(c) Failure to make such payments shall subject the lessee or purchaser, whoever is responsible for royalty payment, to a late charge at the rate of not less than 1½ percent for each month or fraction thereof until paid, or such other rate as may be set by the Superintendent after consultation with the Osage Minerals Council. The Osage Minerals Council, subject to the approval of the Superintendent, may waive the late charges.

§ 226.26 What reports are required to be provided?

The lessee shall furnish certified monthly reports covering all operations in a form specified by the Superintendent, whether there has been production or not, indicating therein the total amount of oil, raw natural gas, and other products subject to royalty payment, by the end of the month following the month during which the oil and gas is produced and sold, except when the last day of the month falls on a weekend or holiday. In such cases, reports are due on the first business day of the succeeding month.

(a) Reports covering oil production shall include the date of each sale of oil, well or lease identity, lessee, purchaser, volume of oil sold, gravity of oil sold, price paid per barrel for the sale, 40-degree price used for the sale, gravity adjustment scale used for the sale, and total amount paid for the sale.

(b) Reports covering gas production shall contain the total volume of raw natural gas measured at the well, the BTU value of raw natural gas produced at the well, the periodic gas analysis applicable to the sale, and the total value paid for the raw natural gas, residue gas, natural gas liquids, and condensate.

(c) Report forms shall be submitted in .csv (comma separated value) or ASCII format, or such other equivalent format specified by the Superintendent. The Superintendent shall specify the method of transmittal. The Superintendent may specify that lessees shall submit the reports and information required by this section directly to other federal agencies within the Department of the Interior, in lieu of the Superintendent.

(d) The Superintendent shall provide to the Osage Minerals Council copies of all reports under this section on at least a quarterly basis in the format originally received by the lessee. Upon written request by the Osage Minerals Council, the Superintendent shall require lessees to provide to the Osage Minerals Council copies of run tickets.

(e) Failure to remit reports shall subject the lessee to further penalties as provided in §§ 226.67 and 226.68 and shall subject any royalty payment contract or division order to termination.

§ 226.27 Can a lessee enter into royalty payment contracts and division orders?

(a) The lessee may enter into division orders or contracts with the purchasers of oil, gas, or derivatives therefrom that will provide for the purchaser to make payment of royalty in accordance with his lease. The following requirements apply in these cases:

(1) The division orders or contracts shall not relieve the lessee from responsibility for the payment of the royalty should the purchaser fail to pay.

(2) No production shall be removed from the leased premises until a division order and/or contract and its terms are approved by the Superintendent:

(3) The Superintendent may grant temporary permission to run oil or gas from a lease pending the approval of a division order or contract.

(4) The lessee shall file a certified monthly report and pay royalty on the value of all oil and gas used off the premises for development and operating purposes.

(5) The lessee shall be responsible for the correct measurement and reporting of all oil and/or gas taken from the leased premises.

(b) The lessee shall require the purchaser of oil and/or gas from its lease or leases to furnish the Superintendent, a statement reporting the gross barrels of oil and/or gross Mcf of gas sold and sales price per barrel and/or gross McF during the preceding month, by the end of the month following the month during which the oil and gas is produced and sold, except when the last day of the month falls on a weekend or holiday. In such cases, statements are due on the first business day of the succeeding month. The Superintendent may authorize an extension of time, not to exceed 10 days, for furnishing this statement.

Unit Leases, Assignments and Related Instruments

§ 226.28 When is unitization allowed?

The Osage Minerals Council and the lessee or lessees, may, with the approval of the Superintendent, unitize or merge, two or more oil or oil and gas leases into a unit or cooperative operating plan to promote the greatest ultimate recovery of oil and gas from a common source of supply or portion thereof embracing the lands covered by such lease or leases.

(a) The cooperative or unit agreement shall be subject to the regulations in this part and applicable laws governing the leasing of the Osage Mineral Estate.

(b) Any agreement between the parties in interest to terminate a unit or cooperative agreement as to all or any portion of the lands included shall be submitted to the Superintendent for his approval.

(c) Upon approval under paragraph (b) of this section, the leases included under the cooperative or unit agreement shall be restored to their original terms.

(d) For the purpose of preventing waste and to promote the greatest ultimate recovery of oil and gas from a common source of supply or portion thereof, all oil leases, oil and gas leases, and gas leases issued under this part shall be subject to any unit development plan affecting the leased lands that may be required by the Superintendent with the consent of the Osage Minerals Council. This plan shall adequately protect the rights of all parties in interest, including the Osage Mineral Estate.

§ 226.29 How are leases assigned?

Approved leases or any interest therein may be assigned or transferred only with the approval of the Superintendent. The assignee must be qualified to hold such lease under existing rules and regulations and shall furnish a satisfactory bond conditioned for the faithful performance of the covenants and conditions thereof.

(a) The lessee must assign either his entire interest in a lease or legal subdivision thereof, or an undivided interest in the whole lease: Provided, that when an assignment covers only a portion of a lease or covers interests in separate horizons, such assignment shall be subject to both the consent of the Osage Minerals Council and approval of the Superintendent.

(b) If a lease is divided by the assignment of an entire interest in any part, each part shall be considered a separate lease and the assignee shall be bound to comply with all the terms and conditions of the original lease.

(c) A fully executed copy of the assignment shall be filed with the Superintendent within 30 days after the date of execution by all parties. If requested within the 30-day period, the Superintendent may grant an extension of 15 days.

(d) A filing fee of $75 shall accompany each assignment.

§ 226.30 Are overriding royalty agreements allowed?

Agreements creating overriding royalties or payments out of production shall not be considered as an interest in a lease as such term is used in § 226.29. Agreements creating overriding royalties or payments out of production are hereby authorized and the approval of the Department of the Interior or any agency thereof shall not be required with respect thereto, but such agreements shall be subject to the condition that nothing in any such agreement shall be construed as modifying any of the obligations of the lessee under its lease and the regulations in this part. All such obligations are to remain in full force and effect, the same as if free of any such royalties or payments.

(a) The existence of agreements creating overriding royalties or payments out of production, whether or not actually paid, shall not be considered in justifying the shutdown or abandonment of any well.

(b) Agreements creating overriding royalties or payments out of production need not be filed with the Superintendent unless incorporated in assignments or instruments required to be filed pursuant to § 226.29.

§ 226.31 When are drilling contracts allowed?

The Superintendent is authorized to approve drilling contracts with a stipulation that such approval does not in any way bind the Department to approve subsequent assignments that may be provided for in said contracts. Approval merely authorizes entry on the lease for the purpose of development work.

§ 226.32 When can an oil lease and a gas lease be combined?

A lessee owning both an oil lease and gas lease covering the same acreage is authorized to convert such leases to a combination oil and gas lease.

Subpart C—Operations

§ 226.33 What are the general requirements governing operations?

(a) The lessee shall comply with applicable laws and regulations; with the lease terms; and with orders and instructions of the Superintendent. These include, but are not limited to, conducting all operations in a manner that:

(1) Ensures the proper handling, measurement, disposition, and site security of leasehold production;

(2) Protects other natural resources and environmental quality;

(3) Protects life and property; and

(4) Results in maximum ultimate economic recovery of oil and gas and other marketable products with minimum waste and with minimum adverse effect on ultimate recovery of other mineral resources.

(b) The lessee shall permit properly identified authorized representatives of the Superintendent to enter upon, travel across, and inspect lease sites and records normally kept on the lease pertinent thereto without advance notice. Inspections normally will be conducted during those hours when responsible persons are expected to be present at the operation being inspected. Such permission shall include access to secured facilities on such lease sites for the purpose of making any inspection or investigation for determining whether there is compliance with applicable law, the regulations in this part, and any applicable orders, notices or directives.

(c) For the purpose of making any inspection or investigation, the Superintendent shall have the same right to enter upon or travel across any lease site as the lessee.

§ 226.34 What requirements apply to commencement of operations on a lease?

(a) No operations shall be permitted upon any tract of land until a lease covering such tract shall have been approved by the Superintendent. The Superintendent may grant authority to any party under such lease, consistent with the regulations in this part that he or she deems proper, to conduct geophysical and geological exploration work.

(b) The lessee shall submit applications on forms to be furnished by the Superintendent and secure approval before:

(1) Well drilling, treating, or workover operations are started on the leased premises.

(2) Removing casing from any well.

(c) The lessee shall notify the Superintendent a reasonable time in advance of starting work, of intention to drill, redrill, deepen, plug, or abandon a well.

§ 226.35 How does a lessee acquire permission to begin operations on a restricted homestead allotment?

(a) The lessee may conduct operations within or upon a restricted homestead selection only with the written consent of the Superintendent.

(b) If the allottee is unwilling to permit operations on his homestead, the Superintendent will cause an examination of the premises to be made with the allottee and lessee or his representative. Upon finding that the interests of the Osage Mineral Estate require that the tract be developed, the Superintendent will endeavor to have the parties agree upon the terms under which operations on the homestead may be conducted.

(c) In the event the allottee and lessee cannot reach an agreement, the matter shall be presented by all parties before the Osage Minerals Council, and the Council shall make its recommendations. Such recommendations shall be considered as final and binding upon the allottee and lessee. A guardian may represent the allottee. Where no one is authorized or where no person is deemed by the Superintendent to be a proper party to speak for a person of unsound mind or feeble understanding, the Principal Chief of the Osage Tribe shall represent him.

(d) If the allottee or his representative does not appear before the Osage Minerals Council when notified by the Superintendent, or if the Council fails to act within 10 days after the matter is referred to it, the Superintendent may authorize the lessee to proceed with operations in conformity with the provisions of his lease and the regulations in this part.

§ 226.36 What kind of notice and information is required to be given surface owners prior to commencement of drilling operations?

(a) The lessee shall notify or attempt to notify the surface owner in one general written notification sent by certified mail with a copy to the Superintendent, that it plans to begin conducting the following activities over the term of its lease: Archeological or biological surveys, or staking of wells.

(b) No operations of any kind shall commence until the lessee or its authorized representative shall meet with the surface owner or his/her representative. The lessee must request the meeting in writing by certified mail and provide a copy of the letter to the Superintendent. Unless waived by the Superintendent or otherwise agreed to

between the lessee and surface owner, such meeting shall be held at least 10 calendar days prior to the commencement or any operations. At such meeting lessee or its authorized representative shall comply with the following requirements:

(1) Indicate the location of the well or wells to be drilled.

(2) Arrange for a route of ingress and egress. Upon failure to agree on a route of ingress and egress, said route shall be set by the Superintendent.

(3) Furnish to said surface owners the name and address of the party or representative upon whom the surface owner shall serve any claim for damages which he may sustain from mineral development or operations, and as to the procedure for settlement thereof as provided in § 226.41.

(4) Where the drilling is to be on restricted land, lessee or its authorized representative in the manner provided above shall meet with the Superintendent.

(5) When the surface owner or its representative cannot be contacted at the last known address or has not accepted a meeting request within 30 calendar days of receipt of the request, the Superintendent shall, in writing, authorize lessee to proceed with operations.

§ 226.37 How much of the surface may a lessee use?

The lessee or its authorized representative shall have the right to use so much of the surface of the land within the Osage Mineral Estate as may be reasonable for operations and marketing. This includes, but is not limited to the right to, lay and maintain pipelines, electric lines, pull rods, other appliances necessary for operations and marketing, and the right-of-way for ingress and egress to any point of operations.

(a) If the lessee and surface owner are unable to agree as to the routing of pipelines, electric lines, etc., said routing shall be set by the Superintendent.

(b) The right to use water for lease operations is established by § 226.48.

(c) The lessee shall conduct its operations in a workmanlike manner, commit no waste and allow none to be committed upon the land, nor permit any avoidable nuisance to be maintained on the premises under its control.

§ 226.38 What commencement money must the lessee pay to the surface owner?

(a) Before commencing actual exploration and/or development, the lessee shall pay or tender to the surface owner commencement money in the amount of $25 per shot hole for explosive source (for the acquisition of Single Fold (100 per cent Seismic)), or $400 per linear mile for surface source data acquisition. For the purpose of conducting a 3D seismic survey, the lessee shall pay commencement money in the amount of $10 per acre occupied during the time the survey is conducted. The lessee shall also pay commencement money in the amount of $2500 for each well.

(1) After payment of commencement money the lessee shall be entitled to immediate possession of the drilling site.

(2) Commencement money will not be required for the redrilling of a well which was originally drilled under the current lease.

(3) A drilling site shall be held to the minimum area essential for operations and shall not exceed one and one-half acres in area unless authorized by the Superintendent.

(4) Commencement money shall be a credit toward the settlement of the total damages.

(5) Acceptance of commencement money by the surface owner does not affect its right to compensation for damages as described in § 226.40, occasioned by the drilling and completion of the well for which it was paid.

(6) Since actual damage to the surface from operations cannot necessarily be ascertained prior to the completion of a well as a serviceable well or dry hole, a damage settlement covering the drilling operation need not be made until after completion of drilling operations.

(b) Where the surface is restricted land, commencement money shall be paid to the Superintendent for the landowner. All other surface owners shall be paid or tendered such commencement money direct.

(1) Where such surface owners are neither residents of Osage County, nor have a representative located therein, such payment shall be made or tendered to the last known address of the surface owner at least 5 days before commencing drilling operation on any well.

(2) If the lessee is unable to reach the owner of the surface of the land for the purpose of tendering the commencement money or if the owner of the surface of the land refuses to accept the same, the lessee shall deposit such amount with the Superintendent by check payable to the Bureau of Indian Affairs. The superintendent shall thereupon advise the owner of the surface of the land by mail at his last known address that the commencement money is being held for payment to him upon his written request.

§ 226.39 What fees must lessee pay to a surface owner for tank siting?

The lessee shall pay fees for each tank sited at the rate of $500 per tank, except that:

(a) No payment shall be due for a tank temporarily set on a well location site for drilling, completing, or testing; and

(b) The sum to be paid for a tank occupying an area more than 2500 square feet shall be agreed upon between the surface owner and lessee or, on failure to agree, the same shall be determined by arbitration as provided by § 226.41.

§ 226.40 What is a settlement of damages claimed?

(a) The lessee or its authorized representative or geophysical permittee shall pay for all damages to growing crops, any improvements on the lands, and all other surface damages as may be occasioned by operations. Commencement money shall be a credit toward the settlement of the total damages occasioned by the drilling and completion of the well for which it was paid. Such damages shall be paid to the owner of the surface and by him apportioned among the parties interested in the surface, whether as owner, surface lessee, or otherwise, as the parties may mutually agree or as their interests may appear. If the lessee or its authorized representative and surface owner are unable to agree concerning damages, the same shall be determined by arbitration. Nothing herein contained shall be construed to deny any party the right to file an action in a court of competent jurisdiction if he is dissatisfied with the amount of the award.

(b) Surface owners shall notify their lessees or tenants of the regulations in this part and of the necessary procedure to follow in all cases of alleged damages. If so authorized in writing, surface lessees or tenants may represent the surface owners.

(c) In settlement of damages on restricted land, all sums due and payable shall be paid to the Superintendent for credit to the account of the Indian entitled thereto. The Superintendent will make the apportionment between the Indian landowner or owners and surface lessee of record.

(d) Any person claiming an interest in any leased tract or in damages thereto, must furnish to the Superintendent a statement in writing showing said claimed interest. Failure to furnish such

statement shall constitute a waiver of notice and estop said person from claiming any part of such damages after the same shall have been disbursed.

§ 226.41 What is the procedure for settlement of damages claimed?

Where the surface owner or his lessee suffers damage due to the oil and gas operations and/or marketing of oil or gas by lessee or its authorized representative, the procedure for recovery shall be as follows:

(a) The party or parties aggrieved shall, as soon as possible after the discovery of any damages, serve written notice to lessee or its authorized representative as provided by § 226.36. Written notice shall contain the nature and location of the alleged damages, the date of occurrence, the names of the party or parties causing said damages, and the amount of damages. It is not intended by this requirement to limit the time within which action may be brought in the courts to less than the 90-day period allowed by section 2 of the Act of March 2, 1929 (45 Stat. 1478, 1479).

(b) If the alleged damages are not adjusted at the time of such notice, the lessee or its authorized representative shall try to adjust the claim with the party or parties aggrieved within 20 days from receipt of the notice. If the claimant is the owner of restricted property and a settlement results, a copy of the settlement agreement shall be submitted to the Superintendent for approval. If the settlement agreement concerning the restricted property is approved by the Superintendent, payment shall be made to the Superintendent for the benefit of said claimant.

(c) If the parties fail to adjust the claim within the 20 days specified, then within 10 days thereafter each of the interested parties shall appoint an arbitrator who immediately upon their appointment shall agree upon a third arbitrator. If the two arbitrators shall fail to agree upon a third arbitrator within 10 days, they shall immediately notify the parties in interest. If said parties cannot agree upon a third arbitrator within 5 days after receipt of such notice, the Superintendent shall appoint the third arbitrator.

(d) As soon as the third arbitrator is appointed, the arbitrators shall meet; hear the evidence and arguments of the parties; and examine the lands, crops, improvements, or other property alleged to have been injured. Within 10 days they shall render their decision as to the amount of the damage due. The arbitrators shall be disinterested persons. The fees and expenses of the third arbitrator shall be borne equally by the claimant and the lessee or its authorized representative. Each lessee or its authorized representative and claimant shall pay the fee and expenses for the arbitrator appointed by him.

(e) When an act of an oil or gas lessee or its authorized representative results in injury to both the surface owner and his lessee, the parties aggrieved shall join in the appointment of an arbitrator. Where the injury complained of is chargeable to more than one oil or gas lessee, or its authorized representative, all such chargeable lessees or representatives shall join in the appointment of an arbitrator.

(f) Any two of the arbitrators may make a decision as to the amount of damage due. The decision shall be in writing and shall be served forthwith upon the parties in interest. Each party shall have 90 days from the date the decision is served in which to file an action in a court of competent jurisdiction. If no such action is filed within said time and the award is against the lessee or its authorized representative, he/she shall pay the same, together with interest at an annual rate established for the Internal Revenue Service from date of award, within 10 days after the expiration of said period for filing an action.

(g) The lessee or its authorized representative shall file with the Superintendent a report on each settlement agreement, setting out the nature and location of the damage, date, and amount of the settlement, and any other pertinent information.

§ 226.42 What are a lessee's obligations for production?

(a) The lessee shall put into marketable condition at no cost to the lessor, all oil, gas, and other marketable products produced from the leased land.

(b) Where oil accumulates in a pit, such oil must either be:

(1) Recirculated through the regular treating system and returned to the stock tanks for sale; or

(2) Pumped into a stock tank without treatment and measured for sale in the same manner as from any sales tank in accordance with applicable orders and notices.

(c) In the absence of prior approval from the Superintendent, no oil should be pumped into a pit except in an emergency. Each such occurrence must be reported to the Superintendent and the oil promptly recovered in accordance with applicable orders and notices.

§ 226.43 What documentation is required for transportation of oil or gas or other marketable product?

(a) Any person engaged in transporting by motor vehicle any oil from any lease site, or allocated to any such lease site, shall carry on his/her person, in his/her vehicle, or in his/her immediate control, documentation showing at a minimum; the amount, origin, and intended first purchaser of the oil.

(b) Any person engaged in transporting any oil or gas or other marketable product by pipeline from any lease site, or allocated to any lease site, shall maintain documentation showing, at a minimum, the amount, origin, and intended first purchaser of such oil or gas or other marketable product.

(c) On any lease site, any authorized representative of the Superintendent who is properly identified may stop and inspect any motor vehicle that he/she has probable cause to believe is carrying oil from any such lease site, or allocated to such lease site, to determine whether the driver possesses proper documentation for the load of oil.

(d) Any authorized representative of the Superintendent who is properly identified and who is accompanied by an appropriate law enforcement officer, or an appropriate law enforcement officer alone, may stop and inspect any motor vehicle which is not on a lease site if he/she has probable cause to believe the vehicle is carrying oil from a lease site, or allocated to a lease site, to determine whether the driver possesses proper documentation for the load of oil.

§ 226.44 What are a lessee's obligations for preventing pollution?

(a) All lessees, contractors, drillers, service companies, pipe pulling and salvaging contractors, or other persons, shall at all times conduct their operations and drill, equip, operate, produce, plug, and abandon all wells drilled for oil or gas, service wells or exploratory wells (including seismic, core, and stratigraphic holes) in a manner that will prevent pollution and the migration of oil, gas, salt water, or other substance from one stratum into another, including any fresh water bearing formation.

(b) Pits for drilling mud or deleterious substances used in the drilling, completion, recompletion, or workover of any well shall be constructed and maintained to prevent pollution of surface and subsurface fresh water. These pits shall be enclosed with a fence of at least four strands of barbed wire, or an approved substitute,

stretched taut to adequately braced corner posts, unless the surface owner, user, or the Superintendent gives consent to the contrary. Immediately after completion of operations, pits shall be emptied, reclaimed, and leveled unless otherwise requested by surface owner or user.

(c) Drilling pits shall be adequate to contain mud and other material extracted from wells and shall have adequate storage to maintain a supply of mud for use in emergencies.

(d) No earthen pit, except those used in the drilling, completion, recompletion or workover of a well, shall be constructed, enlarged, reconstructed or used without approval of the Superintendent. Unlined earthen pits shall not be used for the storage of salt water or other deleterious substances.

(e) Deleterious fluids other than fresh water drilling fluids used in drilling or workover operations, which are displaced or produced in well completion or stimulation procedures, including, but not limited to, fracturing, acidizing, swabbing, and drill stem tests, shall be collected into a pit lined with plastic of at least 30 mil or a metal tank and maintained separately from above-mentioned drilling fluids to allow for separate disposal.

§ 226.45 What are a lessee's other environmental responsibilities?

(a) The lessee shall conduct operations in a manner which protects the mineral resources, other natural resources, and environmental quality. The lessee shall comply with the pertinent orders of the Superintendent and other standards and procedures as set forth in the applicable laws, regulations, lease terms and conditions, and the approved drilling plan or subsequent operations plan.

(b) The lessee shall exercise due care and diligence to assure that leasehold operations do not result in undue damage to surface or subsurface resources or surface improvements.

(1) All produced water must be disposed of by injection into the subsurface, in approved pits, or by other methods which have been approved by the Superintendent.

(2) Upon the conclusion of operations, the lessee shall reclaim the disturbed surface in a manner approved or prescribed by the Superintendent.

(c) All spills or leakages of oil, gas, other marketable products, produced water, toxic liquids, or waste materials, blowouts, fires, personal injuries, and fatalities shall be reported by the lessee to the Superintendent as soon as discovered, but not later than the next business day.

(1) The lessee shall exercise due diligence in taking necessary measures, subject to approval by the Superintendent, to control and remove pollutants and to extinguish fires.

(2) A lessee's compliance with the requirements of the regulations in this part shall not relieve the lessee of the obligation to comply with other applicable laws and regulations.

(d) When required by the Superintendent, a contingency plan shall be submitted describing procedures to be implemented to protect life, property, and the environment.

(e) The lessee's liability for damages to third parties shall be governed by applicable law.

§ 226.46 What safety precautions must a lessee take?

The lessee shall perform operations and maintain equipment in a safe and workmanlike manner. The lessee shall take all precautions necessary to provide adequate protection for the health and safety of life and the protection of property. Such precautions shall not relieve the lessee of the responsibility for compliance with other pertinent health and safety requirements under applicable laws or regulations.

§ 226.47 When can the Superintendent grant easements for wells off leased premises?

The Superintendent, with the consent of the Osage Minerals Council, may grant commercial and noncommercial easements for wells off the leased premises to be used for purposes associated with oil and gas production. Rents payable to the Osage Mineral Estate for such easements shall be in an amount agreed to by Grantee and the Osage Minerals Council, subject to the approval of the Superintendent. Grantee shall be responsible for all damages resulting from the use of such wells and settlement for any damages shall be made as provided in § 226.41.

§ 226.48 A lessee's use of water.

The lessee or his contractor may, with the approval of the Superintendent, use water from streams and natural water courses to the extent that such use does not diminish the supply below the requirements of the surface owner from whose land the water is taken. Similarly, the lessee or his contractor may use water from reservoirs formed by the impoundment of water from such streams and natural water courses, if such use does not exceed the quantity to which they originally would have been entitled had the reservoirs not been constructed. The lessee or his/her contractor may install necessary lines and other equipment within the Osage Mineral Estate to obtain such water. Any damage resulting from such installation shall be settled as provided in § 226.41.

§ 226.49 What are the responsibilities of an oil lessee when a gas well is drilled and vice versa?

Prior to drilling, an oil or gas lessee shall notify the other lessees of its intent to drill. When an oil lessee in drilling a well encounters a formation or zone having indications of possible gas production, or the gas lessee in drilling a well encounters a formation or zone having indication of possible oil production, the lessee shall immediately notify the other lessee and the Superintendent. The lessee drilling the well shall obtain all information that a prudent lessee would utilize to evaluate the productive capability of such formation or zone.

(a) Gas well to be turned over to gas lessee. If an oil lessee drills a gas well, it shall, without removing from the well any of the casing or other equipment, immediately shut the well in and notify the gas lessee and the Superintendent.

(1) If the gas lessee does not, within 45 days after receiving notice and determining the cost of drilling, elect to take over such well and reimburse the oil lessee the cost of drilling, including all damages paid and the cost in-place of casing, tubing, and other equipment, the oil lessee shall immediately confine the gas to the original stratum. The disposition of such well and the production therefrom shall then be subject to the approval of the Superintendent.

(2) If the oil lessee and gas lessee cannot agree on the cost of the well, the Superintendent will apportion the cost between the oil and gas lessees.

(b) Oil well to be turned over to oil lessee. If a gas lessee drills an oil well, then it must immediately, without removing from the well any of the casing or other equipment, notify the oil lessee and the Superintendent.

(1) If the oil lessee does not, within 45 days after receipt of notice and cost of drilling, elect to take over the well, it must immediately notify the gas lessee. From that point, the Superintendent must approve the disposition of the well, and any gas produced from it.

(2) If the oil lessee chooses to take over the well, it must pay to the gas lessee:

(i) The cost of drilling the well, including all damages paid; and

(ii) The cost in place of casing and other equipment.

(3) If the oil lessee and the gas lessee cannot agree on the cost of the well, the Superintendent will apportion the cost between the oil and gas lessees.

(c) *Lands not leased.* If a gas lessee drills an oil well upon lands not leased for oil purposes or vice versa, the Superintendent may, until such time as said lands are leased, permit the lessee who drilled the well to operate and market the production therefrom. When said lands are leased, the lessee who drilled and completed the well shall be reimbursed by the oil or gas lessee for the cost of drilling said well, including all damages paid and the cost of in-place casing, tubing, and other equipment. If the lessee does not elect to take over said well as provided above, the disposition of such well and the production therefrom shall be determined by the Superintendent. In the event the oil lessee and gas lessee cannot agree on the cost of the well, such cost shall be apportioned between the oil and gas lessee by the Superintendent.

§ 226.50 How is the cost of drilling a well determined?

The term ''cost of drilling'' as applied where one lessee takes over a well drilled by another, shall include all reasonable, usual, necessary, and proper expenditures. A list of expenses mentioned in this section shall be presented to proposed purchasing lessee within 10 days after the completion of the well. In the event of a disagreement between the parties as to the charges assessed against the well that is to be taken over, such charges shall be determined by the Superintendent.

§ 226.51 What are the requirements for using gas for operating purposes and tribal uses?

All gas used in accordance with this section must first be odorized and treated in accordance with industry standards for safe use.

(a) *Gas to be furnished oil lessee.* The lessee of a producing gas lease shall furnish the oil lessee sufficient gas for operating purposes at a rate to be agreed upon, or on failure to agree, the rate shall be determined by the Superintendent: Provided, that the oil lessee shall at his own expense and risk, furnish and install the necessary connections to the gas lessee's well or pipeline. All such connections shall be reported in writing to the Superintendent.

(b) *Use of gas by Osage Tribe.* (1) Gas from any well or wells shall be furnished to any Tribal-owned building or enterprise at a rate not to exceed the price less the royalty being received or offered by a gas purchaser. This requirement shall be subject to the determination by the Superintendent that gas in sufficient quantities is available above that needed for lease operation and that no waste would result. In the absence of a gas purchaser, the rate to be paid by the Osage Tribe shall be determined by the Superintendent based on prices being paid by purchasers in the Osage Mineral Estate. The Osage Tribe is to furnish all necessary materials and labor for such connection with the lessee's gas system. The use of such gas shall be at the risk of the Osage Tribe at all times.

(2) Any member of the Osage Tribe residing in Osage County and outside a corporate city is entitled to the use at his own expense of not to exceed 400,000 cubic feet of gas per calendar year for his principal residence at a rate not to exceed the amount paid by a gas purchaser plus 10 percent. This requirement shall be subject to the determination by the Superintendent that gas in sufficient quantities is available above that needed for lease operation and that no waste would result. In the absence of a gas purchaser, the amount to be paid by the Tribal member shall be determined by the Superintendent. Gas to Tribal members shall not be royalty free. The Tribal member is to furnish all necessary material and labor for such connection to the lessee's gas system, and shall maintain his own lines. The use of such gas shall be at the risk of the Tribal member at all times.

(3) Gas furnished by the lessee under paragraphs (b)(1) and (2) of this section may be terminated only with the approval of the Superintendent. A written application for termination must be made to the Superintendent showing justification.

Subpart D—Cessation of Operations

§ 226.52 When can a lessee shutdown, abandon, and plug a well?

No well shall be abandoned until its lack of further profitable production of oil and/or gas has been demonstrated to the satisfaction of the Superintendent. The lessee shall not shut down, abandon, or otherwise discontinue the operation or use of any well for any purpose without the written approval of the Superintendent. All applications for such approval shall be submitted to the Superintendent on forms furnished by the Superintendent.

(a) Application for authority to permanently shut down or discontinue the use or operation of a well shall set forth the justification, probable duration, the means by which the well bore is to be protected, and the contemplated eventual disposition of the well. The method of conditioning such well shall be subject to the approval of the Superintendent.

(b) Prior to permanent abandonment of any well, the oil lessee or the gas lessee, as the case may be, shall offer the well to the other for his recompletion or use under such terms as may be mutually agreed upon but not in conflict with the regulations. Failure of the lessee receiving the offer to reply within 10 days after receipt thereof shall be deemed a rejection of the offer. If, after indicating acceptance, the two parties cannot agree on the terms of the offer within 30 days, the disposition of such well shall be determined by the Superintendent.

(c) The Superintendent is authorized to shut in a lease when the lessee fails to comply with the terms of the lease, the regulations, and/or orders of the Superintendent.

§ 226.53 When must a lessee dispose of casings and other improvements?

(a) Upon termination of a lease, permanent improvements, unless otherwise provided by written agreement with the surface owner and filed with the Superintendent, shall remain a part of said land and become the property of the surface owner upon termination of the lease, other than by termination for cause. Exceptions include personal property not limited to tools, tanks, pipelines, pumping and drilling equipment, derricks, engines, machinery, tubing, and the casings of all wells. When any lease terminates, all such personal property shall be removed within 90 days or such reasonable extension of time as may be granted by the Superintendent. Otherwise, the ownership of all casings shall revert to lessor and all other personal property and permanent improvements to the surface owner. Nothing herein shall be construed to relieve the lessee of responsibility for removing any such personal property or permanent improvements from the premises if required by the Superintendent and restoring the premises as nearly as practicable to the original state.

(b) Upon termination of lease for cause. When there has been a termination for cause, the lessor shall be entitled and authorized to take immediate possession of the lease premises and all permanent improvements and all other equipment necessary for the operation of the lease.

(c) Wells to be abandoned shall be promptly plugged as prescribed by the Superintendent. Applications to plug

shall include a statement affirming compliance with § 226.52 and shall set forth reasons for plugging, a detailed statement of the proposed work, including the kind, location, and length of plugs (by depth), plans for mudding and cementing, testing, parting and removing casing, and any other pertinent information: Provided, that the Superintendent may give oral permission and instructions pending receipt of a written application to plug a newly drilled hole. The lessee shall submit a written application for authority to plug a well.

(d) The lessee shall plug and fill all dry or abandoned wells in a manner to confine the fluid in each formation bearing fresh water, oil, gas, salt water, and other minerals, and to protect it against invasion of fluids from other sources. Mud-laden fluid, cement, and other plugs shall be used to fill the hole from bottom to top.

(1) If a satisfactory agreement is reached between the lessee and the surface owner, subject to the approval of the Superintendent, the lessee may condition the well for use as a fresh water well and shall so indicate on the plugging record.

(2) The manner in which plugging material shall be introduced and the type of material so used shall be subject to the approval of the Superintendent.

(3) Within 10 days after plugging, the lessee shall file with the Superintendent a complete report of the plugging of each well.

(4) When any well is plugged and abandoned, the lessee shall, within 90 days, clean up the premises around such well to the satisfaction of the Superintendent.

Subpart E—Requirements of Lessees

§ 226.54 What general requirements apply to lessees?

(a) The lessee shall comply with all orders or instructions issued by the Superintendent. The Superintendent or his representative may enter upon the leased premises for the purpose of inspection.

(b) The lessee shall keep a full and correct account of all operations, receipts, and disbursements and make reports thereof, as required.

(c) The lessee's books and records shall be available to the Superintendent for inspection.

(d) The lessee shall maintain and preserve records for 6 years from the day on which the relevant transaction recorded occurred unless the Superintendent notifies the lessee of an audit or investigation involving the records and that they must be maintained for a longer period. When an audit or investigation is underway, records shall be maintained until the lessee is released in writing from the obligation to maintain the records.

§ 226.55 When must a lessee designate process agents?

(a) Before actual drilling or development operations are commenced on leased lands, the lessee or assignee, if not a resident of the State of Oklahoma, shall appoint a local or resident representative within the State of Oklahoma on whom the Superintendent may serve notice or otherwise communicate in securing compliance with the regulations in this part, and shall notify the Superintendent of the name and post office address of the representative appointed.

(b) Where several parties own a lease jointly, one representative or agent shall be designated whose duties shall be to act for all parties concerned. Designation of such representative should be made by the party in charge of operations.

(c) In the event of the incapacity or absence from the State of Oklahoma of such designated local or resident representative, the lessee shall appoint a substitute to serve in his stead. In the absence of such representative or appointed substitute, any employee of the lessee upon the leased premises or person in charge of drilling or related operations thereon shall be considered the representative of the lessee for the purpose of service of orders or notices as herein provided.

§ 226.56 What are the lessee's record and reporting requirements for wells?

(a) The lessee shall keep accurate and complete records of the drilling, redrilling, deepening, repairing, treating, plugging, or abandonment of all wells. These records shall show:

(1) All the formations penetrated, the content and character of the oil, gas, other marketable product, or water in each formation, and the kind, weight, size, landed depth, and cement record of casing used in drilling each well;

(2) The record of drill-stem and other bottom hole pressure or fluid sample surveys, temperature surveys, directional surveys, and the like;

(3) The materials and procedure used in the treating or plugging of wells or in preparing them for temporary abandonment; and

(4) Any other information obtained in the course of well operation.

(b) The lessee shall take such samples and make such tests and surveys as may be required by the Superintendent to determine conditions in the well or producing reservoir and to obtain information concerning formations drilled, and shall furnish such reports as required in the manner and method specified by the Superintendent.

(c) Within 10 days after completion of operations on any well, the lessee shall transmit to the Superintendent:

(1) All applicable information on forms furnished by the Superintendent;

(2) A copy of the electrical, mechanical or radioactive log, or other types of survey of the well bore; and

(3) The core analysis obtained from the well.

(d) The lessee shall also submit other reports and records of operations as may be required and in the manner, form, and method prescribed by the Superintendent.

(e) The lessee shall measure production of oil, gas, other marketable product, and water from individual wells at reasonably frequent intervals to the satisfaction of the Superintendent.

(f) Upon request and in the manner, form and method prescribed by the Superintendent, the lessee shall furnish a plat showing the location, designation, and status of all wells on the leased lands, together with such other pertinent information as the Superintendent may require.

§ 226.57 What line drilling limitations must a lessee comply with?

The lessee shall not drill within 300 feet of the boundary line of leased lands, or locate any well or tank within 200 feet of any public highway, any established watering place, or any building used as a dwelling, granary, or barn, except with the written permission of the Superintendent. Failure to obtain advance written permission from the Superintendent shall subject the lessee to termination of the lease and/or plugging of the well.

§ 226.58 What are the requirements for marking wells and tank batteries?

The lessee shall clearly and permanently mark all wells and tank batteries in a conspicuous place with the number, legal description, operator's name, lessee's name, and telephone number, and shall take all necessary precautions to preserve these markings.

§ 226.59 What precautions must a lessee take to ensure natural formations are protected?

The lessee shall, to the satisfaction of the Superintendent, take all proper precautions and measures to prevent damage or pollution of oil, gas, fresh water, or other mineral bearing formations.

§ 226.60 What are a lessee's obligations to maintain control of wells?

(a) In drilling operations in fields where high pressures, lost circulation, or other conditions exist which could result in blowouts, the lessee shall install an approved gate valve or other controlling device in proper working condition for use until the well is completed. At all times, preventative measures must be taken in all well operations to maintain proper control of subsurface strata.

(b) *Drilling wells.* The lessee shall take all necessary precautions to keep each well under control at all times, and shall utilize and maintain materials and equipment necessary to insure the safety of operating conditions and procedures.

(c) *Vertical drilling.* The lessee shall conduct drilling operations in a manner so that the completed well does not deviate significantly from the vertical without the prior written approval of the Superintendent. Significant deviation means a projected deviation of the well bore from the vertical of 10° or more, or a projected bottom hole location which could be less than 200 feet from the spacing unit or lease boundary. Any well which deviates more than 10° from the vertical or could result in a bottom hole location less than 200 feet from the spacing unit or lease boundary without prior written approval must be reported promptly to the Superintendent. In these cases, a directional survey is required.

(d) *High pressure or loss of circulation.* The lessee shall take immediate steps and utilize necessary resources to maintain or restore control of any well in which the pressure equilibrium has become unbalanced.

(e) *Protection of fresh water and other minerals.* The lessee shall isolate freshwater-bearing and other usable water containing 5,000 ppm or less of dissolved solids and other mineral-bearing formations and protect them from contamination. Tests and surveys of the effectiveness of such measures shall be conducted by the lessee using procedures and practices approved or prescribed by the Superintendent.

(f) Whenever applicable given the circumstances, the lessee shall conduct activities in accordance with the standards and procedures set forth in Bureau of Land Management Onshore Order 6, Hydrogen Sulfide Operations, and any amendments thereto.

§ 226.61 How does a lessee prevent waste of oil and gas and other marketable products?

(a) The lessee shall conduct all operations in a manner that will prevent waste of oil and gas and other marketable products and shall not wastefully utilize oil or gas or other marketable products.

(b) The Superintendent shall have the authority to impose such requirements as he deems necessary to prevent waste of oil and gas and other marketable products and to promote the greatest ultimate recovery of oil and gas and other marketable products.

(c) For purposes of this section, waste includes, but is not limited to, the inefficient excessive or improper use or dissipation of reservoir energy which would reasonably reduce or diminish the quantity of oil or gas or other marketable product that might ultimately be produced, or the unnecessary or excessive surface loss or destruction, without beneficial use, of oil, gas or other marketable product.

§ 226.62 How does a lessee measure and store oil?

(a) All production run from the lease shall be measured according to methods and devices approved by the Superintendent. Facilities suitable for containing and measuring accurately all crude oil produced from the wells shall be provided by the lessee and shall be located on the leasehold unless otherwise approved by the Superintendent. The lessee shall furnish to the Superintendent a copy of 100-percent capacity tank table for each tank. Meters and installations for measuring oil must be approved.

(b) The lessee must ensure that each Lease Automatic Custody Transfer (LACT) meter is inspected, calibrated, and adjusted at least twice in each calendar year, no less than five months apart. The lessee must ensure that the Superintendent is given 48 hours prior notice of all LACT meter inspections, calibrations, and adjustments. The Superintendent shall have the right to witness, unannounced, all LACT meter inspections, calibrations, and adjustments. The lessee shall fully cooperate with such witnessing. If the Superintendent is not present, then he may request records relating to all LACT meter inspections, calibrations, and adjustments. Repeated failures to comply with this subparagraph shall render the lease subject to termination after consultation with the Osage Minerals Council.

(c) When a tank of oil is ready for removal by the purchaser, the lessee shall ensure that the Superintendent is informed of that fact before the purchaser is so informed via an electronic or telephonic method established by the Superintendent for reporting pursuant to this subparagraph. Failure to comply with the provisions of this subparagraph shall subject the lessee to a penalty of $500. This dollar amount shall be adjusted as specified in § 226.70. Repeated failures to inform the Superintendent shall render the lease subject to termination after consultation with the Osage Minerals Council.

(d) The Superintendent shall have the right to witness all gaugings, unannounced, on each lease. The lessee shall fully cooperate with such gaugings and repeated failures to comply shall render the lease subject to termination after consultation with the Osage Minerals Council.

§ 226.63 How is gas measured?

(a) All gas required to be measured shall be measured in accordance with the standards, procedures, and practices set forth in Bureau of Land Management Onshore Oil and Gas Order 5, Measurement of Gas, and any amendments thereto. To the extent that Onshore Oil and Gas Order 5 conflicts with any provision of these regulations, these regulations shall control.

(b) All gas, required to be measured, shall be measured by meter (preferably of the orifice meter type) unless otherwise agreed to in writing by the Superintendent. All gas meters must be approved by the Superintendent and installed at the expense of the lessee or purchaser at such places as may be agreed to in writing by the Superintendent. For computing the volume of all gas produced, sold or subject to royalty, the standard of pressure shall be 14.65 pounds to the square inch, and the standard of temperature shall be 60 degrees F. All measurements of gas shall be adjusted by computation to these standards, regardless of the pressure and temperature at which the gas was actually measured, unless otherwise authorized in writing by the Superintendent.

(c) The lessee must ensure that each meter is inspected, calibrated, and adjusted at least twice in each calendar year, no less than five months apart. The lessee must ensure that the Superintendent is given 48 hours prior notice of all meter inspections, calibrations, and adjustments. The Superintendent shall have the right to witness, unannounced, all meter inspections, calibrations, and adjustments. The lessee shall fully cooperate with such witnessing or be subject to lease termination. If the Superintendent is not present, he may request records relating to all meter inspections, calibrations, and adjustments. Repeated failures to comply with this subparagraph shall render the lease subject to termination

after consultation with the Osage Minerals Council.

§ 226.64 When can a lessee use of gas for lifting oil?

The lessee shall not use raw natural gas from a distinct or separate stratum for the purpose of flowing or lifting the oil, except where the lessee has an approved right to both the oil and the gas, and then only with the approval of the Superintendent of such use and of the manner of its use.

§ 226.65 What site security standards apply to oil and gas and other marketable product leases?

(a) *Definitions.* The following definitions apply to terms used in this section.

Appropriate valves. Those valves in a particular piping system, i.e., fill lines, equalizer or overflow lines, sales lines, circulating lines, and drain lines that shall be sealed during a given operation.

Effectively sealed. The placement of a seal in such a manner that the position of the sealed valve may not be altered without the seal being destroyed.

Production phase. That period of time or mode of operation during which crude oil is delivered directly to or through production vessels to the storage facilities and includes all operations at the facility other than those defined by the sales phase.

Sales phase. That period of time or mode of operation during which crude oil is removed from the storage facilities for sales, transportation or other purposes.

Seal. A device, uniquely numbered, which completely secures a valve.

(b) *Minimum Standards.* Each lessee shall comply with the following minimum standards to assist in providing accountability of oil or gas production:

(1) All lines entering or leaving oil storage tanks shall have valves capable of being effectively sealed during the production and sales operations unless otherwise modified by other subparagraphs of this paragraph, and any equipment needed for effective sealing, excluding the seals, shall be located at the site. For a minimum of 6 years the lessee shall maintain a record of seal numbers used and shall document on which valves or connections they were used as well as when they were installed and removed. The site facility diagram(s) shall show which valves will be sealed in which position during both the production and sales phases of operation.

(2) Each LACT system shall employ meters that have non-resettable totalizers. There shall be no by-pass piping around the LACT. All components of the LACT that are used for volume or quality determinations of the oil shall be effectively sealed. For systems where production may only be removed through the LACT, no sales or equalizer valves need be sealed. However, any valves which may allow access for removal of oil before measurement through the LACT shall be effectively sealed.

(3) There shall be no by-pass piping around gas meters. Equipment which permits changing the orifice plate without bleeding the pressure off the gas meter run is not considered a by-pass.

(4) For oil measured and sold by hand gauging, all appropriate valves shall be sealed during the production or sales phase, as applicable.

(5) Circulating lines having valves which may allow access to remove oil from storage and sales facilities to any other source except through the treating equipment back to storage shall be effectively sealed as near the storage tank as possible.

(6) The lessee, with reasonable frequency, shall inspect all leases to determine production volumes and that the minimum site security standards are being met. The lessee shall retain records of such inspections and measurements for 6 years from generation. Such records and measurements shall be available to the Superintendent upon request.

(7) Any lessee may request the Superintendent to approve a variance from any of the minimum standards prescribed by this section. The variance request shall be submitted in writing to the Superintendent who may consider such factors as regional oil field facility characteristics and fenced, guarded sites. The Superintendent may approve a variance if the proposed alternative will ensure measures equal to or in excess of the minimum standards provided in paragraph (b) of this section will be put in place to detect or prevent internal and external theft, and will result in proper production accountability.

(c) *Site security plans.* (1) Site security plans, which include the lessee's plan for complying with the minimum standards enumerated in paragraph (b) of this section for ensuring accountability of oil/condensate production are required for all facilities and such facilities shall be maintained in compliance with the plan. For new facilities, notice shall be given that it is subject to a specific existing plan, or a notice of a new plan shall be submitted, no later than 60 days after completion of construction or first production, and on that date the facilities shall be in compliance with the plan. At the lessee's option, a single plan may include all of the lessee's leases, units, and communitized areas, provided the plan clearly identifies each lease, unit, or communitized area included within the scope of the plan and the extent to which the plan is applicable to each lease, unit, or communitized area so identified.

(2) The lessee shall retain the plan, but shall notify the Superintendent of its completion and which leases, units, and communitized areas are involved. Such notification is due at the time the plan is completed as required by paragraph (c)(1) of this section. Such notification shall include the location and normal business hours of the office where the plan will be maintained. Upon request, all plans shall be made available to the Superintendent.

(3) The plan shall include the frequency and method of the lessee's inspection and production volume recordation. The Superintendent may, upon examination, require adjustment of the method or frequency of inspection.

(d) *Site facility diagrams.* (1) Facility diagrams are required for all facilities which are used in storing oil/condensate. Facility diagrams shall be filed within 60 days after new measurement facilities are installed or existing facilities are modified.

(2) No format is prescribed for facility diagrams. They are to be prepared on 8½″ × 11″ paper, if possible, and be legible and comprehensible to a person with ordinary working knowledge of oil field operations and equipment. The diagram need not be drawn to scale.

(3) A site facility diagram shall accurately reflect the actual conditions at the site and shall, commencing with the header if applicable, clearly identify the vessels, piping, metering system, and pits, if any, which apply to the handling and disposal of oil, gas and water. The diagram shall indicate which valves shall be sealed and in what position during the production or sales phase. The diagram shall clearly identify the lease on which the facility is located and the site security plan to which it is subject, along with the location of the plan.

§ 226.66 What are a lessee's reporting requirements for accidents, fires, theft, and vandalism?

Lessees shall make a complete report to the Superintendent of all accidents, fires, or acts of theft and vandalism occurring on the leased premises as soon as discovered, but not later than the next business day. Said report shall include an estimate of the volume of oil

involved. Lessees also are expected to report such thefts promptly to local law enforcement agencies and internal company security.

Subpart F—Penalties

§ 226.67 What are the penalties for violations of lease terms?

Violation of any of the terms or conditions of any lease or of the regulations in this part shall subject the lease to termination by the Superintendent after consultation with the Osage Minerals Council; or the lessee to a fine of not more than $1000 per day for each day of noncompliance with the written orders of the Superintendent; or to both such fine and lease termination. The dollar amount of penalties under this section shall be adjusted as specified in § 226.70. All penalties and fines shall be paid to the Superintendent in the form of a money order, cashier's check or electronic funds transfer.

§ 226.68 What are the penalties for violation of certain operating regulations?

In lieu of the penalties provided under § 226.67, penalties may be imposed by the Superintendent for violation of certain sections of the regulations of this part as follows, with the dollar amounts in this section adjusted as specified in § 226.70:

(a) For failure to obtain permission to start operations required by § 226.34(a), $150 per day.

(b) For failure to file records required by § 226.56, $150 per day until compliance is met.

(c) For failure to mark wells or tank batteries as required by § 226.58, $150 per day for each well or tank battery.

(d) For failure to construct and maintain pits as required by § 226.44(b) and (d), $150 for each day after operations are commenced on any well until compliance is met.

(e) For failure to comply with § 226.60 regarding control of wells, $250 per day.

(f) For failure to notify Superintendent before drilling, redrilling, deepening, plugging, or abandoning any well, as required by §§ 226.34(b) through (c) and 226.49, $400 per day.

(g) For failure to properly care for and dispose of deleterious fluids as provided in § 226.44(e), $1,000 per day until compliance is met.

(h) For failure to file plugging reports as required by § 226.53(d) and for failure to file reports as required by § 226.26, $150 per day for each violation until compliance is met.

(i) For failure to perform or start an operation within 5 days after ordered by the Superintendent in writing under authority provided in this part, if said operation is thereafter performed by or through the Superintendent, the actual cost of performance thereof, plus 25 percent.

(j) For failure to maintain adequate bonding as required by § 226.9, $500 per day.

(k) Whenever a transporter fails to permit inspection for proper documentation by any authorized representative of the Superintendent, the transporter shall be liable for a civil penalty of up to $1,000 per day for the violation, not to exceed a maximum of 20 days, dating from the date of notice of the failure to permit inspection and continuing until the proper documentation is provided.

§ 226.69 What are the penalties for providing false, inaccurate, or misleading information; or engaging in unlawful acts?

(a) The lessee or its authorized representative is hereby notified that criminal procedures are provided by 18 U.S.C. 1001 for knowingly filing fraudulent reports and information.

(b) Any person shall be liable for a civil penalty of up to $25,000 per violation for each day such violation continues, not to exceed a maximum of 20 days if he/she:

(1) Knowingly or willfully prepares, maintains or submits false, inaccurate or misleading reports, notices, affidavits, records, data or other written information required by this part; or

(2) Knowingly or willfully takes or removes, transports, uses or diverts any oil or gas or other marketable product from any lease without having valid legal authority to do so; or

(3) Purchases, accepts, sells, transports or conveys to another any oil or gas or other marketable product knowing or having reason to know that such oil or gas was stolen or unlawfully removed or diverted from a lease.

(c) The dollar amount of penalties under this section shall be adjusted as specified in § 226.70.

§ 226.70 How are fees and penalties scaled?

(a) Whenever the settlement value for a barrel of oil under § 226.18 in any month is greater than $100 in the month preceding the assessment of any dollar amount in §§ 226.14, 226.62(c), 226.67, and 226.68, the dollar amount shall be adjusted by dividing by 100 and multiplying by the Settlement Price for Oil for the preceding month.

(b) Fines and penalties under this part that are not received within 10 days after notice of the fine or penalty shall be subject to late charges at the rate of not less than 1½ percent per month for each month or fraction thereof until paid, or such other rate as may be set by the Superintendent after consultation with the Osage Minerals Council. The Osage Minerals Council, subject to the approval of the Superintendent, may waive the late charge.

Subpart G—Appeals and Notices

§ 226.71 Who can file an appeal?

Any person, firm or corporation aggrieved by any decision or order issued by or under the authority of the Superintendent, by virtue of the regulations in this part, may appeal pursuant to 25 CFR part 2.

§ 226.72 Are the notices by the Superintendent binding?

Notices and orders issued by the Superintendent to the representative shall be binding on the lessee. The Superintendent may in his/her discretion increase the time allowed in his/her orders and notices.

§ 226.73 Information collection.

The collections of information in this part have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned OMB Control Number 1076–0XXX. Response is required to obtain a benefit. A Federal agency may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB Control Number.

Dated: August 16, 2013.

Kevin K. Washburn,

Assistant Secretary—Indian Affairs.

[FR Doc. 2013–20764 Filed 8–27–13; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Docket No. TTB–2013–0004; Notice No. 135A; Re: Notice No. 135]

RIN 1513–AB96

Proposed Establishment of the Eagle Peak Mendocino County Viticultural Area and Realignments of the Mendocino and Redwood Valley Viticultural Areas; Comment Period Reopening

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Notice of proposed rulemaking; reopening of comment period.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau is reopening the comment period for Notice No. 135, Proposed Establishment of the Eagle Peak Mendocino County Viticultural Area and Realignments of the Mendocino and Redwood Valley Viticultural Areas, a notice of proposed rulemaking published in the **Federal Register** on June 27, 2013. TTB is taking this action in response to a request from an interested party.

DATES: For Notice No. 135, the proposed rule published on June 27, 2013 (78 FR 38618), written comments are now due on or before October 28, 2013.

ADDRESSES: You may send comments on Notice No. 135 to one of the following addresses:

- *http://www.regulations.gov* (via the online comment form for Notice No. 135 as posted within Docket No. TTB–2013–0004 at ''Regulations.gov,'' the Federal e-rulemaking portal);
- *U.S. Mail:* Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005; or
- *Hand delivery/courier in lieu of mail:* Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Suite 200E, Washington, DC 20005.

See the Public Participation section of this notice for specific instructions and requirements for submitting comments, and for information on how to request a public hearing.

You may view copies of the petition, Notice No. 135, selected supporting materials, and all public comments associated with this proposal within Docket No. TTB–2013–0004 at *http://www.regulations.gov.* You also may view copies of the petition, Notice No. 135, the supporting materials, and all public comments associated with this proposal by appointment at the TTB Information Resource Center, 1310 G Street NW., Washington, DC 20005. Please call 202–453–2270 to make an appointment.

FOR FURTHER INFORMATION CONTACT: Karen A. Thornton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005; telephone 202–453–1039, ext. 175.

SUPPLEMENTARY INFORMATION: In Notice No. 135, a notice of proposed rulemaking published in the **Federal Register** on June 27, 2013 (78 FR 38618), the Alcohol and Tobacco Tax and Trade Bureau (TTB) requested public comment on the proposed establishment of the approximately 26,260-acre ''Eagle Peak Mendocino County'' American viticultural area in northern California. The same document also proposed minor realignments of the existing ''Mendocino'' (27 CFR 9.93) and ''Redwood Valley'' (27 CFR 9.153) viticultural areas in order to eliminate any potential overlaps with the proposed Eagle Peak Mendocino County viticultural area. The 60-day comment period for Notice No. 135, originally closed on August 26, 2013.

On August 20, 2013, TTB received a letter from a Washington, DC attorney requesting a 60-day extension of the comment period for Notice No. 135 in order to review the proposal ''to ensure that it does not adversely affect any interests related to the requested viticultural area.'' (This request is posted as Comment 7 within Docket No. TTB–2013–0004 at *www.regulations.gov*).

In response to this request, TTB reopens the comment period for Notice No. 135 for an additional 60 days. Therefore, comments on Notice No. 135 are now due on or before October 28, 2013.

Drafting Information

Michael D. Hoover of the Regulations and Rulings Division drafted this notice.

Dated: August 22, 2013.

John J. Manfreda,

Administrator.

[FR Doc. 2013–20950 Filed 8–27–13; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2013–0639]

RIN 1625–AA09

Drawbridge Operation Regulation; Hackensack River, Kearny and Jersey City, NJ

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to temporarily modify the operating schedule that governs the Route 1 & 9 (Lincoln Highway) Bridge across the Hackensack River, mile 2.0, between Kearny and Jersey City, New Jersey. The bridge owner, New Jersey Department of Transportation, submitted a request to restrict bridge openings during the morning and afternoon rush hour periods to alleviate traffic congestion resulting from area roadway closures. It is expected that this change to the regulations would provide relief to vehicular traffic while continuing to meet the reasonable needs of navigation.

DATES: Comments and related material must be received by the Coast Guard on or before October 28, 2013.

ADDRESSES: You may submit comments identified by docket number USCG–2013–0639 using any one of the following methods:

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

(2) *Fax:* 202–493–2251.

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

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

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or email Mr. Joe Arca, Project Officer, First Coast Guard District Bridge Program, telephone 212–668–7165, email *joe.m.arca@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Tables of Acronyms

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

A. Public Participation and Request for Comments

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

1. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2013–0639), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (*http://*

www.regulations.gov), or by fax, mail or hand delivery, but please use only one of these means. If you submit a comment online via *http://www.regulations.gov,* it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* type the docket number USCG–2013–0639 in the ''SEARCH'' box and click ''SEARCH.'' Click on ''Submit a Comment'' on the line associated with this rulemaking. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½; by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

2. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number (USCG–2013–0639) in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit either the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

3. Privacy Act

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

4. Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one using one of the four methods specified under **ADDRESSES**. Please explain why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

B. Basis and Purpose

The Route 1 & 9 (Lincoln Highway) Bridge at mile 2.0, across the Hackensack River between Kearny and Jersey City, New Jersey, has a vertical clearance of 40 feet at mean high water and 45 feet at mean low water. The drawbridge operation regulations are listed at 33 CFR 117.723.

The waterway users are recreational and commercial vessels.

The owner of the bridge, New Jersey Department of Transportation, submitted a request to the Coast Guard to temporarily change the drawbridge operating regulations.

The purpose of this temporary rule is to help provide relief from vehicular traffic congestion during the morning and afternoon vehicular rush hour periods due to local construction detours. Vehicular traffic will be detoured for two years from the adjacent Pulaski Skyway Bridge which will be under construction to replace its deck commencing on March 1, 2014 and continuing through March 1, 2016.

The existing regulations require the bridge to open on signal at all times.

Under this proposed temporary rule the Route 1 & 9 (Lincoln Highway) Bridge would open on signal; except that, the draw need not open for the passage of vessel traffic between 6 a.m. and 10 a.m. and 2 p.m. and 6 p.m., Monday through Friday, except holidays

Tide dependent deep draft vessels may request bridge openings during the rush hour closure periods provided at least a twelve hour advance notice is given by calling the number posted at the bridge.

C. Discussion of Proposed Rule

The Coast Guard proposes to change the drawbridge operation regulations at 33 CFR 117.723 by adding paragraph (i) to allow the bridge owner to keep the Route 1 & 9 (Lincoln Highway) Bridge in the closed position during the morning and afternoon rush hour periods between 6 a.m. and 10 a.m. and 2 p.m. and 6 p.m., Monday through Friday, except holidays, to facilitate additional vehicular traffic detoured from the Pulaski Skyway Bridge which will be under construction from March 1, 2014 through March 1, 2016.

Tide dependent, deep draft vessels would be able to request bridge openings during the rush hour closure periods provided at least a twelve hour advance notice is given by calling the number posted at the bridge.

Based on the above information, the Coast Guard believes it is reasonable to allow the Route 1 & 9 (Lincoln Highway) Bridge to remain in the closed position during the morning and afternoon rush hours to facilitate additional vehicular traffic detoured during the two year bridge deck replacement project at the Pulaski Skyway Bridge from March 1, 2014 through March 1, 2016.

The twelve hour advance notice requirement for bridge openings during the rush hour periods gives mariners ample time to plan and optimize their transits through the waterway and also gives the bridge owner the opportunity to alert commuters of any expected delays caused by pending bridge openings.

If the Route 1 & 9 Bridge opened frequently for vessel traffic during the morning and afternoon rush hours, given the additional detoured vehicular traffic, it likely would result in significant vehicular traffic delays that could impact the ability for emergency vehicles to respond to emergency situations.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Order 12866, or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. We believe that this rule is not a significant regulatory action because the bridge provides adequate clearance for recreational vessels to transit the bridge in the closed position and the commercial vessels will be able to request openings between 6 p.m. and 6 a.m. and again, from 10 a.m. until 2 p.m. provided the requisite advance notice is given by calling the number

posted at the bridge. Additionally, commercial deep draft vessel traffic may request bridge openings during the closure periods if at least a twelve hour advance notice is given.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

This proposed rule would affect the following entities, some of which might be small entities: The owners or operators of vessels needing to transit through the bridge between 6 a.m. and 10 a.m. or between 2 p.m. and 6 p.m.

This action will not have a significant economic impact on a substantial number of small entities for the following reasons: The bridge provides 40 feet of vertical clearance at mean high water that should accommodate all the present vessel traffic except deep draft vessels. The bridge will continue to open on signal for commercial deep draft vessel traffic provided at least a twelve hour advance notice is given. Additionally, all other vessels can transit the bridge between 6 p.m. and 6 a.m. and again, from 10 a.m. until 2 p.m. provided the requisite amount of notice is given.

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

3. Assistance for Small Entities

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

The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

4. Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01, and Commandant Instruction M16475.lD which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This proposed rule simply promulgates the operating regulations or procedures for drawbridges. This rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction.

Under figure 2–1, paragraph (32)(e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule. We seek any comments or information that may lead to the discovery of significant environmental impact from the proposed rule.

List of Subjects in 33 CFR Part 117

Bridges.

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

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

■ 2. From March 1, 2014 until March 1, 2016, add paragraph (i) to § 117.723 to read as follows:

§ 117.723 Hackensack River.

* * * * *

(i) The draw of the Route 1 & 9 (Lincoln Highway) Bridge, mile 2.0, between Kearny and Jersey City, shall open on signal; except that, the draw need not open for the passage of vessel traffic between 6 a.m. and 10 a.m. and between 2 p.m. and 6 p.m., Monday through Friday, except holidays. Tide dependent deep draft vessels may request bridge openings between 6 a.m. and 10 a.m. and between 2 p.m. and 6 p.m. provided at least a twelve hour advance notice is given by calling the number posted at the bridge.

Dated: August 7, 2013.

D.B. Abel,

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

[FR Doc. 2013–20685 Filed 8–27–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2013–0638]

RIN 1625–AA09

Drawbridge Operation Regulation; Passaic River, Kearny and Newark, NJ

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to temporarily modify the operating schedule that governs the Route 1 & 9 (Lincoln Highway) Bridge across the Passaic River, mile 1.8, between Kearney and Newark, New Jersey. The bridge owner, New Jersey Department of Transportation, submitted a request to restrict bridge openings during the morning and afternoon rush hour periods to alleviate traffic congestion resulting from area roadway closures. It is expected that this change to the regulations would provide relief to vehicular traffic while continuing to meet the reasonable needs of navigation.

DATES: Comments and related material must be received by the Coast Guard on or before October 28, 2013.

ADDRESSES: You may submit comments identified by docket number USCG–2013–0638 using any one of the following methods:

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

(2) *Fax:* 202–493–2251.

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

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

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or email Mr. Joe Arca, Project Officer, First Coast Guard District Bridge Program, telephone 212–668–7165, email *joe.m.arca@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Tables of Acronyms

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FR Federal Register
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§ Section Symbol
U.S.C. United States Code

A. Public Participation and Request for Comments

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

1. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2013–0638), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (*http://www.regulations.gov*), or by fax, mail or hand delivery, but please use only one of these means. If you submit a comment online via *http://www.regulations.gov*, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov*, type the docket number USCG–2013–0638 in the ''SEARCH'' box and click ''SEARCH.'' Click on ''Submit a Comment'' on the line associated with this rulemaking. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

2. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov*, type the docket number (USCG–2013–0638) in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit either the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC, 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

3. Privacy Act

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

4. Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one using one of the four methods specified under **ADDRESSES**. Please explain why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

B. Basis and Purpose

The Route 1 & 9 (Lincoln Highway) Bridge at mile 1.8, across the Passaic River between Kearney and Newark, New Jersey, has a vertical clearance of 40 feet at mean high water and 45 feet at mean low water. The drawbridge operation regulations are listed at 33 CFR 117.739(b).

The waterway users are recreational and commercial vessels.

The owner of the bridge, New Jersey Department of Transportation, submitted a request to the Coast Guard to temporarily change the drawbridge operating regulations.

The purpose of this temporary rule is to help provide relief by reducing vehicular traffic congestion during the morning and afternoon vehicular rush hour periods due to local construction detours. Vehicular traffic will be detoured from the adjacent Pulaski Skyway Bridge to the Route 1 & 9 Bridge (Lincoln Highway) Bridge for two years commencing on March 1, 2014 and continuing through March 1, 2016, while the Pulaski Skyway Bridge is under construction to replace its deck.

The existing regulations require the Route 1 & 9 (Lincoln Highway) Bridge to open on signal at all times provided a four hour advance notice is given.

Under this proposed temporary rule, the draw would open on signal provided a four hour advance notice is given; except that, the draw need not open for the passage of vessel traffic between 6 a.m. and 10 a.m. and 2 p.m. and 6 p.m., Monday through Friday, except holidays. Tide dependent deep draft vessels may request bride openings during the two rush hour closure periods provided at least a twelve hour advance notice is given by calling the number posted at the bridge.

C. Discussion of Proposed Rule

The Coast Guard proposes to suspend the drawbridge operation regulations at 33 CFR 117.739(b) until March 1, 2016. The Coast Guard proposes to temporarily add paragraph (p) to section 117.739 to allow the bridge owner to keep the Route 1 & 9 (Lincoln Highway) Bridge in the closed position during the morning and afternoon rush hour periods between 6 a.m. and 10 a.m. and 2 p.m. and 6 p.m., Monday through Friday, except holidays, to facilitate additional vehicular traffic detoured from the Pulaski Skyway Bridge which will be under construction from March 1, 2014 through March 1, 2016.

Tide dependent deep draft vessels would be able to request bridges openings during the rush hour closed periods provided at least a twelve hour advance notice is given by calling the number posted at the bridge.

Based on the above information, the Coast Guard believes it is reasonable to allow the Route 1 & 9 (Lincoln Highway) Bridge to remain in the closed position during the morning and afternoon rush hours to facilitate additional vehicular traffic detoured during the two year bridge deck replacement project at the Pulaski Skyway Bridge from March 1, 2014 through March 1, 2016.

The twelve hour advance notice requirement for bridge openings during the rush hour periods gives mariners ample time to plan and optimize their transits through the waterway and also gives the bridge owner the opportunity to alert commuters of any expected delays caused by pending bridge openings.

If the Route 1 & 9 Bridge opened frequently for vessel traffic during the morning and afternoon rush hours, given the additional detoured vehicular traffic, it likely would result in significant vehicular traffic delays that could impact the ability for emergency vehicles to respond to emergency situations.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Order 12866, or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. We believe that this rule is not a significant regulatory action because the bridge provides adequate clearance for recreational vessels to transit the bridge in the closed position and the commercial vessels will be able to request openings between 6 p.m. and 6 a.m. and again, from 10 a.m. until 2 p.m. provided the requisite advance notice is given by calling the number posted at the bridge. Additionally, commercial deep draft vessel traffic may request bridge openings during the closure periods if at least a twelve hour advance notice is given.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

This proposed rule would affect the following entities, some of which might be small entities: the owners or operators of vessels needing to transit through the bridge between 6 a.m. and 10 a.m. or between 2 p.m. and 6 p.m.

This action will not have a significant economic impact on a substantial number of small entities for the following reasons: The high vertical clearance of 40 feet at mean high water should accommodate all present vessel traffic except deep draft. The bridge will continue to open on signal for commercial deep draft vessel traffic provided at least a twelve hour advance notice is given. Additionally, all other vessels can transit the bridge between 6 p.m. and 6 a.m. and again, from 10 a.m. until 2 p.m. provided the requisite amount of notice is given.

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

3. Assistance for Small Entities

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

compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above.

The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

4. Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01, and Commandant Instruction M16475.lD which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This proposed rule simply promulgates the operating regulations or procedures for drawbridges. This rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction.

Under figure 2–1, paragraph (32)(e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule. We seek any comments or information that may lead to the discovery of significant environmental impact from the proposed rule.

List of Subjects in 33 CFR Part 117

Bridges.

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

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

■ 2. From March 1, 2014 until March 1, 2016, suspend § 117.739(b) and add a new temporary paragraph (p) to read as follows:

§ 117.739 Passaic River.

* * * * *

(p) The draw of the Route 1 & 9 (Lincoln Highway) Bridge, mile 1.8, between Kearny and Newark, shall open on signal if at least a four hour advance notice is given, except that, the draw need not open for the passage of vessel traffic between 6 a.m. and 10 a.m. and between 2 p.m. and 6 p.m., Monday through Friday, except holidays. Tide dependent deep draft vessels may request bridge openings between 6 a.m. and 10 a.m. and between 2 p.m. and 6 p.m. provided at least a twelve hour advance notice is given by calling the number posted at the bridge.

* * * * *

Dated: August 7, 2013.

D.B. Abel,

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

[FR Doc. 2013–20684 Filed 8–27–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2013–0580]

RIN 1625–AA87

Security Zones; Naval Base Point Loma; Naval Mine Anti-Submarine Warfare Command; San Diego Bay, San Diego, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes extending a portion of an existing San Diego Bay security zone at Naval Base Point Loma to support the construction of a new Naval fuel pier. In addition to the extension of the Naval Base Point Loma security zone, a new security zone will be established at the Naval Mine

and Anti-Submarine Warfare Command to protect the relocated marine mammal program. These security zone modifications are intended to restrict vessels from a portion of the San Diego Bay in order to ensure the safety and security of Naval assets. Both Security Zones will safeguard Naval assets, such as vessels, property and waterfront facilities from destruction, loss of injury from sabotage or other subversive acts. No persons or vessel may enter or remain in the security zones without permission of the Captain of the Port, The Commander of Naval Base Point Loma, the Commander of the Naval Mine Anti Submarine Warfare Command, the Commander of Naval Region Southwest, or a designated representative of those individuals.

DATES: Comments and related material must be received by the Coast Guard on or before October 28, 2013.

Requests for public meetings must be received by the Coast Guard on or before September 27, 2013.

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

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

(2) *Fax:* 202–493–2251.

(3) *Mail or Delivery:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202–366–9329. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for further instructions on submitting comments.

To avoid duplication, please use only one of these three methods.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant John Bannon, U.S. Coast Guard Sector San Diego; telephone (619) 278–7261 or by email at *John.E.Bannon@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

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

A. Public Participation and Request for Comments

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

1. Submitting Comments

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

To submit your comment online, go to *http://www.regulations.gov,* type the docket number [USCG–2013–0580] in the ''SEARCH'' box and click ''SEARCH.'' Click on ''Submit a Comment'' on the line associated with this rulemaking.

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

2. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number (USCG–2013–0580) in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

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

4. Public Meeting

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

B. Regulatory History and Information

On October 1, 2009, the U.S. Coast Guard published a final rule entitled ''Security Zone; Naval Base Point Loma; San Diego Bay, San Diego, CA'' in the **Federal Register.** At the request of the U.S. Navy, the revised security zone combined two existing security zones. The new security zone also extended the existing security zone along the naval base and provided an additional 500 feet of protection for installation of water barriers to provide a line of demarcation and defensive measures as a safety guard from destruction, loss or injury from sabotage or other subversive acts, accidents, or other causes of similar nature.

For more information on existing regulatory actions for the preexisting security zone, see docket USCG–2008–1016 on *www.regulations.gov* or 74 FR 50708 in the October 1, 2009 edition of the **Federal Register.**

The existing security zone in 33 CFR 165.1102, which resides within an existing U.S. Army Corp of Engineers Restricted Area (see 33 CFR 334.870), is now in need of another expansion to provide the same level of protection for a new fuel pier being built to replace the existing pier. The new pier will be built further out towards the main channel and allow for deeper draft vessels. The expansion of the fuel pier and increased size of the security zone of 500 feet around the front face of the fuel pier still allows for safe transit between the required additional security and the federal channel, during the new pier development and after completion, for commercial and recreational vessels.

Because of construction activities, the marine mammal pens will temporarily be moved from their present location at Naval Base Point Loma to the Naval Mine and Anti-Submarine Warfare Command, and an impermanent security zone of 100 feet from shore will be established for their safety and security.

C. Basis and Purpose

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

The U.S. Navy is requesting an extension of the existing security zone for the Naval Base Point Loma Fuel Pier construction and the establishment of a security zone at the Naval Mine and Anti-Submarine Warfare Command to temporarily house the Navy's marine mammal program during the construction phase of the new fuel pier.

The extended security zone at Naval Base Point Loma will add an additional 500 feet east to provide standoff from the new replacement fuel pier which will exist closer to the federal channel in deeper water. The marine mammal pen security zone will also be established at the Naval Mine and Anti-Submarine Warfare Command to provide a 100 foot standoff for marine mammal pens. The marine mammal pens need to be moved due to the construction near their current pens.

Both Security Zones will safeguard Naval assets, such as vessels and waterfront facilities from destruction, loss of injury from sabotage, or other subversive acts, accidents or other causes of a similar nature and still allow for safe navigation around the security zones. No persons or vessel may enter or remain in the security zones without permission of the Captain of the Port, The Commander of Naval Base Point Loma, the Commander of the Naval Mine Anti Submarine Warfare Command, the Commander of Naval Region Southwest, or a designated representative of those individuals.

D. Discussion of Proposed Rule

As stated above, to safeguard portions of the San Diego Bay in direct support of the U.S. Navy, the Coast Guard proposes the expansion of a portion of the existing San Diego Bay naval security zone at Naval Base Point Loma surrounding the existing and planned rebuilt fuel pier and the creation of a security zone indefinitely at Naval Mine and Anti-Submarine Warfare Command for the U.S. Navy to house relocated marine mammal pens. The proposed security zone at the Naval Base Point Loma Fuel Pier would entirely overlap the existing security zone at 33 CFR 165.1102, which would be amended to reflect the additional coordinates from the additional 500 feet of standoff distance adjacent to the fuel pier. The limits of the expanded Naval Base Point Loma Fuel Pier security zone will be bound by the following coordinates:

32°42′28.8″ N, 117°14′13.2″ W
32°42′ 28.8″N, 117°14′12.6″ W
32°42′ 10.2″ N, 117°14′3″ W
32°42′6.2″ N, 117°14′1.5″ W
32°41′49.5″ N, 117°14′7″ W
32°41′47.4″ N, 117°14′11.4″ W
32°41′43.8″ N, 117°14′12.6″ W
32°41′31.8″ N, 117°14′13.8″ W
32°41′33″ N, 117°14′1.2″ W
32°41′10.2″ N, 117°13′57″ W
32°41′10.2″ N, 117°13′58.2″ W

The proposed security zone at the Naval Mine and Anti-Submarine Warfare Command would provide for 100 feet of standoff distance. The limits of the new Naval Mine and Anti-Submarine Warfare Command security zone will be bound by the following coordinates:

32°43′40.9″ N, 117°12′54.9″ W
32°43′40.6″ N, 117°12′52.3″ W
32°43′22.5″ N, 117°12′ 57.8″ W
32°43′23.4″ N, 117°13′ 1.3″ W

Both Security Zones will safeguard Naval assets, such as vessels and waterfront facilities from destruction, loss of injury from sabotage, or other subversive acts, accidents or other causes of a similar nature and still allow for safe navigation around the security zones. No persons or vessel may enter or remain in the security zones without permission of either the Captain of the Port, the Commander of Naval Base Point Loma, the Commander of the Naval Mine Anti Submarine Warfare Command, the Commander of Naval Region Southwest, or a designated representative of those individuals.

E. Regulatory Analyses

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

1. Regulatory Planning and Review

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

This determination is based on the size and location of the security zones. Vessels that may operate for recreational or commercial purposes within the area encompassed by the security zone expansion and establishment, will not be impacted by the proposed regulation. Sufficient navigable water exists adjacent to the security zones and the Federal channel.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities.

(1) This proposed rule would affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in a portion of the San Diego Bay.

(2) This proposed rule would not have a significant economic impact on a substantial number of small entities because vessel traffic can pass safely around the security zones.

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

3. Assistance for Small Entities

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

question or complain about this proposed rule or any policy or action of the Coast Guard.

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children From Environmental Health Risks

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment.

This proposed rule involves modifying an already existing security zone to provide for greater vessel protection for a new fuel pier and the adding of a new security zone indefinitely for the protection of relocated U.S. Navy marine mammal pens. This rule only relates to the establishment and modification of limited access areas, and not to the environmental impacts with the development of a new pier.

This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. A preliminary environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Revise § 165.1102 to read as follows:

§ 165.1102 Security Zone; Naval Base Point Loma; San Diego Bay, San Diego, CA.

(a) *Location.* The following area is a security zone: The water adjacent to the Naval Base Point Loma, San Diego, CA, enclosed by the following coordinates:

32°42′28.8″ N, 117°14′13.2″ W, (Point A)
32°42′28.8″ N, 117°14′12.6″ W, (Point B)
32°42′10.2″ N, 117°14′3″ W, (Point C)
32°42′6.2″ N, 117°14′1.5″ W, (Point D)
32°41′49.5″ N, 117°14′7″ W, (Point E)
32°41′47.4″ N, 117°14′11.4″ W, (Point F)
32°41′43.8″ N, 117°14′12.6″ W, (Point G)
32°41′31.8″ N, 117°14′13.8″ W, (Point H)
32°41′33″ N, 117°14′1.2″ W, (Point I)
32°41′10.2″ N, 117°13′57″ W, (Point J)
32°41′10.2″ N, 117°13′58.2″ W, (Point K)

Thence running generally north along the shoreline to Point A.

(b) *Regulations.* (1) The general regulations governing security zones found in 33 CFR 165.33 apply to the security zone described in paragraph (a) of this section.

(2) Entry into, or remaining in, the areas of either zone is prohibited unless authorized by the Captain of the Port San Diego; Commanding Officer, Naval Base Point Loma; or Commander, Naval Region Southwest.

(3) Persons desiring to transit the area of the security zone may request permission from the Captain of the Port San Diego at telephone number (619) 278–7033 or on VHF channel 16 (156.8 MHz) or from either the Commanding Officer, Naval Base Point Loma or the

Commanding Officer Navy Region Southwest by calling the Navy Port Operation Dispatch at telephone number (619) 556–1433 or on VHF–FM channels 16 or 12. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port San Diego or his or her designated representative.

(c) *Definitions.* For purposes of this section: Captain of the Port San Diego, means the Commanding Officer of the Coast Guard Sector San Diego; Commander, Navy Region Southwest, means the Navy Region Commander responsible for the Southwest Region; Commanding Officer, Naval Base Point Loma, means the Installation Commander of the naval base located on Point Loma, San Diego, California; Designated Representative, means any U.S. Coast Guard commissioned, warrant, or petty officer who has been designated by the Captain of the Port San Diego to assist in the enforcement of the security zone described in paragraph (a) of this section.

(d) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the security zone described in paragraph (a) of this section by the U.S. Navy and local law enforcement agencies.

■ 3. Add § 165.1103 to read as follows:

§ 165.1103 Security Zone; Naval Mine Anti Submarine Warfare Command; San Diego Bay, San Diego, CA.

(a) *Location.* (1) The following area is a security zone: The water adjacent to the Naval Mine Anti Submarine Warfare Command, bound by the following coordinates:

32°43′40.9″ N, 117°12′54.9″ W (A)
32°43′40.6″ N, 117°12′52.3″ W (B)
32°43′22.5″ N, 117°12′57.8″ W (C)
32°43′23.4″ N, 117°13′1.3″ W (D)

Thence running generally northwest along the shoreline to Point A.

(2) The proposed security zone at the Naval Mine Anti Submarine Warfare Command would be established to provide for the 100 feet of standoff distance.

(b) *Regulations.* (1) The general regulations governing security zones found in 33 CFR 165.33 apply to the security zone described in paragraph (a) of this section.

(2) Entry into, or remaining in, the areas of either zone is prohibited unless authorized by the Captain of the Port San Diego; Commanding Officer, Naval Mine Anti Submarine Warfare Command; or Commander, Naval Region Southwest.

(3) Persons desiring to transit the area of the security zone may request permission from the Captain of the Port San Diego at telephone number (619) 278–7033 or on VHF channel 16 (156.8 MHz) or from either the Commanding Officer, Naval Mine Anti Submarine Warfare Command or the Commander, Navy Region Southwest by calling the Navy Port Operation Dispatch at telephone number (619) 556–1433 or on VHF–FM channels 16 or 12. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port San Diego or his or her designated representative.

(c) *Definitions.* For purposes of this section: Captain of the Port San Diego, means the Commanding Officer of the Coast Guard Sector San Diego; Commander, Navy Region Southwest, means Navy Region Commander responsible for the Southwest Region; Commanding Officer, Naval Mine Anti Submarine Warfare Command, means the Installation Commander of the naval base located on Point Loma, San Diego, California; Designated Representative, means any U.S. Coast Guard commissioned, warrant, or petty officer who has been designated by the Captain of the Port San Diego to assist in the enforcement of the security zone described in paragraph (a) of this section.

(d) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the security zone described in paragraph (a) of this section by the U.S. Navy and local law enforcement agencies.

Dated: July 30, 2013.

J.A. Janszen,

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

[FR Doc. 2013–20781 Filed 8–27–13; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2013–0534; FRL–9900–35–Region 9]

Approval and Promulgation of Implementation Plans; California; San Joaquin Valley; Contingency Measures for the 1997 $PM_{2.5}$ Standards

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a state implementation plan (SIP) revision submitted by the State of California to address Clean Air Act nonattainment area contingency measure requirements for the 1997 annual and 24-hour fine particulate matter ($PM_{2.5}$) national ambient air quality standards in the San Joaquin Valley. Final approval of this SIP revision would terminate the sanctions clocks and a federal implementation plan clock that were triggered by EPA's partial disapproval of a related SIP submission on November 9, 2011 (76 FR 69896).

DATES: Any comments must arrive by September 27, 2013.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2013–0534, by one of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the online instructions.
- *Email: wicher.frances@epa.gov.*
- *Mail or deliver:* Frances Wicher, Office of Air Planning (AIR–2), U.S. Environmental Protection Agency Region 9, 75 Hawthorne Street, San Francisco, CA 94105.

Instructions: All comments will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send email directly to EPA, your email address will be automatically captured and included as part of the public comment. If EPA cannot read your comments due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Docket: The index to the docket (docket number EPA–R09–OAR–2013–0534) for this action is available electronically on the *www.regulations.gov* Web site and in hard copy at EPA Region 9, 75 Hawthorne Street, San Francisco, California, 94105. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available at either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business

hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section below.

FOR FURTHER INFORMATION CONTACT: Frances Wicher, Air Planning Office (AIR–2), U.S. Environmental Protection Agency, Region 9, (415) 972–3957, *wicher.frances@epa.gov.*

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

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I. Background

On July 18, 1997, EPA established new national ambient air quality standards (NAAQS) for $PM_{2.5}$ (particulate matter with a diameter of 2.5 microns or less) including annual standards of 15.0 micrograms per cubic meter (μg/m³) based on a 3-year average of annual mean $PM_{2.5}$ concentrations and 24-hour (daily) standards of 65 μg/m³ based on a 3-year average of the 98th percentile of 24-hour concentrations. *See* 62 FR 36852 and 40 CFR 50.7. Effective April 5, 2005, EPA designated the San Joaquin Valley (SJV) in California as nonattainment for the 1997 annual and 24-hour $PM_{2.5}$ standards. *See* 70 FR 944 (January 5, 2005) and 40 CFR 81.305.[1] The SJV $PM_{2.5}$ nonattainment area is located in the southern half of California's central valley and includes all or part of eight counties: San Joaquin, Stanislaus, Merced, Madera, Fresno, Tulare, Kings, and the valley portion of Kern. The local air district with primary responsibility for developing the state implementation plan (SIP) to attain the $PM_{2.5}$ NAAQS in this area is the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD or ''District'').

California has made numerous SIP submittals to address the SJV's nonattainment designation for the 1997 $PM_{2.5}$ NAAQS. The two principal ones are the SJVUAPCD's ''2008 $PM_{2.5}$ Plan,'' submitted on June 30, 2008, and the California Air Resources Board's (CARB's) ''State Strategy for California's 2007 State Implementation Plan'' (''2007 State Strategy''), submitted on November 16, 2007 and revised in 2009 and 2011 through CARB's ''2009 State Strategy Status Report'' [2] and ''2011 Progress Report.'' [3]

On November 9, 2011, EPA partially approved and partially disapproved the District's 2008 $PM_{2.5}$ Plan and the revised 2007 State Strategy (collectively the ''SJV $PM_{2.5}$ SIP'') (76 FR 69896). EPA's partial disapproval of the SJV $PM_{2.5}$ SIP was based on our determination that its contingency measure provisions failed to meet the requirements of Clean Air Act (CAA) section 172(c)(9) and 40 CFR 51.1012, which require that the SIP for each $PM_{2.5}$ nonattainment area contain contingency measures to be implemented if the area fails to make reasonable further progress (RFP) or to attain the NAAQS by the applicable attainment date. *See* 76 FR 41338, 41357 to 41359 (July 13, 2011) and 76 FR 69896, 69918 to 69919 and 69924.

As we explained in our proposed action on the SJV $PM_{2.5}$ SIP, contingency measures must be fully adopted rules or control measures that are ready to be implemented quickly without significant additional action by the state. *See* 76 FR 41338, 41357; *see also* ''Final Technical Support Document and Responses to Comments, Final Rulemaking Action on the San Joaquin Valley $PM_{2.5}$ State Implementation Plan,'' Air Division, U.S. EPA Region 9, September 30, 2011 (''Final TSD for SJV $PM_{2.5}$ SIP'') at pp. 126 to 134. We further explained that these measures must not be relied on in the plan to demonstrate RFP or attainment and should provide SIP-creditable emission reductions equivalent to approximately one year of RFP. *Id.* Finally, we stated that the SIP should contain trigger mechanisms for the contingency measures and specify a schedule for their implementation. *Id.*

The contingency measure provisions in the SJV $PM_{2.5}$ SIP consisted of several different types of measures, including surplus emission reductions in the RFP demonstration; commitments by the District to take specific actions; a contingency provision in the District's Rule 4901, ''Wood Burning Fireplaces and Wood Burning Heaters Residential Woodburning;'' post-attainment year (2015) reductions from CARB mobile source measures; reductions resulting from the District's expenditure of incentive program funds; and other reductions from implemented District rules that were not otherwise relied on in the attainment and RFP demonstrations. *See* 76 FR 41338, 41357 to 41359; *see also* Final TSD for SJV $PM_{2.5}$ SIP at pp. 126 to 136. EPA found that, although several of these measures individually qualified for approval as contingency measures, collectively the measures identified in the SJV $PM_{2.5}$ SIP did not provide sufficient SIP-creditable emission reductions for contingency measure purposes . *See id.* and 76 FR 69896, 69918 to 69919.

Specifically, for RFP contingency measures for the 2012 milestone year, the SJV $PM_{2.5}$ SIP relied on surplus reductions of direct $PM_{2.5}$ and the two regulated precursors [4] in the RFP demonstration, which provided some of the needed emission reductions but did not provide enough to achieve roughly one-year's worth of RFP (76 FR 41338, 41359 (Table 10)).[5] For attainment contingency measures in 2015, the SJV $PM_{2.5}$ SIP relied on the State's continued implementation of mobile source measures, a contingency provision in the District's Rule 4901, and surplus reductions from other District rules that would reduce emissions substantially in 2015. Overall, the attainment contingency measures in the SJV $PM_{2.5}$ SIP provided all of the needed SO_x reductions but only about two-thirds of the needed NO_X and direct $PM_{2.5}$ reductions for 2015. Accordingly, we disapproved the contingency measure provisions in the SJV $PM_{2.5}$ SIP for

[1] EPA has also designated the San Joaquin Valley as nonattainment for the more stringent 24-hour $PM_{2.5}$ NAAQS of 35 μg/m³, which EPA promulgated on October 17, 2006 and codified at 40 CFR 50.13 (74 FR 58688, November 13, 2009). In this preamble, all references to the $PM_{2.5}$ NAAQS, unless otherwise specified, are to the 1997 24-hour $PM_{2.5}$ standards of 65 μg/m³ and annual standards of 15 μg/m³ as codified in 40 CFR 50.7.

[2] CARB, ''Status Report on the State Strategy for California's 2007 State Implementation Plan (SIP) and Proposed Revision to the SIP Reflecting Implementation of the 2007 State Strategy,'' dated March 24, 2009, adopted April 24, 2009.

[3] CARB, ''Progress Report on Implementation of $PM_{2.5}$ State Implementation Plans (SIP) for the South Coast and San Joaquin Valley Air Basins and Proposed SIP Revisions,'' dated March 29, 2011 and adopted April 28, 2011.

[4] To demonstrate attainment of the 1997 $PM_{2.5}$ NAAQS, the SJV $PM_{2.5}$ SIP relied on reductions of direct $PM_{2.5}$ and two $PM_{2.5}$ precursor pollutants: nitrogen oxides (NO_X) and sulfur oxides (SO_x). It did not rely on reductions of the two other chemical precursors to $PM_{2.5}$: volatile organic compounds (VOC) and ammonia. *See* 76 FR 41338, 41353 and 76 FR 69896, 69924.

[5] The SJV $PM_{2.5}$ SIP also contained provisions addressing RFP contingency measures for the 2009 milestone year, but EPA concluded it was not necessary to evaluate these provisions given the District had demonstrated that the area met the applicable 2009 RFP milestone year targets for direct $PM_{2.5}$, NO_X, and SO_x (76 FR 41338, 41358 to 41359).

failure to satisfy the CAA's contingency measure requirements for the 2012 RFP milestone year and for the 2015 attainment date.[6] *See* 76 FR 41338, 41359 and 76 FR 69896, 69924.

II. Clean Air Act Requirements for Contingency Measures

CAA section 172(c)(9) requires that the SIP for each nonattainment area ''provide for the implementation of specific measures to be undertaken if the area fails to make reasonable further progress, or to attain the [NAAQS] by the attainment date applicable under [part D of title I]'' and requires that these measures ''take effect without further action by the State or EPA.'' The CAA does not specify how many contingency measures are required or the magnitude of emission reductions that must be provided by these measures. Consistent with the text of section 172(c)(9), however, these measures must be specific, adopted measures that are ready to be implemented quickly upon failure to meet RFP or failure of the area to meet the standard by its attainment date.[7]

EPA provided guidance on the section 172(c)(9) contingency measure requirement in an interpretative document entitled ''State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' 57 FR 13498 (April 16, 1992) (''General Preamble''). As EPA explained in the General Preamble, ''contingency measures should, at a minimum, ensure that an appropriate level of emission reduction progress continues to be made if attainment [or] RFP is not achieved and additional planning by the State is needed'' (57 FR 13498, 13511). These emission reductions would be in addition to those that were already scheduled to occur in accordance with the plan for the area. *See Id.* at n. 2 and 57 FR 13498, 13543 to 13544. Additionally, States must show that their contingency measures can be implemented with minimal further action on their part and without additional rulemaking actions such as public hearings or legislative review. In general, EPA expects actions needed to effect full implementation of the measures to occur within 60 days after EPA notifies the State of an area's failure to meet RFP or attain. *See* 57 FR 13498, 13512 and 13543 to 13544; *see also* 59 FR 41998, 42014 to 42015 (August 16, 1994) (''PM–10 Addendum'').

Consistent with these interpretations of the Clean Air Act, EPA explained in the preamble to its 2007 implementation rule for the 1997 $PM_{2.5}$ NAAQS that the SIP should contain trigger mechanisms for the contingency measures, specify a schedule for implementation, and indicate that the measures will be implemented without significant further action by the State or EPA. *See* 72 FR 20586, 20642 to 20645 (April 25, 2007) and 40 CFR 51.1012.[8]

Contingency measures can include Federal, state, and local measures already scheduled for implementation that provide emission reductions in excess of those needed to provide for RFP or expeditious attainment. The key is that the contingency measures provide for additional emission reductions that are not relied on for RFP or attainment and that are not included in the attainment demonstration. The purpose is ''to provide a cushion while the plan is being revised to meet the missed milestone'' (72 FR 20586, 20642 to 20643). Nothing in the statute precludes a state from implementing such measures before they are triggered. *See, e.g., LEAN* v. *EPA,* 382 F.3d 575 (5th Cir. 2004) (upholding contingency measures that were previously required and implemented where they were in excess of the attainment demonstration and RFP SIP).

EPA has approved numerous SIPs under this interpretation—*i.e.,* SIPs that use as contingency measures one or more Federal or local measures that are in place and provide reductions that are in excess of the reductions required by the attainment demonstration or RFP plan. *See, e.g.,* 62 FR 15844 (April 3, 1997) (direct final rule approving an Indiana ozone SIP revision); 62 FR 66279 (December 18, 1997) (final rule approving an Illinois ozone SIP revision); 66 FR 30811 (June 8, 2001) (direct final rule approving a Rhode Island ozone SIP revision); 66 FR 586 (January 3, 2001) (final rule approving District of Columbia, Maryland, and Virginia ozone SIP revisions); and 66 FR 634 (January 3, 2001) (final rule approving a Connecticut ozone SIP revision). A state may use the same measures for both RFP and attainment contingency if the measures will provide reductions in the relevant years. If these measures are first triggered for failure to make RFP, however, the state would need to submit replacement contingency measures for attainment purposes (57 FR 13498, 13511).

With respect to the level of emission reductions associated with contingency measures, EPA has recommended that states consider ''the potential nature and extent of any attainment shortfall for the area'' and the amount of actual emission reductions required by the SIP control strategy to attain the standards. *See* PM–10 Addendum at 42015; *see also* 72 FR 20586, 20643. The contingency measures are to be implemented in the event that the area does not meet RFP or attain the standards by the attainment date, and ''should represent a portion of the actual emission reductions necessary to bring about attainment in area'' (72 FR 20586, 20643). Accordingly, EPA has recommended that the emission reductions anticipated by the contingency measures should be equal to approximately one-year's worth of emission reductions needed to achieve RFP for the area. *See id.* and PM–10 Addendum at 42015.

III. Review of the Submitted San Joaquin Valley $PM_{2.5}$ Contingency Measure SIP

A. The Submitted San Joaquin Valley $PM_{2.5}$ Contingency Measure SIP

On July 3, 2013, CARB submitted the ''Quantifying Contingencies for the *2008 $PM_{2.5}$ Plan''* (dated June 20, 2013) (''Contingency Measure SIP'') as a revision to the California State Implementation Plan. The State and District adopted the Contingency Measure SIP to correct the SIP deficiencies identified in EPA's November 9, 2011 partial disapproval of the SJV $PM_{2.5}$ SIP by (1) confirming that

[6] EPA's partial disapproval of the SJV $PM_{2.5}$ SIP based on these deficiencies triggered mandatory sanctions clocks under CAA section 179(b) and an obligation on EPA to promulgate a Federal Implementation Plan (FIP) within two years (76 FR 69896, 69924). The first sanctions, the offset sanction under CAA section 179(b)(2), became effective in the SJV area 18 months after the effective date of EPA's final disapproval, *i.e.,* on July 9, 2013 (40 CFR 52.31(d)). In a separate action published in today's **Federal Register**, EPA is staying the offset sanction and deferring the application of highway funding sanctions, based on today's proposed rule to fully approve the Contingency Measure SIP. *See* ''Interim Final Determination to Stay and Defer Sanctions; San Joaquin Valley'' in the Rules section of today's **Federal Register.**

[7] We refer to those measures addressing failure to make RFP as ''RFP contingency measures'' and those measures addressing failure to attain as ''attainment contingency measures.''

[8] Although the U.S. Court of Appeals for the District of Columbia (DC Circuit) recently remanded this rule and directed EPA to re-promulgate it pursuant to subpart 4 of part D, title I of the CAA (*see Natural Resources Defense Council* v. *EPA,* 706 F.3d 428 (DC Cir., Jan. 4, 2013)), the court's ruling in this case does not affect EPA's action on the Contingency Measure SIP. Subpart 4 of part D, title I of the Act contains no specific provision governing contingency measures for PM_{10} or $PM_{2.5}$ nonattainment areas that supersedes the general contingency measure requirement for all nonattainment areas in CAA section 172(c)(9). Thus, even if EPA applies the subpart 4 requirements to our evaluation of the Contingency Measure SIP and disregards the provisions of the 2007 $PM_{2.5}$ implementation rule recently remanded by the court, the general requirement for contingency measures in CAA section 172(c)(9) continues to apply.

the SJV area had met its 2012 RFP milestones and (2) expanding upon the attainment contingency measures in the SJV $PM_{2.5}$ SIP to establish a contingency plan that achieves SIP-creditable emission reductions equivalent to approximately one year's worth of RFP in 2015. *See generally* Contingency Measure SIP. The July 3, 2013 submission includes a copy of the Contingency Measure SIP revision itself; a letter dated July 3, 2013 from Richard Corey, Executive Officer, CARB, to Jared Blumenfeld, Regional Administrator, EPA Region 9, submitting the adopted Contingency Measure SIP for EPA review; CARB Resolution 13–30 (June 27, 2013) adopting the Contingency Measure SIP; a letter dated June 21, 2013 from Samir Sheikh, Director of Strategies and Incentives, SJVUAPCD, to Richard Corey, Executive Officer, CARB, submitting the adopted Contingency Measure SIP for CARB review and approval; SJVUPACD Board Resolution No. 13–6–18 approving the Contingency Measure SIP; technical support documentation; and public process documentation.

On July 24, 2013, the District clarified its intent that EPA review, as support documentation for the Contingency Measure SIP, additional materials related to incentive programs that the District had submitted to EPA under separate cover. *See* email dated July 24, 2013, from Samir Sheikh, SJVUAPCD, to Kerry Drake, EPA Region 9, ''RE: Per our conversation earlier.'' These supplemental materials include: (1) SJVUAPCD Rule 9610, ''State Implementation Plan Credit for Emission Reductions Generated through Incentive Programs,'' adopted June 20, 2013; (2) SJVUAPCD, Rule 9610 Final Staff Report (including appendices), dated June 20, 2013; (3) SJVUAPCD, ''2013 Annual Demonstration Report,'' dated June 2013 (including associated electronic ''Data Sheet''); (4) CARB, ''Carl Moyer Program: Guideline Criteria for On-Road and Off-Road Projects,'' dated July 2013; (5) CARB, ''San Joaquin Valley Air Pollution Control District Proposed Rule 9610, Responses to U.S. EPA's Request to Address 'Integrity Elements' in the Proposition 1B: Goods Movement Emission Reduction Program Guidelines,'' draft, revised June 6, 2013; (6) CARB, ''Proposition 1B: Goods Movement Emission Reduction Program, Final Guidelines for Implementation,'' adopted February 28, 2008 (selected excerpts); (7) CARB, ''Proposition 1B: Goods Movement Emission Reduction Program, Final 2010 Guidelines for Implementation,'' adopted March 25, 2010 (selected excerpts); and (8) CARB, ''The Carl Moyer Program Guidelines,'' approved April 28, 2011 (selected excerpts). CARB submitted additional technical support for its $PM_{2.5}$ to NO_X conversion analysis on August 6, 2013. *See* Memorandum dated August 13, 2013 from Scott Bohning, EPA Region 9 to File for docket EPA–R09–OAR–2013–0534, San Joaquin Valley action; Subject: Contingency precursor effectiveness ratio using additional information.

In sum, the Contingency Measure SIP contains (1) the District's demonstration that actual emission levels in the SJV in 2012 were below the milestone year targets identified in the SJV $PM_{2.5}$ SIP and approved by EPA for the 2012 RFP year; and (2) identification of contingency measures that provide 2015 emission reductions not relied on for RFP or attainment that are approximately equivalent to one-year's worth of RFP. The District's calculation of 2015 emission reductions in the Contingency Measure SIP includes: reductions from contingency measures that we previously identified as SIP-creditable measures as part of our 2011 action on the SJV $PM_{2.5}$ SIP, a revised calculation of emission reductions from the District's woodburning control measure (Rule 4901) based on updated air quality and emissions data, emission reductions resulting from the District's implementation of incentive programs, and substitution of surplus direct $PM_{2.5}$ reductions for NO_X reductions. For the SJV $PM_{2.5}$ SIP, emission reductions equivalent to one year's worth of RFP are 2.5 tpd of direct $PM_{2.5}$, 31.6 tpd of NO_X and 0.2 tpd of SO_x. *See* 76 FR 41338, 41359 (Table 10) and Final TSD for SJV $PM_{2.5}$ SIP, p. 131.

We provide below a summary of our evaluation of the Contingency Measures SIP. For a more detailed discussion of EPA's analyses, *see* Air Division, EPA Region 9, ''Technical Support Document—Proposed Approval of Clean Air Act Section 172(c)(9) Contingency Measures—San Joaquin Valley State Implementation Plan for Attainment of the 1997 $PM_{2.5}$ Standards,'' August 15, 2013 (''Proposal TSD''), available in the docket for this proposed rule.

B. Clean Air Act Procedural Requirements for SIP Submissions

CAA sections 110(a) and 110(l) require that revisions to a SIP be adopted by the State after reasonable notice and public hearing. EPA has promulgated specific procedural requirements for SIP revisions in 40 CFR part 51, subpart F. These requirements include publication of notices, by prominent advertisement in the relevant geographic area, of a public hearing on the proposed revisions, a public comment period of at least 30 days, and an opportunity for a public hearing.

CARB's SIP submission includes public process documentation for the Contingency Measure SIP, including documentation of duly-noticed public hearings held by the District on June 20, 2013 and by CARB on June 27, 2013. *See* SJVUAPCD Board Resolution No. 13–6–18, pp. 2 and 3 and CARB Resolution 13–30, p. 3. We find that the process followed by the District and CARB in adopting the Contingency Measure SIP complies with the procedural requirements for SIP revisions under CAA section 110 and EPA's implementing regulations.[9]

CAA section 110(k)(1)(B) requires EPA to determine whether a SIP submission is complete within 60 days of receipt. Our SIP completeness criteria are found in 40 CFR part 51, Appendix V. We determined that the Contingency Measure SIP is complete on August 12, 2013. *See* letter from dated August 12, 2013 Deborah Jordan, Air Division Director EPA Region 9 to Richard Corey, Executive Officer, Air Resources Board.

C. Evaluation of the Contingency Measure SIP

1. Contingency Measures for Failure To Meet the 2012 Reasonable Further Progress Milestone

The Contingency Measure SIP includes a demonstration that emissions of direct $PM_{2.5}$, NO_X, and SO_x in 2012 were all below the corresponding 2012 RFP milestone year emissions targets that EPA approved as part of the SJV $PM_{2.5}$ SIP. *See* Contingency Measure SIP, p. 2. To make this demonstration, the District used the emission inventory from the 2011 Progress Report, adjusted to remove uncreditable reductions,[10] and compared it to the SIP-approved 2012 RFP milestone year targets. Based on this comparison, the District

[9] The State also provided public notice and a hearing on Rule 9610 before submitting the rule and associated support documents to EPA as a SIP revision. *See* letter dated June 26, 2013 from Richard Corey, Executive Officer, CARB to Jared Blumenfeld, Regional Administrator, EPA Region 9 (submitting Rule 9610) and CARB Executive Order S–13–006, dated June 26, 2013. EPA is not acting on Rule 9610 at this time but is reviewing it as support material for the Contingency Measure SIP. Other supplemental materials related to incentive programs that the State submitted to EPA under separate cover are not subject to additional State procedures under the Act as they provide only technical support and do not alter the substance of the Contingency Measure SIP. All of these supplemental materials are available in EPA's docket for this rulemaking.

[10] For a description of these uncreditable reductions, *see* Proposal TSD, Table E–4, p. 15.

concluded that it met its approved 2012 RFP milestone year targets and, accordingly, that RFP contingency measures for this milestone year are no longer needed. *Id.*

We agree with the District's conclusion that the SJV area has now met its approved 2012 RFP milestone year targets [11] and that RFP contingency measures for 2012 are, therefore, no longer needed. The emission inventory used in the RFP demonstration in the SJV $PM_{2.5}$ SIP is expressed in tons per average annual day, an appropriate metric for measuring progress for the annual $PM_{2.5}$ standard. The inventory in the 2011 Progress Report, used in the Contingency Measure SIP to demonstrate that the 2012 RFP targets have been met, is the most recent average annual day inventory currently available for the SJV. However, as an additional check, EPA also reviewed the average winter day inventory recently submitted as part of the District's 2012 $PM_{2.5}$ Plan for attaining of the 2006 24-hour $PM_{2.5}$ NAAQS and determined that the conclusion that the area has met its approved 2012 milestone year targets is also supported by this inventory. *See* Proposal TSD, pp. 16 to 17.

Based on our evaluation, EPA proposes to find that the RFP contingency measure requirement for the 2012 RFP milestone year is now moot as applied to the SJV. The sole purpose of RFP contingency measures is to provide continued progress if an area fails to meet its RFP goal. Failure to meet the 2012 milestone year target would have required California to implement RFP contingency measures and to revise the SJV $PM_{2.5}$ SIP to assure that the plan still provided for attainment by the applicable attainment date of April 5, 2015. In this case, however, the Contingency Measure SIP demonstrates that actual emission levels in 2012 met the approved 2012 RFP milestone year targets for all three pollutants ($PM_{2.5}$, NO_X, and SO_X) regulated in the SJV $PM_{2.5}$ SIP. Accordingly, RFP contingency measures for 2012 no longer have meaning or purpose, and therefore EPA proposes to find that the requirement for them is now moot.

2. Contingency Measures for Failure To Attain

The Contingency Measure SIP identifies projected emission reductions for 2015 on which the District is relying to meet the CAA's attainment contingency measure requirement for the 1997 $PM_{2.5}$ NAAQS. These projected emission reductions are categorized as follows: (1) Surplus emission reductions from adopted and implemented State and District regulatory measures, *i.e.,* emission reductions not relied on for RFP or attainment; (2) emission reductions from a contingency provision in the District woodburning rule; (3) emission reductions resulting from the District's implementation of incentive programs, and (4) substitution of surplus direct $PM_{2.5}$ contingency reductions for NO_X contingency reductions. We address each of these categories of emission reductions below.

a. Regulatory Measures and Programs

The SJV $PM_{2.5}$ SIP, which EPA partially approved and partially disapproved in November 2011 (76 FR 69896), provided for the continuing implementation of existing CARB mobile source measures that will achieve 21 tpd of NO_X reductions in 2015. *See* 76 FR 41338, 41359 (Table 9) and Final TSD for SJV $PM_{2.5}$ SIP, p. 135. These mobile source emission reductions are surplus to the reductions relied upon to demonstrate attainment because they occur in 2015 (after implementation of all control measures necessary for expeditious attainment) [12] and will achieve approximately two-thirds of the NO_X emission reductions needed to achieve one-year's worth of RFP. The Contingency Measure SIP also identifies these same mobile source emissions reductions as attainment contingency measures, and EPA agrees that these emission reductions qualify for approval as attainment contingency measures.

Additionally, the SJV $PM_{2.5}$ SIP showed that continuing implementation of CARB's mobile source control program and District rules would provide 3 tpd of SO_X reductions beyond the levels needed for expeditious attainment in 2015. *See* 76 FR 41338, 41359 (Table 10) and Final TSD for SJV $PM_{2.5}$ SIP, p. 135. These surplus reductions are primarily due to the low-sulfur content requirements in CARB diesel fuel regulations for on- and off-road equipment[13] and SO_X limits in District Rule 4320 (Advanced Emission Reduction Option for Boilers) and Rule 4354 (Glass Melting Furnaces).[14] The Contingency Measure SIP also identifies these SO_X reductions from State and District control measures as attainment contingency measures, and EPA agrees that these measures provide 3 tpd of SO_X reductions that are not relied on for RFP or attainment and, therefore, qualify for approval as attainment contingency measures.

Finally, the SJV $PM_{2.5}$ SIP included a contingency provision in section 5.6.5 of District Rule 4901 (Wood Burning Fireplaces and Wood Burning Heaters). This provision requires that 60 days after EPA finds the SJV has failed to attain the 1997 $PM_{2.5}$ NAAQS, the District will lower the level at which mandatory curtailment of residential wood burning is required from a predicted level of 30 $\mu g/m^3$ to 20 $\mu g/m^3$. EPA approved this rule, including the contingency provision, on November 10, 2009 (74 FR 57907).

As part of the SJV $PM_{2.5}$ SIP, the District had preliminarily estimated the emissions reduction from this contingency provision at 1.6 tons of direct $PM_{2.5}$ per average annual day. This estimate was derived by reviewing 2006 air quality data to determine how many additional curtailment days would be required at the lower (20 $\mu g/m^3$) threshold. As part of the revised analysis contained in the Contingency Measure SIP, the District reviewed ambient air quality data for the 2009–2013 period to determine the numbers of ''No Burn'' days that it would have required had the lower mandatory curtailment level (20 $\mu g/m^3$) been effective during these years. Based on these updated data, the District revised the estimated additional emission reductions expected from the Rule 4901 contingency provision to 3.12 tpd of direct $PM_{2.5}$ and 0.32 tpd of NO_X. *See* Contingency Measure SIP, pp. 4 to 6. EPA now finds that these updated calculations of the projected emission reductions from Rule 4901 are reasonable and, therefore, agrees with the District that Rule 4901 provides 3.1 tpd of direct $PM_{2.5}$ reductions and 0.3 tpd of NO_X reductions that qualify for approval as attainment contingency measures.

In sum, taking into account surplus emission reductions in the SJV $PM_{2.5}$ SIP that EPA previously identified as available for contingency measure purposes and the District's revised estimate of emissions reduction from the contingency provision in the SIP-

[11] The 2012 RFP milestone year targets that EPA approved as part of the RFP demonstration in the SJV $PM_{2.5}$ SIP are identified as ''revised projected controlled emissions levels'' for 2012 in EPA's proposed action on the SJV $PM_{2.5}$ SIP (76 FR 41338, 41357 (Table 9)).

[12] Consistent with CAA section 172(c)(1) and 40 CFR 51.1007(b), the SJV $PM_{2.5}$ SIP provides for the implementation of all control measures needed for attainment as expeditiously as practicable and no later than the beginning of the year prior to the attainment date (*i.e.,* by January 2014) (76 FR 69896, 69916 to 69917).

[13] *See* 13 CCR section 2281 (''Sulfur Content of Diesel Fuel'').

[14] EPA approved CARB's diesel fuel regulations on May 12, 2010 (75 FR 26653), Rule 4320 on March 25, 2011 (76 FR 16696), and Rule 4354 on August 29, 2011 (76 FR 53640).

approved Rule 4901, the total amount of emission reductions from regulatory control measures that we are proposing to approve as part of the Contingency Measure SIP are as follows: 21.3 tpd of NO_X reductions from the continuing implementation of CARB's mobile source control program and District Rule 4901; 3.1 tpd of direct $PM_{2.5}$ reductions from the contingency provision in District Rule 4901; and 3 tpd of surplus SO_X reductions from District rules limiting SO_X emissions and CARB's mobile source control program, including its low-sulfur diesel fuel regulation.

b. Discretionary Economic Incentive Programs

The Contingency Measure SIP states that NO_X and $PM_{2.5}$ emission reductions to be achieved through the implementation of specific incentive programs in the San Joaquin Valley are available for contingency measure purposes in 2015. *See* Contingency Measure SIP, pp. 7 to 9. The incentive programs identified in the Contingency Measure SIP for this purpose are as follows: the Carl Moyer Memorial Air Quality Standards Attainment Program (Carl Moyer Program), implemented through a partnership between CARB and local air districts; the Proposition 1B: Goods Movement Emission Reduction Program (Prop 1B), also implemented through a partnership between CARB and local air districts; and the U.S. Department of Agriculture, Natural Resources Conservation Service's (NRCS) Environmental Quality Incentives Program (EQIP), implemented by NRCS. *See id.* We are proposing to approve 4.15 tpd of NO_X reductions and 0.10 tpd of direct $PM_{2.5}$ reductions from specific Carl Moyer Program and Prop 1B projects, as identified in the Contingency Measure SIP and in this proposed rule, for purposes of satisfying the contingency measure requirement for the 1997 $PM_{2.5}$ NAAQS.

The CAA explicitly provides for the use of economic incentives as one tool for states to use to achieve attainment of the NAAQS. *See, e.g.,* CAA section 110(a)(2)(A) (requiring that each SIP ''include enforceable emission limitations and other control measures, means, or techniques (including economic incentives such as fees, marketable permits, and auctions of emissions rights), as well as schedules and timetables for compliance, as may be necessary or appropriate to meet the applicable requirements of [the Act]''); *see also* sections 172(c)(6), 183(e)(4). Economic incentive programs (EIPs) use market-based strategies to encourage the reduction of emissions from stationary, area, and/or mobile sources in an efficient manner. EPA has promulgated regulations for statutory EIPs required under section 182(g) of the Act and has issued guidance for discretionary EIPs.[15] *See* 59 FR 16690 (April 7, 1994) (codified at 40 CFR part 51, subpart U) and ''Improving Air Quality with Economic Incentive Programs,'' U.S. EPA, Office of Air and Radiation, January 2001 (EPA–452/R–01–001) (''2001 EIP''). Where a State relies upon a discretionary EIP in a SIP submission, EPA evaluates the programmatic elements of the EIP to determine whether the resulting emission reductions are *quantifiable, surplus, enforceable and permanent. See* 2001 EIP at Section 4.1. These four fundamental ''integrity elements,'' which apply to all EIPs and other incentive/voluntary measures relied on for SIP purposes, are designed to ensure that such programs and measures satisfy the applicable requirements of the Act. *See id.; see also* ''Guidance on Incorporating Voluntary Mobile Source Emission Reduction Programs in State Implementation Plans (SIPs),'' October 24, 1997 (''1997 VMEP''); ''Incorporating Voluntary Stationary Source Emission Reduction Programs Into State Implementation Plans—Final Policy,'' January 19, 2001; ''Incorporating Emerging and Voluntary Measures in a State Implementation Plan (SIP),'' September 2004; ''Guidance on Incorporating Bundled Measures in a State Implementation Plan,'' August 16, 2005; and ''Roadmap for Incorporating Energy Efficiency/Renewable Energy Policies and Programs into State and Tribal Implementation Plans,'' July 2012.

We are evaluating the incentive-based emission reductions in the Contingency Measure SIP in accordance with these fundamental integrity elements as applied, in particular, to discretionary ''financial mechanism EIPs'' and ''voluntary mobile source emission reduction programs'' (VMEPs). *See* 2001 EIP at Section 8.0 (describing ''financial mechanism EIP'' as a mechanism that indirectly reduces emissions by increasing costs for high emitting activities—*e.g.,* through fees/taxes on emissions and subsidies targeted at promoting pollution-reducing activities or products) and 1997 VMEP at p. 3 (describing ''VMEP'' as a mobile source strategy that complements existing regulatory programs through voluntary, nonregulatory changes in local transportation sector activity levels or changes in in-use vehicle and engine fleet composition). A discretionary EIP or VMEP submission must be accompanied by sufficient technical support for EPA to determine that the statutory criteria for approval are met—*e.g.,* procedures designed to compare projected emission reductions with actual emission reductions achieved; State commitments to monitor, assess, and report on program implementation and actual emission reductions achieved; and procedures for the State to remedy emission reduction shortfalls in a timely manner. *See* 2001 EIP at Section 5.0 and 1997 VMEP at pp. 6, 7. The State must also demonstrate that it has adequate personnel and program resources to implement the program and that the EIP or VMEP does not interfere with other requirements of the Act. *See id.* and 2001 EIP at Section 11.0. With respect to VMEPs, EPA has in the past generally limited the amount of emission reductions allowed in a SIP to three percent (3 percent) of the total projected future year emission reductions required to attain the relevant NAAQS, and for any particular SIP submittal to demonstrate attainment or maintenance of the NAAQS or progress toward attainment (RFP), 3 percent of the specific statutory requirement. *See* 1997 VMEP at 5.

i. Overview of SJVUAPCD's Incentive-Based Emission Reductions

The Carl Moyer Program is a California grant program established in 1998 that provides funding to encourage the voluntary purchase of cleaner-than-required engines, equipment, and other emission reduction technologies. *See generally* CARB, ''The Carl Moyer Program Guidelines, Approved Revisions 2011,'' Release Date: February 8, 2013, at Chapter 1 (*available electronically at http://www.arb.ca.gov/msprog/moyer/moyer.htm*). In its first 12 years, the Carl Moyer Program provided over $680 million in state and local funds to reduce air pollution from equipment statewide, *e.g.,* by replacing older trucks with newer, cleaner trucks, retrofitting controls on existing engines, and encouraging the early retirement of older, more polluting vehicles. *Id.*

The Prop 1B program is a California grant program established in 2007, as a result of State bond funding approved by voters, which provides $1 billion in funding to CARB to reduce air pollution emissions and health risks from freight movement along California's priority trade corridors. Under the enabling legislation (California Senate Bill 88 and

[15] A ''discretionary economic incentive program'' is ''any EIP submitted to the EPA as an implementation plan revision for purposes other than to comply with the statutory requirements of sections 182(g)(3), 182(g)(5), 187(d)(3), or 187(g) of the Act'' (40 CFR 51.491).

Assembly Bill 201 (2007)), CARB awards grants to fund projects proposed by local agencies that are involved in freight movement or air quality improvements associated with goods movement activities. Upon receipt of such grants, the local agencies are then responsible for providing financial incentives to owners of equipment used in freight movement to upgrade to cleaner technologies, consistent with program guidelines adopted by CARB. *See generally* ''Strategic Growth Plan Bond Accountability, Goods Movement Emission Reduction Program,'' Approved February 27, 2008 (*available electronically at http://www.arb.ca.gov/bonds/gmbond/docs/gm_accountability_with_links_2–27–08.pdf*).

The Contingency Measure SIP states that a total of 10.9 tpd of NO_X reductions and 0.44 tpd of direct $PM_{2.5}$ reductions, to be achieved in 2015 through implementation of the Carl Moyer Program, Prop 1B, and EQIP, are available for contingency measure purposes and that these emission reductions exceed the 4.15 tpd of NO_X reductions and 0.10 tpd of direct $PM_{2.5}$ reductions needed to satisfy the contingency measure requirement for 2015. *See* Contingency Measure SIP, p. 7. To support the District's conclusion that these NO_X and direct $PM_{2.5}$ reductions from incentive programs are quantifiable, surplus, enforceable and permanent, the Contingency Measure SIP cites specified requirements in SJVUAPCD Rule 9610, a regulation adopted by the District on June 20, 2013 to establish administrative processes and criteria for documenting emission reductions achieved through incentive programs for CAA SIP purposes. *See id.* at 7, 8 (citing Proposed SJVUAPCD Rule 9610, section 7.0). According to the District, the 4.15 tpd of NO_X reductions and 0.10 tpd of direct $PM_{2.5}$ reductions from incentive programs that it is relying upon to satisfy the attainment contingency measure requirement (for 2015) satisfy the requirements of section 7.0 of proposed Rule 9610[16] and, therefore, qualify for SIP credit under the CAA.

Under section 7.0 of Rule 9610,[17] each SIP submission as to which the District relies on projections of emission reductions from incentive programs to satisfy a CAA SIP requirement must include a demonstration that each applicable incentive program guideline continues to provide for ''SIP-creditable emission reductions''—*i.e.,* emission reductions that are quantifiable, surplus, enforceable, and permanent, as those terms are defined in Rule 9610. *See* Rule 9610, section 7.0 and section 2.25 (definition of ''SIP-Creditable Emission Reduction''). In addition, each such SIP submission must include an enforceable commitment that: (1) Identifies incentive program guidelines used to generate projected SIP-creditable emission reductions; (2) identifies emission reductions ''projected to be achieved through the use of secured or reasonably anticipated incentive program funding'' and estimated numbers of projects and willing participants; (3) is specifically adopted by the District as part of the SIP and accounted for in subsequent annual demonstration reports; and (4) states that ''if either the District or EPA finds that there is a SIP shortfall for a particular year, the District will adopt and submit to EPA, by specified dates, substitute rules and measures that will achieve equivalent emission reductions as expeditiously as practicable and no later than any applicable implementation deadline in the Clean Air Act or EPA's implementing regulations.'' *See* Rule 9610, sections 7.1 through 7.4.

Consistent with these criteria, the Contingency Measure SIP contains the State's and District's demonstrations that specified portions of the following Prop 1B and Carl Moyer Program guidelines[18] provide for emission reductions that are quantifiable, surplus, enforceable, and permanent: (1) ''Proposition 1B: Goods Movement Emission Reduction Program, Final 2010 Guidelines for Implementation,'' adopted March 25, 2010; (2) ''Proposition 1B: Goods Movement Emission Reduction Program, Final Guidelines for Implementation,'' adopted February 28, 2008; and (3) ''The Carl Moyer Program Guidelines,'' approved April 28, 2011. *See* email dated July 24, 2013 from Samir Sheikh, SJVUAPCD, to Kerry Drake, EPA Region 9, ''RE: Per our conversation earlier.'' In addition, the Contingency Measure SIP contains an enforceable commitment by the District: (1) to ''account for'' the District's claimed 4.15 tpd of NO_X reductions and 0.10 tpd of direct $PM_{2.5}$ reductions ''in annual demonstration reports pursuant to the requirements of Rule 9610''; and (2) if there is a shortfall in emission reductions from these incentive programs, to ''adopt and submit to EPA substitute rules and measures that will achieve equivalent emission reductions as expeditiously as practicable and no later than any applicable implementation deadline in the CAA or EPA's implementing regulations, by no later than December 31, 2016.'' *See* SJVUAPCD Board Resolution No. 13–6–18 at p. 3.

Finally, information provided to support the Contingency Measure SIP demonstrates that the District has adequate personnel and program resources to implement the Carl Moyer Program and Prop 1B programs. *See, e.g.,* ''The Carl Moyer Program Guidelines'' (approved April 28), Chapter 3 (''Program Administration''); ''2011 Proposition 1B: Goods Movement Emission Reduction Program, Final 2010 Guidelines for Implementation'' (adopted March 25, 2010) at Chapter III (''Local Agency Project Proposal''); and letter dated January 2, 2013 from James Goldstene, Executive Officer, CARB, to Seyed Sadredin, Air Pollution Control Officer, SJVUAPCD, enclosing ''Incentive Program Review Report, San Joaquin Valley Air Pollution Control District Fiscal Years 2006–07 through 2009–10.''

ii. Evaluation of Applicable Incentive Program Guidelines and Projects

We have evaluated specific portions of the three incentive program guidelines identified above (the 2008 and 2010 Prop 1B guidelines and 2011

[16] The Contingency Measure SIP references ''proposed'' Rule 9610 because the rule was not yet adopted at the time the District was developing the Contingency Measure SIP. Rule 9610, as adopted by the SJVUAPCD Governing Board on June 20, 2013, is substantively unchanged from the proposed rule that the District made available for public comment on May 21, 2013, and section 7.0 of the adopted rule is identical to the text in the proposed rule. Unless otherwise noted, all references to Rule 9610 herein are to the rule as adopted June 20, 2013.

[17] EPA is not proposing at this time to act on Rule 9610 itself. To the extent the Contingency Measure SIP relies upon emission reductions that are quantified and tracked pursuant to the requirements of Rule 9610, however, EPA has reviewed relevant provisions of Rule 9610 and related support documents, consistent with the District's intent. *See* email dated July 24, 2013 from Samir Sheikh, SJVUAPCD, to Kerry Drake, EPA Region 9, ''RE: Per our conversation earlier.''

[18] The District's Board Resolution adopting the Contingency Measure SIP broadly identifies ''the incentive program guidelines identified in Section 3.1 of Rule 9610, the 2013 Draft Annual Demonstration Report, and the Manual of Procedures to quantify SIP-creditable emission reductions relied upon to satisfy the $PM_{2.5}$ contingency measure requirement for 2015 in the amount of 4.15 tons per day (tpd) of NO_X reductions and 0.10 tpd of direct $PM_{2.5}$ reductions. . . .'' and the Contingency Measure SIP similarly identifies the Carl Moyer Program, Prop 1B, and EQIP (NRCS) in their entirety as the basis for the District's claimed NO_X and direct $PM_{2.5}$ emission reductions. *See* SJVUAPCD Board Resolution No. 13–6–18, p. 3 and Contingency Measure SIP, p. 7. In this proposed rule, however, EPA is evaluating only a subset of these guidelines (*i.e.,* specified portions of those Carl Moyer Program and Prop 1B guidelines identified herein), as the Contingency Measure SIP does not contain adequate technical documentation for EPA to fully evaluate all of the incentive programs referenced in the SIP submission.

Carl Moyer Program guideline)[19] and believe, with one exception, that they provide for emission reductions that are quantifiable, surplus, enforceable, and permanent consistent with the requirements of the CAA. The one exception is the option for the State to grant a longer project life on a case-by-case basis ''if an applicant provides justifying documentation.'' *See, e.g.,* ''The Carl Moyer Program Guidelines,'' approved April 28, 2011, Chapter 9 (Off-Road Equipment Replacement) at section C.1(C)(5) (''Project Life''). This option to grant a longer project life on a case-by-case basis provides the State with broad discretion to extend the duration of emission reductions claimed from an equipment replacement project without any EPA oversight or public process. Because these case-by-case determinations could undermine the integrity of the program (*e.g.,* by undermining EPA's ability to limit SIP credit to the period during which the emission reductions are ''surplus'' to other requirements), EPA cannot grant SIP credit for emission reductions from projects subject to such a determination unless the District submits the individual determination for EPA review and approval through the SIP process.

With the limited exception of these provisions regarding case-by-case determinations, the portions of the identified program guidelines that we have reviewed establish clear criteria that enable the District to quantify the emission reductions attributed to specified projects with a reasonable level of accuracy; verify that those emission reductions are ''surplus'' as that term is defined in section 2.27 of Rule 9610[20]; enforce the conditions of program grants to ensure that contracted emission reductions are achieved; and monitor the continuing implementation of program grants to ensure that emission reductions are ''permanent'' throughout the life of each project. For a more detailed discussion of EPA's review of the relevant portions of these three program guidelines, *see* Proposal TSD, pp. 29 to 42.

Additionally, we have evaluated the District's documentation for specific projects[21] funded through the Prop 1B program and Carl Moyer Program that provide an adequate basis for the District's claimed NO_X and direct $PM_{2.5}$ emission reductions for 2015.[22] The Contingency Measure SIP states that it relies on incentive-based emission reductions to be achieved from ''already-executed, legally binding contracts'' rather than on projections of future funding and participation rates. *See* Contingency Measure SIP at 7, 8. According to the 2013 Annual Demonstration Report and associated ''Data Sheet,''[23] on-road vehicle replacement projects that have been funded through the Prop 1B program and off-road vehicle replacement projects that have been funded through the Carl Moyer Program are expected to achieve NO_X and direct $PM_{2.5}$ emission reductions in amounts adequate to cover the incentive-related emission reductions claimed by the District in the Contingency Measure SIP (*i.e.,* the 4.15 tpd of NO_X reductions and 0.10 tpd of direct $PM_{2.5}$ reductions claimed for 2015). Each of these funded projects is subject to one of the three incentive program guidelines identified above (*i.e.,* the 2008 Prop 1B guideline, 2010 Prop 1B guideline, or 2011 Carl Moyer Program guideline).

Specifically, the Data Sheet identifies 1243 ''on-road vehicle replacement'' projects funded through the Prop 1B program that have a ''project life'' ending on or after January 1, 2016 and therefore will continue to achieve emission reductions at least through the end of 2015.[24] Collectively, these 1243 funded projects are projected to achieve 3.78 tpd of NO_X reductions and 0.15 tpd of PM reductions in 2015. *See* Memorandum from Idalia Perez to File dated July 22, 2013. These totals are consistent with the emission reduction estimates for 2015 provided in Table 18 of the 2013 Annual Demonstration Report, which identifies the total reductions, in tons per day, of NO_X, particulate matter (PM) and ''reactive organic gases'' (ROGs)[25] that the District expects will be achieved by Prop 1B projects related to on-road trucks between 2009 and 2020. *See* 2013 Annual Demonstration Report at 40, Table 18 (''SIP-Creditable Incentive-Based Emission Reductions for On-Road Trucks''). Additionally, the Data Sheet indicates that 853 of these 1243 projects subject to Prop 1B funds have a project life ending after December 31, 2016 and will, therefore, continue to generate emission reductions through at least the end of 2016. *See* Proposal TSD at Attachment A (''Prop 1B: On-Road Vehicle Replacement projects achieving emission reductions through 2015'') and Memorandum from Idalia Perez to File dated July 22, 2013. These funded projects are expected to achieve 2.35 tpd of NO_X reductions and 0.09 tpd of PM reductions in 2016. *See id.* and 2013 Annual Demonstration Report at 40, Table 18.

Similarly, the Data Sheet identifies 675 ''off-road vehicle replacement'' projects funded through the Carl Moyer Program that have a ''project life'' ending on or after January 1, 2021 and therefore will continue to achieve emission reductions well past the end of 2015.[26] Collectively, these 675 funded projects are projected to achieve 1.23 tpd of NO_X reductions and 0.06 tpd of PM reductions in 2015. *See* Memorandum from Idalia Perez to File dated July 22, 2013. These totals are consistent with the emission reduction estimates for 2015 provided in Table 13 of the 2013 Annual Demonstration Report, which identifies the total reductions, in tons per day, of NO_X, PM and ROGs that the District expects will be achieved by Carl Moyer Program projects related to off-road vehicle replacement between 2009 and 2020. *See* 2013 Annual Demonstration Report at 37, Table 13 (''SIP-Creditable Incentive-Based Emission Reductions for Off-Road Compression-Ignition

[19] Relevant excerpts of these three guidelines are available in EPA's docket for this rulemaking.

[20] Section 2.27 of Rule 9610 defines the term ''surplus'' as follows: ''for purposes of this rule, emission reductions are surplus when they are not otherwise required by any federal, state, or local regulation, or other legal mandate, and are in excess of the baseline emission inventories underlying a SIP attainment demonstration.''

[21] Section 2.19 of Rule 9610 defines the term ''project'' as follows: ''for purposes of this rule, actions taken to reduce emissions through incentive programs, as contracted between the Grantee and the District, NRCS, or CARB using incentive program guidelines at the time of contracting. Such actions include, but are not limited to, replacements, retrofits, new purchases, new practices, and repower.''

[22] EPA is not reviewing projects funded through the EQIP program at this time because the Contingency Measure SIP does not contain adequate documentation regarding this program. *See* n. 18, *supra.*

[23] Available at *http://www.valleyair.org/MOP/docs/9610ProjectDataforPublicUNLOCKED8–7–13.xlsx.*

[24] In the Data Sheet, these Prop 1B projects are listed under the following columns: (1) Component: ''On-Road Prop 1B''; (2) Component Option: ''Vehicle Replacement'' and ''Vehicle Replacement 2 for 1''; and (3) Applicable Guideline: ''Prop 1B 2008'' and ''Prop 1B 2010.'' EPA has compiled these Prop 1B projects into a separate document which identifies each project by its unique ''project identification'' code and information regarding the emission reductions it will achieve over its lifetime, in tons. *See* Proposal TSD at Attachment A (''Prop 1B: On-Road Vehicle Replacement projects achieving emission reductions through 2015'').

[25] California uses the term ''reactive organic gases'' (ROGs) to refer generally to volatile organic compounds (VOCs) as defined in 40 CFR 51.100(s).

[26] In the Data Sheet, these Carl Moyer Program projects are listed under the following columns: (1) Component: ''Off-Road''; (2) Component Option: ''Vehicle Replacement''; and (3) Applicable Guideline: ''Carl Moyer 2011.'' EPA has compiled these Carl Moyer Program projects into a separate document which identifies each project by its unique ''project identification'' code and information regarding the emission reductions it will achieve over its lifetime, in tons. *See* Proposal TSD at Attachment B (''Carl Moyer Program: Off-Road Vehicle Replacement projects achieving emission reductions through 2015'').

Equipment Replacement Claimed Pursuant to Section 3.1''). All of these funded projects are expected to continue achieving emission reductions through at least 2021. *See* Proposal TSD at Attachment B (''Carl Moyer Program: Off-Road Vehicle Replacement projects achieving emission reductions through 2015'') and Memorandum from Idalia Perez to File dated July 22, 2013. Although Chapter 9 of the 2011 Carl Moyer Program guideline contains several provisions allowing for case-by-case determinations,[27] we understand that the District's 2015 emission reduction estimates for Carl Moyer projects in Table 13 of the 2013 Annual Demonstration Report do not rely on any projects subject to case-by-case determinations, as such determinations are not eligible for SIP credit unless reviewed through a public process and submitted to EPA as part of a SIP submission meeting the requirements of Rule 9610.[28]

We conclude that the District's documentation regarding these Prop 1B and Carl Moyer Program projects is adequate to ensure that the associated NO_X and direct $PM_{2.5}$ emission reductions can be monitored and verified. In any future SIP that relies on incentive-based emission reductions quantified pursuant to the requirements of Rule 9610, we expect the District will specifically identify the types of projects relied upon to generate the emission reductions and the specific incentive program guidelines that apply to those projects and we expect the subsequent annual demonstration reports will then list the individual projects relied upon to achieve those reductions, as provided in our Proposal TSD. We note that the 4.15 tpd of NO_X reductions and 0.10 tpd of direct $PM_{2.5}$ reductions attributed to the Carl Moyer Program and Prop 1B in 2015 for contingency measure purposes each amount to less than 2 percent of the total projected emission reductions of each pollutant needed to attain the 1997 $PM_{2.5}$ NAAQS in the SJV.[29]

iii. Evaluation of SJVUAPCD's Enforceable Commitments

We have evaluated the Board commitments submitted as part of the Contingency Measure SIP and find that they establish clear obligations on the District's part to monitor, assess, and report on program implementation and actual emission reductions achieved and to remedy any emission reduction shortfalls in a timely manner, consistent with EPA policy. Specifically, SJVUAPCD Board Resolution No. 13–6–18 contains two key components designed to ensure that the 4.15 tpd of NO_X reductions and 0.10 tpd of direct $PM_{2.5}$ reductions claimed in the District's Contingency Measure SIP are enforceable under the CAA.

The first key component is a commitment to ''account for'' these emission reductions ''in annual demonstration reports pursuant to the requirements of Rule 9610.'' SJVUAPCD Board Resolution No. 13–6–18 at p. 3. Rule 9610 specifically requires the District to submit to EPA, no later than August 31 of each year, an ''annual demonstration report'' that includes the following elements: (1) Identification of SIP-creditable emission reductions generated through incentive programs implemented in the preceding year(s), summarized by pollutant, years that the emission reductions occur (project life), cost effectiveness, funding amount, incentive program guideline, and project type; (2) identification of SIP commitment(s) that the District has satisfied, in whole or in part, through SIP-creditable emission reductions from the identified incentive programs; (3) identification and quantification of SIP commitment shortfalls, if any, and remedies for addressing said shortfalls; (4) detailed information about each specific project achieving SIP-creditable emission reductions, *e.g.,* unique project identification numbers, implementation dates, applicable incentive program guideline(s), and quantified emission reductions per year and aggregated over the project life, by pollutant; and (5) a summary of monitoring and enforcement activities conducted during the reporting period for incentive projects for which SIP-creditable emission reductions are being claimed. *See* Rule 9610, sections 4.1–4.6 and 5.0.

The second key component is a commitment to adopt and submit to EPA, no later than December 31, 2016, ''substitute rules and measures that will achieve equivalent emission reductions as expeditiously as practicable and no later than any applicable implementation deadline in the CAA or EPA's implementing regulations,'' if there is a shortfall in emission reductions. SJVUAPCD Board Resolution No. 13–6–18, p. 3. Consistent with this commitment, EPA expects the District to confirm as part of its 2014 and 2015 Annual Demonstration Reports whether the claimed 4.15 tpd of NO_X reductions and 0.10 tpd of direct $PM_{2.5}$ reductions are expected to occur in 2015 as projected, and to provide the basis for its conclusion—*e.g.,* information about actual program participation rates, actual reported activity data, project audits, usage reports, and other project monitoring activities consistent with the requirements of Rule 9610, section 4.0. If the District finds that there may be a shortfall in the claimed emission reductions for 2015, the District will be required to identify in its 2014 or 2015 Annual Demonstration Report both the estimated amount of the SIP shortfall (in tons per day, by pollutant) and the specific remedy to be implemented in the event of a shortfall—*i.e.,* the substitute rules and measures that will achieve equivalent emission reductions, to be submitted to EPA no later than December 31, 2016. *See* Rule 9610, section 4.4 (''The District shall identify and quantify SIP commitment shortfalls, if any, and remedies for addressing said shortfalls'' as part of the annual demonstration report). Finally, EPA expects the District's 2016 Annual Demonstration Report will either confirm that the claimed 4.15 tpd of NO_X reductions and 0.10 tpd of direct $PM_{2.5}$ reductions actually occurred in 2015 as projected or identify and quantify the specific SIP shortfalls and specific remedies to be implemented consistent with the District's commitment. Any conclusion that the District's claimed 4.15 tpd of NO_X reductions and 0.10 tpd of $PM_{2.5}$ reductions actually occurred in 2015 must be supported by documentation of actual emissions, based on historical annual usage (i.e., reported activity data), actual program participation rates, project audits, and other information consistent with the requirements of sections 4.0 to 4.6 of Rule 9610. For a more detailed discussion of our evaluation of these commitments, *see* Proposal TSD, pp. 42 to 44.

These Board commitments obligate the District to monitor, assess, and report on program implementation and

[27] *See, e.g.,* ''The Carl Moyer Program Guidelines,'' approved April 28, 2011, Chapter 9 (Off-Road Equipment Replacement) at section C.1(C)(5) (''Project Life'').

[28] Rule 9610 specifically prohibits the use of any case-by-case determination to quantify emission reductions for SIP purposes ''unless such determination is reviewed through a public process and submitted to EPA in accordance with Section 7.0 [of Rule 9610].'' *See* Rule 9610 at section 3.2.2; *see also* 2013 Annual Demonstration Report at 11. Neither the 2013 Annual Demonstration Report nor the Contingency Measure SIP specifically identifies any case-by-case determination for EPA review.

[29] The SJV $PM_{2.5}$ SIP projects the total amounts of emission reductions needed to attain the $PM_{2.5}$ NAAQS, from a 2005 base year to a 2014 attainment year, are as follows: 284.2 tpd of NO_X reductions; 22.7 tpd of direct $PM_{2.5}$ reductions; and 1.8 tpd of SO_X reductions. *See* 76 FR 69896, 69923 (Table 4, line A) and Final TSD for SJV $PM_{2.5}$ SIP, p. 113 (Table G–2, line C). Thus, the incentive program reductions identified in the Contingency Measure SIP amount to approximately 1.5 percent of the NO_X reductions and 0.4 percent of the direct $PM_{2.5}$ reductions needed for timely attainment of the $PM_{2.5}$ NAAQS in the SJV.

actual emission reductions achieved and, ultimately, enable EPA and the public to determine whether the District's claimed emission reductions (4.15 tpd of NO_X reductions and 0.10 tpd of direct $PM_{2.5}$ reductions) actually occurred in 2015. Based on the District's long history of successful implementation and enforcement of Prop 1B and Carl Moyer Program grants and the detailed requirements in the associated incentive program guidelines, we fully expect that SJVUAPCD will achieve the required emission reductions in 2015 as projected. However, should EPA find based on the 2014 or 2015 Annual Demonstration Report that the District's claimed 4.15 tpd of NO_X reductions and 0.10 tpd of direct $PM_{2.5}$ reductions may not occur in 2015 as projected, EPA will promptly notify the District of its potential obligation to adopt and submit substitute rules and measures consistent with its Board commitment no later than December 31, 2016, so that the District has ample time to develop and adopt such rules/measures consistent with this deadline. Subsequently, should EPA determine that the SJV area has failed to attain the $PM_{2.5}$ NAAQS by the applicable attainment date of April 5, 2015, the District will be obligated to verify through its next annual report (*i.e.,* the 2016 Annual Demonstration Report) whether the 4.15 tpd of NO_X reductions and 0.10 tpd of $PM_{2.5}$ reductions identified in the Contingency Measure SIP occurred in 2015, and if not, to adopt and submit substitute rules and measures to EPA consistent with its Board commitment no later than December 31, 2016.

iv. Conclusion on SJVUAPCD's Incentive-Based Emission Reductions

Based on our evaluation of the District's commitments regarding the Carl Moyer Program and Prop 1B and related technical documentation provided by the District in its SIP submission, we propose to find that the 2015 emission reductions associated with these specific incentive programs satisfy the statutory criteria for SIP credit and to approve these emission reductions as attainment contingency measures for the 1997 $PM_{2.5}$ NAAQS in the SJV. Upon EPA's final approval of the Contingency Measure SIP, the District's commitments will become federally enforceable and will obligate it to monitor, assess, and report to EPA on implementation of the Carl Moyer Program and Prop 1B program grants with respect to the specific Prop 1B and Carl Moyer projects identified in EPA's Proposal TSD. *See* Proposal TSD at Attachment A (''Prop 1B: On-Road Vehicle Replacement projects achieving emission reductions through 2015'') and Attachment B (''Carl Moyer Program: Off-Road Vehicle Replacement projects achieving emission reductions through 2015'').

EPA supports and encourages the continuing efforts by CARB, the District, and NRCS to make incentive programs and voluntary measures an effective part of the SJV's strategy for clean air. We commit to continue our work with these agencies to establish reliable procedures for documenting the emission reductions associated with voluntary and incentive programs for SIP purposes, in particular through the District's implementation of Rule 9610, which EPA intends to act on in the near future. Our collective goal is to establish a process that ensures that the emission reductions resulting from voluntary and incentive programs are quantifiable, surplus, enforceable, and permanent consistent with CAA requirements as interpreted in EPA guidance. We welcome public comments on how best to achieve this goal.

c. Substitution of Direct $PM_{2.5}$ Reductions for NO_X Reductions

The District estimated, based on monitored air quality over the past five winter seasons, that triggering the contingency provision in the District's woodburning rule would reduce direct $PM_{2.5}$ emissions by a further 3.12 tpd. *See* Contingency Measure SIP, p. 6. This level of reduction exceeds the 2.5 tpd of direct $PM_{2.5}$ reductions needed to meet the CAA contingency requirement for this pollutant by 0.62 tpd. Taking into account the 0.1 tpd of direct $PM_{2.5}$ reductions from incentive programs discussed above in section III.C.2.b, the District then converted the total amount of surplus direct $PM_{2.5}$ reductions (0.72 tpd) into NO_X reductions at a ratio of 9 tons of NO_X for each ton of direct $PM_{2.5}$. Based on this $PM_{2.5}$ to NO_X conversion, the District concluded that a 0.72 tpd reduction in direct $PM_{2.5}$ emissions has the same ambient air quality impact as a 6.48 tpd reduction in NO_X emissions.

Using the Community Multiscale Air Quality (CMAQ) modeling application underlying the attainment demonstration in the SJV $PM_{2.5}$ Plan,[30] CARB developed an equivalency ratio between emission reductions of direct $PM_{2.5}$ and of NO_X. For each pollutant, CARB modeled the ambient effect of a 10 percent reduction of emissions over the modeling domain. The concentration change per emission change gave a precursor effectiveness value for NO_X and an effectiveness value for direct $PM_{2.5}$. The ratio of these two effectiveness values provided the NO_X-$PM_{2.5}$ equivalency ratio.

Emission reductions of direct $PM_{2.5}$ from the District's wood burning restrictions tend to be concentrated in the SJV's urban areas. These urban areas also typically record the highest $PM_{2.5}$ ambient levels in the SJV. As explained above, the District is proposing to substitute these urban-centered direct $PM_{2.5}$ reductions for region-wide NO_X reductions. Because these wood burning reductions are concentrated in areas most like to experience high levels of ambient $PM_{2.5}$, their impact on these ambient levels will likely be greater than the same amount of $PM_{2.5}$ reductions distributed over the entire nonattainment area. CARB's full modeling domain approach, which assumed distributed $PM_{2.5}$ reductions, will therefore tend to underestimate the impact of direct $PM_{2.5}$ reductions from wood burning restrictions on ambient concentrations. As a result the 9:1 ratio of NO_X to $PM_{2.5}$ emission reductions in this case gives a conservatively high estimate of the direct $PM_{2.5}$ emission reductions needed to substitute for a given amount of NO_X reductions. EPA proposes to approve the use of this ratio for purposes of quantifying emission reductions to satisfy the CAA section 172(c)(9) attainment contingency measure requirement for the 1997 $PM_{2.5}$ NAAQS in the SJV.[31] For further information, *see* the Proposal TSD, pp. 44–45.

d. Summary

In sum, EPA believes that the Contingency Measure SIP identifies SIP-creditable attainment contingency measures that will achieve a total of 31.6 tpd of NO_X, 2.5 tpd of direct $PM_{2.5}$, and 3 tpd of SO_X reductions in 2015. EPA believes that these emission reductions will equal or exceed one-year's worth of RFP as calculated in EPA's 2011 final action on the SJV $PM_{2.5}$ SIP. *See* Table 1.

[30] EPA approved this air quality modeling as part of its approval of the attainment demonstration in the SJV $PM_{2.5}$ Plan. *See* 76 FR 41338, 41349 and 76 FR 69896, 69924.

[31] EPA has previously approved the use of this ratio for use in transportation conformity determinations for the 1997 $PM_{2.5}$ NAAQS in the SJV. *See* 76 FR 69896, 69923. *See also* 76 FR 41338, 41349 (noting adequacy of CARB's ratio for purposes of assessing the effect of ''area-wide emissions changes,'' *e.g.,* to address RFP, contingency measures, and conformity budgets).

TABLE 1— SUMMARY OF 2015 EMISSION REDUCTIONS CREDITABLE AS ATTAINMENT CONTINGENCY MEASURES

[In tons per day]

	NO_X	Direct $PM_{2.5}$	SO_X
California/Federal Mobile Source Control Program.	21		
Surplus SO_X Reductions from CARB and District Rules.			3.
[Incentive Programs]	4.15	0.1	
Contingency Provision in District Rule 4901.	0.3	3.1	
Substitution of surplus direct $PM_{2.5}$ reductions for NO_X reductions.	6.5	−0.7	
TOTAL EMISSION REDUCTIONS:.	31.9	2.5	3.
Emission reductions equal to one-year's worth of RFP [32].	31.6	2.5	0.2.
Contingency measure requirement met?.	Yes	Yes	Yes.

Based on our evaluation, we are proposing to fully approve the Contingency Measure SIP as satisfying the attainment contingency measure requirement in CAA section 172(c)(9) for the 1997 $PM_{2.5}$ NAAQS in the San Joaquin Valley nonattainment area. All of the emission reductions relied on to meet the attainment contingency measure requirement are provided by control measures or incentive programs that are fully adopted under State law. These measures and programs provide SIP-creditable emission reductions that are not relied on in the SJV $PM_{2.5}$ SIP to demonstrate RFP or attainment and provide for an appropriate level of continued emission reduction progress should the SJV area fail to attain by its statutory attainment date and necessitate additional planning.

D. Clean Air Act Section 110(l)

CAA section 110(l) prohibits EPA from approving any SIP revision that would interfere with any applicable requirement concerning attainment and RFP or any other applicable CAA requirement. The Contingency Measure SIP corrects SIP deficiencies identified in EPA's November 9, 2011 partial approval and partial disapproval of the SJV $PM_{2.5}$ SIP (76 FR 69896). Specifically, the Contingency Measure SIP contains: (1) the District's demonstration that actual emission levels in the SJV in 2012 were below the approved 2012 RFP milestone year targets and (2) identification of SIP-creditable emission reductions to be achieved in 2015 that are not relied on for RFP or expeditious attainment. The Contingency Measure SIP does not alter any existing emission limitation or other control requirement in the applicable SIP and only expands upon the contingency measure portion of the SJV $PM_{2.5}$ SIP, which EPA had partially disapproved in November 2011. We propose to determine that our approval of the Contingency Measure SIP would comply with CAA section 110(l) because the proposed SIP revision would not interfere with the on-going process for ensuring that requirements for RFP and attainment of the NAAQS are met, and the submitted SIP corrects SIP deficiencies that were the basis for EPA's November 9, 2011 partial disapproval of the SJV $PM_{2.5}$ SIP.

IV. Proposed Actions and Request for Public Comment

For the reasons discussed above, we are proposing to conclude that the Contingency Measure SIP submitted by CARB on July 3, 2013, satisfies the attainment contingency measure requirement in CAA section 172(c)(9) for the 1997 $PM_{2.5}$ NAAQS in the San Joaquin Valley nonattainment area and to fully approve this submission into the California SIP. We are also proposing to conclude that the RFP contingency measure requirement in CAA section 172(c)(9) for the 2012 milestone year is moot as applied to the San Joaquin Valley because the area achieved its approved emissions targets for the 2012 RFP milestone year. Finally, we are proposing to approve enforceable commitments by the SJVUAPCD to monitor, assess, and report on actual NO_X and direct $PM_{2.5}$ emission reductions achieved through its implementation of specific Prop 1B and Carl Moyer Program grants and to remedy any identified emission reduction shortfall in a timely manner.

Finalizing these proposals would correct the deficiencies that were the basis for EPA's partial disapproval of the SJV $PM_{2.5}$ SIP on November 9, 2011 (76 FR 69896) and would, therefore, terminate the CAA section 179(b) sanction and sanction clocks triggered by that action and the obligation on EPA to promulgate a federal implementation plan under CAA section 110(c).

We will accept comments from the public on these proposals for the next 30 days. The deadline and instructions for submission of comments are provided in the ''Date'' and ''Addresses'' sections at the beginning of this preamble.

V. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, (October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);

[32] *See* ibid.

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

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

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

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

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

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

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

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

Dated: August 15, 2013.

Jared Blumenfeld,

Regional Administrator, Region 9.

[FR Doc. 2013–21010 Filed 8–27–13; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 27 and 90

[PS Docket No. 12–94; PS Docket No. 06–229; and WT Docket No. 06–150; DA 13–1775]

First Responder Network Authority Filing

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: On August 19, 2013, the Public Safety and Homeland Security Bureau of the Federal Communications Commission (Commission) released a public notice inviting public comment on a filing submitted by the First Responder Network Authority (FirstNet) on August 2, 2013, in PS Docket 12–94. The filing addressed consolidation of technical service rules for the 758–769 and 788–799 MHz bands,

DATES: Submit comments on or before September 4, 2013.

ADDRESSES: You may submit comments, identified by PS Docket 12–94, by any of the following methods:

▪ *Federal Communications Commission's Web site: http://fjallfoss.fcc.gov/ecfs2/.* Follow the instructions for submitting comments.

▪ *Mail.*

▪ *People With Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the *Procedural Matters* section of this document.

FOR FURTHER INFORMATION CONTACT: Gene Fullano, Federal Communications Commission, Public Safety and Homeland Security Bureau, at (202)–418–0492 or *genaro.fullano@fcc.gov*; or Brian Hurley, Federal Communications Commission, Public Safety and Homeland Security Bureau, at (202)–418–2220 or *brian.hurley@fcc.gov*.

SUPPLEMENTARY INFORMATION: The Public Safety and Homeland Security Bureau of the Federal Communications Commission provides seven days for public comment on matters raised by the First Responder Network Authority (FirstNet) in its August 2, 2013, filing in PS Docket 12–94.[1] FirstNet's filing responds to a *Notice of Proposed Rulemaking* (*NPRM*) that seeks comment on, among other matters, the consolidation into Part 90 of technical service rules for the 758–769 and 788–799 MHz bands, which, heretofore, have been subject to regulation under both Parts 27 and 90.[2] The rules at issue include power, emission, and field strength limits and interference coordination procedures designed to prevent interference to operations of other Commission licensees. This proposed rule consolidation is intended to ''facilitate the transition'' of spectrum to the First Responder Network Authority (FirstNet), the entity licensed to establish a nationwide public safety broadband network using both the public safety broadband spectrum (763–768/793–798 MHz) and the adjacent ''D Block'' (758–763/788–793 MHz) previously slated for commercial auction.[3] In proposing this rule consolidation, the Commission further directed its Office of Engineering and Technology (OET) to suspend its acceptance and processing of applications for equipment authorization in these bands pending the adoption of technical service rules applicable to the combined band.[4]

In its filing, FirstNet supports ''consolidating the technical requirements for the former D Block into Part 90 of the Commission's Rules'' and recommends that the Commission ''act quickly to amend its technical service rules to enable FirstNet to expedite the deployment of'' its network.''[5] Additionally, FirstNet urges ''swift Commission action to begin accepting and processing equipment authorizations in the newly combined spectrum,'' citing ''an imminent need for authorized equipment to meet the needs of jurisdictions that may deploy early'' in FirstNet's licensed spectrum under spectrum leases. FirstNet has already entered lease agreements with the Los Angeles Regional Interoperable Communications System (LA–RICS) and the State of New Mexico, and it has stated its intention to execute similar agreements with other public safety jurisdictions in the near future.[6] While

[1] The Bureau takes this action pursuant to its delegated authority. *See* 47 CFR 0.392. As noted elsewhere herein, the short time frame provided by this notice is warranted in light of the pressing need recognized by FirstNet and other commenters for expedition on reinitiating the currently suspended equipment authorization process. Moreover, this notice follows a full *NPRM* comment period. Accordingly, parties should submit any new arguments now in order to facilitate prompt action by the Commission.

[2] *See* Implementing Public Safety Broadband Provisions of the Middle Class Tax Relief and Job Creation Act of 2012, PS Docket No. 12–94, *Notice of Proposed Rulemaking,* 28 FCC Rcd 2715 (2013) (*Technical Service Rules NPRM*), published in the **Federal Register** April 24, 2013 (78 FR 24138). The comment cycle closed on June 10, 2013.

[3] *See id.* at 2716, 2721 ¶¶ 2, 17; *see also* 47 U.S.C. 1424 (2012) (establishing FirstNet). FirstNet's license also includes the 768–769/798–799 MHz band, *id.* 1401(14), 1421(a), which is currently designated under Commission rules as a guard band separating the broadband and narrowband segments of the 700 MHz public safety spectrum. *See* 47 CFR 90.531(f).

[4] *See id.* at 2725–26 ¶ 33.

[5] *See* Comments of the First Responder Network Authority (FirstNet), PS Docket 12–94 at 4 (Aug. 2, 2013).

[6] *See* National Telecommunications and Information Administration, FirstNet Approves Resolutions on Spectrum Lease Agreement with LA–RICS and Personnel Acquisition Strategy,

FirstNet supports Commission action to ''expedite a process'' for equipment authorization to support these early deployments, it cautions that ''the equipment market will need to evolve once the architecture for the nationwide public safety broadband network has been set.''[7]

The full text of FirstNet's filing is available in PS Docket 12–94 in the Commission's Electronic Comment Filing System (ECFS), *http://apps.fcc.gov/ecfs*.

Procedural Matters: The proceeding has been designated a ''permit-but-disclose'' proceeding in accordance with the Commission's rules.[8] Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments by the date referenced above. All filings should refer to PS Docket No. 12–94. Comments may be filed: (1) Using the Commission's Electronic Comment Filing System (ECFS), or (2) by filing paper copies. *See* Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).

Comments filed in response to this *Public Notice* will be available for public inspection and copying in the Commission's Reference Center, Room CY–A257, 445 12th Street SW., Washington, DC 20554, and via the Commission's Electronic Comment Filing System (ECFS) by entering the docket number, PS Docket No. 12–94. Copies of the request are also available from Best Copy and Printing, Inc., telephone (800) 378–3160, facsimile (301) 816–0169, email *FCC@BCPIWEB.com*.

Comments may be filed using the ECFS or by filing paper copies. *See* Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998). Comments filed through the ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/cgb/ecfs/*. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet email. To get filing instructions for email comments, commenters should send an email to *ecfs@fcc.gov*, and should include the following words in the body of the message, ''get form.'' A sample form and directions will be sent in reply.

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

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission, as follows:

—All hand-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW., Room TW–A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Envelopes must be disposed of before entering the building. The filing hours at this location are 8:00 a.m. to 7:00 p.m. **Please Note:** This is the only location where hand-delivered or messenger-delivered paper filings for the Commission's Secretary will be accepted. The Commission's former filing location at 236 Massachusetts Ave. NE., is permanently closed.

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

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

—All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

Parties are requested to send one copy of their comments and reply comments to Best Copy and Printing, Inc., Portals II, 445 12th Street SW., Room CY–B402, Washington, DC 20554, (800) 378–3160, email *FCC@BCPIWEB.com*.

Alternate formats of this *Public Notice* (computer diskette, large print, audio

http://www.ntia.doc.gov/press-release/2013/firstnet-approves-resolutions-spectrum-lease-agreement-la-rics-and-personnel-acqu (last visited Aug. 15, 2013); National Telecommunications and Information Administration, FirstNet Approves Spectrum Lease Agreement with New Mexico; Provides Status Update on Remaining Projects, *http://www.ntia.doc.gov/press-release/2013/firstnet-approves-spectrum-lease-agreement-new-mexico-provides-status-update-rema* (last visited Aug. 15, 2013). According to FirstNet the lease with LA–RICS is the first such agreement between FirstNet and one of the seven public safety Broadband Technology Opportunities Program grantees. These include: the Adams County (Colorado) Communications Center, the City of Charlotte (North Carolina), the Executive Office of the State of Mississippi, the Los Angeles Regional Interoperable Communications System Authority, Motorola Solutions, Inc. (the Bay Area Regional Interoperable Communications Systems Authority (BayRICS), San Francisco Bay area), the New Jersey Department of the Treasury, and the New Mexico Department of Information Technology. *See id.* FirstNet is also engaged in lease negotiations with the State of Texas, which holds a Special Temporary Authorization (STA) from the Commission to pursue early deployment in the band of a public safety network that ''support[s] specific public safety needs.'' *See* Implementing Provisions of the Middle Class Tax Relief and Job Creation Act of 2012, PS Docket 12–94, *Order,* DA 13–319 at 2 ¶ 5(PSHSB 2013). The Commission granted this STA for ''limited deployment'' of a public safety broadband network within Harris County, Texas, ''as FirstNet prepares to commence its nationwide deployment.'' *Id.* at 1 ¶ 2

[7] Comments of FirstNet at 3.

[8] *See Technical Service Rules NPRM,* 28 FCC Rcd at 2733–34 ¶ 62.

recording, and Braille) are available to persons with disabilities by contacting the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY), or send an email to *fcc504@fcc.gov.*

Federal Communications Commission.

Lisa M. Fowlkes,

Deputy Chief, Public Safety and Homeland Security Bureau.

[FR Doc. 2013–21040 Filed 8–27–13; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register

Vol. 78, No. 167

Wednesday, August 28, 2013

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

DEPARTMENT OF AGRICULTURE

Forest Service

Delta-Bienville Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting. Date change.

SUMMARY: The Delta-Bienville Resource Advisory Committee (RAC) will meet in Forest, Mississippi. The committee is meeting as authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343) and in compliance with the Federal Advisory Committee Act. The purpose of the meeting is to present proposed projects for discussion and approval.

DATES: The meeting date previously published in the **Federal Register** on August 9, 2013 is being changed and will be held September 23, 2013, at 6:00 p.m.; with an alternate date of September 24, 2013, at 6 p.m.

ADDRESSES: The meeting will be held at the Bienville Ranger District Work Center, Hwy 501 South, 935A South Raleigh Street, Forest, Mississippi. To verify date of meeting, please contact the RAC Coordinator listed in For Further Information Contact. Written comments may be submitted as described under Supplementary Information. All comments, including names and addresses, when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at Bienville Ranger District Office. Visitors are encouraged to call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Nefisia Kittrell, RAC Coordinator, at 601–469–3811 or via email at *nkittrell@fs.fed.us*.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Persons who wish to bring related matters to the attention of the Committee may file written statements with the Committee staff before or after the meeting. Written comments should be sent to Michael T. Esters, Designated Federal Officer, Bienville Ranger District Office, 3473 Hwy 35 South, Forest, Mississippi 39074. Comments may also be sent via email to *mesters@fs.fed.us,* or via facsimile to 601–469–2513.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation for access to the facility or proceedings by contacting the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: August 22, 2013.

Christopher Locke,

Acting District Ranger.

[FR Doc. 2013–20963 Filed 8–27–13; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–80–2013]

Proposed Foreign-Trade Zone—Ontario County, New York Under Alternative Site Framework

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by Ontario County, New York, to establish a foreign-trade zone in Ontario County, adjacent to the Rochester CBP port of entry, under the alternative site framework (ASF) adopted by the FTZ Board (15 CFR 400.2(c)). The ASF is an option for grantees for the establishment or reorganization of zones and can permit significantly greater flexibility in the designation of new ''subzones'' or ''usage-driven'' FTZ sites for operators/users located within a grantee's ''service area'' in the context of the FTZ Board's standard 2,000-acre activation limit for a zone project. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally docketed on August 22, 2013. The applicant is authorized to make the proposal under Chapter 190, Laws of New York 2013, Section 224–28.

The proposed zone would be the third zone for the Rochester CBP port of entry. The existing zones are as follows: FTZ 141, Monroe County (Grantee: County of Monroe, Board Order 355, April 2, 1987); and, FTZ 284, Genesee County (Grantee: Genesee Gateway Local Development Corporation, Board Order 1865, December 4, 2012).

The applicant's proposed service area under the ASF would be Ontario, Wayne, Seneca, Yates, Steuben and Livingston Counties, New York. If approved, the applicant would be able to serve sites throughout the service area based on companies' needs for FTZ designation. The proposed service area is adjacent to the Rochester Customs and Border Protection port of entry.

The applicant is requesting approval of an initial subzone for Crosman Corporation under the ASF with the following sites: *Proposed Site 1* (49.69 acres)—7629 Routes 5 & 20, Bloomfield, Ontario County; and, *Proposed Site 2* (4.41 acres) 1360 County Road #8, Farmington, Ontario County. Specific production approvals are not being sought at this time. Such requests would be made to the FTZ Board on a case-by-case basis.

In accordance with the FTZ Board's regulations, Elizabeth Whiteman of the FTZ Staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the FTZ Board.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is October 28, 2013. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to November 12, 2013.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the

''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.*

FOR FURTHER INFORMATION CONTACT: Elizabeth Whiteman at *Elizabeth.Whiteman@trade.gov* or (202) 482–0473.

Dated: August 22, 2013.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2013–21030 Filed 8–27–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (''the Department'') has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with July anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews.

DATES: Effective August 28, 2013.

FOR FURTHER INFORMATION CONTACT: Brenda E. Waters, Office of AD/CVD Operations, Customs Unit, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone: (202) 482–4735.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 CFR 351.213(b), for administrative reviews of various antidumping and countervailing duty orders and findings with July anniversary dates.

All deadlines for the submission of various types of information, certifications, or comments or actions by the Department discussed below refer to the number of calendar days from the applicable starting time.

Notice of No Sales

If a producer or exporter named in this notice of initiation had no exports, sales, or entries during the period of review (''POR''), it must notify the Department within 60 days of publication of this notice in the **Federal Register**. All submissions must be filed electronically at *http://iaaccess.trade.gov* in accordance with 19 CFR 351.303. *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011). Such submissions are subject to verification in accordance with section 782(i) of the Tariff Act of 1930, as amended (''Act''). Further, in accordance with 19 CFR 351.303(f)(1)(i), a copy must be served on every party on the Department's service list.

Respondent Selection

In the event the Department limits the number of respondents for individual examination for administrative reviews, the Department intends to select respondents based on U.S. Customs and Border Protection (''CBP'') data for U.S. imports during the POR. We intend to release the CBP data under Administrative Protective Order (''APO'') to all parties having an APO within seven days of publication of this initiation notice and to make our decision regarding respondent selection within 21 days of publication of this **Federal Register** notice. The Department invites comments regarding the CBP data and respondent selection within five days of placement of the CBP data on the record of the applicable review.

In the event the Department decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act:

In general, the Department has found that determinations concerning whether particular companies should be ''collapsed'' (*i.e.,* treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, the Department will not conduct collapsing analyses at the respondent selection phase of this review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this antidumping proceeding (*i.e.,* investigation, administrative review, new shipper review, or changed circumstances review). For any company subject to this review, if the Department determined, or continued to treat, that company as collapsed with others, the Department will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, the Department will not collapse companies for purposes of respondent selection. Parties are requested to (a) identify which companies subject to review previously were collapsed, and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete the Quantity and Value Questionnaire for purposes of respondent selection, in general each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of this proceeding where the Department considered collapsing that entity, complete quantity and value data for that collapsed entity must be submitted.

Deadline for Withdrawal of Request for Administrative Review

Pursuant to 19 CFR 351.213(d)(1), a party that has requested a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that the Department may extend this time if it is reasonable to do so. In order to provide parties additional certainty with respect to when the Department will exercise its discretion to extend this 90-day deadline, interested parties are advised that the Department does not intend to extend the 90-day deadline unless the requestor demonstrates that an extraordinary circumstance has prevented it from submitting a timely withdrawal request. Determinations by the Department to extend the 90-day deadline will be made on a case-by-case basis.

Separate Rates

In proceedings involving non-market economy (''NME'') countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to an administrative review in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, the Department analyzes each entity exporting the subject

merchandise under a test arising from the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China,* 56 FR 20588 (May 6, 1991), as amplified by *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China,* 59 FR 22585 (May 2, 1994). In accordance with the separate rates criteria, the Department assigns separate rates to companies in NME cases only if respondents can demonstrate the absence of both *de jure* and *de facto* government control over export activities.

All firms listed below that wish to qualify for separate rate status in the administrative reviews involving NME countries must complete, as appropriate, either a separate rate application or certification, as described below. For these administrative reviews, in order to demonstrate separate rate eligibility, the Department requires entities for whom a review was requested, that were assigned a separate rate in the most recent segment of this proceeding in which they participated, to certify that they continue to meet the criteria for obtaining a separate rate. The Separate Rate Certification form will be available on the Department's Web site at *http://www.trade.gov/ia* on the date of publication of this **Federal Register** notice. In responding to the certification, please follow the ''Instructions for Filing the Certification'' in the Separate Rate Certification. Separate Rate Certifications are due to the Department no later than 60 calendar days after publication of this **Federal Register** notice. The deadline and requirement for submitting a Certification applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers who purchase and export subject merchandise to the United States.

Entities that currently do not have a separate rate from a completed segment of the proceeding [1] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. In addition, companies that received a separate rate in a completed segment of the proceeding that have subsequently made changes, including, but not limited to, changes to corporate structure, acquisitions of new companies or facilities, or changes to their official company name,[2] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. The Separate Rate Status Application will be available on the Department's Web site at *http://www.trade.gov/ia* on the date of publication of this **Federal Register** notice. In responding to the Separate Rate Status Application, refer to the instructions contained in the application. Separate Rate Status Applications are due to the Department no later than 60 calendar days of publication of this **Federal Register** notice. The deadline and requirement for submitting a Separate Rate Status Application applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers that purchase and export subject merchandise to the United States.

For exporters and producers who submit a separate-rate status application or certification and subsequently are selected as mandatory respondents, these exporters and producers will no longer be eligible for separate rate status unless they respond to all parts of the questionnaire as mandatory respondents.

Initiation of Reviews

In accordance with 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than July 30, 2014.

	Period to be reviewed
Antidumping Duty Proceedings	
Finland: Purified Carboxymethylcellulose A–405–803	7/1/12–6/30/13
CP Kelco Oy	
India: Polyethylene Terephthalate (PET) Film A–533–824	7/1/12–6/30/13
Ester Industries Ltd	
Garware Polyester Ltd	
Jindal Poly Films Limited of India	
MTZ Polyesters Ltd	
Polyplex Corporation Ltd	
SRF Ltd	
Uflex Limited	
Vacmet	
Italy: Certain Pasta A–475–818	7/1/12–6/30/13
Alica srl	
Dalla Costa Alimentare srl	
Delverde Industrie Alimentari S.p.A	
Ghigi Industria Agroalimentare in San Clemente srl	
Molino e Pastificio Tomasello S.p.A	
Pasta Lensi S.r.l	
Pasta Zara S.p.A	
Pastificio Toscano srl	
Rummo S.p.A. Molino e Pastificio	
Valdigrano di Flavio Pagani S.r.L	
Russian Federation: Solid Urea A–821–801	7/1/12–6/30/13
MCC EuroChem	
Spain: Chlorinated Isocyanurates [3] A–469–814	6/1/12–5/31/13
Ercros, S.A	
Taiwan: Polyethylene Terephthalate (PET) Film A–583–837	7/1/12–6/30/13
Nan Ya Plastics Corporation	

[1] Such entities include entities that have not participated in the proceeding, entities that were preliminarily granted a separate rate in any currently incomplete segment of the proceeding (*e.g.,* an ongoing administrative review, new shipper review, *etc.*) and entities that lost their separate rate in the most recently completed segment of the proceeding in which they participated.

[2] Only changes to the official company name, rather than trade names, need to be addressed via a Separate Rate Application. Information regarding new trade names may be submitted via a Separate Rate Certification.

	Period to be eviewed
Shinkong Materials Technology Corporation	
The Netherlands: Purified Carboxymethylcellulose A–421–811	7/1/12–6/30/13
Akzo Nobel Functional Chemicals B.V	
The People's Republic of China: Certain Steel Grating [4] A–570–947	7/1/12–6/30/13
Anping Jinyuan Metal	
Anping Jinyuan Metal Co., Ltd	
Comtrust Metal & Ware Mesh Products Co. Ltd	
Comtrust Metal Wire Mesh Product Factory	
Dalian AW Gratings	
Dalian AW Gratings, Ltd	
Fujian Youxi Best Arts & Crafts Co., Ltd	
Guangzhou Webforge	
Guangzhou Webforge Grating Co., Ltd	
Hebei Jinshi Industrial Metal	
Hebei Jinshi Industrial Metal Co., Ltd	
Jiashan Qilimei Grating	
Jiashan Qilmei Grating Co., Ltd	
Kingjoy Building Decorative Materials Co Ltd	
Ningbo Haitian International Co., Ltd	
Ningbo Jiulong Machinery Manufacturing Co., Ltd	
Ningbo Lihong Steel Grating Co., Ltd	
Ningbo Zhenhai Jiulong Electronic Equipment Factory	
Shanghai Shenhao Steel Structure Designing	
Shanghai Shenhao Steel Structure Designing Co., Ltd	
Shanghai DAHE Grating Co., Ltd	
Sinosteel Yantai Steel Grating Co., Ltd	
Tianchang Flying-Dragon Metallic Products	
Tianchang Flying-Dragon Metallic Products Co., Ltd	
Qing Auging Mechancial	
Xinxing Grating Factory	
Yantai Hercules Metal Ltd	
Yantai Xinke Steel Structure Co., Ltd	
Zhejian Hengzhou Steel Grating	
Zhejian Hengzhou Steel Grating Co., Ltd	
The People's Republic of China: Certain Steel Threaded Rod [5] [6] A–570–932	4/1/12–3/31/13
The People's Republic of China: Circular Welded Carbon Quality Steel Pipe [7] A–570–910	7/1/12–6/30/13
Baoshan Iron & Steel Co., Ltd	
Beijing Jia Mei AO Trading Co., Ltd	
Beijing Jinghua Global Trading Co., Ltd	
Benxi Northern Steel Pipes, Co. Ltd	
CNOOC Kingland Pipeline Co., Ltd	
ETCO (China) International Trading Co., Ltd	
Guangzhou Juyi Steel Pipe Co., Ltd	
Huludao City Steel Pipe Industrial	
Jiangsu Changbao Steel Tube Co., Ltd	
Jiangsu Yulong Steel Pipe Co., Ltd	
Liaoning Northern Steel Pipe Co., Ltd	
Pangang Chengdu Group Iron & Steel Co., Ltd	
Shanghai Zhongyou TIPO Steel Pipe Co., Ltd	
Tianjin Haoyou Industry Trade Co., Ltd	
Tianjin Baolai International Trade Co., Ltd	
Tianjin Longshenghua Import & Export	
Tianjin Shuangjie Steel Pipe Co., Ltd	
Weifang East Steel Pipe Co., Ltd	
WISCO & CRM Wuhan Materials & Trade	
Zhejiang Kingland Pipeline Industry Co., Ltd.	
Countervailing Duty Proceedings	
India: Polyethylene Terephthalate (PET) Film C–533–825	1/1/12–12/31/12
Ester Industries Ltd	
Garware Polyester Ltd	
Jindal Poly Films Limited of India	
MTZ Polyesters Ltd	
Polyplex Corporation Ltd	
SRF Ltd	
Uflex Limited	
Vacmet	
Italy: Certain Pasta C–475–819	1/1/12–12/31/12
DeMatteis Agroalimentare S.p.A	
Delverde Industrie Alimentari S.p.A	
Fratelli DeCecco di Filippo Fara San Martino S.p.A	
Ghigi Industria Agroalimentare in San Clemente srl	
Pasta Granoro S.r.L. aka Pastifico Attilio Mastromauro Granoro S.r.L	

	Period to be eviewed
Valdigrano di Flavio Pagani S.r.L	
The People's Republic of China: Circular Welded Carbon Quality Steel Pipe C–570–911	1/1/12–12/31/12
Baoshan Iron & Steel Co., Ltd	
Beijing Jia Mei AO Tading Co., Ltd	
Beijing Jinghua Global Trading Co	
Benxi Northern Steel Pipes, Co. Ltd	
CNOOC Kingland Pipeline Co., Ltd	
ETCO (China) International Trading Co., Ltd	
Guangzhou Juyi Steel Pipe Co., Ltd	
Huludao City Steel Pipe Industrial	
Jiangsu Changbao Steel Tube Co., Ltd	
Jiangsu Yulong Steel Pipe Co., Ltd	
Liaoning Northern Steel Pipe Co., Ltd	
Pangang Chengdu Group Iron & Steel Co., Ltd	
Shanghai Zhongyou TIPO Steel Pipe Co., Ltd	
Tianjin Haoyou Industry Trade Co	
Tianjin Longshenghua Import & Export	
Tianjin Shuangjie Steel Pipe Co., Ltd	
Weifang East Steel Pipe Co., Ltd	
WISCO & CRM Wuhan Materials & Trade	
Zhejiang Kingland Pipeline Industry Co., Ltd.	

Suspension Agreements

None

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under 19 CFR 351.211 or a determination under 19 CFR 351.218(f)(4) to continue an order or suspended investigation (after sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine, consistent with *FAG Italia* v. *United States,* 291 F.3d 806 (Fed Cir. 2002), as appropriate, whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures ''gap'' period, of the order, if such a gap period is applicable to the POR.

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures,* 73 FR 3634 (January 22, 2008). Those procedures apply to administrative reviews included in this notice of initiation. Parties wishing to participate in any of these administrative reviews should ensure that the meet the requirements of these procedures (*e.g.,* the filing of separate letters of appearance as discussed at 19 CFR 351.103(d)).

Revised Factual Information Requirements

On April 10, 2013, the Department published *Definition of Factual Information and Time Limits for Submission of Factual Information: Final Rule,* 78 FR 21246 (April 10, 2013), which modified two regulations related to antidumping and countervailing duty proceedings: The definition of factual information (19 CFR 351.102(b)(21)), and the time limits for the submission of factual information (19 CFR 351.301). The final rule identifies five categories of factual information in 19 CFR 351.102(b)(21), which are summarized as follows: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). The final rule requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. The final rule also modified 19 CFR 351.301 so that, rather than providing general time limits, there are specific time limits based on the type of factual information being submitted. These modifications are effective for all segments initiated on

[3] The company name listed above was misspelled in the initiation notice that published on August 1, 2013 (78 FR 46566). The correct spelling of the company is listed in this notice.

[4] If one of the above-named companies does not qualify for a separate rate, all other exporters of Certain Steel Grating from the PRC who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.

[5] If one of the above-named companies does not qualify for a separate rate, all other exporters of Certain Steel Threaded Rod the PRC who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.

[6] In the initiation that published on June 3, 2013 (78 FR 33052) the Department incorrectly identified that administrative reviews were initiated on the antidumping duty order of Certain Steel Threaded Rod from the PRC for the following companies: (1) China Jiangsu International Economic Technical Cooperation Corporation; (2) Ningbo Baoli Machinery Manufacture Co., Ltd.; and (3) Shanghai P&J International Trading Co., Ltd. The Department is now correcting that notice: The Department is initiating administrative reviews on the antidumping duty order of Certain Steel Threaded Rod from the PRC for the following companies: (1) China Friendly Nation Hardware Technology Limited; and (2) Orient International Holding Shanghai Rongheng Intl Trading Co. Ltd.

[7] If one of the above-named companies does not qualify for a separate rate, all other exporters of Circular Welded Carbon Quality Steel Pipe from the PRC who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.

or after May 10, 2013. Please review the final rule, available at *http://ia.ita.doc.gov/frn/2013/1304frn/2013-08227.txt,* prior to submitting factual information in this segment.

Any party submitting factual information in an antidumping duty or countervailing duty proceeding must certify to the accuracy and completeness of that information. *See* section 782(b) of the Act. Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives. Ongoing segments of any antidumping duty or countervailing duty proceedings initiated on or after March 14, 2011 should use the formats for the revised certifications provided at the end of the *Interim Final Rule. See Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings: Interim Final Rule,* 76 FR 7491 (February 10, 2011) (''*Interim Final Rule*''), amending 19 CFR 351.303(g)(1) and (2); *Certification of Factual Information to Import Administration during Antidumping and Countervailing Duty Proceedings: Supplemental Interim Final Rule,* 76 FR 54697 (September 2, 2011). All segments of any antidumping duty or countervailing duty proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at the end of the *Final Rule. See Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (''*Final Rule*''); *see also* the frequently asked questions regarding the *Final Rule,* available at *http://ia.ita.doc.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.* The Department intends to reject factual submissions in any proceeding segments if the submitting party does not comply with applicable revised certification requirements.

These initiations and this notice are in accordance with section 751(a) of the Act (19 USC 1675(a)) and 19 CFR 351.221(c)(1)(i).

Dated: August 21, 2013.

Gary Taverman,

Senior Advisor for Antidumping and Countervailing Duty Operations.

[FR Doc. 2013–21022 Filed 8–27–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC797

Mid-Atlantic Fishery Management Council (MAFMC); Meeting; Correction

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

ACTION: Notice of public meeting; correction.

SUMMARY: The Mid-Atlantic Fishery Management Council's Spiny Dogfish Advisory Panel (AP) will meet to develop a Fishery Performance Report for the Spiny Dogfish fishery in preparation for the Council and the Council's Scientific and Statistical Committee review of specifications that have been set for the 2014 fishing year. The meeting date and time are being corrected in this document. All other information previously-published is repeated here.

DATES: Tuesday, September 10, 2013 at 1 p.m. until 4 p.m.

ADDRESSES: The meeting will be held via Webinar with a listening station also available at the Council Address below. Webinar link: *http://mafmc.adobeconnect.com/dogfish/* Council Address: Mid-Atlantic Fishery Management Council, 800 N. State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331.

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, 800 N. State Street, Suite 201, Dover, DE 19901; telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The original notice published at 78 FR 48421, August 8, 2013, and the correction to the meeting time published at 78 FR 52135, August 22, 2013. This document corrects the meeting time and date. The Advisory Panel will develop a Fishery Performance Report for consideration by the Council and the Council's SSC as they review spiny dogfish management measures established for the 2014 fishing year.

Special Accommodations:

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to M. Jan Saunders at the Mid-Atlantic Council Office (302) 526–5251 at least five days prior to the meeting date.

Dated: August 23, 2013.

Tracey L. Thompson,

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

[FR Doc. 2013–20987 Filed 8–27–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2013–OS–0119]

Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by September 27, 2013.

FOR FURTHER INFORMATION CONTACT: Fred Licari, 571–372–0493.

SUPPLEMENTARY INFORMATION: Title, Associated Form and OMB Number: National Geospatial-Intelligence Agency Enterprise Workforce System; OMB Control Number 0704–TBD.

Type of Request: New Collection.

Number of Respondents: 12,000.

Responses per Respondent: 1.

Annual Responses: 12,000.

Average Burden per Response: 30 minutes.

Annual Burden Hours: 6,000.

Needs and Uses: The information collection requirement is necessary to maintain and disseminate employee information to facilitate a variety of NGA's mission-related duties, including activities related to administrative matters, account creation, operations support, access controls, workforce security, training records, expertise, competency management, polygraph information, drug, vision and medical test results, Federal reporting requirements, and domestic and international counterintelligence.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Required to Obtain or Retain Benefits.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Jasmeet Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

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

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD Information Management Division, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Dated: August 23, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–21003 Filed 8–27–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the National Commission on the Structure of the Air Force

AGENCY: Director of Administration and Management, DoD.

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: Under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150, the Department of Defense (DoD) announces that the following Federal advisory committee meeting of the National Commission on the Structure of the Air Force (''the Commission'') will take place.

DATES: *Date of Open Meeting, including Hearing and Commission Discussion:* Saturday, September 14, 2013, from 1:00 p.m. to 5:00 p.m. Registration will begin at 12:30 p.m.

ADDRESSES: Chesterfield Township Meeting Room, 47275 Sugarbush Road, Chesterfield, MI, 48047.

FOR FURTHER INFORMATION CONTACT: Mrs. Marcia Moore, Designated Federal Officer, National Commission on the Structure of the Air Force, 1950 Defense Pentagon, Room 3A874, Washington, DC 20301–1950. Email: *dfoafstrucomm@osd.mil.* Desk (703) 545–9113. Facsimile (703) 692–5625.

SUPPLEMENTARY INFORMATION: *Purpose of Meeting:* The members of the Commission will hear testimony from individual witnesses and then will discuss the information presented at the hearings.

Agenda

On September 14, 2013, a subset of members from the Commission will tour units located at Selfridge Air National Guard Base.

The hearing and meeting on Saturday September 14, 2013 is expected to include representatives from the Michigan Governor's office, local U.S. Air Force and Michigan National Guard leadership who have been asked to testify and address the evaluation factors under consideration by the Commission for a U.S. Air Force structure that—(a) Meets current and anticipated requirements of the combatant commands; (b) achieves an appropriate balance between the regular and reserve components of the Air Force, taking advantage of the unique strengths and capabilities of each; (c) ensures that the regular and reserve components of the Air Force have the capacity needed to support current and anticipated homeland defense and disaster assistance missions in the United States; (d) provides for sufficient numbers of regular members of the Air Force to provide a base of trained personnel from which the personnel of the reserve components of the Air Force could be recruited; (e) maintains a peacetime rotation force to support operational tempo goals of 1:2 for regular members of the Air Forces and 1:5 for members of the reserve components of the Air Force; and (f) maximizes and appropriately balances affordability, efficiency, effectiveness, capability, and readiness. Individual Commissioners will also report their activities, information collection, and analyses to the full Commission.

Meeting Accessibility: Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.140 through 102–3.165, and the availability of space, the meeting is open to the public. The building is fully handicap accessible. Several public parking facilities are nearby. Photography and videography is permitted, but must be previously arranged through: Penny Carroll, 127th Wing Chief, Public Affairs, 29553 George Avenue, Selfridge ANGB, MI 48045, (586) 239–5576.

Written Comments: Pursuant to 41 CFR 102–3.105(j) and 102–3.140 and section 10(a)(3) of the FACA, the public or interested organizations may submit written comments to the Commission in response to the stated agenda of the open meeting or the Commission's mission. The Designated Federal Officer (DFO) will review all submitted written statements. Written comments should be submitted to Mrs. Marcia Moore, DFO, via facsimile or electronic mail, the preferred modes of submission. Each page of the comment must include the author's name, title or affiliation, address, and daytime phone number. All contact information may be found in the **FOR FURTHER INFORMATION CONTACT** section.

Oral Comments: In addition to written statements, one hour will be reserved for individuals or interested groups to address the Commission on Saturday, September 14, 2013. Interested oral commenters must summarize their oral statement in writing and submit with their registration. The Commission's staff will assign time to oral commenters at the meeting, for no more than 5 minutes each. While requests to make an oral presentation to the Commission will be honored on a first come, first served basis, other opportunities for oral comments will be provided at future meetings.

Registration: Individuals who wish to attend the public hearing and meeting on Saturday, September 14, 2013 are encouraged to register for the event in advance with the Designated Federal Officer, using the electronic mail and facsimile contact information found in the **FOR FURTHER INFORMATION CONTACT** section. The communication should include the registrant's full name, title, affiliation or employer, email address, and daytime phone number. If applicable, include written comments and a request to speak during the oral comment session. (Oral comment requests must be accompanied by a summary of your presentation.) Registrations and written comments must be typed.

Background

The National Commission on the Structure of the Air Force was established by the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112–239). The Department of Defense sponsor for the Commission is the Director of Administration and Management, Office of the Secretary of Defense. The Commission is tasked to submit a report, containing a comprehensive study and recommendations, by February 1, 2014 to the President of the United States and

the Congressional defense committees. The report will contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions it may consider appropriate in light of the results of the study. The comprehensive study of the structure of the U.S. Air Force will determine whether, and how, the structure should be modified to best fulfill current and anticipated mission requirements for the U.S. Air Force in a manner consistent with available resources.

Dated: August 23, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–20991 Filed 8–27–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Air Force

[Docket ID: USAF–2013–0034]

Proposed Collection; Comment Request

AGENCY: Air Education and Training Command (AETC/A5TS), Department of the Air Force/Headquarters, Department of Defense.

ACTION: Notice.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the *Paperwork Reduction Act of 1995,* the Department of the Air Force announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by October 28, 2013.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

• *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to HQ Air Education and Training Command (AETC/A5TS), ATTN: Mr. M. Rasti, 1150 East 5th Street, Suite 210, JBSA Randolph TX 78150, or call 210–652–2299.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Graduate Training Integration Management System (GTIMS), OMB Number 0701–TBD.

Needs and Uses: Require the collection of specific information on prospective Air Force contract flight instructors. It is necessary to create records that are used to ensure they are qualified to be flight instructors.

Affected Public: Individuals or households.

Annual Burden Hours: 63.

Number of Respondents: 250.

Responses per Respondent: 1.

Average Burden per Response: 15 minutes.

Frequency: On occasion.

Respondents are former military members, now members of the general public, who become contract employees that provide flying training instruction to military students. Regulations stipulate that these individuals maintain instructor certifications in accordance with Federal and Air Force requirements to ensure students are properly trained. Requesting and receiving direct feedback from this group would be helpful to inform and modify processes and procedures that pertain to others in this same category in the future.

Dated: August 23, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–21001 Filed 8–27–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID USA–2013–0020]

Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by September 27, 2013.

FOR FURTHER INFORMATION CONTACT: Fred Licari, 571–372–0493.

SUPPLEMENTARY INFORMATION:

Title, Associated Form and OMB Number: Application for Department of the Army Permit; ENG Form 4345; OMB Control Number 0710–0003.

Type of Request: Extension.

Number of Respondents: 80,000.

Responses Per Respondent: 1.

Annual Responses: 80,000.

Average Burden per Response: 11 hours.

Annual Burden Hours: 880,000.

Needs and Uses: Information collected ins used to evaluate, as required by law, proposed construction or filing in waters of the United States that result in impacts to the aquatic environment and nearby properties, and to determine if issuance of a permit is in the public interest. Respondents are private landowners, businesses, non-profit organizations, and government agencies. Respondents also include sponsors of proposed and approved mitigation banks and in-lieu fee programs.

Affected Public: Individuals or households; business or other for-profit; not-for-profit institutions; farms; Federal government; State, local, or tribal government.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. Jim Laity.

Written comments and recommendations on the proposed information collection should be sent to Mr. Jim Laity at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

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

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD Information Management Division, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Dated: August 23, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–21012 Filed 8–27–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Nevada

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Nevada. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, September 18, 2013, 4:00 p.m.

ADDRESSES: National Atomic Testing Museum, 755 E. Flamingo Road, Las Vegas, Nevada 89119.

FOR FURTHER INFORMATION CONTACT: Barbara Ulmer, Board Administrator, 232 Energy Way, M/S 505, North Las Vegas, Nevada 89030. Phone: (702) 630–0522; Fax (702) 295–5300 or Email: *NSSAB@nnsa.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

1. Fiscal Year 2014 Work Plan Development
2. Election of Officers

Public Participation: The EM SSAB, Nevada, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Barbara Ulmer at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral presentations pertaining to agenda items should contact Barbara Ulmer at the telephone number listed above. The request must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments can do so during the 15 minutes allotted for public comments.

Minutes: Minutes will be available by writing to Barbara Ulmer at the address listed above or at the following Web site: *http://nv.energy.gov/nssab/MeetingMinutes.aspx.*

Issued at Washington, DC, on August 21, 2013.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2013–20977 Filed 8–27–13; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Extension

AGENCY: U.S. Energy Information Administration (EIA), Department of Energy (DOE).

ACTION: Information collection extension with change, comment request.

SUMMARY: The EIA, pursuant to the Paperwork Reduction Act of 1995, intends to extend for three years with the Office of Management and Budget (OMB) the Coal Markets Reporting System. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments must be filed by October 28, 2013. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, please advise the EIA–3 Survey Manager at EIA of your intention to make a submission as soon as possible.

ADDRESSES: Written comments should be sent to: Attn: Tejasvi Raghuveer, EIA–3 Survey Manager, U.S. Energy Information Administration, EI–24, 1000 Independence Avenue SW., Washington, DC 20585.

To ensure receipt of the comments by the due date, submission by email (*tejasvi.raghuveer@eia.gov*) is recommended. Alternatively, Ms. Raghuveer may be contacted by telephone at 202–586–8926.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of any forms and instructions should be directed to Ms. Tejasvi Raghuveer at the contact information listed above. The proposed forms and instructions are available on the Internet at: *http://www.eia.gov/survey/#coal.*

SUPPLEMENTARY INFORMATION:

This information collection request contains: (1) OMB No. 1905–0167; (2) Information Collection Request Title: Coal Markets Reporting System. The survey forms included in this system are: EIA–3 ''Quarterly Coal Consumption and Quality Report, Manufacturing and Transformation/Processing Coal Plants and Commercial and Institutional Coal Users; ''EIA–6Q '' Quarterly Coal Report (Standby);'' EIA–7A ''Coal Production and Preparation Report;'' EIA–8A ''Coal Stocks Report;'' EIA–20 ''Weekly Coal Monitoring Report, Coal Burning Utilities and Independent Power Producers (Standby);'' (3) Type of Request: Three-year extension with changes; (4) Purpose: The Federal Energy Administration Act of 1974 (15 U.S.C. 761 *et seq.*) and the DOE Organization Act (42 U.S.C. 7101 *et seq.*) require the EIA to carry out a centralized, comprehensive, and unified energy information program. This program collects, evaluates, assembles, analyzes, and disseminates information on energy resource reserves, production, demand, technology, and related economic and statistical information. This information is used to assess the adequacy of energy resources to meet near and longer term domestic demands and to promote sound policymaking, efficient markets,

and public understanding of energy and its interaction with the economy and the environment.

EIA surveys are conducted to collect coal market data. The data elements include production, consumption, receipts, stocks, and prices. Information pertaining to the quality of the coal is also collected. Aggregates of this collection are used to support public policy analyses of the coal industry, economic modeling, forecasting, coal supply and demand studies, and in guiding research and development programs. EIA publications, including the *Monthly Energy Review, Quarterly Coal Report, Quarterly Coal Distribution Report, Annual Coal Report,* and *Annual Coal Distribution Report,* each contain data collected through the coal production and consumption surveys listed above. The EIA uses the data in short-term and long-term models such as the Short-Term Integrated Forecasting System (STIFS) and the National Energy Modeling System (NEMS) Coal Market Module. The forecast data also appear in the *Short-Term Energy Outlook* and the *Annual Energy Outlook* publications.

(4a) Proposed Changes: The EIA proposes to make changes to Forms EIA–3, EIA–6Q, EIA–7A, EIA–8A, and EIA–20. The EIA proposes to discontinue standby Forms EIA–1 and EIA–4. Together, these two standby forms were intended to collect data from non-electric sector respondents in the event of a coal supply disruption. To date, these forms have never been deployed. Also, the possibility of such a disruption to non-electric sector respondents seems minimal. In addition, coal and coke data collected on Form EIA–5 in Schedules II, III, and IV will now be collected on Form EIA–3. Hence, the EIA proposes to discontinue the Form EIA–5. Detailed descriptions of proposed changes to individual forms follow.

Form EIA–3: Quarterly Coal Consumption and Quality Report, Manufacturing and Transformation/ Processing Coal Plants and Commercial and Institutional Coal Users

- Change the title of the survey to ''Quarterly Survey of Non-Electric Sector Coal Data''
- Modify the scope of the survey, as defined under the purpose section, to include coke plants
- Remove Secure File Transfer from Communication Method
- Re-categorize mail as an Unsecured Communication Method
- Change Site County to Site City
- Request EIA–923 ID in the Company Contact Information Section
- Create ''Part 5: Coking Plants Only'' to accommodate respondents of discontinued Form EIA–5 and collect data regarding coke production. Disclosure limitation procedures will continue to be applied to all cost and revenue data reported in Part V.
- No longer collect Synfuel data
- Minor revisions to instructions and definitions

Form EIA–7A: Coal Production and Preparation Report

- Change title of survey to ''Annual Survey of Coal Production and Preparation''
- Modify questions, response options, and instructions to provide respondents with more detail and to improve navigation
- Update Unsecured Communication Method(s) to include email, fax, and mail
- Create a field for adjustment to coal stocks to account for stocks held on- and off-site at the end of the reporting year
- Add new fields for metallurgical and non-metallurgical coal under sections on Open and Captive Market Sales to gather more accurate revenue data from each type of sale. Disclosure limitation procedures will be applied to protect the data elements from being attributed to any specific company.

EIA proposes adding the following questions to Form EIA–7A:

- *Did the company that owns the mining operation cease operations during the reporting year?* This question will be used to help maintain the EIA–7A frame and review data discrepancies as reported by respondents that answered ''yes'' to the question.
- *Report the county, state, and mining dates of the surface mining activity.* The Mine Safety and Health Administration assigns this location every quarter. Adding this question would track production by county more accurately.
- *What is the average heat content for all coal mined at this mine during the reporting year?* EIA's State Energy Data System publishes heat content of coal produced by state. Currently, this production heat content data is estimated by EIA staff using coal-quality data collected, in relation to coal receipts, at end-use sectors as a proxy. This question would provide the actual production-based quality data needed to replace the estimation.
- *For any Captive Market Sales or transfer of coal to the parent company or a subsidiary of the parent company, what are their contact name, company name, email address, and telephone number?* This question helps verify the accuracy of captive market sales vs. open market sales data. This will also allow for improved frame maintenance on the EIA–8A, which covers coal traders, brokers, and terminals.
- *For any Export Coal Sales to coal brokers, coal traders, or coal terminals, what are their contact name, company name, email address, and telephone number?* This question will be used to run a cross-survey comparison with the EIA–8A in hopes of eliminating double-counting of export coal sales and improving export-related data.

Form EIA–8A: Coal Stocks Report

- Change title of survey to ''Annual Survey of Coal Stocks and Coal Exports''
- Simplify questions, response options, and instructions to provide respondents with more detail and to improve navigation
- Update Secure Communication Method to include the Internet Data Collections (IDC) System
- Modify Unsecured Communication Method(s) to include email, fax, and mail
- Require additional contact information when a company is sold or merges during the reporting year
- Amend the Required Respondents section of the survey to require respondents to report coal exported since prior reporting year
- Revise list of locations where U.S. originated stocks are held to include ''OT—Other''
- Add new fields for metallurgical and non-metallurgical coal to various sections of the survey to gather more accurate revenue data about the metallurgical coal market

EIA proposes adding the following questions to Form EIA–8A:

- *Did the company for which you are reporting export coal that originated in the United States during the reporting year?* This is a screening question that will help ensure an accurate accounting of all coal brokers that also act as exporters.
- *What was the operational status of your company during the reporting year?* This question will be used to help maintain the EIA–8A frame and review data discrepancies as reported by respondents that answered ''yes'' to the question.

Standby Forms EIA–6Q: Quarterly Coal Report (Standby) and EIA–20: Weekly Coal Monitoring Report, Coal Burning Utilities and Independent Power Producers (Standby)

- Change standby form titles to Form EIA–6: ''Emergency Coal Supply Survey'' and Form EIA–20: ''Emergency Weekly Coal Monitoring Survey for Coal Burning Power Producers.''

• Make minor revisions to instructions and definitions

Eliminating Form EIA–5: Quarterly Coal Consumption and Quality Report—Coke Plants

Eliminating Form EIA–5 and the proposed changes to Form EIA–3 will result in the absorption of all 19 EIA–5 respondents into the EIA–3 frame, reduce quarterly maintenance of two separate internet data collection systems with nearly identical layouts and edits, and create a single survey for all non-electric sector coal users.

Eliminating Standby Forms EIA–1: Weekly Coal Monitoring Report—General Industries and Blast Furnaces and EIA–4: Weekly Coal Monitoring Report—Coke Plants

Standby Forms EIA–1 and EIA–4 were intended to collect data from non-electric sector respondents in the event of a coal supply disruption. To date, these forms have never been deployed. Also, the possibility of such a disruption to non-electric sector respondents seems minimal. Eliminating these two survey forms would be optimal.

(5) Estimated Number of Survey Respondents:

• Form EIA–3 will consist of 508 respondents; the increase from the current 489 respondents is because of the additional 19 EIA–5 respondents that will begin reporting on Form EIA–3.

• EIA–7A will consist of 1,208 respondents.

• EIA–8A will consist of 86 respondents.

(6) Annual Estimated Number of Total Responses: 3326.

• Form EIA–3, 2,032 responses.

• EIA–7A, 1,208 respondents.

• EIA–8A, 86 respondents.

(7) Annual Estimated Number of Burden Hours: Total annual burden hours for all three surveys: 3834.

(8) Annual Estimated Reporting and Recordkeeping Cost Burden: EIA estimates that there are no additional costs to respondents associated with the surveys other than the costs associated with the burden hours.

Statutory Authority: Section 13(b) of the Federal Energy Administration Act of 1974, Pub. L. 93–275, codified at 15 U.S.C. 772(b), and the DOE Organization Act of 1977, Pub. L. 95–91, codified at 42 U.S.C. 7101 et seq.

Issued in Washington, DC, on August 22, 2013.

Stephanie Brown,

Director, Office of Survey Development and Statistical Integration, U.S. Energy Information Administration.

[FR Doc. 2013–20978 Filed 8–27–13; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. OR13–31–000]

Flint Hills Resources Alaska, LLC, BP Pipelines (Alaska) Inc., ConocoPhillips Transportation Alaska, Inc., ExxonMobil Pipeline Company; Notice of Complaint

Take notice that on August 20, 2013, pursuant to section 9, 13(1), and 15(1) of the Interstate Commerce Act, 49 U.S.C. 9, 13(1), and 15(1), Rule 206 of the Rules of Practice and Procedures of the Federal Energy Regulatory Commission (Commission), 18 CFR 365.206 (2013), and section 343.2 of the Procedural Rules Applicable to Oil Pipeline Proceedings, 18 CFR 343.2 (2013), Flint Hills Resources Alaska, LLC (FHR or Complainant) filed a formal complaint against BP Pipelines (Alaska) Inc., ConocoPhillips Transportation Alaska, Inc., and ExxonMobil Pipeline Company (collectively, Respondents), petitioning the Commission to investigate the continuing reasonableness of the existing Quality Bank provisions of the Respondents' tariffs governing the method of making monetary adjustments among TAPS shippers to account for the differences between the quality of the crude oil tendered for transportation and the quality of the crude oil received by that shipper.

The Complainant certifies that copies of the complaint were served on the contacts for the Respondents as listed on the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on September 9, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–20924 Filed 8–27–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP13–1015–000]

Texas Eastern Transmission, LP; Notice of Technical Conference

Take notice that the Commission Staff will convene a technical conference in the above-referenced proceeding on Thursday, September 12, 2013, at 10:00 a.m. (Eastern Standard Time), in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

At the technical conference, the Commission Staff and the parties to the proceeding can discuss all of the issues raised by Texas Eastern Transmission, LP's (Texas Eastern) filing. In particular, as discussed in the Order Accepting and Suspending Tariff Record and Establishing Technical Conference Proceedings [1] in this docket, Texas Eastern should be prepared to address the concerns raised by the parties in this proceeding and, if necessary, to provide additional technical, engineering and

[1] *Texas Eastern Transmission, LP,* 144 FERC ¶ 61,082, at P 19 (2013).

operational support for its proposal, including support for its assertion that its proposal is not barred by the 2010 Settlement. Consistent with the Commission's Natural Gas Interchangeability Policy Statement, Texas Eastern should be prepared to explain how its proposal differs from the Natural Gas Council Plus interim guidelines.[2] In addition, any party proposing alternatives to Texas Eastern's proposal should be prepared to support its position with adequate technical, engineering and operational information.

FERC conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an email to *accessibility@ferc.gov* or call toll free (866) 208–3372 (voice) or (202) 502–8659 (TTY), or send a fax to (202) 208–2106 with the required accommodations.

All interested persons are permitted to attend. For further information please contact Oscar Santillana at (202) 502–6392 or email *Oscar.Santillana@ferc.gov,* and David Maranville at (202) 502–6351 or email *David.Maranville@ferc.gov.*

Dated: August 20, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–20925 Filed 8–27–13; 8:45 am]

BILLING CODE 6717–01–P

[2] *Policy Statement on Provisions Governing Natural Gas Quality and Interchangeability in Interstate Natural Gas Pipeline Company Tariffs,* 115 FERC ¶ 61,325, at PP 34, 37 (2006).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 199–205]

South Carolina Public Service Authority; Notice of Meeting to Discuss Santee-Cooper Biological Opinion

On July 15, 2010, the National Marine Fisheries Service (NMFS) filed its Biological Opinion (BO) on the relicensing of the Santee-Cooper Hydroelectric Project No. 199. The document included NMFS' terms and conditions for protection of the endangered shortnose and Atlantic sturgeon. Commission staff, the South Carolina Public Service Authority (SCPSA), the South Carolina Department of National Resources, and U.S. Army Corps of Engineers filed comments on the draft BO in September 2010. Several meetings and workshops were held in 2011 and 2012 to discuss what is needed to complete formal consultation for the two sturgeon species.

At the request of NMFS, Commission staff will meet with representatives of NMFS and SCPSA, the Commission's non-federal representative for the Santee-Cooper Project, to continue the on-going discussions of what is needed to complete formal consultation for the shortnose and Atlantic sturgeon. The meeting will be held on Thursday, September 19, 2013, from 9:00 a.m. to 5:00 p.m. at NMFS' office at 263 13th Avenue South, St. Petersburg, Florida. All local, state, and federal agencies, and interested parties, are hereby invited to attend and observe this meeting. Questions concerning the meeting should be directed to Robert Hoffman of NMFS at (727) 824–5312.

Dated: August 20, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–20923 Filed 8–27–13; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9900–46–ORD; Docket ID No. EPA–HQ–ORD–2006–0756]

Notice of Extension of Public Comment Period on the Draft IRIS Carcinogenicity Assessment for Ethylene Oxide and Addition of Ethylene Oxide to October IRIS Bimonthly Meeting Agenda

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Extension of Public Comment Period to October 11, 2013, and Addition of Ethylene Oxide to October IRIS Bimonthly Meeting Agenda.

SUMMARY: EPA is announcing an extension of the public comment period for the IRIS external review draft carcinogenicity assessment titled, ''Evaluation of the Inhalation Carcinogenicity of Ethylene Oxide'' (EPA/635/R–13/128a and EPA/635/R–13/128b) and the draft peer review charge questions. The original **Federal Register** notice announcing the public comment period was published on July 23, 2013. We are extending the deadline for this public comment period from September 5, 2013, to October 11, 2013, at the request of the American Chemistry Council and the Ethylene Oxide Sterilization Association, Inc. The draft assessment was prepared by the National Center for Environmental Assessment (NCEA) within the EPA Office of Research and Development (ORD). This draft assessment is not final as described in EPA's information quality guidelines, and it does not represent and should not be construed to represent Agency policy or views.

Discussion of the draft IRIS carcinogenicity assessment for ethylene oxide will be included on the agenda of the IRIS bimonthly public meeting to be held on October 23–24, 2013, at EPA offices in Arlington, Virginia. Information on this meeting, including meeting location, time, registration, and participation procedures will be available at the IRIS Web site (*http://www.epa.gov/iris/publicmeeting/*).

DATES: The public comment period began on July 23, 2013, and is being extended to end on October 11, 2013. Comments should be in writing and must be received by EPA by October 11, 2013.

ADDRESSES: The draft ''Evaluation of the Inhalation Carcinogenicity of Ethylene Oxide'' is available primarily via the Internet on the NCEA home page under the Recent Additions and Publications menus at *http://www.epa.gov/ncea.* A limited number of paper copies are available from the Information Management Team, NCEA; telephone: 703–347–8561; facsimile: 703–347–8691. If you request a paper copy, please provide your name, mailing address, and the document title. Comments may be submitted electronically via *http://www.regulations.gov,* by email, by mail, by facsimile, or by hand delivery/courier. Please follow the detailed instructions provided in the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: For information on the federal docket, contact the Office of Environmental Information Docket; telephone: 202–566–1752; facsimile: 202–566–9744; or email: *Docket_ORD@epa.gov.* For information on the IRIS bimonthly public meeting, contact Christine Ross, IRIS Staff, National Center for Environmental Assessment, (8601P), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone: 703–347–8592; facsimile: 703–347–8689; or email: *ross.christine@epa.gov.* If you have questions about the document, contact Jennifer Jinot, National Center for Environmental Assessment; telephone: 703–347–8597; facsimile: 703–347–8690; or email: *jinot.jennifer@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Information About IRIS

EPA's IRIS Program is a human health assessment program that evaluates quantitative and qualitative risk information on effects that may result from exposure to chemical substances found in the environment. Through the IRIS Program, EPA provides the highest quality science-based human health assessments to support the Agency's regulatory activities and decisions to protect public health. The IRIS database contains information for more than 500 chemical substances that can be used to support the first two steps (hazard identification and dose-response evaluation) of the human health risk assessment process. When supported by available data, IRIS provides health effects information and toxicity values for health effects (including cancer and effects other than cancer). Government and others combine IRIS toxicity values with exposure information to characterize public health risks of chemical substances; this information is then used to support risk management decisions designed to protect public health.

II. Extension of Comment Period

The EPA is extending the deadline for submitting comments on the draft ''Evaluation of the Inhalation Carcinogenicity of Ethylene Oxide'' and on the draft peer review charge questions to October 11, 2013. The original deadline for comments was September 5, 2013. The EPA's decision responds to requests to extend the comment deadline. The EPA believes that this extension will assist in providing an adequate amount of additional time for the public to review the drafts and to provide written comments.

III. Bimonthly Public Meeting

In addition to the extension to the public comment period announced in this notice, the draft assessment will be discussed at the first IRIS bimonthly public meeting scheduled for October 23–24, 2013. Information on this meeting, including meeting location, time, registration, and participation procedures will be available at the IRIS Web site (*http://www.epa.gov/iris/publicmeeting/*). The purpose of the IRIS public meeting is to allow all interested parties to present scientific and technical comments on the draft IRIS health assessment and charge questions to EPA and other interested parties attending the meeting.

IV. Peer Review

In addition to this public comment period, the draft assessment will be reviewed by the EPA's Science Advisory Board (SAB) Chemical Assessment Advisory Committee (CAAC) for peer review. The EPA SAB is a body established under the Federal Advisory Committee Act with a broad mandate to advise the Agency on scientific matters. The public comment period and bimonthly public meeting announced in this notice are separate processes from the SAB/CAAC peer review. The SAB will schedule one or more public peer-review meetings which will be announced in a separate **Federal Register** Notice at a later date.

V. How To Submit Technical Comments to the Docket at *http://www.regulations.gov*

Submit your comments, identified by Docket ID No. EPA–HQ–ORD–2006–0756 by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email: Docket_ORD@epa.gov.*
- *Fax:* 202–566–9744.
- *Mail:* Office of Environmental Information (OEI) Docket (Mail Code: 28221T), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460. The phone number is 202–566–1752.
- *Hand Delivery:* The OEI Docket is located in the EPA Headquarters Docket Center, EPA West Building, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The EPA Docket Center's Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is 202–566–1744. Deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information. If you provide comments by mail or hand delivery, please submit one unbound original with pages numbered consecutively, and three copies of the comments. For attachments, provide an index, number pages consecutively with the comments, and submit an unbound original and three copies.

Instructions for submitting comments to the EPA Docket: Direct your comments to Docket ID No. EPA–HQ–ORD–2006–0756. Please ensure that your comments are submitted within the specified comment period. Comments received after the closing date will be marked ''late,'' and may only be considered if time permits. It is EPA's policy to include all comments it receives in the public docket without change and to make the comments available online at *http://www.regulations.gov,* including any personal information provided, unless a comment includes information claimed to be confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *http://www.regulations.gov;* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the OEI Docket in the EPA Headquarters Docket Center.

Dated: August 19, 2013.

Lynn Flowers,

Acting Director, National Center for Environmental Assessment.

[FR Doc. 2013–20913 Filed 8–27–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2013–0038; FRL–9398–2]

Pesticide Product Registration; Receipt of Application for New Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the receipt of applications to add new food uses on previously registered pesticide products containing the insecticide flonicamid, pursuant to the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

DATES: Comments must be received on or before September 27, 2013.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2013–0038, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Lois A. Rossi, Registration Division (7504P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Registration Applications

EPA has received four applications for the addition of new food uses on previously registered pesticide products containing the insecticide, flonicamid (*N*-(cyanomethyl)-4-(trifluoromethyl)-3-pyridinecarboxamide, (Decisions Nos. 473574, 473576, 473579, 473580, 473581, 473582, 473583, and 473584), pursuant to the provisions of FIFRA section 3(c), and is publishing this notice of receipt of these applications pursuant to FIFRA section 3(c)(4). Notice of receipt of these applications does not imply a decision by the Agency on the following applications:

1. *Registration Number:* 71512–7. *Docket ID Number:* EPA–HQ–OPP–2013–0038. *Company name and address:* ISK Bioscience Corporation, 7470 Auburn Rd., Suite A, Concord, OH 44077. *Active ingredient:* Flonicamid. *Product Name:* Technical Flonicamid Insecticide. *Proposed Use(s):* Alfalfa, forage; alfalfa, hay; alfalfa, seed; clover, forage; clover, hay; fruit, pome (crop group 11–10); fruit, stone (crop group 12–12); peppermint, tops; spearmint, tops; vegetable, cucurbit (crop group 9); and vegetable, fruiting (crop group 8–10).

2. *Registration Number:* 71512–9. *Docket ID Number:* EPA–HQ–OPP–2013–0038. *Company name and address:* ISK Bioscience Corporation, 7470 Auburn Rd., Suite A, Concord, OH 44077. *Active ingredient:* Flonicamid. *Product Name:* Technical Flonicamid Insecticide. *Proposed Use(s):* Alfalfa, forage; alfalfa, hay; alfalfa, seed; clover, forage; clover, hay; fruit, pome (crop group 11–10); fruit, stone (crop group 12–12); peppermint, tops; spearmint, tops; vegetable, cucurbit (crop group 9); and vegetable, fruiting (crop group 8–10).

3. *Registration Number:* 71512–10. *Docket ID Number:* EPA–HQ–OPP–2013–0038. *Company name and address:* ISK Bioscience Corporation, 7470 Auburn Rd., Suite A, Concord, OH 44077. *Active ingredient:* Flonicamid. *Product Name:* Technical Flonicamid Insecticide. *Proposed Use(s):* Alfalfa, forage; alfalfa, hay; alfalfa, seed; clover, forage; clover, hay; fruit, pome (crop group 11–10); and fruit, stone (crop group 12–12); peppermint, tops; spearmint, tops; vegetable, cucurbit (crop group 9); and vegetable, fruiting (crop group 8–10).

4. *Registration Number:* 71512–14. *Docket ID Number:* EPA–HQ–OPP–2013–0038. *Company name and address:* ISK Bioscience Corporation, 7470 Auburn Rd., Suite A, Concord, OH 44077. *Active ingredient:* Flonicamid. *Product Name:* Technical Flonicamid Insecticide. *Proposed Use(s):* Alfalfa, forage; alfalfa, hay; alfalfa, seed; clover, forage; clover, hay; fruit, pome (crop group 11–10); fruit, stone (crop group 12–12); peppermint, tops; spearmint, tops; vegetable, cucurbit (crop group 9); and vegetable, fruiting (crop group 8–10).

List of Subjects

Environmental protection, Pesticides and pest.

Dated: August 22, 2013.

G. Jeffrey Herndon,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 2013–21017 Filed 8–27–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2010–0014; FRL–9396–4]

Notice of Receipt of Requests To Voluntarily Cancel Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is issuing a notice of receipt of requests by registrants to voluntarily cancel certain pesticide registrations. Included in this notice is a request from Nufarm SA to voluntarily cancel the last three remaining amitrole products registered for use in the United States. EPA intends to grant these requests at the close of the comment period for this announcement unless the Agency receives substantive comments within the comment period that would merit its further review of the requests, or unless the registrants withdraw its requests. If these requests are granted, any sale, distribution, or use of products listed in this notice will be permitted after the registration has been canceled only if such sale, distribution, or use is consistent with the terms as described in the final order.

DATES: Comments must be received on or before February 24, 2014.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2010–0014, by one of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

• *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.

Submit written withdrawal request by mail to: Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001. ATTN: John W. Pates, Jr.

• *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.htm.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: John W. Pates, Jr., Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 308–8195; email address: *pates.john@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. What action is the agency taking?

This notice announces receipt by the Agency of requests from registrants to cancel 17 pesticide products registered under FIFRA section 3 or 24(c). These registrations are listed in sequence by registration number (or company number and 24(c) number) in Table 1 of this unit.

This notice announces receipt by EPA of a request from the registrant Nufarm SA to cancel the last three remaining amitrole product registrations. Amitrole is a triazole-containing herbicide registered for use for outdoor general weed control to non-agricultural rights-of-way, industrial and construction sites, fencerows, and other uncultivated areas. Tolerances are not currently established for amitrole as there are no registered food or feed uses. There are no residential uses currently registered for amitrole. The registration review process for amitrole began in June 2011, with the issuance of the Preliminary Work Plan for Registration Review in the docket EPA–HQ–OPP–2011–0105 for a 60-day public comment period. The Amitrole Final Work Plan for Registration Review was completed and placed in the docket in December 2011, and the registration review data-call-in was issued in November 2012. Nufarm SA is the only current registrant of amitrole products. In a letter to EPA, dated May 30, 2013, Nufarm SA requested voluntary cancellation of the amitrole technical product (EPA Registration No. 33688–5) and the two remaining amitrole end-use products (EPA Registration Nos. 33688–6 and 33688–10). These are the last three amitrole products registered for use in the United States.

Unless the Agency determines that there are substantive comments that warrant further review of the requests or the registrants withdraw their requests, EPA intends to issue an order in the **Federal Register** canceling all of the affected registrations listed in Table 1 of this unit.

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration No.	Product name	Chemical name
000100–00736	Banner GL	Propiconazole.
000100–00737	Tilt Gel Fungicide	Propiconazole.
000400–00587	Technical Orthosulfamuron	Orthosulfamuron.
000400–00588	Percutio GR	Orthosulfamuron.
000400–00589	Percutio WG	Orthosulfamuron.
000400–00590	Percutio XT	Orthosulfamuron.
012455–00134	Technical Hydramethylnon	Hydramethylnon.
033688–00005	Technical Amitrole	Amitrole.
033688–00006	Maxata Brand Industrial Herbicide	Amitrole.
033688–00010	Maxata Water Soluble Granules	Amitrole.
062190–00008	Wolman Concentrate 72%	Arsenic Oxide (As2O5), Chromic Acid, Cupric Oxide.
CA–100005	Terad 3 Ag Pellets	9,10-Secocholesta-5,7,10(19)-trien-3-ol, (3 beta.,5Z,7E)-.
NC–090005	Milestone VM	Triisoprpoanolamine salt of aminopyralid.
NC–100004	Milestone VM	Triisoprpoanolamine salt of aminopyralid.
WA–980019	Agri-Mek 0.15 EC, Miticide/Insecticide	Abamectin.
WI–110003	Lorsban 15G	Chlorpyrifos.
WI–110005	Spartan 4F	Sulfentrazone.

Table 2 of this unit includes the names and addresses of record for all registrants of the products in Table 1 of this unit, in sequence by EPA company number. This number corresponds to the first part of the EPA registration numbers of the products listed in this unit.

TABLE 2—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION

EPA Company No.	Company name and address
100 WA–980019	Syngenta Crop Protection, LLC, 410 Swing Road, P.O. Box 18300, Greensboro, NC 27419–8300.
400	Chemtura Corporation, 199 Benson Road, Middlebury, CT 06749.
12455, CA–100005	Bell Laboratories, Inc., 3699 Kinsman Blvd., Madison, WI 53704.
33688	Nufarm SA, Agent: Nufarm Americas, Inc., 4020 Aerial Center Parkway, Suite 101, Morrisville, NC 27560.
62190	Arch Wood Protection, Inc., 5660 New Northside Drive NW., Suite 1100, Atlanta, GA 30328.
NC–090005, NC–100004, WI–110003.	Dow AgroSciences LLC, 9330 Zionsville Rd, 308/2E, Indianapolis, IN 46268–1054.
WI–110005	FMC Corp., Agricultural Products Group, ATTN: Michael C. Zucker, 1735 Market St., Room 1978, Philadelphia, PA 19103.

III. What is the agency's authority for taking this action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**.

Section 6(f)(1)(B) of FIFRA requires that before acting on a request for voluntary cancellation, EPA must provide a 30-day public comment period on the request for voluntary cancellation or use termination. In addition, FIFRA section 6(f)(1)(C) requires that EPA provide a 180-day comment period on a request for voluntary cancellation or termination of any minor agricultural use before granting the request, unless:

1. The registrants request a waiver of the comment period, or

2. The EPA Administrator determines that continued use of the pesticide would pose an unreasonable adverse effect on the environment.

The registrants in Table 2 of Unit II. have not requested that EPA waive the 180-day comment period. Accordingly, EPA will provide a 180-day comment period on the proposed requests.

IV. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for cancellation should submit such withdrawal in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. If the products have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling.

V. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products that are currently in the United States and that were packaged, labeled, and released for shipment prior to the effective date of the cancellation action, because the Agency has identified no significant potential risk concerns associated with these pesticide products, upon cancellation of the products identified in Table 1 of Unit II., EPA anticipates allowing registrants to sell and distribute existing stocks of these products for 1 year after publication of the Cancellation Order in the **Federal Register**. Thereafter, registrants will be prohibited from selling or distributing the pesticides identified in Table 1 of Unit II., except for export consistent with FIFRA section 17 or for proper disposal persons other than the registrants will generally be allowed to sell, distribute, or use existing stocks until such stocks are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the canceled products.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: August 21, 2013.

Linda Arrington,

Acting Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.

[FR Doc. 2013–21021 Filed 8–27–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

Proposed Consent Decree, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed consent decree; request for public comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended (''CAA'' or the ''Act''), notice is hereby given of a proposed consent decree to address a lawsuit filed by Sandra L. Bahr and David Matusow in the United States District Court for the District of Arizona: *Bahr, et al.* v. *McCarthy,* No. 2:13–cv–00872 SMM (D. AZ). On April 30, 2013, Plaintiffs filed a complaint alleging that EPA failed to perform a mandatory duty under CAA section 110(c)(1) to promulgate a federal implementation plan for the State of Arizona that arose as a result of EPA's February 14, 2011, finding of failure to submit a revision to the state implementation plan required under CAA section 189(d), by the required deadline. The proposed consent decree establishes deadlines for EPA to take action.

DATES: Written comments on the proposed consent decree must be received by September 27, 2013.

ADDRESSES: Submit your comments, identified by Docket ID number EPA–HQ–OGC–2013–0609, online at *www.regulations.gov* (EPA's preferred method); by email to *oei.docket@epa.gov;* by mail to EPA Docket Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; or by hand delivery or courier to EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC, between 8:30 a.m. and 4:30 p.m. Monday through Friday, excluding legal holidays. Comments on a disk or CD–ROM should be formatted in Word or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

FOR FURTHER INFORMATION CONTACT: Geoffrey L. Wilcox, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone: (202) 564–5601; fax number (202) 564–5603; email address: *wilcox.geoffrey@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Additional Information About the Proposed Consent Decree

The proposed consent decree would resolve a lawsuit filed by Sandra L. Bahr and David Matusow (''Plaintiffs'') seeking to compel the Administrator to take actions under CAA section 110(c)(1) to promulgate a federal implementation plan (''FIP'') for the State of Arizona. A portion of Arizona, including Maricopa County and a part of Pinal County, is designated nonattainment for the National Ambient Air Quality Standard (''NAAQS'') for particulate matter ten microns in diameter or less (''PM_{10}''). This area is classified as a ''serious'' PM_{10} nonattainment area. Because the area had not attained the NAAQS by the applicable statutory attainment date, Arizona was required to submit a revision to its state implementation plan (''SIP'') to meet the requirements of CAA section 189(d). On February 14, 2011, EPA found that Arizona failed to make the SIP submission required under CAA section 189(d) by the required deadline. This finding of failure to submit started a 2-year clock under CAA section 110(c)(1) for EPA to promulgate a FIP to meet the obligations of CAA section 189(d). EPA did not promulgate the required FIP by the statutory deadline and this is the basis for the Plaintiffs' mandatory duty lawsuit at issue in the proposed consent decree.

The proposed consent decree provides that no later than January 14, 2014, a notice or notices of the Agency's proposed action or actions to either approve a SIP, promulgate a FIP, or approve a SIP in part with the promulgation of a partial FIP to address the requirements of CAA section 189(d). The proposed consent decree also provides that no later than June 2, 2014, a notice or notices of the Agency's final action or actions to either approve a SIP, promulgate a FIP, or approve a SIP in part with the promulgation of a partial FIP to address the requirements of CAA section 189(d). The proposed consent decree requires that no later than 15 business days following signature of each notice, EPA shall send the notice or notices to the Office of the Federal Register for review and publication in the **Federal Register**. After EPA fulfills its obligations under the proposed consent decree, the consent decree shall be terminated and the case dismissed with prejudice.

For a period of thirty (30) days following the date of publication of this notice, the Agency will accept written comments relating to the proposed consent decree from persons who are not named as parties or intervenors to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed consent decree if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines that consent to this consent decree should be withdrawn, the decree will be affirmed.

II. Additional Information About Commenting on the Proposed Consent Decree

A. How can I get a copy of the consent decree?

The official public docket for this action (identified by Docket ID No. EPA–HQ–OGC–2013–0609) contains a copy of the proposed consent decree. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OEI Docket is (202) 566–1752.

An electronic version of the public docket is available through *www.regulations.gov.* You may use *www.regulations.gov* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select ''search''.

It is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing online at *www.regulations.gov* without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. Information claimed as CBI and other information whose disclosure is restricted by statute is not included in the official public docket or in the electronic public docket. EPA's policy is that copyrighted material, including copyrighted material contained in a public comment, will not be placed in EPA's electronic public

docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

B. How and to whom do I submit comments?

You may submit comments as provided in the **ADDRESSES** section. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an email address or other contact information in the body of your comment and with any disk or CD ROM you submit. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Use of the *www.regulations.gov* Web site to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an ''anonymous access'' system, which means EPA will not know your identity, email address, or other contact information unless you provide it in the body of your comment. In contrast to EPA's electronic public docket, EPA's electronic mail (email) system is not an ''anonymous access'' system. If you send an email comment directly to the Docket without going through *www.regulations.gov,* your email address is automatically captured and included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

Dated: August 20, 2013.

Lorie J. Schmidt,

Associate General Counsel.

[FR Doc. 2013–21023 Filed 8–27–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9900–45–OA]

Request for Nominations of Experts To Augment the Science Advisory Board Chemical Assessment Advisory Committee for the Review of the EPA's Draft Toxicological Assessments for Ammonia, Trimethylbenzenes and the Evaluation of Inhalation Carcinogenicity of Ethylene Oxide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA Science Advisory Board (SAB) Staff Office requests public nominations of scientific experts to augment the SAB Chemical Assessment Advisory Committee (CAAC) to form three panels for the review of: (1) The EPA's draft Toxicological Review of Ammonia; (2) the EPA's draft Toxicological Review of Trimethylbenzenes; and (3) the EPA's draft Evaluation of the Inhalation Carcinogenicity of Ethylene Oxide In Support of Summary Information on the Integrated Risk Information System (IRIS).

DATES: Nominations should be submitted by September 18, 2013 per the instructions below.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information regarding this Notice and Request for Nominations may contact the appropriate Designated Federal Officer for the specific review, as identified below. Nominators unable to submit nominations electronically as described below may contact the Designated Federal Officers for assistance. General information concerning the EPA SAB can be found at the EPA SAB Web site at *http://www.epa.gov/sab.*

SUPPLEMENTARY INFORMATION:

Background: The SAB (42 U.S.C. 4365) is a chartered Federal Advisory Committee that provides independent scientific and technical peer review, advice, consultation, and recommendations to the EPA Administrator on the technical basis for EPA actions. As a Federal Advisory Committee, the SAB conducts business in accordance with the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2) and related regulations. The SAB Chemical Assessment Advisory Committee (CAAC) is a subcommittee of the SAB that provides advice through the chartered SAB regarding assessments of environmental chemicals available on EPA's Integrated Risk Information System (IRIS). The SAB and the CAAC, augmented with additional experts, will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

The National Center for Environmental Assessment (NCEA) in the EPA's Office of Research and Development (ORD) develops toxicological reviews/assessments for various chemicals for EPA's Integrated Risk Information System (IRIS). NCEA has developed two separate draft IRIS assessments for ammonia and trimethylbenzenes, and a draft evaluation of the inhalation carcinogenicity for ethylene oxide for IRIS. NCEA has asked the SAB to peer review draft documents for ammonia, trimethylbenzenes, and ethylene oxide. The SAB Staff Office is seeking experts to augment the SAB CAAC to form three separate panels to conduct the peer reviews.

(1) NCEA's draft *Toxicological Review of Ammonia* (August 2013) represents a reassessment of the toxicity of ammonia. The assessment and proposed charge questions may be found at the following URL: *http://yosemite.epa.gov/sab/sabproduct.nsf/fedrgstr_activites/IRIS%20Ammonia?OpenDocument.* The ammonia assessment currently posted to the IRIS database includes an inhalation reference concentration (RfC, posted in 1991). For the 2013 draft review, NCEA evaluated epidemiological data, experimental animal data, and other relevant data from studies of the noncancer and cancer effects of ammonia. This reassessment includes an inhalation RfC and a qualitative cancer descriptor. The assessment does not include an oral reference dose (RfD) or a quantitative cancer assessment because NCEA considered that adequate information was not available.

(2) NCEA's draft *Toxicological Review of Trimethylbenzenes* (August 2013) is the first IRIS assessment developed for trimethylbenzenes (TMBs), including 1,2,3–TMB; 1,2,4–TMB; 1,3,5–TMB. The assessment and proposed charge questions may be found at the following URL: *http://yosemite.epa.gov/sab/sabproduct.nsf/fedrgstr_activites/IRIS%20Trimethylbenzenes?OpenDocument.* NCEA has evaluated experimental animal data and other relevant noncancer data in this assessment. The assessment includes an inhalation RfC, oral RfD, and qualitative cancer descriptor for each isomer. The assessment does not include a quantitative cancer assessment.

(3) NCEA has developed a draft *Evaluation of the Inhalation Carcinogenicity of Ethylene Oxide* (July 2013 Draft). The draft evaluation and

proposed charge questions may be found at the following URL: *http://yosemite.epa.gov/sab/sabproduct.nsf/fedrgstr_activites/Eto%20Inhalation%20Carcinogenicity?OpenDocument.* This draft evaluation has been revised based on recommendations provided by the SAB in 2007 resulting from their peer review of an earlier version of the carcinogenicity assessment. The SAB report, *Review of Office of Research and Development (ORD) draft assessment entitled, ''Evaluation of the Carcinogenicity of Ethylene Oxide''* (EPA–SAB–08–004), is available at: *http://yosemite.epa.gov/sab/sabproduct.nsf/02ad90b136fc21ef85256eba00436459/5D661BC118B527A3852573B80068C97B/$File/EPA-SAB-08-004-unsigned.pdf.*

Technical Contact for EPA's draft assessments: For information concerning the EPA draft assessments, please contact Dr. Samantha Jones, National Center for Environmental Assessment, Office of Research and Development, U.S. EPA, 1200 Pennsylvania Avenue NW., Mail Code 8601P, Washington, DC 20460, phone (703) 347–8580 or via email at *jones.samantha@epa.gov.*

Request For Nominations: The SAB Staff Office is seeking nominations of nationally and internationally recognized scientists with demonstrated expertise and research to augment the CAAC for three separate review panels.

(1) For the peer review of the EPA's draft *Toxicological Review of Ammonia,* the SAB Staff Office seeks experts in one or more of the following areas, with a particular focus on ammonia: toxicology of ammonia (and ammonium compounds); epidemiology with experience in respiratory effects (i.e., irritants and measures of lung function); toxicokinetics and the role of endogenous ammonia in maintaining nitrogen homeostasis; and inhalation toxicology. Questions regarding this review should be directed to Dr. Sue Shallal, Designated Federal Officer (DFO), SAB Staff Office, by telephone/voice mail at (202) 564–2057, by fax at (202) 565–2098, or via email at *shallal.suhair@epa.gov.*

(2) For the peer review of the EPA's draft *Toxicological Review of Trimethylbenzenes,* the SAB seeks experts in one or more of the following areas, particularly with respect to trimethylbenzenes: Developmental neurotoxicity, developmental toxicity, pharmacokinetic modeling, respiratory and inhalation toxicology, hematological toxicology, and carcinogenicity. Questions regarding this review should be directed to Mr. Thomas Carpenter, Designated Federal Officer (DFO), SAB Staff Office, by telephone/voice mail at (202) 564–4885, by fax at (202) 565–2098, or via email at *carpenter.thomas@epa.gov.*

(3) For the peer review of the EPA's draft *Evaluation of the Inhalation Carcinogenicity of Ethylene Oxide,* the SAB Staff Office is seeking expertise in epidemiology, biostatistics, exposure-response modeling, genotoxicity, cancer biology, and risk assessment. Questions regarding this review may be directed to Mr. Aaron Yeow, Designated Federal Officer (DFO), SAB Staff Office, by telephone/voice mail at (202) 564–2050, by fax at (202) 565–2098, or via email at *yeow.aaron@epa.gov.*

Process and Deadline for Submitting Nominations: Any interested person or organization may nominate qualified individuals in the areas of expertise described above for possible service on any of the augmented CAAC panels identified in this notice.

Nominations should be submitted in electronic format (preferred over hard copy) following the instructions for ''Nominating Experts to Advisory Panels and Ad Hoc Committees Being Formed,'' *http://www.epa.gov/sab* provided on the SAB Web site (see the ''Nomination of Experts'' link on the blue navigational bar at *http://www.epa.gov/sab*). To receive full consideration, nominations should include all of the information requested below.

EPA's SAB Staff Office requests contact information about the person making the nomination; contact information about the nominee; the disciplinary and specific areas of expertise of the nominee; the nominee's resume or curriculum vitae; sources of recent grant and/or contract support; and a biographical sketch of the nominee indicating current position, educational background, research activities, and recent service on other national advisory committees or national professional organizations.

Persons having questions about the nomination procedures, or who are unable to submit nominations through the SAB Web site, should contact Dr. Sue Shallal, Mr. Thomas Carpenter, or Mr. Aaron Yeow, as indicated above in this notice. Nominations should be submitted in time to arrive no later than September 18, 2013. EPA values and welcomes diversity. In an effort to obtain nominations of diverse candidates, EPA encourages nominations of women and men of all racial and ethnic groups.

The EPA SAB Staff Office will acknowledge receipt of nominations. The names and biosketches of qualified nominees identified by respondents to this **Federal Register** notice, and additional experts identified by the SAB Staff, will be posted in a List of Candidates for each of the three panels on the SAB Web site at *http://www.epa.gov/sab.* Public comments on each List of Candidates will be accepted for 21 days. The public will be requested to provide relevant information or other documentation on nominees that the SAB Staff Office should consider in evaluating candidates.

For the EPA SAB Staff Office a balanced review panel includes candidates who possess the necessary domains of knowledge, the relevant scientific perspectives (which, among other factors, can be influenced by work history and affiliation), and the collective breadth of experience to adequately address the charge. In forming these expert panels, the SAB Staff Office will consider public comments on the Lists of Candidates, information provided by the candidates themselves, and background information independently gathered by the SAB Staff Office. Selection criteria to be used for panel membership include: (a) Scientific and/or technical expertise, knowledge, and experience (primary factors); (b) availability and willingness to serve; (c) absence of financial conflicts of interest; (d) absence of an appearance of a loss of impartiality; (e) skills working in committees, subcommittees and advisory panels; and, (f) for the panel as a whole, diversity of expertise and scientific points of view.

The SAB Staff Office's evaluation of an absence of financial conflicts of interest will include a review of the ''Confidential Financial Disclosure Form for Special Government Employees Serving on Federal Advisory Committees at the U.S. Environmental Protection Agency'' (EPA Form 3110–48). This confidential form allows government officials to determine whether there is a statutory conflict between a person's public responsibilities (which include membership on an EPA federal advisory committee) and private interests and activities, or the appearance of a lack of impartiality, as defined by federal regulation. The form may be viewed and downloaded from the following URL address *http://yosemite.epa.gov/sab/sabproduct.nsf/Web/ethics?OpenDocument.*

The approved policy under which the EPA SAB Office selects members for subcommittees and review panels is described in the following document: *Overview of the Panel Formation*

Process at the Environmental Protection Agency Science Advisory Board (EPA–SAB–EC–02–010), which is posted on the SAB Web site at *http://www.epa.gov/sab/pdf/ec02010.pdf.*

Dated: August 19, 2013.

Christopher Zarba,

Acting Director, Science Advisory Board Staff Office.

[FR Doc. 2013–20911 Filed 8–27–13; 8:45 am]

BILLING CODE 6560–50–P

EXPORT–IMPORT BANK

[Public Notice 2013–0039]

Application for Final Commitment for a Long-Term Loan or Financial Guarantee in Excess of $100 Million: AP088147XX

AGENCY: Export-Import Bank of the United States.

ACTION: Notice.

SUMMARY: This Notice is to inform the public, in accordance with Section 3(c)(10) of the Charter of the Export-Import Bank of the United States (''Ex-Im Bank''), that Ex-Im Bank has received an application for final commitment for a long-term loan or financial guarantee in excess of $100 million (as calculated in accordance with Section 3(c)(10) of the Charter). Comments received within the comment period specified below will be presented to the Ex-Im Bank Board of Directors prior to final action on this Transaction.

Reference: AP088147XX.

Purpose and Use:

Brief description of the purpose of the transaction:

To support the export of U.S.-manufactured commercial aircraft to Hong Kong.

Brief non-proprietary description of the anticipated use of the items being exported:

To provide air cargo services globally.

To the extent that Ex-Im Bank is reasonably aware, the item(s) being exported may be used to produce exports or provide services in competition with the exportation of goods or provision of services by a United States industry.

Parties:

Principal Supplier: The Boeing Company

Obligor: Cathay Pacific Airways

Guarantor(s): N/A

Description of Items Being Exported:

Boeing 747 aircraft

Information on Decision: Information on the final decision for this transaction will be available in the ''Summary Minutes of Meetings of Board of Directors'' on *http://exim.gov/newsandevents/boardmeetings/board/*.

Confidential Information: Please note that this notice does not include confidential or proprietary business information; information which, if disclosed, would violate the Trade Secrets Act; or information which would jeopardize jobs in the United States by supplying information that competitors could use to compete with companies in the United States.

DATES: Comments must be received on or before September 23, 2013 to be assured of consideration before final consideration of the transaction by the Board of Directors of Ex-Im Bank.

ADDRESSES: Comments may be submitted through Regulations.gov at *WWW.REGULATIONS.GOV*. To submit a comment, enter EIB–2013–0039 under the heading ''Enter Keyword or ID'' and select Search. Follow the instructions provided at the Submit a Comment screen. Please include your name, company name (if any) and EIB–2013–0039 on any attached document.

Cristopolis A. Dieguez,

Program Specialist, Office of General Counsel.

[FR Doc. 2013–20901 Filed 8–27–13; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than September 12, 2013.

A. Federal Reserve Bank of Richmond (Adam M. Drimer, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. *Kenneth Ray Lehman,* Arlington Virginia; to acquire voting shares of Delmar Bancorp, Salisbury Maryland, and thereby indirectly acquire voting shares of The Bank of Delmarva, Seaford, Delaware.

B. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Ann Kennedy Irish; Ann Kennedy Irish, as trustee of the Ann Kennedy Irish Trust; the Ann Kennedy Irish Trust; David H. Irish, as trustee of the David H. Irish Trust; the David H. Irish Trust; Susan Irish Stewart, as trustee of the Susan Irish Stewart Revocable Intervivos Trust; the Susan Irish Stewart Revocable Intervivos Trust, all of Harbor Springs, Michigan; Tracy Irish Texter; Tracy Irish Texter; John F. Texter, as trustees of the John F. Texter and Tracy I. Texter Trust; the John F. Texter and Tracy I. Texter Trust, all of Middleville, Michigan; Colin David Irish, Marquette, Michigan; Perry Irish Hodgson; Alexander Irish Hodgson, and Raymond Earhart Hodgson, all of Charlevoix, Michigan; and Liam Foster Hodgson,* Beaver Island, Michigan; all as members of the Hodgson Family Control Group, to retain voting shares of Charlevoix First Corporation, and thereby indirectly retain voting shares of Charlevoix State Bank, both in Charlevoix, Michigan.

Board of Governors of the Federal Reserve System, August 23, 2013.

Margaret McCloskey Shanks,

Deputy Secretary of the Board.

[FR Doc. 2013–20998 Filed 8–27–13; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier: HHS–OS–20358–60D]

Agency Information Collection Activities; Proposed Collection; Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). The ICR is for extending the use of the approved information collection assigned OMB control number 0990–0317, which expires on October 31, 2013. Prior to submitting ICR to OMB, OS seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on the ICR must be received on or before October 28, 2013.

ADDRESSES: Submit your comments to *Information.CollectionClearance@hhs.gov* or by calling (202) 690–6162.

FOR FURTHER INFORMATION CONTACT: Information Collection Clearance staff, *Information.CollectionClearance@hhs.gov* or (202) 690–6162.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the document identifier HHS–OS–0990–0317–60D for reference.

Information Collection Request Title: HHS Supplemental Form to the SF–424 (HHS 5161–1)

OMB No.: 0990–0317.

Abstract: HHS is requesting clearance for the Checklist and Program Narrative & the Public Health System Impact Statement (PHSIS), used by several former PHS agencies within HHS; CDC 0.1113 supplemental forms used exclusively by CDC; a supplement form used exclusively by Substance Abuse Mental Health Services Administration (SAMHSA), and the Single Source Agency (SSA) notification form, as well as continued use of the project abstract form. In addition, HHS will continue to include the use of the 5161–1 form for several emergency acts and funding that were the result of the September 11th attack on the World Trade Center, specifically, the Public Health Preparedness for Response to Bioterrorism (Emergency Supplement) (CDC), the Bioterrorism Hospital Preparedness Program cooperative agreement (HRSA), and 2 emergency response grants from (SAMHSA).

Need and Proposed Use of the Information: Each agency's financial assistance program evaluates the information provided by the applicants to select the ones most likely to meet program objectives and to determine that satisfactory progress is being made on funded projects.

Likely Respondents: CDC, SAMHSA, IHS, OS, FDA, and HRSA

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions, to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information, to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information, and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

Forms	No. of respondents	Response per respondent	Avg. burden per response (in hours)	Total burden (in hours)
Program Narrative, Checklist, & Project Abstract	7,338	1	4	29,373
Program Narrative, Checklist & Project Narrative (CDC)	59	6	24	8,496
Program Narrative, Checklist, & Project Narrative (HRSA)	59	1	50	2,950
CDC Form 0.1113	1,000	1	30/60	500
Public Health Impact Statement (PHSIS)	2,845	2.5	10/60	1,185
Total				42,691

OS specifically requests comments on (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Darius Taylor,

Deputy Information Collection Clearance Officer.

[FR Doc. 2013–20959 Filed 8–27–13; 8:45 am]

BILLING CODE 4151–17–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention (CDC)

Advisory Board on Radiation and Worker Health: Notice of Charter Renewal

This gives notice under the Federal Advisory Committee Act (Pub. L. 92–463) of October 6, 1972, that the Advisory Board on Radiation and Worker Health, Department of Health and Human Services, has been renewed for a 2-year period through August 3, 2015.

For Further Information Contact: Mr. Theodore Katz, Designated Federal Officer, Advisory Board on Radiation and Worker Health, Department of Health and Human Services, 1600 Clifton Road, M/S E20, Atlanta, Georgia, 30341, telephone 404/498–2533, or fax 404/498–2570.

The Director, Management Analysis and Services Office, has been delegated the authority to sign Federal Register notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention, and the Agency for Toxic Substances and Disease Registry.

Catherine Ramadei,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2013–20974 Filed 8–27–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Subcommittee for Dose Reconstruction Reviews (SDRR), Advisory Board on Radiation and Worker Health (ABRWH or the Advisory Board), National Institute for Occupational Safety and Health (NIOSH)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease

Control and Prevention (CDC), announces the following meeting for the aforementioned subcommittee:

Time and Date: 10:00 a.m.–5:00 p.m., September 30, 2013.

Place: Audio Conference Call via FTS Conferencing. The USA toll-free, dial-in number is 1–866–659–0537 and the pass code is 9933701.

Status: Open to the public, but without a public comment period. To access by conference call dial the following information 1(866) 659–0537, Participant Pass Code 9933701.

Background: The Advisory Board was established under the Energy Employees Occupational Illness Compensation Program Act of 2000 to advise the President on a variety of policy and technical functions required to implement and effectively manage the new compensation program. Key functions of the Advisory Board include providing advice on the development of probability of causation guidelines that have been promulgated by the Department of Health and Human Services (HHS) as a final rule; advice on methods of dose reconstruction, which have also been promulgated by HHS as a final rule; advice on the scientific validity and quality of dose estimation and reconstruction efforts being performed for purposes of the compensation program; and advice on petitions to add classes of workers to the Special Exposure Cohort (SEC).

In December 2000, the President delegated responsibility for funding, staffing, and operating the Advisory Board to HHS, which subsequently delegated this authority to CDC. NIOSH implements this responsibility for CDC. The charter was issued on August 3, 2001, renewed at appropriate intervals, and will expire on August 3, 2015.

Purpose: The Advisory Board is charged with (a) providing advice to the Secretary, HHS, on the development of guidelines under Executive Order 13179; (b) providing advice to the Secretary, HHS, on the scientific validity and quality of dose reconstruction efforts performed for this program; and (c) upon request by the Secretary, HHS, advise the Secretary on whether there is a class of employees at any Department of Energy facility who were exposed to radiation but for whom it is not feasible to estimate their radiation dose, and on whether there is reasonable likelihood that such radiation doses may have endangered the health of members of this class. The Subcommittee for Dose Reconstruction Reviews was established to aid the Advisory Board in carrying out its duty to advise the Secretary, HHS, on dose reconstruction.

Matters to Be Discussed: The agenda for the Subcommittee meeting includes: dose reconstruction program quality management and assurance activities, including: current findings from NIOSH internal dose reconstruction blind reviews; and discussion of dose reconstruction cases under review (set 9, and Rocky Flats Plant, Los Alamos National Laboratory, and Paducah and Portsmouth Gaseous Diffusion Plants cases from sets 10–13).

The agenda is subject to change as priorities dictate.

In the event an individual cannot attend, written comments may be submitted. Any written comments received will be provided at the meeting and should be submitted to the contact person below well in advance of the meeting.

Contact Person for More Information: Theodore Katz, Designated Federal Official, NIOSH, CDC, 1600 Clifton Road, Mailstop E–20, Atlanta, Georgia 30333, Telephone (513) 533–6800, Toll Free 1(800) CDC–INFO, Email *ocas@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Catherine Ramadei,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2013–20973 Filed 8–27–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Center for Health Statistics (NCHS), Classifications and Public Health Data Standards Staff, Announces the Following Meeting

Name: ICD–9–CM Coordination and Maintenance (C&M) Committee meeting.

Time and Date: 9:00 a.m.–5:00 p.m., September 18–19, 2013.

Place: Centers for Medicare and Medicaid Services (CMS) Auditorium, 7500 Security Boulevard, Baltimore, Maryland 21244.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 240 people. We will be broadcasting the meeting live via Webcast at *hhtp://www.cms.gov/live/.*

Security Considerations: Due to increased security requirements CMS has instituted stringent procedures for entrance into the building by non-government employees. Attendees will need to present valid government-issued picture identification, and sign-in at the security desk upon entering the building. Attendees who wish to attend the September 18–19, 2013, ICD–9–CM C&M meeting must submit their name and organization by September 6, 2013, for inclusion on the visitor list. This visitor list will be maintained at the front desk of the CMS building and used by the guards to admit visitors to the meeting.

Participants who attended previous ICD–9–CM C&M meetings will no longer be automatically added to the visitor list. You must request inclusion of your name prior to each meeting you wish attend.

Please register to attend the meeting on-line at: *http://www.cms.hhs.gov/apps/events/.*

Please contact Mady Hue (410–786–4510 or *Marilu.hue@cms.hhs.gov*), for questions about the registration process.

Purpose: The ICD–9–CM Coordination and Maintenance (C&M) Committee is a public forum for the presentation of proposed modifications to the International Classification of Diseases, Ninth Revision, Clinical Modification, the International Classification of Diseases, Tenth Revision, Clinical Modification and ICD–10-Procedure Coding System.

Matters To Be Discussed: Agenda items include: September 18–19, 2013.

ICD–10 Topics:

Insertion of bone graft
Implantation of neurostimulation device
ICD–10 Updates

ICD–10–CM Diagnosis Topics:

Gastrointestinal Stromal Tumors
Hearing Loss
Low lying placenta
Mental and Behavioral disorders
Neurology topics
Observation and evaluation for newborns
Oromaxillofacial Disorders
Pediatric topics
Periorbital and Preseptal Cellulitis
Periprosthetic Fractures
Traumatic Brain Injury
Unintended awareness under general anesthesia
Vaccine and prophylactic immunotherapy administration ICD–10–CM Addendum

Agenda items are subject to change as priorities dictate.

Note: CMS and NCHS will no longer provide paper copies of handouts for the

meeting. Electronic copies of all meeting materials will be posted on the CMS and NCHS Web sites prior to the meeting at *http://www.cms.hhs.gov/ICD9ProviderDiagnosticCodes/03_meetings.asp#TopOfPage* and *http://www.cdc.gov/nchs/icd/icd9cm_maintenance.htm*

Contact Persons for Additional Information: Donna Pickett, Medical Systems Administrator, Classifications and Public Health Data Standards Staff, NCHS, 3311 Toledo Road, Room 2337, Hyattsville, Maryland 20782, email *dfp4@cdc.gov,* telephone 301–458–4434 (diagnosis); Mady Hue, Health Insurance Specialist, Division of Acute Care, CMS, 7500 Security Boulevard, Baltimore, Maryland, 21244, email *marilu.hue@cms.hhs.gov,* telephone 410–786–4510 (procedures).

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention, and the Agency for Toxic Substances and Disease Registry.

Catherine Ramadei,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2013–20976 Filed 8–27–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–3281–FN]

Medicare and Medicaid Programs: Continued Approval of American Osteopathic Association/Healthcare Facilities Accreditation Program (AOA/HFAP's) Hospital Accreditation Program

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Final notice.

SUMMARY: This final notice announces our decision to approve American Osteopathic Association/Healthcare Facilities Accreditation Program (AOA/HFAP) for continued recognition as a national accrediting organization for hospitals that wish to participate in the Medicare or Medicaid programs.

DATES: This final notice is effective September 25, 2013 through September 25, 2019.

FOR FURTHER INFORMATION CONTACT: Valarie Lazerowich, (410) 786–4750. Cindy Melanson, (410) 786–0310. Patricia Chmielewski, (410) 786–6899.

SUPPLEMENTARY INFORMATION:

I. Background

Under the Medicare program, eligible beneficiaries may receive covered services in a hospital provided certain requirements are met. Section 1861(e) of the Social Security Act (the Act) establishes distinct criteria for facilities seeking designation as a hospital. Regulations concerning provider agreements are at 42 CFR part 489 and those pertaining to activities relating to the survey and certification of facilities are at 42 CFR part 488. The regulations at 42 CFR part 482 specify the conditions that a hospital must meet to participate in the Medicare program, the scope of covered services, and the conditions for Medicare payment for hospitals.

Generally, to enter into an agreement, a hospital must first be certified by a State survey agency as complying with the conditions or requirements set forth in part 482. Thereafter, the hospital is subject to regular surveys by a State survey agency to determine whether it continues to meet these requirements. However, there is an alternative to surveys by state agencies. Certification by a nationally recognized accreditation program can substitute for ongoing state review.

Section 1865(a)(1) of the Act provides that, if a provider entity demonstrates through accreditation by an approved national accrediting organization that all applicable Medicare conditions are met or exceeded, CMS will deem those provider entities as having met the requirements. Accreditation by an accrediting organization is voluntary and is not required for Medicare participation.

If an accrediting organization is recognized by the Secretary of the Department of Health and Human Services as having standards for accreditation that meet or exceed Medicare requirements, any provider entity accredited by the national accrediting body's approved program would be deemed to have met the Medicare conditions. A national accrediting organization applying for approval of its accreditation program under part 488, subpart A, must provide CMS with reasonable assurance that the accrediting organization requires the accredited provider entities to meet requirements that are at least as stringent as the Medicare conditions.

Our regulations concerning the approval of accrediting organizations are set forth at § 488.4 and § 488.8(d)(3). The regulations at § 488.8(d)(3) require accrediting organizations to reapply for continued approval of its accreditation program every 6 years or sooner as determined by CMS.

The American Osteopathic Association/Healthcare Facilities Accreditation Program's (AOA/HFAP) current term of approval for their hospital accreditation program expires September 25, 2013.

II. Application Approval Process

Section 1865(a)(3)(A) of the Act provides a statutory timetable to ensure that our review of applications for CMS-approval of an accreditation program is conducted in a timely manner. The Act provides us 210 days after the date of receipt of a complete application, with any documentation necessary to make the determination, to complete our survey activities and application process. Within 60 days after receiving a complete application, we must publish a notice in the **Federal Register** that identifies the national accrediting body making the request, describes the request, and provides no less than a 30-day public comment period. At the end of the 210-day period, we must publish a notice in the **Federal Register** approving or denying the application.

III. Provisions of the Proposed Notice

On March 22, 2013, we published a proposed notice in the **Federal Register** (78 FR 17677) announcing AOA/HFAP's request for approval of its hospital accreditation program. In the proposed notice, we detailed our evaluation criteria. Under section 1865(a)(2) of the Act and in our regulations at § 488.4 and § 488.8, we conducted a review of AOA/HFAP's application in accordance with the criteria specified by our regulations, which include, but are not limited to the following:

- An onsite administrative review of AOA/HFAP's: (1) Corporate policies; (2) financial and human resources available to accomplish the proposed surveys; (3) procedures for training, monitoring, and evaluation of its surveyors; (4) ability to investigate and respond appropriately to complaints against accredited facilities; and (5) survey review and decision-making process for accreditation.
- The comparison of AOA/HFAP's accreditation to our current Medicare hospital conditions of participation.
- A documentation review of AOA/HFAP's survey process to:

++ Determine the composition of the survey team, surveyor qualifications, and AOA/HFAP's ability to provide continuing surveyor training.

++ Compare AOA/HFAP's processes to those of state survey agencies, including survey frequency, and the

ability to investigate and respond appropriately to complaints against accredited facilities.

++ Evaluate AOA/HFAP's procedures for monitoring hospitals out of compliance with AOA/HFAP's program requirements. The monitoring procedures are used only when AOA/HFAP identifies noncompliance. If noncompliance is identified through validation reviews, the State survey agency monitors corrections as specified at § 488.7(d).

++ Assess AOA/HFAP's ability to report deficiencies to the surveyed facilities and respond to the facility's plan of correction in a timely manner.

++ Establish AOA/HFAP's ability to provide CMS with electronic data and reports necessary for effective validation and assessment of the organization's survey process.

++ Determine the adequacy of staff and other resources.

++ Confirm AOA/HFAP's ability to provide adequate funding for performing required surveys.

++ Confirm AOA/HFAP's policies with respect to whether surveys are announced or unannounced.

++ Obtain AOA/HFAP's agreement to provide CMS with a copy of the most current accreditation survey together with any other information related to the survey as we may require, including corrective action plans.

In accordance with section 1865(a)(3)(A) of the Act, the March 22, 2013 proposed notice also solicited public comments regarding whether AOA/HFAP's requirements met or exceeded the Medicare conditions of participation for hospitals. We received no comments in response to our proposed notice.

IV. Provisions of the Final Notice

A. Differences Between AOA/HFAP's Standards and Requirements for Accreditation and Medicare's Conditions and Survey requirements

We compared AOA/HFAP's hospital requirements and survey process with the Medicare conditions of participation and survey process as outlined in the State Operations Manual (SOM). Our review and evaluation of AOA/HFAP's hospital application, which were conducted as described in section III of this final notice, yielded the following:

- To meet the requirements at § 482.41(a)(1), AOA/HFAP revised its standards to include the requirement for Type 1 Essential Electrical Systems (EES) generators in all hospitals.
- To meet the requirements at § 482.41(b)(1)(ii), AOA/HFAP revised its standards to ensure roller latches no longer exist on hospital corridor doors.
- To meet the requirements at § 482.41(c)(4), AOA/HFAP revised its standards to include the National Fire Protection Association (NFPA) 99:1999: 5–4.1.1 requirement that addresses the capability of controlling the relative humidity at a level of 35 percent or greater within anesthetizing locations.
- To meet the requirements at § 488.4 (a) (6), AOA/HFAP revised its ''Complaint/Incident Management Policy,'' to ensure all onsite complaint surveys are documented on a survey report.
- To meet the requirements of Section 2728 of the SOM, AOA/HFAP will continue to use its internal monitoring plan to ensure timeframes for sending or receiving a plan of correction (PoC) are met.
- To meet the requirements of Section 2728B of the SOM, AOA/HFAP will continue to conduct monthly internal audits to ensure accepted PoC's contain all of the required elements.

B. Term of Approval

Based on our review and observations described in section III of this final notice, we have determined that AOA/HFAP's hospital accreditation program requirements meet or exceed our requirements. Therefore, we approve AOA/HFAP as a national accreditation organization for hospitals that request participation in the Medicare program, effective September 25, 2013 through September 25, 2019.

V. Collection of Information Requirements

This document does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 35).

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program; No. 93.773 Medicare—Hospital Insurance Program; and No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: July 19, 2013.

Marilyn Tavenner,

Administrator, Centers for Medicare & Medicaid Services, HHS.

[FR Doc. 2013–21008 Filed 8–23–13; 4:15 pm]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Health Resources and Services Administration

Advisory Committee on the Maternal, Infant and Early Childhood Home Visiting Program Evaluation; Notice of Meeting

ACTION: Notice of Meeting: Advisory Committee on the Maternal, Infant and Early Childhood Home Visiting Program Evaluation (MIECHVE).

Authority: Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of the following meeting:

Name: Advisory Committee on the Maternal, Infant, and Early Childhood Home Visiting Program Evaluation.

Date and Time: September 12, 2013, 2–6 PM ET.

Place: Webinar.

The Advisory Committee on the Maternal, Infant and Early Childhood Home Visiting Program Evaluation (Committee) will meet for its fourth session on September 12, 2013, 2–6 PM ET. The purpose of the meeting is to allow the Committee to comment on the progress of the analysis plan of the MIHOPE project. The general public can join the meeting via webinar by logging onto *https://www4.gotomeeting.com/register/330659039,* and then follow the instructions for registering. Participants should launch the webinar no later than 1:40 a.m. EST in order for the logistics to be established for participation in the call. If there are technical problems gaining access to the call or webinar, please call 888–569–3848 or press *0 during the call, and for GoToWebinar technical support call (800 263 6317)

Meeting Registration: General public participants are asked to register for the conference by going to the registration Web site at *https://www4.gotomeeting.com/register/330659039.*

Special Accommodations: Attendees with special needs requiring accommodations such as large print materials or other accommodations may make requests when registering at the online Web site by answering the ''Special accommodations'' question on the registration page: *https://www4.gotomeeting.com/register/330659039.*

Agenda: The meeting will include updates on the progress of the evaluation, the outline for the report,

and the plan for analyzing the states' needs assessment and baseline family, staff and program data that will be the focus of the report. Agenda items are subject to change as priorities dictate.

Public Comments: Members of the public may submit written comments that will be distributed to Committee members prior to the meeting. Written comments must be received by Monday, September 9, 2013 for consideration. Comments can be submitted to T'Pring Westbrook at *Tpring.Westbrook@acf.hhs.gov.*

FOR FURTHER INFORMATION CONTACT: Any person interested in obtaining other information relevant to joining the webinar can contact Carolyn Swaney at *Carolyn.Swaney@icfi.com.*

SUPPLEMENTARY INFORMATION: The Advisory Committee on the Maternal, Infant and Early Childhood Home Visiting Program Evaluation is authorized by subsection 511(g)(1) of Title V of the Social Security Act (42 U.S.C. 701 et seq.) as amended by section 2951 of the Patient Protection and Affordable Care Act of 2010 (Pub. L. 111–148) (Affordable Care Act). The purpose of the Committee is to advise the Secretary of Health and Human Services on the design, plan, progress, and findings of the evaluation required for the home visiting program under the Affordable Care Act. More specifically, the Committee is to review, and make recommendations on, the design and plan for this evaluation; maintain and advise the Secretary regarding the progress of the evaluation; and comment, if the Committee so desires, on the report submitted to Congress under subsection 511(g)(3) of Title V.

The Department of Health and Human Services has contracted with MDRC, formerly known as Manpower Demonstration Research Corporation, a nonprofit, nonpartisan education and social policy research organization, to conduct the evaluation of the MIECHV program.

As specified in the legislation, the evaluation will provide a state-by-state analysis of the needs assessments and the States' actions in response to the assessments. Additionally, as specified in the legislation, the evaluation will provide an assessment of: (a) The effect of early childhood home visiting programs on outcomes for parents, children, and communities with respect to domains specified in the Affordable Care Act (such as maternal and child health status, school readiness, and domestic violence, among others); (b) the effectiveness of such programs on different populations, including the extent to which the ability to improve participant outcomes varies across programs and populations; and (c) the potential for the activities conducted under such programs, if scaled broadly, to enhance health care practices, eliminate health disparities, improve health care system quality, and reduce costs.

Naomi Goldstein,

Director, Office of Planning, Research, and Evaluation, ACF.

Rebecca Slifkin,

Director, Office of Planning, Analysis and Evaluation, HRSA.

[FR Doc. 2013–20725 Filed 8–27–13; 8:45 am]

BILLING CODE 4184–22–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–D–0918]

The Applicability of Good Laboratory Practice in Premarket Device Submissions: Questions and Answers; Draft Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the draft guidance entitled ''The Applicability of Good Laboratory Practice in Premarket Device Submissions: Questions & Answers.'' This draft guidance answers commonly asked questions about the applicability of good laboratory practice (GLP) to nonclinical laboratory studies conducted in support of research and marketing applications for medical devices. This draft guidance is not final nor is it in effect at this time.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by November 26, 2013.

ADDRESSES: Submit written requests for single copies of the draft guidance document entitled ''The Applicability of Good Laboratory Practice in Premarket Device Submissions: Questions & Answers'' to the Division of Small Manufacturers, International, and Consumer Assistance, Center for Devices and Radiological Health, Food and Drug Administration (CDRH), 10903 New Hampshire Ave., Bldg. 66, Rm. 4613, Silver Spring, MD 20993–0002; or Office of Communication, Outreach, and Development (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist that office in processing your request, or fax your request to CDRH at 301–847–8149. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

Submit electronic comments on the draft guidance to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. Identify comments with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Victoria Hampshire, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, rm. 1218, Silver Spring, MD 20993–0002, 301–796–6375; or Stephen Ripley, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, suite 200N, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

FDA issued the GLP regulations in response to public concerns that several important studies supporting the safety of FDA-regulated products were seriously flawed due to poor research practices and laboratory misconduct. The GLP regulations apply to nonclinical laboratory studies supporting the safety of FDA-regulated products (21 CFR 58.1). The draft guidance provides clarification on GLP terminology, the types of medical device research or marketing applications that are subject to the GLP regulation, and, if applicable, the types of information related to GLP that should be provided to FDA.

II. Significance of Guidance

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the Agency's current thinking on good laboratory practices. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute and regulations.

III. Electronic Access

Persons interested in obtaining a copy of the draft guidance may do so by using the Internet. A search capability for all CDRH guidance documents is available at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm.* Guidance documents are also available at *http://www.regulations.gov* or from CBER at *http://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/default.htm.* To receive ''The Applicability of Good Laboratory Practice in Premarket Device Submissions: Questions & Answers,'' you may either send an email request to *dsmica@fda.hhs.gov* to receive an electronic copy of the document or send a fax request to 301–847–8149 to receive a hard copy. Please use the document number 1779 to identify the guidance you are requesting.

IV. Paperwork Reduction Act of 1995

The draft guidance refers to currently approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 807, subpart E, have been approved under OMB control number 0910–0120; the collections of information in 21 CFR part 812 have been approved under OMB control number 0910–0078; and the collections of information in 21 CFR part 814 have been approved under OMB control number 0910–0231.

V. Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

Dated: August 22, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–20916 Filed 8–27–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0007]

Prescription Drug User Fee Rates for Fiscal Year 2014; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration is correcting a notice entitled ''Prescription Drug User Fee Rates for Fiscal Year 2014'' that appeared in the **Federal Register** of August 2, 2013 (78 FR 46980). The document announced the Fiscal Year 2014 fee rates for the Prescription Drug User Fee Act. The document was published with four errors. This document corrects those errors.

FOR FURTHER INFORMATION CONTACT: David Miller, Office of Financial Management (HFA–100), Food and Drug Administration, 1350 Piccard Dr., PI50, Rm. 210J, Rockville, MD 20850, 301–796–7103.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of Friday, August 2, 2013, in FR Doc. 2013–18624, on pages 46981 and 46982 the following corrections are made:

1. On page 46981, in the second column, in the second sentence of the second paragraph under I. Background, ''$718,699,000'' is corrected to read ''$718,669,000''.

2. On page 46981, in the third column, in the first sentence of the first paragraph under II. Fee Revenue Amount for 2014, ''$718,699,000'' is corrected to read ''$718,669,000''.

3. On page 46981, in the third column, in the first sentence of the first paragraph under *A. FY 2014 Statutory Fee Revenue Adjustments for Inflation,* ''$718,699,000'' is corrected to read ''$718,669,000''.

4. On page 46982, in the first column, in the first sentence of the first paragraph under *B. FY 2014 Statutory Fee Revenue Adjustments for Workload,* ''$718,699,000'' is corrected to read ''$718,669,000''.

Dated: *August 22, 2013.*

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–20958 Filed 8–27–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; Comment Request: Palliative Care: Conversations Matter Evaluation

SUMMARY: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institute of Nursing Research (NINR), the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on June, 14, 2013, page 35942 and allowed 60-days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974, Attention: NIH Desk Officer. To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact: Ms. Adrienne Burroughs, Health Communications Specialist, Office of Communications and Public Liaison, NINR, NIH, Building 31, Room 5B10, 31 Center Drive, Bethesda, MD 20892, or call non-toll-free number (301) 496–0256, or Email your request, including your address to: *adrienne.burroughs@nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

Proposed Collection: Palliative Care: Conversations Matter Evaluation, -0925-New—National Institute of Nursing Research (NINR), National Institutes of Health (NIH).

Need and Use of Information Collection: NINR developed *Palliative Care: Conversations Matter,* a pediatric palliative care campaign to address the communications challenges faced by health care providers who recommend

and provide palliative care to pediatric populations. NINR is launching this effort to increase the use of palliative care for children living with serious illness or life-limiting conditions. The *Palliative Care: Conversations Matter* evaluation will assess the information and materials being disseminated as part of the official campaign. Survey findings will help (1) Determine if the campaign is effective, relevant, and useful to health care providers who recommend and provide palliative care to pediatric populations; (2) to better understand the information needs of health care providers to inform future campaign efforts; and (3) examine how effective the campaign materials are in starting and continuing a pediatric palliative care conversation and addressing the communications needs of health care providers around this topic.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 200.

Estimated Annualized Burden Hours

TABLE A–12–1—ESTIMATES OF ANNUAL BURDEN HOURS

Type of respondents	Number of respondents	Frequency of response	Average time per response (in hours)	Total burden hours
Physicians	150	2	20/60	100
Nurses	150	2	20/60	100
Total	300			200

* The average time for completing one of the surveys is 20 minutes; this includes reading the consent form on page 1 of the survey.

Dated: August 19, 2013.

Amanda Greene,

NINR PRA Liaison, Science Evaluation Officer, NINR, NIH.

[FR Doc. 2013–21005 Filed 8–27–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive Patent License: Use of Exenatide for the Treatment of Neurodegenerative Diseases

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209 and 37 CFR Part 404, that the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an Exclusive Patent License to Peptron, Inc., a company having a place of business in Daejeon, South Korea, to practice the inventions embodied in U.S. Provisional Patent Application No. 60/309,076, filed July 31, 2001, entitled ''Long-Acting Insulinotropic Peptides and Uses Thereof'' (HHS Ref. No. E–049–2001/0–US–01); U.S. Patent No. 7,576,050, issued August 18, 2009, entitled ''GLP–1 Exendin–4 Peptide Analogs and Uses Thereof'' (HHS Ref. No. E–049–2001/0–US–03); U.S. Patent No. 8,278,272, issued October 2, 2012, entitled ''GLP–1, Exendin–4, Peptide Analogs and Uses Thereof'' (HHS Ref. No. E–049–2001/0–US–14); U.S. Patent Application No. 13/594,313, filed August 24, 2012, entitled ''GLP–1, Exendin–4, Peptide Analogs and Uses Thereof'' (HHS Ref. No. E–049–2001/0–US–21); PCT Patent Application No. PCT/US2002/024141, filed July 30, 2002, entitled ''GLP–1, Exendin–4, Peptide Analogs and Uses Thereof'' (HHS Ref. No. E–049–2001/0–PCT–02); Australian Patent No. 2002317599, issued July 17, 2008, entitled ''GLP–1, Exendin–4, Peptide Analogs and Uses Thereof'' (HHS Ref. No. E–049–2001/0–AU–04); Australian Patent No. 2008202893, issued April 26, 2012, entitled ''GLP–1, Exendin–4, Peptide Analogs and Uses Thereof'' (HHS Ref. No. E–049–2001/0–AU–10); Australian Patent Application No. 2012202081, filed April 11, 2012, entitled ''GLP–1, Exendin–4, Peptide Analogs and Uses Thereof'' (HHS Ref. No. E–049–2001/0–AU–20); Canadian Patent Application No. 2455963, filed January 29, 2004, entitled ''GLP–1, Exendin–4, Peptide Analogs and Uses Thereof'' (HHS Ref. No. E–049–2001/0–CA–05); European Patent No. 1411968, issued September 17, 2008, entitled ''GLP–1, Exendin–4, Peptide Analogs and Uses Thereof'' (HHS Ref. No. E–049–2001/0–EP–06) and validated in Germany (HHS Ref. No. E–049–2001/0–DE–11), France (HHS Ref. No. E–049–2001/0–FR–12), and Great Britain (HHS Ref. No. E–049–2001/0–GB–13); European Patent No. 2022505, issued December 14, 2011, entitled ''GLP–1, Exendin–4, Peptide Analogs and Uses Thereof'' (HHS Ref. No. E–049–2001/0–EP–09) and validated in Germany (HHS Ref. No. E–049–2001/0–DE–17), France (HHS Ref. No. E–049–2001/0–FR–18), and Great Britain (HHS Ref. No. E–049–2001/0–GB–19); European Patent Application No. 10177860.3, filed September 21, 2010, entitled ''GLP–1, Exendin–4, Peptide Analogs and Uses Thereof'' (HHS Ref. No. E–049–2001/0–EP–16); Indian Patent Application No. 0488/DELNP/2004, filed February 27, 2004, entitled ''GLP–1, Exendin–4, Peptide Analogs and Uses Thereof'' (HHS Ref. No. E–049–2001/0–IN–07); Japanese Patent Application No. 2003–517083, filed February 2, 2004, entitled ''GLP–1, Exendin–4, Peptide Analogs and Uses Thereof'' (HHS Ref. No. E–049–2001/0–JP–08); Japanese Patent Application No. 2009–262568, filed November 18, 2009, entitled ''GLP–1, Exendin–4, Peptide Analogs and Uses Thereof'' (HHS Ref. No. E–049–2001/0–JP–15; and Japanese Patent Application No. 2013–007743, filed January 18, 2013, entitled ''GLP–1, Exendin–4, Peptide Analogs and Uses Thereof'' (HHS Ref. No. E–049–2001/0–JP–22). The patent rights in these inventions have been assigned to the Government of the United States of America. The territory of the prospective Exclusive Patent License may be worldwide, and the field of use may be limited to ''Methods of using exenatide for the treatment of neurodegenerative disease in humans.''

DATES: Only written comments and/or applications for a license which are received by the NIH Office of Technology Transfer on or before September 27, 2013 will be considered.

ADDRESSES: Requests for copies of the patent application(s), inquiries, comments, and other materials relating to the contemplated Exclusive Patent License should be directed to: Tara L. Kirby, Ph.D., Senior Licensing and Patenting Manager, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; Telephone: (301) 435–4426; Facsimile:

(301) 402–0220; Email: *tarak@mail.nih.gov.* A signed confidentiality nondisclosure agreement will be required to receive copies of any patent applications that have not been published or issued by the United States Patent and Trademark Office or the World Intellectual Property Organization.

SUPPLEMENTARY INFORMATION: This technology relates to the use of glucagon-like peptide–1 (GLP–1), exendin–4, and analogs for the treatment of neurodegenerative diseases. These peptides are GLP–1 receptor agonists and incretin mimetics, and enhance glucose-dependent insulin secretion and regulate glucagon secretion. As such, they have been used in the treatment of type 2 diabetes. The inventors have shown that these peptides also exert neurotrophic and neuroprotective effects in a variety of predictive models of neurodegeneration, and thus may represent potential therapeutics for neurodegenerative diseases, including Alzheimer's disease, Parkinson's disease, Huntington's disease, amyotrophic lateral sclerosis (ALS), peripheral neuropathy (associated or unassociated with diabetes) and stroke.

The prospective Exclusive Patent License may be granted unless the NIH receives written evidence and argument, within thirty (30) days from the date of this published notice, that establishes that the grant of the contemplated license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR Part 404.

Complete applications for a license in the prospective field of use that are filed in response to this notice will be treated as objections to the grant of the Exclusive Patent License. Comments and objections submitted to this notice will not be made available for public inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: August 22, 2013.

Richard U. Rodriguez,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 2013–20945 Filed 8–27–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel Detection of Pathogen Induced Cancer.

Date: October 1, 2013.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W034, Rockville, MD 20850, (Telephone Conference Call).

Contact Person: Adriana Stoica, Ph.D., Scientific Review Officer, Special Review & Logistics Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W234, Rockville, MD 20850, 240–276–6368, *Stoicaa2@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel Planning for a National Center for Particle Beam Radiation Therapy Research.

Date: October 3, 2013.

Time: 9:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 6W032, Rockville, MD 20850, (Telephone Conference Call).

Contact Person: Thomas A. Winters, Ph.D., Scientific Review Officer, Special Review & Logistics Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W412, Bethesda, MD 20892–9750, 240–276–6386, *twinters@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel Informatics Technology for Cancer Research.

Date: October 22, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites-Hotel, 6711 Democracy Blvd., Bethesda, MD 20817.

Contact Person: Viatcheslav A Soldatenkov, MD, Ph.D., Scientific Review Officer, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W254, Bethesda, MD 20892–8329, 240–276–6378, *soldatenkovv@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel NCI Omnibus Grants on Cancer Genetics and Etiology.

Date: October 22–23, 2013.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites Alexandria—Old Town, 1900 Diagonal Road, Alexandria, VA 22314.

Contact Person: Marvin L. Salin, Ph.D., Scientific Review Officer, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W236, Bethesda, MD 20892–8329, 240–276–6369, *msalin@mail.nih.gov.*

Name of Committee: National Cancer Institute Initial Review Group Subcommittee F–Institutional Training and Education.

Date: October 28–29, 2013.

Time: 7:30 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Arlington Capital View, 2850 South Potomac Avenue, Arlington, VA 22202.

Contact Person: Timothy C. Meeker, Ph.D., MD, Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W624, Bethesda, MD 20850, 240–276–6464, *meekert@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel Research Answers to NCI's Provocative Questions-Group A (R01).

Date: October 31–November 1, 2013.

Time: 7:30 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: Clifford W Schweinfest, Ph.D., Scientific Review Officer, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W108, Bethesda, MD 20892–9750, 240–276–6378, *schweinfestcw@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel Collaborative Human Tissue Network (CHTN) (UM1).

Date: November 4–5, 2013.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room: Nov 4–6W030 & Nov 5–7W030, Rockville, MD 20850, (Telephone Conference Call).

Contact Person: Donald L Coppock, Ph.D., Scientific Review Officer, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, NIH,

9609 Medical Center Drive, Room 7W260, Bethesda, MD 20892–9750, 240–276–6382, *donald.coppock@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel Small Grants Program for Cancer Epidemiology (R03).

Date: November 7, 2013.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: Joyce C. Pegues, Ph.D., Scientific Review Officer, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W248, Rockville, MD 20850, 240–276–6375, *peguesj@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel NCI Experimental Therapeutics—Clinical Trials Network with Phase 1 Emphasis.

Date: November 12, 2013.

Time: 8:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute, Shady Grove 9609 Medical Center Drive, Room TE408–410, Rockville, MD 20850, (Telephone Conference Call).

Contact Person: Timothy C. Meeker, Ph.D., MD, Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W624, Bethesda, MD 20850, 240–276–6464, *meekert@mail.nih.gov.*

Information is also available on the Institute's/Center's home page: *http://deainfo.nci.nih.gov/advisory/irg/irg.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: August 22, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–20944 Filed 8–27–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R1–ES–2013–N105; FXES11130100000C2–134–FF01E00000]

Endangered and Threatened Wildlife and Plants; Recovery Plan for Phyllostegia hispida; Addendum to the Molokai Plant Cluster Recovery Plan

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce the availability of our final recovery plan for *Phyllostegia hispida* (no common name) under the Endangered Species Act of 1973, as amended (Act). This plant species is endemic to the island of Molokai, Hawaii. This plan is an addendum to the recovery plan for the Molokai Plant Cluster, published in September of 1996. The plan includes recovery objectives and criteria, and specific recovery actions necessary to achieve downlisting and delisting of the species and its removal from the Federal List of Endangered and Threatened Wildlife and Plants.

ADDRESSES: An electronic copy of the recovery plan is available at *http://www.fws.gov/endangered/species/recovery-plans.html* and *http://www.fws.gov/pacific/ecoservices/endangered/recovery/plans.html.* Copies of the recovery plan are also available by request from the U.S. Fish and Wildlife Service, Pacific Islands Fish and Wildlife Office, 300 Ala Moana Boulevard, Room 3–122, Box 50088, Honolulu, HI 96850 (telephone: 808–792–9400).

FOR FURTHER INFORMATION CONTACT: Kristi Young, Deputy Field Supervisor, at the above Honolulu address.

SUPPLEMENTARY INFORMATION:

Background

Recovery of endangered or threatened animals and plants is a primary goal of the Endangered Species Act (Act) (16 U.S.C. 1531 *et seq.*) and our endangered species program. Recovery means improvement of the status of listed species to the point at which listing is no longer required under the criteria set out in section 4(a)(1) of the Act. Recovery plans describe actions considered necessary for the conservation of listed species, establish criteria for downlisting or delisting, and estimate time and cost for implementing the measures needed for recovery.

The Act requires the development of recovery plans for endangered or threatened species, unless such a plan would not promote the conservation of the species. Section 4(f) of the Act requires that public notice, and an opportunity for public review and comment, be provided during recovery plan development. The draft recovery plan for *Phyllostegia hispida* was published on June 2, 2011, and was available for public comment through August 1, 2011 (76 FR 31973). We have considered information we received from public comments and peer reviewers in our preparation of the final recovery plan, and have summarized that information in an appendix of the approved recovery plan. We welcome continuing public comment on this recovery plan, and we will consider all substantive comments on an ongoing basis to inform the implementation of recovery activities and future updates to the recovery plan.

We listed *Phyllostegia hispida* under the Act as an endangered species without critical habitat on March 17, 2009 (74 FR 11319). *Phyllostegia hispida* is found only on the island of Molokai. Currently there are less than 10 wild mature individuals, 3 wild seedlings, and approximately 7 to 10 reintroduced individuals on the island of Molokai. No known population is entirely protected from the numerous factors threatening the species' recovery, and the species is endangered throughout its range. *P. hispida* is typically found in wet *Metrosideros polymorpha* (ohia)—dominated forest, occurring between 1,112 and 1,280 meters (3,650 and 4,200 feet) elevation.

The major threats to all known populations are habitat degradation by feral pigs (*Sus scrofa*); habitat degradation by and competition with invasive introduced plants; predation or herbivory by rats (*Rattus* spp.) and nonnative slugs; climate change; habitat degradation by landslides and flooding; and the negative demographic and genetic consequences of extremely small population size, as well as the consequent vulnerability to extinction through deterministic or stochastic (chance) events. Native caterpillar species may also pose an herbivory threat to this species.

The short-term recovery objectives for *Phyllostegia hispida* focus on stabilizing all existing populations. To be considered stable, the species must be managed to control threats (*e.g.,* feral ungulates and invasive plants) and be represented in an *ex situ* population (such as a nursery or arboretum). The long-term objectives leading to downlisting and delisting are an increase in populations and their numbers. This increase may require

outplanting, development of appropriate management and monitoring plans at each site, and conservation agreements with landowners to ensure threats are controlled in perpetuity.

As the species meets reclassification and recovery criteria, we will review the species' status and consider the species for reclassification or removal from the Federal List of Endangered and Threatened Wildlife and Plants.

Authority: The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533 (f).

Dated: July 30, 2013.

Richard R. Hannan,

Acting Regional Director, Pacific Region, U.S. Fish and Wildlife Service.

[FR Doc. 2013–20965 Filed 8–27–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–EA–2013–N154; FF09X60000–FVWF97920900000–XXX]

Sport Fishing and Boating Partnership Council; Teleconference

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of teleconference.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a public teleconference of the Sport Fishing and Boating Partnership Council (Council).

DATES: *Teleconference:* Friday, September 13, 2013, 12 p.m. to 1 p.m. (Eastern daylight time). For deadlines and directions on registering to listen to the teleconference, submitting written material, and giving an oral presentation, please see ''Public Input'' under **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Douglas Hobbs, Council Coordinator, 4401 North Fairfax Drive, Mailstop 3103–AEA, Arlington, VA 22203; telephone (703) 358–2336; fax (703) 358–2548; or email *doug_hobbs@fws.gov.*

SUPPLEMENTARY INFORMATION: In accordance with the requirements of the Federal Advisory Committee Act, 5 U.S.C. App., we announce that Sport Fishing and Boating Partnership Council will hold a teleconference.

Background

The Council was formed in January 1993 to advise the Secretary of the Interior, through the Director of the Service, on nationally significant recreational fishing, boating, and aquatic resource conservation issues. The Council represents the interests of the public and private sectors of the sport fishing, boating, and conservation communities and is organized to enhance partnerships among industry, constituency groups, and government. The 18-member Council, appointed by the Secretary of the Interior, includes the Service Director and the president of the Association of Fish and Wildlife Agencies, who both serve in ex officio capacities. Other Council members are directors from State agencies responsible for managing recreational fish and wildlife resources and individuals who represent the interests of saltwater and freshwater recreational fishing, recreational boating, the recreational fishing and boating industries, recreational fisheries resource conservation, Native American tribes, aquatic resource outreach and education, and tourism. Background information on the Council is available at *http://www.fws.gov/sfbpc.*

Meeting Agenda

The Council will hold a teleconference to:

- Consider and approve a response to a request for comments on recommendation number 17, Hunting, Fishing and Outdoor Recreation strategy, of the National Wildlife Refuge System Vision, and
- Consider other Council business, including planning for the October 2013 meeting.

The final agenda will be posted on the Internet at *http://www.fws.gov/sfbpc.*

Public Input

If you wish to	You must contact the Council Coordinator (see **FOR FURTHER INFORMATION CONTACT**) no later than
Listen to the teleconference	Monday, September 9, 2013.
Submit written information or questions before the teleconference for the council to consider during the teleconference.	Monday, September 9, 2013.
Give an oral presentation during the teleconference	Monday, September 9, 2013.

Submitting Written Information or Questions

Interested members of the public may submit relevant information or questions for the Council to consider during the teleconference. Written statements must be received by the date listed in ''Public Input'' under **SUPPLEMENTARY INFORMATION**, so that the information may be made available to the Council for their consideration prior to this teleconference. Written statements must be supplied to the Council Coordinator in one of the following formats: One hard copy with original signature, and one electronic copy via email (acceptable file formats are Adobe Acrobat PDF, MS Word, MS PowerPoint, or rich text file).

Giving an Oral Presentation

Individuals or groups requesting to make an oral presentation during the teleconference will be limited to 2 minutes per speaker, with no more than a total of 15 minutes for all speakers. Interested parties should contact the Council Coordinator, in writing (preferably via email; see **FOR FURTHER INFORMATION CONTACT**), to be placed on the public speaker list for this teleconference. To ensure an opportunity to speak during the public comment period of the teleconference, members of the public must register with the Council Coordinator. Registered speakers who wish to expand upon their oral statements, or those who had wished to speak but could not be accommodated on the agenda, may submit written statements to the Council Coordinator up to 30 days subsequent to the teleconference.

Meeting Minutes

Summary minutes of the teleconference will be maintained by the Council Coordinator (see **FOR FURTHER INFORMATION CONTACT**) and will be available for public inspection within 90 days of the meeting and will be posted on the Council's Web site at *http://www.fws.gov/sfbpc.*

Stephen Guertin,

Director.

[FR Doc. 2013–20937 Filed 8–27–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R2–ES–2013–N139; FXES11130200000–134–FF02ENEH00]

Endangered and Threatened Species Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications; request for public comment.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered or threatened species. The Endangered Species Act of 1973, as amended (Act), prohibits activities with endangered and threatened species unless a Federal permit allows such activities. The Act and the National Environmental Policy Act also require that we invite public comment before issuing these permits.

DATES: To ensure consideration, written comments must be received on or before September 27, 2013.

ADDRESSES: Marty Tuegel, Section 10 Coordinator, by U.S. mail at Division of Endangered Species, U.S. Fish and Wildlife Service, P.O. Box 1306, Room 6034, Albuquerque, NM at 505–248–6920. Please refer to the respective permit number for each application when submitting comments.

FOR FURTHER INFORMATION CONTACT: Susan Jacobsen, Chief, Endangered Species Division, P.O. Box 1306, Albuquerque, NM 87103; 505–248–6651.

SUPPLEMENTARY INFORMATION:

Public Availability of Comments

The Act (16 U.S.C. 1531 *et seq.*) prohibits activities with endangered and threatened species unless a Federal permit allows such activities. Along with our implementing regulations in the Code of Federal Regulations (CFR) at 50 CFR 17, the Act provides for permits, and requires that we invite public comment before issuing these permits.

A permit granted by us under section 10(a)(1)(A) of the Act authorizes applicants to conduct activities with U.S. endangered or threatened species for scientific purposes, enhancement of survival or propagation, or interstate commerce. Our regulations regarding implementation of section 10(a)(1)(A) permits are found at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

Applications Available for Review and Comment

We invite local, State, Tribal, and Federal agencies, and the public to comment on the following applications. Please refer to the appropriate permit number (e.g., Permit No. TE–123456) when requesting application documents and when submitting comments.

Documents and other information the applicants have submitted with these applications are available for review, subject to the requirements of the Privacy Act (5 U.S.C. 552a) and Freedom of Information Act (5 U.S.C. 552).

Permit TE–00284A

Applicant: Stephanie Rainwater, Collinsville, Oklahoma.

Applicant requests a renewal to a current permit for research and recovery purposes to conduct presence/absence surveys, trap and relocate activities and other research activities for the American burying beetle (*Nicrophorus americanus*) within Arkansas, Kansas, Ohio, Oklahoma, South Dakota, and Texas.

Permit TE–08339B

Applicant: U.S. Forest Service, Apache-Sitgreaves National Forest, Springerville, Arizona.

Applicant requests a new permit for research and recovery purposes to conduct presence/absence surveys and monitoring of the following species in Arizona:

- Gila chub (*Gila intermedia*)
- Loach minnow (*Tiaroga cobitis*)
- Mexican gray wolf (*Canis lupus baileyi*)
- Razorback sucker (*Xyrauchen texanus*)
- Southwestern willow flycatcher (*Empidonax traillii extimus*)
- Spikedace (*Meda fulgida*)
- Three Forks springsnail (*Pyrgulopsis trivialis*)

Permit TE–676811

Applicant: U.S. Fish and Wildlife Service-Region 2, Albuquerque, New Mexico.

Applicant requests an amendment to a current permit for research and recovery purposes to conduct presence/absence surveys and recovery activities on seven endangered invertebrates within Arizona and Texas:

- Three Forks springsnail (*Pyrgulopsis trivialis*)
- Phantom springsnail (*Pyrgulopsis texana*)
- Diamond Tryonia (*Pseudotryonia adamantina*)
- Gonzales Tryonia (*Tryonia circumstriata*)
- Phantom Tryonia (*Tryonia cheatumi*)
- Diminutive amphipod (*Gammarus hyalleloides*)
- Pecos amphipod (*Gammarus pecos*)

Permit TE–94766A

Applicant: Carmen Greenwood, Oklahoma State University, Stillwater, Oklahoma.

Applicant requests an amendment to a current permit for research and recovery purposes to conduct presence/absence surveys of American burying beetle (*Nicrophorus americanus*) within Kentucky and Arkansas.

Permit TE–004439

Applicant: Albuquerque BioPark, Albuquerque, New Mexico.

Applicant requests an amendment to a current permit for research and recovery purposes to conduct husbandry and holding of loach minnow (*Tiaroga cobitis*) and spikedace (*Meda fulgida*) at the BioPark in Albuquerque, New Mexico.

Permit TE–819473

Applicant: Grand Canyon National Park, Grand Canyon, Arizona.

Applicant requests a renewal to a current permit for research and recovery purposes to conduct presence/absence surveys of the following animal species and seed collection for the following plant species in Arizona:

- California condor (*Gymnogyps californianus*)
- Humpback chub (*Gila cypha*)
- Razorback sucker (*Xyrauchen texanus*)
- Sentry milk-vetch (*Astragalus cremnophylax* var. *cremnophylax*)
- Southwestern willow flycatcher (*Empinodax traillii extimus*)

Permit TE–045236

Applicant: SWCA, Inc., Albuquerque, New Mexico.

Applicant requests an amendment to a current permit for research and recovery purposes to conduct presence/absence surveys of American burying beetle (*Nicrophorus americanus*) within Arkansas, Nebraska, Oklahoma, and Texas.

National Environmental Policy Act (NEPA)

In compliance with NEPA (42 U.S.C. 4321 *et seq.*), we have made an initial determination that the proposed activities in these permits are categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement (516 DM 6 Appendix 1, 1.4C(1)).

Public Availability of Comments

All comments and materials we receive in response to this request will be available for public inspection, by appointment, during normal business hours at the address listed in the **ADDRESSES** section of this notice.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority

We provide this notice under section 10 of the Act (16 U.S.C. 1531 *et seq.*)

Dated: August 15, 2013.

Benjamin N. Tuggle,

Regional Director, Southwest Region.

[FR Doc. 2013–20966 Filed 8–27–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F–14866–A, F–14866–A2; LLAK940000–L14100000–HY0000–P]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Decision Approving Lands for Conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision will be issued by the Bureau of Land Management (BLM) to Sea Lion Corporation. The decision approves the surface estate in the lands described below for conveyance pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601, et seq.). The subsurface estate in these lands will be conveyed to Calista Corporation when the surface estate is conveyed to Sea Lion Corporation. The lands are in the vicinity of Hooper Bay, Alaska, and are located in:

Seward Meridian, Alaska

T. 20 N., R. 87 W.,
Secs. 2 to 6, inclusive;
Secs. 8 to 11, inclusive.

Containing 4,516.46 acres.

Notice of the decision will also be published once a week for four consecutive weeks in the *Delta Discovery.*

DATES: Any party claiming a property interest in the lands affected by the decision may appeal the decision in accordance with the requirements of 43 CFR part 4 within the following time limits:

1. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who fail or refuse to sign their return receipt, and parties who receive a copy of the decision by regular mail which is not certified, return receipt requested, shall have until September 27, 2013 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4 shall be deemed to have waived their rights. Notices of appeal transmitted by electronic means, such as facsimile or email, will not be accepted as timely filed.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, AK 99513–7504.

FOR FURTHER INFORMATION CONTACT: The BLM by phone at 907–271–5960 or by email at *blm_ak_akso_public_room@blm.gov.* Persons who use a Telecommunications Device for the Deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the BLM during normal business hours. In addition, the FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the BLM. The BLM will reply during normal business hours.

Joe J. Labay,

Land Transfer Resolution Specialist,

Division of Lands and Cadastral.

[FR Doc. 2013–20989 Filed 8–27–13; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLMTL00000.L10200000.PG0000]

Notice of Public Meeting; Central Montana Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management (BLM) Central Montana Resource Advisory Council (RAC) will meet as indicated below.

DATES: The meeting will be September 18–19, 2013. The September 18 meeting will begin at 10 a.m. with a 30-minute public comment period and will adjourn at 6:00 p.m. The September 19 meeting will begin at 8 a.m. with a 30-minute public comment period beginning at 10 a.m. and will adjourn at 12 p.m.

ADDRESSES: The meetings will be in the Bureau of Land Management, Central Montana District Office, Lewistown Field Office Conference room at 920 NE Main, Lewistown, Montana.

FOR FURTHER INFORMATION CONTACT: Gary L. ''Stan'' Benes, Central Montana District Manager, Lewistown Field Office, 920 NE Main, Lewistown, MT 59457, (406) 538–1900, *gbenes@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–677–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: This 15-member council advises the Secretary of the Interior on a variety of management issues associated with public land management in Montana. During these meetings the council will participate in/discuss/act upon these topics/activities: a roundtable discussion among council members and the BLM; Montana State Director update; Lands with Wilderness Characteristics field trip; 9th District Court Decisions; Monument Leases Vacated; Sage Grouse and Lewistown RMP update; HiLine RMP; and District Manager updates. All RAC meetings are open to the public. Each formal RAC meeting will also have time allocated for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited.

Gary L. ''Stan'' Benes,

Central Montana District Manager.

[FR Doc. 2013–20967 Filed 8–27–13; 8:45 am]

BILLING CODE 4310–DN–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–819]

Certain Semiconductor Chips With Dram Circuitry, and Modules and Products Containing Same: Notice of Commission Determination To Terminate the Investigation Based on Settlement

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to terminate the above-captioned investigation based on a settlement agreement between the parties.

FOR FURTHER INFORMATION CONTACT: Clark S. Cheney, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–205–2661. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on December 21, 2011, based on a complaint filed by Elpida Memory, Inc., of Tokyo, Japan, and Elpida Memory (USA) Inc. of Sunnyvale, California (collectively, ''Elpida''). 76 FR 79215 (Dec. 21, 2011). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), based on infringement of several U.S. patents. The notice of investigation named Nanya Technology Corporation of Tao Yuan, Taiwan, and Nanya Technology Corporation, U.S.A. of Santa Clara, California (collectively, ''Nanya''), as respondents. The Office of Unfair Import Investigations did not participate in the investigation.

On March 26, 2013, the ALJ issued a final initial determination (''ID'') finding a violation of section 337 with respect to several patents but not with respect to U.S. Patent No. 7,659,571 (''the '571 patent''). On April 8, 2013, complainant Elpida and Nanya filed petitions for review of certain portions of the ID but not for review of the determination of no violation with respect to the '571 patent. On July 2, 2013, the Commission determined not to review the determination of no violation with respect to the '571 patent and that determination became final. The Commission determined to review the remainder of the ID and requested certain briefing from the parties and from the public.

On July 31, 2013, the parties jointly moved for termination of the investigation based on a settlement agreement.

The Commission has determined that the motion to terminate the investigation based on a settlement agreement complies with Commission Rule 210.21 (19 CFR 210.21). The Commission has further determined that terminating the investigation based on the settlement agreement between Elpida and Nanya is not contrary to the public interest. Accordingly, the Commission has determined to grant the joint motion and terminate the investigation.

The issues previously under review by the Commission are now moot in view of the parties' settlement. The portions of the ID previously under review by the Commission do not constitute a Commission determination and have been set aside. *See* Commission Rule 210.45(c) (19 CFR 210.45(c)).

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR Part 210).

By order of the Commission.

Issued: August 22, 2013.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2013–20952 Filed 8–27–13; 8:45 am]

BILLING CODE 7020–02–P

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Committee on Rules of Practice and Procedure

AGENCY: Judicial Conference of the United States Advisory Committee on Rules of Criminal Procedure.

ACTION: Notice of open meeting.

SUMMARY: The Advisory Committee on Rules of Criminal Procedure will hold a one-day meeting. The meeting will be open to public observation but not participation.

DATES: October 18, 2013.

Time: 8:30 a.m. to 5:00 p.m.

ADDRESSES: University of Utah, S.J. Quinney College of Law, 332 South 1400 East, Salt Lake City, UT 84112.

FOR FURTHER INFORMATION CONTACT: Jonathan C. Rose, Secretary and Chief Rules Officer, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: August 23, 2013.

Jonathan C. Rose,

Secretary and Chief Rules Officer .

[FR Doc. 2013–20980 Filed 8–27–13; 8:45 am]

BILLING CODE 2210–55–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2010–0037]

Standard for Welding, Cutting, and Brazing; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

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

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning its proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirements contained in the Standard for Welding, Cutting, and Brazing (29 CFR Part 1910, Subpart Q). The information collected is used by employers and workers whenever welding, cutting, and brazing are performed. The purpose of the information is to ensure that employers evaluate hazards associated with welding and ensure that adequate measures are taken to make the process safe.

DATES: Comments must be submitted (postmarked, sent, or received) by October 28, 2013.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer

than 10 pages, you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit a copy of your comments and attachments to the OSHA Docket Office, OSHA Docket No. OSHA–2010–0037, U.S. Department of Labor, Occupational Safety and Health Administration, Room N–2625, 200 Constitution Avenue NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m. to 4:45 p.m., e.t.

Instructions: All submissions must include the Agency name and OSHA docket number (OSHA–2010–0037) for the Information Collection Request (ICR). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.* For further information on submitting comments see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION**.

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (e.g., copyrighted material) is not publicly available to read or download from the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may also contact Theda Kenney at the address below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Theda Kenney or Todd Owen, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–2044.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (i.e., employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accord with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires OSHA to obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

Section 1910.255(e) requires that a periodic inspection of resistance welding equipment be made by qualified maintenance personnel, and that a certification record be generated and maintained. The certification shall include the date of the inspection, the signature of the person who performed the inspection and the serial number, or other identifier, for the equipment inspected. The record shall be made available to an OSHA inspector upon request. The maintenance inspection ensures that welding equipment is in safe operating condition while the maintenance record provides evidence to workers and Agency compliance officers that employers performed the required inspections.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

The Agency requests an adjustment decrease of 300 burden hours (from 5,935 burden hours to 5,635 burden hours) associated with the collection of information in the Welding, Cutting, and Brazing Standard. The Agency will summarize the comments submitted in response to this notice, and will include this summary in its request to OMB.

Type of Review: Extension of a currently approved collection.

Title: Standard for Welding, Cutting, and Brazing.

OMB Control Number: 1218–0207.

Affected Public: Business or other for-profits.

Number of Respondents: 20,094.

Frequency of Response: On occasion.

Total Responses: 80,657.

Average Time per Response: OSHA estimates it will take 1 minute (.02 hour) to maintain the inspection certification record to 5 minutes (.08 hour) for each welder to perform the inspection periodically (semiannually).

Estimated Total Burden Hours: 5,635.

Estimated Cost (Operation and Maintenance): $0.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number for the ICR (Docket No. OSHA–2010–0037). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627). Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and dates of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (e.g., copyrighted material) is not publicly available to

read or download through this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* Web site to submit comments and access the docket is available at the Web site's ''User Tips'' link. Contact the OSHA Docket Office for information about materials not available through the Web site and for assistance in using the Internet to locate docket submissions.

V. Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 1–2012 (77 FR 3912, January 25, 2012).

Signed at Washington, DC, on August 22, 2013.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2013–20954 Filed 8–27–13; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Reinstatement, With Change, of a Previously Approved Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995. The information collection relates to requests for non-public records and for testimony by NCUA employees in legal proceedings. This information collection notice is published to obtain comments from the public.

DATES: Comments will be accepted until September 27, 2013.

ADDRESSES: Interested parties are invited to submit written comments to the NCUA Contact and the OMB Reviewer listed below:

NCUA Contact: Tracy Crews, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–837–2861, Email: *OCIOPRA@ncua.gov*.

OMB Contact: Office of Management and Budget, ATTN: Desk Officer for the National Credit Union Administration, Office of Information and Regulatory Affairs, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information, a copy of the information collection request, or a copy of submitted comments should be directed to Tracy Crews at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at (703) 518–6444.

SUPPLEMENTARY INFORMATION:

I. Abstract and Request for Comments

NCUA is reinstating a previously approved collection of information for 3133–0146. 12 CFR part 792, Subpart C requires anyone requesting NCUA non-public records for use in legal proceedings, or similarly the testimony of NCUA personnel, to provide NCUA with information regarding the requester's grounds for the request. This process is also known as a ''Touhy Request''. The information collected will help the NCUA decide whether to release non-public records or permit employees to testify in legal proceedings.

NCUA regulations also require an entity or person in possession of NCUA records to notify the NCUA upon receipt of a subpoena for those records. The NCUA requires this notice to protect its records and, when necessary, intervene in litigation or file an objection to the disclosure of its confidential information in the appropriate court or tribunal.

The NCUA requests that you send your comments on this collection to the location listed in the addresses section. Your comments should address: (a) The necessity of the information collection for the proper performance of NCUA, including whether the information will have practical utility; (b) the accuracy of our estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) ways we could enhance the quality, utility, and clarity of the information to be collected; and (d) ways we could minimize the burden of the collection of the information on the respondents such as through the use of automated collection techniques or other forms of information technology. It is NCUA's policy to make all comments available to the public for review.

II. Data

Title: Production of Non-public Records and Testimony of Employees in Legal Proceedings (Touhy Request).

OMB Number: 3133–0146.

Form Number: None.

Type of Review: Reinstatement, with change, of a previously approved collection.

Description: The regulation in 12 CFR part 792, Subpart C details the requirements for obtaining the production of nonpublic NCUA records for use in legal proceedings and testimony of NCUA personnel.

Respondents: Respondents will most likely be persons involved in legal proceedings.

Estimated No. of Respondents/Recordkeepers: 20.

Estimated Burden Hours per Response: 2 hours.

Frequency of Response: Reporting, on occasion.

Estimated Total Annual Burden Hours: 40.

Estimated Total Annual Cost: None.

By the National Credit Union Administration Board on August 22, 2013.

Gerard Poliquin,

Secretary of the Board.

[FR Doc. 2013–20946 Filed 8–27–13; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Reinstatement, Without Change, of a Previously Approved Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995. This information collection is published to obtain comments from the public. The information collection applies to credit unions that engage in member business lending and requires written loan policies that address the various aspects of the member business loan program. Credit unions desiring a waiver from appraisal requirements, aggregate construction and development loan, loan-to-value ratios, personal liability and guarantee requirements, unsecured lending limits to one borrower, aggregate unsecured lending limits, or outstanding loans to one borrower limits of NCUA's Rules and

Regulations, must submit certain information to NCUA for consideration. Finally, a credit union seeking regulatory approval to purchase certain business loans in addition to those, which are statutorily limited, must submit certain information to NCUA for consideration.

DATES: Comments will be accepted September 27, 2013.

ADDRESSES: Interested parties are invited to submit written comments to the NCUA Contact and the OMB Reviewer listed below:

NCUA Contact: Tracy Crews, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–837–2861, Email: *OCIOPRA@ncua.gov.*

OMB Contact: Office of Management and Budget, ATTN: Desk Officer for the National Credit Union Administration, Office of Information and Regulatory Affairs, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Request for additional information, a copy of the information collection request, or a copy of submitted comments should be directed to Tracy Crews at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at (703) 518–6444.

SUPPLEMENTARY INFORMATION:

I. Abstract and Request for Comments

NCUA is amending/reinstating the collection for 3133–0101. Part 723 implements provisions in the Federal Credit Union Act (Act) for business loans and addresses NCUA's safety and soundness concerns regarding this activity. Part 723 requires that credit unions that engage in business lending maintain written loan policies that address various aspects of the activity, including identification of the types of business loans the credit union will make, qualifications of loan officers, documentation requirements for creditworthiness of borrowers, collateral requirements, loan procedures, interest rates and maturities, and so forth. 12 CFR 723.6. Business lending is recognized as inherently riskier than consumer lending and requires particular expertise. Before promulgation of the member business loan regulation in the 1980s, business loans caused significant losses to the credit unions and the National Credit Union Share Insurance Fund (NCUSIF). Requiring federally-insured credit unions to develop specific business loan policies and procedures protects the safety and soundness of credit unions and the NCUSIF.

Part 723 also permits credit unions to apply for a waiver from certain regulatory requirements. 12 CFR 723.10–11. Specifically, the rule permits waivers from the following requirements or limitations: appraisal requirements, aggregate construction and development loan limits, minimum borrower equity requirements for construction and development loans, loan-to-value ratios, personal liability and guarantee requirements, unsecured lending limits to one borrower, aggregate unsecured lending limits, and outstanding loans to one borrower limits. NCUA needs certain information from a credit union to consider the waiver request and evaluate the risks and impact of the waiver on the credit union and potential effect on the NCUSIF.

Finally, part 723 permits a credit union to obtain regulatory approval so that it may purchase certain business purpose loans in addition to those which are statutorily limited. 12 CFR 723.16(b)(2). NCUA needs certain information from a credit union to evaluate its request so that NCUA may assess safety and soundness considerations and potential effect on the NCUSIF.

NCUA examiners review the credit union policies during regulatory examinations. These reviews allow examiners to determine the appropriateness and risks of the programs they address for both the credit union and the NCUSIF. Written policies enable examiners to determine that the credit union is, in fact, following its own business planning in engaging member business lending. As part of the examination process, this review helps prevent losses to credit unions and the NCUSIF.

For waiver requests, the information in the requests permits NCUA staff to make a reasonable determination of the appropriateness of the requests. For loan approval requests, the information in the requests permits NCUA staff to determine the appropriateness and risks of the loan purchases the credit union proposes for both the credit union and the NCUSIF.

An increase in the reporting burden from the prior submission occurred due to an adjustment to the estimated responses based upon current credit union activity. While the number of respondents decreased, the estimated waiver activity increased resulting in an overall increase in annual response hours.

The NCUA requests that you send your comments on this collection to the location listed in the addresses section. Your comments should address: (a) The necessity of the information collection for the proper performance of NCUA, including whether the information will have practical utility; (b) the accuracy of our estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) ways we could enhance the quality, utility, and clarity of the information to be collected; and (d) ways we could minimize the burden of the collection of the information on the respondents such as through the use of automated collection techniques or other forms of information technology. It is NCUA's policy to make all comments available to the public for review.

II. Data

OMB Number: 3133–0101.

Form Number: N/A.

Type of Review: Reinstatement, without change.

Title: 12 CFR parts 723.5—Develop Written Loan Policies—and 723.11—Provide Waiver Requests.

Description: The general purpose of the requirements imposed by the rule is to ensure that loans are made, documented, and accounted for properly and for the ultimate protection of the National Credit Union Share Insurance Fund. Respondents are federally insured credit unions who make business loans as defined in the regulation.

Respondents: Federally Insured Credit Unions.

Estimated No. of Respondents/Recordkeepers: 1,116.

Estimated Burden Hours per Response: 4–17 hours.

Frequency of Response: Recordkeeping, reporting and on occasion.

Estimated Total Annual Burden Hours: 9,492 hours.

Estimated Total Annual Cost: $0.

By the National Credit Union Administration Board on August 22, 2013.

Gerard Poliquin,

Secretary of the Board.

[FR Doc. 2013–20947 Filed 8–27–13; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Reinstatement, Without Change, of a Previously Approved Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995. This information collection is published to obtain comments from the public. The NCUA rules and regulations, place a maximum borrowing limit on federally insured credit unions. State chartered federally insured credit unions must seek a waiver of the borrowing limit from the NCUA Regional Director prior to exceeding this limitation.

DATES: Comments will be accepted until September 27, 2013.

ADDRESSES: Interested parties are invited to submit written comments to the NCUA Contact and the OMB Reviewer listed below:

NCUA Contact: Tracy Crews, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–837–2861, Email: *OCIOPRA@ncua.gov.*

OMB Contact: Office of Management and Budget, ATTN: Desk Officer for the National Credit Union Administration, Office of Information and Regulatory Affairs, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information, a copy of the information collection request, or a copy of submitted comments should be directed to Tracy Crews at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at (703) 518–6444.

SUPPLEMENTARY INFORMATION:

I. Abstract and Request for Comments

NCUA is reinstating the collection for 3133–0168. The collection of information requirement is for those state chartered federal insured credit unions seeking a waiver from the borrowing limit. These credit unions must submit a detailed safety and soundness analysis, a proposed aggregate amount, a letter from the state regulator approving the request and an explanation of the need for the waiver to the NCUA Regional Director. This collection of information is necessary to protect the National Credit Union Share Insurance Fund (''Fund''). The NCUA Board has determined that borrowing in excess of 50 percent of paid-in and unimpaired capital and surplus may cause an undue risk to the Fund and a loss of confidence in the credit union system. The NCUA must be made aware of and be able to monitor those credit unions seeking a waiver from the requirement. There is no change in burden hours from previous submission.

The NCUA requests that you send your comments on this collection to the location listed in the addresses section. Your comments should address: (a) The necessity of the information collection for the proper performance of NCUA, including whether the information will have practical utility; (b) the accuracy of our estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) ways we could enhance the quality, utility, and clarity of the information to be collected; and (d) ways we could minimize the burden of the collection of the information on the respondents such as through the use of automated collection techniques or other forms of information technology. It is NCUA's policy to make all comments available to the public for review.

II. Data

Title: Maximum Borrowing Authority, 12 CFR 741.2.

OMB Number: 3133–0168.

Form Number: None.

Type of Review: Reinstatement, without change, of a previously approved collection.

Description: 12 CFR 741.2 places a maximum borrowing limitation on federally insured credit unions of 50 percent of paid-in and unimpaired capital and surplus. The collection of information requirement is for those federally insured state-chartered credit unions seeking a waiver from the maximum borrowing limitation of 50 percent of paid-in and unimpaired capital and surplus. These credit unions must submit a detailed safety and soundness analysis, a proposed aggregate amount, a letter from the state regulator approving the request and an explanation of the need for the waiver to the NCUA Regional Director.

Respondents: Credit unions.

Estimated No. of Respondents/Recordkeepers: 2.

Estimated Burden Hours per Response: 8 hours.

Frequency of Response: Reporting, and on occasion.

Estimated Total Annual Burden Hours: 16 hours.

Estimated Total Annual Cost: $496.

By the National Credit Union Administration Board on August 22, 2013.

Gerard Poliquin,

Secretary of the Board.

[FR Doc. 2013–20940 Filed 8–27–13; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Reinstatement, With Change, of a Previously Approved Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995. This information collection notice is published to obtain comments from the public. This is related to NCUA's regulation on mergers of federally-insured credit unions and voluntary termination or conversion of insured status.

DATES: Comments will be accepted until September 27, 2013.

ADDRESSES: Interested parties are invited to submit written comments to the NCUA Contact and the OMB Reviewer listed below:

NCUA Contact: Tracy Crews, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–837–2861, Email: *OCIOMail@ncua.gov.*

OMB Contact: Office of Management and Budget, ATTN: Desk Officer for the National Credit Union Administration, Office of Information and Regulatory Affairs, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information, a copy of the information collection request, or a copy of submitted comments should be directed to Tracy Crews at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at (703) 518–6444.

SUPPLEMENTARY INFORMATION:

I. Abstract and Request for Comments

NCUA is reinstating a previously approved collection of information for 12 CFR part 708b, Mergers of Federally Insured Credit Unions; Voluntary Termination or Conversion of Insured Status. The Federal Credit Union Act (Act) authorizes the NCUA Board to prescribe rules regarding mergers of federally-insured credit unions and changes in insured status and requires written approval of the Board before one or more federally-insured credit union(s) merge or before a federally-insured credit union terminates federal

share insurance or converts to nonfederal share insurance. 12 U.S.C. 1752(7), 1766(a), 1785(b), 1785(c), and 1789(a). Part 708b of NCUA's Rules and Regulations sets forth the procedural and disclosure requirements for mergers of federally-insured credit unions, federal share insurance terminations, and conversions from federal share insurance to nonfederal (private) insurance. The rule is designed to ensure NCUA has sufficient information to determine whether to approve a proposed merger, share insurance termination, or share insurance conversion. It further ensures that members of credit unions have sufficient and accurate information to exercise their vote properly concerning a proposed merger, insurance termination, or insurance conversion. The rule also protects the property interests of members who may lose their federal share insurance due to a merger, share insurance termination, or share insurance conversion. 12 CFR part 708b.

The categories of burden for credit unions complying with part 708b may include the following:

Mergers

Each year, there are approximately 240 mergers involving federally-insured credit unions (both natural person and corporate credit unions). NCUA estimates it will take two merging credit unions approximately 35 hours between them to:

a. Prepare the required merger documents (§ 708b.103);

b. Collect and submit the required information to NCUA (§ 708b.104);

c. Provide the required insurance disclosures in other communications that the credit union plans to send to its members if the merger involves a share insurance conversion (§ 708b.206);

d. Notify members of the merger and send them the ballot (§§ 708b.106, 708b.303(a), 708b.303(b));

e. Notify NCUA of the results of the merger vote (§§ 708b.107, 708b.303(c));

f. Notify NCUA of the merger's completion (§ 708b.108); and

g. Notify members of the results of the merger and the possible effect on their insurance coverage (§ 708b.101(e)).

The 240 respondents (the two merging credit unions together treated as one respondent) times 35 hours per respondent equals 8,400 total annual burden hours associated with this collection of information.

Share Insurance Termination

Typically, no credit unions each year engage in share insurance terminations. If one or more credit unions were to engage in a voluntary termination of insurance in the future, NCUA estimates there will be minimal burden in the form of collections of information on those credit unions. NCUA estimates it will take each credit union approximately 12 hours to:

a. Prepare the required termination documents and submit the required information to NCUA (§ 708b.201);

b. Notify the members and send them the ballot (§ 708b.202);

c. Provide the required insurance disclosures in other communications that the credit union plans to send to its members (§ 708b.206);

d. Notify NCUA of the results of the termination vote (§ 708b.201(d)(2)); and

e. Provide members notice of termination of insurance (§ 708b.202(c)).

Zero respondents times 12 hours per respondent equals zero total annual burden hours associated with this collection of information.

Share Insurance Conversions

Approximately two credit unions each year engage in private share insurance conversions outside of the merger context. NCUA estimates there will be minimal burden in the form of collections of information, since NCUA provides forms and form language in the regulation. NCUA estimates that it will take each credit union approximately 12 hours to:

a. Prepare the required conversion documents and submit the required information to NCUA (§§ 708b.203, 708b.301(a));

b. Notify members of the conversion and send them the ballot (§§ 708b.204, 708b.301(b) and (c));

c. Provide the required insurance disclosures in other communications that the credit union plans to send to its members (§ 708b.206);

d. Notify NCUA of the results of the conversion vote (§ 708b.301(d)); and

e. Provide members notice of conversion of insurance (§ 708b.204(c)).

Two respondents times 12 hours per respondent equals 24 total annual burden hours associated with this collection of information.

The NCUA requests that you send your comments on this collection for Part 708b to the locations listed in the addresses section. Your comments should address: (a) The necessity of the information collection for the proper performance of NCUA, including whether the information will have practical utility; (b) the accuracy of our estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) ways we could enhance the quality, utility, and clarity of the information to be collected; and (d) ways we could minimize the burden of the collection of the information on the respondents such as through the use of automated collection techniques or other forms of information technology. It is NCUA's policy to make all comments available to the public for review.

II. Data

OMB Number: 3133–0024.

Form Number: None.

Title: Mergers of Federally Insured Credit Unions; Voluntary Termination or Conversion of Insured Status, 12 CFR part 708b.

Type of Review: Reinstatement, with change, of a previously approved collection.

Description: Part 708b of NCUA's Rules and Regulations sets forth the procedural and disclosure requirements for mergers of federally-insured credit unions, federal share insurance terminations, and conversions from federal share insurance to nonfederal (private) insurance. Submission of this information is designed to ensure NCUA has sufficient information whether to approve a proposed merger, share insurance termination, or share insurance conversion. It further ensures that members of credit unions have sufficient and accurate information to exercise their vote properly concerning a proposed merger, insurance termination, or insurance conversion. The rule also protects the property interests of members who may lose their federal share insurance due to a merger, share insurance termination, or share insurance conversion.

Respondents: Federally-insured credit unions.

Estimated Number of Respondents: 242.

Frequency of Response: Once; on occasion.

Estimated Time per Response: Ranges from 12 to 35 hours.

Estimated Total Annual Burden Hours: 8,424 hours.

Estimated Total Annual Cost: $336,960.

By the National Credit Union Administration Board on August 22, 2013.

Gerard Poliquin,

Secretary of the Board.

[FR Doc. 2013–20943 Filed 8–27–13; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Reinstatement, With Change, of a Previously Approved Collection

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA is submitting the following information collection to the Office of Management and Budget (OMB) for reinstatement under the Paperwork Reduction Act of 1995. Notice of this information collection is published to obtain comments from the public. Under the Home Mortgage Disclosure Act (HMDA), financial institutions that meet the reporting criteria must compile and make available data about their housing-related lending activity. The data is made available to the public for the purposes of: (1) Helping to determine whether financial institutions are serving the housing needs of their communities; (2) assisting public officials in distributing public-sector investment so as to attract private investment to areas where it is needed; and (3) assisting in identifying possible discriminatory lending patterns and enforcing anti-discrimination statutes. The information collection will assist NCUA to ensure credit unions are in compliance with fair lending laws and regulations.

DATES: Comments will be accepted until September 27, 2013.

ADDRESSES: Interested parties are invited to submit written comments to the NCUA contact and OMB reviewer listed below:

NCUA Contact: Tracy Crews, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–837–2861, Email: *OCIOPRA@ncua.gov*.

OMB Contact: ATTN: Desk Officer for the National Credit Union Administration, Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or a copy of the information collection request, or a copy of submitted comments should be directed to Tracy Crews at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at (703) 518–6444.

SUPPLEMENTARY INFORMATION: Proposal for the following collection of information:

I. Abstract and Request for Comments

NCUA is reinstating the information collection previously approved under OMB control number 3133–0166. Under HMDA, depository institutions that have a home office or branch office located within a metropolitan statistical area must compile and make available to the public the number and total dollar amount of mortgage loans originated (or for which the institution received completed applications) or purchased during each year. 12 U.S.C. 2801 et seq. The Consumer Financial Protection Bureau implements HMDA under Regulation C, 12 CFR part 1003. Regulation C requires financial institutions and mortgage lending institutions to report data about home purchase loans and refinancings that originated or purchased, or for which applications were received, and to disclose the data to the public.

Under this information collection, credit unions meeting the criteria described in HMDA and Regulation C must compile, report, and make available data about home purchase loans and refinancings they originate, purchase, or for which they receive applications. The data is made available to the public to help to determine whether credit unions, along with other financial institutions and other mortgage lenders, are serving the housing needs of their members and to assist public officials in distributing public-sector investment so as to attract private investment to areas where it is needed. Additionally, federal regulators use the data to identify possible discriminatory lending patterns and enforce antidiscrimination statutes.

Specifically, NCUA uses HMDA data to examine credit union compliance with the Equal Credit Opportunity Act and the Fair Housing Act. NCUA also uses the data to report credit union lending practices to Congress and the public. The Federal Financial Institutions Examination Council compiles the data and makes it available to the public annually to carry out the purposes of HMDA.

NCUA is requesting reinstatement of OMB control number 3133–0166, with changes in the estimated burden due to an increase in the number of reporting credit unions and the cost of the technology used to submit the information. Since the initial approval of the information collection, the number of credit unions involved in mortgage lending has increased slightly from 1,996 credit unions to 2,015 credit unions. The estimated cost of the information collection has been adjusted to reflect the cost of programmatic modifications associated with increased number of respondents and the use of technology. The increase in the number of respondents caused a corresponding increase in the estimated burden hours associated with the collection, even though NCUA estimates the time per reportable loan application necessary to submit the information collection will not change.

NCUA requests that you send your comments on this collection to the location listed in the addresses section. Your comments should address: (a) The necessity of the information collection for the proper performance of NCUA, including whether the information will have practical utility; (b) the accuracy of our estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) ways we could enhance the quality, utility, and clarity of the information to be collected; and (d) ways we could minimize the burden of the collection of the information on the respondents such as through the use of automated collection techniques or other forms of information technology. It is NCUA's policy to make all comments available to the public for review.

II. Data

Title: HMDA Requirements under 12 U.S.C. 2801–2810 and Regulation C, 12 CFR part 1003.

OMB Number: 3133–0166.

Form Number: NONE.

Type of Review: Reinstatement, with change, of a previously approved collection.

Description: The collection of this data is required under the Home Mortgage Disclosure Act. The data collection is intended to provide the public with loan data that can be used (1) To help determine whether financial institutions are serving the housing needs of their communities; (2) to assist public officials in distributing public-sector investments so as to attract private investment to areas where it is needed; and (3) to assist in identifying possible discriminatory lending patterns and enforcing anti-discrimination statutes.

Respondents: Credit unions.

Estimated No. of Respondents/Record keepers: 2,015.

Estimated Burden Hours per Response: 47.25 hours.

Frequency of Response: Record-keeping, Third party disclosure and Reporting Annually.

Estimated Total Annual Burden Hours: 95,210 hours.

Estimated Total Annual Cost: $1,428,150.

By the National Credit Union Administration Board on August 22, 2013.

Gerard Poliquin,

Secretary of the Board.

[FR Doc. 2013–20929 Filed 8–27–13; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Reinstatement, Without Change, of a Previously Approved Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995. This information collection is published to obtain comments from the public. NCUA is renewing the requirements for Federally Insured Credit Unions to maintain an information security program and an incident response plan that complies with Title V of the Gramm-Leach-Bliley Act. The program and response plan are required by the NCUA rules and regulations. Appendix B contains guidance on creating an effective incident response plan in the event of unauthorized access to member information and the requirements of the notices distributed to the affected members.

DATES: Comments will be accepted until September 27, 2013.

ADDRESSES: Interested parties are invited to submit written comments to the NCUA Contact and OMB Reviewer listed below:

NCUA Contact: Tracy Crews, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–837–2861, Email: *OCIOPRA@ncua.gov.*

OMB Contact: Office of Management and Budget, ATTN: Desk Officer for the National Credit Union Administration, Office of Information and Regulatory Affairs, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information, a copy of the information collection request, or a copy of submitted comments should be directed to Tracy Crews at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at (703) 518–6444.

SUPPLEMENTARY INFORMATION:

I. Abstract and Request for Comments

NCUA is amending/reinstating the collection for 3133–0033. NCUA is renewing the requirements for Federally Insured Credit Unions to maintain an information security program and an incident response plan that complies with Title V of the Gramm-Leach-Bliley Act, 15 U.S.C. 6801 *et seq.* Section 748.0 of NCUA's Rules and Regulations, 12 CFR 748.0, directs federally insured credit unions to adopt a security program that includes ensuring the security and confidentiality of member records, protecting against the anticipated threats or hazards to the security or integrity of such records, and protecting against unauthorized access to or use of such records that could result in substantial harm or serious inconvenience to a member. The security program also contains a requirement to respond to incidents of unauthorized access to or use of member information that could result in substantial harm or serious inconvenience to a member. Proper incident response includes a notification requirement to the affected member. NCUA examiners review the programs to determine whether the credit union's procedures comply with the information security and incident response requirements. There is a decrease of 39,776 hours from the last submission (2007). The decrease is a result of an adjustment to the number of credit unions from 8,695 to 6,753. This decline is from credit union mergers and liquidations.

The NCUA requests that you send your comments on this collection to the location listed in the addresses section. Your comments should address: (a) The necessity of the information collection for the proper performance of NCUA, including whether the information will have practical utility; (b) the accuracy of our estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) ways we could enhance the quality, utility, and clarity of the information to be collected; and (d) ways we could minimize the burden of the collection of the information on the respondents such as through the use of automated collection techniques or other forms of information technology. It is NCUA's policy to make all comments available to the public for review.

II. Data

Title: 12 CFR part 748, Security Program and Appendix B.

OMB Number: 3133–0033.

Form Number: None.

Type of Review: Third party disclosure, and reporting, on occasion.

Description: 12 CFR part 748 requires federally insured credit unions to develop a written security program to safeguard sensitive member information. This information collection requires that such programs be designed to respond to incidents of unauthorized access or use, in order to prevent substantial harm or serious inconvenience to members.

Respondents: Federally insured credit unions.

Estimated Number of Respondents/Record keepers: 6,753.

Estimated Burden Hours per Response: 20 hours.

Frequency of Response: On occasion.

Estimated Total Annual Burden Hours: 138,300 hours.

Estimated Total Annual Cost: None.

By the National Credit Union Administration Board on August 22, 2013.

Gerard Poliquin,

Secretary of the Board.

[FR Doc. 2013–20938 Filed 8–27–13; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Reinstatement, Without Change, of a Previously Approved Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995. This information collection is published to obtain comments from the public. The NCUA rules and regulations, limit nonmember and public unit deposits in federally insured credit unions to 20 percent of their shares or $3.0 million, whichever is greater.

DATES: Comments will be accepted until September 27, 2013.

ADDRESSES: Interested parties are invited to submit written comments to the NCUA Contact and the OMB Reviewer listed below:

NCUA Contact: Tracy Crews, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–837–2861, Email: *OCIOPRA@ncua.gov.*

OMB Contact: Office of Management and Budget, ATTN: Desk Officer for

the National Credit Union Administration, Office of Information and Regulatory Affairs, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information, a copy of the information collection request, or a copy of submitted comments should be directed to Tracy Crews at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at (703) 518–6444.

SUPPLEMENTARY INFORMATION:

I. Abstract and Request for Comments

NCUA is reinstating the collection for 3133–0114. The collection of information requirement is that those credit unions seeking an exemption from the nonmember deposit limit must adopt a specific written plan and submit their lending and investment policies, a copy of their latest financial statement, and an explanation of the request to the NCUA Regional Director. NCUA uses this information to determine whether a particular credit union will be granted an exemption to the limit on nonmember and public unit deposits. This collection of information is necessary to protect the National Credit Union Share Insurance Fund (''Fund''). There is no change to the burden hours from previous submissions.

The NCUA requests that you send your comments on this collection to the location listed in the addresses section. Your comments should address: (a) The necessity of the information collection for the proper performance of NCUA, including whether the information will have practical utility; (b) the accuracy of our estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) ways we could enhance the quality, utility, and clarity of the information to be collected; and (d) ways we could minimize the burden of the collection of the information on the respondents such as through the use of automated collection techniques or other forms of information technology. It is NCUA's policy to make all comments available to the public for review.

II. Data

Title: Payment on Shares by Public Units and Nonmembers.

OMB Number: 3133–0114.

Form Number: None.

Type of Review: Reinstatement, without change, of a previously approved collection.

Description: 12 CFR 701.32 limits nonmember and public unit deposits in federally insured credit unions to 20 percent of their shares or $3.0 million, whichever is greater. The collection of information requirement is for those credit unions seeking an exemption from the above limit.

Respondents: Credit Unions seeking an exemption from the limits on share deposits by public unit and nonmember accounts set by 12 CFR 701.32.

Estimated No. of Respondents/Recordkeepers: 20.

Estimated Burden Hours per Response: 2 hours.

Frequency of Response: Other. As exemption is requested.

Estimated Total Annual Burden Hours: 40.

Estimated Total Annual Cost: $1,240.

By the National Credit Union Administration Board on August 22, 2013.

Gerard Poliquin,

Secretary of the Board.

[FR Doc. 2013–20932 Filed 8–27–13; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Reinstatement, Without Change, of a Previously Approved Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995. This information collection is published to obtain comments from the public. The NCUA rules and regulations, contain a provision that any insured credit union must apply for and receive approval from the regional director before establishing a credit union branch outside the United States unless the foreign branch is located on a United States military institution or embassy outside the United States.

DATES: Comments will be accepted until September 27, 2013.

ADDRESSES: Interested parties are invited to submit written comments to the NCUA Contact and the OMB Reviewer listed below:

NCUA Contact: Tracy Crews, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–837–2861, Email: *OCIOPRA@ncua.gov.*

OMB Contact: Office of Management and Budget, ATTN: Desk Officer for the National Credit Union Administration, Office of Information and Regulatory Affairs, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information, a copy of the information collection request, or a copy of submitted comments should be directed to Tracy Crews at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at (703) 518–6444.

SUPPLEMENTARY INFORMATION:

I. Abstract and Request for Comments

NCUA is amending/reinstating the collection for 3133–0167. The collection of information requirement is that any insured credit union must apply for and receive approval from the NCUA Regional Director before establishing a credit union branch outside the United States unless the foreign branch is located on a United States military institution or embassy outside the United States. The application must include (1) A business plan, (2) written approval by the state supervisory agency if the applicant is a state-chartered credit union, and (3) documentation evidencing written permission from the host country to establish the branch that explicitly recognizes NCUA's authority to examine and take any enforcement actions, including conservatorship and liquidation actions. There is no change to the burden hours from previous submissions.

The NCUA requests that you send your comments on this collection to the location listed in the addresses section. Your comments should address: (a) The necessity of the information collection for the proper performance of NCUA, including whether the information will have practical utility; (b) the accuracy of our estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) ways we could enhance the quality, utility, and clarity of the information to be collected; and (d) ways we could minimize the burden of the collection of the information on the respondents such as through the use of automated collection techniques or other forms of information technology. It is NCUA's policy to make all comments available to the public for review.

II. Data

Title: 12 CFR 741.11 of NCUA's Rules and Regulations, Foreign Branching.

OMB Number: 3133–0167.

Form Number: None.

Type of Review: Reinstatement, without change, of a previously approved collection.

Description: Section 741.11 contains a provision that any insured credit union must apply for and receive approval from the NCUA Regional Director before establishing a credit union branch outside the United States unless the foreign branch is located on a United States military institution or embassy outside the United States. The application must include (1) A business plan, (2) written approval by the state supervisory agency if the applicant is a state-chartered credit union, and (3) documentation evidencing written permission from the host country to establish the branch that explicitly recognizes NCUA's authority to examine and take any enforcement actions, to include conservatorship and liquidation actions.

Estimated No. of Respondents/ Recordkeepers: 3.

Estimated Burden Hours per Response: 16 hours.

Frequency of Response: Reporting and other (one time only).

Estimated Total Annual Burden Hours: 48.

Estimated Total Annual Cost: $1,488.

By the National Credit Union Administration Board on August 22, 2013.

Gerard Poliquin,

Secretary of the Board.

[FR Doc. 2013–20936 Filed 8–27–13; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Reinstatement of a Previously Approved Information Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995. This information collection is published to obtain comments from the public.

DATES: Comments will be accepted until September 27, 2013.

ADDRESSES: Interested parties are invited to submit written comments to the NCUA Contact and the OMB Reviewer listed below:

NCUA Contact: Tracy Crews, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–837–2861, Email: *OCIOPRA@ncua.gov.*

OMB Contact: Office of Management and Budget, ATTN: Desk Officer for the National Credit Union Administration, Office of Information and Regulatory Affairs, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information, a copy of the information collection request, or a copy of submitted comments should be directed to Tracy Crews at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at (703) 518–6444.

SUPPLEMENTARY INFORMATION:

I. Abstract and Request for Comments

NCUA is reinstating the collection for 3133–0108. Section 748.2 of NCUA's regulations, 12 CFR 748.2, directs credit unions to adopt a written program and to maintain procedures that ensure the credit union's continued compliance with the Bank Secrecy Act (BSA) (31 U.S.C. 5311–5330) and Department of Treasury's reporting and recordkeeping regulations (31 CFR part 1000). NCUA examiners review the programs to determine whether the credit union's procedures comply with the Bank Secrecy Act requirements. The requirement that credit unions establish written BSA compliance procedures is a one-time event, but revisions to those procedures must occur as deemed necessary.

NCUA examiners review the written procedures during examinations in order to ensure the implementation of adequate systems for complying with the BSA and its implementing regulations.

The NCUA requests that you send your comments on this collection to the location listed in the addresses section. Your comments should address: (a) The necessity of the information collection for the proper performance of NCUA, including whether the information will have practical utility; (b) the accuracy of our estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) ways we could enhance the quality, utility, and clarity of the information to be collected; and (d) ways we could minimize the burden of the collection of the information on the respondents such as through the use of automated collection techniques or other forms of information technology. It is NCUA's policy to make all comments available to the public for review.

II. Data

Proposal for the following collection of information:

OMB Number: 3133–0108.

Form Number: None.

Type of Review: Reinstatement of a previously approved collection.

Title: Monitoring Bank Secrecy Act Compliance.

Description: The collection is needed to allow NCUA to determine whether credit unions have established a program reasonably designed to assure and monitor their compliance with currency recordkeeping and reporting requirements established by Federal statute and Department of Treasury Regulations.

Respondents: Federally Insured Credit Unions.

Estimated Number of Respondents/ Recordkeepers: 6,753.

Estimated Burden Hours per Response: 16 hours.

Frequency of Response: Annually.

Estimated Total Annual Burden Hours: 108,048.

Estimated Total Annual Cost: 0.

By the National Credit Union Administration Board on August 22, 2013.

Gerard Poliquin,

Secretary of the Board.

[FR Doc. 2013–20948 Filed 8–27–13; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Reinstatement, Without Change, of a Previously Approved Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995. This information collection relates to NCUA rules and regulations, which require a federal credit union (FCU) to monitor its eligibility to qualify for a higher fidelity coverage deductible and to notify the NCUA if its financial condition changes resulting in the loss of that eligibility for the higher deductible. This information collection notice is published to obtain comments from the public. This requirement enables NCUA to monitor the FCU's financial condition for safety and soundness purposes and helps to assure that FCUs are properly and adequately

protected against potential losses due to insider abuse such as fraud and embezzlement.

DATES: Comments will be accepted until September 27, 2013.

ADDRESSES: Interested parties are invited to submit written comments to the NCUA Contact and the OMB Reviewer listed below:

NCUA Contact: Tracy Crews, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–837–2861, Email: *OCIOPRA@ncua.gov.*

OMB Contact: Office of Management and Budget, ATTN: Desk Officer for the National Credit Union Administration, Office of Information and Regulatory Affairs, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information, a copy of the information collection request, or a copy of submitted comments should be directed to Tracy Crews at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at (703) 518–6444.

SUPPLEMENTARY INFORMATION:

I. Abstract and Request for Comments

NCUA is reinstating a previously approved collection of information for 3133–0170. The regulation calls for an FCU that ceases to meet eligibility requirements for the higher deductible to obtain a policy with the required coverage and to notify the appropriate NCUA regional office of its changed status. The notice must also confirm that the FCU has obtained the required coverage. The information will be used by the regional office in its efforts to monitor credit unions for safe and sound operations and is critically important in helping to avert or minimize losses to the National Credit Union Share Insurance Fund (NCUSIF). The NCUSIF provides federally guaranteed account insurance for all federally insured credit unions. Adequate insurance coverage can avert a credit union from failing due to insolvency; alternatively, where insolvency and failure do occur, the NCUA, in its capacity as receiver for the failed FCU, can recoup some of its losses through a claim under an insurance policy.

The NCUA requests that you send your comments on this collection to the location listed in the addresses section. Your comments should address: (a) The necessity of the information collection for the proper performance of NCUA, including whether the information will have practical utility; (b) the accuracy of our estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) ways we could enhance the quality, utility, and clarity of the information to be collected; and (d) ways we could minimize the burden of the collection of the information on the respondents such as through the use of automated collection techniques or other forms of information technology. It is NCUA's policy to make all comments available to the public for review.

II. Data

Title: 12 CFR part 713, Fidelity Bond and Insurance Coverage for Federal Credit Unions.

OMB Number: 3133–0170.

Form Number: None.

Type of Review: Reinstatement, without change, of a previously approved collection.

Description: The regulation in 12 CFR part 713, details the requirements for FCU compliance regarding fidelity bond and insurance coverage. The regulation includes instructions for those FCUs that no longer qualify for a higher deductible.

Respondents: Federal credit unions.

Estimated No. of Respondents/Recordkeepers: 5.

Estimated Burden Hours per Response: 1 hour.

Frequency of Response: On occasion.

Estimated Total Annual Burden Hours: 5 hours.

Estimated Total Annual Cost: None.

By the National Credit Union Administration Board on August 22, 2013.

Gerard Poliquin,

Secretary of the Board.

[FR Doc. 2013–20933 Filed 8–27–13; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Reinstatement, With Change, of a Previously Approved Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995. This information collection is published to obtain comments from the public. The NCUA's rules and regulations direct each credit union to have a vital records preservation program that includes procedures for maintaining duplicate vital records at a location far enough from the credit union's offices to avoid the simultaneous loss of both sets of records in the event of a disaster. The NCUA's rules and regulations require a written vital records preservation program that includes a schedule for the storage and destruction of records and emergency contact information for employees, officials, regulatory offices, and vendors used to support vital records.

DATES: Comments will be accepted until September 27, 2013.

ADDRESSES: Interested parties are invited to submit written comments to the NCUA Contact and the OMB Reviewer listed below:

NCUA Contact: Tracy Crews, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–837–2861, Email: *OCIOPRA@ncua.gov.*

OMB Contact: Office of Management and Budget, ATTN: Desk Officer for the National Credit Union Administration, Office of Information and Regulatory Affairs, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information, a copy of the information collection request, or a copy of submitted comments should be directed to Tracy Crews at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at (703) 518–6444.

SUPPLEMENTARY INFORMATION:

I. Abstract and Request for Comments

NCUA is reinstating and amending the collection for 3133–0032. Credit union records preservation programs enable NCUA to ensure that federally-insured credit unions (FICUs) can reconstruct their vital records in the event that records are destroyed by a catastrophe and facilitates restoration of vital member services. The program does not have to be submitted to the NCUA but must be available for review by examination staff. The frequency of collection will be unique to each credit union based on its operations, storage schedule, and storage methods, but occurs on a flow basis at least quarterly. NCUA has modified the cost basis for this data collection to focus on the recordkeeping labor cost of maintaining a records preservation program rather than the technology cost to store records offsite. NCUA believes that electronically backing up and storing credit union records offsite has become

a usual and customary business practice. Therefore, credit union labor costs are the appropriate recordkeeping burden associated with maintaining a records preservation program under part 749. This is the primary reason why the total annual burden has decreased, along with a decline in the number of FICUs from 8,420 to 6,753 and newly chartered FICUs from 15 to 5.

The NCUA requests that you send your comments on this collection to the location listed in the addresses section. Your comments should address: (a) The necessity of the information collection for the proper performance of NCUA, including whether the information will have practical utility; (b) the accuracy of our estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) ways we could enhance the quality, utility, and clarity of the information to be collected; and (d) ways we could minimize the burden of the collection of the information on the respondents such as through the use of automated collection techniques or other forms of information technology. It is NCUA's policy to make all comments available to the public for review.

II. Data

Title: Records Preservation under 12 CFR part 749.

OMB Number: 3133–0032.

Form Number: None.

Type of Review: Reinstatement, with change, of a previously approved collection.

Description: Part 749 of NCUA Regulations directs each credit union to develop and maintain a records preservation program and maintain a log for records stored and destroyed.

Respondents: All credit unions.

Estimated Number of Respondents/Recordkeepers: 6,758. This total consists of 6,753 existing FICUs as of 3/31/2013, and an anticipated 5 newly chartered FICUs in 2013.

Estimated Burden Hours per Response: 2 hours for existing FICUs and 8 hours for newly chartered FICUs.

Frequency of Response: Quarterly.

Estimated Total Annual Burden Hours: 13,546.

Estimated Total Annual Cost: $427,512.

By the National Credit Union Administration Board on August 22, 2013.

Gerard Poliquin,

Secretary of the Board.

[FR Doc. 2013–20931 Filed 8–27–13; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Reinstatement, With Change, of a Previously Approved Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995. This information collection is published to obtain comments from the public. NCUA has authorized federal credit unions to advance money to members to cover account deficits without having a credit application on file if the credit union has a written overdraft policy. NCUA has also authorized federally insured credit unions to offer lending-related incentive pay to employees, provided they establish written policies regarding such plans.

DATES: Comments will be accepted until September 27, 2013.

ADDRESSES: Interested parties are invited to submit written comments to the NCUA Contact and the OMB Reviewer listed below:

NCUA Contact: Tracy Crews, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–837–2861, Email: *OCIOPRA@ncua.gov*.

OMB Contact: Office of Management and Budget, ATTN: Desk Officer for the National Credit Union Administration, Office of Information and Regulatory Affairs, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information, a copy of the information collection request, or a copy of submitted comments should be directed to Tracy Crews at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at (703) 518–6444.

SUPPLEMENTARY INFORMATION:

I. Abstract and Request for Comments

NCUA is reinstating the collection of information for 3133–0139. NCUA has authorized federal credit unions to advance money to members to cover account deficits without having a credit application on file if the credit union has a written overdraft policy. 12 CFR 701.21(c)(3). NCUA believes a written policy is necessary to ensure safety and soundness in the credit union industry and to protect the interests of credit union members where a federal credit union provides overdraft protection to a member without having his or her credit application on file. NCUA has also authorized federally insured credit unions to offer lending-related incentive pay to employees, provided they establish written policies regarding such plans. 12 CFR 701.21(c)(8). NCUA believes those written policies are necessary to ensure a plan is fully considered before being adopted and for the examination process. NCUA examiners use the information in these policies to review for safety and soundness. This submission represents an adjustment to the recordkeeping hour and cost burden since the last submission. Based on information in March 2013 call reports, we estimate approximately 1,725 federal credit unions are required to have written overdraft policies and approximately 575 federally insured credit unions are required to have written policies for lending-related employee incentive pay plans.

The NCUA requests that you send your comments on this collection to the location listed in the addresses section. Your comments should address: (a) The necessity of the information collection for the proper performance of NCUA, including whether the information will have practical utility; (b) the accuracy of our estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) ways we could enhance the quality, utility, and clarity of the information to be collected; and (d) ways we could minimize the burden of the collection of the information on the respondents such as through the use of automated collection techniques or other forms of information technology. It is NCUA's policy to make all comments available to the public for review.

II. Data

Title: Organization and Operations of Federal Credit Unions (12 CFR Part 701), (*previously titled* Overdraft and Lending-Related Employee Incentive Pay Plan Policies).

OMB Number: 3133–0139.

Form Number: None.

Type of Review: Reinstatement, with change, of a previously approved collection.

Description: Federal credit unions wishing to advance money to members to cover account deficits without having a credit application on file must establish a written overdraft policy. Federally insured credit unions wishing

to pay lending-related incentives to employees must establish written policies.

Respondents: Certain Federal and federally insured credit unions.

Estimated No. of Respondents/ Recordkeepers: 2,300.

Estimated Burden Hours per Response: 3 hours for overdraft policy and 2 hours for lending-related employee incentive pay plan policies.

Frequency of Response: On occasion.

Estimated Total Annual Burden Hours: 6,325 hours.

Estimated Total Annual Cost: $158,125.

By the National Credit Union Administration Board on August 22, 2013.

Gerard Poliquin,

Secretary of the Board.

[FR Doc. 2013–20941 Filed 8–27–13; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Reinstatement, With Change, of a Previously Approved Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995. This information collection is published to obtain comments from the public. The collection is related to the requirement that each federal credit union (FCU) must establish reasonable policies and procedures for implementing the red flag guidelines to identify possible risks to FCU members or to an FCU's safety and soundness. Each FCU also must develop an Identity Theft Prevention Program, provide staff training, and report to its board of directors, a board committee, or senior management, at least annually. Due to the transferring of agency responsibilities under the Dodd-Frank Wall Street Reform and Consumer Protection Act, (Dodd-Frank Act), this notice and collection have been modified since the 60-day notice to reflect the current regulatory landscape.

DATES: Comments will be accepted until September 27, 2013.

ADDRESSES: Interested parties are invited to submit written comments to the NCUA Contact and the OMB Reviewer listed below:

NCUA Contact: Tracy Crews, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–837–2861, Email: *OCIOPRA@ncua.gov.*

OMB Contact: Office of Management and Budget, ATTN: Desk Officer for the National Credit Union Administration, Office of Information and Regulatory Affairs, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information, a copy of the information collection request, or a copy of submitted comments should be directed to Tracy Crews at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at (703) 518–6444.

E&I Contact: Program Officer Judy Graham *eimail@ncua.gov*, 703–518–6360.

SUPPLEMENTARY INFORMATION:

I. Abstract and Request for Comments

NCUA is reinstating and amending the collection for 3133–0175. This collection of information is required by Sections 114 of the Fair and Accurate Credit Transactions Act (FACT Act), Public Law 108–159, amending the Fair Credit Reporting Act, 15 U.S.C. 1681–1681x. NCUA is renewing its collection, and also updating the collection to reflect that a portion of the FACT Act authority has been transferred to the Bureau of Consumer Financial Protection (CFPB) pursuant to Title X of the Dodd-Frank Act, Public Law 111–203, 124 Stat. 1955, and republished as CFPB regulations at 76 FR 79308, Dec. 21, 2011. The burden estimates for this portion of the collection have been revised to remove the burden attributable to the four federally insured credit unions with over $10 billion in total assets, now carried by CFPB pursuant to section 1025 of the Dodd-Frank Act. As required by Section 114 of the FACT Act, Appendix J to 12 CFR part 717 contains red flag guidelines for FCUs to use in identifying patterns, practices, and specific forms of activity that indicate the possible existence of identity theft. In addition, 12 CFR 717.90 requires each FCU to establish reasonable policies and procedures to address the risk of identity theft that incorporate the guidelines. Pursuant to Section 717.91, credit card and debit card issuers must implement reasonable policies and procedures to assess the validity of a request for a change of address under certain circumstances.

Section 717.90 requires each NCUA regulated FCUs that offers or maintains one or more covered accounts to develop and implement a written Identity Theft Prevention Program (Program). In developing the Program, financial institutions and creditors are required to consider the guidelines in Appendix J to part 717 and include those that are appropriate. The initial Program must be approved by the board of directors or an appropriate committee thereof. The board, an appropriate committee thereof, or a designated employee at the level of senior management must be involved in the oversight of the Program. In addition, staff members must be trained to carry out the Program. Pursuant to Section 717.91, each credit and debit card issuer is required to establish and implement policies and procedures to assess the validity of a change of address request under certain circumstances. Before issuing an additional or replacement card, the card issuer must notify the cardholder or use another means to assess the validity of the change of address.

Burden estimate: The hourly burden increased despite a decline in respondents due to an increase in the estimated processing times. NCUA estimates 4,206 respondents (FCUs with assets of $10 million or less). Each FCU requires 111 hours annually for a total of 466,866 hours annually.

Included in the NCUA estimates of the 4,206 annual respondents annually, two are new FCUs requiring a one-time additional 250 hours for program development. Therefore, the new FCUs incur an additional 500 hours annually.

Hence, NCUA's estimated total annual burden is 467,366 hours, based upon the 111 hours for the annual program and additional 250 hours for new FCU program development.

The NCUA requests that you send your comments on this collection to the location listed in the addresses section. Your comments should address: (a) The necessity of the information collection for the proper performance of NCUA, including whether the information will have practical utility; (b) the accuracy of our estimate of the burden hours of the collection of information, including the validity of the methodology and assumptions used; (c) ways we could enhance the quality, utility, and clarity of the information to be collected; and (d) ways we could minimize the burden of the collection of the information on the respondents such as through the use of automated collection techniques or other forms of information technology. It is NCUA's policy to make all comments available to the public for review.

II. Data

Title: Identity Theft Red Flags under the FACT Act of 2003, 12 CFR Part 717.

OMB Number: 3133–0175.

Form Number: None.

Type of Review: Reinstatement, with change, of a previously approved collection.

Description: This collection of information is pursuant to regulations implementing Sections 114 of the FACT Act related to guidelines for identifying patterns, practices and activity indicative of possible identity theft. The FACT Act regulations require FCUs to establish policies and procedures to implement the red flag guidelines.

Respondents: Federal Credit Unions.

Estimated No. of Respondents/Record keepers: 4,206.

Estimated Burden Hours per Response: 111 hours.

Frequency of Response: Initial and Annual.

Estimated Total Annual Burden Hours: 467,366

Estimated Total Annual Cost: N/A.

By the National Credit Union Administration Board on August 22, 2013.

Gerard Poliquin,

Secretary of the Board.

[FR Doc. 2013–20939 Filed 8–27–13; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Reinstatement, Without Change, of a Previously Approved Collection; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995. This information collection is published to obtain comments from the public and is required under Section 205 of the Federal Credit Union Act (FCU Act) to allow federally-insured credit unions (FICUs) to purchase assets or assume liabilities of privately-insured credit unions, other financial institutions, or their successor in interest.

DATES: Comments will be accepted until September 27, 2013.

ADDRESSES: Interested parties are invited to submit written comments to the NCUA Contact and the OMB Reviewer listed below:

NCUA Contact: Tracy Crews, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–837–2861, Email: *OCIOPRA@ncua.gov*.

OMB Contact: Office of Management and Budget, ATTN: Desk Officer for the National Credit Union Administration, Office of Information and Regulatory Affairs, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Requests for additional information, a copy of the information collection request, or a copy of submitted comments should be directed to Tracy Crews at the National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428, or at (703) 518–6444.

SUPPLEMENTARY INFORMATION:

I. Abstract and Request for Comments

NCUA is reinstating the collection for 3133–0169. FICUs will apply to the NCUA for approval to purchase assets or assume liabilities of privately-insured credit unions or other financial institutions. NCUA will use the information in the application to determine the safety and soundness of the transaction and risk to the National Credit Union Share Insurance Fund (NCUSIF).

NCUA anticipates a FICU's application for approval to purchase assets or assume liabilities of a privately-insured credit union or other financial institution would consist of a cover letter and any transaction documents already prepared by the FICU in conjunction with the anticipated purchase or assumption. NCUA believes this would take one hour or less to prepare and transmit the cover letter and attach any additional documents; therefore, there is no increase or decrease in the burden for this data collection. The term ''transaction documents'' include contracts, agreements, letters, offers, or similar documents already created between two parties as evidence of a transaction or negotiation. NCUA does not require FICUs to prepare these documents and believes they are created in the regular course of business. Therefore, NCUA has used one burden hour per credit union per filing required from an FICU to prepare a letter requesting NCUA's approval of the transaction and describing the transaction.

The NCUA requests that you send your comments on this collection to the location listed in the addresses section. Your comments should address: (a) The necessity of the information collection for the proper performance of NCUA, including whether the information will have practical utility; (b) the accuracy of our estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) ways we could enhance the quality, utility, and clarity of the information to be collected; and (d) ways we could minimize the burden of the collection of the information on the respondents such as through the use of automated collection techniques or other forms of information technology. It is NCUA's policy to make all comments available to the public for review.

II. Data

Title: Purchase of Assets and Assumptions of Liabilities.

OMB Number: 3133–0169.

Form Number: None.

Type of Review: Reinstatement without change.

Description: This information collection is required under Section 205 of the Federal Credit Union Act (FCU Act) to allow federally-insured credit unions (FICUs) to purchase assets or assume liabilities of privately-insured credit unions, other financial institutions, or their successor in interest.

Respondents: FICUs will apply to the NCUA for approval to purchase assets or assume liabilities of privately-insured credit unions or other financial institutions.

Estimated No. of Respondents/ Recordkeepers: 5.

Estimated Burden Hours per Response: 1 hour.

Frequency of Response: Reporting and on occasion.

Estimated Total Annual Burden Hours: 5 hours.

Estimated Total Annual Cost: None.

By the National Credit Union Administration Board on August 22, 2013.

Gerard Poliquin,

Secretary of the Board.

[FR Doc. 2013–20942 Filed 8–27–13; 8:45 am]

BILLING CODE 7535–01–P

OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

Agency Information Collection Activities

AGENCY: Office of the Director of National Intelligence (ODNI).

ACTION: Notice.

SUMMARY: The Whistleblower Protection Enhancement Act of 2012 (WPEA) was signed into law on 27 November 2012

(Pub. L. 112–199). The law strengthens the protections for federal employees who disclose evidence of waste, fraud, or abuse. In addition, the WPEA modifies rules on the use of nondisclosure policies, forms, or agreements by government agencies. Agencies are required to update any nondisclosure policies, forms, or agreements to conform to the new requirements in the WPEA. Accordingly, ODNI is hereby giving public notice that Section 10 of Standard Form 312: Classified Information Nondisclosure Agreement, is being updated as described in the Supplementary Information section of this notice.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Ms. Jennifer Hudson, Office of the Chief Information Officer, Information Management Division, Office of the Director of National Intelligence, Washington, DC 20511.

SUPPLEMENTARY INFORMATION: Section 10 of Standard Form 312 is being updated to include the following statutory changes required pursuant to § 115 of Public Law 112–199 (5 U.S.C. 2302):

1. ''These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or Executive order relating to (1) Classified information, (2) communications to Congress, (3) the reporting to an Inspector General of a After ''the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 et seq.) (governing disclosures that could expose confidential Government violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection. The definitions, requirements, obligations, rights, sanctions, and liabilities created by controlling Executive orders and statutory provisions are incorporated into this agreement and are controlling.''

2. The language in section 10 of the current Standard Form 312 will now appear in new section 11.

Abstract: The National Security Act of 1947, as amended by the Intelligence Reform and Terrorism Prevention Act of 2004, and Executive Order13467, ''Reforming Processes Related to Suitability for Government Employment, Fitness for Contractor Employees, and Eligibility for Access to Classified National Security Information,'' authorizes the DNI as the Security Executive Agent to develop standard forms that promote uniformity and consistency in the implementation of the Government's security clearance program.

Dated: August 19, 2013.

Mark W. Ewing,

Chief Management Officer.

[FR Doc. 2013–20992 Filed 8–27–13; 8:45 am]

BILLING CODE 3910–A79–P–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2013–0112]

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on June 12, 2013 (78 FR 35329).

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:* 10 CFR Part 11, ''Criteria and Procedures for Determining Eligibility for Access to or Control Over Special Nuclear Material.''

3. *Current OMB approval number:* 3150–0062.

4. *The form number if applicable:* N/A.

5. *How often the collection is required:* On Occasion.

6. *Who will be required or asked to report:* Employees (including applicants for employment), contractors, and consultants of NRC licensees and contractors whose activities involve access to, or control over, special nuclear material at either fixed sites or for transportation activities.

7. *An estimate of the number of annual responses:* 328.

8. *The estimated number of annual respondents:* 2.

9. *An estimate of the total number of hours needed annually to complete the requirement or request:* 82.

10. *Abstract:* The NRC regulations in part 11 of Title 10 of the *Code of Federal Regulations* (10 CFR), establish requirements for access to special nuclear material, and the criteria and procedures for resolving questions concerning the eligibility of individuals to receive special nuclear material access authorization.

The public may examine and have copied for a fee publicly available documents, including the final supporting statement, at the NRC's Public Document Room, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. The OMB clearance requests are available at the NRC's Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/.*

The document will be available on the NRC's home page site for 60 days after the signature date of this notice. Comments and questions should be directed to the OMB reviewer listed below by September 27, 2013. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Chad Whiteman, Desk Officer, Office of Information and Regulatory Affairs (3150–0062), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be emailed to *Chad_S_Whiteman@omb.eop.gov* or submitted by telephone at 202–395–4718.

The NRC's Clearance Officer is Tremaine Donnell, 301–415–6258.

Dated at Rockville, Maryland, this 22nd day of August, 2013.

For the Nuclear Regulatory Commission.

Tremaine Donnell,

NRC Clearance Officer, Office of Information Services.

[FR Doc. 2013–20953 Filed 8–27–13; 8:45 am]

BILLING CODE 7590–01–P

PEACE CORPS

Information Collection Request; Submission for OMB Review

AGENCY: Peace Corps.

ACTION: 30-Day notice and request for comments.

SUMMARY: The Peace Corps will submit the following information collection request to the Office of Management and Budget (OMB) for approval. The purpose of this notice is to allow 30 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995. Peace Corps

received two comments noting that Peace Corps should not ''define couples as same sex'', which will be addressed in the supporting statement.

DATES: Submit comments on or before September 27, 2013.

ADDRESSES: Comments should be addressed to Denora Miller, Freedom of Information Act Officer. Denora Miller can be contacted by telephone at 202–692–1236 or email at pcfr@peacecorps.gov. Email comments must be made in text and not in attachments.

FOR FURTHER INFORMATION CONTACT: Denora Miller at Peace Corps address above.

SUPPLEMENTARY INFORMATION:

Method: The same sex domestic partner applicants will be given this form prior to staging.

Title: Affidavit Declaring Domestic Partner Relationship.

OMB Control Number: 0420-pending.

Type of information collection: New.

Affected public: Individuals or households.

Respondents' obligation to reply: Required to obtain or retain benefits.

Burden to the public:

(a) Estimated number of respondents: 130

(b) Frequency of response: one time

(c) Estimated average burden per response: 2 minutes

(d) Estimated total reporting burden: 4.33 hours

(e) Estimated annual cost to respondents: $0.00

General description of collection: This form seeks information necessary for the Peace Corps' Office of Volunteer Recruitment and Selection to verify that same sex domestic partners applying to be accepted and placed together as Peace Corps Volunteers meet the agency's criteria for placement as a couple.

Request for Comment: Peace Corps invites comments on whether the proposed collection of information is necessary for proper performance of the functions of the Peace Corps, including whether the information will have practical use; the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the information to be collected; and, ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

This notice issued in Washington, DC, on August 21, 2013.

Garry W. Stanberry,

Deputy Associate Director, Management.

[FR Doc. 2013–20927 Filed 8–27–13; 8:45 am]

BILLING CODE 6051–01–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review, Request for Comments

Summary: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) is forwarding an Information Collection Request (ICR) to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB). Our ICR describes the information we seek to collect from the public. Review and approval by OIRA ensures that we impose appropriate paperwork burdens.

The RRB invites comments on the proposed collection of information to determine (1) The practical utility of the collection; (2) the accuracy of the estimated burden of the collection; (3) ways to enhance the quality, utility, and clarity of the information that is the subject of collection; and (4) ways to minimize the burden of collections on respondents, including the use of automated collection techniques or other forms of information technology. Comments to the RRB or OIRA must contain the OMB control number of the ICR. For proper consideration of your comments, it is best if the RRB and OIRA receive them within 30 days of the publication date.

Under Section 1(k) of the Railroad Unemployment Insurance Act (RUIA), unemployment and sickness benefits are not payable for any day remuneration is payable or accrues to the claimant. Also Section 4(a-1) of the RUIA provides that unemployment or sickness benefits are not payable for any day the claimant receives the same benefits under any law other than the RUIA. Under Railroad Retirement Board (RRB) regulations, 20 CFR 322.4(a), a claimant's certification or statement on an RRB-provided claim form that he or she did not work on any day claimed and did not receive income such as vacation pay or pay for time lost shall constitute sufficient evidence unless there is conflicting evidence. Further, under 20 CFR 322.4(b), when there is a question raised as to whether or not remuneration is payable or has accrued to a claimant with respect to a claimed day or days, an investigation shall be made with a view to obtaining information sufficient for a finding. The RRB utilizes the following four forms to obtain information from railroad employers, nonrailroad employers, and claimants, that is needed to determine whether a claimed day or days of unemployment or sickness were improperly or fraudulently claimed: Form ID–5i, Request for Employment Information; Form ID–5R (SUP), Report of Employees Paid RUIA Benefits for Every Day in Month Reported as Month of Creditable Service; Form ID–49R, Railroad Payroll Record Check; and Form UI–48, Statement Regarding Benefits Claimed for Days Worked. Completion is voluntary. One response is requested of each respondent.

To qualify for unemployment or sickness benefits payable under Section 2 of the Railroad Unemployment Insurance Act (RUIA), a railroad employee must have certain qualifying earnings in the applicable base year. In addition, to qualify for *extended* or *accelerated* benefits under Section 2 of the RUIA, a railroad employee who has exhausted his or her rights to normal benefits must have at least 10 years of railroad service (under certain conditions, military service may be credited as months of railroad service). Accelerated benefits are unemployment or sickness benefits that are payable to a railroad employee before the regular July 1 beginning date of a benefit year if an employee has 10 or more years of service and is *not* qualified for benefits in the current benefit year.

During the RUIA claims review process, the RRB may determine that unemployment or sickness benefits cannot be awarded because RRB records show insufficient qualifying service and/or compensation. When this occurs, the RRB allows the claimant the opportunity to provide additional information if they believe that the RRB service and compensation records are incorrect.

Depending on the circumstances, the RRB provides the following forms to obtain information needed to determine if a claimant has sufficient service or compensation to qualify for unemployment or sickness benefits. Form UI–9, Statement of Employment and Wages; Form UI–23, Statement of Service for Railroad Unemployment Insurance Benefits; Form UI–44, Claim for Credit for Military Service; Form ID–4F, Advising of Ineligibility for Unemployment Benefits; Form ID–4U, Advising of Service/Earnings Requirements for Unemployment Benefits; Form ID–4X, Advising of Service/Earnings Requirements for Sickness Benefits; Form ID–4Y, Advising of Ineligibility for Sickness Benefits; Form ID–20–1, Advising that

Normal Unemployment Benefits Are About to Be Exhausted; Form ID–20–2, Advising that Normal Sickness Benefits Are About to Be Exhausted; and Form ID–20–4, Advising that Normal Sickness Benefits Are About to Be Exhausted/Non-Entitlement. Completion of these forms is required to obtain or retain a benefit. One response is required of each respondent.

Previous Requests for Comments: The RRB has already published the initial 60-day notice (78 FR 38412 on June 26, 2013) required by 44 U.S.C. 3506(c)(2). That request elicited no comments.

Information Collection Request (ICR)

Title: RUIA Investigations and Continuing Entitlement.

OMB Control Number: 3220–0025.

Forms submitted: UI–9, UI–23, UI–44, UI–48, ID–4F, ID–4U, ID–4X, ID–4Y, ID–5I, ID–5R (SUP), ID–49R, ID–20–1, ID–20–2, and ID–20–4.

Type of request: Revision of a currently approved collection.

Affected public: Private Sector; Businesses or other for profits.

Abstract: The information collection has two purposes. When RRB records indicate that railroad service and/or compensation is insufficient to qualify a claimant for unemployment or sickness benefits, the RRB obtains information needed to reconcile the compensation and/or service on record with that claimed by the employee. Other forms in the collection allow the RRB to determine whether unemployment or sickness benefits were improperly obtained.

Changes proposed: The RRB proposes to add to Items 4a and 5a of Form UI–48, Statement Regarding Benefits Claimed for Days Worked, two ''go to'' references to improve navigating the form. The RRB also proposes to remove the following seven forms from the information collection due to under 10 responses a year: ID–4F, ID–4Y, ID–20–1, ID–20–2, ID–20–4, ID–49R, and UI–23.

The burden estimate for the ICR is as follows:

Form No.	Annual responses	Time (minutes)	Burden (hours)
ID–5i	1,050	15	262
ID–5R (SUP)	400	10	67
UI–48	14	12	3
UI–9	69	10	11
UI–44	10	5	1
ID–4U	35	5	3
ID–4X	25	5	2
Total	1,603		349

Additional Information or Comments: Copies of the forms and supporting documents can be obtained from Dana Hickman at (312) 751–4981 or *Dana.Hickman@RRB.GOV.*

Comments regarding the information collection should be addressed to Charles Mierzwa, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611–2092 or *Charles.Mierzwa@RRB.GOV* and to the OMB Desk Officer for the RRB, Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov.*

Charles Mierzwa,

Chief of Information Resources Management.

[FR Doc. 2013–20979 Filed 8–27–13; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 30671; File No. 812–14128]

The Northwestern Mutual Life Insurance Company, *et al.;* Notice of Application Agency: Securities and Exchange Commission (''SEC'' or ''Commission'')

August 22, 2013.

ACTION: Notice of application for an order approving the substitution of certain securities pursuant to Section 26(c) of the Investment Company Act of 1940, as amended (the ''1940 Act'' or ''Act'') and an order of exemption pursuant to Section 17(b) of the Act from Section 17(a) of the Act.

APPLICANTS: The Northwestern Mutual Life Insurance Company (the ''Company''), NML Variable Annuity Account A (''VA Account A''), NML Variable Annuity Account B (''VA Account B'') and NML Variable Annuity Account C (''VA Account C,'' and together with VA Account A and VA Account B, the ''Annuity Accounts'') and Northwestern Mutual Variable Life Account (''VL Account'') and Northwestern Mutual Variable Life Account II (''VL Account II,'' together with VL Account, the ''Life Accounts,'' and together with the Annuity Accounts, the ''Separate Accounts''). The Company and the Separate Accounts are collectively referred to herein as the ''Substitution Applicants.'' The Substitution Applicants and Credit Suisse Trust are also collectively referred to as the ''Section 17 Applicants.''

SUMMARY OF THE APPLICATION: The Substitution Applicants seek an order pursuant to Section 26(c) of the 1940 Act, approving the substitution of shares of the Commodity Return Strategy Portfolio (the ''Replacement Fund''), a series of Credit Suisse Trust, for shares of the Commodities Return Strategy Portfolio (the ''Replaced Fund''), a series of the Northwestern Mutual Series Fund, Inc. (the ''Series Fund''), under each of the variable annuity contracts and variable life insurance policies issued by the Separate Accounts (collectively, the ''Contracts''). The Section 17 Applicants seek an order pursuant to Section 17(b) of the 1940 Act exempting them from 17(a) of the Act to the extent necessary to permit them to engage in certain in-kind transactions in connection with the substitution (''In-Kind Transactions'').

DATES: *Filing Date:* The application was filed on March 6, 2013, and the amended and restated application was filed on July 12, 2013.

HEARING OR NOTIFICATION OF A HEARING: An order granting the application will be issued unless the Commission orders hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving the applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on September 17, 2013, and should be accompanied by proof of service on the applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requester's interest, the reason for the request, and the issues

contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary of the Commission.

ADDRESSES: Secretary, SEC, 100 F Street NE., Washington, DC 20549–1090. Applicants: Chad E. Fickett, Assistant General Counsel, The Northwestern Mutual Life Insurance Company, 720 East Wisconsin Avenue, Milwaukee, Wisconsin 53202; Thomas E. Bisset, Esq., Sutherland Asbill & Brennan LLP, 700 Sixth Street NW., Suite 700, Washington, DC 20001–3980; Joanne Doldo, Credit Suisee Asset Management, LLC, One Madison Avenue, New York, New York 10010.

FOR FURTHER INFORMATION CONTACT: Mark Cowan, Senior Counsel, or Michael L. Kosoff, Branch Chief, Insured Investments Office, Division of Investment Management, at (202) 551–6795.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm,* or by calling (202) 551–8090.

Applicants' Representations

1. The Company, on its own behalf and on behalf of their respective separate accounts, proposes to substitute shares of the Replacement Fund for shares of the Replaced Fund held by the Separate Accounts to fund the Contracts.

2. The Company is the depositor and sponsor of the Separate Accounts.

3. Each of VA Account A, VA Account B, VA Account C, VL Account and VL Account II is a ''separate account'' as defined by Rule 0–1(e) under the Act and each is registered under the Act as a unit investment trust for the purpose of funding the Contracts. Security interests under the Contracts have been registered under the Securities Act of 1933. The application sets forth the registration statement file numbers for the Contracts and the Separate Accounts.

4. The variable annuity Contracts are either flexible premium variable annuity contracts or unallocated group combination variable annuity contracts. The variable life insurance Contracts are either variable whole life forms of insurance contracts or variable universal life insurance contracts. Under each of the Contracts (the proper form of which is provided to every Contract owner) as well as the prospectus for each Contract, the Company has the right to substitute shares of one fund for shares of another fund managed by either the same investment adviser or by a different investment adviser.

5. The Replaced Fund is registered as an open-end management investment company and is a series of the Series Fund (File Number 811–03990). It offers its shares only to the Company and the Accounts for purposes of funding the Contracts.

6. The Replaced Fund has entered into an investment advisory agreement with Mason Street Advisors, LLC (''MSA''), a wholly-owned subsidiary of the Company.

7. The Series Fund has received an exemptive order from the Commission (''Multi-Manager Order'') that permits the Manager, or any entity controlling, controlled by, or under common control (within the meaning of Section 2(a)(9) of the 1940 Act) with the Manager, subject to certain conditions, to hire and replace unaffiliated subadvisors and to enter into and amend sub-advisory agreements without shareholder approval.

8. MSA has entered into a sub-advisory agreement with Credit Suisse Asset Management, LLC (''CSAM''). CSAM is part of the asset management business of Credit Suisse Group AG, a worldwide bank and financial services provider.

9. The Replacement Fund is registered as an open-end management investment company and is a series of the Series Fund (File Number 811–07261). It offers its shares only to variable annuity and variable life insurance contracts offered by the separate accounts of certain insurance companies, to certain tax-qualified pension and retirement plans and other investment companies.

10. The Replacement Fund has entered into an investment advisory agreement with CSAM under which CSAM acts as investment adviser for the Replaced Fund's portfolio of investments. CSAM does not have the authority to retain sub-advisers to manage all or a portion of the Replacement Fund's assets without obtaining shareholder approval. CSAM voluntarily waives fees and reimburse expenses so that the Replacement Fund's annual operating expenses will not exceed 1.05% of average daily net assets.

11. The Replacement Fund is neither an affiliate nor a second-tier affiliate of the Company or the Accounts. However, for purposes of Section 2(a)(3) of the 1940 Act, after the substitution the Replacement Fund may be deemed an affiliate of the Company and the Accounts, if the Accounts own 5% or more of the shares of the Replacement Fund. CSAM is currently a second-tier affiliate of the Accounts by virtue of its role as investment sub-adviser to the Replaced Fund.

12. The Substitution Applicants state that the Funds' investment objectives, principal investment strategies and risks are substantially the same. A comparison of the investing objectives, strategies and risks of the Replaced Fund and the Replacement Fund is included in the application.

13. The following table compares the fees and expenses of the Replaced Fund and the Replacement Fund as of the year ended December 31, 2012:

	The replaced fund (percent)	The replacement fund (percent)
Management Fee	0.80	0.50
Distribution and Service (12b–1) Fee	None	0.25
Other Expenses	0.16	0.59
Acquired Fund Fees and Expenses	0.07	N/A
Total Annual Operating Expenses	[1] [2] 1.03	[1] [3] 1.34
Expense Reimbursement and Fee Waiver	(0.08)	N/A
Total Annual Operating Expenses After Expense Reimbursement and Waiver.	[1] [4] 0.95	[1] 1.34

[1] Restated to reflect current fees.

[2] Includes fees and expenses incurred indirectly by the Replaced Fund as a result of its investments in investment companies and other pooled investment vehicles as well as the expenses of investing in the NMSF Subsidiary (referred to as ''Acquired Fund Fees and Expenses'').

14. The Substitution Applicants state that the reason for the proposed substitution is in response to a recent rule amendment adopted by the CFTC that eliminated the Replaced Fund's ability to rely on the exclusion provided by CFTC Rule 4.5 to avoid regulation as a commodity pool unless it were to substantially curtail its use of futures, options, swaps and other financial instruments now regulated by the CFTC, which would prevent it from pursuing its principal investment strategies. MSA has informed the Replaced Fund's Board of Directors that in light of the consequences of these new regulatory requirements, it has determined to discontinue its services as investment adviser to the Replaced Fund and that the Replaced Fund be terminated. Given these circumstances, the Replaced Fund's Board of Directors, at a meeting of the Board held on February 21, 2013, decided to terminate the Replaced Fund and liquidate its assets as soon as is reasonably practicable.

15. The Substitution Applicants represent that replacing the Replaced Fund with the Replacement Fund will provide the best possible consistency in terms of investment objectives and strategies, risks, and management, and provides comparable performance. The Replacement Fund has an identical investment objective and nearly identical investment strategies to those of the Replaced Fund. The Replacement Fund also provides the greatest possible continuity of investment management services because the investment adviser to the Replacement Fund is the current sub-adviser to the Replaced Fund, and the same portfolio managers make the day-to-day investment decisions for both Funds. In addition, the Replacement Fund offers an immediate opportunity for increased economies of scale resulting from the infusion of assets currently held by the Replaced Fund, as well as future opportunity for asset growth due to its availability to other, unaffiliated separate accounts and pension plans, as well as other investment companies.

16. The Replaced Fund's total net assets as of May 1, 2013 were $135,658,744, compared to total net assets of the Replacement Fund of $84,596,457. However, unlike the Replaced Fund, the availability of the Replacement Fund is not restricted to the Accounts, but instead is available to the variable separate accounts of multiple insurance companies, pension plans and other investment companies, offering greater potential for even further asset growth and economies of scale.

17. The Company also believes that an important consideration for substituting the Replacement Fund for the Replaced Fund is Contract owner expectations regarding performance. For the one year period ended December 31, 2012 investment performance of the Replacement Fund was 0.26% higher than the Replaced Fund's return for the comparable period (though long-term performance is less subject to comparison given the relatively recent inception date of the Replaced Fund). Both Funds, however, share the same Morningstar rankings and categories.

18. The Substitution Applicants note that the overall expenses of the Replacement Fund are higher than the overall expenses of the Replaced Fund. In light of this, and consistent with prior substitution applications, for twenty-four months following the date of the substitution and for those Contracts with Contract value invested in the Replaced Fund on the date of the proposed substitution, on or around the last day of each fiscal period (not to exceed a fiscal quarter), the Company will reimburse Contract owners to the extent the sum of the operating expenses of the Replacement Fund (taking into account any fee waivers and expense reimbursements) and subaccount expenses for such period exceeds, on an annualized basis, the sum of the operating expenses of the Replaced Fund (taking into account any fee waivers and expense reimbursements) and subaccount expenses for the fiscal year preceding the date of the proposed substitution.[5] In addition, for twenty-four months following the date of the proposed substitution, the Company will not increase total separate account charges for Contracts outstanding on the date of the proposed substitution.

Legal Analysis and Conditions

19. By supplements to the Contract prospectuses or by disclosures in the prospectuses for the Contracts for new Contract owners after May 1, 2013, the Company notified existing Contract owners of its intention to take the necessary actions, including seeking the order requested by the Application, to carry out the proposed substitution as described herein. These disclosures advise Contract owners that the Company has filed or would file an application to seek approval of the substitution, and that if the substitution is approved, any Contract value allocated to the subaccount investing in the Replaced Fund on the date of substitution will be automatically transferred to the subaccount investing in the Replacement Fund.

20. In addition, these disclosures inform Contract owners that any Contract owner not wanting his or her entire Contract value in the Replaced Fund to be automatically transferred to the Replacement Fund on the date of substitution should consider transferring the Contract value in the Replaced Fund to other investment options available under the Contract. The disclosures also inform Contract owners that the Company does not impose charges in connection with the transfer to any of the investment options available under the Contract, nor does the Company impose restrictions on transfers (other than short-term trading restrictions on frequent transfers to prevent market timing transactions and other restrictions noted in the applicable Contract prospectus). Finally, the disclosures explain that the Company bears all expenses related to the substitution, and that there would be no tax consequences for Contract owners as a result of the substitution. Additionally, within five days following the date of substitution, Contract owners affected by the substitution will be notified in writing that the substitution was carried out. This notice will largely restate the information set forth in the prospectus and prospectus supplements described above. The forms of the proposed supplements were attached as exhibits A–1 and A–2, respectively, to the initial Application.[6]

21. The current summary or statutory prospectus for the Replacement Fund will have been provided to all Contract owners prior to the date of substitution. The Company currently intends the effective date of the substitution to be no later than the fourth quarter of 2013, depending on SEC approval as well as

[3] "Other Expenses" include expenses of both the Replacement Fund and the Credit Suisse Subsidiary.

[4] MSA has entered into a written expense limitation agreement under which it has agreed to limit the total expenses of the Replaced Fund (excluding taxes, brokerage, other investment-related costs, interest and dividend expenses and charges and extraordinary expenses) to an annual rate 0.95 of the Replaced Fund's average net assets. This expense limitation agreement may be terminated by MSA at any time after April 30, 2014. MSA has entered into an agreement to waive its management fee in an amount equal to the management fee paid to it by the NMSF Subsidiary. This waiver will remain in effect for the life of the Replaced Fund, as long as the Replaced Fund remains invested in the NMSF Subsidiary.

[5] For purposes of this limitation, Net Total Annual Operating Expenses of the Replaced Fund are 0.95%. See the fee table comparison in the "Fees and Expenses" section above.

[6] *See* File No. 812–14128, filed March 6, 2013 (SEC accession number 0001193125–13–093752).

operational or other factors that may affect the implementation of the substitution transaction. The effective date of the substitution may be earlier. All Contract owners will have been given sufficient advance notice of the date on which the substitution will take effect.

22. The substitution will not cause the Contract fees and charges currently being paid by existing Contract owners to be greater after the substitution than before the substitution. The proposed substitution will also not be treated as a transfer of Contract value for purposes of determining the number of transfers permitted under the Contracts' short-term trading restrictions.

23. The Company will not exercise any reserved right it may have under the Contracts to impose additional charges for transfers of accumulated Contract value for a period of at least 30 calendar days following the effective date of the substitution. Similarly, after giving proper notice in advance of the substitution, the Company will permit Contract owners to make their first transfer of accumulated Contract value out of the Replaced Fund to another investment option (or the fixed option in the case of certain Variable Annuity contracts), without such transfer being treated as a transfer for purposes of the Contracts' short-term trading restrictions. As previously noted, the Contracts do not currently impose (although they reserve the right to impose) any charges or fees for executing transfers.

Section 26(c) Relief

24. The Substitution Applicants request that the Commission issue an order pursuant to Section 26(c) of the 1940 Act approving the substitution by the Company of shares of the Replacement Fund for shares of the Replaced Fund. Section 26(c) of the 1940 Act requires the depositor of a registered unit investment trust holding securities of a single issuer to receive Commission approval before substituting the securities held by the trust.

25. The Substitution Applicants assert that the proposed substitution is not the type of substitution that Section 26(c) was designed to prevent. Unlike traditional unit investment trusts where a depositor could only substitute an investment security in a manner which permanently affected all the investors in the trust, the Contracts provide each Contract owner with the right to exercise his or her own judgment and transfer Contract values into other subaccounts and a fixed option as applicable. Moreover, as is or will be described in appropriate supplements and elsewhere, the Contracts will offer Contract owners the opportunity to make a one-time transfer out of the affected subaccount into any of the remaining subaccounts without any cost or limitation other than those disclosed in the applicable prospectuses previously provided to Contract owners. Contract owners always have the right to change their allocations at any time without restrictions or charges of any sort beyond those already noted. The proposed substitution, therefore, will not result in the type of costly forced redemption that Section 26(c) was designed to prevent.

26. The Substitution Applicants submit that the proposed substitution meets the standards set forth in Section 26(c) and that, if implemented, the substitution would not raise any of the aforementioned concerns that Congress intended to address when the 1940 Act was amended to include this provision. In addition, the Substitution Applicants submit that the proposed substitution meets the standards that the Commission and its Staff have applied to substitutions that have been approved in the past.

Section 17(b) Relief

27. The Section 17 Applicants also request an order of the Commission under Section 17(b) exempting them from the provisions of Section 17(a) to the extent necessary to permit the Company to carry out the In-Kind Transactions.

28. Section 17(a)(1) of the 1940 Act, in relevant part, prohibits any affiliated person of a registered investment company, or any affiliated person of such person (''first tier affiliates'' and ''second tier affiliates'', respectively), acting as principal, from knowingly selling any security or other property to that investment company. Section 17(a)(2) of the 1940 Act generally prohibits such persons acting as principals from knowingly purchasing any security or other property from the registered investment company.

29. Pursuant to Section 17(a) of the 1940 Act, the Section 17 Applicants may be considered affiliates of one or more of the Funds involved in the proposed substitution, based upon the definition of ''affiliated person'' under Section 2(a)(3) of the 1940 Act. Section 2(a)(3) defines an ''affiliated person'' of another person, in relevant part, as ''(A) any person directly or indirectly owning, controlling, or holding with power to vote, 5 per centum or more of the outstanding voting securities of such other person; (B) any person 5 per centum or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by such other person; . . . (E) if such other person is an investment company, any investment adviser thereof . . . .''

30. Shares held by an insurance company separate account are legally owned by the insurance company. The Company does not currently own any part of the Replacement Fund. Therefore, the Replacement Fund is not currently an affiliate (or an affiliate of an affiliate) of the Company's Accounts or the Company despite the fact that the Replaced Fund and the Replacement Fund share an investment adviser, CSAM. It is anticipated, however, that after the substitution transaction one or more of the Company's Accounts would own more than 5% of the Replacement Fund. Under these circumstances, because the proposed substitution may be effected, in whole or in part, by means of in-kind redemptions and subsequent purchases of shares, the proposed substitution may be deemed to involve one or more purchases or sales of securities or property between affiliated persons.

31. Accordingly, as the Company and the Replacement Fund could be viewed as affiliated persons of one another, it is conceivable that this aspect of the proposed substitution could be viewed as being prohibited by Section 17(a). Therefore, the Section 17 Applicants have determined that, out of an abundance of caution, it is prudent to seek relief from Section 17(a) in the context of this Amended Application for the in-kind purchases and sales of the Replacement Fund's shares.

32. The Section 17 Applicants submit that the terms of the proposed in-kind purchases of shares of the Replacement Fund, including the consideration to be paid and received, as described in this Amended Application, are reasonable and fair and do not involve overreaching on the part of any persons concerned. The Section 17 Applicants also submit that the proposed in-kind purchases will be consistent with the investment policies of the Replaced Fund and the Replacement Fund, as recited in the current registration statements and reports filed by them under the 1940 Act. Finally, the Section 17 Applicants submit that the proposed substitution is consistent with the general purposes of the 1940 Act.

33. The Section 17 Applicants assert that, to the extent that the in-kind purchases are deemed to involve principal transactions among affiliated persons, the procedures described below should be sufficient to assure that the terms of the proposed transactions

are reasonable and fair to all Contract owners. The Section 17 Applicants maintain that the terms of the proposed in-kind purchase transactions, including the consideration to be paid and received by each Fund, are reasonable, fair and do not involve overreaching on the part of any person principally because the transactions will conform with all but one of the conditions enumerated in Rule 17a–7. The proposed transactions will take place at relative net asset values as of the date of substitution in conformity with the requirements of Section 22(c) of the 1940 Act and Rule 22c–1 thereunder with no change in the amount of any Contract owner's Contract value or death benefit or in the dollar value of his or her investment in any of the Accounts. Contract owners will not suffer any adverse tax consequences as a result of the substitution. The fees and charges under the Contracts will not increase because of the substitution.

34. Even though the Section 17 Applicants may not rely on Rule 17a–7, the Section 17 Applicants believe that the Rule's conditions outline the type of safeguards that result in transactions that are fair and reasonable to registered investment company participants and preclude overreaching in connection with an investment company by its affiliated persons. The board of the Replacement Fund has adopted procedures, as required by paragraph (e)(1) of Rule 17a–7, pursuant to which a series may purchase and sell securities to and from their affiliates. The Section 17 Applicants will carry out the proposed in-kind purchases in conformity with all of the conditions of Rule 17a–7 and the Replacement Fund's procedures adopted thereunder, except that the consideration paid for the securities being purchased or sold may not be entirely cash. The investment adviser for the Replacement Fund will examine any securities received from an in-kind redemption, and accept any securities that they would otherwise have purchased for cash for the Replacement Fund to hold. The circumstances surrounding the proposed substitution will be such as to offer the Replacement Fund the same degree of protection from overreaching that Rule 17a–7 provides the Replacement Fund generally in connection with the purchase and sale of securities under that Rule in the ordinary course of its business. In particular, the proposed transactions will not be effected at a price that is disadvantageous to the Replacement Fund.

35. Although the transactions may not be entirely for cash, each will be effected based upon (1) the independent market price of the portfolio securities valued as specified in paragraph (b) of Rule 17a–7, and (2) the net asset value per share of each Fund involved valued in accordance with the procedures disclosed in its registration statement and as required by Rule 22c–1 under the 1940 Act. Moreover, consistent with Rule 17a–7(d), no brokerage commissions, fees, or other costs or remuneration will be paid in connection with the proposed transactions, except for any brokerage commissions paid in connection with the liquidation of the securities that are not distributed as part of the in-kind redemption, which brokerage costs will be borne by the Company or its affiliates and not by Contract owners.

36. Consistent with Section 17(b) and Rule 17a–7(c), any in-kind redemptions and purchases for purposes of the proposed substitution will be transacted in a manner consistent with the investment objectives and policies of the Funds, as recited in their registration statements. Any in-kind redemption will be effected on a pro-rata basis, where the Replacement Fund will receive an approximate proportionate share of every security position in the Replaced Fund's portfolio in accordance with the Signature Letter, as supplemented by the SEC in subsequent no-action letters. CSAM, the adviser to the Replacement Fund, will examine the securities being transferred to the Replacement Fund to ensure they are consistent with the Replacement Fund's investment objective and policies and will retain only those securities that it would have acquired for the Replacement Fund in a cash transaction. In addition, the redeeming and purchasing values of such securities will be the same.

37. The Section 17 Applicants submit that the in-kind redemptions and purchases described above are consistent with the general purposes of the 1940 Act as stated in the Findings and Declaration of Policy in Section 1 of the 1940 Act and that the proposed transactions do not present any of the conditions or abuses that the 1940 Act was designed to prevent. The Commission has previously granted relief to others based on similar facts. The Section 17 Applicants represent that the proposed in-kind purchases meet all the requirements of Section 17(b) of the 1940 Act and request that the Commission issue an order pursuant to Section 17(b) of the 1940 Act exempting them from the provisions of Section 17(a) to the extent necessary to permit the Company, on behalf of the Accounts, to carry out in-kind the proposed substitution by redeeming shares of the Replaced Fund in-kind and using securities distributed as redemption proceeds to purchase shares of the Replacement Fund.

Conclusion

For the reasons and upon the facts set forth above and in the application, the Substitution Applicants and the Section 17 Applicants believe that the requested orders meet the standards set forth in Section 26(c) of the Act and Section 17(b) of the Act, respectively, and should therefore, be granted.

For the Commission, by the Division of Investment Management, under delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–20955 Filed 8–27–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70245; File No. SR–NASDAQ–2013–110]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Chapter VII, Section 6 of the Rules of the NASDAQ Options Market To Permit the Exchange To Establish Wider Bid/Ask Differentials for Certain Options With High Premiums or Other Special Characteristics

August 22, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 19, 2013 The NASDAQ Stock Market LLC (''NASDAQ'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASDAQ is proposing to amend Chapter VII, Section 6 (Market Maker Quotations) of the rules of the NASDAQ Options Market (''NOM'') to permit the Exchange to establish wider bid/ask differentials for certain options with

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

high premiums or other special characteristics.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASDAQ included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to amend Chapter VII, Section 6 of the rules of NOM to permit the Exchange to establish wider bid/ask differentials for certain options with high premiums or other special characteristics.

Currently, the spread on options on equities and index options must not exceed $5. For in-the-money series where the market for the underlying security is wider than $5, the bid/ask differential may be as wide as the quotation for the underlying security on the primary market.[3]

In this filing, the Exchange seeks the capability to establish wider bid/ask differentials for options that have high premiums or other special characteristics. For high premium options, the current five dollar range can expose market makers to disproportionate risk in dealing with those issues thereby discouraging them from quoting in those instruments. As such, the Exchange proposes to be able to modify the bid/ask differential for one or more series or classes of options, as appropriate, in response to high differential prices, market conditions, or other special factors impacting a particular option, options series, or class of option.

The Exchange notes that this flexibility is already permitted by the rules of many other options exchanges.[4]

2. Statutory Basis

The proposed rule change is consistent with the Act and the rules and regulations thereunder, including the requirements of Section 6(b) of the Act.[5] In particular, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[6] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and to perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest. Here, the proposal will allow the Exchange to adjust price differentials in a manner that encourages quoting and trading activity.

The Exchange believes that the proposed rule change will enhance competition because the Exchange will be able adjust bid/ask differentials in a manner similar to Phlx, CBOE, ISE, and NYSE [sic].

B. Self-Regulatory Organization's Statement on Burden on Competition

This proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. In this regard and as indicated above, the Exchange notes that the rule proposed here is already in use by other options exchanges.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[7] and subparagraph (f)(6) of Rule 19b–4 thereunder.[8]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NASDAQ–2013–110 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2013–110. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from

[3] *See* NOM Rule Chapter VII Section 6(d)(ii).

[4] See Phlx Rule 1014(c)(i)(A)(1)(a); CBOE Rule 44.4(e); ISE Rule 803(b)(4); NYSE MKT Rule 925NY(b)(4)(E).

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(3)(a)(ii).

[8] 17 CFR 240.19b–4(f)(6).

submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–NASDAQ–2013–110, and should be submitted on or before September 18, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–20934 Filed 8–27–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70246; File No. SR–NYSE–2013–40]

Self-Regulatory Organizations; New York Stock Exchange LLC; Order Approving Proposed Rule Change Amending 303A.00 of the Exchange's Listed Company Manual To Provide a One-Year Transition Period To Comply With the Internal Audit Requirement of Section 303A.07(c) for Companies Listing in Connection With an Initial Public Offering, or by Means of a Carve-Out or Spin-Off Transaction

August 22, 2013.

I. Introduction

On June 18, 2013, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Exchange Act''),[2] and Rule 19b–4 thereunder,[3] a proposed rule change to amend 303A.00 of the Exchange's Listed Company Manual (the ''Manual'') to provide a one-year transition period to comply with the internal audit function requirement of Section 303A.07(c) for companies listing in connection with an initial public offering (as new registrants under the Exchange Act) (''IPO''),[4] or by means of a carve-out or spin-off transaction. The proposed rule change was published for comment in the **Federal Register** on July 8, 2013.[5] The Commission received one comment letter on the proposal.[6] This order approves the proposed rule change.

II. Description of the Proposal

For companies listing on the Exchange in connection with an IPO,[7] or by means of a carve-out or spin-off transaction, Section 303A.07(c) of the Manual requires that those companies comply with the internal audit function requirement at the time of listing. Specifically, Section 303A.07(c) of the Manual requires that any listed company subject to Section 303A.07 must have an internal audit function to provide management and the audit committee with ongoing assessments of the listed company's risk management processes and system of internal control. A listed company may choose to outsource this function to a third party service provider other than its independent auditor.

According to the Exchange, consistent with the transition provisions of Section 303A.00 of the Manual, any company listing upon transfer from another national securities exchange that does not have an internal audit function requirement has one year from the date of listing to comply with the Exchange's internal audit function requirement in Section 303A.07(c) of the Manual.[8] Neither the Nasdaq Stock Market LLC (''Nasdaq'') nor NYSE MKT LLC (''NYSE MKT'') has an internal audit function requirement for companies listing on their exchange. Consequently, any company transferring its listing from Nasdaq or NYSE MKT to the NYSE has one year from the date of listing to comply with the requirement of Section 303A.07(c) of the Manual. By contrast, Section 303A.00 currently does not provide any transition period for compliance with the internal audit function requirement to a company which is listing in connection with: (i) Its IPO, or (ii) by means of a carve-out or spin-off transaction.[9] In its filing, the Exchange stated that it believes that the lack of a transition period in relation to the internal audit function requirement for these categories of newly-listed companies is anomalous in light of the treatment of companies transferring from other markets. Accordingly, the Exchange has proposed to amend Section 303A.00 to extend the application of the one-year transition period to comply with the internal audit function requirement to such categories of newly-listed companies. Further, the Exchange proposed to amend Section 303A.07 to include a sentence explicitly stating that, although Section 303A.00 permits certain categories of newly-listed companies to have a transition period, that all companies that are subject to Section 303A.07 would be required to have an internal audit function no later than one year after their listing date.

Several provisions in Section 303A.07 set forth duties of the audit committee with respect to the internal audit function requirement. In its filing, the Exchange has proposed to amend those provisions to clarify the duties of the audit committee with respect to the internal audit function during any transition period applicable to IPOs, transfers from another national securities exchange, carve-outs and spin-offs. The Exchange has proposed to amend the following sections of the Manual as described below:

- Section 303A.07(b)(i)(A) currently requires that the audit committee's charter must provide that the committee will assist board oversight of: (1) The integrity of the listed company's financial statements, (2) the listed company's compliance with legal and regulatory requirements, (3) the independent auditor's qualifications and independence, and (4) the

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[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] For purposes of Section 303A other than Sections 303A.06 (which incorporates Exchange Act Rule 10A–3 by reference) and 303A.12(b), Section 303A.00 currently provides that a company is considered to be listing in conjunction with an IPO if, immediately prior to listing, it does not have a class of common stock registered under the Exchange Act. Consequently, a company whose common stock has not previously been registered under the Exchange Act is eligible to avail itself of the IPO transition periods in Section 303A.00 regardless of whether that company is conducting a public offering at the time of its initial listing. The Exchange's proposed amendment would provide a one-year transition period for compliance with the internal audit function requirement to all companies currently eligible for the IPO transition periods in Section 303A.00.

[5] *See* Securities Exchange Act Release No. 69914 (July 2, 2013), 78 FR 40816.

[6] *See* Letter from Richard F. Chambers, President and Chief Executive Officer, The Institute of Internal Auditors to Elizabeth M. Murphy, Secretary, Commission, dated July 29, 2013.

[7] The Commission notes that companies listing on the Exchange must register under Section 12(b) of the Exchange Act.

[8] Section 303.00 of the Manual states, among other things, that a company previously registered pursuant to Section 12(b) of the Exchange Act must satisfy the requirements of Section 303A, which includes the internal audit function requirement of Section 303A.07(c), within one year of the listing to the extent that the national securities exchange on which it was listed did not have the same requirement, with the exception of Section 303A.06 including, if applicable, the independence requirements of Section 303A.02, which must be complied with at the time of listing.

[9] Section 102.01B of the Manual defines a carve-out as the initial offering of an equity security to the public by a publicly traded company for an underlying interest in its existing business (which may be subsidiary, division, or business unit). For all practical purposes, a carve-out is the same as an IPO, as it involves the listing of a newly-public company in connection with the initial public offering of its common stock. A spin-off involves the distribution by a listed company of all of the outstanding common stock of a subsidiary to the listed company's shareholders and the listing of the new company, generally without any concurrent offering.

performance of the listed company's internal audit function and independent auditors. The proposed amendment would provide that if the listed company does not yet have an internal audit function because it is availing itself of a transition period pursuant to Section 303A.00, the company's charter must provide that the committee will assist board oversight of the design and implementation of the internal audit function.

- Section 303A.07(b)(i)(E) currently states that the audit committee's charter must provide that the committee will meet separately, periodically, with management, internal auditors (or other personnel responsible for the internal audit function) and independent auditors. The proposed amendment would provide that if the listed company does not yet have an internal audit function because it is availing itself of a transition period pursuant to Section 303A.00, the audit committee must meet periodically with the company personnel primarily responsible for the design and implementation of the internal audit function.
- Section 303A.07(b)(i)(F) currently requires the audit committee's charter to provide that the committee will review with the independent auditor any audit problems or difficulties and management's response. This review is required to include, among other things, a discussion of the responsibilities, budget and staffing of the listed company's internal audit function. The proposed amendment would provide that if the listed company does not yet have an internal audit function because it is availing itself of a transition period pursuant to Section 303A.00, this review should include a discussion of management's plans with respect to the responsibilities, budget and staffing of the internal audit function and the company's plans for the implementation of the internal audit function.
- Section 303A.07(b)(i)(H) currently states that the audit committee's charter must provide that the committee will report regularly to the board of directors to review, among other things, the performance of the company's internal audit function. The proposed amendment would provide that if the listed company does not yet have an internal audit function because it is availing itself of a transition period pursuant to Section 303A.00, the audit committee should review with the board management's activities with respect to the design and implementation of the internal audit function.

In its filing, the Exchange stated its belief that providing a transition period to comply with the internal audit function requirement to companies listing in connection with their IPO or by means of a carve-out or spin-off transaction does not, in its view, give rise to any novel regulatory issues that do not arise in connection with the existing transition provision for companies transferring from another national securities exchange. The Exchange stated that it believes that providing a transitional period after listing for a newly public company to establish its internal audit function would benefit investors by making the company's implementation of the internal audit function more effective and efficient and reducing the costs that a company faces in its first year as a public company. The Exchange further believes that the proposed transition period would also limit any interference by the Exchange's internal audit requirement with a company's business decision regarding the timing and use of resources relating to its initial listing. In that regard, the Exchange noted in its filing that newly-public companies are typically in the process of upgrading their accounting systems and internal controls and hiring additional staff to meet the greater demands placed on public companies. The Exchange in support of its proposal also stated its belief that a one-year transition period would give a newly-appointed audit committee an opportunity to become familiar with the internal controls and risk management of the company and determine what kind of internal audit function is suitable for the company given its specific circumstances.

As noted in its proposal, the Exchange believes that given the limited scope of the proposed transition provision and the fact that other national securities exchanges do not have comparable rules, the extension of the transition provision to IPOs, carve-outs and spin-offs is consistent with the protection of investors and the public interest and that investors would be at least as well protected by having these companies listed on the Exchange, where they would be subject to such a requirement after the transition period.

III. Comments

The Commission received one comment letter on the proposed change from The Institute of Internal Auditors (''the IIA'').[10] Given the important role of a robust internal audit function, the IIA believes that all organizations, whether publicly traded or privately held, should have an internal audit function. In its comment letter, the IIA stated that it opposes the Exchange's proposed rule change because it will relax an important governance requirement. Additionally, the IIA stated that because newly-public companies are typically upgrading their accounting systems and internal controls and hiring additional staff to meet the greater demands placed on public companies, an internal audit function would assist the board and senior management in assessing these critical systems and internal controls as they are being developed, implemented, enhanced and/or upgraded. Regarding NYSE's statement that a one-year transition period would give a newly-appointed audit committee the opportunity to become familiar with the internal controls and risk management of the company and determine a suitable internal audit function for the company, the IIA stated its belief that there was greater value to the company's board of directors, management, and investors in having a chief audit executive on staff as soon as possible to assist in developing the internal audit function and providing expert advice and counseling on internal control and risk management during such a formative stage for the company and the audit committee. Additionally, the IIA acknowledged that other national securities exchanges do not have rules comparable to NYSE's rules, but nevertheless stated its belief that NYSE should continue to set the standard for U.S. company listing requirements and not weaken its stance as those rules apply to IPOs, new registrants, carve-outs and spin-offs. The IIA also believes that companies that understand the important role that internal audits play in overall good corporate governance will comply with more than just the minimum aspects of any governance rule.

IV. Discussion and Commission Finding

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and rules and regulations thereunder applicable to a national securities exchange.[11] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[12] in that it is designed to promote just and

[10] The IIA stated that it is a globally recognized authority of the internal auditing profession and represents more than 180,000 members, one-third of whom reside in the United States.

[11] In approving the proposed rule changes, the Commission has considered their impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[12] 15 U.S.C. 78f(b)(5).

equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission believes that the proposed rule change, which would provide a one-year transition period to comply with the internal audit requirement of Section 303A.07(c) for companies listing in connection with an IPO or by means of a carve-out or spin-off transaction, is consistent with the Act. The Commission notes that this change will provide a transition period to comply with the internal audit function requirement to companies listing in connection with an IPO, or by means of a carve-out or spin-off transaction, while retaining its general requirement that all such companies must have an internal audit function no later than one year from the company's listing date. Moreover, the Commission notes that with this change, companies listing in connection with an IPO, or by means of a carve-out or spin-off transaction will be subject to the same one year deadline to comply with the internal audit function requirements of Section 303A.07(c) that applies to any company listing upon transfer from another national securities exchange that does not have the same internal audit function requirement.

The Commission has also considered the comment letter of the IIA and agrees that an internal audit function plays an important role in overall good corporate governance for all public companies. The Commission notes, however, that as of the date of this order, no other national securities exchange has comparable rules requiring listed companies to maintain an internal audit function.[13] The Commission also notes that the transition is limited in duration and that during any transition period the audit committee will continue to have a role in overseeing the listed company's financial systems and internal controls over financial reporting and will also be involved in overseeing the design and implementation of the company's internal audit function during that period. In this regard, the Exchange has specifically amended its rules to make clear, as required to be set forth in the audit committees' written charter provisions, that a listed company's audit committee still has responsibilities as to the oversight of the design and implementation of the company's internal audit function during any one year transition period, as well as a requirement, to review and discuss management's plans with respect to the responsibilities, budget and staffing of the internal audit function and plans for its implementation. These charter provisions and responsibilities of the audit committee should help to ensure that the internal audit function is being developed with oversight from the audit committee during the transition period, and is on track to be implemented no later than one year from the company's listing on the Exchange.

The Commission further notes that, although this proposed rule change will allow certain companies a one-year transition period, these same companies will continue to be subject to the requirements of Section 13(b)(2)(B) of the Exchange Act, and the rules thereunder, that require registered companies to devise and maintain a system of internal accounting controls. The Commission believes that an internal audit function can, among other things, assist newly listed companies on the NYSE in meeting their obligations under Section 13(b)(2)(B). As a result, companies eligible to avail themselves of the proposed transition period are encouraged to implement an internal audit function as quickly as possible.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act[14] that the proposed rule change (SR–NYSE–2013–40) is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–20956 Filed 8–27–13; 8:45 am]

BILLING CODE 8011–01–P

[13] The Commission notes that Nasdaq had previously proposed to require listed companies to have an internal audit function similar to NYSE's requirement prior to the change being approved in this order. However, on May 7, 2013 Nasdaq withdrew its proposal. Nasdaq stated it was withdrawing its proposal so that it may fully consider the comments submitted on it, but that it ''. . . remains committed to the underlying goal of the proposal, to help ensure that listed companies have appropriate processes in place to assess risks and the system of internal controls, and intends to file a revised proposal.'' *See* Securities Exchange Act Release 69792 (June 18, 2013), 78 FR 37867 (June 24, 2013). To date, Nasdaq has not filed a revised proposal. NYSE MKT had also filed a proposal to adopt an internal audit function requirement but withdrew its proposal on May 14, 2013. (SR–NYSEMKT–2013–41) The Commission continues to believe, as noted above, that an internal audit function is important for listed companies.

[14] 15 U.S.C. 78f(b)(2).

[15] 17 CFR 200.30–3(a)(12).

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Request for Public Comments Regarding the Interim Environmental Review of the Trans-Pacific Partnership Agreement

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of availability and request for public comments.

SUMMARY: The Office of the U.S. Trade Representative (USTR), on behalf of the Trade Policy Staff Committee (TPSC), invites written comments from the public on the interim environmental review of the proposed Trans-Pacific Partnership Agreement (TPP). The interim environmental review will be available at: *http://www.ustr.gov/trade-topics/environment/environmental-reviews.*

DATES: In order to be assured of consideration, comments should be submitted not later than 11:59 p.m., September 25, 2013 to inform the negotiations and the final environmental review of the agreement.

ADDRESSES: Submissions should be made via the Internet at *www.regulations.gov* docket number USTR–2013–0028. For alternatives to on-line submissions please contact Yvonne Jamison (202–395–3475). The public is strongly encouraged to file submissions electronically rather than by facsimile or mail.

FOR FURTHER INFORMATION CONTACT: Questions regarding the submission of comments in response to this notice should be directed to Yvonne Jamison at (202) 395–3475. Questions concerning the interim environmental review should be addressed to David Oliver at (202) 395–7320.

SUPPLEMENTARY INFORMATION: The Trade Act of 2002 provides that the President shall conduct environmental reviews of certain international trade agreements consistent with Executive Order 13141–*Environmental Review of Trade Agreements* (64 FR 63,169, Nov. 18, 1999) and its implementing guidelines (65 FR 79,442, Dec. 19, 2000) and report on such reviews to the Committee on Ways and Means of the House of Representatives and the Committee on

Finance of the Senate. The Executive Order and guidelines are available at: *http://www.ustr.gov/trade-topics/environment/environmental-reviews.* The purpose of environmental reviews is to ensure that policymakers and the public are informed about reasonably foreseeable environmental impacts of trade agreements (both positive and negative), to identify complementarities between trade and environmental objectives, and to help shape appropriate responses if environmental impacts are identified. Reviews are intended to be one tool, among others, for integrating environmental information and analysis into the fluid, dynamic process of trade negotiations. USTR and the Council on Environmental Quality jointly oversee implementation of the Order and Guidelines. USTR, through the Trade Policy Staff Committee (TPSC), is responsible for conducting the individual reviews.

Requirements for Submissions: Persons submitting comments must do so in English and must indicate (on the first page of the submission) ''Comments Regarding the TPP Interim Environmental Review.'' In order to be assured of consideration, comments should be submitted by 11:59 p.m., September 25, 2013. In order to ensure the timely receipt and consideration of comments, USTR strongly encourages commenters to make on-line submissions, using the *www.regulations.gov* Web site. To submit comments via *www.regulations.gov,* enter docket number USTR–2013–0028 on the home page and click ''search.'' The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice and click on the link entitled ''Comment Now!'' (For further information on using the *www.regulations.gov* Web site, please consult the resources provided on the Web site by clicking on ''How to Use This Site'' on the left side of the home page).

The *www.regulations.gov* Web site allows users to provide comments by filling in a ''Type Comment'' field, or by attaching a document using an ''Upload File'' field. USTR prefers that comments be provided in an attached document. USTR prefers submissions in Microsoft Word (.doc) or Adobe Acrobat (.pdf). If the submission is in an application other than those two, please indicate the name of the application in the ''Type Comment'' field.

For any comments submitted electronically containing business confidential information, the file name of the business confidential version should begin with the characters ''BC''. Any page containing business confidential information must be clearly marked ''BUSINESS CONFIDENTIAL'' on the top of that page. Filers of submissions containing business confidential information must also submit a public version of their comments. The file name of the public version should begin with the character ''P''. The ''BC'' and ''P'' should be followed by the name of the person or entity submitting the comments. Filers submitting comments containing no business confidential information should name their file using the name of the person or entity submitting the comments.

Please do not attach separate cover letters to electronic submissions; rather, include any information that might appear in a cover letter in the comments themselves. Similarly, to the extent possible, please include any exhibits, annexes, or other attachments in the same file as the submission itself, not as separate files.

As noted, USTR strongly urges submitters to file comments through the *www.regulations.gov* Web site if at all possible. Any alternative arrangements must be made with Ms. Jamison in advance of transmitting a comment. Ms. Jamison may be contacted at (202) 395–3475. General information concerning USTR is available at *www.ustr.gov.*

Comments will be placed in the docket and open to public inspection, except business confidential information. Comments may be viewed on the *www.regulations.gov* Web site by entering the relevant docket number in the search field on the home page.

William Shpiece,

Acting Chair, Trade Policy Staff Committee.

[FR Doc. 2013–20930 Filed 8–27–13; 8:45 am]

BILLING CODE 3290–F3–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Land Release for Penn Yan Airport

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice, request for public comment.

SUMMARY: The Federal Aviation Administration is requesting public comment on the Penn Yan Airport (PEO), Penn Yan, New York, Notice of Proposed Release from Aeronautical Use of approximately 0.069 +/− acres of airport property, to allow for non-aeronautical development.

The parcel is located on the northwest corner of the Penn Yan Airport. The tract currently consists of 0.069 +/− acres of land and it is currently vacant. The requested release is for the purpose of permitting the airport owner (Yates County) to grant an easement of 0.069 +/− acres for ingress/egress to a boat storage and maintenance facility to be constructed by Land and Sea Properties on airports lands previously released. The proposed 50′ +/− wide by 60.11′ +/− easement is required to comply with the Town of Milo requirement to provide emergency equipment ingress/egress to the Land and Sea Properties boat storage and maintenance facility from the Penn Yan Airport access road.

Documents reflecting the Sponsor's request are available, by appointment only, for inspection at the Office of the Yates County Legislature and the FAA New York Airport District Office.

DATES: Comments must be received by September 27, 2013.

ADDRESSES: Comments on this application may be mailed or delivered to the FAA at the following address: Steven M. Urlass, Manager, FAA New York Airports District Office, 600 Old Country Road, Suite 446, Garden City, New York 11530. In addition, a copy of any comments submitted to the FAA must be mailed or delivered to Mr. H. Taylor Fitch, Chairman, Yates County Legislature, at the following address: 417 Liberty Street, Penn Yan, NY. 14527.

FOR FURTHER INFORMATION CONTACT: Steven M. Urlass, Manager, New York Airports District Office, 600 Old Country Road, Suite 446, Garden City, New York 11530; telephone (516) 227–3803; FAX (516) 227–3813; email *steve.urlass@faa.gov.*

SUPPLEMENTARY INFORMATION: Section 125 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR21) requires the FAA to provide an opportunity for public notice and comment before the Secretary may waive a Sponsor's Federal obligation to use certain airport land for aeronautical use.

Issued in Garden City, New York on August 21, 2013.

Steven M. Urlass,

Manager, New York, Airports District Office, Eastern Region.

[FR Doc. 2013–21002 Filed 8–27–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2013–37]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Title 14, Code of Federal Regulations (14 CFR). The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of the FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATE: Comments on this petition must identify the petition docket number involved and must be received on or before September 17, 2013.

ADDRESSES: You may send comments identified by docket number FAA–2013–0560 using any of the following methods:

- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments digitally.
- *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Fax:* Fax comments to the Docket Management Facility at 202–493–2251.
- *Hand Delivery:* Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mark Forseth, ANM–113, (425) 227–2796, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98057–3356, or Andrea Copeland, ARM–208, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; email *andrea.copeland@faa.gov;* (202) 267–8081.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on August 23, 2013.

Brenda D. Courtney,

Acting Director, Office of Rulemaking.

Petition For Exemption

Docket No.: FAA–2013–0560

Petitioner: Dassault Aviation

Section of 14 CFR Affected: §§ 25.629 & 25.671

Description of Relief Sought: Petitioner requests relief from requirements of 14 Code of Federal Aviation Regulations 25.629 and 25.671 for aeroelastic stability evaluations regarding flutter, divergence, control reversal, and any undue loss of stability and control as a result of structural deformation; and the airplane must be shown by analysis, tests, or both to be capable of continued safe flight and landing, following a dual hydraulic-system failure or any single failure in combination with a probable hydraulic failure, on Dassault Falcon 900 airplanes equipped with blended winglets.

[FR Doc. 2013–20971 Filed 8–27–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2013–41]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of FAA'S regulations. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number involved and must be received on or before September 17, 2013.

ADDRESSES: You may send comments identified by Docket Number FAA–2013–0101 using any of the following methods:

- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Fax:* Fax comments to the Docket Management Facility at 202–493–2251.
- *Hand Delivery:* Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Michael Menkin, ANM–113, Standardization Branch, Federal Aviation Administration, Transport Airplane Directorate, 1601 Lind Ave. SW., Renton, WA 98057; email *michael.menkin@FAA.gov;* 425–227–2793; fax: 425–227–1320; or Andrea Copeland, ARM–200, Office of

Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; email *andrea.copeland @faa.gov;* (202) 267–8081.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on August 22, 2013.

Ida Klepper,

Acting Director, Office of Rulemaking.

Petition For Exemption

Docket No.: FAA–2013–0711

Petitioner: The Boeing Company

Section of 14 CFR Affected: § 25.853(d) and Special Conditions 25–370–SC.

Description of Relief Sought: To allow the use of Ensolite as an energy absorbing material on side-facing, business-class passenger seats with inflatable restraints on Boeing Model 787 Series airplanes.

[FR Doc. 2013–20922 Filed 8–27–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2013–40]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATE: Comments on this petition must identify the petition docket number and must be received on or before September 17, 2013.

ADDRESSES: You may send comments identified by Docket Number FAA–2013–0605 using any of the following methods:

- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Fax:* Fax comments to the Docket Management Facility at 202–493–2251.
- *Hand Delivery:* Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Andrea Copeland, ARM–208, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; email *andrea.copeland@faa.gov*; (202) 267–8081.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on August 23, 2013.

Brenda D. Courtney,

Acting Director, Office of Rulemaking.

Petition For Exemption

Docket No.: FAA–2013–0605

Petitioner: Aerovias de México, S.A. de C.V. (Aeromexico)

Section of 14 CFR Affected: 129.117(e)(1)

Description of Relief Sought: Petitioner is requesting a 12-month extension of the December 26, 2014, compliance date to install a Flammability Reduction Means (FRM) in 50% of its airplanes.

[FR Doc. 2013–20970 Filed 8–27–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Revised Notice of Intent To Prepare an Environmental Impact Statement: Milwaukee County, Wisconsin

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Revised notice of intent.

SUMMARY: The FHWA is issuing this revised Notice of Intent to advise the public that the project limits for the I–94 East-West Corridor Environmental Impact Statement (EIS) will be extended; the project is located in Milwaukee County, Wisconsin.

FOR FURTHER INFORMATION CONTACT: Bethaney Bacher-Gresock, Environmental Program Manager, FHWA Wisconsin Division Office, City Center West, 525 Junction Road, Suite 8000, Madison, WI 53717; Telephone: (608) 662–2119.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Wisconsin Department of Transportation (WisDOT), issued a Notice of Intent May 18, 2012 to prepare an EIS for proposed improvements in the I–94 corridor between 70th Street on the west and 25th Street on the east (2.85 miles). This revised Notice of Intent extends the eastern project limits from 25th Street to 16th Street; the EIS for the I–94 East-West Corridor project now extends from 70th Street on the west to 16th Street on the east (3.5 miles). The extension is in response to additional work necessary east of 25th Street to accommodate alternatives that would tie back into I–94 near 16th Street and better match the recently reconstructed Marquette Interchange.

The purpose of the project remains the same, is to replace deteriorating pavement and bridges and improve safety, while identifying methods to accommodate existing and projected future traffic volumes; this may result in the full reconstruction and redesign of the I–94 corridor. The EIS will also evaluate interchanges with I–94 at 68th Street/70th Street, Hawley Road, Mitchell Boulevard, US 41/STH 341 (Stadium Interchange), 35th Street and 26th Street/Saint Paul Avenue as well as US 41 at Wisconsin Avenue/Wells Street. The EIS will be developed in accordance with 23 U.S.C. 139, 23 CFR 771, and 40 CFR parts 1500–1508.

Public involvement is a critical component of the National Environmental Policy Act (NEPA) project development process and will continue to occur throughout the development of the EIS. Specific efforts

to encourage involvement by, and solicit comments from, minority and low-income populations in the project study area will continue to be made. The EIS will be made available for review by federal and state resource agencies and the public. Public information meetings, all of which are announced in advance, were held August 21 and 23, 2012; December 5–6, 2012; May 21–22, 2013; and July 30–31, 2013. In addition, a public hearing will be held after the completion of the Draft EIS.

Inquiries related to the I–94 East-West Corridor Study can be sent to *DOTI94EastWest@dot.wi.gov.* A public Web site has been established for the project and will be maintained throughout the study for public comment and information at *http://www.sefreeways.org.* To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments and questions concerning the proposed action and the EIS should be directed to the FHWA address provided above.

Projects receiving Federal funds must comply with Title VI of the Civil Rights Act and Executive Order 12898 Federal Actions to Address Environmental Justice in Minority and Low-Income Populations. Federal law prohibits discrimination on the basis of race, color, age, sex, or country of national origin in the implementation of this project. It is also Federal policy to identify and address any disproportionately high and adverse effects of federal projects on the health or environment of minority and low-income populations to the greatest extent practicable and permitted by law.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: August 22, 2013.

Bethaney Bacher-Gresock,

Major Projects Environmental Manager, Federal Highway Administration, Madison Wisconsin.

[FR Doc. 2013–20964 Filed 8–27–13; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Early Scoping Notification for the Alternatives Analysis of the GA 400 Transit Initiative in Fulton County, Georgia

AGENCY: Federal Transit Administration (FTA), United States Department of Transportation (USDOT).

ACTION: Notice of early scoping meeting.

SUMMARY: The Federal Transit Administration (FTA) and the Metropolitan Atlanta Rapid Transit Authority (MARTA) issue this early scoping notice to advise other agencies and the public that they intend to explore potential alternatives for providing high-capacity transit in the GA 400 corridor in north Fulton County, GA from Dunwoody to Alpharetta that would improve transit linkages and coverage to communities within this corridor and would enhance mobility and accessibility to and within the corridor by providing a more robust transit network that offers an alternative to automobile travel. This notice invites the public and agency officials to help support the ongoing alternatives analysis and system planning effort by commenting on the project's purpose and need, the project study area, the alternatives being considered, the transportation problems that are being addressed by the alternatives analysis study, public participation and outreach methods, the relevant transportation and community impacts and benefits being considered, known environmental issues raised by public and agency coordination to date, and the projected capital and operating costs of this project.

The early scoping process is intended to support the alternatives analysis and a future National Environmental Policy Act (NEPA) scoping process and will help streamline the future development of an environmental impact statement (EIS), if warranted. In addition, it supports FTA planning requirements associated with the New Starts (''Section 5309'') funding program for certain kinds of major capital investments. While recent legislation has led to changes in the New Starts process, MARTA will comply with all relevant FTA requirements relating to planning and project development to help analyze and screen alternatives in preparation for the NEPA process.

Public meetings are described immediately below. A more detailed discussion of the project and this early scoping process is included in sections that follow.

DATES: An early scoping meeting where the public and interested agencies can learn more about and comment on the scope of the alternatives analysis will be held on September 26, 2013, at 6:30 p.m. to 8:30 p.m. The location of this meeting is indicated under **ADDRESSES** below.

At the early scoping meeting, MARTA will provide information on the alternatives analysis progress along with opportunities for written comments. Written or electronic scoping comments are requested by October 28, 2013, and can be sent or emailed to the MARTA project manager at the address below. Comments may also be offered at the early scoping meeting.

ADDRESSES: Written or electronic comments should be sent to Ms. Janide Sidifal, Project Manager, MARTA, 2424 Piedmont Road NE., Atlanta GA 30324–3330 or by email to *connect400@itsmarta.com*. If submitting an electronic comment, please type ''Connect 400 Early Scoping Comment for MARTA'' in the subject line of the email. MARTA maintains a Facebook page for the Connect 400 project and will notify Facebook followers, in conjunction with publication of this notice, to submit comments to the aforementioned email address as well. The address for the early scoping meeting is as follows:

Alpharetta City Hall, 2 Main Street, Alpharetta, GA 30009.

The meeting location is accessible to persons with disabilities. If translation, signing services, or other special accommodations are needed, please contact the Project Manager, Ms. Janide Sidifall at *jsidifall@itsmarta.com* or 404–848–5828; or the Senior Director of Transit System Planning, Mr. Don Williams at *drwilliams@itsmarta.com* or 404–848–4422 at least one week before the scoping meeting.

FOR FURTHER INFORMATION CONTACT: Mr. Keith Melton, Community Planner, FTA Region IV, 230 Peachtree Street NW., Suite 800, Atlanta, GA 30303 or email: *keith.melton@dot.gov*.

SUPPLEMENTARY INFORMATION:

Early Scoping

Early scoping is an optional early step in the NEPA process that precedes NEPA scoping, which normally begins when the FTA and the grant applicant publish a notice of intent to prepare an EIS. FTA encourages the use of early scoping for major planning activities and studies that may receive other FTA funding as a way to start the NEPA process during earlier project planning phases. Early scoping is intended to generate public and agency review and

comments on the scope of a planning effort within a defined transportation corridor, which helps the agency to determine which particular alignment variations, should receive more focused study and development to streamline the NEPA process. Early scoping can serve not only to streamline the NEPA process, but also to firmly link transportation planning and NEPA; making sure that the public and interested agencies are given the opportunity to review and provide comments on the results of planning activities and studies that can then be used to inform the NEPA process. Early scoping for the GA 400 Transit Initiative is being conducted in support of NEPA requirements and in accordance with the Council on Environmental Quality's (CEQ) and FTA's regulations and guidance for implementing NEPA (40 CFR 1501.2 through 1501.8 and through 23 CFR 771.111), which encourage federal agencies to initiate NEPA early in their planning processes. Early scoping allows the scoping process to begin as soon as there is enough information to describe the proposal so that the public and relevant agencies can participate effectively. This is particularly useful in situations when a proposed action involves a broadly defined corridor with an array of transit investment alternatives. This early scoping notice invites public and agency involvement with the ongoing supplementary planning activities and studies for the GA 400 Transit Initiative, including review of the (a) Purpose and need, (b) the proposed alternatives, and (c) the potential environmental, transportation, and community impacts and benefits to consider during the NEPA process.

The GA 400 Transit Initiative and the Regional Transit System

The GA 400 Corridor Alternatives Analysis (AA) was initiated by MARTA in late 2011 to identify potential and feasible transit modal alternatives in the GA 400 corridor to address travel demands. The GA 400 corridor is the transportation spine of northern Fulton County, one of the fastest growing sub-regions in the metro-Atlanta region. The GA 400 Corridor AA addresses the travel market in a study area generally extending north along GA 400 from I–285 in Dunwoody to the Fulton/Forsyth County line north of Alpharetta, a distance of approximately 15 miles. The corridor is home to many employment centers, including Perimeter Center in the southern portion of the corridor, one of the largest employment centers for the region. Transit service to and within the study area is provided primarily by MARTA heavy rail and bus. The Georgia Regional Transportation Authority (GRTA) also operates two bus routes that connect the southern portion of the GA 400 corridor with express bus service at peak hours from the north and southeast from outside the GA 400 corridor. Rail service extends from Downtown Atlanta to the major retail and employment centers, including the Medical Center and Perimeter Center in Dunwoody and Sandy Springs in the southern portion of the corridor. MARTA Bus service primarily functions as feeder service to MARTA heavy rail stations from areas to the north, including Roswell, Alpharetta and Milton. A number of the bus routes and the MARTA heavy rail stations service park-and-ride facilities.

Purpose and Need for the Proposed Project

MARTA invites comments on the following preliminary statement of the project's purpose and need.

The purpose of the project is to provide reliable, convenient, efficient, and sustainable transit service in the GA 400 corridor by:

- Providing high capacity transit (bus and/or rail) through the GA 400 corridor study area;
- Improving transit linkages and coverage to communities within the study area; and
- Enhancing mobility and accessibility to and within the study area by providing a more robust transit network that offers an alternative to automobile travel.

The need for this project arises from the following:

- Travel demand—Increased travel demand and traffic congestion;
- Transit mobility—There is inadequate transit connectivity within the northern Fulton study area and between the study area and DeKalb, Gwinnett, and Cobb Counties and central Atlanta. In addition, east-west transit connectivity is inadequate. The limited routes across the Chattahoochee River reflect the inadequate transit connectivity;
- Transit travel times—Transit travel times are not competitive with auto travel times due to the lack of express service; this is true for north-south trips within the study area and for trips with origins and destinations outside the study area. Transit and auto travel times cannot be compared for east-west trips as there is no east-west transit service;
- Economic development—Traffic congestion caused by insufficient transportation system capacity affects both personal travel and goods movement, which constrains economic development opportunities; and
- Air quality—The continued growth of vehicular travel will negatively affect air quality in the study area and the region.

Potential Alternatives

MARTA is exploring alternative transit mode, alignment, and design options for high capacity transit service in the GA 400 corridor using a three-step evaluation process. The three-step evaluation process includes a Fatal Flaw Analysis, Screen 1 and Screen 2 and is generally characterized by the application of an increasingly detailed and comprehensive set of performance measures to a decreasing number of alternatives. Each step in the evaluation process focuses the analysis on progressively fewer alternatives with higher levels of scrutiny. In addition, the Build Alternatives are compared not only to each other but also to the No-Build Alternative, which provides the benchmark for establishing the travel benefits, environmental impacts of the alternatives and the cost-effectiveness of the alternatives. The GA 400 Corridor Transit Initiative is currently in Screen 2. After consideration of the findings of the first and second steps in the evaluation process, MARTA has identified an alignment that would provide approximately 11.9 miles of transit service along the GA 400 corridor within existing right-of-way from the existing North Springs MARTA station to Windward Parkway. This alignment is referred to as the GA 400–1A Build Alternative. Bus rapid transit (BRT), heavy rail transit (HRT), and light rail transit (LRT) are the three transit modes or technologies being considered for this corridor. The three modes each have the same general alignment, following GA 400 from North Springs MARTA station to Windward Parkway. The LRT and the BRT alternatives have six stations from south to north: Northridge, Holcomb Bridge, Mansell Road, North Point Mall, Old Milton and Windward Parkway. The HRT alternative is similar, but it does not include a station at Old Milton. The outcome of Screen 2 will be the recommendation of the preferred alternative. MARTA may also consider other alternatives that arise during the early scoping comment period.

FTA Procedures

At the end of the alternatives analysis process, FTA and MARTA anticipate identifying a preferred mode and corridor for further evaluation during the NEPA process. The classification of the NEPA documentation will be determined by the FTA at the end of the

alternatives analysis. If the preferred mode and alignment involve the potential for significant environmental impacts an EIS may be required. If an EIS is required, a Notice of Intent to Prepare an EIS will be published in the **Federal Register** by FTA and the public and interested agencies will have the opportunity to participate in a review and comment period on the scope of the EIS.

Issued on: August 23, 2013.

Yvette G. Taylor,

Regional Administrator.

[FR Doc. 2013–20996 Filed 8–27–13; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2012–0002; Notice 2]

Dorel Juvenile Group, Denial of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Denial of petition.

SUMMARY: Dorel Juvenile Group, Inc. (DJG) has determined that certain child restraint systems manufactured between July 20, 2010 and May 18, 2011 do not fully comply with paragraph S5.5.2(l) of Federal Motor Vehicle Safety Standard (FMVSS) No. 213, *Child Restraint Systems (49 CFR 571.213)*. DJG has filed an appropriate report pursuant to 49 CFR Part 573, *Defect and Noncompliance Responsibility and Reports,* dated July 19, 2011.

Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), DJG has petitioned for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety. Notice of receipt of the petition was published, with a 30-day comment period, on January 19, 2012 in the **Federal Register** (77 FR 2776). NHTSA received one comment from Consumers Union (CU).

To view the petition, the comment, and all supporting documents log onto the Federal Docket Management System (FDMS) Web site at: *http://www.regulations.gov/*. Then follow the online search instructions to locate docket number ''NHTSA–2012–0002.''

CONTACT INFORMATION: For further information on this decision, contact Mr. Zachary R. Fraser, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366–5754, facsimile (202) 366–7002.

Equipment Involved: Affected are approximately 89,527 of the following models of DJG child restraint systems that were manufactured between July 20, 2010 and May 18, 2011:

22187ANL Alpha Omega Elite
22187REM Alpha Omega Elite
22187REMA Alpha Omega Elite
22187SAR Alpha Omega Elite
22187SARA Alpha Omega Elite
22465FSM Alpha Omega Elite
22790CGT Deluxe 3 in 1
CC033BMT Alpha Omega Elite
CC043ANK Alpha Omega Elite
CC043ANL Alpha Omega Elite
CC043AQS Alpha Omega Elite
CC046AAI Deluxe 3 in 1
CC046AAU Deluxe 3 in 1
CC046CTA Deluxe 3 in 1
CC046SNW Deluxe 3 in 1
CC046WPR Deluxe 3 in 1
CC050AJH Complete Air LX
CC050ANY Complete Air LX
CC050ANZ Complete Air LX
CC050AOQ Complete Air LX
CC051AIR Complete Air SE

Summary of DJG'S Analyses: DJG described the noncompliance as follows:

The child restraint systems at issue utilize a permanently attached base which is equipped with color coordinated Ease of Use labels including base labels depicting the rear-facing mode instructions. Certain restraints were equipped with base labels positioned on the incorrect side of the base. Although nearly all the information is correct, the small indicator arrows do not line up with the rear-facing vehicle and LATCH belt path for the rear-facing mode. As noted in the Noncompliance Information Report, this voluntarily supplied information caused the installation diagram required by FMVSS No. 213 S5.5.2(l) to be inaccurate.

A noncompliance exists when the base labels are installed incorrectly and the indicator arrows do not point to the rear-facing vehicle belt/LATCH routing path. In this case, the arrows are actually pointing to the area below the forward-facing vehicle belt/LATCH path routing but could be construed as pointing to the forward-facing routing path.

DJG states that the subject child restraints contain the label information required by S5.5.2(l). DJG asserts that the voluntarily supplied information consisting of pointing arrows caused the installation diagrams required by FMVSS No. 213 S5.5.2(l) to be inaccurate when the labels containing the diagrams were installed on the incorrect side of the child restraint's base. NHTSA agrees with DJG that the subject child restraints contain the proper labels with the required installation diagrams. However, DJG voluntarily provided additional information on the labels intended to assist installation by adding pointing arrows to the belt path appropriate for that configuration.

NHTSA believes that the diagrams provided by DJG are compliant with S5.5.2(l) but the pointing arrows are misplaced due to the incorrect installation of the labels creating confusing and misleading information that is noncompliant with S5.5 of FMVSS No. 213. The incorrect direction of the pointing arrows lends to possible confusion that the belts should be routed through the forward-facing routing path rather than through the correct routing path.

DJG contends that the likelihood is low that a consumer would interpret the arrows as indicating the proper rear-facing path routing through the forward-facing path routing. It asserts that the proper rear-facing vehicle belt/LATCH routing path is shown clearly in the five diagrams on the two base labels.

DJG also argues that instructions included with the subject child restraint systems also correctly depict the rear-facing vehicle belt/LATCH routing path numerous times.

DJG noted that it has received only one user complaint related to this issue. DJG also included the results of a survey conducted to illustrate any effects the noncompliance may have on seat installation.

DJG contends that the technical noncompliance issue reported in the June 23, 2011, Noncompliance Information Report does not constitute a safety related issue because there is no evidence that improper installation is actually taking place in the field (as evidenced by the lack of significant complaints from consumers, advocates, health care specialists or anyone else). DJG also states that the preponderance of correct rear-facing installation diagrams and instructions appears to outweigh the potential for improper installation as a result of the ambiguous arrows on the rear-facing installation labels on the base. DJG also indicated that there appears to be a low probability that improper installation is even possible in the vast majority of vehicles surveyed, which represent a cross section of vehicles in the field.

In summation, DJG asserts that the described noncompliance of its child restraints is inconsequential to motor vehicle safety, and that its petition to

exempt from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

NHTSA'S Analysis of DJG'S Reasoning: To answer this petition, the pertinent regulations in question are:

FMVSS No. 213 S5.5.2 (l) requires:

(l) An installation diagram showing the child restraint system installed in:

(1) A seating position equipped with a continuous-loop lap/shoulder belt;

(2) A seating position equipped with only a lap belt, as specified in the manufacturer's instructions; and

(3) A seating position equipped with a child restraint anchorage system.

The purpose for S5.5.2 (l) is to provide consumers with an installation diagram depicting the proper installation of a child restraint using the attachment methods (lap/shoulder belt, lap belt only, and anchorage system) available in vehicles.

FMVSS No. 213 S5.5 states:

Labeling. Any labels or written instructions provided in addition to those required by this section shall not obscure or confuse the meaning of the required information or be otherwise misleading to the consumer * * *

The purpose of S5.5 is to prevent additional information from confusing or misleading the consumer, resulting in misuse of the child restraint and/or non-use.

The only complaint received by DJG was submitted by a Child Passenger Safety Technician, on behalf of a consumer, over concerns that the labels were put on incorrectly and the arrows pointed to the solid plastic and not the rear-facing belt path.

DJG conducted a survey to demonstrate any effects the noncompliance may have on seat installation. DJG installed a Complete Air LX model, which represents the Alpha Elite model as well, in 26 vehicles in rear-facing mode using both the vehicle belts and lower anchorage belts. According to DJG, the 26 vehicles represented a cross-section of vehicles on the road. The vehicle belts and lower anchorage belts were routed through the forward-facing belt path of the Complete Air LX. DJG reported that in none of the 26 vehicles was it possible to route the lower anchorage belts through the forward-facing belt path and secure the lower anchorages to the vehicle anchor bars due to the lower anchorage belts being too short to allow this improper installation. In 5 of the 26 evaluated vehicles, the vehicle belt allowed for this improper installation with a coupling of the vehicle belt and vehicle buckle.

In reaching our decision, NHTSA carefully reviewed the subject petition and CU's comments. NHTSA does not agree with DJG that the preponderance of correct rear-facing installation diagrams and instructions appears to outweigh the potential for improper installation resulting from the misplaced arrows. NHTSA believes that consumers will likely look first at diagrams on the child restraint for guidance on correct installation, and not from written instructions, particularly for re-installations, i.e., removing the restraint from one vehicle and putting it in another vehicle. The pointing arrows on the label will likely be the first place a consumer will look for guidance on choosing the proper belt routing path. S5.5 of FMVSS No. 213 specifically addresses that additional information may not confuse or mislead the user. If a user is reading the labels for guidance on how to properly install the restraint, the directional arrows pointed in the wrong direction clearly may present a confusing picture that could lead to improper installation and/or nonuse.

NHTSA believes that the lone complaint reported by DJG does not necessarily mean that consumers are installing the restraint properly. Users may be installing the restraint improperly without realizing it, and these cases therefore would not be reported.

NHTSA reviewed its Vehicle Owner Questionnaire (VOQ) data and uncovered one VOQ, dated May 2011, which highlighted installation problems with the same child restraint device when the owner attempted to follow instructions provided on the attached label.

NHTSA understands that the results of DJG's survey of vehicles shows a low percentage of vehicles surveyed that allow an improper installation because of the relative short length webbing for either the lower anchorage belt or the vehicle seat belt. However we believe that the survey is limited by the relatively small number of vehicles surveyed compared to the entire vehicle fleet and the use of only two DJG models.

NHTSA believes that the misplaced labels result in a confusion of the meaning of the required information (diagram showing correct installation in the rear-facing configuration) and thus the potential for mis-installation or perhaps non-use of the restraint.

NHTSA'S Response to Consumer Union Comments: In its comment to the docket, CU disagrees with DJG's assessment that the noncompliance is inconsequential to safety because the incorrectly installed diagrams will lead to confusion by the consumer and increase the likelihood that the restraints will be installed improperly or not at all.

CU reported that it tested an Alpha Omega Elite model which is one of the DJG models included in this petition. Based on CU observations, the rear-facing belt path on the Alpha Omega Elite is not visible from the top or the side of the restraint. Therefore without a label clearly indicating its location, the rear-facing belt path could be hidden from the consumer. In this case, with the affected label pointing toward the forward-facing belt path, a consumer may assume that the rear-facing and forward-facing belt paths are the same, leading to an improper installation of the restraint.

NHTSA Decision: In consideration of the foregoing, NHTSA has decided that the petitioner has not met its burden of persuasion that the noncompliance described is inconsequential to motor vehicle safety. Accordingly, DJG's petition is hereby denied, and the petitioner must notify owners, purchasers and dealers pursuant to 49 U.S.C. 30118 and provide a remedy in accordance with 49 U.S.C. 30120.

Authority: (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

Issued on: August 22, 2013.

Nancy Lummen Lewis,

Associate Administrator for Enforcement.

[FR Doc. 2013–20960 Filed 8–27–13; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2013–0185]

Pipeline Safety: Notice to Operators of Hazardous Liquid and Natural Gas Pipelines of a Recall on Leak Repair Clamps Due to Defective Seal

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice; Issuance of Advisory Bulletin.

SUMMARY: PHMSA is issuing an Advisory Bulletin to alert all pipeline operators of a T.D. Williamson, Inc. (TDW) Leak Repair Clamp (LRC) recall issued by TDW on June 17, 2013. The recall covers all TDW LRCs of any pressure class and any size. The LRCs may develop a dangerous leak due to a defective seal. Hazardous liquid and natural gas pipeline operators should

verify if they have any TDW LRCs subject to the recall by reviewing their records and equipment for installation of these LRCs. Operators with TDW LRCs should discontinue use immediately and contact TDW for further recall instructions. Operators can obtain recall information through TDW's Web site at *http://lrc.tdwilliamson.com/* or by calling TDW at 888–770–7085.

ADDRESSES: This document can be viewed on the PHMSA home page at: *http://www.phmsa.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Ken Lee by phone at 202–366–2694 or by email at *kenneth.lee@dot.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On July 17, 2013, TDW issued a recall of its LRCs. The recall covers any TDW LRC of any pressure class or any size. The TDW LRC is a hinged split sleeve that is designed to fit around the damaged area of the affected pipe and provide a sealing barrier to arrest leaking product. The seal is activated when applied pressure from bolts causes the internal seal to encapsulate the leak. TDW specifies that this clamp provides temporary repair only when it is bolted closed. TDW designates the LRC as a permanent repair when it is welded shut; this is analogous to a full encirclement welded split sleeve with welded ends (e.g., B-Type Sleeve). The LRC may leak when it is installed in the bolted-closed position. According to TDW, when the LRC is completely welded shut the defective seal is encapsulated and no leakage is expected.

The LRCs subject to the recall were manufactured for TDW from September 2002 through August 2012 to the specifications of API 6H ''*Specification on End Closures, Connectors, and Swivels.*'' Ranging in size from two-inches to 48-inches, the LRCs are designed for pressure classes of 150, 300, 400, 600 and 900 in accordance with ASME/ANSI B16.5 *Pipe Flanges and Flanged Fittings.* These LRCs were manufactured for use on hazardous liquid and natural gas pipelines.

TDW investigated an installed LRC, which indicated leakage, and determined that the manufactured seal was defective and could potentially be dangerous to public safety. Subsequently due to this investigation, TDW conducted a study through an independent laboratory to identify the failure mechanism, determine repair options, and evaluate the fitness of all existing LRCs. TDW concluded that a recall was necessary and urges all of its customers to stop using its existing TDW LRCs and contact TDW immediately.

TDW has assigned personnel to follow-up and communicate directly with customers on the recall process and progress. TDW has established a Web site which offers three replacement options to customers to register for repair, obtain credit, or request a refund for the LRC. TDW has designated customer service personnel for each region on a global basis to assist with the recall process.

II. Advisory Bulletin (ADB–2013–04)

To: Owners and Operators of Hazardous Liquid and Natural Gas Pipeline Systems.

Subject: Notice to Operators of Natural Gas and Hazardous Liquid Pipelines of a Recall on Leak Repair Clamps Due to Defective Seal.

Advisory: PHMSA is informing all pipeline operators that TDW has deemed its LRCs defective due to the seal contained in every clamp not maintaining adequate pressure causing the clamp to fail. TDW has determined that failure of this clamp may cause a leak that could cause a fire or explosion resulting in injury or death. TDW asks all of its customers to stop using the LRC immediately and return it to TDW and follow up with TDW's recall procedures for the LRC.

PHMSA advises hazardous liquid and natural gas pipeline operators to take the following measures:

- Verify records to determine if a TDW LRC is installed.
- Stop using the TDW LRC immediately.
- Contact TDW and follow up with its recall process.
- TDW Web site: *http://lrc.tdwilliamson.com/*.
- TDW phone number: 888–770–7085.

Authority: 49 U.S.C. chapter 601; 49 CFR 1.53.

Issued in Washington, DC, on August 22, 2013.

Alan K. Mayberry,

Deputy Associate Administrator for Policy and Programs.

[FR Doc. 2013–20910 Filed 8–27–13; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Additional Designations, Foreign Narcotics Kingpin Designation Act

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (''OFAC'') is publishing the names of five individuals whose property and interests in property have been blocked pursuant to the Foreign Narcotics Kingpin Designation Act (''Kingpin Act'') (21 U.S.C. 1901–1908, 8 U.S.C. 1182). Additionally, OFAC is publishing additions to the identifying information for seven entities previously designated pursuant to the Kingpin Act.

DATES: The designation by the Director of OFAC of the five individuals identified in this notice pursuant to section 805(b) of the Kingpin Act is effective on August 22, 2013.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Sanctions Compliance & Evaluation, Office of Foreign Assets Control, U.S. Department of the Treasury, Washington, DC 20220, Tel: (202) 622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available on OFAC's Web site at *http://www.treasury.gov/ofac* or via facsimile through a 24-hour fax-on-demand service at (202) 622–0077.

Background

The Kingpin Act became law on December 3, 1999. The Kingpin Act establishes a program targeting the activities of significant foreign narcotics traffickers and their organizations on a worldwide basis. It provides a statutory framework for the imposition of sanctions against significant foreign narcotics traffickers and their organizations on a worldwide basis, with the objective of denying their businesses and agents access to the U.S. financial system and the benefits of trade and transactions involving U.S. companies and individuals.

The Kingpin Act blocks all property and interests in property, subject to U.S. jurisdiction, owned or controlled by significant foreign narcotics traffickers as identified by the President. In addition, the Secretary of the Treasury, in consultation with the Attorney General, the Director of the Central Intelligence Agency, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, the Secretary of Defense, the Secretary of State, and the Secretary of Homeland Security may designate and block the property and interests in property, subject to U.S. jurisdiction, of persons who are found

to be: (1) Materially assisting in, or providing financial or technological support for or to, or providing goods or services in support of, the international narcotics trafficking activities of a person designated pursuant to the Kingpin Act; (2) owned, controlled, or directed by, or acting for or on behalf of, a person designated pursuant to the Kingpin Act; or (3) playing a significant role in international narcotics trafficking.

On August 22, 2013, the Director of OFAC designated the following five individuals whose property and interests in property are blocked pursuant to section 805(b) of the Kingpin Act.

1. PARRA SANCHEZ, Mario; DOB 11 Nov 1970; POB Culiacan, Sinaloa, Mexico; C.U.R.P. PASM701111HSLRNR07 (Mexico) (individual) [SDNTK] (Linked To: BUENOS AIRES SERVICIOS, S.A. DE C.V.; Linked To: ESTACIONES DE SERVICIOS CANARIAS, S.A. DE C.V.; Linked To: GASODIESEL Y SERVICIOS ANCONA, S.A. DE C.V.; Linked To: GASOLINERA ALAMOS COUNTRY, S.A. DE C.V.; Linked To: GASOLINERA Y SERVICIOS VILLABONITA, S.A. DE C.V.; Linked To: PETROBARRANCOS, S.A. DE C.V.; Linked To: SERVICIOS CHULAVISTA, S.A. DE C.V.).
2. SOLIS AVILES, Angello de Jesus, Calle Camino Los Lagos No. 4070–A, Fraccionamiento Centenario, Culiacan, Sinaloa, Mexico; DOB 23 Oct 1985; POB Escuinapa, Sinaloa, Mexico; alt. POB Culiacan, Sinaloa, Mexico; C.U.R.P. SOAA851023HSLLVN00 (Mexico) (individual) [SDNTK] (Linked To: BUENOS AIRES SERVICIOS, S.A. DE C.V.; Linked To: ESTACIONES DE SERVICIOS CANARIAS, S.A. DE C.V.; Linked To: GASODIESEL Y SERVICIOS ANCONA, S.A. DE C.V.; Linked To: GASOLINERA ALAMOS COUNTRY, S.A. DE C.V.; Linked To: GASOLINERA Y SERVICIOS VILLABONITA, S.A. DE C.V.; Linked To: PETROBARRANCOS, S.A. DE C.V.; Linked To: SERVICIOS CHULAVISTA, S.A. DE C.V.).
3. VALDEZ RODRIGUEZ, Manuel Arturo; DOB 15 Dec 1985; POB Culiacan, Sinaloa, Mexico; C.U.R.P. VARM851215HSLLDN09 (Mexico) (individual) [SDNTK] (Linked To: BUENOS AIRES SERVICIOS, S.A. DE C.V.; Linked To: ESTACIONES DE SERVICIOS CANARIAS, S.A. DE C.V.; Linked To: GASODIESEL Y SERVICIOS ANCONA, S.A. DE C.V.; Linked To: GASOLINERA ALAMOS COUNTRY, S.A. DE C.V.; Linked To: GASOLINERA Y SERVICIOS VILLABONITA, S.A. DE C.V.; Linked To: PETROBARRANCOS, S.A. DE C.V.; Linked To: SERVICIOS CHULAVISTA, S.A. DE C.V.).
4. VALENZUELA VALENZUELA, Vanessa (a.k.a. DE CORTEZ, Vanessa); DOB 16 Nov 1985; POB Culiacan, Sinaloa, Mexico; C.U.R.P. VAVV851116MSLLLN05 (Mexico) (individual) [SDNTK] (Linked To: BUENOS AIRES SERVICIOS, S.A. DE C.V.; Linked To: ESTACIONES DE SERVICIOS CANARIAS, S.A. DE C.V.; Linked To: GASODIESEL Y SERVICIOS ANCONA, S.A. DE C.V.; Linked To: GASOLINERA ALAMOS COUNTRY, S.A. DE C.V.; Linked To: GASOLINERA Y SERVICIOS VILLABONITA, S.A. DE C.V.; Linked To: PETROBARRANCOS, S.A. DE C.V.).
5. VILLEGAS LOERA, Juan Carlos, Calle Golfo de California No. 1635, Colonia Nuevo Culiacan, Culiacan, Sinaloa, Mexico; DOB 11 Apr 1958; POB Culiacan, Sinaloa, Mexico; C.U.R.P. VILJ580411HSLLRN09 (Mexico) (individual) [SDNTK] (Linked To: BUENOS AIRES SERVICIOS, S.A. DE C.V.; Linked To: ESTACIONES DE SERVICIOS CANARIAS, S.A. DE C.V.; Linked To: GASODIESEL Y SERVICIOS ANCONA, S.A. DE C.V.; Linked To: GASOLINERA ALAMOS COUNTRY, S.A. DE C.V.; Linked To: GASOLINERA Y SERVICIOS VILLABONITA, S.A. DE C.V.; Linked To: PETROBARRANCOS, S.A. DE C.V.; Linked To: SERVICIOS CHULAVISTA, S.A. DE C.V.).

Additionally, OFAC is publishing additions to the identifying information for the following seven entities previously designated pursuant to the Kingpin Act.

1. BUENOS AIRES SERVICIOS, S.A. DE C.V., Blvd. Guillermo Batiz Paredes No. 1100, Col. Buenos Aires, Culiacan, Sinaloa C.P. 80199, Mexico; R.F.C. BAS–960417–PY6 (Mexico) [SDNTK].
2. ESTACIONES DE SERVICIOS CANARIAS, S.A. DE C.V., Blvd. Enrique Felix Castro No. 1029, Col. Desarrollo Urbano Tres Rios, Culiacan, Sinaloa C.P. 80020, Mexico; R.F.C. ESC–100224–2J9 (Mexico) [SDNTK].
3. GASODIESEL Y SERVICIOS ANCONA, S.A. DE C.V., Manuel J. Clouthier No. 1800, Col. Libertad, Culiacan, Sinaloa C.P.80180, Mexico; R.F.C. GSA–100223–M92 (Mexico) [SDNTK].
4. GASOLINERA ALAMOS COUNTRY, S.A. DE C.V., Blvd. Pedro Infante No. 3050, Col. Recursos Hidraulicos, Culiacan, Sinaloa C.P. 80100, Mexico; R.F.C. GAC–100224–GDA (Mexico) [SDNTK].
5. GASOLINERA Y SERVICIOS VILLABONITA, S.A. DE C.V., Av. Alvaro Obregon No. 6040, Col. Villa Bonita, Culiacan, Sinaloa C.P. 80000, Mexico; R.F.C. GSV–100224–773 (Mexico) [SDNTK].
6. PETROBARRANCOS, S.A. DE C.V., Av. Benjamin Hill No. 5602, Col. Industrial el Palmito, Culiacan, Sinaloa C.P. 80160, Mexico; R.F.C. PET–990309–G64 (Mexico) [SDNTK].
7. SERVICIOS CHULAVISTA, S.A. DE C.V., Blvd. Las Torres No. 2622 Pte., Fracc. Prados del Sol, Culiacan, Sinaloa C.P. 80197, Mexico; Calzada Las Torres S/N, Col. Prados del Sol Etapa 1, Culiacan, Sinaloa, Mexico; R.F.C. SCU–070904–T25 (Mexico) [SDNTK].

The listings for these seven entities now appear as follows:

1. BUENOS AIRES SERVICIOS, S.A. DE C.V. (n.k.a. GASOLINERA MULTILOMAS, S.A. DE C.V.), Blvd. Guillermo Batiz Paredes No. 1100, Col. Buenos Aires, Culiacan, Sinaloa C.P. 80199, Mexico; R.F.C. BAS–960417–PY6 (Mexico) [SDNTK].
2. ESTACIONES DE SERVICIOS CANARIAS, S.A. DE C.V. (n.k.a. COMBUSERVICIOS LOS TRES RIOS, S.A. DE C.V.), Blvd. Enrique Felix Castro No. 1029, Col. Desarrollo Urbano Tres Rios, Culiacan, Sinaloa C.P. 80020, Mexico; R.F.C. ESC–100224–2J9 (Mexico) [SDNTK].
3. GASODIESEL Y SERVICIOS ANCONA, S.A. DE C.V. (n.k.a. GASOLINERA LA CANADA, S.A. DE C.V.), Manuel J. Clouthier No. 1800, Col. Libertad, Culiacan, Sinaloa C.P.80180, Mexico; R.F.C. GSA–100223–M92 (Mexico) [SDNTK].
4. GASOLINERA ALAMOS COUNTRY, S.A. DE C.V. (n.k.a. GASOLINERA RECURSOS HIDRAULICOS, S.A. DE C.V.), Blvd. Pedro Infante No. 3050, Col. Recursos Hidraulicos, Culiacan, Sinaloa C.P. 80100, Mexico; R.F.C. GAC–100224–GDA (Mexico) [SDNTK].
5. GASOLINERA Y SERVICIOS VILLABONITA, S.A. DE C.V. (n.k.a. GASOLINERAS LA VILLA, S.A. DE C.V.), Av. Alvaro Obregon No. 6040, Col. Villa Bonita, Culiacan, Sinaloa

C.P. 80000, Mexico; R.F.C. GSV–100224–773 (Mexico) [SDNTK].

6. PETROBARRANCOS, S.A. DE C.V. (n.k.a. SERVICIOS Y GASOLINERAS BARRANCOS, S.A. DE C.V.), Av. Benjamin Hill No. 5602, Col. Industrial el Palmito, Culiacan, Sinaloa C.P. 80160, Mexico; R.F.C. PET–990309–G64 (Mexico) [SDNTK].
7. SERVICIOS CHULAVISTA, S.A. DE C.V. (n.k.a. GASOLINERA EL CRUCERO LAS TORRES, S.A. DE C.V.), Blvd. Las Torres No. 2622 Pte., Fracc. Prados del Sol, Culiacan, Sinaloa C.P. 80197, Mexico; Calzada Las Torres S/N, Col. Prados del Sol Etapa 1, Culiacan, Sinaloa, Mexico; R.F.C. SCU–070904–T25 (Mexico) [SDNTK].

Dated: August 22, 2013.

Barbara C. Hammerle,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2013–20983 Filed 8–27–13; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Designation of 4 Individuals Pursuant to Executive Order 13224 of September 23, 2001, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism''

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (''OFAC'') is publishing the names of 4 individuals whose property and interests in property are blocked pursuant to Executive Order 13224 of September 23, 2001, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism.''

DATES: The designations by the Director of OFAC of the 4 individuals in this notice, pursuant to Executive Order 13224, are effective on August 22, 2013.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, tel.: 202/622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*www.treas.gov/ofac*) or via facsimile through a 24-hour fax-on-demand service, tel.: 202/622–0077.

Background

On September 23, 2001, the President issued Executive Order 13224 (the ''Order'') pursuant to the International Emergency Economic Powers Act, 50 U.S.C. 1701–1706, and the United Nations Participation Act of 1945, 22 U.S.C. 287c. In the Order, the President declared a national emergency to address grave acts of terrorism and threats of terrorism committed by foreign terrorists, including the September 11, 2001 terrorist attacks in New York, Pennsylvania, and at the Pentagon. The Order imposes economic sanctions on persons who have committed, pose a significant risk of committing, or support acts of terrorism. The President identified in the Annex to the Order, as amended by Executive Order 13268 of July 2, 2002, 13 individuals and 16 entities as subject to the economic sanctions. The Order was further amended by Executive Order 13284 of January 23, 2003, to reflect the creation of the Department of Homeland Security.

Section 1 of the Order blocks, with certain exceptions, all property and interests in property that are in or hereafter come within the United States or the possession or control of United States persons, of: (1) Foreign persons listed in the Annex to the Order; (2) foreign persons determined by the Secretary of State, in consultation with the Secretary of the Treasury, the Secretary of the Department of Homeland Security and the Attorney General, to have committed, or to pose a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States; (3) persons determined by the Director of OFAC, in consultation with the Departments of State, Homeland Security and Justice, to be owned or controlled by, or to act for or on behalf of those persons listed in the Annex to the Order or those persons determined to be subject to subsection 1(b), 1(c), or 1(d)(i) of the Order; and (4) except as provided in section 5 of the Order and after such consultation, if any, with foreign authorities as the Secretary of State, in consultation with the Secretary of the Treasury, the Secretary of the Department of Homeland Security and the Attorney General, deems appropriate in the exercise of his discretion, persons determined by the Director of OFAC, in consultation with the Departments of State, Homeland Security and Justice, to assist in, sponsor, or provide financial, material, or technological support for, or financial or other services to or in support of, such acts of terrorism or those persons listed in the Annex to the Order or determined to be subject to the Order or to be otherwise associated with those persons listed in the Annex to the Order or those persons determined to be subject to subsection 1(b), 1(c), or 1(d)(i) of the Order.

On August 22, 2013 the Director of OFAC, in consultation with the Departments of State, Homeland Security, Justice and other relevant agencies, designated, pursuant to one or more of the criteria set forth in subsections 1(b), 1(c) or 1(d) of the Order, 4 individuals whose property and interests in property are blocked pursuant to Executive Order 13224.

The listings for these individuals on OFAC's list of Specially Designated Nationals and Blocked Persons appear as follows:

Individuals

1. HARB, Khalil Yusif (a.k.a. AHMAD, Sayyid; a.k.a. HARB, Hajj Ya'taqad Khalil; a.k.a. HARB, Khalil Yusuf; a.k.a. HARB, Mustafa Khalil; a.k.a. MUSTAFA, Abu); DOB 09 Oct 1958 (individual) [SDGT].
2. MANSUR, Muhammad Yusuf Ahmad (a.k.a. HALAWI, Hani; a.k.a. MANSOUR, Mohammad Yousef; a.k.a. MANSOUR, Mohammad Youssef; a.k.a. MANSUR, Mohammad Yusuf Ahmad; a.k.a. MANSUR, Muhammad Yusif Ahmad; a.k.a. SHEHAB, Sami; a.k.a. SHIHAB, Sami Hani; a.k.a. ''HILLAWI, Jamal Hani''; a.k.a. ''SAMI, Salem Bassem''; a.k.a. ''SHIHAB, Muhammad Yusuf Mansur Sami''), Beirut, Lebanon; DOB 14 Sep 1970; alt. DOB 01 Jan 1974; alt. DOB 1980; POB Bint Jubayl, Lebanon (individual) [SDGT].
3. QABALAN, Muhammad (a.k.a. QABLAN, Muhammad; a.k.a. ''AL–GHUL, Hassan''), Southern Suburbs, Beirut, Lebanon; DOB 1969; citizen Lebanon (individual) [SDGT].
4. KAWTHARANI, Muhammad (a.k.a. AL–KAWTHARANI, Jafar; a.k.a. AL–KAWTHARANI, Muhammad; a.k.a. KAWTARANI, Muhammad; a.k.a. KAWTHARANI, Mohammad); DOB 1945; alt. DOB 1959; alt. DOB 1961; POB Najaf, Iraq; nationality Lebanon; alt. nationality Iraq (individual) [SDGT].

Dated: August 22, 2013.

Barbara C. Hammerle,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2013–20982 Filed 8–27–13; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Advisory Group to the Internal Revenue Service Tax Exempt and Government Entities Division (TE/GE); Meeting

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: The Advisory Committee on Tax Exempt and Government Entities (ACT) will hold a public meeting on Thursday, September 12, 2013.

FOR FURTHER INFORMATION, CONTACT: Mark Kirbabas, Acting Designated Federal Officer, TE/GE Communications and Liaison; 1111 Constitution Ave. NW.; SE:T:CL—NCA 679; Washington, DC 20224. Telephone: 202–283–9742 (not a toll-free number). Email address: *Mark.J.Kirbabas@irs.gov.*

SUPPLEMENTARY INFORMATION: By notice herein given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988), a public meeting of the ACT will be held on Thursday, September 12, 2013, from 9:30 a.m. to 11:30 a.m., at the Internal Revenue Service; 1111 Constitution Ave. NW.; Room 3313; Washington, DC. Issues to be discussed relate to Employee Plans, Exempt Organizations, and Government Entities.

Reports from five ACT subgroups cover the following topics:

Employee Plans

- Analysis and Recommendations Regarding the Employee Plans Compliance Resolution System (EPCRS)

Exempt Organizations

- Leveraging Limited IRS Resources in the Tax Administration of Small Tax-Exempt Organizations

Federal, State and Local Governments

- Leveraging Internal Controls of State and Local Governments to Improve Tax Compliance
- Government Levy Processing Improvements

Indian Tribal Governments

- Supplemental Report on the General Welfare Doctrine as Applied to Indian Tribal Governments and Their Members

Tax Exempt Bonds

- A Roadmap To Arbitrage Requirements For Tax-Exempt Governmental Bonds and Qualified Section 501(c)(3) Bonds of Smaller Issuers and Conduit Borrowers

Last minute agenda changes may preclude advance notice. Due to limited seating and security requirements, attendees must call Cynthia Phillips-Grady to confirm their attendance. Ms. Phillips-Grady can be reached at (202) 283–9954.

Attendees are encouraged to arrive at least 30 minutes before the meeting begins to allow sufficient time for security clearance. Photo identification must be presented. Please use the main entrance at 1111 Constitution Ave. NW., to enter the building. Should you wish the ACT to consider a written statement, please call (202) 283–9742, or write to: Internal Revenue Service; 1111 Constitution Ave. NW.; SE:T:CL—NCA–679; Washington, DC 20224, or email *Mark.J.Kirbabas@irs.gov.*

Dated: August 22, 2013.

Mark J. Kirbabas,

Acting Designated Federal Officer, Tax Exempt and Government Entities Division.

[FR Doc. 2013–20951 Filed 8–27–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0043]

Agency Information Collection (Declaration of Status of Dependents) Activity Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before September 27, 2013.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov,* or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0043'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Crystal Rennie, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–7492 or email *crystal.rennie@va.gov.* Please refer to ''OMB Control No. 2900–0043''.

SUPPLEMENTARY INFORMATION:

Title: Declaration of Status of Dependents, VA Form 21–686c.

OMB Control Number: 2900–0043.

Type of Review: Revision of a currently approved collection.

Abstract: The form is used to obtain information to confirm marital status and existence of any dependent child(ren). The information is used by VA to determine eligibility and rate of payment for veterans and surviving spouses who may be entitled to an additional allowance for dependents.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on February 13, 2013, at page 10266.

Affected Public: Individuals or households.

Estimated Annual Burden: 56,500 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 226,000.

Dated: August 23, 2013.

By direction of the Secretary.

Crystal Rennie,

VA Clearance Officer, U.S. Department of Veterans Affairs.

[FR Doc. 2013–21007 Filed 8–27–13; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0559]

Agency Information Collection Activities Under OMB Review

AGENCY: National Cemetery Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–21), this notice announces that the National Cemetery Administration (NCA), Department of Veterans Affairs, has submitted the collection of information abstracted

below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before September 27, 2013.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov,* or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0559'' in any correspondence.

For Further Information or a Copy of the Submission Contact: Crystal Rennie, Records Management Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–7492 or email: *crystal.rennie@va.gov.* Please refer to ''OMB Control No. 2900–0559''.

SUPPLEMENTARY INFORMATION:

Title: State Cemetery Data, VA Form 40–0241.

OMB Control Number: 2900–0559.

Type of Review: Revision of a currently approved collection.

Abstract: VA Form 40–0241 is used to provide data regarding number of interments conducted at State veterans' cemeteries each year. The State Cemetery Grants Services use the data collected to project the need for additional burial space and to demonstrate to the States (especially those without State veterans' cemeteries) the viability of the program.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on June 5, 2013, at page 33894.

Affected Public: Federal Government, and State, Local or Tribal Government.

Estimated Annual Burden: 12,959.

Estimated Average Burden per Respondent: 60 minutes.

Frequency of Response: Annually.

Estimated Number of Respondents: 361.

Dated: August 23, 2013.

By direction of the Secretary.

Crystal Rennie,

VA Clearance Officer, U.S. Department of Veterans Affairs.

[FR Doc. 2013–20988 Filed 8–27–13; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0764]

Proposed Information Collection (Dental Patient Satisfaction Survey) Activity: Comment Request

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Health Administration (VHA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each revised collection, and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to measure patient satisfaction with VA's dental services.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before October 28, 2013.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov*; or to Cynthia Harvey-Pryor, Veterans Health Administration (10B4), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420; or email: *cynthia.harvey-pryor@va.gov.* Please refer to ''OMB Control No. 2900–0764 (Dental Patient Satisfaction Survey)'' in any correspondence. During the comment period, comments may be viewed online through the FDMS.

FOR FURTHER INFORMATION CONTACT: Cynthia Harvey-Pryor at (202) 461–5870 or fax (202) 495–5397.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Titles: Survey of Healthcare Experiences, Dental Patient Satisfaction Survey, VA Form 10–10070.

OMB Control Number: 2900–0764.

Type of Review: Revision of a currently approved collection.

Abstract: VA Form 10–10070 will be used to systematically obtain information from patients that can be used to identify problems or complaints that need attention and to improve the quality of dental health care services delivered to Veterans. The goal of the Veterans Health Administration (VHA) is to provide high quality medical and dental care to eligible Veterans.

Affected Public: Individuals or households.

Estimated Annual Burden: 36,585 burden hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 9,146.

Dated: August 23, 2013.

By direction of the Secretary.

Crystal Rennie,

VA Clearance Officer, U.S. Department of Veterans Affairs.

[FR Doc. 2013–20990 Filed 8–27–13; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0249]

Agency Information Collection (Loan Service Report) Activity Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before September 27, 2013.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov,* or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0249'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Crystal Rennie, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–7492 or email *crystal.rennie@va.gov.* Please refer to ''OMB Control No. 2900–0249'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Loan Service Report, VA Form 26–6808.

OMB Control Number: 2900–0249.

Type of Review: Revision of a currently approved collection.

Abstract: VA personnel complete VA Form 26–6806 during personal contact with delinquent obligors. VA will use the information collected to determine whether a loan default is insoluble or whether the obligor has reasonable prospects for curing the default and maintaining the mortgage obligation in the future. The information will also be used to intercede with the holder of the loan to accept a specially arrange repayment plan or other forbearance aimed at assisting the obligor in retaining his or her home.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on May 20, 2013, at page 29437–29438.

Affected Public: Individuals or households.

Estimated Annual Burden: 2,083 hours.

Estimated Average Burden per Respondent: 25 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 5,000.

Dated: August 23, 2013.

By direction of the Secretary.

Crystal Rennie,

VA Clearance Officer, U.S. Department of Veterans Affairs.

[FR Doc. 2013–21000 Filed 8–27–13; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0046]

Agency Information Collection (Statement of Heirs for Payment of Credits Due Estate of Deceased Veteran) Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and includes the actual data collection instrument.

DATES: Comments must be submitted on or before September 27, 2013.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov,* or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0046'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Crystal Rennie, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–7492 or email *crystal.rennie@va.gov.* Please refer to ''OMB Control No. 2900–0046.''

SUPPLEMENTARY INFORMATION:

Title: Statement of Heirs for Payment of Credits Due Estate of Deceased Veteran, VA Form Letter 29–596.

OMB Control Number: 2900–0046.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 29–596 is used by an administrator, executor, or next of kin to support a claim for money in the form of unearned or unapplied insurance premiums due to a deceased Veteran's estate.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on May 20, 2013, at page 29434.

Affected Public: Individuals or households.

Estimated Annual Burden: 78 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 312.

Dated: August 22, 2013.

By direction of the Secretary.

Crystal Rennie,

VA Clearance Officer, U.S. Department of Veterans Affairs.

[FR Doc. 2013–20902 Filed 8–27–13; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–NEW]

Agency Information Collection (Principles of Excellence Complaint System Intake); Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. VA published an emergency notice the Principles of Excellence Complaint System Intake on April 30, 2013, that has been withdrawn. Due to a change in the direction of the collection VA, is asking for public comments on the revised collection. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection

techniques or other forms of information technology to minimize the information collection burden.

To obtain copies of the supporting statement and the related form for this information collection, contact the **FURTHER INFORMATION CONTACT** listed in this notice.

DATES: Written comments and recommendation on the proposed collection of information should be received on or before October 15, 2013.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov;* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900—NEW (Principles of Excellence Complaint System Intake)'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 632–8924 or fax (202) 632–8925.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

SUPPLEMENTARY INFORMATION:

Title: Principles of Excellence Complaint System Intake.

OMB Control Number: 2900—NEW (Principles of Excellence Complaint System Intake).

Type of Review: New collection.

Abstract: The purpose of the complaint system is to provide a standardized method to submit a complaint against an educational institution alleging fraudulent and unduly aggressive recruiting techniques, misrepresentation, payment of incentive compensation, failure to meet state authorization requirements, or failure to adhere to the Principles of Excellence as outlined in the Executive Order 13607, Establishing Principles of Excellence for Educational Institutions Serving Service Members, Veterans, Spouses, and Other Family Members.

The VA's Principles of Excellence Complaint System (PoECS) will leverage DoD's complaint system to intake and manage complaints utilizing their systems architecture with each agency only having access to their data. The complainants will access the complaint system through the GI Bill Web site and eBenefits portal. Veterans, family members, or other members of the public will be able to open links at either VA Web site location and enter the requested information. Complainants will be offered the opportunity to review the information in their complaint prior to clicking on the submit button. Once a complaint is submitted, the complainant will receive an email verifying that the complaint was received. At this point, the complaint will be stored in the complaint system and be available to select VA employees for review. VA will review the complaint and on behalf of the complainant will share the complaint with the institution which is subject of the complaint. VA will request the institution to formally respond to the complaint within 90 days. If an institution fails to respond within 90 days, VA will contact the institution and request a status update. Once VA receives a response from the institution, VA will forward the response to the complainant. At this point, VA will close the case. Valid complaints received will be transmitted to the central repository at FTC Consumer Sentinel. The information in the central repository is the same information provided by the complainant. Authorized law enforcement officials who have been granted access to the FTC Consumer Sentinel database will have access to view all complaints. The information gathered through the system can only be obtained from the individual respondent. Valid complaints will be accepted from third parties.

We are conducting a 45-day public comment review period pursuant to 5 CFR 1320.13. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Affected Public: Individuals or households.

Estimated Annual Burden: 300 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 1,200.

Dated: August 23, 2013.

By direction of the Secretary.

Crystal Rennie,

VA Clearance Officer, U.S. Department of Veterans Affairs.

[FR Doc. 2013–20957 Filed 8–27–13; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0365]

Agency Information Collection (Request for Disinterment) Activities Under OMB Review

AGENCY: National Cemetery Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the National Cemetery Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before September 27, 2013.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov,* or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0365'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Crystal Rennie, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–7492 or email *crystal.rennie@va.gov.* Please refer to ''OMB Control No. 2900–0365.''

SUPPLEMENTARY INFORMATION:

Title: Request for Disinterment, VA Form 40–4970.

OMB Control Number: 2900–0365.

Type of Review: Extension of a currently approved collection.

Abstract: Claimants complete VA Form 40–4970 to request removal of remains from a national cemetery for interment at another location. Interments made in national cemeteries are permanent and final. All immediate family members of the decedent, including the person who initiated the interment, (whether or not he/she is a member of the immediate family) must provide a written consent before disinterment is granted. VA will accept an order from a court of local jurisdiction in lieu of VA Form 40–4970.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on May 20, 2013, at page 29438.

Affected Public: Individuals or households.

Estimated Annual Burden: 55.

Estimated Average Burden per Respondent: 10 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 329.

Dated: August 22, 2013.

By direction of the Secretary.

Crystal Rennie,

VA Clearance Officer, U.S. Department of Veterans Affairs.

[FR Doc. 2013–20903 Filed 8–27–13; 8:45 am]

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Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Early Seasons and Bag and Possession Limits for Certain Migratory Game Birds in the Contiguous United States, Alaska, Hawaii, Puerto Rico, and the Virgin Islands; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

[Docket No. FWS–HQ–MB–2013–0057; FF09M21200–134–FXMB1231099BPP0]

RIN 1018–AY87

Migratory Bird Hunting; Early Seasons and Bag and Possession Limits for Certain Migratory Game Birds in the Contiguous United States, Alaska, Hawaii, Puerto Rico, and the Virgin Islands

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes the hunting seasons, hours, areas, and daily bag and possession limits of mourning, white-winged, and white-tipped doves; band-tailed pigeons; rails; moorhens and gallinules; woodcock; common snipe; sandhill cranes; sea ducks; early (September) waterfowl seasons; migratory game birds in Alaska, Hawaii, Puerto Rico, and the Virgin Islands; youth waterfowl day; and some extended falconry seasons. Taking of migratory birds is prohibited unless specifically provided for by annual regulations. This rule permits taking of designated species during the 2013–14 season.

DATES: This rule is effective on September 1, 2013.

ADDRESSES: You may inspect comments received on the migratory bird hunting regulations during normal business hours at the Service's office in Room 4107, Arlington Square Building, 4501 N Fairfax Drive, Arlington, VA. You may obtain copies of referenced reports from the street address above, or from the Division of Migratory Bird Management's Web site at *http://www.fws.gov/migratorybirds/,* or at *http://www.regulations.gov* at Docket No. FWS–HQ–MB–2013–0057.

FOR FURTHER INFORMATION CONTACT: Ron W. Kokel, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, (703) 358–1714.

SUPPLEMENTARY INFORMATION:

Regulations Schedule for 2013

On April 9, 2013, we published in the **Federal Register** (78 FR 21200) a proposal to amend 50 CFR part 20. The proposal provided a background and overview of the migratory bird hunting regulations process, and addressed the establishment of seasons, limits, and other regulations for hunting migratory game birds under §§ 20.101 through 20.107, 20.109, and 20.110 of subpart K. Major steps in the 2013–14 regulatory cycle relating to open public meetings and **Federal Register** notifications were also identified in the April 9 proposed rule. Further, we explained that all sections of subsequent documents outlining hunting frameworks and guidelines were organized under numbered headings. Subsequent documents will refer only to numbered items requiring attention. Therefore, it is important to note that we omit those items requiring no attention, and remaining numbered items might be discontinuous or appear incomplete.

On June 14, 2013, we published in the **Federal Register** (78 FR 35844) a second document providing supplemental proposals for early- and late-season migratory bird hunting regulations. The June 14 supplement also provided detailed information on the 2013–14 regulatory schedule and announced the Service Regulations Committee (SRC) and Flyway Council meetings.

On June 19 and 20, 2013, we held open meetings with the Flyway Council Consultants where the participants reviewed information on the current status of migratory shore and upland game birds and developed recommendations for the 2013–14 regulations for these species plus regulations for migratory game birds in Alaska, Puerto Rico, and the Virgin Islands; special September waterfowl seasons in designated States; special sea duck seasons in the Atlantic Flyway; and extended falconry seasons. In addition, we reviewed and discussed preliminary information on the status of waterfowl as it relates to the development and selection of the regulatory packages for the 2013–14 regular waterfowl seasons.

On July 26, 2013, we published in the **Federal Register** (78 FR 45376) a third document specifically dealing with the proposed frameworks for early-season regulations. In late August 2013, we published in the **Federal Register** a final rule which contained final frameworks for early migratory bird hunting seasons from which wildlife conservation agency officials from the States, Puerto Rico, and the Virgin Islands selected early-season hunting dates, hours, areas, and limits.

On July 31–August 1, 2013, we held open meetings with the Flyway Council Consultants at which the participants reviewed the status of waterfowl and developed recommendations for the 2013–14 regulations for these species. Proposed hunting regulations were discussed for late seasons. We published the proposed frameworks for late-season regulations (primarily hunting seasons that start after October 1 and most waterfowl seasons not already established) in an August 22, 2013, **Federal Register** (78 FR 52338).

The final rule described here is the sixth in the series of proposed, supplemental, and final rulemaking documents for migratory game bird hunting regulations and deals specifically with amending subpart K of 50 CFR part 20. It sets hunting seasons, hours, areas, and limits for mourning, white-winged, and white-tipped doves; band-tailed pigeons; rails; moorhens and gallinules; woodcock; common snipe; sandhill cranes; sea ducks; early (September) waterfowl seasons; migratory game birds in Alaska, Hawaii, Puerto Rico, and the Virgin Islands; youth waterfowl hunting day; and some extended falconry seasons.

National Environmental Policy Act (NEPA)

The programmatic document, ''Second Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (EIS 20130139),'' filed with the Environmental Protection Agency (EPA) on May 24, 2013, addresses NEPA compliance by the Service for issuance of the annual framework regulations for hunting of migratory game bird species. We published a notice of availability in the **Federal Register** on May 31, 2013 (78 FR 32686), and our Record of Decision on July 26, 2013 (78 FR 45376). We also address NEPA compliance for waterfowl hunting frameworks through the annual preparation of separate environmental assessments, the most recent being ''Duck Hunting Regulations for 2013–14,'' with its corresponding August 19, 2013, finding of no significant impact. In addition, an August 1985 environmental assessment entitled ''Guidelines for Migratory Bird Hunting Regulations on Federal Indian Reservations and Ceded Lands'' is available from the address indicated under the caption **FOR FURTHER INFORMATION CONTACT**.

Endangered Species Act Consideration

Section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), provides that, ''The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act'' (and) shall ''insure that any action authorized, funded, or carried out . . . is not likely to jeopardize the continued existence of any endangered species or threatened species or result in

the destruction or adverse modification of [critical] habitat. . . .'' Consequently, we conducted formal consultations to ensure that actions resulting from these regulations would not likely jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitat. Findings from these consultations are included in a biological opinion, which concluded that the regulations are not likely to jeopardize the continued existence of any endangered or threatened species. Additionally, these findings may have caused modification of some regulatory measures previously proposed, and the final frameworks reflect any such modifications. Our biological opinions resulting from this section 7 consultation are public documents available for public inspection at the address indicated under **ADDRESSES**.

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. OIRA has reviewed this rule and has determined that this rule is significant because it would have an annual effect of $100 million or more on the economy.

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

An economic analysis was prepared for the 2013–14 season. This analysis was based on data from the 2011 National Hunting and Fishing Survey, the most recent year for which data are available (see discussion in Regulatory Flexibility Act section below). This analysis estimated consumer surplus for three alternatives for duck hunting (estimates for other species are not quantified due to lack of data). The alternatives are (1) Issue restrictive regulations allowing fewer days than those issued during the 2012–13 season, (2) issue moderate regulations allowing more days than those in alternative 1, and (3) issue liberal regulations identical to the regulations in the 2012–13 season. For the 2013–14 season, we chose Alternative 3, with an estimated consumer surplus across all flyways of $317.8–$416.8 million. We also chose alternative 3 for the 2009–10, the 2010–11, the 2012–13, and the 2012–13 seasons. The 2013–14 analysis is part of the record for this rule and is available at *http://www.regulations.gov* at Docket No. FWS–HQ–MB–2013–0057.

Regulatory Flexibility Act

The annual migratory bird hunting regulations have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). We analyzed the economic impacts of the annual hunting regulations on small business entities in detail as part of the 1981 cost-benefit analysis. This analysis was revised annually from 1990–95. In 1995, the Service issued a Small Entity Flexibility Analysis (Analysis), which was subsequently updated in 1996, 1998, 2004, 2008, and 2013. The primary source of information about hunter expenditures for migratory game bird hunting is the National Hunting and Fishing Survey, which is conducted at 5-year intervals. The 2013 Analysis was based on the 2011 National Hunting and Fishing Survey and the U.S. Department of Commerce's County Business Patterns, from which it was estimated that migratory bird hunters would spend approximately $1.5 billion at small businesses in 2013. Copies of the Analysis are available upon request from the Division of Migratory Bird Management (see **FOR FURTHER INFORMATION CONTACT**) or from our Web site at *http://www.fws.gov/migratorybirds/NewReportsPublications/SpecialTopics/SpecialTopics.html#HuntingRegs* or at *http://www.regulations.gov* at Docket No. FWS–HQ–MB–2013–0057.

Small Business Regulatory Enforcement Fairness Act

This rule is a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. For the reasons outlined above, this rule will have an annual effect on the economy of $100 million or more. However, because this rule establishes hunting seasons, we are not deferring the effective date under the exemption contained in 5 U.S.C. 808(1).

Paperwork Reduction Act

This final rule does not contain any new information collection that requires approval under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number. OMB has reviewed and approved the information collection requirements associated with migratory bird surveys and assigned the following OMB control numbers:

- 1018–0010—Mourning Dove Call Count Survey (expires 4/30/2015).
- 1018–0019—North American Woodcock Singing Ground Survey (expire 4/30/2015).
- 1018–0023—Migratory Bird Surveys (expires 4/30/2014). Includes Migratory Bird Harvest Information Program, Migratory Bird Hunter Surveys, Sandhill Crane Survey, and Parts Collection Survey.

Unfunded Mandates Reform Act

We have determined and certify, in compliance with the requirements of the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.,* that this rulemaking will not impose a cost of $100 million or more in any given year on local or State government or private entities. Therefore, this rule is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Civil Justice Reform—Executive Order 12988

The Department, in promulgating this rule, has determined that this rule will not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of Executive Order 12988.

Takings Implication Assessment

In accordance with Executive Order 12630, this rule, authorized by the Migratory Bird Treaty Act (16 U.S.C. 703–711), does not have significant takings implications and does not affect any constitutionally protected property rights. This rule will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, this rule allows hunters to exercise otherwise unavailable privileges and, therefore, reduce restrictions on the use of private and public property.

Energy Effects—Executive Order 13211

Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. While this rule is a significant regulatory action under Executive Order

12866, it is not expected to adversely affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, and 512 DM 2, we have evaluated possible effects on Federally-recognized Indian tribes and have determined that there are no effects on Indian trust resources. However, in the April 9 **Federal Register**, we solicited proposals for special migratory bird hunting regulations for certain Tribes on Federal Indian reservations, off-reservation trust lands, and ceded lands for the 2013–14 migratory bird hunting season. The resulting proposals were contained in a separate August 2, 2013, proposed rule (78 FR 47136). By virtue of these actions, we have consulted with Tribes affected by this rule.

Federalism Effects

Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act. We annually prescribe frameworks from which the States make selections regarding the hunting of migratory birds, and we employ guidelines to establish special regulations on Federal Indian reservations and ceded lands. This process preserves the ability of the States and tribes to determine which seasons meet their individual needs. Any State or Indian tribe may be more restrictive than the Federal frameworks at any time. The frameworks are developed in a cooperative process with the States and the Flyway Councils. This process allows States to participate in the development of frameworks from which they will make selections, thereby having an influence on their own regulations. These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. Therefore, in accordance with Executive Order 13132, these regulations do not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Regulations Promulgation

The rulemaking process for migratory game bird hunting must, by its nature, operate under severe time constraints. However, we intend that the public be given the greatest possible opportunity to comment. Thus, when the preliminary proposed rulemaking was published, we established what we believed were the longest periods possible for public comment. In doing this, we recognized that, when the comment period closed, time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, States would have insufficient time to select season dates and limits; to communicate those selections to us; and to establish and publicize the necessary regulations and procedures to implement their decisions. We find that ''good cause'' exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and therefore, under authority of the Migratory Bird Treaty Act (July 3, 1918), as amended (16 U.S.C. 703–711), these regulations will take effect less than 30 days after publication. Accordingly, with each conservation agency having had an opportunity to participate in selecting the hunting seasons desired for its State or Territory on those species of migratory birds for which open seasons are now prescribed, and consideration having been given to all other relevant matters presented, certain sections of title 50, chapter I, subchapter B, part 20, subpart K, are hereby amended as set forth below.

List of Subjects in 50 CFR Part 20

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

Dated: August 12, 2013.

Rachel Jacobson,

Principal Assistant Deputy Secretary for Fish and Wildlife and Parks.

For the reasons set out in the preamble, title 50, chapter I, subchapter B, part 20, subpart K of the Code of Federal Regulations is amended as follows:

PART 20—[AMENDED]

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

Authority: Migratory Bird Treaty Act, 40 Stat. 755, 16 U.S.C. 703–712; Fish and Wildlife Act of 1956, 16 U.S.C. 742 a–j, Pub. L. 106–108, 113 Stat. 1491, Note Following 16 U.S.C. 703.

Note: The following annual hunting regulations provided for by §§ 20.101 through 20.106 and 20.109 of 50 CFR part 20 will not appear in the Code of Federal Regulations because of their seasonal nature.

■ 2. Section 20.101 is revised to read as follows:

§ 20.101 Seasons, limits, and shooting hours for Puerto Rico and the Virgin Islands.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits for the species designated in this section are prescribed as follows:

Shooting and hawking hours are one-half hour before sunrise until sunset.

CHECK COMMONWEALTH REGULATIONS FOR AREA DESCRIPTIONS AND ANY ADDITIONAL RESTRICTIONS.

(a) *Puerto Rico.*

	Season dates	Limits	
		Bag	Possession
Doves and Pigeons:			
Zenaida, white-winged, and mourning doves [1]	Sept. 7–Nov. 4	20	20
Scaly-naped pigeons	Sept. 7–Nov. 4	5	5
Ducks	Nov. 16–Dec. 23 &	6	12
	Jan. 11–Jan. 27	6	12
Common Moorhens	Nov. 16–Dec. 23 &	6	12
	Jan. 11–Jan. 27	6	12
Common Snipe	Nov. 16–Dec. 23 &	8	16
	Jan. 11–Jan. 27	8	16

[1] Not more than 10 Zenaida and 3 mourning doves in the aggregate.

Restrictions: In Puerto Rico, the season is closed on the ruddy duck, white-cheeked pintail, West Indian whistling duck, fulvous whistling duck, masked duck, purple gallinule, American coot, Caribbean coot, white-crowned pigeon, and plain pigeon.

Closed Areas: Closed areas are described in the July 26, 2013, **Federal Register** (78 FR 45376).

(b) *Virgin Islands.*

	Season dates	Limits	
		Bag	Possession
Zenaida doves	Sept. 1–Sept. 30	10	10
Ducks	CLOSED		

Restrictions: In the Virgin Islands, the seasons are closed for ground or quail doves, pigeons, ruddy duck, white-cheeked pintail, West Indian whistling duck, fulvous whistling duck, masked duck, and purple gallinule.

Closed Areas: Ruth Cay, just south of St. Croix, is closed to the hunting of migratory game birds. All Offshore Cays under jurisdiction of the Virgin Islands Government are closed to the hunting of migratory game birds.

■ 3. Section 20.102 is revised to read as follows:

§ 20.102 Seasons, limits, and shooting hours for Alaska.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits for the species designated in this section are prescribed as follows:

Shooting and hawking hours are one-half hour before sunrise until sunset. Area descriptions were published in the July 26, 2013, **Federal Register** (78 FR 45376).

CHECK STATE REGULATIONS FOR AREA DESCRIPTIONS AND ANY ADDITIONAL RESTRICTIONS.

Area seasons	Dates
North Zone	Sept. 1–Dec. 16.
Gulf Coast Zone	Sept. 1–Dec. 16.
Southeast Zone	Sept. 16–Dec. 31.
Pribilof & Aleutian Islands Zone.	Oct. 8–Jan. 22.
Kodiak Zone	Oct. 8–Jan. 22.

DAILY BAG AND POSSESSION LIMITS

Area	Ducks [1]	Dark geese [2 3 4]	Light geese [2]	Brant [2]	Common snipe	Sandhill cranes [5]
North Zone	10–30	4–12	4–12	2–6	8–24	3–9
Gulf Coast Zone	8–24	4–12	4–12	2–6	8–24	2–6
Southeast Zone	7–21	4–12	4–12	2–6	8–24	2–6
Pribilof and Aleutian Islands Zone	7–21	4–12	4–12	2–6	8–24	2–6
Kodiak Zone	7–21	4–12	4–12	2–6	8–24	2–6

[1] The basic duck bag limits may include no more than 1 canvasback daily, 3 in possession, and may not include sea ducks. In addition to the basic duck limits, sea duck limits of 10 daily, 20 in possession, singly or in the aggregate, including no more than 6 each of either harlequin or long-tailed ducks, are allowed. Special sea duck limits will be available to nonresidents, but at lower daily limits than residents, and they may take no more than a possession limit of 20 per season, including no more than 4 each of harlequin and long-tailed ducks, black, surf, and white-winged scoters, and king and common eiders. In Unit 15C, Kachemak Bay east of a line from Point Pogibshi to Anchor Point, the special sea duck daily bag limit for residents and nonresidents is 2 per day, 4 in possession, for harlequin and long-tailed ducks, and 1 per day, 2 in possession, for eiders (king and common collectively). Sea ducks include scoters, common and king eiders, harlequin ducks, long-tailed ducks, and common and red-breasted mergansers. The season for Steller's and spectacled eiders is closed.

[2] Dark geese include Canada and white-fronted geese. Light geese include snow geese and Ross' geese. Separate limits apply to brant. The season for emperor geese is closed Statewide.

[3] In Units 5 and 6, the taking of Canada geese is only permitted from September 28 through December 16. In the Middleton Island portion of Unit 6, the taking of Canada geese is by special permit only, with a maximum of 10 permits for the season and a daily bag and possession limit of 1. The season shall close if incidental harvest includes 5 dusky Canada geese. In Unit 6–C and on Hinchinbrook and Hawkins Islands in Unit 6–D, a special, permit-only Canada goose season may be offered. Hunters must have all harvested geese checked and classified to subspecies. The daily bag limit is 4 daily and 8 in possession. The Canada goose season will close in all of the permit areas if the total dusky goose harvest reaches 40.

[4] In Units 9, 10, 17 and 18, dark goose limits are 6 per day, 12 in possession.

[5] In Unit 17, the daily bag limit for sandhill cranes is 2 and the possession limit is 4.

Falconry: The total combined bag and possession limit for migratory game birds taken with the use of a falcon under a falconry permit is 3 per day, 9 in possession, and may not exceed a more restrictive limit for any species listed in this subsection.

Special Tundra Swan Season: In Units 17, 18, 22, and 23, there will be a tundra swan season from September 1 through October 31 with a season limit of 3 tundra swans per hunter. This season is by registration permit only; hunters will be issued 1 permit allowing the take of up to 3 tundra swans. Hunters will be required to file a harvest report after the season is completed. Up to 500 permits may be issued in Unit 18; 300 permits each in Units 22 and 23; and 200 permits in Unit 17.

■ 4. Section 20.103, including the heading, is revised to read as follows:

§ 20.103 Seasons, limits, and shooting hours for doves and pigeons.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits for the species designated in this section are prescribed as follows:

Shooting and hawking hours are one-half hour before sunrise until sunset except as otherwise noted. Area descriptions were published in the July 26, 2013, **Federal Register** (78 FR 45376).

CHECK STATE REGULATIONS FOR AREA DESCRIPTIONS AND ANY ADDITIONAL RESTRICTIONS.

(a) *Doves.*

Note: Unless otherwise noted, the seasons listed below are for mourning and white-winged doves in the aggregate.

		Season Dates	Limits	
			Bag	Poss.
EASTERN MANAGEMENT UNIT				
Alabama:				
North Zone	12 noon to sunset	Sept. 7 only	15	15
	½ hour before sunrise to sunset	Sept. 8–Oct. 6 &	15	45
		Oct. 19–Nov. 2 &	15	45
		Dec. 7–Dec. 31	15	45
South Zone	12 noon to sunset	Sept. 21 only	15	15
	½ hour before sunrise to sunset	Sept. 22–Sept 29 & Oct. 12–Oct. 27 &	15	45
		Nov. 29–Jan. 12.	15	45
			15	45
Delaware		Sept. 2–Sept. 28 &	15	45
		Oct. 21–Nov. 2 &	15	45
		Dec. 13–Jan. 11	15	45
Florida	12 noon to sunset	Oct. 5–Oct. 28	15	45
	½ hour before sunrise to sunset	Nov. 16–Dec. 1 &	15	45
		Dec. 14–Jan. 12	15	45
Georgia	12 noon to sunset	Sept. 7 only	15	15
	½ hour before sunrise to sunset	Sept. 8–Sept. 22	15	45
		Oct. 12–Oct. 20 &	15	45
		Nov. 28–Jan. 11	15	45
Illinois[1]		Sept. 1–Oct. 27 &	15	45
		Nov. 2–Nov. 14	15	45
Indiana		Sept. 1–Oct. 13 &	15	45
		Nov. 8–Dec. 4	15	45
Kentucky	11 a.m. to sunset	Sept. 1 only	15	15
	½ hour before sunrise to sunset	Sept. 2–Oct. 24 &	15	45
		Nov. 28–Dec. 6 &	15	45
		Dec. 28–Jan. 3	15	45
Louisiana:				
North Zone	12 noon to sunset	Sept. 7 only	15	15
	½ hour before sunrise to sunset	Sept. 8–Sept. 22 &	15	45
		Oct. 12–Nov. 10 &	15	45
		Dec. 14–Jan. 6	15	45
South Zone	12 noon to sunset	Sept. 7 only	15	15
	½ hour before sunrise to sunset	Sept. 8–Sept. 15 &	15	45
		Oct. 19–Dec. 1 &	15	45
		Dec. 21–Jan. 6	15	45
Maryland	12 noon to sunset	Sept. 2–Oct. 5	15	45
	½ hour before sunrise to sunset	Nov. 6–Nov. 29 &	15	45
		Dec. 21–Jan. 1	15	45
Mississippi:				
North Zone		Sept. 1–Sept. 22 &	15	45
		Oct. 12–Nov. 4 &	15	45
		Dec. 20–Jan. 12	15	45
South Zone		Sept. 1–Sept. 9 &	15	45
		Oct. 5–Nov. 4 &	15	45
		Dec. 14–Jan. 12	15	45
North Carolina		Sept. 2–Oct. 5 &	15	45
		Nov. 25–Nov. 30 &	15	45
		Dec. 13–Jan. 11	15	45
Ohio		Sept. 1–Oct. 21 &	15	45
		Dec. 15–Jan. 2	15	45
Pennsylvania	12 noon to sunset	Sept. 2–Sept. 28 &	15	45
	½ hour before sunrise to sunset	Oct. 26–Nov. 30 &	15	45
		Dec. 26–Jan. 1	15	45
Rhode Island	12 noon to sunset	Sept. 14–Oct. 13	12	24
	½ hour before sunrise to sunset	Oct. 19–Nov. 9 &	12	24
		Dec. 18–Jan. 4	12	24
South Carolina	12 noon to sunset	Sept. 2–Sept. 7	15	45
	½ hour before sunrise to sunset	Sept. 8–Oct. 5 &	15	45
		Nov. 23–Nov. 30 &	15	45
		Dec. 19–Jan. 15	15	45
Tennessee	12 noon to sunset	Sept. 1 only	15	15
	½ hour before sunrise to sunset	Sept. 2–Sept. 26 &	15	45
		Oct. 12–Oct. 27 &	15	45
		Dec. 19–Jan. 15	15	45
Virginia	12 noon to sunset	Sept. 2–Sept. 6	15	45

		Season Dates	Limits	
			Bag	Poss.
	½ hour before sunrise to sunset	Sept. 7–Oct. 14 &	15	45
		Oct. 19–Nov. 2 &	15	45
		Dec. 31–Jan. 11	15	45
West Virginia	12 noon to sunset	Sept. 2 only	15	15
	½ hour before sunrise to sunset	Sept. 3–Oct. 5 &	15	45
		Oct. 21–Nov. 9 &	15	45
		Dec. 23–Jan. 4	15	45
Wisconsin		Sept. 1–Nov. 9	15	45
CENTRAL MANAGEMENT UNIT				
Arkansas		Sept. 1–Oct. 20 &	15	45
		Dec. 21–Jan. 9	15	45
Colorado		Sept. 1–Nov. 9	15	45
Iowa		Sept. 1–Nov. 9	15	45
Kansas		Sept. 1–Oct. 31 &	15	45
		Nov. 2–Nov. 10	15	45
Minnesota		Sept. 1–Nov. 9	15	45
Missouri		Sept. 1–Nov 9	15	45
Montana		Sept. 1–Oct. 30	15	45
Nebraska		Sept. 1–Oct. 30	15	45
New Mexico:				
North Zone		Sept. 1–Nov. 9	15	45
South Zone		Sept. 1–Oct. 9 &	15	45
		Dec. 1–Dec. 31	15	45
North Dakota		Sept. 1–Oct. 30	15	45
Oklahoma		Sept. 1–Oct. 31 &	15	45
		Dec. 21–Dec. 29	15	45
South Dakota		Sept. 1–Nov. 9	15	30
Texas:[2]				
North Zone		Sept. 1–Oct. 23 &	15	45
		Dec. 20–Jan. 5	15	45
Central Zone		Sept. 1–Oct. 23 &	15	45
		Dec. 20–Jan. 5	15	45
South Zone	Special Area	Sept. 20–Oct. 23 &	15	45
		Dec. 20–Jan. 20	15	45
	(Special Season)	Sept. 1–Sept. 2 &	15	45
	12 noon to sunset	Sept. 7–Sept. 8	15	45
Remainder of the South Zone		Sept. 20–Oct. 27 &	15	45
		Dec. 20–Jan. 20	15	45
Wyoming		Sept. 1–Nov. 9	15	30
WESTERN MANAGEMENT UNIT				
Arizona[3]		Sept. 1–Sept. 15 &	10	30
		Nov. 22–Jan. 5	10	30
California		Sept. 1–Sept. 15 &	10	30
		Nov. 9–Dec. 23	10	30
Idaho		Sept. 1–Sept. 30	10	30
Nevada		Sept. 1–Sept. 30	10	30
Oregon		Sept. 1–Sept. 30	10	30
Utah		Sept. 2–Sept. 30	10	30
Washington		Sept. 1–Sept. 30	10	30
OTHER POPULATIONS				
Hawaii[4]		Nov. 2–Nov. 29 &	10	10
		Dec. 1–Dec. 28 &	10	10
		Jan. 1–Jan. 19	10	10

[1] In *Illinois,* shooting hours are sunrise to sunset.

[2] In *Texas,* the daily bag limit is either 15 mourning, white-winged, and white-tipped doves in the aggregate, of which no more than 2 may be white-tipped doves with a maximum 70-day season. Possession limits are three times the daily bag limit. During the special season in the Special White-winged Dove Area of the South Zone, the daily bag limit is 15 mourning, white-winged, and white-tipped doves in the aggregate, of which no more than 2 may be mourning doves and 2 may be white-tipped doves. Possession limits are three times the daily bag limit.

[3] In *Arizona,* during September 1 through 15, the daily bag limit is 10 mourning and white-winged doves in the aggregate of which no more than 6 may be white-wing doves. During November 22 through January 5, the daily bag limit is 10 mourning doves. The possession limit is twice the daily bag limit.

[4] In *Hawaii,* the season is only open on the island of Hawaii. The daily bag and possession limits are 10 mourning doves, spotted doves and chestnut-bellied sandgrouse in the aggregate. Shooting hours are from one-half hour before sunrise through one-half hour after sunset. Hunting is permitted only on weekends and State Holidays.

(b) *Band-tailed Pigeons.*

	Season dates	Limits	
		Bag	Possession
Arizona	Sept. 6–Sept. 29	2	6
California:			
North Zone	Sept. 14–Sept. 22	2	6
South Zone	Dec. 14–Dec. 22	2	6
Colorado	Sept. 1–Sept. 30	5	15
New Mexico:[1]			
North Zone	Sept. 1–Sept. 20	5	15
South Zone	Oct. 1–Oct. 20	5	15
Oregon	Sept. 15–Sept. 23	2	6
Utah[2]	Sept. 2–Sept. 30	2	6
Washington	Sept. 15–Sept. 23	2	4

(1) In *New Mexico,* each band-tailed pigeon hunter must have a band-tailed pigeon hunting permit issued by the State.
(2) In *Utah,* each band-tailed pigeon hunter must have either a band-tailed pigeon hunting permit or a special bird permit stamp issued by the State.

■ 5. Section 20.104 is revised to read as follows:

§ 20.104 Seasons, limits, and shooting hours for rails, woodcock, and common snipe.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits for the species designated in this section are prescribed as follows:

Shooting and hawking hours are one-half hour before sunrise until sunset except as otherwise noted. Area descriptions were published in the July 26, 2013, **Federal Register** (78 FR 45376).

CHECK STATE REGULATIONS FOR AREA DESCRIPTIONS AND ANY ADDITIONAL RESTRICTIONS.

Note: States with deferred seasons will select those seasons at the same time they select waterfowl seasons in August. Consult late-season regulations for further information.

	Sora and Virginia rails	Clapper and King rails	Woodcock	Common snipe
Daily bag limit	25[1]	15[2]	3	8.
Possession limit	75[1]	45[2]	9	24.
ATLANTIC FLYWAY				
Connecticut[3]	Sept. 3–Nov. 11	Sept. 3–Nov. 11	Oct. 23–Nov. 23 & Nov. 25–Dec. 7.	Oct. 23–Nov. 23 & Nov. 25–Dec. 7.
Delaware	Sept. 2–Nov. 9	Sept. 2–Nov. 9	Nov. 25–Dec. 7 & Dec. 14–Jan. 14.	Nov. 25–Dec. 7 & Dec. 14–Jan. 14.
Florida	Sept. 1–Nov. 9	Sept. 1–Nov. 9	Dec. 18–Jan. 31	Nov. 1–Feb. 15.
Georgia	Sept. 13–Oct. 31 & Nov. 15–Dec. 5.	Sept. 13–Oct. 31 & Nov. 15–Dec. 5.	Dec. 7–Jan. 20	Nov. 15–Feb. 28.
Maine[4]	Sept. 2–Nov. 9	Closed	Oct. 1–Nov. 14	Sept. 2–Dec. 15.
Maryland[5]	Sept. 2–Nov. 9	Sept. 2–Nov. 9	Oct. 31–Nov. 29 & Jan. 11–Jan. 25.	Sept. 25–Nov. 29 & Dec. 16–Jan. 25.
Massachusetts[6]	Sept. 2–Nov. 9	Closed	Deferred	Sept. 2–Dec. 16.
New Hampshire	Closed	Closed	Oct. 1–Nov. 14	Sept. 15–Nov. 14.
New Jersey:[7]				
North Zone	Sept. 2–Nov. 10	Sept. 2–Nov. 10	Oct. 19–Nov. 23	Sept. 17–Jan. 1.
South Zone	Sept. 2–Nov. 10	Sept. 2–Nov. 10	Nov. 9–Nov. 30 & Dec. 19–Jan. 1.	Sept. 17–Jan. 1.
New York[8]	Sept. 1–Nov. 9	Closed	Oct. 1–Nov. 14	Sept. 1–Nov. 9.
North Carolina	Sept. 7–Sept. 28 & Oct. 5–Nov. 21.	Sept. 7–Sept. 28 & Oct. 5–Nov. 21.	Dec. 12–Jan. 25	Nov. 14–Feb. 28.
Pennsylvania[9]	Sept. 2–Nov. 9	Closed	Oct. 19–Nov. 30	Oct. 19–Nov. 30.
Rhode Island[10]	Sept. 1–Nov. 9	Sept. 1–Nov. 9	Oct. 19–Dec. 2	Sept. 1–Nov. 9.
South Carolina	Sept. 18–Sept. 22 & Oct. 5–Dec. 8.	Sept. 18–Sept. 22 & Oct. 5–Dec. 8.	Dec. 18–Jan. 31	Nov. 14–Feb. 28.
Vermont	Closed	Closed	Oct. 1–Nov. 14	Oct. 1–Nov. 14.
Virginia	Sept. 7–Sept. 28 & Sept. 30–Nov. 16.	Sept. 7–Sept. 28 & Sept. 30–Nov. 16.	Oct. 26–Nov. 1 & Dec. 5–Jan. 11.	Oct. 10–Oct. 14 & Oct. 22–Jan. 31.
West Virginia[11]	Sept. 2–Nov. 2	Closed	Oct. 12–Nov. 25	Sept. 2–Dec. 7.
MISSISSIPPI FLYWAY				
Alabama	Sept. 7–Sept. 22 & Nov. 28–Jan. 20.	Sept. 7–Sept. 22 & Nov. 28–Jan. 20.	Dec. 18–Jan. 31	Nov. 14–Feb. 28.
Arkansas	Sept. 7–Nov. 15	Closed	Nov. 2–Dec. 16	Nov. 1–Feb. 15.
Illinois[12]	Sept. 7–Nov. 15	Closed	Oct. 19–Dec. 2	Sept. 7–Dec. 22.
Indiana[13]	Sept. 1–Nov. 9	Closed	Oct. 15–Nov. 28	Sept. 1–Dec. 16.
Iowa[14]	Sept. 7–Nov. 15	Closed	Oct. 5–Nov. 18	Sept. 7–Nov. 30.
Kentucky	Sept. 1–Nov. 9	Closed	Nov. 1–Dec. 15	Sept. 18–Oct. 27 & Nov. 28–Feb. 2.

	Sora and Virginia rails	Clapper and King rails	Woodcock	Common snipe
Louisiana[15]	Sept. 14–Sept. 29	Sept. 14–Sept. 29	Dec. 18–Jan. 31	Deferred.
Michigan[16]	Sept. 1–Nov. 9	Closed	Sept. 21–Nov. 4	Sept. 1–Nov. 9.
Minnesota	Sept. 1–Nov. 4	Closed	Sept. 21–Nov. 4	Sept. 1–Nov. 4.
Mississippi	Sept. 14–Nov. 22	Sept. 14–Nov. 22	Dec. 18–Jan. 31	Nov. 14–Feb. 28.
Missouri[4]	Sept. 1–Nov. 9	Closed	Oct. 15–Nov. 28	Sept. 1–Dec. 16.
Ohio	Sept. 1–Nov. 9	Closed	Oct. 12–Nov. 25	Sept. 1–Nov. 25 & Dec. 15–Jan. 4.
Tennessee	Deferred	Closed	Oct. 26–Dec. 9	Nov. 14–Feb. 28.
Wisconsin	Deferred	Closed	Sept. 21–Nov. 4	Deferred.
CENTRAL FLYWAY				
Colorado	Sept. 1–Nov. 9	Closed	Closed	Sept. 1–Dec. 16.
Kansas	Sept. 1–Nov. 9	Closed	Oct. 12–Nov. 25	Sept. 1–Dec. 16.
Montana	Closed	Closed	Closed	Sept. 1–Dec. 16.
Nebraska	Sept. 1–Nov. 9	Closed	Sept. 21–Nov. 4	Sept. 1–Dec. 16.
New Mexico[17]	Sept. 14–Nov. 22	Closed	Closed	Oct. 12–Jan. 26.
North Dakota	Closed	Closed	Sept. 21–Nov. 4	Sept. 14–Dec. 1.
Oklahoma	Sept. 1–Nov. 9	Closed	Nov. 1–Dec. 15	Oct. 1–Jan. 15.
South Dakota[18]	Closed	Closed	Closed	Sept. 1–Oct. 31.
Texas	Sept. 14–Sept. 29 & Nov. 2–Dec. 25.	Sept. 14–Sept. 29 & Nov. 2–Dec. 25.	Dec. 18–Jan. 31	Nov. 2–Feb. 16.
Wyoming[11]	Sept. 1–Nov. 9	Closed	Closed	Sept. 1–Dec. 16.
PACIFIC FLYWAY				
Arizona	Closed	Closed	Closed	Deferred.
California	Closed	Closed	Closed	Oct. 19–Jan. 26.
Colorado	Sept. 1–Nov. 9	Closed	Closed	Sept. 1–Dec. 16.
Idaho:				
Area 1	Closed	Closed	Closed	Deferred.
Area 2	Closed	Closed	Closed	Deferred
Montana	Closed	Closed	Closed	Sept. 1–Dec. 16.
Nevada	Closed	Closed	Closed	Deferred.
New Mexico[17]	Sept. 14–Nov. 22	Closed	Closed	Oct. 12–Jan. 26.
Oregon	Closed	Closed	Closed	Deferred.
Utah	Closed	Closed	Closed	Oct. 5–Jan. 18.
Washington	Closed	Closed	Closed	Deferred.
Wyoming (11)	Sept. 1–Nov. 9	Closed	Closed	Sept. 1–Dec. 16.

[1] The bag and possession limits for sora and Virginia rails apply singly or in the aggregate of these species.
[2] All bag and possession limits for clapper and king rails apply singly or in the aggregate of the two species and, unless otherwise specified, the limits are in addition to the limits on sora and Virginia rails in all States. In *Connecticut, Delaware, Maryland,* and *New Jersey,* the limits for clapper and king rails are 10 daily and 30 in possession.
[3] In *Connecticut,* the daily bag and possession limits may not contain more than 1 king rail.
[4] In *Maine* and *Missouri,* the daily bag and possession limit for sora and Virginia rails is 25.
[5] In *Maryland,* no more than 1 king rail may be taken per day.
[6] In *Massachusetts,* the sora rail limits are 5 daily and 5 in possession; the Virginia rail limits are 10 daily and 10 in possession.
[7] In *New Jersey,* the season for king rails is closed by State regulation.
[8] In *New York,* the rail daily bag and possession limits are 8 and 24, respectively. Seasons for sora and Virginia rails and common snipe are closed on Long Island.
[9] In *Pennsylvania,* the daily bag and possession limits for rails are 3 and 9, respectively.
[10] In *Rhode Island,* the sora and Virginia rails limits are 3 daily and 6 in possession, singly or in the aggregate; the clapper and king rail limits are 1 daily and 2 in possession, singly or in the aggregate; the woodcock limit is 3 daily and 6 in possession; the common snipe limits are 5 daily and 10 in possession.
[11] In *West Virginia* and *Wyoming,* the daily bag and possession limit for sora and Virginia rails is 25; the possession limit for snipe is 16.
[12] In *Illinois*, shooting hours are from sunrise to sunset.
[13] In *Indiana*, the sora rail limits are 12 daily and 36 in possession. The season on Virginia rails are closed.
[14] In *Iowa*, the limits for sora and virginia rails are 12 daily and 24 in possession.
[15] Additional days occurring after September 30 will be published with the late season selections.
[16] In *Michigan*, the possession limit for woodstock is 6.
[17] In *New Mexico*, the rail limits are 10 daily and 20 in possession.
[18] In *South Dakota*, the snipe limits are 5 daily and 10 in possession.

■ 6. Section 20.105 is revised to read as follows:

§ 20.105 Seasons, limits, and shooting hours for waterfowl, coots, and gallinules.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits for the species designated in this section are prescribed as follows:

Shooting and hawking hours are one-half hour before sunrise until sunset, except as otherwise noted. Area descriptions were published in the July 26, 2013, **Federal Register** (78 FR 45376).

CHECK STATE REGULATIONS FOR AREA DESCRIPTIONS AND ANY ADDITIONAL RESTRICTIONS.

Note: States with deferred seasons may select those seasons at the same time they select waterfowl seasons in August. Consult late-seasons regulations for further information.

(a) *Common Moorhens and Purple Gallinules.*

	Season dates	Limits	
		Bag	Possession
ATLANTIC FLYWAY			
Delaware	Sept. 2–Nov. 9	15	45
Florida[1]	Sept. 1–Nov.9	15	45
Georgia	Deferred		
New Jersey	Sept. 2–Nov. 10	10	30
New York			
Long Island	Closed		
Remainder of State	Sept. 1–Nov. 9	8	24
North Carolina	Sept. 7–Sept. 28 &	15	45
	Oct. 5–Nov. 21	15	45
Pennsylvania	Sept. 2–Nov. 9	3	9
South Carolina	Sept. 18–Sept. 22 &	15	45
	Oct. 5–Dec. 8	15	45
Virginia	Sept. 7–Sept. 28 &	15	45
	Sept. 30–Nov. 16	15	45
West Virginia	Deferred		
MISSISSIPPI FLYWAY			
Alabama	Sept. 7–Sept. 22 &	15	45
	Nov. 28–Jan. 20	15	45
Arkansas	Sept. 1–Nov. 9	15	45
Kentucky	Sept. 1–Nov. 9	15	45
Louisiana[2]	Sept. 14–Sept. 29	15	45
Michigan	Sept. 1–Nov. 9	1	3
Minnesota	Deferred		
Mississippi	Sept. 14–Nov. 22	15	45
Ohio	Sept. 1–Nov. 9	15	45
Tennessee	Deferred		
Wisconsin	Deferred		
CENTRAL FLYWAY			
New Mexico			
Zone 1	Sept. 28–Dec. 6	1	3
Zone 2	Sept. 28–Dec. 6	1	3
Oklahoma	Sept. 1–Nov. 9	15	45
Texas	Sept. 14–Sept. 29 &	15	45
	Nov. 2–Dec. 25	15	45
PACIFIC FLYWAY			
All States	Deferred		

[1] The season applies to common moorhens only.
[2] Additional days occurring after September 30 will be published with the late season selections.

(b) *Sea Ducks* (scoter, eider, and long-tailed ducks in Atlantic Flyway). Within the special sea duck areas, the daily bag limit is 7 scoter, eider, and long-tailed ducks, singly or in the aggregate, of which no more than 4 may be scoters. Possession limits are three times the daily bag limit. These limits may be in addition to regular duck bag limits only during the regular duck season in the special sea duck hunting areas.

	Season dates	Limits	
		Bag	Possession
Connecticut[1]	Sept. 21–Jan. 20	5	15
Delaware	Sept. 24–Jan. 25	7	21
Georgia	Deferred		
Maine[2]	Oct. 1–Jan. 31	7	21
Maryland	Deferred		
Massachusetts	Deferred		
New Hampshire[3]	Oct. 1–Jan. 15	7	21
New Jersey	Sept. 24–Jan. 25	7	21
New York	Oct. 17–Jan. 31	7	21
North Carolina	Deferred		
Rhode Island	Oct. 5–Jan. 19	5	10
South Carolina	Deferred		
Virginia	Deferred		

Note: Notwithstanding the provisions of this Part 20, the shooting of crippled waterfowl from a motorboat under power will be permitted in *Connecticut, Delaware, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Rhode Island, South Carolina,* and *Virginia* in those areas described, delineated, and designated in their respective hunting regulations as special sea duck hunting areas.

[1] In *Connecticut,* the daily bag limit may include no more than 4 long-tailed ducks.
[2] In *Maine,* the daily bag limit for eiders is 4, and the possession limit is 12.
[3] In *New Hampshire,* the daily bag limit may include no more than 4 eiders or 4 long-tailed ducks.

(c) *Early (September) Duck Seasons.* **Note:** Unless otherwise specified, the seasons listed below are for teal only.

	Season dates	Limits	
		Bag	Possession
ATLANTIC FLYWAY			
Delaware[1]	Sept. 12–Sept. 30	6	18
Florida[2]	Sept. 21–Sept. 25	4	12
Georgia	Sept. 14–Sept. 29	6	18
Maryland[1]	Sept. 16–Sept. 30	6	18
North Carolina[1]	Sept. 7–Sept. 25	6	18
South Carolina[3]	Sept. 14–Sept. 29	6	18
Virginia[1]	Sept. 16–Sept. 30	6	18
MISSISSIPPI FLYWAY			
Alabama	Sept. 7–Sept. 22	6	18
Arkansas[3]	Sept. 7–Sept. 22	6	18
Illinois[3]	Sept. 7–Sept. 22	6	18
Indiana[3]	Sept. 7–Sept. 22	6	18
Iowa[4]			
North Zone	Sept. 21–Sept. 25	.....	.....
Missouri River Zone	Sept. 21–Sept. 25	.....	.....
South Zone	Sept. 21–Sept. 25	.....	.....
Kentucky[2]	Sept. 18–Sept. 22	4	12
Louisiana	Sept. 14–Sept. 29	6	18
Mississippi	Sept. 14–Sept. 29	6	18
Missouri[3]	Sept. 7–Sept. 22	6	18
Ohio[3]	Sept. 7–Sept. 22	6	18
Tennessee[2]	Sept. 14–Sept. 18	4	12
CENTRAL FLYWAY			
Colorado[1]	Sept. 14–Sept. 22	6	18
Kansas			
Low Plains	Sept. 7–Sept. 22	6	18
High Plains	Sept. 14–Sept. 22	6	18
Nebraska[1]			
Low Plains	Sept. 7–Sept. 22	6	18
High Plains	Sept. 7–Sept. 15	6	18
New Mexico	Sept. 14–Sept. 22	6	18
Oklahoma	Sept. 14–Sept. 29	6	18
Texas			
High Plains	Sept. 14–Sept. 29	6	18
Rest of State	Sept. 14–Sept. 29	6	18

[1] Area restrictions. See State regulations.
[2] In *Florida, Kentucky,* and *Tennessee,* the daily bag limit is 4 wood ducks and teal in the aggregate, of which no more than 2 may be wood ducks. The possession limit is twice the daily bag limit.
[3] Shooting hours are from sunrise to sunset.
[4] In *Iowa,* the September season is part of the regular season, and limits will conform to those set for the regular season.
[d] *Special Early Canada Goose Seasons.*

	Season dates	Limits	
		Bag	Possession
ATLANTIC FLYWAY			
Connecticut[1]			
North Zone	Sept. 3–Sept. 30	15	45
South Zone	Sept. 14–Sept. 30	15	45
Delaware	Sept. 2–Sept. 25	15	45
Florida	Sept. 7–Sept. 25	5	15
Georgia	Sept. 7–Sept. 29	5	15
Maine			
Northern Zone	Sept. 2–Sept. 25	6	18
Southern Zone	Sept. 2–Sept. 25	8	24
Coastal Zone	Sept. 2–Sept. 25	8	24
Maryland[1 2]			
Eastern Unit	Sept. 2–Sept. 14	8	24
Western Unit	Sept. 2–Sept. 25	8	24
Massachusetts			
Central Zone	Sept. 3–Sept. 25	7	21
Coastal Zone	Sept. 3–Sept. 25	7	21
Western Zone	Sept. 3–Sept. 25	7	21
New Hampshire	Sept. 3–Sept. 25	5	15
New Jersey[1 2 3]	Sept. 2–Sept. 30	15	45
New York[4]			
Lake Champlain Zone	Sept. 3–Sept. 25	5	15

	Season dates	Limits	
		Bag	Possession
Northeastern Zone	Sept. 1–Sept. 25	15	45
Western Zone	Sept. 1–Sept. 25	15	45
Southeastern Zone	Sept. 1–Sept. 25	15	45
Western Long Island Zone	Closed		
Central Long Island Zone	Sept. 3–Sept. 30	15	45
Eastern Long Island Zone	Sept. 3–Sept. 30	15	45
North Carolina [5 6]	Sept. 2–Sept. 30	15	45
Pennsylvania [7]			
SJBP Zone [8]	Sept. 2–Sept. 25	3	9
Rest of State [9]	Sept. 2–Sept. 25	8	24
Rhode Island [1]	Sept. 1–Sept. 30	15	30
South Carolina			
Early-Season Hunt Unit	Sept. 1–Sept. 30	15	45
Vermont			
Lake Champlain Zone [10]	Sept. 3–Sept. 25	5	15
Interior Vermont Zone	Sept. 3–Sept. 25	5	15
Connecticut River Zone [11]	Sept. 3–Sept. 25	5	15
Virginia [12]	Sept. 2–Sept. 25	10	30
West Virginia	Sept. 2–Sept. 14	5	15
MISSISSIPPI FLYWAY			
Alabama	Sept. 1–Sept. 15	5	15
Arkansas [13]	Sept. 1–Sept. 15	2	6
Illinois			
North Zone	Sept. 1–Sept. 15	5	15
Central Zone	Sept. 1–Sept. 15	5	15
South Central Zone	Sept. 1–Sept. 15	2	6
South Zone	Sept. 1–Sept. 15	2	6
Indiana	Sept. 1–Sept. 15	5	15
Iowa			
South Goose Zone:			
Des Moines Goose Zone	Sept. 7–Sept. 15	5	15
Cedar Rapids/Iowa City Goose Zone	Sept. 7–Sept. 15	5	15
Remainder of South Zone	Closed		
North Goose Zone:			
Cedar Falls/Waterloo Zone	Sept. 7–Sept. 15	5	15
Remainder of North Zone	Closed		
Kentucky [13]	Sept. 1–Sept. 15	3	9
Michigan			
North Zone	Sept. 1–Sept. 10	5	15
Middle Zone	Sept. 1–Sept. 15	5	15
South Zone:			
Huron, Saginaw, and Tuscola Counties	Sept. 1–Sept. 10	5	15
Rest of South Zone	Sept. 1–Sept. 15	5	15
Minnesota			
Northwest Zone	Sept. 1–Sept. 20	5	15
Intensive Harvest Zone	Sept. 1–Sept. 20	10	30
Remainder of State	Sept. 1–Sept. 20	5	15
Mississippi	Sept. 1–Sept. 15	5	15
Ohio	Sept. 1–Sept. 15	5	15
Tennessee	Sept. 1–Sept. 15	5	15
Wisconsin	Sept. 1–Sept. 15	5	15
CENTRAL FLYWAY			
North Dakota			
Missouri River Zone	Sept. 1–Sept. 7	15	45
Remainder of State	Sept. 1–Sept. 15	15	45
Oklahoma	Sept. 14–Sept. 23	8	24
South Dakota [13]	Sept. 1–Sept. 30	15	45
Texas			
East Zone	Sept. 14–Sept. 29	3	9
PACIFIC FLYWAY			
Colorado	Sept. 1–Sept. 9	4	12
Oregon			
Northwest Zone	Sept. 7–Sept. 15	5	15
Southwest Zone [14]	Sept. 7–Sept. 11	5	15
East Zone [14]	Sept. 7–Sept. 11	5	15
Washington			
Mgmt. Area 2B	Sept. 1–Sept. 15	5	10
Mgmt. Areas 1 & 3	Sept. 10–Sept. 15	5	10
Mgmt. Area 4 & 5	Sept. 14–Sept. 15	3	6
Mgmt. Area 2A	Sept. 10–Sept. 15	3	6
Wyoming			
Teton County	Sept. 1–Sept. 8	3	6

	Season dates	Limits	
		Bag	Possession
Rest of State	Sept. 1–Sept. 8	2	4

[1] Shooting hours are one-half hour before sunrise to one-half hour after sunset.
[2] The use of shotguns capable of holding more than 3 shotshells is allowed.
[3] The use of electronic calls is allowed.
[4] In *New York,* in all areas except the Northeastern Goose Hunting Area, shooting hours are one-half hour before sunrise to one-half hour after sunset, the use of shotguns capable of holding more than 3 shotshells is allowed, and the use of electronic calls is allowed. In the Northeastern Goose Hunting Area, shooting hours are one-half hour before sunrise to one-half hour after sunset, shotguns capable of holding more than 3 shotshells are allowed, and electronic calls are allowed only from September 1 to September 20 and September 23 to September 25. On September 21 and September 22, shooting hours are one-half hour before sunrise to sunset, shotguns must be capable of holding no more than 3 shotshells, and electronic calls are not allowed.
[5] In *North Carolina,* the use of unplugged guns and electronic calls is allowed in that area west of U.S. Highway 17 only.
[6] In *North Carolina,* shooting hours are one-half hour before sunrise to one-half hour after sunset in that area west of U.S. Highway 17 only.
[7] In *Pennsylvania,* shooting hours are one-half hour before sunrise to one-half hour after sunset from September 2 to September 13, September 15 to September 20, and September 22 to September 25. On September 14 and September 21, shooting hours are one-half hour before sunrise to sunset.
[8] In *Pennsylvania,* in the area south of SR 198 from the Ohio State line to intersection of SR 18, SR 18 south to SR 618, SR 618 south to US Route 6, US Route 6 east to US Route 322/SR 18, US Route 322/SR 18 west to intersection of SR 3013, SR 3013 south to the Crawford/Mercer County line, not including the Pymatuning State Park Reservoir and an area to extend 100 yards inland from the shoreline of the reservoir, excluding the area east of SR 3011 (Hartstown Road), the daily bag limit is one goose with a possession limit of 3 geese. The season is closed on State Game Lands 214. However, during the youth waterfowl hunting days on September 14 and 21, regular season regulations apply.
[9] In *Pennsylvania,* in the area of Lancaster and Lebanon Counties north of the Pennsylvania Turnpike, east of SR 501 to SR 419, south of SR 419 to the Lebanon-Berks County line, west of the Lebanon-Berks County line and the Lancaster-Berks County line to SR 1053, west of SR 1053 to the Pennsylvania Turnpike I–76, the daily bag limit is 1 goose with a possession limit of 3 geese. On State Game Lands No. 46 (Middle Creek Wildlife Mgmt Area), the season is closed. However, during the youth waterfowl hunting days on September 14 and 21, regular season regulations apply.
[10] In *Vermont,* in Addison County north of Route 125, the daily bag and possession limit is 2 and 4, respectively.
[11] In *Vermont,* the season in the Connecticut River Zone is the same as the New Hampshire Inland Zone season, set by New Hampshire.
[12] In *Virginia,* shooting hours are one-half hour before sunrise to one-half hour after sunset from September 2 to September 14, and one-half hour before sunrise to sunset from September 16 to September 25 in the area east of I–95 where the September teal season is open. Shooting hours are one-half hour before sunrise to one-half hour after sunset from September 1 to September 21, and one-half hour before sunrise to sunset from September 23 to September 25 in the area west of I–95.
[13] See State regulations for additional information and restrictions.
[14] In *Oregon,* the season is closed in the Southcoast Zone and the Klamath County Zone.

(e) *Regular Goose Seasons.*

Note: Bag and possession limits will conform to those set for the regular season. Additional season dates occurring after September 30 will be published with the late season selections.

	Season dates
MISSISSIPPI FLYWAY	
Michigan	Deferred.
Wisconsin	
North Zone	Sept. 16–Sept. 30.
South Zone	Sept. 16–Sept. 30.
Mississippi River Zone	Sept. 21–Sept. 30

(f) *Youth Waterfowl Hunting Days.*

The following seasons are open only to youth hunters. Youth hunters must be accompanied into the field by an adult at least 18 years of age. This adult cannot duck hunt but may participate in other open seasons.

Definitions

Youth Hunters: Includes youths 15 years of age or younger.

The Atlantic Flyway: Includes Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

The Mississippi Flyway: Includes Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin.

The Central Flyway: Includes Colorado (east of the Continental Divide), Kansas, Montana (Blaine, Carbon, Fergus, Judith Basin, Stillwater, Sweetgrass, Wheatland, and all Counties east thereof), Nebraska, New Mexico (east of the Continental Divide except that the Jicarilla Apache Indian Reservation is in the Pacific Flyway), North Dakota, Oklahoma, South Dakota, Texas, and Wyoming (east of the Continental Divide).

The Pacific Flyway: Includes Arizona, California, Colorado (west of the Continental Divide), Idaho, Montana (including and to the west of Hill, Chouteau, Cascade, Meagher, and Park Counties), Nevada, New Mexico (the Jicarilla Apache Indian Reservation and west of the Continental Divide), Oregon, Utah, Washington, and Wyoming (west of the Continental Divide including the Great Divide Basin).

Note: Bag and possession limits will conform to those set for the regular season unless there is a special season already open (e.g., September Canada goose season), in which case, that season's daily bag limit will prevail.

		Season dates
ATLANTIC FLYWAY		
Connecticut		Deferred.
Delaware	Ducks, geese, brant, mergansers, and coots	Oct. 5 & Feb. 8.
Florida		Deferred.
Georgia	Ducks, geese, mergansers, coots, moorhens, and gallinules	Nov. 16 & 17.
Maine	Ducks, geese, mergansers, and coots	
North Zone		Sept. 14 & Dec. 7.
South Zone		Sept. 21 & Oct. 26.
Coastal Zone		Sept. 21 & Nov. 9.
Maryland[1]		Deferred.
Massachusetts		Deferred.
New Hampshire	Ducks, geese, mergansers, and coots	Sept. 28 & 29.
New Jersey		Deferred.
New York[2]	Ducks, mergansers, coots, brant, and Canada geese	
Long Island Zone		Nov. 9 & 10.
Lake Champlain Zone		Sept. 28 & 29.
Northeastern Zone		Sept. 21 & 22.
Southeastern Zone		Sept. 28 & 29.
Western Zone		Oct. 12 & 13.
North Carolina		Deferred.
Pennsylvania	Ducks, mergansers, Canada geese, coots, and moorhens	Sept. 14 & 21.
Rhode Island	Ducks, mergansers and coots	Oct. 19 & 20.
South Carolina		Deferred.
Vermont	Ducks, geese, mergansers and coots	Sept. 28 & 29.
Virginia		Deferred.
West Virginia[3]	Ducks, geese, mergansers, coots, moorhens, and gallinules	Sept. 21 & Nov. 9.
MISSISSIPPI FLYWAY		
Alabama	Ducks, mergansers, coots, geese, moorhens, and gallinules	Feb. 8 & 9.
Arkansas		Deferred.
Illinois		Deferred.
Indiana		Deferred.
Iowa		Deferred.
Kentucky		Deferred.
Louisiana		Deferred.
Michigan	Ducks, geese, mergansers, coots, moorhens, and gallinules	Sept. 14 & 15.
Minnesota	Ducks, geese, mergansers, coots, moorhens, and gallinules	Sept. 7.
Mississippi		Deferred.
Missouri		Deferred.
Ohio		Deferred.
Tennessee		Deferred.
Wisconsin	Ducks, geese, mergansers, coots, moorhens, and gallinules	Sept. 14 & 15.
CENTRAL FLYWAY		
Colorado	Ducks, dark geese, mergansers, and coots	
Mountain/Foothills Zone		Sept. 28 & 29.
Northeast Zone		Oct. 5 & 6.
Southeast Zone		Oct. 19 & 20.
Kansas[4]		Deferred.
Montana	Ducks, geese, mergansers, and coots	Sept. 21 & 22.
Nebraska[5]	Ducks, geese, mergansers, and coots	Deferred.
New Mexico	Ducks, mergansers, coots, and moorhens	
North Zone		Sept. 28 & 29.
South Zone		Oct. 12 & 13.
North Dakota	Ducks, geese, mergansers, and coots	Sept. 14 & 15.
Oklahoma		Deferred.
South Dakota[6]	Ducks, Canada geese, mergansers, and coots	Sept. 21 & 22.
Texas		Deferred.
Wyoming	Ducks, geese, mergansers, and coots	
Zone 1		Sept. 28 & 29.
Zone 2		Sept. 14 & 15.
PACIFIC FLYWAY		
Arizona		Deferred.
California	Ducks, geese, mergansers, coots, moorhens, gallinules, and brant	Deferred.
Colorado	Ducks, geese, mergansers, and coots	Oct. 12 & 13.
Idaho	Ducks, Canada geese, mergansers, coots, moorhens, and gallinules	Sept. 28 & 29.
Montana	Ducks, geese, mergansers, and coots	Sept. 21 & 22.
Nevada	Ducks, geese, mergansers, coots, moorhens, and gallinules	
Northeast Zone		Sept. 14 & 15.
Rest of State		Deferred.
New Mexico	Ducks, mergansers, moorhens, and coots	Oct. 5 & 6.
Oregon[7]	Ducks, Canada geese, mergansers, coots, moorhens, and gallinules	Sept. 21 & 22.
Utah	Ducks, geese, mergansers, coots, moorhens, and gallinules	Sept. 28.
Washington	Ducks, Canada geese, mergansers, and coots	Sept. 21 & 22.

		Season dates
Wyoming	Ducks, dark geese, mergansers, and coots	Sept. 14 & 15.

[1] In *Maryland,* the accompanying adult must be at least 21 years of age and possess a valid Maryland hunting license (or be exempt from the license requirement). This accompanying adult may not shoot or possess a firearm.
[2] In *New York,* the daily bag limit for Canada geese is 2.
[3] In *West Virginia,* the accompanying adult must be at least 21 years of age.
[4] In *Kansas,* the adult accompanying the youth must possess any licenses and/or stamps required by law for that individual to hunt waterfowl.
[5] In *Nebraska,* see State regulations for additional information on the daily bag limit.
[6] In *South Dakota,* the limit for Canada geese is 3, except in areas where the Special Early Canada goose season is open. In those areas, the limit is the same as for that special season.
[7] In *Oregon,* the goose season is closed for the youth hunt in the Northwest Special Permit Goose Zone and the Northwest General Zone.

■ 7. Section 20.106 is revised to read as follows:

§ 20.106 Seasons, limits, and shooting hours for sandhill cranes.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), shooting and hawking hours, and daily bag and possession limits on the species designated in this section are as follows:

Shooting and hawking hours are one-half hour before sunrise until sunset, except as otherwise noted. Area descriptions were published in the July 26, 2013, **Federal Register** (78 FR 45376).

Federally authorized, State-issued permits are issued to individuals, and only the individual whose name and address appears on the permit at the time of issuance is authorized to take sandhill cranes at the level allowed by the permit, in accordance with provisions of both Federal and State regulations governing the hunting season. The permit must be carried by the permittee when exercising its provisions and must be presented to any law enforcement officer upon request. The permit is not transferable or assignable to another individual, and may not be sold, bartered, traded, or otherwise provided to another person. If the permit is altered or defaced in any way, the permit becomes invalid.

CHECK STATE REGULATIONS FOR AREA DESCRIPTIONS AND ANY ADDITIONAL RESTRICTIONS.

Note: States with deferred seasons may select those seasons at the same time they select waterfowl seasons in August. Consult late-season regulations for further information.

	Season dates	Limits	
		Bag	Possession
MISSISSIPPI FLYWAY			
Kentucky	Deferred		
Minnesota [1]			
NW Goose Zone	Sept. 14–Oct. 20	2	6
Tennessee [1]	Deferred		
CENTRAL FLYWAY			
Colorado [1]	Oct. 5–Dec. 1	3	9
Kansas [1 2 3]	Nov. 6–Jan. 2	3	9
Montana			
Regular Season Area [1]	Sept. 28–Nov. 24	3	*9
Special Season Area [4]	Sept. 7–Sept. 29	*2	*2
New Mexico			
Regular Season Area [1]	Oct. 31–Jan. 31	3	6
Middle Rio Grande Valley	Oct. 26–Oct. 27 &	*2	*2
Area [4 5]	Nov. 9–Nov. 10 &	*2	*2
	Nov. 16–Nov. 17 &	*2	*2
	Nov. 30–Dec. 1 &	*2	*2
	Jan. 11–Jan. 12	*2	*2
Southwest Area [4]	Oct. 26–Nov. 3 &	*2	*2
	Jan. 4–Jan. 5	*2	*2
Estancia Valley [4]	Oct. 26–Nov. 3	*2	*2
North Dakota [1]			
Area 1	Sept. 14–Nov. 10	3	9
Area 2	Sept. 14–Nov. 10	2	6
Oklahoma [1]	Deferred		
South Dakota [1]	Sept. 28–Nov. 24	3	6
Texas [1]	Deferred		
Wyoming			
Regular Season (Area 7) [1]	Sept. 14–Nov. 10	3	6
Riverton-Boysen Unit (Area 4) [4]	Sept. 14–Oct. 6	*1	*1
Big Horn, Hot Springs, Park, and Washakie Counties (Area 6) [4].	Sept. 14–Oct. 6	*1	*1
PACIFIC FLYWAY			
Arizona [4]			
Special Season Area	Nov. 8–Nov. 10 &	*2	*2
	Nov. 15–Nov. 17 &	*2	*2
	Nov. 19–Nov. 21 &	*2	*2
	Nov. 23–Nov. 25 &	*2	*2
	Nov. 27–Nov. 29 &	*2	2
	Dec. 6–Dec. 8	*2	*2
Lower CO River Hunt Area	Closed		

	Season dates	Limits	
		Bag	Possession
Idaho [4]			
Areas 1–6	Sept. 1–Sept. 15	*2	*4
Montana			
Special Season Area [4]	Sept. 7–Sept. 29	*2	*2
Utah [4]			
Rich County	Sept. 7–Sept. 15	*1	*1
Cache County	Sept. 7–Sept. 15	*1	*1
Eastern Box Elder County	Sept. 7–Sept. 15	*1	*1
Uintah County	Sept. 21–Oct. 20	*1	*1
Wyoming [4]			
Bear River Area (Area 1)	Sept. 1–Sept. 8	*1	*1
Salt River Area (Area 2)	Sept. 1–Sept. 8	*1	*1
Eden-Farson Area (Area 3)	Sept. 1–Sept. 8	*1	*1
Uinta County (Area 5)	Sept. 1–Sept. 8	*1	*1

[1] Each person participating in the regular sandhill crane seasons must have a valid sandhill crane hunting permit and/or a State-issued Harvest Information Survey Program (HIP) certification for game bird hunting in their possession while hunting.
[2] In *Kansas,* shooting hours are from sunrise until sunset.
[3] In *Kansas,* each person desiring to hunt sandhill cranes is required to pass an annual, online sandhill crane identification examination.
[4] Hunting is by State permit only. See State regulations for further information.
[5] In *New Mexico,* in the Middle Rio Grande Valley Area, the season is only open for youth hunters on November 9. See State regulations for further details.
* Per season.

■ 8. Section 20.109 is revised to read as follows:

§ 20.109 Extended seasons, limits, and hours for taking migratory game birds by falconry.

Subject to the applicable provisions of the preceding sections of this part, areas open to hunting, respective open seasons (dates inclusive), hawking hours, and daily bag and possession limits for the species designated in this section are prescribed as follows:

Hawking hours are one-half hour before sunrise until sunset except as otherwise noted. Area descriptions were published in the July 26, 2013, **Federal Register** (78 FR 45376). For those extended seasons for ducks, mergansers, and coots, area descriptions were published in an August 22, 2013 **Federal Register** and will be published again in a late-September 2013, **Federal Register**.

CHECK STATE REGULATIONS FOR AREA DESCRIPTIONS AND ANY ADDITIONAL RESTRICTIONS.

Daily bag limit—3 migratory birds, singly or in the aggregate.

Possession limit—9 migratory birds, singly or in the aggregate.

These limits apply to falconry during both regular hunting seasons and extended falconry seasons—unless further restricted by State regulations. The falconry bag and possession limits are not in addition to regular season limits. Unless otherwise specified, extended falconry for ducks does not include sea ducks within the special sea duck areas. Only extended falconry seasons are shown below. Many States permit falconry during the gun seasons. Please consult State regulations for details.

For ducks, mergansers, coots, geese, and some moorhen seasons; additional season days occurring after September 30 will be published with the late-season selections. Some States have deferred selections. Consult late-season regulations for further information.

	Extended falconry dates
ATLANTIC FLYWAY	
Delaware	
Doves	Sept. 30–Oct. 19 & Jan. 13–Jan. 29.
Rails	Nov. 11–Dec. 18.
Woodcock and snipe	Sept. 30–Oct. 5 & Jan. 15–Mar. 10.
Florida	
Doves	Oct. 29–Nov. 15 & Dec. 2–Dec. 13 & Jan. 13–Jan. 19.
Rails	Nov. 10–Dec. 16.
Woodcock	Nov. 24–Dec. 17 & Feb. 1–Mar. 10.
Common moorhens	Nov. 10–Dec. 14.
Georgia	
Moorhens, gallinules, and sea ducks	Dec. 2–Dec. 6 & Jan. 27–Jan. 29.
Maryland	
Doves	Oct. 6–Oct. 31 & Jan. 2–Jan. 12.
Rails	Nov. 10–Dec. 17.
Woodcock	Oct. 1–Oct. 30 & Feb. 7–Mar. 10.
North Carolina	
Doves	Oct. 12–Nov. 16.
Rails, moorhens, and gallinules	Nov. 23–Dec. 28.
Woodcock	Nov. 4–Dec. 7 & Feb. 1–Feb. 28.
Pennsylvania	
Doves	Sept. 30–Oct. 25 & Dec. 2–Dec. 12.
Rails	Nov. 11–Dec. 18.
Woodcock and snipe	Sept. 2–Oct. 18 & Dec. 2–Dec. 18.
Moorhens and gallinules	Nov. 11–Dec. 18.

	Extended falconry dates
Virginia	
Doves	Oct. 15–Oct. 18 & Dec. 18–Dec. 30 & Jan. 12–Jan. 31.
Woodcock	Oct. 17–Oct. 25 & Nov. 2–Dec. 4 & Jan. 12–Jan. 31.
Rails, moorhens, and gallinules	Sept. 29 & Nov. 17–Dec. 22.
MISSISSIPPI FLYWAY	
Illinois	
Doves	Oct. 28–Nov. 1 & Nov. 15–Dec. 16.
Rails	Sept. 1–Sept. 6 & Nov. 16–Dec. 16.
Woodcock	Sept. 1–Oct. 18 & Dec. 3–Dec. 16.
Indiana	
Doves	Oct. 23–Nov. 7 & Jan. 1–Jan. 21.
Woodcock	Sept. 20–Oct. 14 & Nov. 29–Jan. 4.
Ducks, mergansers, and coots	
North Zone [1]	Sept. 27–Sept. 30.
Louisiana	
Doves	Sept. 16–Oct. 2.
Woodcock	Oct. 28–Dec. 17 & Feb. 1–Feb. 11.
Minnesota	
Woodcock	Sept. 1–Sept. 20 & Nov. 5–Dec. 16.
Rails and snipe	Nov. 5–Dec. 16.
Doves	Nov. 10–Dec. 16.
Missouri	
Doves	Nov. 10–Dec. 16.
Ducks, mergansers, and coots	Sept. 7–Sept. 22.
Ohio	
Ducks, coots, and geese	Sept. 1–Sept. 22.
Tennessee	
Doves	Sept. 27–Oct. 11 & Oct. 28–Nov. 14.
Ducks [1]	Sept. 15–Oct. 20.
Wisconsin	
Rails, snipe, moorhens, and gallinules [1]	Sept. 1–Sept. 20.
Woodcock	Sept. 1–Sept. 20.
Ducks, mergansers, and coots	Sept. 14–Sept. 15.
CENTRAL FLYWAY	
Montana [2]	
Ducks, mergansers, and coots [1]	Sept. 18–Sept. 27.
Nebraska	
Ducks, mergansers, and coots	
Zone 1	Sept. 7–Sept. 22.
Zone 2:	
Low Plains	Sept. 7–Sept. 22.
High Plains	Sept. 7–Sept. 15.
Zone 3	Sept. 7–Sept. 15.
Zone 4	Sept. 7–Sept. 22
New Mexico	
Doves	
North Zone	Nov. 10–Nov. 12 & Nov. 28–Dec. 31.
South Zone	Oct. 10–Nov. 12 & Nov. 28–Nov. 30.
Band-tailed pigeons	
North Zone	Sept. 21–Dec. 16.
South Zone	Oct. 21–Jan. 15.
Ducks and coots	Sept. 14–Sept. 22.
Sandhill cranes	
Regular Season Area	Oct. 17–Oct. 30.
Estancia Valley Area [3]	Nov. 4–Dec. 24.
Common moorhens	Dec. 8–Jan. 13.
Sora and Virginia rails	Nov. 24–Dec. 30.
North Dakota	
Ducks, mergansers, coots, and snipe	Sept. 2–Sept. 6 & Sept. 9–Sept. 13.
South Dakota	
Ducks, mergansers, and coots [1]	
High Plains	Sept. 1–Sept. 8
Low Plains:	
North Zone	Sept. 1–Sept. 14 & Sept. 18–Sept. 22.
Middle Zone	Sept. 1–Sept. 14 & Sept. 16–Sept. 20.
South Zone	Sept. 1–Sept. 14 & Sept. 18–Sept. 22.
Texas	
Doves	Nov. 9–Dec. 15.
Rails, gallinules, and woodcock	Jan. 27–Feb. 10.
Wyoming	
Rails	Nov. 10–Dec. 16.
Ducks, mergansers, and coots	

	Extended falconry dates
Zone 1	Oct. 23–Oct. 30.
Zone 2 & 3	Sept. 16–Sept. 20 & Dec. 2–Dec. 4.
PACIFIC FLYWAY	
Arizona	
Doves	Sept. 16–Nov. 1.
New Mexico	
Doves	
North Zone	Nov. 10–Nov. 12 & Nov. 28–Dec. 31.
South Zone	Oct. 10–Nov. 12 & Nov. 28–Nov. 30.
Band–tailed pigeons	
North Zone	Sept. 21–Dec. 16.
South Zone	Oct. 21–Jan. 15.
Oregon	
Doves	Oct. 1–Dec. 16.
Band–tailed pigeons [4]	Sept. 1–Sept. 14 & Sept. 24–Dec. 16.
Utah	
Doves and band-tailed pigeons	Oct. 1–Dec. 16.
Washington	
Doves	Oct. 1–Dec. 16.
Wyoming	
Rails	Nov. 10–Dec. 16.
Ducks, mergansers, and coots [1]	Sept. 14–Sept. 15.

[1] Additional days occurring after September 30 will be published with the late-season selections.
[2] In *Montana,* the bag limit is 2 and the possession limit is 6.
[3] In *New Mexico,* the bag limit for sandhill cranes in the Estancia Valley Area is 2 per day and the possession limit is 2 per season.
[4] In *Oregon,* no more than 1 pigeon daily in bag or possession.

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Part III

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Migratory Bird Hunting Regulations on Certain Federal Indian Reservations and Ceded Lands for the 2013–14 Early Season; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

[Docket No. FWS–HQ–MB–2013–0057; FF09M21200–134–FXMB1231099BPP0]

RIN 1018–AY87

Migratory Bird Hunting; Migratory Bird Hunting Regulations on Certain Federal Indian Reservations and Ceded Lands for the 2013–14 Early Season

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes special early-season migratory bird hunting regulations for certain tribes on Federal Indian reservations, off-reservation trust lands, and ceded lands. This rule responds to tribal requests for U.S. Fish and Wildlife Service (hereinafter Service or we) recognition of tribal authority to regulate hunting under established guidelines. This rule allows the establishment of season bag limits and, thus, harvest, at levels compatible with populations and habitat conditions.

DATES: This rule takes effect on September 1, 2013.

ADDRESSES: You may inspect comments received on the special hunting regulations and tribal proposals during normal business hours in room 4107, Arlington Square Building, 4501 N. Fairfax Drive, Arlington, VA or at *http://www.regulations.gov* at Docket No. FWS–HQ–MB–2013–0057.

FOR FURTHER INFORMATION CONTACT: Ron W. Kokel, U.S. Fish and Wildlife Service, Department of the Interior, MS MBSP–4107–ARLSQ, 1849 C Street NW., Washington, DC 20240; (703) 358–1714.

SUPPLEMENTARY INFORMATION: The Migratory Bird Treaty Act (MBTA) of July 3, 1918 (40 Stat. 755; 16 U.S.C. 703 et seq.), authorizes and directs the Secretary of the Department of the Interior, having due regard for the zones of temperature and for the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory game birds, to determine when, to what extent, and by what means such birds or any part, nest, or egg thereof may be taken, hunted, captured, killed, possessed, sold, purchased, shipped, carried, exported, or transported.

In the August 2, 2013, **Federal Register** (78 FR 47136), we proposed special migratory bird hunting regulations for the 2013–14 hunting season for certain Indian tribes, under the guidelines described in the June 4, 1985, **Federal Register** (50 FR 23467). The guidelines respond to tribal requests for Service recognition of their reserved hunting rights, and for some tribes, recognition of their authority to regulate hunting by both tribal members and nonmembers on their reservations. The guidelines include possibilities for:

(1) On-reservation hunting by both tribal members and nonmembers, with hunting by nontribal members on some reservations to take place within Federal frameworks but on dates different from those selected by the surrounding State(s);

(2) On-reservation hunting by tribal members only, outside of usual Federal frameworks for season dates and length, and for daily bag and possession limits; and

(3) Off-reservation hunting by tribal members on ceded lands, outside of usual framework dates and season length, with some added flexibility in daily bag and possession limits.

In all cases, the regulations established under the guidelines must be consistent with the March 10–September 1 closed season mandated by the 1916 Migratory Bird Treaty with Canada. We have successfully used the guidelines since the 1985–86 hunting season. We finalized the guidelines beginning with the 1988–89 hunting season (August 18, 1988, **Federal Register** [53 FR 31612]). In the April 9, 2013, **Federal Register** (78 FR 21200), we requested that tribes desiring special hunting regulations in the 2013–14 hunting season submit a proposal for our review.

No action is required if a tribe wishes to observe the hunting regulations established by the State(s) in which an Indian reservation is located. On August 2, 2013, we published a proposed rule that included special migratory bird hunting regulations for 30 Indian tribes, based on the input we received in response to the April 9, 2013, proposed rule. All the regulations contained in this final rule were either submitted by the tribes or approved by the tribes and follow our proposals in the August 2 proposed rule.

Although the August 2 proposed rule included generalized regulations for both early- and late-season hunting, this rulemaking addresses only the early-season proposals. Therefore, it includes information for only 24 tribes. The letter designations for the paragraphs pertaining to each tribe in this rule are discontinuous because they follow the letter designations for the 30 tribes discussed in the August 2 proposed rule, which set forth paragraphs (a) through (dd). Late-season hunting will be addressed in late September. As a general rule, early seasons begin during September each year and have a primary emphasis on such species as mourning and white-winged doves. Late seasons begin about October 1 or later each year and have a primary emphasis on waterfowl.

Population Status and Harvest

Information on the status of waterfowl and information on the status and harvest of migratory shore and upland game birds, including detailed information on methodologies and results, is available at the address indicated under **FOR FURTHER INFORMATION CONTACT** or from our Web site at *http://www.fws.gov/migratorybirds/NewsPublicationsReports.html*.

Comments and Issues Concerning Tribal Proposals

For the 2013–14 migratory bird hunting season, we proposed regulations for 30 tribes and/or Indian groups that followed the 1985 guidelines. Only 27 tribes were considered appropriate for final rulemaking because we did not receive proposals from 3 of the tribes for whom we had proposed regulations. Some of the tribal proposals had both early- and late-season elements. However, as noted earlier, only those with early-season proposals are included in this final rulemaking; 24 tribes have proposals with early seasons. The comment period for the proposed rule, published on August 2, 2013, closed on August 12, 2013. Because of the necessary brief comment period, we will respond to any comments on the proposed rule and/or these regulations postmarked by August 12, but not received prior to final action by us, in the September late-season final rule. At this time, we have received two comments.

Great Lakes Indian Fish and Wildlife Commission's (GLIFWC) Proposal

We received comments on GLIFWC's initial proposal from the Mississippi Flyway Council and the State of Wisconsin.

The Mississippi Flyway Council recommended denial of GLIFWC's waterfowl hunting season requests regarding the use of electronic calls, a swan season in primary trumpeter swan breeding range, and extending shooting hours to 45 minutes before sunrise and after sunset. The Council supported the GLIFWC's expansion of non-toxic shot

use and a bag limit of 2 for sandhill cranes.

The State of Wisconsin, Department of Natural Resources (WIDNR) noted the long history of working cooperatively with GLIFWC and individual tribes in the conservation of Wisconsin's waterfowl and wetland resources. However, WIDNR believed the most significant problem with the GLIFWC proposal was the request to allow tribal members to hunt with the use of electronic calls for ducks and geese within the ceded territory. WIDNR believes that, since the ceded territory covers one-third of the State of Wisconsin, one-half of the State of Michigan, significant areas of Minnesota, and significant areas of public hunting grounds and waters in those States, the use of electronic calls by tribal hunters would put any nontribal hunters in violation of the law when hunting in these areas. Thus, GLIFWC's proposal would, in effect, close public lands to hunting, increase conflicts among the hunting public, and create a safety concern and an unmanageable law enforcement environment. WIDNR also opposed the extension of shooting hours to 45 minutes before sunrise and 45 minutes past sunset because of safety and resource concerns. WIDNR also believes that a tribal tundra and trumpeter swan hunting season in the ceded territory should not be implemented in 2013, because additional biological evaluation and harvest planning should be conducted, especially in light of trumpeter swan issues. WIDNR asks that the same criteria of not implementing duck hunting seasons prior to September 15 because of impacts to breeding ducks in Wisconsin be applied to tribal seasons as well. WIDNR was supportive of the tribal sandhill crane daily bag limit increase from one to two and the use of nontoxic shot for all migratory bird hunting.

Service Response: The GLIFWC 2013 proposal has several significant changes from regulations approved last season. In the 1837 and 1842 Treaty Areas, the GLIFWC proposal would allow the use of electronic calls through September 20; would extend shooting hours by 45 minutes before sunrise and after sunset; would increase the daily bag limit from 1 to 2 sandhill cranes; would allow the first hunting season of swans; would open the season for several species (other than geese) to September 1; and would require nontoxic shot for all migratory bird hunting. In the 1836 Treaty Area, the GLIFWC's proposal would open the season for several species to September 1 to align with the goose season.

GLIFWC states that the regulatory changes are intended to provide tribal members a harvest opportunity within the scope of rights reserved in their various treaties and increase tribal subsistence harvest opportunities, while protecting migratory bird populations. Under the GLIFWC proposed regulations, GLIFWC expects total ceded territory harvest to be approximately 1,575 ducks, 300 geese, 50 sandhill cranes, and 50 tundra swans, which is roughly similar to anticipated levels in previous years for those species for which seasons were established. GLIWFC further anticipates that tribal harvest will remain low given the small number of tribal hunters and the limited opportunity to harvest more than a small number of birds on most hunting trips.

Recent GLIFWC harvest surveys (1996–98, 2001, 2004, and 2007–08, 2011, and 2012) indicate that tribal off-reservation waterfowl harvest has averaged fewer than 1,100 ducks and 250 geese annually. In the latest survey year for which we have specific results (2004), an estimated 53 hunters took an estimated 421 trips and harvested 645 ducks (1.5 ducks per trip) and 84 geese (0.2 geese per trip). Analysis of hunter survey data over 1996–2004 indicates a general downward trend in both harvest and hunter participation. GLIFWC is still completing a survey initiated after the 2012 season to determine if any increase in harvest occurred following several regulation changes.

While we acknowledge that tribal harvest and participation has declined in recent years, we do not believe that some of the GLIFWC's proposal for tribal waterfowl seasons on ceded lands in Wisconsin, Michigan, and Minnesota for the 2013–14 season is in the best interest of the conservation of migratory birds. More specific discussion follows below.

Allowing Electronic Calls

As we stated the last two years (76 FR 54676, September 1, 2011; 77 FR 54451, September 5, 2012), the issue of allowing electronic calls and other electronic devices for migratory game bird hunting has been highly debated and highly controversial over the last 40 years, similar to other prohibited hunting methods such as baiting. Electronic calls, i.e., the use or aid of recorded or electronic amplified bird calls or sounds, or recorded or electrically amplified imitations of bird calls or sounds to lure or attract migratory game birds to hunters, were Federally prohibited in 1957, because of their effectiveness in attracting and aiding the harvest of ducks and geese and are generally not considered a legitimate component of hunting. In 1999, after much debate, the migratory bird regulations were revised to allow the use of electronic calls for the take of light geese (lesser snow geese and Ross geese) during a light-goose-only season when all other waterfowl and crane hunting seasons, excluding falconry, were closed (64 FR 7507, February 16, 1999; 64 FR 71236, December 20, 1999; 73 FR 65926, November 5, 2008). The regulations were also changed in 2006, to allow the use of electronic calls for the take of resident Canada geese during Canada-goose-only September seasons when all other waterfowl and crane seasons, excluding falconry, were closed (71 FR 45964, August 10, 2006). In both instances, these changes were made in order to significantly increase the take of these species due to either serious population overabundance, depredation issues, or public health and safety issues, or a combination of these.

Available information from the use of additional hunting methods, such as electronic calls, during the special light-goose seasons indicate that total harvest increased approximately 50 to 69 percent. On specific days when light-goose special regulations were in effect, the mean light goose harvest increased 244 percent. One research study found that lesser snow goose flocks were 5.0 times more likely to fly within gun range (≤50 meters) in response to electronic calls than to traditional calls, and the mean number of snow geese killed per hour per hunter averaged 9.1 times greater for electronic calls than for traditional calls. While these results are only directly applicable to light geese, we believe these results are applicable to most waterfowl species, and indicative of some likely adverse harvest impacts on other geese and ducks.

Removal of the electronic call prohibition would be inconsistent with our long-standing conservation concerns. Given available evidence on the effectiveness of electronic calls, and the large biological uncertainty surrounding any widespread use of electronic calls, we believe the potential for overharvest could contribute to long-term population declines. Further, migratory patterns could be affected, and it is possible that hunter participation could increase beyond GLIFWC's estimates (50 percent) and could result in additional conservation impacts, particularly on locally breeding populations. Thus, we continue to not support allowing the use of electronic calls in the 1837 and 1842 Treaty Areas.

Additionally, given the fact that tribal waterfowl hunting covered by this

proposal would occur on ceded lands that are not in the ownership of the Tribes, we believe the use of electronic calls to take waterfowl would lead to confusion on the part of the public, wildlife-management agencies, and law enforcement officials in implementing the requirements of 50 CFR part 20. Further, similar to the impacts of baiting, uncertainties concerning the zone of influence attributed to the use of electronic calls could potentially increase harvest from nontribal hunters operating within areas electronic calls are being used during the dates of the general hunt, thereby posing risks to the migratory patterns and distribution of migratory waterfowl.

Lastly, we remind GLIFWC that electronic calls are permitted for the take of resident Canada geese during Canada-goose-only September seasons when all other waterfowl and crane seasons are closed. In the case of GLIFWC's proposed seasons, electronic calls could be used September 1–14 for resident Canada geese (as long as GLIFWC's duck and crane season begins no earlier than September 15; see further discussion below under *Earlier Season Opening Date*). This specific regulatory change was implemented in 2006, in order to significantly control resident Canada geese due to widespread population overabundance, depredation issues, and public health and safety issues.

Expanded Shooting Hours

Normally, shooting hours for migratory game birds are one-half hour before sunrise to sunset. A number of reasons and concerns have been cited for extending shooting hours past sunset. Potential impacts to some locally breeding populations (e.g., wood ducks), hunter safety, difficulty of identifying birds, retrieval of downed birds, and impacts on law enforcement are some of the normal concerns raised when discussing potential expansions of shooting hours. However, despite these concerns, in 2007, we supported the expansion of shooting hours by 15 minutes after sunset in the 1837, 1842, and 1836 Treaty Areas (72 FR 58452, October 15, 2007). We had previously supported this expansion in other tribal areas and have not been made aware of any wide-scale problems. Further, at that time, we believed that the continuation of a specific species restriction within the daily bag limit for mallards, and the implementation of a species restriction within the daily bag limit for wood ducks, would allay potential conservation concerns for these species. We supported the increase with the understanding that the Tribe and we would closely monitor tribal harvest.

Last year, in deference to tribal traditions and in the interest of cooperation, and despite our previously identified concerns regarding species identification, species conservation of locally breeding populations, retrieval of downed birds, hunter safety, and law enforcement impacts, we approved shooting 30 minutes after sunset (an extension of 15 minutes from the then-current 15 minutes after sunset) (77 FR 54451, September 5, 2012). This was consistent with other Tribes in the general area (Fond du Lac, Leech Lake, Oneida, Sault Ste Marie, and White Earth). Extending shooting hours on both the front end and the back end of the day to 45 minutes before sunrise and 45 minutes after sunset as GLIWFC has proposed would be contrary to public safety and only heightens our previously identified concerns. It is widely considered dark 45 minutes after sunset (and 45 minutes before sunrise), and we see no viable remedies to allay our concerns. Shooting this early or late would also significantly increase the potential take of non-game birds. Thus, we cannot support increasing the shooting hours by an additional 15 minutes in the 1837 and 1842 Treaty Areas (to 45 minutes before sunrise and 45 minutes after sunset).

Earlier Season Opening Date

The Migratory Bird Treaty Act allows the hunting of migratory game birds beginning September 1. Generally, we have tried to guide Tribes to select an opening date for duck hunting of no earlier than September 15. This guidance is based on our concern that hunting prior to September 15 significantly increases the potential for taking ducks that have not yet fully fledged (normally the result of late-nesting or renesting hens) or species misidentification due to the fact that some species and/or sexes are not yet readily distinguishable. While these impacts primarily concern locally-breeding ducks, the potential does exist for the take of molt migrants, i.e., birds that have specifically migrated to an area to complete the molting process. Last year, we allowed GLIFWC to open the general duck season on September 4 in the 1836, 1837, and 1842 ceded areas. While we would prefer that GLIFWC not implement such a change at this time until we can see any impacts associated with the earlier September opening date, we see no significant conservation implications given the small date change and the relatively small numbers of tribal hunters and we are willing to allow GLIFWC to begin the duck season on September 1 in the 1836, 1837, and 1842 ceded areas. We are proposing this change in the interest of our long-term relationship with GLIWFC and the understanding that if significant conservation impacts are discovered, we would adjust the duck season opening date accordingly. However, we note that a September 1 opening date for ducks would preclude any use of electronic calls for Canada geese.

Sandhill Crane Daily Bag Limit

We have no objections to the proposed increase of the sandhill crane daily bag limit from one to two in the 1837 and 1842 Treaty Areas. We note that at least two other Tribes currently have a sandhill crane season (see ''(c) Fond du Lac Band of Lake Superior Chippewa Indians'' in Minnesota and ''(d) Grand Traverse Band of Ottawa and Chippewa Indians'' in Michigan elsewhere in this rule). All cranes in these current and proposed hunt areas are Eastern Population (EP) sandhill cranes. EP sandhill cranes rebounded from near extirpation in the late 1800s to over 30,000 cranes by 1996, and the 2012 EP sandhill crane fall survey index (87,796) increased by 21 percent from 2011. As a result of this rebound and their continued range expansion, the Atlantic and Mississippi Flyway Councils developed a cooperative management plan for this population, and criteria were developed describing when hunting seasons could be opened. The State of Kentucky held its first hunting season on this population in 2011–12 (harvesting 92 cranes last year), and the State of Tennessee is proposing a new experimental season this year with a maximum allowed harvest of 2,325 cranes (78 FR 45376, July 26, 2013). Further, allowance for Tribal harvest is specifically considered in the EP plan.

GLIFWC reported that only 2 cranes were harvested last year in their inaugural crane season and estimates that no more than 20 cranes will be harvested during the proposed season. We further note that two cranes were harvested in 2011, in the inaugural Fond du Lac sandhill crane season, and none last year. While we support the increase in the crane daily bag limit, given the need to closely monitor the harvest of this species, we suggest that GLIFWC closely track crane harvest, similar to that implemented by Fond du Lac and Grand Traverse, which could include a tag or permit type system as recommended in the EP management plan.

Swan Season

As we stated last year (77 FR 54451, September 5, 2012), we are not opposed to the establishment of a tundra swan season in Wisconsin. Further, we are not conceptually opposed to the establishment of a general swan season. However, the establishment of a new swan season in the ceded territory areas in question involves several significant concerns and special considerations. We believe these concerns need further study and consideration before any implementation of a new swan season in the ceded territories. Our position has not changed.

First, the proposed areas in question are home to significant numbers of trumpeter swans. While the GLIFWC's proposed season is for both tundra and trumpeter swans, there are important differences that require careful consideration. Many cooperators, including GLIFWC, worked together to reestablish a breeding trumpeter swan population in the Great Lakes. These efforts have been largely successful with the removal of this species from Wisconsin's endangered species list in 2009. After a 25-year recovery program, there are currently about 200 breeding pairs in Wisconsin. We have significant concerns at this time concerning the harvest of trumpeter swans by tribal hunters hunting during a swan season. Further, within Wisconsin, the northern ceded territory is an area of high trumpeter swan use containing over 80 percent of the breeding pairs. We believe such areas should be avoided either temporally or geographically to the extent possible. When a hunting season on swans (either tundra, trumpeters, or both) is ultimately implemented, we believe it would be best to focus hunting efforts on the primary tundra swan migration concentrations while avoiding areas of significant trumpeter swan numbers. Unfortunately, most such areas are located outside of the ceded territories of northern Wisconsin. GLIWFC's proposal to not open the season until November 1, when they state that migrant swans have typically arrived into the ceded areas in appreciable numbers, does not alleviate our previously identified concerns.

In addition to the concerns about potential impacts to trumpeter swans, we believe it is imperative that any tribal swan hunting proposal follow the Eastern Population of tundra swans management plan, including a quota permit system and harvest reporting. The EP tundra swan management plan was cooperatively developed by the Atlantic, Central, and Mississippi Flyway Councils in 2007, and guides the management and harvest of EP tundra swans.

For these reasons, we do not believe that a tribal swan hunting season in the ceded territory should be implemented this year. Given that all these concerns can be worked through, we do not believe that implementation of a swan season is unrealistic. We note that both the Service and the State wildlife agencies have considerable trumpeter swan information that would be helpful in conducting additional biological evaluation and harvest planning, and are available to work with GLIFWC on these issues.

National Environmental Policy Act (NEPA)

The programmatic document, ''Second Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (EIS 20130139),'' filed with the Environmental Protection Agency (EPA) on May 24, 2013, addresses NEPA compliance by the Service for issuance of the annual framework regulations for hunting of migratory game bird species. We published a notice of availability in the **Federal Register** on May 31, 2013 (78 FR 32686), and our Record of Decision on July 26, 2013 (78 FR 45376). We also address NEPA compliance for waterfowl hunting frameworks through the annual preparation of separate environmental assessments, the most recent being ''Duck Hunting Regulations for 2013–14,'' with its corresponding August 19, 2013, finding of no significant impact. In addition, an August 1985 environmental assessment entitled ''Guidelines for Migratory Bird Hunting Regulations on Federal Indian Reservations and Ceded Lands'' is available from the address indicated under the caption **FOR FURTHER INFORMATION CONTACT**.

Endangered Species Act Consideration

Section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), provides that, ''The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act'' (and) shall ''insure that any action authorized, funded, or carried out . . . is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat. . . .'' Consequently, we conducted formal consultations to ensure that actions resulting from these regulations would not likely jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitat. Findings from these consultations are included in a biological opinion, which concluded that the regulations are not likely to jeopardize the continued existence of any endangered or threatened species. Additionally, these findings may have caused modification of some regulatory measures previously proposed, and the final frameworks reflect any such modifications. Our biological opinions resulting from this section 7 consultation are public documents available for public inspection at the address indicated under **ADDRESSES**.

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) will review all significant rules. OIRA has reviewed this rule and has determined that this rule is significant because it would have an annual effect of $100 million or more on the economy.

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

An economic analysis was prepared for the 2013–14 season. This analysis was based on data from the 2011 National Hunting and Fishing Survey, the most recent year for which data are available (see discussion in Regulatory Flexibility Act section below). This analysis estimated consumer surplus for three alternatives for duck hunting (estimates for other species are not quantified due to lack of data). The alternatives are (1) issue restrictive regulations allowing fewer days than those issued during the 2012–13 season, (2) issue moderate regulations allowing more days than those in alternative 1, and (3) issue liberal regulations identical to the regulations in the 2012–

13 season. For the 2013–14 season, we chose Alternative 3, with an estimated consumer surplus across all flyways of $317.8–$416.8 million. We also chose alternative 3 for the 2009–10, the 2010–11, the 2012–13, and the 2012–13 seasons. The 2013–14 analysis is part of the record for this rule and is available at *http://www.regulations.gov* at Docket No. FWS–HQ–MB–2013–0057.

Regulatory Flexibility Act

The annual migratory bird hunting regulations have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). We analyzed the economic impacts of the annual hunting regulations on small business entities in detail as part of the 1981 cost-benefit analysis. This analysis was revised annually from 1990–95. In 1995, the Service issued a Small Entity Flexibility Analysis (Analysis), which was subsequently updated in 1996, 1998, 2004, 2008, and 2013. The primary source of information about hunter expenditures for migratory game bird hunting is the National Hunting and Fishing Survey, which is conducted at 5-year intervals. The 2013 Analysis was based on the 2011 National Hunting and Fishing Survey and the U.S. Department of Commerce's County Business Patterns, from which it was estimated that migratory bird hunters would spend approximately $1.5 billion at small businesses in 2013. Copies of the Analysis are available upon request from the Division of Migratory Bird Management (see **FOR FURTHER INFORMATION CONTACT**) or from our Web site at *http://www.fws.gov/migratorybirds/NewReportsPublications/SpecialTopics/SpecialTopics.html#HuntingRegs* or at *http://www.regulations.gov* at Docket No. FWS–HQ–MB–2013–0057.

Small Business Regulatory Enforcement Fairness Act

This rule is a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. For the reasons outlined above, this rule will have an annual effect on the economy of $100 million or more. However, because this rule establishes hunting seasons, we are not deferring the effective date under the exemption contained in 5 U.S.C. 808(1).

Paperwork Reduction Act

This final rule does not contain any new information collection that requires approval under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number. OMB has reviewed and approved the information collection requirements associated with migratory bird surveys and assigned the following OMB control numbers:

- 1018–0010—Mourning Dove Call Count Survey (expires 4/30/2015).
- 1018–0019—North American Woodcock Singing Ground Survey (expire 4/30/2015).
- 1018–0023—Migratory Bird Surveys (expires 4/30/2014). Includes Migratory Bird Harvest Information Program, Migratory Bird Hunter Surveys, Sandhill Crane Survey, and Parts Collection Survey.

Unfunded Mandates Reform Act

We have determined and certify, in compliance with the requirements of the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.,* that this rulemaking will not impose a cost of $100 million or more in any given year on local or State government or private entities. Therefore, this rule is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Civil Justice Reform—Executive Order 12988

The Department, in promulgating this rule, has determined that this rule will not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of Executive Order 12988.

Takings Implication Assessment

In accordance with Executive Order 12630, this rule, authorized by the Migratory Bird Treaty Act (16 U.S.C. 703–711), does not have significant takings implications and does not affect any constitutionally protected property rights. This rule will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, this rule allows hunters to exercise otherwise unavailable privileges and, therefore, reduce restrictions on the use of private and public property.

Energy Effects—Executive Order 13211

Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. While this rule is a significant regulatory action under Executive Order 12866, it is not expected to adversely affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Government-to-Government Relationship with Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, and 512 DM 2, we have evaluated possible effects on Federally-recognized Indian tribes and have determined that there are no effects on Indian trust resources. However, in the April 9 **Federal Register**, we solicited proposals for special migratory bird hunting regulations for certain Tribes on Federal Indian reservations, off-reservation trust lands, and ceded lands for the 2013–14 migratory bird hunting season. The resulting proposals were contained in a separate August 2, 2013, proposed rule (78 FR 47136). By virtue of these actions, we have consulted with Tribes affected by this rule.

Federalism Effects

Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act. We annually prescribe frameworks from which the States make selections regarding the hunting of migratory birds, and we employ guidelines to establish special regulations on Federal Indian reservations and ceded lands. This process preserves the ability of the States and tribes to determine which seasons meet their individual needs. Any State or Indian tribe may be more restrictive than the Federal frameworks at any time. The frameworks are developed in a cooperative process with the States and the Flyway Councils. This process allows States to participate in the development of frameworks from which they will make selections, thereby having an influence on their own regulations. These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. Therefore, in accordance with Executive Order 13132, these regulations do not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Regulations Promulgation

The rulemaking process for migratory game bird hunting must, by its nature, operate under severe time constraints. However, we intend that the public be given the greatest possible opportunity to comment. Thus, when the

preliminary proposed rulemaking was published, we established what we believed were the longest periods possible for public comment. In doing this, we recognized that when the comment period closed, time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, States and Tribes would have insufficient time to select season dates and limits; to communicate those selections to us; and to establish and publicize the necessary regulations and procedures to implement their decisions. We therefore find that ''good cause'' exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and these seasons will, therefore, take effect less than 30 days after the date of publication.

Accordingly, with each participating Tribe having had an opportunity to participate in selecting the hunting seasons desired for its reservation or ceded territory on those species of migratory birds for which open seasons are now prescribed, and consideration having been given to all other relevant matters presented, certain sections of title 50, chapter I, subchapter B, part 20, subpart K, are hereby amended as set forth below.

List of Subjects in 50 CFR Part 20

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

Accordingly, part 20, subchapter B, chapter I of title 50 of the Code of Federal Regulations is amended as follows:

PART 20—[AMENDED]

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

Authority: Migratory Bird Treaty Act, 40 Stat. 755, 16 U.S.C. 703–712; Fish and Wildlife Act of 1956, 16 U.S.C. 742a–j; Pub. L. 106–108, 113 Stat. 1491, Note Following 16 U.S.C. 703.

Note: The following hunting regulations provided for by 50 CFR 20.110 will not appear in the Code of Federal Regulations because of their seasonal nature.)

■ 2. Section 20.110 is revised to read as follows:

§ 20.110 Seasons, limits, and other regulations for certain Federal Indian reservations, Indian Territory, and ceded lands.

Unless specifically provided for below, all of the regulations contained in 50 CFR part 20 apply to the seasons listed herein.

(a) *Colorado River Indian Tribes, Parker, Arizona (Tribal Members and Nontribal Hunters).*

Doves

Season Dates: Open September 1 through 15, 2013; then open November 9 through December 23, 2013.

Daily Bag and Possession Limits: For the early season, daily bag limit is 10 mourning or white-winged doves, singly, or in the aggregate. For the late season, the daily bag limit is 10 mourning doves. Possession limits are twice the daily bag limits after the first day of the season.

General Conditions: All persons 14 years and older must be in possession of a valid Colorado River Indian Reservation hunting permit before taking any wildlife on tribal lands. Any person transporting game birds off the Colorado River Indian Reservation must have a valid transport declaration form. Other tribal regulations apply, and may be obtained at the Fish and Game Office in Parker, Arizona. The early season will be open from one-half hour before sunrise until noon. For the late season, shooting hours are from one-half hour before sunrise to sunset.

(b) *Confederated Salish and Kootenai Tribes, Flathead Indian Reservation, Pablo, Montana (Tribal Hunters).*

Tribal Members Only

Ducks (including mergansers)

Season Dates: Open September 2, 2013, through March 9, 2014.

Daily Bag and Possession Limits: The Tribe does not have specific bag and possession restrictions for Tribal members. The season on harlequin duck is closed.

Coots

Season Dates: Same as ducks.

Daily Bag and Possession Limits: Same as ducks.

Geese

Season Dates: Same as ducks.

Daily Bag and Possession Limits: Same as ducks.

General Conditions: Tribal and nontribal hunters must comply with all basic Federal migratory bird hunting regulations contained in 50 CFR part 20 regarding manner of taking. In addition, shooting hours are sunrise to sunset, and each waterfowl hunter 16 years of age or older must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the stamp face. Special regulations established by the Confederated Salish and Kootenai Tribes also apply on the reservation.

(c) *Fond du Lac Band of Lake Superior Chippewa Indians, Cloquet, Minnesota (Tribal Members Only).*

Ducks

1854 and 1837 Ceded Territories:

Season Dates: Begin September 14 and end November 24, 2013.

Daily Bag Limit: 18 ducks, including no more than 12 mallards (only 3 of which may be hens), 9 black ducks, 9 scaup, 9 wood ducks, 9 redheads, 9 pintails, and 9 canvasbacks.

Reservation:

Season Dates: Begin September 1 and end November 24, 2013.

Daily Bag Limit: 12 ducks, including no more than 8 mallards (only 2 of which may be hens), 6 black ducks, 6 scaup, 6 redheads, 6 pintails, 6 wood ducks, and 6 canvasbacks.

Mergansers

1854 and 1837 Ceded Territories:

Season Dates: Begin September 14 and end November 24, 2013.

Daily Bag Limit: 15 mergansers, including no more than 6 hooded mergansers.

Reservation:

Season Dates: Begin September 1 and end November 24, 2013.

Daily Bag Limit: 10 mergansers, including no more than 4 hooded mergansers.

Canada Geese: All Areas

Season Dates: Begin September 1 and end November 24, 2013.

Daily Bag Limit: 20 geese.

Coots and Common Moorhens (Common Gallinules)

1854 and 1837 Ceded Territories:

Season Dates: Begin September 14 and end November 24, 2013.

Daily Bag Limit: 20 coots and common moorhens, singly or in the aggregate.

Reservation:

Season Dates: Begin September 1 and end November 24, 2013.

Daily Bag Limit: 20 coots and common moorhens, singly or in the aggregate.

Sandhill Cranes: 1854 and 1837 Ceded Territories:

Season Dates: Begin September 1 and end November 25, 2013.

Daily Bag Limit: One sandhill crane. Crane carcass tags are required prior to hunting.

Sora and Virginia Rails: All Areas

Season Dates: Begin September 1 and end November 24, 2013.

Daily Bag Limit: 25 sora and Virginia rails, singly or in the aggregate.

Common Snipe: All Areas

Season Dates: Begin September 1 and end November 24, 2013.

Daily Bag Limit: Eight common snipe.

Woodcock: All Areas

Season Dates: Begin September 1 and end November 24, 2013.

Daily Bag Limit: Three woodcock.

Mourning Doves: All Areas

Season Dates: Begin September 1 and end October 30, 2013.

Daily Bag Limit: 30 mourning doves.

General Conditions:

1. While hunting waterfowl, a tribal member must carry on his/her person a valid tribal waterfowl hunting permit.

2. Except as otherwise noted, tribal members will be required to comply with tribal codes that will be no less restrictive than the provisions of Chapter 10 of the Model Off-Reservation Code. These regulations parallel Federal requirements in 50 CFR part 20 as to hunting methods, transportation, sale, exportation, and other conditions generally applicable to migratory bird hunting.

3. Band members in each zone will comply with State regulations providing for closed and restricted waterfowl hunting areas.

4. There are no possession limits on any species, unless otherwise noted above. For purposes of enforcing bag and possession limits, all migratory birds in the possession or custody of band members on ceded lands will be considered to have been taken on those lands unless tagged by a tribal or State conservation warden as having been taken on-reservation. All migratory birds that fall on reservation lands will not count as part of any off-reservation bag or possession limit.

5. Shooting hours for migratory birds are one-half hour before sunrise to one-half hour after sunset.

(d)*Grand Traverse Band of Ottawa and Chippewa Indians, Suttons Bay, Michigan (Tribal Members Only).*

All seasons in Michigan, 1836 Treaty Zone:

Ducks

Season Dates: Open September 15, 2013, through January 15, 2014.

Daily Bag Limit: 20 ducks, which may include no more than 5 pintail, 3 canvasback, 5 black ducks, 1 hooded merganser, 5 wood ducks, 3 redheads, and 9 mallards (only 4 of which may be hens).

Canada and Snow Geese

Season Dates: Open September 1 through November 30, 2013; and open January 1, 2014, through February 8, 2014.

Daily Bag Limit: 10 geese.

Other Geese (white-fronted geese and brant)

Season Dates: Open September 20 through November 30, 2013.

Daily Bag Limit: Five geese.

Sora Rails, Common Snipe, and Woodcock

Season Dates: Open September 1 through November 14, 2013.

Daily Bag Limit: 10 rails, 10 snipe, and 5 woodcock.

Mourning Doves

Season Dates: Open September 1 through November 14, 2013.

Daily Bag Limit: 10 mourning doves.

Sandhill Cranes

Season Dates: Open September 1 through November 30, 2013.

Daily Bag Limit: One sandhill crane.

General Conditions: A valid Grand Traverse Band Tribal license is required and must be in possession before taking any wildlife. Shooting hours for migratory birds are one-half hour before sunrise to one-half hour after sunset. All other basic regulations contained in 50 CFR part 20 are valid. Other tribal regulations apply, and may be obtained at the tribal office in Suttons Bay, Michigan.

(e) *Great Lakes Indian Fish and Wildlife Commission, Odanah, Wisconsin (Tribal Members Only).*

The 2013–14 waterfowl hunting season regulations apply to all treaty areas (except where noted):

Ducks

Season Dates: Begin September 1 and end December 31, 2013.

Daily Bag Limit: 1837 and 1842 Ceded Territories: 50 ducks.

1836 Ceded Territory: 30 ducks.

Mergansers

Season Dates: Begin September 1 and end December 31, 2013.

Daily Bag Limit: 10 mergansers.

Geese

Season Dates: Begin September 1 and end December 31, 2013. In addition, any portion of the ceded territory that is open to State-licensed hunters for goose hunting after December 1 will also be open concurrently for tribal members.

Daily Bag Limit: 20 geese in aggregate.

Other Migratory Birds

Coots and Common Moorhens (Common Gallinules):

Season Dates: Begin September 1 and end December 31, 2013.

Daily Bag Limit: 20 coots and common moorhens (common gallinules), singly or in the aggregate.

Sora and Virginia Rails

Season Dates: Begin September 1 and end December 31, 2013.

Daily Bag and Possession Limits: 20 sora and Virginia rails, singly or in the aggregate, 25.

Common Snipe

Season Dates: Begin September 1 and end December 31, 2013.

Daily Bag Limit: 16 common snipe.

Woodcock

Season Dates: Begin September 3 and end December 31, 2013.

Daily Bag Limit: 10 woodcock.

Mourning Doves: 1837 and 1842 Ceded Territories

Season Dates: Begin September 1 and end November 9, 2013.

Daily Bag Limit: 15 doves.

Sandhill Cranes: 1837 and 1842 Ceded Territories only

Season Dates: Begin September 1 and end December 31, 2013.

Daily Bag Limit: 2 cranes.

General Conditions

A. All tribal members will be required to obtain a valid tribal waterfowl hunting permit.

B. Except as otherwise noted, tribal members will be required to comply with tribal codes that will be no less restrictive than the model ceded territory conservation codes approved by Federal courts in the *Lac Courte Oreilles* v. *State of Wisconsin (Voigt), Mille Lacs Band* v. *State of Minnesota,* and *United States* v. *Michigan* cases. Chapter 10 in each of these model codes regulates ceded territory migratory bird hunting. Both versions of Chapter 10 parallel Federal requirements as to hunting methods, transportation, sale, exportation, and other conditions generally applicable to migratory bird hunting. They also automatically incorporate by reference the Federal migratory bird regulations adopted in response to this regulation.

C. Particular regulations of note include:

1. Nontoxic shot will be required for all waterfowl hunting by tribal members.

2. Tribal members in each zone will comply with tribal regulations providing for closed and restricted waterfowl hunting areas. These regulations generally incorporate the same restrictions contained in parallel State regulations.

3. There is no possession limit. For purposes of enforcing bag limits, all migratory birds in the possession and custody of tribal members on ceded

lands will be considered to have been taken on those lands unless tagged by a tribal or State conservation warden as taken on reservation lands. All migratory birds that fall on reservation lands will not count as part of any off-reservation bag or possession limit.

4. The baiting restrictions included in the respective section 10.05(2)(h) of the model ceded territory conservation codes will be amended to include language which parallels that in place for nontribal members as published at 64 FR 29799, June 3, 1999.

5. The shell limit restrictions included in the respective section 10.05(2)(b) of the model ceded territory conservation codes will be removed.

6. Hunting hours shall be from one-half hour before sunrise to one-half hour after sunset.

(f) [Reserved]

(g) *Kalispel Tribe, Kalispel Reservation, Usk, Washington (Tribal Members and Nontribal Hunters).*

Nontribal Hunters on Reservation

Geese

Season Dates: Open September 7 through September 15, 2013, for the early-season, and open October 1, 2013, through January 31, 2014, for the late-season. During this period, days to be hunted are specified by the Kalispel Tribe. Nontribal hunters should contact the Tribe for more detail on hunting days.

*Daily Bag and Possession Limit*s: 5 Canada geese for the early season, and 3 light geese and 4 dark geese, for the late season. The daily bag limit is 2 brant (when the State's season is open) and is in addition to dark goose limits for the late-season. The possession limit is twice the daily bag limit.

Ducks

Season Dates: Open September 21, through September 23, 2013, and open September 28 through September 30, 2013.

Daily Bag and Possession Limits: 7 ducks, including no more than 2 female mallards, 2 pintail, 1 canvasback, 3 scaup, and 2 redheads. The possession limit is twice the daily bag limit.

Tribal Hunters Within Kalispel Ceded Lands

Ducks

Season Dates: Open October 1, 2013, through January 31, 2014.

Daily Bag and Possession Limits: 7 ducks, including no more than 2 female mallards, 2 pintail, 1 canvasback, 3 scaup, and 2 redheads. The possession limit is twice the daily bag limit.

Geese

Season Dates: Open September 1, 2013, through January 31, 2014.

Daily Bag Limit: 6 light geese and 4 dark geese. The daily bag limit is 2 brant and is in addition to dark goose limits.

General: Tribal members must possess a validated Migratory Bird Hunting and Conservation Stamp and a tribal ceded lands permit.

(h) [Reserved]

(i) *Leech Lake Band of Ojibwe, Cass Lake, Minnesota (Tribal Members Only).*

Ducks

Season Dates: Open September 1 through December 31, 2013.

Daily Bag Limits: 10 ducks, including no more than 5 pintail, 5 canvasback, and 5 black ducks.

Geese

Season Dates: Open September 1 through December 31, 2013.

Daily Bag Limits: 10 geese.

General: Possession limits are twice the daily bag limits. Shooting hours are one-half hour before sunrise to one-half hour after sunset. Nontoxic shot is required. Use of live decoys, bait, and commercial use of migratory birds are prohibited. Waterfowl may not be pursued or taken while using motorized craft.

(j) *Little River Band of Ottawa Indians, Manistee, Michigan (Tribal Members Only).*

1836 Ceded Territory and Tribal Reservation:

Ducks

Season Dates: Open September 15, 2013, through January 20, 2014.

Daily Bag Limits: 12 ducks, including no more than 6 mallards (2 of which may be hens), 3 black ducks, 5 redheads, 3 wood ducks, 2 pintail, 1 hooded merganser, and 2 canvasback.

Canada Geese

Season Dates: Open September 1, 2013, through February 8, 2014.

Daily Bag Limit: 20.

White-fronted Geese, Brant, and Snow Geese

Season Dates: Open September 20, 2013, through November 30, 2013.

Daily Bag Limit: 5.

Woodcock, Mourning Doves, Snipe, and Sora and Virginia Rails

Season Dates: Open September 1 through November 14, 2013.

Daily Bag Limit: 5 Woodcock and 10 each of the other species.

General: Possession limits are twice the daily bag limits.

(k) *The Little Traverse Bay Bands of Odawa Indians, Petoskey, Michigan (Tribal Members Only).*

Ducks

Season Dates: Open September 15, 2013, through January 31, 2014.

Daily Bag Limits: 20 ducks, including no more than 5 hen mallards, 5 black ducks, 5 redheads, 5 wood ducks, 5 pintail, 5 scaup, and 5 canvasback.

Mergansers

Season Dates: Open September 15, 2013, through January 31, 2014.

Daily Bag Limits: 10 mergansers, including no more than 5 hooded mergansers.

Coots and Gallinules

Season Dates: Open September 15 through December 31, 2013.

Daily Bag Limit: 20.

Canada Geese

Season Dates: Open September 1, 2013, through February 8, 2014.

Daily Bag Limit: 20.

Sora and Virginia Rails

Season Dates: Open September 1 through December 31, 2013.

Daily Bag Limit: 20.

Snipe

Season Dates: Open September 15 through December 31, 2013.

Daily Bag Limit: 16.

Mourning Doves

Season Dates: Open September 1 through November 14, 2013.

Daily Bag Limit: 15.

Woodcock

Season Dates: Open September 5 through December 1, 2013.

Daily Bag Limit: 10.

Sandhill Cranes

Season Dates: Open September 1 through December 1, 2013.

Daily Bag Limit: 1.

General: Possession limits are twice the daily bag limits.

(l) *Lower Brule Sioux Tribe, Lower Brule Reservation, Lower Brule, South Dakota (Tribal Members and Nontribal Hunters).*

Tribal Members

Ducks, Mergansers, and Coots

Season Dates: Open September 1, 2013, through March 10, 2014.

Daily Bag and Possession Limits: Six ducks, including no more five mallards (only two of which may be hens), four scaup, one mottled duck, two redheads, three wood ducks, one canvasback, and

two pintail. Coot daily bag limit is 15. Merganser daily bag limit is five, including no more than two hooded mergansers. The possession limit is twice the daily bag limit.

Canada Geese

Season Dates: Open September 1, 2013, through March 10, 2014.

Daily Bag and Possession Limits: Three and six, respectively.

White-fronted Geese

Season Dates: Open September 1, 2013, through March 10, 2014.

Daily Bag and Possession Limits: Two and four, respectively.

Light Geese

Season Dates: Open September 1, 2013, through March 10, 2014.

Daily Bag Limit: 20.

General Conditions: All hunters must comply with the basic Federal migratory bird hunting regulations in 50 CFR part 20, including the use of steel shot. Nontribal hunters must possess a validated Migratory Bird Hunting and Conservation Stamp. The Lower Brule Sioux Tribe has an official Conservation Code that hunters must adhere to when hunting in areas subject to control by the Tribe.

(m) *Lower Elwha Klallam Tribe, Port Angeles, Washington (Tribal Members Only).*

Ducks

Season Dates: Open September 14, 2013, through January 5, 2014.

Daily Bag and Possession Limits: Eight ducks, including no more than two hen mallards, one pintail, one canvasback, and two redheads. Possession limit is twice the daily bag limit. Bag and possession limits for harlequin ducks is one per season.

Geese

Season Dates: Open September 14, 2013, through January 5, 2014.

Daily Bag and Possession Limits: Four geese, and may include no more than three light geese. The seasons on Aleutian Canada geese and brant are closed. Possession limit is twice the daily bag limit.

Coots

Season Dates: Open September 14, 2013, through January 5, 2014.

Daily Bag and Possession Limits: 25 and 50 coots, respectively.

Mourning Doves

Season Dates: Open September 14, 2013, through January 5, 2014.

Daily Bag and Possession Limits: 10 and 20 doves, respectively.

Snipe

Season Dates: Open September 14, 2013, through January 5, 2014.

Daily Bag and Possession Limits: 8 and 16 snipe, respectively.

Band-Tailed Pigeons

Season Dates: Open September 14, 2013, through January 5, 2014.

Daily Bag and Possession Limits: 2 and 4 pigeons, respectively.

General: Tribal members must possess a tribal hunting permit from the Lower Elwha Klallam Tribe pursuant to tribal law. Hunters must observe all basic Federal migratory bird hunting regulations in 50 CFR part 20.

(n) *Makah Indian Tribe, Neah Bay, Washington (Tribal Members).*

Band-Tailed Pigeons

Season Dates: Open September 14 through October 27, 2013.

Daily Bag Limit: Two band-tailed pigeons.

Ducks and Coots

Season Dates: Open September 21, 2013, through January 26, 2014.

Daily Bag Limit: Seven ducks including no more than five mallards (only two of which can be a hen), one redhead, one pintail, three scaup, and one canvasback. The seasons on wood duck and harlequin are closed.

Geese

Season Dates: Open September 21, 2013, through January 26, 2014.

Daily Bag Limit: Four including no more than one brant. The seasons on Aleutian and dusky Canada geese are closed.

General

All other Federal regulations contained in 50 CFR part 20 apply. The following restrictions also apply:

(1) As per Makah Ordinance 44, only shotguns may be used to hunt any species of waterfowl. Additionally, shotguns must not be discharged within 0.25 miles of an occupied area.

(2) Hunters must be eligible, enrolled Makah tribal members and must carry their Indian Treaty Fishing and Hunting Identification Card while hunting. No tags or permits are required to hunt waterfowl.

(3) The Cape Flattery area is open to waterfowl hunting, except in designated wilderness areas, or within 1 mile of Cape Flattery Trail, or in any area that is closed to hunting by another ordinance or regulation.

(4) The use of live decoys and/or baiting to pursue any species of waterfowl is prohibited.

(5) Steel or bismuth shot only for waterfowl is allowed; the use of lead shot is prohibited.

(6) The use of dogs is permitted to hunt waterfowl.

(7) Shooting hours for all species of waterfowl are one-half hour before sunrise to one-half hour after sunset.

(8) Open hunting areas are: GMUs 601 (Hoko), a portion of the 602 (Dickey) encompassing the area north of a line between Norwegian Memorial and east to Highway 101, and 603 (Pysht).

(o) *Navajo Nation, Navajo Indian Reservation, Window Rock, Arizona (Tribal Members and Nontribal Hunters).*

Band-Tailed Pigeons

Season Dates: Open September 1 through 30, 2013.

Daily Bag and Possession Limits: 5 and 10 pigeons, respectively.

Mourning Doves

Season Dates: Open September 1 through 30, 2013.

Daily Bag and Possession Limits: 10 and 20 doves, respectively.

General Conditions: Tribal and nontribal hunters will comply with all basic Federal migratory bird hunting regulations in 50 CFR part 20, regarding shooting hours and manner of taking. In addition, each waterfowl hunter 16 years of age or over must carry on his/her person a valid Migratory Bird Hunting and Conservation Stamp (Duck Stamp) signed in ink across the face. Special regulations established by the Navajo Nation also apply on the reservation.

(p) *Oneida Tribe of Indians of Wisconsin, Oneida, Wisconsin (Tribal Members Only).*

Ducks (Including Mergansers)

Season Dates: Open September 14 through November 15, 2013, and open November 25 through December 1, 2013.

Daily Bag and Possession Limits: Six, including no more than six mallards (three hen mallards), six wood ducks, one redhead, two pintail, and one hooded merganser. The possession limit is twice the daily bag limit.

Geese

Season Dates: Open September 1 through November 15, 2013; and open November 25 through December 29, 2013.

Daily Bag and Possession Limits: 5 and 10 Canada geese, respectively, from September 1 through 13, 2013; and 3 and 6 Canada geese, respectively, the remainder of the season. Hunters will be issued five tribal tags during the early

season and three tribal tags during the late season for geese in order to monitor goose harvest. An additional three tags will be issued each time birds are registered. A seasonal quota of 300 birds is adopted. If the quota is reached before the season concludes, the season will be closed at that time.

Woodcock

Season Dates: Open September 7 through November 3, 2013.

Daily Bag and Possession Limits: Two and four woodcock, respectively.

Doves

Season Dates: Open September 7 through November 3, 2013.

Daily Bag and Possession Limits: 10 and 20 doves, respectively.

General Conditions: Tribal member shooting hours are one-half hour before sunrise to one-half hour after sunset. Nontribal members hunting on the Reservation or on lands under the jurisdiction of the Tribe must comply with all State of Wisconsin regulations, including season dates, shooting hours, and bag limits, which differ from tribal member seasons. Tribal members and nontribal members hunting on the Reservation or on lands under the jurisdiction of the Tribe will observe all basic Federal migratory bird hunting regulations found in 50 CFR part 20, with the following exceptions: Tribal members are exempt from the purchase of the Migratory Waterfowl Hunting and Conservation Stamp (Duck Stamp); and shotgun capacity is not limited to three shells.

(q) *Point No Point Treaty Council, Kingston, Washington (Tribal Members Only).*

Jamestown S'Klallam Tribe

Ducks

Season Dates: Open September 15, 2013, through February 1, 2014.

Daily Bag and Possession Limits: Seven ducks, including no more than two hen mallards, one pintail, one canvasback, four scoters, and two redheads. Possession limit is twice the daily bag limit. Bag and possession limits for harlequin ducks is one per season.

Geese

Season Dates: Open September 15, 2013, through March 10, 2014.

Daily Bag and Possession Limits: Four geese, and may include no more than three light geese. The season on cackling Canada geese is closed. Possession limit is twice the daily bag limit.

Brant

Season Dates: Open January 15 through January 31, 2014.

Daily Bag and Possession Limits: Two and four, respectively.

Coots

Season Dates: Open September 15, 2013, through February 1, 2014.

Daily Bag and Possession Limits: 25 and 50 coots, respectively.

Mourning Doves

Season Dates: Open September 15, 2013, through January 14, 2014.

Daily Bag and Possession Limits: 10 and 20 doves, respectively.

Snipe

Season Dates: Open September 15, 2013, through March 10, 2014.

Daily Bag and Possession Limits: 8 and 16 snipe, respectively.

Band-tailed Pigeons

Season Dates: Open September 15, 2013, through March 10, 2014.

Daily Bag and Possession Limits: 2 and 4 pigeons, respectively.

Port Gamble S'Klallam Tribe

Ducks

Season Dates: Open September 2, 2013, through January 31, 2014.

Daily Bag and Possession Limits: Seven ducks, including no more than two hen mallards, one pintail, one canvasback, four scoters, and two redheads. Possession limit is twice the daily bag limit. Bag and possession limits for harlequin ducks is one per season.

Geese

Season Dates: Open September 15, 2013, through March 9, 2014.

Daily Bag and Possession Limits: Four geese, and may include no more than three light geese. The season on cackling Canada geese is closed. Possession limit is twice the daily bag limit.

Brant

Season Dates: Open November 9, 2013, through January 31, 2014.

Daily Bag and Possession Limits: 2 and 4, respectively.

Coots

Season Dates: Open September 2, 2013, through January 31, 2014.

Daily Bag and Possession Limits: 25 and 50 coots, respectively.

Mourning Doves

Season Dates: Open September 2, 2013, through January 31, 2014.

Daily Bag and Possession Limits: 10 and 20 doves, respectively.

Snipe

Season Dates: Open September 1, 2013, through March 9, 2014.

Daily Bag and Possession Limits: 8 and 16 snipe, respectively.

Band-tailed Pigeons

Season Dates: Open September 2, 2013, through March 9, 2014.

Daily Bag and Possession Limits: 2 and 4 pigeons, respectively.

General: Tribal members must possess a tribal hunting permit from the Point No Point Tribal Council pursuant to tribal law. Hunting hours are from one-half hour before sunrise to sunset. Hunters must observe all other basic Federal migratory bird hunting regulations in 50 CFR part 20.

(r) *Sault Ste. Marie Tribe of Chippewa Indians, Sault Ste. Marie, Michigan (Tribal Members Only).*

Mourning Doves

Season Dates: Open September 1 through November 14, 2013.

Daily Bag Limit: 10 doves.

Ducks

Season Dates: Open September 15 through December 31, 2013.

Daily Bag Limits: 20, including no more than 10 mallards (only 5 of which may be hens), 5 canvasbacks, 5 black ducks, and 5 wood ducks.

Mergansers

Season Dates: Open September 15 through December 31, 2013.

Daily Bag Limit: 10.

Geese

Season Dates: Open September 1 through December 31, 2013.

Daily Bag Limit: 20 geese.

Coots and Gallinule

Season Dates: Open September 1 through December 31, 2013.

Daily Bag Limit: 20 in the aggregate.

Woodcock

Season Dates: Open September 2 through December 1, 2013.

Daily Bag Limits: 10.

Common Snipe

Season Dates: Open September 15 through December 31, 2013.

Daily Bag Limits: 16 snipe.

Sora and Virginia Rails

Season Dates: Open September 1 through December 31, 2013.

Daily Bag Limits: 20 rails in the aggregate.

General: Possession limits are twice the daily bag limits except for rails, of which the possession limit equals the

daily bag limit (20). Tribal members must possess a tribal hunting permit from the Sault Ste. Marie Tribe pursuant to tribal law. Shooting hours are one-half hour before sunrise until one-half hour after sunset. Hunters must observe all other basic Federal migratory bird hunting regulations in 50 CFR part 20.

(s) [Reserved]

(t) *Skokomish Tribe, Shelton, Washington (Tribal Members Only).*

Ducks

Season Dates: Open September 16, 2013, through February 28, 2014.

Daily Bag and Possession Limits: Seven ducks, including no more than two hen mallards, one pintail, one canvasback, one harlequin per season, and two redheads. Possession limit is twice the daily bag limit (except for harlequin).

Geese

Season Dates: Open September 16, 2013, through February 28, 2014.

Daily Bag and Possession Limits: Four geese, and may include no more than three light geese. The season on Aleutian Canada geese is closed. Possession limit is twice the daily bag limit.

Brant

Season Dates: Open November 1, 2013, through February 15, 2014.

Daily Bag and Possession Limits: Two and four brant, respectively.

Coots

Season Dates: Open September 16, 2013, through February 28, 2014.

Daily Bag and Possession Limits: 25 and 50 coots, respectively.

Mourning Doves

Season Dates: Open September 16, 2013, through February 28, 2014.

Daily Bag and Possession Limits: 10 and 20 doves, respectively.

Snipe

Season Dates: Open September 16, 2013, through February 28, 2014.

Daily Bag and Possession Limits: 8 and 16 snipe, respectively.

Band-tailed Pigeons

Season Dates: Open September 16, 2013, through February 28, 2014.

Daily Bag and Possession Limits: 2 and 4 pigeons, respectively.

General Conditions: All hunters authorized to hunt migratory birds on the reservation must obtain a tribal hunting permit from the respective Tribe. Hunters are also required to adhere to a number of special regulations available at the tribal office. Hunters must observe all other basic Federal migratory bird hunting regulations in 50 CFR part 20.

(u) *Spokane Tribe of Indians, Spokane Indian Reservation and Ceded Lands, Wellpinit, Washington (Tribal Members Only).*

Ducks

Season Dates: Open September 2, 2013, through January 31, 2014.

Daily Bag and Possession Limits: Seven ducks, including no more than two hen mallards, two pintail, one canvasback, three scaup, and two redheads. Possession limit is twice the daily bag limit.

Geese

Season Dates: Open September 2, 2013, through January 31, 2014.

Daily Bag and Possession Limits: Four dark geese and six light geese. Possession limit is twice the daily bag limit.

General Conditions: All tribal hunters must have a valid Tribal identification card on his or her person while hunting. Shooting hours are one-half hour before sunrise to sunset, and steel shot is required for all migratory bird hunting. Hunters must observe all other basic Federal migratory bird hunting regulations in 50 CFR part 20.

(v) [Reserved]

(w) *Stillaguamish Tribe of Indians, Arlington, Washington (Tribal Members Only).*

Band-tailed Pigeons

Season Dates: Open September 1 through October 31, 2013.

Daily Bag and Possession Limits: Four and eight, respectively.

Mourning Doves

Season Dates: Open September 1 through October 31, 2013.

Daily Bag and Possession Limits: 10 and 20, respectively.

Tribal members hunting on lands will observe all basic Federal migratory bird hunting regulations found in 50 CFR part 20, which will be enforced by the Stillaguamish Tribal Law Enforcement. Tribal members are required to use steel shot or a nontoxic shot as required by Federal regulations.

(x) [Reserved]

(y) *The Tulalip Tribes of Washington, Tulalip Indian Reservation, Marysville, Washington (Tribal Members Only).*

Ducks and Mergansers

Season Dates: Open September 4, 2013, through February 29, 2014.

Daily Bag and Possession Limits: Seven ducks, including no more than two hen mallards, two pintail, one canvasback, three scaup, and two redheads. Possession limit is twice the daily bag limit.

Geese

Season Dates: Open September 4, 2013, through February 29, 2014.

Daily Bag and Possession Limits: Seven geese. Possession limit is twice the daily bag limit.

Brant

Season Dates: Open September 4, 2013, through February 29, 2014.

Daily Bag and Possession Limits: Two and four brant, respectively.

Coots

Season Dates: Open September 4, 2013, through February 29, 2014.

Daily Bag and Possession Limits: 25 and 25 coots, respectively.

Snipe

Season Dates: Open September 4, 2013, through February 29, 2014.

Daily Bag and Possession Limits: 8 and 16 snipe, respectively.

General Conditions: All tribal hunters must have a valid Tribal identification card on his or her person while hunting. All nontribal hunters must obtain and possess while hunting a valid Tulalip Tribe hunting permit and be accompanied by a Tulalip Tribal member. Shooting hours are one-half hour before sunrise to sunset, and steel shot is required for all migratory bird hunting. Hunters must observe all other basic Federal migratory bird hunting regulations in 50 CFR part 20.

(z) *Upper Skagit Indian Tribe, Sedro Woolley, Washington (Tribal Members Only).*

Mourning Doves

Season Dates: Open September 1 through December 31, 2013.

Daily Bag and Possession Limits: 12 and 15 mourning doves, respectively.

Tribal members must have the tribal identification and harvest report card on their person to hunt. Tribal members hunting on the Reservation will observe all basic Federal migratory bird hunting regulations found in 50 CFR part 20, except shooting hours would be one-half hour before official sunrise to one-half hour after official sunset.

(aa) *Wampanoag Tribe of Gay Head, Aquinnah, Massachusetts (Tribal Members Only).*

Canada Geese

Season Dates: Open September 4 through 21, 2013, and open October 28, 2013, through February 22, 2014.

Daily Bag Limits: Eight Canada geese.

Snow Geese

Season Dates: Open September 4 through 21, 2013, and open November 25, 2013, through February 22, 2014.

Daily Bag Limits: 15 snow geese.

Sora and Virginia Rails

Season Dates: Open September 2 through November 10, 2013.

Daily Bag Limits: 5 sora and 10 Virginia Rails.

Snipe

Season Dates: Open September 2 through December 16, 2013.

Daily Bag Limits: Eight snipe.

General Conditions: Shooting hours are one-half hour before sunrise to sunset. Nontoxic shot is required. All other basic Federal migratory bird hunting regulations contained in 50 CFR part 20 will be observed.

(bb) *White Earth Band of Ojibwe, White Earth, Minnesota (Tribal Members Only).*

Ducks

Season Dates: Open September 14 through December 15, 2013.

Daily Bag Limit for Ducks: 10 ducks, including no more than 2 female mallards, 1 pintail, and 1 canvasback.

Mergansers

Season Dates: Open September 14 through December 15, 2013.

Daily Bag Limit for Mergansers: Five mergansers, including no more than two hooded mergansers.

Geese

Season Dates: Open September 1 through December 15, 2013.

Daily Bag Limit: Eight geese through September 20 and five thereafter.

Coots

Season Dates: Open September 1 through November 30, 2013.

Daily Bag Limit: 20 coots.

Sora and Virginia Rails

Season Dates: Open September 1 through November 30, 2013.

Daily Bag Limit: 25 sora and Virginia rails, singly or in the aggregate.

Common Snipe and Woodcock

Season Dates: Open September 1 through November 30, 2013.

Daily Bag Limit: 10 snipe and 10 woodcock.

Mourning Doves

Season Dates: Open September 1 through November 30, 2013.

Daily Bag Limit: 25 doves.

General Conditions: Shooting hours are one-half hour before sunrise to one-half hour after sunset. Nontoxic shot is required. All other basic Federal migratory bird hunting regulations contained in 50 CFR part 20 will be observed.

(cc) *White Mountain Apache Tribe, Fort Apache Indian Reservation, Whiteriver, Arizona (Tribal Members and Nontribal Hunters).*

Band-tailed Pigeons (Wildlife Management Unit 10 and areas south of Y–70 and Y–10 in Wildlife Management Unit 7, only)

Season Dates: Open September 1 through 15, 2013.

Daily Bag and Possession Limits: Three and six pigeons, respectively.

Mourning Doves (Wildlife Management Unit 10 and areas south of Y–70 and Y–10 in Wildlife Management Unit 7, only)

Season Dates: Open September 1 through 15, 2013.

Daily Bag and Possession Limits: 10 and 20 doves, respectively.

General Conditions: All nontribal hunters hunting band-tailed pigeons and mourning doves on Reservation lands shall have in their possession a valid White Mountain Apache Daily or Yearly Small Game Permit. In addition to a small game permit, all nontribal hunters hunting band-tailed pigeons must have in their possession a White Mountain Special Band-tailed Pigeon Permit. Other special regulations established by the White Mountain Apache Tribe apply on the reservation. Tribal and nontribal hunters will comply with all basic Federal migratory bird hunting regulations in 50 CFR Part 20 regarding shooting hours and manner of taking.

(dd) [Reserved]

Dated: August 19, 2013.

Rachel Jacobson,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2013–20981 Filed 8–27–13; 8:45 am]

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FEDERAL REGISTER

Vol. 78 Wednesday,

No. 167 August 28, 2013

Part IV

The President

Proclamation 9003—Women's Equality Day, 2013

Proclamation 9004—50th Anniversary of the March on Washington for Jobs and Freedom

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Title 3—

The President

Proclamation 9003 of August 23, 2013

Women's Equality Day, 2013

By the President of the United States of America

A Proclamation

On August 26, 1920, after decades of organizing, agitating, and demonstrating, our country achieved a major victory for women's rights and American democracy. The 19th Amendment was certified, extending the vote to women and advancing our Nation's long journey toward full equality for all Americans. The ratification of the 19th Amendment paved the way for more women to participate in American politics—as leaders, candidates, voters, and volunteers. Today, women make up the majority of the electorate, and last year a record number of women were elected to the United States Congress. On Women's Equality Day, we celebrate the progress that has been made, and renew our commitment to securing equal rights, freedoms, and opportunities for women everywhere.

From the beginning, my Administration has been committed to advancing the historic march toward gender equality. We have fought for equal pay, prohibited gender discrimination in America's healthcare system, and established the White House Council on Women and Girls, which works to ensure fair treatment in all matters of public policy. In March, I signed a reauthorization of the Violence Against Women Act, which provides better tools to law enforcement to reduce domestic and sexual violence, strengthens support systems, and extends protections to even more women. And earlier this year, the Department of Defense announced plans to remove roadblocks that prevent women from serving the country they love at the highest levels their extraordinary valor and talent will take them.

Yet we have more work to do. A fair deal for women is essential to a thriving middle class, but while women graduate college at higher rates than men, they still make less money after graduation and often have fewer opportunities to enter well-paid occupations or receive promotions. On average, women are paid 77 cents for every dollar paid to men. That is why the first bill I signed was the Lilly Ledbetter Fair Pay Act. It is also why I established the National Equal Pay Task Force, which is cracking down on equal pay violations at a record rate. And it is why I issued a Presidential Memorandum calling for a Government-wide strategy to close any gender pay gap within the Federal workforce. To build on this work, I will continue to urge the Congress to pass the Paycheck Fairness Act, a bill that would strengthen the Equal Pay Act and give women more tools to challenge unequal wages. My Administration will also continue our campaign to engage women and girls in science, technology, engineering, and mathematics careers, and we will broaden our efforts to empower women and girls around the world.

As we reflect with pride on decades of progress toward gender equality, we must also resolve to make progress in our time. Today, we honor the pioneers of women's equality by doing our part to realize that great American dream—the dream of a Nation where all things are possible for all people.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim August 26, 2013, as Women's Equality Day. I call upon the people of the United States

to celebrate the achievements of women and promote gender equality in our country.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-third day of August, in the year of our Lord two thousand thirteen, and of the Independence of the United States of America the two hundred and thirty-eighth.

[FR Doc. 2013–21188
Filed 8–27–13; 11:15 am]
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Presidential Documents

Proclamation 9004 of August 23, 2013

50th Anniversary of the March on Washington for Jobs and Freedom

By the President of the United States of America

A Proclamation

On August 28, 1963, hundreds of thousands converged on the National Mall to take part in what the Reverend Dr. Martin Luther King, Jr., called ''the greatest demonstration for freedom in the history of our nation.'' Demonstrators filled the landscape—from the steps of the Lincoln Memorial, alongside the still waters of the reflecting pool, to the proud base of the Washington Monument. They were men and women; young and old; black, white, Latino, Asian, and Native American—woven together like a great American tapestry, sharing in the dream that our Nation would one day make real the promise of liberty, equality, and justice for all.

The March on Washington capped off a summer of discontent, a time when the clarion call for civil rights was met with imprisonment, bomb threats, and base brutality. Many of the marchers had endured the smack of a billy club or the blast of a fire hose. Yet they chose to respond with nonviolent resistance, with a fierce dignity that stirred our Nation's conscience and paved the way for two major victories of the Civil Rights Movement—the Civil Rights Act of 1964 and the Voting Rights Act of 1965.

Today, we remember that the March on Washington was a demonstration for jobs as well as freedom. The coalition that brought about civil rights understood that racial equality and fairness for workers are bound together; when one American gets a raw deal, it jeopardizes justice for everyone. These are lessons we carry forward—that we cannot march alone, that America flourishes best when we acknowledge our common humanity, that our future is linked to the destiny of every soul on earth.

It is not enough to reflect with pride on the victories of the Civil Rights Movement. In honor of every man, woman, and child who left footprints on the National Mall, we must make progress in our time. Let us guard against prejudice—whether at the polls or in the workplace, whether on our streets or in our hearts—and let us pledge that, in the words of Dr. King, ''we will not be satisfied until justice rolls down like waters and righteousness like a mighty stream.''

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim August 28, 2013, as the 50th Anniversary of the March on Washington for Jobs and Freedom. I call upon all Americans to observe this day with appropriate programs, ceremonies, and activities that celebrate the March on Washington and advance the great causes of jobs and freedom.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-third day of August, in the year of our Lord two thousand thirteen, and of the Independence of the United States of America the two hundred and thirty-eighth.

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