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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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Rules and Regulations

Federal Register

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Monday, September 16, 2013

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

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

MERIT SYSTEMS PROTECTION BOARD

5 CFR Parts 1201 and 1209

Practices and Procedures

AGENCY: Merit Systems Protection Board.

ACTION: Final rule.

SUMMARY: The Merit Systems Protection Board (MSPB or the Board) is adopting as final an interim rule that conformed the Board's regulations to legislative changes that amended whistleblower protections for Federal employees and the penalties available in cases where the MSPB determines that a Federal employee or a State or local officer or employee violated restrictions on partisan political activity.

DATES: *Effective:* September 16, 2013.

FOR FURTHER INFORMATION CONTACT: William D. Spencer, Clerk of the Board, Merit Systems Protection Board, 1615 M Street NW., Washington, DC 20419; phone: (202) 653–7200; fax: (202) 653–7130; or email: *mspb@mspb.gov.*

SUPPLEMENTARY INFORMATION: On July 2, 2013, the Board published an interim final rule amending 5 CFR parts 1201 and 1209. 78 FR 39543. The interim final rule was necessary to conform the MSPB's regulations to recent amendments to Federal law contained in the Hatch Act Modernization Act of 2012, Public Law 112–230 (the Act) and the Whistleblower Protection Enhancement Act of 2012, Public Law 112–199 (WPEA). A detailed discussion of the amendments to the Board's regulations required by the Act and the WPEA is set forth in the interim rule.

The Board received no comments in response to the interim rule. Therefore, the Board has determined to adopt the interim rule as final without change.

List of Subjects in 5 CFR Parts 1201 and 1209

Administrative practice and procedure.

William D. Spencer,

Clerk of the Board.

Interim Rule Adopted as Final Without Change

Accordingly, the interim rule amending 5 CFR parts 1201 and 1209, which was published at 78 FR 39543, on July 2, 2013, is adopted as a final rule without change.

[FR Doc. 2013–22439 Filed 9–13–13; 8:45 am]

BILLING CODE 7400–01–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 205

[Document Number AMS–NOP–13–0057; NOP–13–03]

National Organic Program—Sunset Process

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notification of sunset process.

SUMMARY: This document describes the sunset review and renewal process for substances on the National List of Allowed and Prohibited Substances (National List), a subpart of the U.S. Department of Agriculture (USDA) organic regulations. The Organic Foods Production Act of 1990 (OFPA) requires that the National Organic Standards Board (NOSB), a 15-member federal advisory committee, review all substances and that the Secretary of Agriculture (Secretary) renew these substances, within 5 years of their addition to or renewal on the National List. This action of NOSB review and USDA renewal is commonly referred to as the ''Sunset Process.'' This document informs stakeholders about the process that the NOSB will use to complete their responsibility to review substances under OFPA's sunset provision. This document also informs stakeholders about the process that the Secretary and the Agricultural Marketing Service's (AMS) National Organic Program (NOP) will use to complete the USDA's responsibilities under OFPA's sunset provision.

DATES: The process announced by this document is effective on September 17, 2013.

FOR FURTHER INFORMATION CONTACT: Melissa Bailey, Ph.D., Director, Standards Division, Telephone: (202) 720–3252; Fax: (202) 205–7808.

SUPPLEMENTARY INFORMATION:

I. Background

What is the National List?

The OFPA authorized the establishment of a National List of Allowed and Prohibited Substances (National List) (7 U.S.C. 6517). The National List, a subpart of the USDA organic regulations, identifies the synthetic substances that are allowed (exemptions) and the nonsynthetic (natural) substances that are not allowed (prohibitions) in organic production (7 CFR 205.601–604). Nonsynthetic substances are generally permitted to be used in organic production and are not required to be included on the National List. The USDA organic regulations specifically prohibit the use of any synthetic substance in organic production and handling unless the synthetic substance is on the National List (§ 205.105). The National List also identifies the nonorganic substances that may be used in organic handling (§§ 205.605–205.606). Any nonorganic substance used in organic handling must also be included on the National List (§ 205.105).

Changes to the National List may be requested by any individual or organization through the National List Petition Process. Petitioners may submit a petition requesting the addition of a substance, the removal of a substance, or an amendment to a substance already on the National List. Section 205.607 of the USDA organic regulations addresses amending the National List. In addition, AMS published in the **Federal Register** guidelines regarding the submission of petitions for the National List on January 18, 2007 (72 FR 2167). This information can also be accessed through the NOP Web site at *http://www.ams.usda.gov/nop.*

What is the National Organic Standards Board?

The NOSB is a 15-member Federal Advisory Committee that assists in the development of standards for substances to be used in organic production and handling (7 U.S.C. 6518(a)). The NOSB

is responsible for developing proposed amendments to the National List for submission to the Secretary (7 U.S.C. 6518(k)(2)). Specifically, the NOSB reviews petitions received through the National List Petition Process and evaluates petitioned substances using specific criteria in OFPA (7 U.S.C. 6518(m)) and the USDA organic regulations (§ 205.600). These criteria address the impact of the use of the substance on human health and the environment, the necessity of the substance, and its compatibility with organic production and handling. Depending on the petitioned use of the substance, the petition will be reviewed by an NOSB subcommittee: Crops, livestock, or handling. Proposals from the subcommittees are posted for public comment prior to the NOSB issuing a final recommendation. In developing their final recommendation, NOSB considers information from the petition, third party technical information, and written and in-person comments at public meetings. After NOSB provides a final recommendation to the Secretary, AMS reviews the recommendation and, if warranted, considers action to amend the National List through rulemaking. Under the authority of OFPA, the Secretary can amend the National List based on proposed amendments developed by the NOSB (7 U.S.C. 6517(d)(1)).

What is the Sunset Process?

OFPA specifies that the NOSB must review all substances on the National List and that the Secretary renew substances within 5 years of their addition to or renewal on the National List. This action of NOSB review and USDA renewal is commonly referred to as the ''Sunset Process.'' It is essential for the NOSB to complete this review and the Secretary to complete any renewals in a timely manner because these substances are critical to the production and handling of a wide array of raw and processed organic agricultural products. Failure to complete this process could cause disruption of well-established and accepted organic production, handling, and processing systems.

The NOSB has previously evaluated and determined that all substances currently on the National List are consistent with OFPA and the USDA organic regulations. As of publication of this document, the NOSB has completed five Sunset reviews since the establishment of the National List in October 21, 2002. AMS has addressed these reviews through multiple rulemaking actions. A complete list of **Federal Register** notices pertinent to NOSB reviews and AMS rules that address NOSB's Sunset Reviews is available on the NOP Web site at: *www.ams.usda.gov/nopfederalregisternotices.*

What does this document do?

This document describes the process that NOSB will use to complete its responsibility to review substances on the National List under OFPA's sunset provision. This document also describes the process that AMS' National Organic Program (NOP) will use to complete the Secretary's responsibility to renew the National List under OFPA's sunset provision.

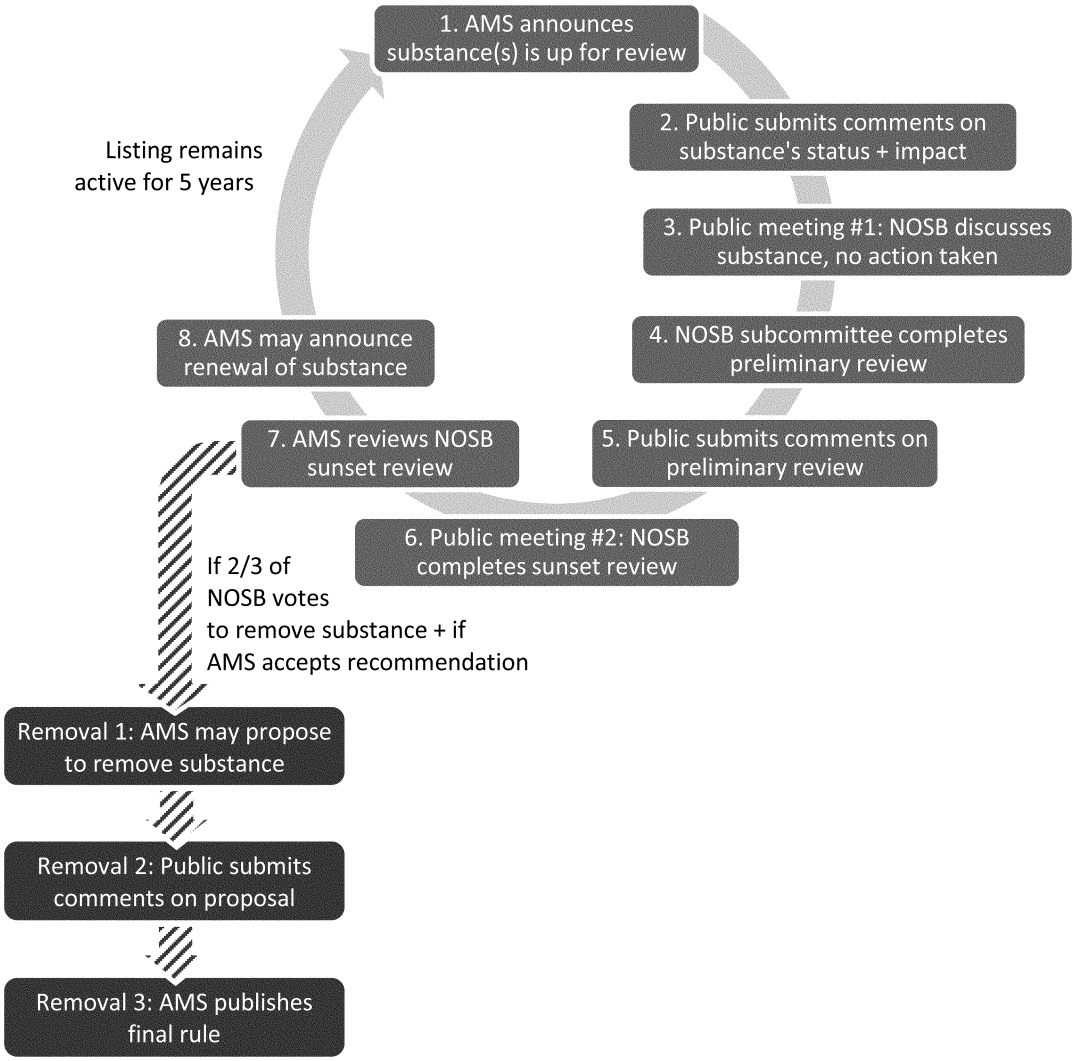
The Sunset Process described in this document will be used for future Sunset reviews and renewals, unless AMS replaces or updates this document. This document replaces the process that AMS described in the first Advanced Notice of Proposed Rulemaking (ANPR) for Sunset Review published in the **Federal Register** on June 17, 2005 (70 FR 35177).

II. The Sunset Process

The Sunset Process is comprised of two components: (1) The NOSB review and (2) USDA action on substances within 5 years of their addition to or renewal on the National List. The Sunset Process is completed for each substance through the steps shown in Figure 1 and described below.

BILLING CODE 3510–22–P

Figure 1. The Sunset Process



BILLING CODE 3510–22–C

Step 1—AMS Announces Substance(s) for Sunset Review

AMS will publish a list of substances that will be undergoing the sunset review and renewal process in a given calendar year. The list will be published on the NOP Web site with enough lead time (e.g., two years) to provide for both NOSB review and USDA action on these substances. The list will be divided by subcommittee and provides the following information for each substance: Current listing, use description, references to past technical reports, past NOSB actions, and regulatory history (e.g., links to proposed and final rules), as applicable. An example of the structure and content of this type of list is available at: *www.ams.usda.gov/nop.*

Step 2—Public Submits Comments on Substance's Status and Impact

AMS will also publish a **Federal Register** document announcing an NOSB meeting and request public comments on each substance under sunset review. This request for comments will direct the public to provide information that aids in NOSB review of the substance against the criteria in OFPA and under the USDA organic regulations. This request is for new information about a substance since its addition to the National List or its previous Sunset Review. Such information could include research or data that may support a change in the NOSB's determination for a substance. This may include information on a substance's impact on human health and the environment, its necessity, and its continued compatibility with organic production and handling.

In advance of the NOSB meeting, the public can submit written comments on the substances undergoing sunset review. At the NOSB meeting, the public can also provide in-person comments to NOSB on these substances. Members of the public interested in providing in-person comments may request a slot in advance. Instructions for such requests are available in the **Federal Register** document announcing the NOSB meeting.

Step 3—Public Meeting #1: NOSB Discusses Substance, No Action Taken

At the first public meeting, each NOSB Subcommittee presents a brief background summary for each substance and describes any public comments received. The NOSB does not take action on this substance at this meeting. Instead, the purpose of the first meeting is for the NOSB to hear about any new information about each substance under

review. Through the process of public comment, NOSB may identify and discuss key issues about a substance that needs further examination. Each Subcommittee will consider these issues as it develops its preliminary sunset review for the next public NOSB meeting.

Step 4—NOSB Subcommittee Completes Preliminary Review

After the first public meeting, the NOSB Subcommittees will review public comment and technical information to draft a preliminary review of substances undergoing sunset review in a given year. AMS will publish this preliminary review on the NOP Web site. For substances that continue to meet the criteria for substances on the National List, the Subcommittee will summarize relevant information regarding its review of this substance. The review will also summarize information from any available technical report(s) on the substance and describe any new information pertaining to substance's impact on human health and the environment, its necessity, and its compatibility with organic production and handling. If the Subcommittee determines that a substance should remain on the National List, and there are no proposals to remove the substance, then the Subcommittee's preliminary review moves to the next step in this process. The Subcommittee does not vote on a motion to retain a substance on the National List.

As part of this review, the Subcommittee may identify new information that merits consideration of a substance for removal from the National List. If warranted, the NOSB Subcommittees can develop proposals to remove substances as part of their preliminary review. Any proposals to remove a substance must be justified using the evaluation criteria in OFPA and the USDA organic regulations. Proposals to remove a substance must be part of the preliminary review that is posted in advance of the NOSB meeting.

If the Subcommittee identifies new information that it believes merits reconsideration of a use restriction for a substance (e.g., to expand its use, further restrict its use, or correct its restrictive annotation), then a member of the Subcommittee or a member of the public can file a petition to change the use of a substance through the National List Petition Process. Changes to or addition of annotations to substances already on the National List cannot be proposed during the Sunset Process. Additional information in support of this procedure is described below under *Discussion.*

Step 5—Public Submits Comments on Preliminary Review

AMS will publish a **Federal Register** document announcing the second NOSB meeting and request public comments on each Subcommittee's preliminary review. This request for comments will again direct the public to provide information that aids in NOSB review of each substance against the criteria in OFPA and under the USDA organic regulations. This request is for new information on the status of a substance since its addition to the National List or its previous Sunset Review. Such information could include research or data that may support a change in the NOSB's determination for a substance. This may include information on a substance's impact on human health and the environment, its necessity, and its continued compatibility with organic production and handling.

In advance of the second NOSB meeting, the public can respond to this **Federal Register** document by submitting written comments on the substances undergoing review. At the NOSB meeting, the public can also provide in-person comments to NOSB on these substances. Members of the public interested in providing in-person comments may request a slot in advance. Instructions for such requests are available in the **Federal Register** document announcing the NOSB meeting.

Step 6—Public Meeting #2: NOSB Completes Sunset Review

At the second public meeting, each Subcommittee will present a brief background summary of its preliminary review and summarize any public comments received. Each Subcommittee Chair leads the full NOSB discussion on that Subcommittee's preliminary reviews and any associated proposals to remove substances from the National List.

After NOSB discussion of each preliminary review and any proposals, the NOSB will vote on any motions to remove substances from the National List. If a Subcommittee had published a proposal to remove a substance, then a member of the NOSB can make a motion to remove that substance from the National List. As specified by OFPA, two-thirds of the votes cast at the meeting shall be decisive of any motion (7 U.S.C. 6518(i)). For motions to remove a substance, this means that two-thirds of votes cast must be in favor of removal of the substance. A motion to remove a substance that does not receive two-thirds of the votes cast fails, and the substance will remain on the National List.

Proposals to remove substances from the National List can only be considered by the NOSB if they were published as part of the Subcommittee's preliminary review for public comment in advance of the NOSB meeting. If the Subcommittee identifies new information at the meeting that it believes merits reconsideration of the conclusions presented in the preliminary review, that information will be considered untimely for purposes of the Sunset Review process. However, a member of the Subcommittee or a member of the public then can file a petition for removal or changes to the use of a substance through the National List Petition Process.

After NOSB votes on any proposals to remove substances, the NOSB discusses the overall review of substances under their consideration. At the conclusion of this discussion, the NOSB Chair confirms that the NOSB review is complete. The NOSB Chair compiles the preliminary reviews from each Subcommittee and any NOSB recommendations for removals into a comprehensive NOSB Sunset Review document. The NOSB Chair accepts this document as complete and transmits this document to AMS for consideration and for public posting on the NOP Web site at *www.ams.usda.gov/nop.* This action completes the NOSB's responsibility to review substances on the National List through OFPA's sunset provision (7 U.S.C. 6517(e)).

Step 7—AMS Reviews NOSB Sunset Review

Upon receipt of the NOSB's Sunset Review document, AMS reviews the outcome for each substance to consider AMS' next action and to ensure accuracy and completeness of the document.

Step 8—AMS Announces Renewal of Substance

After AMS' review, AMS may publish a document in the **Federal Register** listing all the substances that will remain on the National List until the next five year sunset review. This action addresses the Secretary's responsibility to renew substances on the National List through OFPA's sunset provision (7 U.S.C. 6517(e)). If the NOSB has recommended removal of any substance from the National List, then AMS may take the following actions to remove the substance:

Removal 1—AMS Proposes To Remove Substance

AMS will review any NOSB recommendations to remove a substance from the National List. If warranted, AMS will publish a proposed rule in the **Federal Register** to propose removal of these substances from the National List.

Removal 2—Public Submits Comments on Proposal

AMS will request comments on the proposed rule for any removals. AMS may specifically request comments on the NOSB's justification for removal of the substance, information on the availability of alternatives to the substance (e.g., other substances, cultural or management practices), and information on the potential impacts (benefits and costs) of removing the substance from the National List.

Removal 3—AMS Publishes Final Rule

AMS will review the comments received on the proposed rule and determine whether to finalize the rule as proposed. If AMS publishes a final rule to remove one or more substances, then these substances will be removed from the National List on the effective date of the final rule. On this date, their authorized use or prohibition in organic production or handling expires.

III. Discussion

What are the benefits of this action?

The Sunset Process described in this document is designed to improve public participation and transparency and ensure well-informed decision making about substances that are critical in organic production and handling.

Over the last few Sunset Reviews, AMS identified a number of ways that the process could be improved by:

- Increasing opportunities for the public to submit comments directly to NOSB;
- Clarifying the NOSB's voting approach and requirements for decisive votes under OFPA; and
- Ensuring that NOSB proposals are exposed to robust public comment and can be addressed in a timely manner through the AMS' process.

Therefore, the Sunset Process described in this document will create greater efficiency and will ensure that:

- Members of the public receive the full benefit of public comment on NOSB Sunset decisions over the course of two public meetings;
- There is consistency in NOSB review of substances across the Sunset Process and the National List Petition Process; and
- There is flexibility in the regulatory process to provide the organic industry with the regulatory certainty required for successful production and marketing of organic products.

How does this Sunset Process enhance public participation?

Since the NOSB represents all sectors of the organic community, the NOSB's review provides AMS with critical information about which substances should be allowed or prohibited in organic agriculture. This Sunset Process enhances the NOSB's ability to thoroughly review sunset substances over the course of two public meetings. The first meeting enables the public to provide NOSB Subcommittees with new information about substances under review and may prompt their requests for additional technical information. The second meeting enables the public to comment specifically on the outcomes of the NOSB Subcommittee's preliminary review, including any proposals to remove substances from the National List. The AMS rulemaking process provides an additional opportunity for the public to comment on any NOSB recommendation to remove a substance from the National List.

Can NOSB recommend a change to or addition of an annotation to a substance during Sunset Review? Can the NOSB recommend moving a substance to a different section of the National List during the Sunset Review?

No. For substances already on the National List, changes to or addition of annotations, or changes to the location of a substance on the National List (e.g., agricultural versus nonagricultural), cannot be proposed during the Sunset Process. In the past, NOSB made recommendations to further restrict the use of substances during Sunset Review. At times, these recommendations have not been exposed to robust public comment and have been difficult for AMS to implement through rulemaking actions by the sunset date. The difficulties with implementing these recommendations include the level of analysis required to assess how organic stakeholders may be affected by the recommendation and the deadline for completion of the Sunset Process.

If the NOSB identifies new information that it believes merits reconsideration of a use restriction on a substance (e.g., to expand its use, further restrict its use, or correct its restrictive annotation) or the location of a substance on the National List, then a member of the NOSB or a member of the public can file a petition for changes to the use or classification of a substance through the National List Petition Process (*www.ams.usda.gov/nop*).

Do all NOSB members have to agree to recommend removal of a substance during the Sunset Process?

No. Two-thirds of the votes cast at the meeting must be in favor of removal for a motion to remove to pass (7 U.S.C. 6518(i)). A motion to remove a substance that does not receive two-thirds of the votes cast fails to be ''decisive'' under OFPA and the substance will remain on the National List.

How does this document clarify the requirements for decisive votes under OFPA and the NOSB's voting approach for Sunset review?

The ''decisive votes'' provision in OFPA states that two-thirds of the votes cast by NOSB is decisive of any motion (7 U.S.C. 6518(i)). Through this document, AMS is clarifying that removal of a substance during Sunset Review requires a two-thirds majority or ''decisive'' vote. In the past, the NOSB voted on a motion to ''renew'' each substance under Sunset Review. If a two-thirds majority wasn't reached on a motion to renew a substance, then the outcome, by default, was considered an NOSB recommendation to remove the substance from the National List. Ensuring that a two-thirds majority vote is reached for any decisive action (e.g. removal of a substance) would bring greater consistency with OFPA.

The previous approach also was not aligned with the National List Petition Process, a process by which stakeholders can request removal of a substance from the National List. For the petition review, a two-thirds majority vote is required for the NOSB to recommend removal of a substance. Under the process described in this **Federal Register** document, the NOSB voting approach requires that, regardless of whether the substance is under Sunset Review or petition review, the NOSB will need a two-thirds majority vote to recommend removal of a substance from the National List.

What is the importance of submitting public comments to the NOSB at their first public meeting?

It is important for the public to engage in the Sunset Process early because the Subcommittees will use comments from their first public meeting to develop any proposals for removal of substances leading up to the second public meeting. As discussed in Step 6, proposals to remove substances from the National List can only be considered by the NOSB if they were published as part

of the Subcommittee's preliminary review for public comment in advance of the second NOSB meeting. Allowing changes to proposals or addition of new proposals at the public meeting does not provide stakeholders who submitted written comments in advance of this meeting any opportunity to comment on substantive changes or additions that occur at the in-person meeting. Therefore, public participation during the first public meeting of this Sunset Process will provide the NOSB with the greatest amount of information available to aid in a thorough review.

Authority: 7 U.S.C. 6501–6522.

Dated: September 10, 2013.

Rex A. Barnes,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2013–22388 Filed 9–13–13; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 955

[Doc. No. AMS–FV–12–0071; FV13–955–1 FIR]

Vidalia Onions Grown in Georgia; Change in Reporting and Assessment Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: The Department of Agriculture (USDA) is adopting as a final rule, without change, an interim rule that changed the reporting and assessment requirements prescribed under the marketing order for Vidalia onions grown in Georgia (order). The interim rule changed the date by which handlers are required to submit monthly shipping reports and their corresponding assessments to the Vidalia Onion Committee (Committee) from the fifth day of the month to the tenth day of the month. In addition, the interim rule also changed the due date to the first business day after the tenth day of the month, should the tenth fall on a weekend or a holiday. These changes benefit handlers without negatively affecting program compliance.

DATES: Effective September 17, 2013.

FOR FURTHER INFORMATION CONTACT: Corey Elliott, Marketing Specialist, or Christian Nissen, Regional Director, Southeast Marketing Field Office, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA; Telephone: (863) 324–3378, Fax: (863) 325–8793, or Email: *Corey.Elliott@ams.usda.gov* or *Christian.Nissen@ams.usda.gov*.

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

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 955, both as amended (7 CFR part 955), regulating the handling of Vidalia onions grown in Georgia, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

The handling of Vidalia onions grown in Georgia is regulated by 7 CFR part 955. Prior to this change, the order's reporting requirements required handlers to file a monthly shipping report and pay corresponding assessments on the fifth day of each month following the month in which shipments were made. In addition, should the fifth day of the month fall on a weekend or holiday, both reports and assessments were due on the first business day prior to the fifth.

These reporting requirements caused difficulties for handlers as they did not have sufficient time to close out their internal month-end sales paperwork in time to submit their reports by the fifth of the month or sooner if the fifth was on a weekend or a holiday. Therefore, this rule continues in effect the interim rule published in the **Federal Register** on May 14, 2013, and effective on May 15, 2013, (78 FR 28118, Doc. No. AMS–FV–12–0071, FV13–955–1 IFR) that extended the monthly reporting and assessment due date an additional five days to the tenth day of the month. This rule also continues the change that when the tenth day falls on a weekend or a holiday, the due date is the next business day following the tenth. These changes allow handlers sufficient time to complete their monthly reports and to submit their assessments.

Final Regulatory Flexibility Analysis

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

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

There are approximately 40 handlers of Vidalia onions who are subject to regulation under the order and approximately 80 onion producers in the designated production area. Small agricultural service firms, which include handlers, are defined by the Small Business Administration (SBA) as those having annual receipts of less than $7,000,000, and small agricultural producers are defined as those having annual receipts of less than $750,000. (13 CFR 121.201)

Based on the National Agricultural Statistical Service (NASS) and Committee data, the average annual grower price for fresh Vidalia onions during the 2012 season was around $17 per 40-pound container, and total Vidalia onion shipments were around 4,450,000 40-pound containers. Using available data, we estimate that more than 90 percent of Vidalia onion handlers have annual receipts of less than $7,000,000. However, the average receipts for Vidalia producers were around $946,000 in 2012, which is higher than the SBA threshold for small producers. Assuming a normal distribution, the majority of handlers of Vidalia onions may be classified as small entities, while the majority of producers may be classified as large entities, according to the SBA definition.

This rule continues in effect the action that changed the reporting and assessment requirements prescribed under the order. This rule revises sections 955.101 and 955.142 to change when monthly shipping reports and assessments, respectively, are due to the Committee from the fifth day of the month to the tenth day of the month following the month in which the shipments were made. In addition, this rule also changes both sections to specify that should the tenth fall on a

weekend or a holiday, the due date will be the first business day after the tenth day of the month. These changes are expected to benefit handlers by providing additional time to complete and submit reports and assessments without negatively affecting program compliance. Authority for these changes is provided for in sections 955.60 and 955.42.

It is not anticipated that this action will impose any additional costs on the industry. This action relaxes the current due dates for monthly reports and assessments, which should benefit all businesses. Handlers may see reduced costs as they have more time to submit reports without accruing late payment penalties. The effects of this rule are expected to benefit both large and small entities.

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

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

Further, the Committee's meeting was widely publicized throughout the Vidalia onion industry. All interested persons were invited to attend the meeting and participate in Committee deliberations. Like all Committee meetings, the August 9, 2012, meeting was a public meeting. All entities, both large and small, were able to express their views on this issue.

Comments on the interim rule were required to be received on or before July 15, 2013. No comments were received. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule, without change.

To view the interim rule, go to: *http://www.regulations.gov/#!documentDetail;D=AMS-FV-12-0071-0001*.

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

After consideration of all relevant material presented, it is found that finalizing the interim rule, without change, as published in the **Federal Register** (78 FR 28118, May 14, 2013) will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 955

Marketing agreements, Onions, Reporting and recordkeeping requirements.

PART 955—VIDALIA ONIONS GROWN IN GEORGIA

Accordingly, the interim rule that amended 7 CFR part 955 and that was published at 78 FR 28118 on May 14, 2013, is adopted as a final rule, without change.

Dated: September 10, 2013.

Rex A. Barnes,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2013–22407 Filed 9–13–13; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1222

[Document Number AMS–FV–11–0069; FR–B]

RIN 0581–AD21

Paper and Paper-Based Packaging Promotion, Research and Information Order; Referendum Procedures

AGENCY: Agricultural Marketing Service, Department of Agriculture.

ACTION: Final rule.

SUMMARY: This rule establishes procedures for conducting a referendum to determine whether issuance of a proposed Paper and Paper-Based Packaging Promotion, Research and Information Order (Order) is favored by manufacturers (domestic producers) and importers of paper and paper-based packaging. The procedures will also be used for any subsequent referendum under the Order. The proposed Order is being published separately in this issue of the **Federal Register**.

DATES: *Effective Date:* September 17, 2013.

FOR FURTHER INFORMATION CONTACT: Kimberly Coy, Marketing Specialist, Promotion and Economics Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., Room 0632–S, Stop 0244, Washington, DC 20250–0244; telephone: (202) 720–9915 or (888) 720–9917 (toll free); or facsimile: (202) 205–2800; or electronic mail: *mailto: Kimberly.Com@ams.usda.gov*.

SUPPLEMENTARY INFORMATION: This rule is issued pursuant to the Commodity Promotion, Research and Information Act of 1996 (1996 Act) (7 U.S.C. 7411–7425).

As part of this rulemaking process, two proposed rules were published in the **Federal Register** on January 2, 2013. One rule pertained to the proposed Order (78 FR 188) and a second rule pertained to proposed referendum procedures (78 FR 212). Both rules provided for 60-day comment periods ending on March 4, 2013. No comments were received regarding the referendum procedures. Seventy-five comments were received regarding the proposed Order. Those comments are addressed in another proposed rule published in this issue of the **Federal Register**.

Executive Order 12866 and Executive Order 13563

This rule regarding proposed referendum procedures has been determined to be non-significant for purposes of Executive Order 12866, as supplemented by Executive Order 13563, and therefore has not been reviewed by the Office of Management and Budget (OMB).

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. Section 524 of the 1996 Act provides that it shall not affect or preempt any other Federal or state law authorizing promotion or research relating to an agricultural commodity.

Under section 519 of the 1996 Act, a person subject to an order may file a written petition with the U.S. Department of Agriculture (USDA) stating that an order, any provision of an order, or any obligation imposed in connection with an order, is not established in accordance with the law, and request a modification of an order or an exemption from an order. Any petition filed challenging an order, any provision of an order, or any obligation imposed in connection with an order, shall be filed within two years after the effective date of an order, provision, or obligation subject to challenge in the petition. The petitioner will have the opportunity for a hearing on the petition. Thereafter, USDA will issue a ruling on the petition. The 1996 Act provides that the district court of the

United States for any district in which the petitioner resides or conducts business shall have the jurisdiction to review a final ruling on the petition, if the petitioner files a complaint for that purpose not later than 20 days after the date of the entry of USDA's final ruling.

This rule establishes procedures for conducting a referendum to determine whether domestic manufacturers and importers of paper and paper-based packaging favor issuance of a proposed paper and paper-based packaging Order. The program would cover four types of paper and paper-based packaging—printing, writing and related paper, kraft packaging paper (used for products like grocery bags and sacks), containerboard (used to make shipping containers and related products), and paperboard (used for food and beverage packaging, tubes, and other miscellaneous products).

USDA will conduct the referendum. The program will be implemented if it is favored by a majority of current domestic manufacturers and importers of paper and paper-based packaging voting in the referendum who also represent a majority of the volume of paper and paper-based packaging represented in the referendum. The procedures will also be used for any subsequent referendum under the Order. The proposed Order is being published separately in this issue of the **Federal Register**.

The 1996 Act authorizes USDA to establish agricultural commodity research and promotion orders which may include a combination of promotion, research, industry information, and consumer information activities funded by mandatory assessments. These programs are designed to maintain and expand markets and uses for agricultural commodities. As defined under section 513(1)(D) of the 1996 Act, agricultural commodities include the products of forestry, which includes paper and paper-based packaging.

The 1996 Act provides for alternatives within the terms of a variety of provisions. Paragraph (e) of section 518 of the 1996 Act provides three options for determining industry approval of a new research and promotion program: (1) By a majority of those persons voting; (2) by persons voting for approval who represent a majority of the volume of the agricultural commodity; or (3) by a majority of those persons voting for approval who also represent a majority of the volume of the agricultural commodity. In addition, section 518 of the 1996 Act provides for referenda to ascertain approval of an order to be conducted either prior to its going into effect or within three years after assessments first begin under an order.

USDA received a proposal for a national research and promotion program for paper and paper-based packaging from the Paper and Paper-Based Packaging Panel (Panel). The Panel is a group of 14 industry members that was formed in May 2010 to oversee development of the program. The American Forest & Paper Association (AF&PA), a national trade association, provided technical assistance to the Panel. The program would be financed by an assessment on paper and paper-based packaging domestic manufacturers and importers and would be administered by a board of industry members selected by the Secretary of Agriculture (Secretary). The assessment rate would initially be $0.35 per short ton. (One short ton equals 2,000 pounds.) Entities that manufacture or import less than 100,000 short tons annually would be exempt. The purpose of the program would be to maintain and expand markets for paper and paper-based packaging.

The Panel proposed that a referendum be held among eligible domestic manufacturers and importers of paper and paper-based packaging to determine whether they favor implementation of the program prior to it going into effect. The Panel recommended that the program be implemented if it is favored by a majority of the domestic manufacturers and importers voting in the referendum who also represent a majority of the volume of paper and paper-based packaging represented in the referendum. Domestic manufacturers and importers who produce or import 100,000 short tons or more of paper and paper-based packaging annually are eligible to vote in the referendum.

Accordingly, this rule adds subpart B to part 1222 that establishes procedures for conducting the referendum. The procedures cover definitions, voting instructions, use of subagents, ballots, the referendum report, and confidentiality of information. The procedures are applicable for the initial referendum and future referenda.

Final Regulatory Flexibility Act Analysis

In accordance with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), AMS is required to examine the impact of this final rule on small entities. Accordingly, AMS has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be disproportionately burdened. The Small Business Administration defines, in 13 CFR part 121, small agricultural producers as those having annual receipts of no more than $750,000 and small agricultural service firms (manufacturers and importers) as those having annual receipts of no more than $7.0 million.

According to the AF&PA, in 2011, there were 84 manufacturers in the United States that produced one or more of the four types of paper and paper-based packaging to be covered under the proposed Order. According to U.S. Census data, the average value of paper and paper-based packaging exports in 2011 was approximately $760 per short ton. Using an average price of $760 per short ton, a manufacturer who produced less than 9,210 short tons of paper and paper-based packaging per year would be considered a small entity because their annual receipts are less than $7.0 million. It is estimated that no more than four manufacturers produced less than 9,210 short tons in 2011. Thus, the majority of manufacturers would not be considered small businesses.

According to Customs data, in 2011, there were about 2,612 importers of paper and paper-based packaging. Eighty-five importers, or about 3.2 percent, imported more than $7.0 million worth of paper and paper-based packaging. Thus, the majority of importers would be considered small entities. However, no importer who imported 100,000 short tons or more (the Order's proposed exemption threshold) imported less than $7.0 million worth of paper and paper-based packaging (19 importers). Therefore, none of the estimated 19 importers to be covered under the proposed Order would be considered small businesses.

According to AF&PA, it is estimated that, in 2011, about 68.5 million short tons of paper and paper-based packaging were produced domestically. Of the 68.5 million short tons, about 63.2 percent was manufactured in the South, 17.1 percent was manufactured in the Midwest, 10.5 percent was manufactured in the Northeast, and 9.2 percent was manufactured in the West.[1]

According to Customs data, in 2011, imports of paper and paper-based packaging to be covered under the program totaled 7.5 million short tons. Of that total, about 58.6 percent was from Canada, 22.2 percent from Western Europe, 9.8 percent was from China, Japan and the Far East, 2.7 percent was

[1] Data was compiled by the AF&PA from the American Forest & Paper Association's 51st Annual Survey of Paper, Paperboard and Pulp, 2011.

from South America and the remainder was from other countries.

This rule establishes procedures for conducting a referendum to determine whether domestic manufacturers and importers of paper and paper-based packaging favor issuance of a proposed Order. USDA will conduct the referendum. The program will be implemented if it is favored by a majority of domestic manufacturers and importers voting in a referendum who also represent a majority of paper and paper-based packaging represented in the referendum. The procedures will also be used for any subsequent referendum under the Order. The procedures are authorized under paragraph (e) of section 518 the 1996 Act.

Regarding the economic impact of this rule on affected entities, eligible domestic manufacturers and importers will have the opportunity to participate in the referendum. The Order would exempt domestic manufacturers and importers who produce or import less than 100,000 short tons annually from the payment of assessments. Exempt domestic manufacturers and importers are not eligible to participate in the referendum. Based on 2011 Customs data, of the 84 manufacturers and 2,612 importers, it is estimated that about 51 manufacturers and 19 importers would pay assessments under the Order and thus be eligible to vote in the referendum. For example, using 2011 data and deducting exempt tonnage, it is estimated that if 72.5 million short tons of paper and paper-based packaging (67.2 million short tons domestic and 5.3 million short tons imported) were assessed at a rate of $0.35 per short ton, about $25.4 million would be collected in assessments. Of that $25.4 million, about 92.5 percent ($23.5 million) would be paid by domestic manufacturers and 7.5 percent ($1.9 million) would be paid by importers.

Voting in the referendum is optional. If domestic manufacturers and importers chose to vote, the burden of voting would be offset by the benefits of having the opportunity to vote on whether or not they want to be covered by the program.

Regarding alternatives, USDA considered requiring eligible voters to vote in person at various USDA offices across the country. USDA also considered electronic voting, but the use of computers is not universal. Conducting the referendum from one central location by mail ballot will be more cost effective and reliable. USDA will provide easy access to information for potential voters through a toll free telephone line.

This action imposes an additional reporting burden on eligible domestic manufacturers and importers of paper and paper-based packaging. Eligible domestic manufacturers and importers will have the opportunity to complete and submit a ballot to USDA indicating whether or not they favor implementation of the proposed Order. The specific burden for the ballot is detailed later in this document in the section titled Paperwork Reduction Act. As with all Federal promotion programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. Finally, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Regarding outreach efforts, USDA will keep eligible domestic manufacturers and importers informed throughout the program implementation and referendum process to ensure that they are aware of and are able to participate in the program implementation process. USDA will also publicize information regarding the referendum process so that trade associations and related industry media can be kept informed.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the referendum ballot, which represents the information collection and recordkeeping requirements that are imposed by this rule, has been submitted to OMB for approval and approved under OMB Number 0581–0282.

Title: Paper and Paper-Based Packaging Promotion, Research and Information (Referendum Procedures).

OMB Number: 0581–0282.

Expiration Date of Approval: 3 years from OMB date of approval.

Type of Request: New information collection for research and promotion programs.

Abstract: The information collection requirements in the request are essential to carry out the intent of the 1996 Act. The information collection concerns a proposal received by USDA for a national research and promotion program for paper and paper-based packaging. The program would be financed by an assessment on domestic manufacturers and importers and would be administered by a board of industry members selected by the Secretary. The program would exempt domestic manufacturers and importers who produce or import less than 100,000 short tons of paper and paper-based packaging annually. A referendum will be held among eligible domestic manufacturers and importers to determine whether they favor implementation of the program prior to it going into effect. The purpose of the program would be to maintain and expand markets for paper and paper-based packaging.

The information collection requirements in this rule concern the referendum that will be held to determine whether the program is favored by the industry. Current domestic manufacturers or importers that manufactured or imported 100,000 short tons or more of paper and paper-based packaging during the representative period are eligible to vote in the referendum. The ballot will be completed by eligible domestic manufacturers and importers who want to indicate whether or not they support implementation of the program.

Referendum Ballot

Estimate of Burden: Public recordkeeping burden for this collection of information is estimated to average 0.25 hour per application.

Respondents: Domestic manufacturers and importers.

Estimated Number of Respondents: 70 (51 domestic manufacturers and 19 importers).

Estimated Number of Responses per Respondent: 1 every 7 years (0.14).

Estimated Total Annual Burden on Respondents: 2.45 hours.

The ballot will be added to the other information collections approved under OMB No. 0581–0282.

An estimated 70 respondents would provide information to the Board (51 domestic manufacturers and 19 importers). The estimated cost of providing the information to the Board by respondents would be $80.85. This total has been estimated by multiplying 2.45 total hours required for reporting and recordkeeping by $33, the average mean hourly earnings of various occupations involved in keeping this information. Data for computation of this hourly rate was obtained from the U.S. Department of Labor statistics.

The proposed Order's provisions have been carefully reviewed, and every effort has been made to minimize any unnecessary recordkeeping costs or requirements, including efforts to utilize

information already submitted under other programs administered by USDA and other state programs.

A proposed rule regarding the referendum procedures was published in the **Federal Register** on January 2, 2013 (78 FR 212). Copies of the rule were mailed by USDA to all known domestic manufacturers and importers. The rule was also made available through the Internet by USDA and published in the **Federal Register**. That rule provided for a 60-day comment period. No comments were received.

In the January 2, 2013, proposed rule comments were also invited on the information collection requirements prescribed in the Paperwork Reduction Act section of this rule. Specifically, comments were solicited on: (a) Whether the proposed collection of information is necessary for the proper performance of functions of the proposed Order and USDA's oversight of the proposed Order, including whether the information would have practical utility; (b) the accuracy of USDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) the accuracy of USDA's estimate of the principal manufacturing areas in the United States for paper and paper-based packaging; (d) the accuracy of USDA's estimate of the number of domestic manufacturers and importers that would be covered under the program; (e) ways to enhance the quality, utility, and clarity of the information to be collected; and (f) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. No comments were received regarding information collection.

Pursuant to 5 U.S.C. 553, it is found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because this rule needs to be in effect prior to USDA conducting a referendum. Further, a 60-day comment period was provided for in the proposed rule regarding referendum procedures, and no comments were received.

List of Subjects in 7 CFR Part 1222

Administrative practice and procedure, Advertising, Consumer information, Marketing agreements, Paper and paper-based packaging, Promotion, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, Title 7, Chapter XI of the Code of Federal Regulations, is amended by adding part 1222 to read as follows:

PART 1222—PAPER AND PAPER-BASED PACKAGING PROMOTION, RESEARCH AND INFORMATION ORDER

Subpart A—[Reserved]

Subpart B—Referendum Procedures

Sec.
1222.100 General.
1222.101 Definitions.
1222.102 Voting.
1222.103 Instructions.
1222.104 Subagents.
1222.105 Ballots.
1222.106 Referendum report.
1222.107 Confidential information.
1222.108 OMB Control number.

Authority: 7 U.S.C. 7411–7425; 7 U.S.C. 7401.

Subpart A—[Reserved]

Subpart B—Referendum Procedures

§ 1222.100 General.

Referenda to determine whether eligible domestic manufacturers and importers favor the issuance, continuance, amendment, suspension, or termination of the Paper and Paper-Based Packaging Promotion, Research and Information Order shall be conducted in accordance with this subpart.

§ 1222.101 Definitions.

For the purposes of this subpart:

(a) *Administrator* means the Administrator of the Agricultural Marketing Service, with power to delegate, or any officer or employee of the U.S. Department of Agriculture to whom authority has been delegated or may hereafter be delegated to act in the Administrator's stead.

(b) *Converted products* means products made from paper and paper-based packaging.

(c) *Customs or CBP* means the U.S. Customs and Border Protection, an agency of the U.S. Department of Homeland Security.

(d) *Department* or *USDA* means the U.S. Department of Agriculture or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in the Secretary's stead.

(e) *Eligible domestic manufacturer or producer* means any person who is currently a domestic manufacturer or producer and who manufactured 100,000 short tons or more of paper and paper-based packaging during the representative period.

(f) *Eligible importer* means any person who is currently an importer and who imported 100,000 short tons or more of paper and paper-based packaging into the United States during the representative period as a principal or as an agent, broker, or consignee of any person who manufactured paper and paper-based packaging outside of the United States for sale in the United States, and who is listed as the importer of record for such paper and paper-based packaging. Importation occurs when paper and paper-based packaging manufactured outside of the United States is released from custody by Customs and introduced into the stream of commerce in the United States. Included are persons who hold title to foreign-manufactured paper and paper-based packaging immediately upon release by Customs, as well as any persons who act on behalf of others, as agents or brokers, to secure the release of paper and paper-based packaging from Customs when such paper and paper-based packaging is entered or withdrawn for use in the United States.

(g) *Kraft process* means a process that transforms wood into a high quality strong pulp for making paper and paper-based packaging.

(h) *Linerboard* means a grade of containerboard that is used as facing material in the manufacture of corrugated or solid fiber shipping boxes.

(i) *Manufacture or produce* means the process of transforming pulp into paper and paper-based packaging.

(j) *Order* means the Paper and Paper-Based Packaging Promotion, Research and Information Order.

(k) *Paper and paper-based packaging* means:

(1) Printing, writing and related paper, which is coated or uncoated paper that is subsequently converted into products used for printing, writing and other communication purposes, such as file folders, envelopes, catalogues, magazines and brochures. For purposes of this Order, printing, writing and related paper includes thermal paper but does not include carbonless paper;

(2) Kraft packaging paper, which is coarse unbleached, semi-bleached or fully bleached grades of paper that are subsequently converted into products such as grocery bags, multiwall sacks, waxed paper and other products;

(3) Containerboard, which is all forms of linerboard and medium that is used to manufacture corrugated boxes, shipping containers and related products; and

(4) Paperboard, which is solid bleached kraft board, recycled board and unbleached kraft board that is subsequently converted into a wide variety of end uses, including folding boxes, food and beverage packaging, tubes, cans, and drums, and other miscellaneous products. Paperboard does not include construction-related products such as gypsum wallboard facings and panel board.

(5) For purposes of this Order, paper and paper-based packaging does not include tissue paper, newsprint or converted products.

(l) *Person* means any individual, group of individuals, partnership, corporation, association, cooperative, or any other legal entity. For the purpose of this definition, the term ''partnership'' includes, but is not limited to:

(1) A husband and a wife who have title to, or leasehold interest in, a paper and paper-based packaging manufacturing entity as tenants in common, joint tenants, tenants by the entirety, or, under community property laws, as community property; and

(2) So called ''joint ventures'' wherein one or more parties to an agreement, informal or otherwise, contributed land, facilities, capital, labor, management, equipment, or other services, or any variation of such contributions by two or more parties, so that it results in the manufacturing or importation of paper and paper-based packaging and the authority to transfer title to the paper and paper-based packaging so manufactured or imported.

(m) *Referendum agent* or *agent* means the individual or individuals designated by the Secretary to conduct the referendum.

(n) *Representative period* means the period designated by the Department.

(o) *Short ton or ton* means a measure of weight equal to 2,000 pounds.

(p) *United States* means collectively the 50 states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

§ 1222.102 Voting.

(a) Each eligible domestic manufacturer and importer of paper and paper-based packaging shall be entitled to cast only one ballot in the referendum. However, each domestic manufacturer in a landlord/tenant relationship or a divided ownership arrangement involving totally independent entities cooperating only to manufacture paper and paper-based manufacturing, in which more than one of the parties is a domestic manufacturer or importer, shall be entitled to cast one ballot in the referendum covering only such domestic manufacturer or importer's share of ownership.

(b) Proxy voting is not authorized, but an officer or employee of an eligible corporate manufacturer or importer, or an administrator, executor, or trustee of an eligible entity may cast a ballot on behalf of such entity. Any individual so voting in a referendum shall certify that such individual is an officer or employee of the eligible entity, or an administrator, executive, or trustee of an eligible entity and that such individual has the authority to take such action. Upon request of the referendum agent, the individual shall submit adequate evidence of such authority.

(c) A single entity who manufactures and imports paper and paper-based manufacturing may cast one vote in the referendum.

(d) All ballots are to be cast by mail or other means, as instructed by the Department.

§ 1222.103 Instructions.

The referendum agent shall conduct the referendum, in the manner provided in this subpart, under the supervision of the Administrator. The Administrator may prescribe additional instructions, consistent with the provisions of this subpart, to govern the procedure to be followed by the referendum agent. Such agent shall:

(a) Determine the period during which ballots may be cast;

(b) Provide ballots and related material to be used in the referendum. The ballot shall provide for recording essential information, including that needed for ascertaining whether the person voting, or on whose behalf the vote is cast, is an eligible voter;

(c) Give reasonable public notice of the referendum:

(1) By using available media or public information sources, without incurring advertising expense, to publicize the dates, places, method of voting, eligibility requirements, and other pertinent information. Such sources of publicity may include, but are not limited to, print and radio; and

(2) By such other means as the agent may deem advisable.

(d) Mail to eligible domestic manufacturers and importers whose names and addresses are known to the referendum agent, the instructions on voting, a ballot, and a summary of the terms and conditions of the proposed Order. No person who claims to be eligible to vote shall be refused a ballot;

(e) At the end of the voting period, collect, open, number, and review the ballots and tabulate the results in the presence of an agent of a third party authorized to monitor the referendum process;

(f) Prepare a report on the referendum; and

(g) Announce the results to the public.

§ 1222.104 Subagents.

The referendum agent may appoint any individual or individuals necessary or desirable to assist the agent in performing such agent's functions of this subpart. Each individual so appointed may be authorized by the agent to perform any or all of the functions which, in the absence of such appointment, shall be performed by the agent.

§ 1222.105 Ballots.

The referendum agent and subagents shall accept all ballots cast. However, if an agent or subagent deems that a ballot should be challenged for any reason, the agent or subagent shall endorse above their signature, on the ballot, a statement to the effect that such ballot was challenged, by whom challenged, the reasons therefore, the results of any investigations made with respect thereto, and the disposition thereof. Ballots invalid under this subpart shall not be counted.

§ 1222.106 Referendum report.

Except as otherwise directed, the referendum agent shall prepare and submit to the Administrator a report on the results of the referendum, the manner in which it was conducted, the extent and kind of public notice given, and other information pertinent to the analysis of the referendum and its results.

§ 1222.107 Confidential information.

The ballots and other information or reports that reveal, or tend to reveal, the vote of any person covered under the Order and the voter list shall be strictly confidential and shall not be disclosed.

§ 1222.108 OMB control number.

The control number assigned to the information collection requirement in this subpart by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1995, 44 U.S.C. is OMB control number 0581–NEW.

Dated: September 10, 2013.

Rex A. Barnes,

Associate Administrator.

[FR Doc. 2013–22328 Filed 9–13–13; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 61

[Docket No.: FAA–2013–0780; Amdt. No. 61–131]

RIN 2120–AK23

Certified Flight Instructor Flight Reviews; Recent Pilot in Command Experience; Airmen Online Services

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This rule permits an airman who passes a practical test for issuance of a flight instructor certificate, a practical test for the addition of a rating to a flight instructor certificate, a practical test for renewal of a flight instructor certificate, or a practical test for the reinstatement of a flight instructor certificate to meet the 24-calendar month flight review requirements. This rule also clarifies that the generally applicable recent flight experience requirements do not apply to a pilot in command who is employed by a commuter or on-demand operator if the pilot in command is in compliance with the specific pilot in command qualifications and recent experience requirements for that commuter or on-demand operator. Finally, this rule permits replacement airman and medical certificates to be requested online, or by any other method acceptable to the Administrator. These changes relieve regulatory burdens and clarify existing regulations.

DATES: *Effective Date:* November 15, 2013.

Submit comments on or before October 16, 2013. If the FAA receives an adverse comment or notice of intent to file an adverse comment, the FAA will advise the public by publishing a document in the **Federal Register** before the effective date of this direct final rule. This document may withdraw the direct final rule in whole or in part.

ADDRESSES: You may send comments identified by docket number FAA–2013–0780 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations 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.
- *Fax:* Fax comments to Docket Operations at (202) 493–2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy*.

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or Docket Operations 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: For technical questions concerning this action, contact Allan G. Kash, Airmen Certification and Training Branch, Flight Standards Service, AFS–810, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 385–9621; email *allan.g.kash@faa.gov*.

For legal questions concerning this action, contact Anne Moore, Office of the Chief Counsel—International Law, Legislation, and Regulations Division, AGC–200, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–3123; email *anne.moore@faa.gov*.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules on aviation safety is found in Title 49 of the United States Code. 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.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart III, Section 447—Safety Regulation. Under that section, the FAA is charged with promoting safe flight of civil aircraft in air commerce by prescribing regulations necessary for safety and prescribing regulations for the issuance of airman certificates. This final rule is within the scope of that authority.

The Direct Final Rule Procedure

The FAA is adopting this rule without prior notice and prior public comment as a direct final rule because it alleviates unnecessary burdens by expanding the exceptions to a flight review, removes redundant recency requirements for pilots flying for certificated operators under part 135, and provides a regulatory basis for the Airmen Certification Branch to provide Airmen Online Services. The Regulatory Policies and Procedures of the Department of Transportation (DOT) (44 FR 1134, February 26, 1979) provide that, to the maximum extent possible, operating administrations for the DOT should provide an opportunity for public comment on regulations issued without prior notice. Accordingly, the FAA invites interested persons to participate in this rulemaking by filing comments, data, or views. The agency also invites comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting this final rule.

This direct final rule will take effect on November 15, 2013 unless the FAA receives an adverse comment or a notice of intent to file an adverse comment within the comment period. An adverse comment explains why a rule would be inappropriate, or would be ineffective or unacceptable without a change. It may challenge the rule's underlying premise or approach. Under the direct final rule process, the FAA does not consider the following types of comments to be adverse:

- A comment recommending another rule change, in addition to the change in the direct final rule at issue. The FAA considers the comment adverse, however, if the commenter states why the direct final rule would be ineffective without the change.
- A frivolous or insubstantial comment.

If the FAA receives an adverse comment or notice of intent to file an adverse comment, the FAA will advise the public by publishing a document in the **Federal Register** before the effective date of the final rule. This document may withdraw the direct final rule in whole or in part. If the FAA withdraws a direct final rule because of an adverse comment, the FAA may incorporate the commenter's recommendation into another direct final rule or may publish a notice of proposed rulemaking.

If the FAA does not receive an adverse comment or notice of intent to file an adverse comment, the FAA will publish a confirmation document in the **Federal Register**, generally within 15 days after the comment period closes.

The confirmation document confirms to the public the effective date of the rule.

See the ''Additional Information'' section for information on how to comment on this direct final rule and how the FAA will handle comments received. The ''Additional Information'' section also contains related information about the docket, privacy, and the handling of proprietary or confidential business information. In addition, there is information on obtaining copies of related rulemaking documents.

I. Discussion of the Direct Final Rule

Flight Review

To act as pilot in command of an aircraft, § 61.56(c) of Title 14 of the Code of Federal Regulations (CFR) requires a pilot to have satisfactorily completed a flight review in an aircraft for which that pilot is rated within 24 calendar months before the month in which the pilot acts as pilot in command. The flight review must consist of a minimum of 1 hour flight training and 1 hour ground training.[1]

The purpose of the flight review is to provide for a regular assessment of pilot skills and aeronautical knowledge. When the requirement was first introduced, the FAA stated that the flight review would assure that every pilot would have a qualified individual comment on his or her competency at least once every two years, as discussed in 38 FR 3156 (February 1, 1973). The flight review also offers pilots the opportunity to design a personal currency and proficiency program in consultation with an authorized flight instructor. A flight review may have certain standard features, e.g., review of specific regulations and procedures; however, both the flight review and any follow-up plan for training and proficiency may be tailored to each pilot's skill, experience, aircraft, and personal flying goals.[2]

Section 61.56 sets forth certain exceptions to the requirement for a pilot to accomplish a flight review.[3] Among these exceptions, a person who has, within the prescribed 24-month period, ''passed a pilot proficiency check conducted by an FAA examiner, an approved pilot check airman, or a U.S. Armed Force, for a pilot certificate, rating, or operating privilege,'' need not accomplish the required flight review required by § 61.56(d). This exception is appropriate because a practical test for a certificate or rating is administered by an FAA examiner in accordance with the practical test standards. In addition, pilots employed by a part 119 certificate holder conducting operations under part 121 and part 135 receive recurring training and proficiency checks, conducted by an FAA examiner or approved pilot check airman provided by their employer, which exceed the requirements of a flight review. As noted in the regulation above, the FAA accepts U.S. Armed Forces proficiency checks. The content of the listed practical tests and proficiency checks typically exceeds the requirements of a flight review and satisfies the stated objective of the flight review, namely, to ensure that a pilot has had a qualified individual comment on his or her competency at least once every 24 calendar months. Thus, these pilots need not accomplish the flight review of § 61.56(a) as they meet the requirements of § 61.56(d).

In a recent legal interpretation, the FAA concluded that a flight instructor practical test is not included in the listed exceptions in § 61.56(d) because it is not a ''pilot proficiency check,'' Levy Interpretation, February 7, 2008.[4] The FAA explained that, although a flight instructor practical test does not automatically relieve a pilot of the requirement to complete a flight review, a person taking a flight instructor practical test may request that the test be taken in conjunction with a flight review at the examiner's discretion. The FAA has received several requests to reconsider the Levy Interpretation and one request for rulemaking.[5]

The FAA finds that good cause exists to amend § 61.56(d) to include successful completion of flight instructor practical tests among the exceptions to the flight review requirement. Applicants for an FAA flight instructor certificate are required to have the comprehensive knowledge and skills necessary to provide instruction to airmen seeking pilot certificates and ratings. Part 61 specifies the areas of operation in which knowledge and skill must be demonstrated by the applicant before the issuance of an FAA flight instructor certificate with the associated category and class ratings. All practical tests administered must meet the knowledge and skill standard prescribed by the corresponding Flight Instructor Practical Test Standards Book published by the FAA.

Although a flight instructor practical test is chiefly focused on the pilot's instructional skills, a pilot must demonstrate satisfactory performance of the procedures and maneuvers selected by the examiner—at least to the commercial pilot skill level—while giving effective instruction.[6] Therefore, the flight instructor practical test standards require the applicant to demonstrate not only the knowledge but also the skill required of pilots completing the practical tests that the FAA instructor is authorized to teach. As with the other exceptions listed in § 61.56, the requirements for passing an FAA flight instructor practical test exceed those for a pilot accomplishing a flight review and meet the goal of ensuring that a pilot's competency is observed by a qualified individual.

An FAA flight instructor practical test places the applicant in the position of having the examiner evaluate the applicant as the applicant demonstrates the procedures and maneuvers performed in the practical test to commercial pilot practical test standards. The flight instructor applicant also performs and demonstrates selected phases of flight during the flight portion of the practical test. If the pilot taking a flight instructor practical test does not demonstrate the safe exercise of the privileges of their pilot certificate while instructing, the test would not meet commercial pilot practical test standards and the applicant would not pass the flight instructor practical test.

As previously stated, the flight instructor practical test standards require an airman to demonstrate and simultaneously explain the tasks required for the issuance of a pilot certificate while meeting commercial

[1] There are two exceptions to the minimum time requirement for a flight review. They are found in § 61.56(b) and (f). Paragraph (b) pertains to a reduction of time required for glider pilots and paragraph (f) pertains to 1 hour ground training credited toward a flight review for successful renewal of a flight instructor certificate under § 61.197.

[2] Federal Aviation Administration, Conducting an Effective Flight Review *http://www.faa.gov/pilots/training/media/flight_review.pdf*.

[3] Paragraphs (d), (e), and (g) of § 61.56 are the three exceptions to this regulatory requirement to complete a flight review. The exceptions in paragraphs (e) and (g) are not subjects of this rulemaking. Under paragraph (e), a person who has, within the previous 24 calendar months, satisfactorily accomplished one or more phases of an FAA-sponsored pilot proficiency award program need not accomplish the flight review (14 CFR 61.56(e). Paragraph (g) is an exception regarding a student pilot and remains as it was previously written.

[4] Legal interpretations can be found on the FAA Legal Interpretation & Opinion Web site: *http://www.faa.gov/about/office_org/headquarters_offices/agc/pol_adjudication/agc200/Interpretations/*.

[5] Petition from Robert Hadow, dated April 18, 2011. Docket No. FAA–2011–0437, *http://www.regulations.gov*.

[6] For example, Flight Instructor Practical Test Standards Book for Airplane, June 2012 (Effective December 1, 2012), FAA–S–8081–6D U.S. Department of Transportation (with changes 1 & 2), Satisfactory Performance No. 6 page 13.

practical test standards. Industry advocacy groups have indicated they believe that the flight instructor certification covers much more than the regulatory requirements of a flight review. These groups have indicated support for amendment of the regulations to allow for a flight instructor practical test to be included as an exception to completing a flight review. The FAA agrees with this view. This rule modifies § 61.56(d) to allow an airman who passes a practical test for issuance of a flight instructor certificate, a practical test for the addition of a rating to a flight instructor certificate, a practical test for renewal of a flight instructor certificate, or a practical test for the reinstatement of a flight instructor certificate to meet the flight review requirements of 14 CFR part 61.

Recent Flight Experience

Section 61.57 sets forth the recent flight experience requirements to act as pilot in command of an aircraft. Section 61.57(e)(2) states that this section does not apply ''to a pilot in command who is employed by an air carrier certificated under part 121 or 135 and is engaged in a flight operation under part 91, 121, or 135 for that air carrier if the pilot is in compliance with'' the pilot-in-command requirements in § 121.435 or § 121.436, as applicable, and § 121.439 or §§ 135.243 and 135.247, as appropriate. The FAA has received several requests for clarification of whether, under the specific language of § 61.57(e)(2), the exception applies only to a pilot in command employed by the holder of a part 119 air carrier certificate or whether it also extends to a pilot in command employed by the holder of a part 119 operating certificate.

When the FAA first proposed this exception to the recent flight experience requirements in § 61.57, it stated that the intention was to provide relief from ''essentially redundant recency requirements'' for part 121 and part 135 operators and their pilots in command (59 FR 56385, November 14, 1994). In that final rule, then-§ 61.57(f) stated that the recent flight experience requirements in part 61 did not apply ''to a pilot in command, employed by a 14 CFR part 121 or part 135 operator, engaged in flight operations under 14 CFR part 91, 121, or 135 for that operator.'' The FAA refined the language in a 1997 final rule and, in doing so, introduced the term ''air carrier'' in place of the term ''operator'' (62 FR 16220, April 7, 1997).

The FAA did not intend to limit the exception to pilots employed by air carriers operating in parts 121 and 135. The FAA intended to include any pilot in command who is employed by a part 119 certificate holder authorized to conduct operations under part 121 or part 135 when the pilot is engaged in operations under parts 91, 121, or 135 for that certificate holder if the pilot in command is in compliance with §§ 121.435 or 121.436, as applicable, and § 121.439 or §§ 135.243 and 135.247, as appropriate.

Consequently, the FAA finds that good cause exists to amend the language in § 61.57(e) to make clear that the recent flight experience requirements of that section do not apply to a pilot in command who is employed by the holder of an operating certificate that is conducting operations under part 121 or part 135 if the pilot in command is also in compliance with § 121.435 or § 121.436, as applicable, and § 121.439, or §§ 135.243 and 135.247, as appropriate. In making this change, the FAA is acting consistently with the original intent of the regulation—specifically, providing relief from redundant recency requirements.[7]

Airmen Online Services

In the case of a lost or destroyed airman or medical certificate, § 61.29(a) and (b) permit a pilot to request the replacement of a lost or destroyed airman certificate issued under part 61. Replacement airman certificates may be requested by letter to the Department of Transportation, FAA, Airmen Certification Branch, P.O. Box 25082, Oklahoma City, OK 73124. Replacement medical certificates may be requested by letter to the Department of Transportation, FAA, Aerospace Medical Certification Division, P.O. Box 26200, Oklahoma City, OK 73125.

Although current regulations recognize requests for replacement certificates only by letter, the FAA has established Airmen Online Services through which a pilot can request a replacement airman certificate or obtain a document that provides temporary authority to exercise the privileges of an airman certificate by facsimile or through Internet download at the FAA Web site: *http://www.faa.gov/licenses_certificates/airmen_certification/certificate_replacement/*. The use of Airmen Online Services is not addressed or recognized in § 61.29. Therefore, the FAA is amending the language in § 61.29 to reflect the use of Airmen Online Services or any method acceptable to the FAA for the purpose of obtaining a replacement certificate or 60-day authority to exercise the privileges of a lost or stolen certificate.

The FAA is also revising § 61.3 to clarify that temporary documents issued under § 61.29(e) are acceptable for meeting the § 61.3 requirement that a pilot have his or her pilot certificate and medical certificate in the person's physical possession when serving as a required flightcrew member. The FAA notes that § 61.29(e) already contains language indicating that temporary documents may be carried ''as an airman certificate [or] medical certificate'' for up to 60 days. As such, the language being added to § 61.3 is not intended as a change to existing regulations but rather is intended solely to provide ease of reference for persons seeking such information in § 61.3. The FAA notes that online services are currently unavailable for replacement medical certificates and knowledge test reports; however, the FAA has modified the language of those provisions in anticipation of other methods becoming available in the future.

II. Regulatory Analyses and Executive Order Determinations

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 and Executive Order 13563 direct that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Public Law 96–39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, the Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation with base year of 1995). This portion of the preamble summarizes the FAA's analysis of the economic impacts of this direct final rule.

[7] The FAA has modified the language in § 61.57(e)(1) pertaining to pilots in command employed by part 119 certificate holders conducting operations under part 125. The revision of paragraph (e)(1) results in no substantive change to the requirements for part 119 certificate holders conducting operations under part 125.

Department of Transportation Order DOT 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If the expected cost impact is so minimal that a final rule does not warrant a full evaluation, this order permits that a statement to that effect and the basis for it be included in the preamble if a full regulatory evaluation of the cost and benefits is not prepared. Such a determination has been made for this direct final rule. The reasoning for this determination follows.

Executive Orders 12866 and 13563

This direct final rule relieves regulatory burdens for certified flight instructor applicants and pilots in command. It also makes clear that applications for replacement airman and medical certificates may be obtained using methods other than individual letters mailed to the Airmen Certification Branch or Aerospace Medical Certification Division, respectively.

Since the direct final rule will impose no new costs, and updates four sections of part 61, the expected outcome will be a minimal impact with positive net benefits. A regulatory evaluation was not prepared.

The FAA, therefore, has determined that this direct final rule is not a ''significant regulatory action'' as defined in section 3(f) of Executive Order 12866. Therefore, this action has not been reviewed by the Office of Management and Budget. Further, this direct final rule is not ''significant'' as defined in DOT's Regulatory Policies and Procedures.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (RFA) establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration.'' The RFA covers a wide range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

This rule relieves regulatory restrictions for certified flight instructor applicants and pilots in command. It also makes clear that applications for replacement airmen and medical certificates may be obtained using methods other than individual letters mailed to the Airmen Certification Branch or Aerospace Medical Certification Division, respectively. Small businesses and small entities are not impacted by this action.

This direct final rule imposes no new costs and updates and clarifies four sections of part 61; the expected outcome will have only a minimal impact on any small entity affected by this rulemaking action.

Therefore, as the FAA Administrator, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96–39), as amended by the Uruguay Round Agreements Act (Pub. L. 103–465), prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such as the protection of safety, and does not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this direct final rule and determined that it will have only a domestic impact and therefore no effect on international trade.

Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of $100 million or more (in 1995 dollars) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action.'' The FAA currently uses an inflation-adjusted value of $143.1 million in lieu of $100 million. This direct final rule does not contain such a mandate; therefore, the requirements of Title II of the Act do not apply.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. According to the 1995 amendments to the Paperwork Reduction Act (5 CFR 1320.8(b)(2)(vi)), an agency may not collect or sponsor the collection of information, nor may it impose an information collection requirement unless it displays a currently valid Office of Management and Budget (OMB) control number.

This action contains the following revision to the existing information collection requirements previously approved under OMB Control Number 2120–0021, Certification: Pilots, Flight Instructors, and Ground Instructors. As required by the Paperwork Reduction Act (44 U.S.C. 3507(d)), the FAA has submitted this information collection revision to the Office of Management and Budget for its review.

This direct final rule reduces the recordkeeping burden for an airman who passes a practical test for issuance of a flight instructor certificate, a practical test for the addition of a rating to a flight instructor certificate, a practical test for renewal of a flight instructor certificate, or a practical test for the reinstatement of a flight instructor certificate as this rule will now allow passage of such a test to meet the 24-calendar month flight review requirements for the airman. This rule also relieves regulatory burdens for airmen by making clear that the recent flight experience requirements do not apply to a pilot in command who is employed by an operator certificated under 14 CFR part 135 if the pilot in command is also in compliance with the pilot in command qualifications and recent experience requirements of part 135.

Flight reviews: The current information collection estimates that, of the total active pilot population of 700,000, some 190,000 pilots complete a flight review per year with an average

time of 0.1 hours each (6 minutes) necessary for the flight instructor to record the flight review. This rule reduces that recordkeeping burden by permitting an airman who passes a practical test for issuance of a flight instructor certificate, a practical test for the addition of a rating to a flight instructor certificate, a practical test for renewal of a flight instructor certificate, or a practical test for the reinstatement of a flight instructor certificate to meet the flight review requirements.

During calendar year 2012, the FAA issued 4,127 original certified flight instructor certificates and 4,034 [8] certified flight instructor certificates for the addition of a rating. These persons will no longer be required to complete the flight review. Thus, the FAA estimates that 8,161 airmen annually will no longer be required to complete flight reviews because they passed a practical test for issuance of a flight instructor certificate, a practical test for the addition of a rating to a flight instructor certificate, a practical test for renewal of a flight instructor certificate, or a practical test for the reinstatement of a flight instructor certificate. Therefore, the FAA estimates that this rule will reduce the burden by 816.1 hours annually.

Recent flight experience: The current information collection estimates that 290,000 pilots are subject to these recordkeeping requirements at an average of 0.1 hours (6 minutes) each. While this rule clarifies that the recent flight experience requirements do not apply to a pilot in command who is employed by the holder of a part 119 operating certificate that authorizes operations under 14 CFR part 135 if the pilot in command is also in compliance with the pilot in command qualifications and recent experience requirements of part 135, the FAA does not believe that the burden related to this information collection will change in a manner that is quantifiable. Based on the information received from the industry, the FAA believes that part 119 certificate holders have been interpreting the regulations to permit pilots who complete the recency requirements under part 135 to use this provision regardless of whether they are employed by a certificate holder that holds an air carrier certificate or an operating certificate. While a small number of persons may benefit from this regulatory change, the FAA believes that those numbers are small as most part 119 certificate holders have already been operating in a manner similar to the regulations being revised and clarified by this rule. Therefore, the FAA is not revising the burden associated with the recent flight experience element of this information collection.

Based on the change made by this direct final rule to the information collection related to certified flight instructor flight reviews, the recordkeeping requirements associated with 14 CFR 61.56 are reduced from 19,000 annual burden hours to 18,184 annual burden hours, reflecting the reduction in number of annual responses for this aspect of the information collection from 190,000 responses to 181,839 responses.

Information Collection 2120–0021: Certification: Pilots, Flight Instructors, and Ground Instructors

Type of information collection: Revision of a currently approved collection.

Form(s): FAA form 8710–1.

Frequency: The information is collected on occasion.

Abstract: 14 CFR Part 61 prescribes certification standards for pilots, flight instructors, and ground instructors. The information collected is used to determine compliance with applicant eligibility, via FAA form 8710–1.

The following table provides information regarding annual responses and annual burden hours.

Provision CFR §	Number of responses	Average time per response (hours)	Total annual burden hours
Reporting			
61.13	100,000	0.1	10,000
61.197	40,000	0.1	4,000
Recordkeeping			
61.39	100,000	0.05	5,000
61.49	13,600	0.05	680
61.51	190,000	1.0	190,000
61.56(a)	181,839	0.1	18,184
61.57	290,000	0.1	29,000
61.87	80,000	0.05	4,000
61.93	80,000	0.1	8,000
61.125	9,500	0.2	1,900
61.185	5,800	0.1	580
61.189	30,000	1.0	30,000
Total	1,120,739		301,344

The agency is soliciting comments to—

- Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of collecting information on those who are to respond, including by using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Individuals and organizations may send comments on the information

[8] This number reflects practical tests for an additional rating to a flight instructor certificate, for renewal of a flight instructor certificate, and for reinstatement of a flight instructor certificate.

collection requirement to the address listed in the **ADDRESSES** section at the beginning of this preamble by October 16, 2013. Comments also should be submitted to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Desk Officer for FAA, New Executive Office Building, Room 10202, 725 17th Street NW., Washington, DC 20503.

International Compatibility and Cooperation

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to conform to International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has reviewed the corresponding ICAO Standards and Recommended Practices and has identified no differences with these regulations.

Executive Order 13609, Promoting International Regulatory Cooperation

Executive Order 13609, Promoting International Regulatory Cooperation, (77 FR 26413, May 4, 2012) promotes international regulatory cooperation to meet shared challenges involving health, safety, labor, security, environmental, and other issues and to reduce, eliminate, or prevent unnecessary differences in regulatory requirements. The FAA has analyzed this action under the policies and agency responsibilities of Executive Order 13609, and has determined that this action would have no effect on international regulatory cooperation.

Environmental Analysis

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this rulemaking action qualifies for the categorical exclusion identified in paragraph 312f and involves no extraordinary circumstances.

Administrative Procedure Act

An agency may find good cause to exempt a rule from certain provisions of the Administrative Procedure Act (5 U.S.C. 553), including notice of proposed rulemaking and the opportunity for public comment, if it is determined to be unnecessary, impracticable, or contrary to the public interest. This rule relieves regulatory restrictions by permitting an airman who passes a practical test for issuance of a flight instructor certificate, a practical test for the addition of a rating to a flight instructor certificate, a practical test for renewal of a flight instructor certificate, or a practical test for the reinstatement of a flight instructor certificate to meet the 24-calendar month flight review requirements of part 61. This rule also clarifies that the recent flight experience requirements of § 61.57 do not apply to a pilot in command who is employed by an operator certificated under 14 CFR part 135 if the pilot in command is in compliance with the pilot in command qualifications and recent experience requirements of part 135. Finally, this rule permits replacement airmen and medical certificates to be requested online, or by any other method acceptable to the Administrator. Therefore, the FAA finds good cause to publish this action as a direct final rule. Please see the ''Direct Final Rule Procedure'' section for more information.

Executive Order 13132

The FAA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. The agency has determined that this action will not have a substantial direct effect on the States, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, does not have Federalism implications.

Executive Order 13211, Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA analyzed this final rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). The agency has determined that it is not a ''significant energy action'' under the executive order, and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

III. Additional Information

A. Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. The agency also invites comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the rulemaking action in this document. The most helpful comments reference a specific portion of the rulemaking action, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

The FAA will file in the docket all comments it receives, as well as a report summarizing each substantive public contact with FAA personnel concerning this rulemaking. Before confirming this direct final rule, the FAA will consider all comments it receives on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. The agency may change this rulemaking action in light of the comments it receives.

Proprietary or Confidential Business Information: Do not file proprietary or confidential business information in the docket. Such information must be sent or delivered directly to the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this document, and marked as proprietary or confidential. If submitting information on a disk or CD–ROM, mark the outside of the disk or CD–ROM, and identify electronically within the disk or CD–ROM the specific information that is proprietary or confidential.

Under 14 CFR 11.35(b), if the FAA is aware of proprietary information filed with a comment, the agency does not place it in the docket. It is held in a separate file to which the public does not have access, and the FAA places a note in the docket that it has received it. If the FAA receives a request to examine or copy this information, it treats it as any other request under the Freedom of Information Act (5 U.S.C. 552). The FAA processes such a request under Department of Transportation procedures found in 49 CFR part 7.

B. Availability of Rulemaking Documents

An electronic copy of rulemaking documents may be obtained from the Internet by—

- Searching the Federal eRulemaking Portal (*http://www.regulations.gov*);
- Visiting the FAA's Regulations and Policies Web page at *http://www.faa.gov/regulations_policies* or
- Accessing the Government Printing Office's Federal Digital System Web page at *http://www.gpo.gov/fdsys.*

Copies may also be obtained by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9680. Commenters

must identify the docket or amendment number of this rulemaking.

All documents the FAA considered in developing this rulemaking action, including economic analyses and technical reports, may be accessed from the Internet through the Federal eRulemaking Portal referenced above.

List of Subjects in 14 CFR Part 61

Aircraft, Airmen, Aviation safety, Reporting and recordkeeping requirements, Security measures, Teachers.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends chapter I of title 14, Code of Federal Regulations as follows:

PART 61—CERTIFICATION: PILOTS, FLIGHT INSTRUCTORS, AND GROUND INSTRUCTORS

■ 1. The authority citation for part 61 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40113, 44701–44703, 44707, 44709–44711, 45102–45103, 45301–45302.

■ 2. Section 61.3 is amended by revising paragraphs (a) introductory text, (a)(1), (b), and (i)(1) to read as follows:

§ 61.3 Requirement for certificates, ratings, and authorizations.

(a) *Required pilot certificate for operating a civil aircraft of the United States.* No person may serve as a required pilot flight crewmember of a civil aircraft of the United States, unless that person:

(1) Has in the person's physical possession or readily accessible in the aircraft when exercising the privileges of that pilot certificate or authorization—

(i) A pilot certificate issued under this part and in accordance with § 61.19;

(ii) A special purpose pilot authorization issued under § 61.77;

(iii) A temporary certificate issued under § 61.17;

(iv) A document conveying temporary authority to exercise certificate privileges issued by the Airmen Certification Branch under § 61.29(e); or

(v) When operating an aircraft within a foreign country, a pilot license issued by that country may be used.

* * * * *

(b) *Required pilot certificate for operating a foreign-registered aircraft within the United States.* No person may serve as a required pilot flight crewmember of a civil aircraft of foreign registry within the United States, unless—

(1) That person's pilot certificate or document issued under § 61.29(e) is in that person's physical possession or readily accessible in the aircraft when exercising the privileges of that pilot certificate; and

(2) Has been issued in accordance with this part, or has been issued or validated by the country in which the aircraft is registered.

* * * * *

(i) *Ground instructor certificate.* (1) Each person who holds a ground instructor certificate issued under this part must have that certificate or a temporary document issued under § 61.29(e) in that person's physical possession or immediately accessible when exercising the privileges of that certificate.

* * * * *

■ 3. Section 61.29 is amended by revising paragraphs (a), (b), (c), and (e) to read as follows:

§ 61.29 Replacement of a lost or destroyed airman or medical certificate or knowledge test report.

(a) A request for the replacement of a lost or destroyed airman certificate issued under this part must be made:

(1) By letter to the Department of Transportation, FAA, Airmen Certification Branch, P.O. Box 25082, Oklahoma City, OK 73125, and must be accompanied by a check or money order for the appropriate fee payable to the FAA; or

(2) In any other manner and form approved by the Administrator including a request online to Airmen Services at *http://www.faa.gov,* and must be accompanied by acceptable form of payment for the appropriate fee.

(b) A request for the replacement of a lost or destroyed medical certificate must be made:

(1) By letter to the Department of Transportation, FAA, Aerospace Medical Certification Division, P.O. Box 26200, Oklahoma City, OK 73125, and must be accompanied by a check or money order for the appropriate fee payable to the FAA; or

(2) In any other manner and form approved by the Administrator and must be accompanied by acceptable form of payment for the appropriate fee.

(c) A request for the replacement of a lost or destroyed knowledge test report must be made:

(1) By letter to the Department of Transportation, FAA, Airmen Certification Branch, P.O. Box 25082, Oklahoma City, OK 73125, and must be accompanied by a check or money order for the appropriate fee payable to the FAA; or

(2) In any other manner and form approved by the Administrator and must be accompanied by acceptable form of payment for the appropriate fee.

* * * * *

(e) A person who has lost an airman certificate, medical certificate, or knowledge test report may obtain, in a form or manner approved by the Administrator, a document conveying temporary authority to exercise certificate privileges from the FAA Aeromedical Certification Branch or the Airman Certification Branch, as appropriate, and the:

(1) Document may be carried as an airman certificate, medical certificate, or knowledge test report, as appropriate, for up to 60 days pending the person's receipt of a duplicate under paragraph (a), (b), or (c) of this section, unless the person has been notified that the certificate has been suspended or revoked.

(2) Request for such a document must include the date on which a duplicate certificate or knowledge test report was previously requested.

■ 4. Section 61.56 is amended by revising paragraph (d) to read as follows:

§ 61.56 Flight review.

* * * * *

(d) A person who has, within the period specified in paragraph (c) of this section, passed any of the following need not accomplish the flight review required by this section:

(1) A pilot proficiency check or practical test conducted by an examiner, an approved pilot check airman, or a U.S. Armed Force, for a pilot certificate, rating, or operating privilege.

(2) A practical test conducted by an examiner for the issuance of a flight instructor certificate, an additional rating on a flight instructor certificate, renewal of a flight instructor certificate, or reinstatement of a flight instructor certificate.

* * * * *

■ 5. Section 61.57 is amended by—

■ A. Revising paragraphs (e)(1) and (e)(2),

■ B. Redesignating paragraph (e)(3) as paragraph (e)(4) and revising the introductory text of newly redesignated paragraph (e)(4), and

■ C. Adding new paragraph (e)(3) to read as follows:

§ 61.57 Recent flight experience: Pilot in command.

* * * * *

(e) *Exceptions.* (1) Paragraphs (a) and (b) of this section do not apply to a pilot in command who is employed by a part 119 certificate holder authorized to conduct operations under part 125

when the pilot is engaged in a flight operation for that certificate holder if the pilot in command is in compliance with §§ 125.281 and 125.285 of this chapter.

(2) This section does not apply to a pilot in command who is employed by a part 119 certificate holder authorized to conduct operations under part 121 when the pilot is engaged in a flight operation under parts 91 and 121 for that certificate holder if the pilot in command is in compliance with §§ 121.435 or 121.436, as applicable, and § 121.439 of this chapter.

(3) This section does not apply to a pilot in command who is employed by a part 119 certificate holder authorized to conduct operations under part 135 when the pilot is engaged in a flight operation under parts 91 and 135 for that certificate holder if the pilot in command is in compliance with §§ 135.243 and 135.247 of this chapter.

(4) Paragraph (b) of this section does not apply to a pilot in command of a turbine-powered airplane that is type certificated for more than one pilot crewmember, provided that pilot has complied with the requirements of paragraph (e)(4)(i) or (ii) of this section:

* * * * *

Issued under authority provided by 49 U.S.C. 106(f), 44701(a), and 44703, in Washington, DC, on August 27, 2013.

Michael P. Huerta,

Administrator.

[FR Doc. 2013–22485 Filed 9–13–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30919; Amdt. No. 3554]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective September 16, 2013. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 16, 2013.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located;

3. The National Flight Procedures Office, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Availability—All SIAPs are available online free of charge. Visit *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Richard A. Dunham III, Flight Procedure Standards Branch (AFS–420) Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK 73125), telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) by amending the referenced SIAPs. The complete regulatory description of each SIAP is listed on the appropriate FAA Form 8260, as modified by the National Flight Data Center (FDC)/Permanent Notice to Airmen (P–NOTAM), and is incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of Title 14 of the Code of Federal Regulations.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAP and the corresponding effective dates. This amendment also identifies the airport and its location, the procedure and the amendment number.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained for each SIAP as modified by FDC/P–NOTAMs.

The SIAPs, as modified by FDC P–NOTAM, and contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these changes to SIAPs, the TERPS criteria were applied only to specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established

body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, and Navigation (air).

Issued in Washington, DC, on August 30, 2013.

John Duncan,

Deputy Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal regulations, Part 97, 14 CFR part 97, is amended by amending Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [AMENDED]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

** * * Effective Upon Publication*

AIRAC Date	State	City	Airport	FDC No.	FDC Date	Subject
10/17/13	CA	Beckwourth	Nervino	3/0171	8/22/13	Takeoff Minimums and (Obstacle) DP, Orig
10/17/13	MN	Grand Marais	Grand Marais/Cook County	3/0179	8/22/13	NDB RWY 27, Orig-C
10/17/13	MT	Libby	Libby	3/0982	8/22/13	GPS A, Orig-B
10/17/13	IL	Lawrenceville	Lawrenceville-Vincennes Intl	3/1650	8/22/13	RNAV (GPS) RWY 18, Amdt 1
10/17/13	IL	Lawrenceville	Lawrenceville-Vincennes Intl	3/1653	8/22/13	VOR RWY 18, Amdt 1
10/17/13	IL	Lawrenceville	Lawrenceville-Vincennes Intl	3/1654	8/22/13	RNAV (GPS) RWY 9, Amdt 1
10/17/13	IL	Lawrenceville	Lawrenceville-Vincennes Intl	3/1657	8/22/13	RNAV (GPS) RWY 36, Amdt 1
10/17/13	IL	Lawrenceville	Lawrenceville-Vincennes Intl	3/1658	8/22/13	RNAV (GPS) RWY 27, Amdt 1
10/17/13	AK	Huslia	Huslia	3/5257	8/22/13	RNAV (GPS) RWY 3, Amdt 2
10/17/13	OR	Scappoose	Scappoose Industrial Airpark	3/5978	8/22/13	VOR/DME A, Amdt 3
10/17/13	IA	Creston	Creston Muni	3/6601	8/22/13	RNAV (GPS) RWY 16, Amdt 1
10/17/13	WA	Ellensburg	Bowers Field	3/7408	8/22/13	RNAV (GPS) C Orig
10/17/13	IL	Lawrenceville	Lawrenceville-Vincennes Intl	3/7901	8/22/13	VOR RWY 36, Amdt 1A
10/17/13	MA	Lawrence	Lawrence Muni	3/9394	8/22/13	RNAV (GPS) RWY 23, Orig
10/17/13	MA	Lawrence	Lawrence Muni	3/9395	8/22/13	VOR RWY 23, Amdt 11
10/17/13	MA	Lawrence	Lawrence Muni	3/9396	8/22/13	RNAV (GPS) RWY 5, Orig

[FR Doc. 2013–21895 Filed 9–13–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30918; Amdt. No. 3553]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective September 16, 2013. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 16, 2013.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located;

3. The National Flight Procedures Office, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Availability—All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit *http://www.nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Richard A. Dunham III, Flight Procedure Standards Branch (AFS–420), Flight Technologies and Programs Divisions, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125), Telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14 of the Code of Federal Regulations, Part 97 (14 CFR part 97), by establishing, amending, suspending, or revoking SIAPS, Takeoff Minimums and/or ODPS. The complete regulators description of each SIAP and its associated Takeoff Minimums or ODP for an identified airport is listed on FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR 97.20. The applicable FAA Forms are FAA Forms 8260–3, 8260–4, 8260–5, 8260–15A, and 8260–15B when required by an entry on 8260–15A.

The large number of SIAPs, Takeoff Minimums and ODPs, in addition to their complex nature and the need for a special format make publication in the **Federal Register** expensive and impractical. Furthermore, airmen do not use the regulatory text of the SIAPs, Takeoff Minimums or ODPs, but instead refer to their depiction on charts printed by publishers of aeronautical materials. The advantages of incorporation by reference are realized and publication of the complete description of each SIAP, Takeoff Minimums and ODP listed on FAA forms is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAPs and the effective dates of the associated Takeoff Minimums and ODPs. This amendment also identifies the airport and its location, the procedure, and the amendment number.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP, Takeoff Minimums and ODP as contained in the transmittal. Some SIAP and Takeoff Minimums and textual ODP amendments may have been issued previously by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP and Takeoff Minimums and ODP amendments may require making them effective in less than 30 days. For the remaining SIAPS and Takeoff Minimums and ODPS, an effective date at least 30 days after publication is provided.

Further, the SIAPs and Takeoff Minimums and ODPS contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPS and Takeoff Minimums and ODPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedures before adopting these SIAPS, Takeoff Minimums and ODPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule '' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, and Navigation (air).

Issued in Washington, DC, on August 30, 2013.

John Duncan,

Deputy Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures and/or Takeoff Minimums and/or Obstacle Departure Procedures effective at 0902 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

Effective 17 OCTOBER 2013

Cold Bay, AK, Cold Bay, RNAV (GPS) RWY 26, Amdt 2
Coldfoot, AK, Coldfoot, RNAV (GPS) RWY 1, Amdt 1A
Ruby, AK, Ruby, RNAV (GPS) RWY 3, Amdt 1A
Scottsboro, AL, Scottsboro Muni-Word Field, Takeoff Minimums and Obstacle DP, Amdt 1
Tuscaloosa, AL, Tuscaloosa Rgnl, VOR OR TACAN RWY 22, Amdt 14E
Oakland, CA, Metropolitan Oakland Intl, ILS OR LOC RWY 12, Amdt 7
Oakland, CA, Metropolitan Oakland Intl, ILS OR LOC RWY 30, ILS RWY 30 (CAT II), ILS RWY 30 (CAT III), ILS RWY 30 (SA CAT I), Amdt 26
Oakland, CA, Metropolitan Oakland Intl, ILS OR LOC/DME RWY 28R, Amdt 36
Oakland, CA, Metropolitan Oakland Intl, RNAV (GPS) RWY 10L, Amdt 1
Oakland, CA, Metropolitan Oakland Intl, RNAV (GPS) RWY 10R, Amdt 1
Oakland, CA, Metropolitan Oakland Intl, RNAV (GPS) Y RWY 12, Amdt 2
Oakland, CA, Metropolitan Oakland Intl, RNAV (GPS) Y RWY 28L, Amdt 3
Oakland, CA, Metropolitan Oakland Intl, RNAV (GPS) Y RWY 28R, Amdt 2
Oakland, CA, Metropolitan Oakland Intl, RNAV (GPS) Y RWY 30, Amdt 2
Oakland, CA, Metropolitan Oakland Intl, RNAV (RNP) Z RWY 12, Amdt 1
Oakland, CA, Metropolitan Oakland Intl, RNAV (RNP) Z RWY 28L, Amdt 1
Oakland, CA, Metropolitan Oakland Intl, RNAV (RNP) Z RWY 28R, Amdt 1
Oakland, CA, Metropolitan Oakland Intl, RNAV (RNP) Z RWY 30, Amdt 1
Oakland, CA, Metropolitan Oakland Intl, Takeoff Minimums and Obstacle DP, Amdt 7
Oakland, CA, Metropolitan Oakland Intl, VOR RWY 10R, Amdt 9
Oakland, CA, Metropolitan Oakland Intl, VOR/DME RWY 28L, Amdt 12
Montrose, CO, Montrose Rgnl, MONTROSE TWO, Graphic DP
Walsenburg, CO, Spanish Peaks Airfield, RNAV (GPS) RWY 9, Amdt 1
Walsenburg, CO, Spanish Peaks Airfield, RNAV (GPS) RWY 27, Amdt 1
Miami, FL, Miami Intl, RNAV (GPS) RWY 9, Amdt 1
Nampa, ID, Nampa Muni, GPS–B, Orig, CANCELED
Nampa, ID, Nampa Muni, NDB–A, Amdt 1
Nampa, ID, Nampa Muni, RNAV (GPS)-B, Orig
Twin Falls, ID, Joslin Field-Magic Valley Rgnl, ILS OR LOC RWY 26, Amdt 10
Twin Falls, ID, Joslin Field-Magic Valley Rgnl, NDB RWY 26, Amdt 7

Twin Falls, ID, Joslin Field-Magic Valley Rgnl, RNAV (GPS) RWY 8, Amdt 1
Twin Falls, ID, Joslin Field-Magic Valley Rgnl, RNAV (GPS) RWY 26, Amdt 1
Twin Falls, ID, Joslin Field-Magic Valley Rgnl, Takeoff Minimums and Obstacle DP, Amdt 3
Twin Falls, ID, Joslin Field-Magic Valley Rgnl, VOR RWY 8, Amdt 5
Twin Falls, ID, Joslin Field-Magic Valley Rgnl, VOR RWY 26, Amdt 16
Twin Falls, ID, Joslin Field-Magic Valley Rgnl, VOR/DME RWY 8, Amdt 1
Chicago, IL, Chicago O'Hare Intl, Takeoff Minimums and Obstacle DP, Amdt 19
Muncie, IN, Delaware County Rgnl, Takeoff Minimums and Obstacle DP, Amdt 4
Bowling Green, KY, Bowling Green-Warren County Rgnl, ILS OR LOC RWY 3, Amdt 1
Bowling Green, KY, Bowling Green-Warren County Rgnl, NDB RWY 3, Amdt 2
Bowling Green, KY, Bowling Green-Warren County Rgnl, RNAV (GPS) RWY 3, Amdt 1
Bowling Green, KY, Bowling Green-Warren County Rgnl, RNAV (GPS) RWY 21, Amdt 1
Rayville, LA, John H Hooks Jr Memorial, NDB RWY 36, Amdt 3, CANCELED
Tallulah/Vicksburg, MS, LA, Vicksburg Tallulah Rgnl, LOC RWY 36, Amdt 4
Tallulah/Vicksburg, MS, LA, Vicksburg Tallulah Rgnl, Takeoff Minimums and Obstacle DP, Amdt 1
Vineyard Haven, MA, Marthas Vineyard, RNAV (GPS) RWY 24, Amdt 2A
Mahnomen, MN, Mahnomen County, RNAV (GPS) RWY 17, Orig
Mahnomen, MN, Mahnomen County, RNAV (GPS) RWY 35, Orig
Mahnomen, MN, Mahnomen County, Takeoff Minimums and Obstacle DP, Orig
Charlotte, NC, Charlotte/Douglas Intl, ILS OR LOC RWY 18C, Amdt 10C
Mooresville, NC, Lake Norman Airpark, RNAV (GPS) RWY 14, Amdt 1
Alliance, NE., Alliance Muni, NDB RWY 12, Orig-A, CANCELED
Princeton/Rocky Hill, NJ, Princeton, RNAV (GPS) RWY 10, Amdt 1A
Newburgh, NY, Stewart Intl, Takeoff Minimums and Obstacle DP, Amdt 6
Niagara Falls, NY, Niagara Falls Intl, RNAV (GPS) RWY 10L, Orig
Cambridge, OH, Cambridge Muni, RNAV (GPS) RWY 4, Orig
Cambridge, OH, Cambridge Muni, RNAV (GPS) RWY 22, Orig
Cambridge, OH, Cambridge Muni, VOR–A, Amdt 4
Middlefield, OH, Geauga County, RNAV (GPS) RWY 11, Orig
Middlefield, OH, Geauga County, RNAV (GPS) RWY 29, Orig
Middlefield, OH, Geauga County, VOR–A, Amdt 6
Honesdale, PA, Cherry Ridge, VOR/DME–A, Amdt 6
Allendale, SC, Allendale County, GPS RWY 17, Orig-C, CANCELED
Allendale, SC, Allendale County, GPS RWY 35, Amdt 1B, CANCELED
Allendale, SC, Allendale County, RNAV (GPS) RWY 17, Orig
Allendale, SC, Allendale County, RNAV (GPS) RWY 35, Orig
Allendale, SC, Allendale County, Takeoff Minimums and Obstacle DP, Amdt 1
Union, SC, Union County, Troy Shelton Field, RNAV (GPS) RWY 5, Orig-A
Parkston, SD, Parkston Muni, RNAV (GPS) RWY 15, Orig
Parkston, SD, Parkston Muni, RNAV (GPS) RWY 33, Orig
Parkston, SD, Parkston Muni, Takeoff Minimums and Obstacle DP, Orig
Wagner, SD, Wagner Muni, RNAV (GPS) RWY 9, Orig
Wagner, SD, Wagner Muni, RNAV (GPS) RWY 27, Orig
Wagner, SD, Wagner Muni, Takeoff Minimums and Obstacle DP, Orig
Athens, TN, McMinn County, RNAV (GPS) RWY 2, Orig-A
Lebanon, TN, Lebanon Muni, NDB RWY 19, Amdt 1, CANCELED
Madisonville, TN, Monroe County, RNAV (GPS) RWY 5, Amdt 2A
Austin, TX, Austin-Bergstrom Intl, ILS OR LOC RWY 35L, Amdt 5A
El Paso, TX, El Paso Intl, RADAR–1, Amdt 15
Ashland, WI, John F Kennedy Memorial, LOC/DME RWY 2, Amdt 1

Effective 14 NOVEMBER 2013

Atlantic City, NJ, Atlantic City Intl, RNAV (GPS) RWY 4, Amdt 2A

[FR Doc. 2013–21901 Filed 9–13–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

DEPARTMENT OF THE TREASURY

19 CFR Part 12

[CBP Dec. 13–15]

RIN 1515–AD98

Extension of Import Restrictions Imposed on Archaeological Material From Cambodia From the Bronze Age Through the Khmer Era

AGENCIES: U.S. Customs and Border Protection; Department of Homeland Security; Department of the Treasury.

ACTION: Final rule.

SUMMARY: This final rule amends the U.S. Customs and Border Protection (CBP) regulations to reflect an extension of import restrictions on certain archaeological material from Cambodia from the Bronze Age through the Khmer era. The restrictions, which were originally imposed by CBP Dec. 03–28, and last extended and amended by CBP Dec. 08–40, are due to expire on September 19, 2013, unless extended.

The Assistant Secretary for Educational and Cultural Affairs, United States Department of State, has determined that factors for entering into the agreement continue to warrant the imposition of import restrictions. Accordingly, the restrictions will remain in effect for an additional five years, and the CBP regulations are being amended to indicate this further extension through September 19, 2018. These restrictions are being extended pursuant to determinations of the United States Department of State made under the terms of the Convention on Cultural Property Implementation Act in accordance with the United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. CBP Dec. 08–40 contains the Designated List of archaeological material from Cambodia to which the restrictions apply.

DATES: *Effective Date:* September 19, 2013.

FOR FURTHER INFORMATION CONTACT: For legal aspects, Lisa Burley, Cargo Security, Carriers and Restricted Merchandise Branch, Regulations and Rulings, Office of International Trade, (202) 325–0215. For operational aspects, William R. Scopa, Chief, Partner Government Agencies Branch, Trade Policy and Programs, Office of International Trade, (202) 863–6554.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to the provisions of the 1970 United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention, codified into U.S. law as the Convention on Cultural Property Implementation Act (Pub. L. 97–446, 19 U.S.C. 2601 *et seq.*), the United States entered into a bilateral agreement with Cambodia on September 19, 2003, concerning the imposition of import restrictions on Khmer archaeological material from the 6th century through the 16th century A.D. in Cambodia. On September 22, 2003, CBP published CBP Dec. 03–28 in the **Federal Register** (68 FR 55000), which amended 19 CFR 12.104g(a) to reflect the imposition of these restrictions, which subsumed the emergency import restrictions on Khmer stone archaeological material (T.D. 99–88), and included a list designating the additional types of archaeological material covered by the restrictions including Khmer metals and ceramics.

On September 19, 2008, CBP published CBP Dec. 08–40 in the **Federal Register** (73 FR 54309), which amended 19 CFR 12.104g(a) to reflect the extension of these import restrictions for an additional period of

five years until September 19, 2013, and amended them to include archaeological material from the Bronze Age through the Khmer Era.

Import restrictions listed in 19 CFR 12.104g(a) are effective for no more than five years beginning on the date on which the agreement enters into force with respect to the United States. This period can be extended for additional periods not to exceed five years if it is determined that the factors which justified the initial agreement still pertain (19 CFR 12.104g(a)).

On January 7, 2013, the United States Department of State proposed in the **Federal Register** (78 FR 977) to extend the Memorandum of Understanding between the U.S and Cambodia concerning the imposition of import restrictions on archaeological material from Cambodia from the Bronze Age through the Khmer Era. On June 10, 2013, after reviewing the findings and recommendations of the Cultural Property Advisory Committee, the Assistant Secretary for Educational and Cultural Affairs, United States Department of State, concluding that the cultural heritage of Cambodia continues to be in jeopardy from pillage of certain archaeological materials, made the necessary determination to extend the import restrictions for an additional five years. On August 6, 2013, diplomatic notes were exchanged reflecting the extension of those restrictions for an additional five-year period. Accordingly, CBP is amending 19 CFR 12.104g(a) to reflect the extension of the import restrictions. The Designated List of Archaeological Material from Cambodia covered by these import restrictions is set forth in CBP Dec. 08–40 (*see* 73 FR 54309, dated September 19, 2008). The Designated List and additional information about the agreement may also be found at the following Internet Web site address: *http://eca.state.gov/cultural-heritage-center/international-cultural-property-protection/bilateral-agreements/cambodia*.

The restrictions on the importation of these archaeological materials from Cambodia are to continue in effect through September 19, 2018. Importation of such materials continues to be restricted unless the conditions set forth in 19 U.S.C. 2606 and 19 CFR 12.104c are met.

Inapplicability of Notice and Delayed Effective Date

This amendment involves a foreign affairs function of the United States and is, therefore, being made without notice or public procedure under 5 U.S.C. 553(a)(1). For the same reason, a delayed effective date is not required under 5 U.S.C. 553(d)(3).

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

Executive Order 12866

Because this rule involves a foreign affairs function of the United States, it is not subject to Executive Order 12866.

Signing Authority

This regulation is being issued in accordance with 19 CFR 0.1(a)(1).

List of Subjects in 19 CFR Part 12

Cultural property, Customs duties and inspection, Imports, Prohibited merchandise.

Amendment to CBP Regulations

For the reasons set forth above, part 12 of Title 19 of the Code of Federal Regulations (19 CFR part 12), is amended as set forth below:

PART 12—SPECIAL CLASSES OF MERCHANDISE

■ 1. The general authority citation for part 12 and the specific authority citation for § 12.104g continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1624;

* * * * *

Sections 12.104 through 12.104i also issued under 19 U.S.C. 2612;

* * * * *

§ 12.104 [Amended]

■ 2. In § 12.104g, paragraph (a), the table is amended in the entry for Cambodia by removing the words ''CBP Dec. 03–28 extended by CBP Dec. 08–40'' in the column headed ''Decision No.'' and, adding in its place, the phrase ''CBP Dec. 08–40 extended by CBP Dec. 13–15''.

Thomas S. Winkowski,

Acting Commissioner.

Approved: September 3, 2013.

Timothy E. Skud,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 2013–21803 Filed 9–13–13; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2013–0773]

Safety Zone; Fireworks Events in Captain of the Port New York Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce safety zones in the Captain of the Port New York Zone on the specified dates and times. This action is necessary to ensure the safety of vessels and spectators from hazards associated with fireworks displays. During the enforcement period, no person or vessel may enter the safety zones without permission of the Captain of the Port (COTP).

DATES: The regulation for the safety zones described in 33 CFR 165.160 will be enforced on the dates and times listed in the table below.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email Lieutenant Junior Grade Kristopher Kesting, Coast Guard Sector New York; telephone 718–354–4154, email *Kristopher.R.Kesting@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zones listed in 33 CFR 165.160 on the specified dates and times as indicated in Table 1 below. This regulation was published in the **Federal Register** on November 9, 2011 (76 FR 69614).

TABLE 1

1. A DMC Network Company, Briggs Fireworks, Ellis Island Safety Zone, 33 CFR 165.160(2.2).	• Launch site: A barge located between Federal Anchorages 20–A and 20–B, in approximate position 40°41′45″ N, 074°02′09″ W (NAD 1983), about 365 yards east of Ellis Island. This Safety Zone is a 360-yard radius from the barge. • Date: September 9, 2013 (Rain Date: September 10, 2013). • Time: 9:15 p.m.–10:30 p.m.
2. Mullen Wedding Fireworks, Pier 90, Hudson River Safety Zone, 33 CFR 165.160(5.4).	• Launch site: A barge located in approximate position 40°46′11.8″ N, 074°00′14.8″ W (NAD 1983), approximately 375 yards west of Pier 90, Manhattan, New York. This Safety Zone is a 360-yard radius from the barge. • Date: September 9, 2013. • Time: 9:00 p.m.–10:30 p.m.
3. Waterside Plaza's 40th Anniversary Fireworks, Newtown Creek, East River Safety Zone, 33 CFR 165.160(4.2).	• Launch site: A barge launch located in approximate position 40°44′24″ N, 073°58′00″ W (NAD 1983), approximately 785 yards south of Belmont Island. This Safety zone is a 360-yard. • Date: September 12, 2013. • Time: 8:15 p.m.–9:30 p.m.
4. Wolfe's Pond Fireworks, South Beach, Staten Island Safety Zone, 33 CFR 165.160(2.4).	• Launch site: A barge located in approximate position 40°35′11″ N, 074°03′42″ W (NAD 1983), about 350 yards east of South Beach, Staten Island. This Safety Zone is a 360-yard radius from the barge. • Date: September 14, 2013 (Rain Date: September 15, 2013). • Time: 8:30 p.m.–10:00 p.m.
5. Circle Line Sightseeing Yachts NYE Fireworks, Liberty Island Safety Zone, 33 CFR 165.160(2.1).	• Launch site: A barge launch located in approximate position 40°41′16.5″ N, 074°02′23″ W (NAD 1983), located in Federal Anchorage 20–C, about 360 yards east of Liberty Island. This Safety zone is a 360-yard radius from the barge. • Date: December 31, 2013–January 1, 2014. • Time: 11:30 p.m.–12:40 a.m.

Under the provisions of 33 CFR 165.160, a vessel may not enter the regulated area unless given express permission from the COTP or the designated representative. Spectator vessels may transit outside the regulated area but may not anchor, block, loiter in, or impede the transit of other vessels. The Coast Guard may be assisted by other Federal, State, or local law enforcement agencies in enforcing this regulation.

This notice is issued under authority of 33 CFR 165.160(a) and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register**, the Coast Guard will provide mariners with advanced notification of enforcement periods via the Local Notice to Mariners and marine information broadcasts. If the COTP determines that the regulated area need not be enforced for the full duration stated in this notice, a Broadcast Notice to Mariners may be used to grant general permission to enter the regulated area.

Dated: August 22, 2013.

G. Loebl,

Captain, U.S. Coast Guard, Captain of the Port New York.

[FR Doc. 2013–22413 Filed 9–13–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2013–0811]

RIN 1625–AA00

Safety Zone; Patapsco River, Northwest and Inner Harbors; Baltimore, MD

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone upon certain waters of the Patapsco River, Northwest Harbor and Inner Harbor during the movement of the historic sloop-of-war USS CONSTELLATION on September 26, 2013. If necessary, due to inclement weather, the event will be rescheduled for October 3, 2013. This action is necessary to provide for the safety of life on navigable waters during the tow of the vessel from its berth at the Inner Harbor in Baltimore, Maryland, to a point on the Patapsco River near the Fort McHenry National Monument and Historic Shrine in Baltimore, Maryland, and its return. This action will restrict vessel traffic in portions of the Patapsco River, Northwest Harbor, and Inner Harbor during the event.

DATES: This rule is effective from September 26, 2013 through October 3, 2013.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2013–0811]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Ronald Houck, U.S. Coast Guard Sector Baltimore, MD; telephone 410–576–2674, email *Ronald.L.Houck@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

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

A. Regulatory History and Information

This rule involves the USS CONSTELLATION ''turn-around'' cruise, an event that takes place in Baltimore, Maryland. A permanent safety zone for this rule, with an enforcement period from 2 p.m. through

7 p.m. local time annually on the Thursday before Memorial Day, has been published and is detailed at Title 33 Code of Federal Regulations, Section 165.512. However, due to a change in scheduling, the event this year is planned for September 26, 2013. If necessary, due to inclement weather, the event will be rescheduled for October 3, 2013. The event is scheduled to start at 9 a.m. and the event location remains unchanged.

The Coast Guard is issuing this final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule due to the short time period between event planners notifying the Coast Guard of details concerning the event, on August 23, 2013, and publication of this safety zone. As such, it is impracticable to provide a full comment period due to lack of time. Furthermore, delaying the effective date of this safety zone would be contrary to the public interest given the high risk of injury and damage during a movement of a historic sloop-of-war being towed in confined waters during the boating season in Baltimore, Maryland.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Due to the need for immediate action, the restriction of vessel traffic is necessary to protect life, property and the environment; therefore, a 30-day notice is impracticable. Delaying the effective date would be contrary to the safety zone's intended objectives of protecting persons and vessels, and enhancing public and maritime safety.

B. Basis and Purpose

Historic Ships in Baltimore is planning to conduct its ''turn-around'' ceremony involving the sloop-of-war USS CONSTELLATION in Baltimore, Maryland on September 26, 2013. Planned events include a three-hour, round-trip tow of the USS CONSTELLATION in the Port of Baltimore, consisting of an onboard salute with navy pattern cannon while the historic vessel is positioned off the Fort McHenry National Monument and Historic Site. Beginning at 9 a.m., the historic Sloop-of-War USS CONSTELLATION will be towed ''dead ship,'' which means that the vessel will be underway without the benefit of mechanical or sail propulsion. The return dead ship tow of the USS CONSTELLATION to its berth in the Inner Harbor is expected to occur immediately upon execution of a tug-assisted ''turn-around'' of the USS CONSTELLATION on the Patapsco River near Fort McHenry. The Coast Guard anticipates a large recreational boating fleet during this event, scheduled in Baltimore, Maryland. Operators should expect significant vessel congestion along the planned route. In the event of inclement weather, the ''turn-around'' will be rescheduled for October 3, 2013.

To address safety concerns during the event, the Captain of the Port Baltimore will establish a safety zone upon certain waters of the Patapsco River, Northwest Harbor and Inner Harbor. The safety zone will help the Coast Guard provide a clear transit route for the participating vessels, and provide a safety buffer around the participating vessels while they are in transit. Due to the need to promote maritime safety and protect participants and the boating public in the Port of Baltimore immediately prior to, during, and after the scheduled event, a safety zone is prudent.

C. Discussion of the Final Rule

Through this regulation, the Coast Guard will establish a safety zone. The safety zone will be in effect from 8 a.m. until 1 p.m. on September 26, 2013, and, if necessary due to inclement weather, from 8 a.m. until 1 p.m. on October 3, 2013. The safety zone will include all navigable waters within 200 yards ahead of and 100 yards outboard or aft of the historic Sloop-of-War USS CONSTELLATION while operating in the Inner Harbor, the Northwest Harbor and the Patapsco River. This location is entirely within the Area of Responsibility of the Captain of the Port Baltimore, as set forth at 33 CFR 3.25–15.

This rule requires any unauthorized persons in the regulated area at the time this safety zone is in effect to immediately proceed out of the zone. Except for USS CONSTELLATION ''turn-around'' participants, and vessels at berth, mooring, or at anchor, this rule temporarily requires all vessels in the designated safety zone as defined by this rule to immediately depart the safety zone. Entry into this safety zone is prohibited, unless specifically authorized by the Captain of the Port Baltimore. U.S. Coast Guard personnel will be provided to prevent the movement of unauthorized persons into the zone. Federal, state, and local agencies may assist the Coast Guard in the enforcement of this rule. The Coast Guard will issue Notices to Mariners to further publicize the safety zone and notify the public of changes in the status of the zone. Such notices will continue until the event is complete.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. Although this safety zone restricts vessel traffic through the affected area, the effect of this regulation will not be significant due to the limited size and duration that the regulated area will be in effect. In addition, notifications will be made to the maritime community via marine information broadcasts so mariners may adjust their plans accordingly.

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 rule will not have a significant economic impact on a substantial number of small entities. This rule may affect the following entities, some of which might be small entities: The owners or operators of vessels intending to operate or transit through or within the safety zone during the enforcement period. The safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. The safety zone is of limited size and

duration. Smaller vessels not constrained by their draft, which are more likely to be small entities, may transit around the safety zone. Maritime advisories will be widely available to the maritime community before the effective period.

3. Assistance for Small Entities

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

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

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add temporary § 165.T05–0811 to read as follows:

§ 165.T05–0811 Safety Zone; Patapsco River, Northwest and Inner Harbors; Baltimore, MD.

(a) *Regulated area.* The following location is a safety zone: All waters within 200 yards ahead of and 100 yards outboard or aft of the historic Sloop-of-War USS CONSTELLATION while operating in the Inner Harbor, the Northwest Harbor and the Patapsco River.

(b) *Definitions.* As used in this section:

(1) ''Captain of the Port Baltimore'' means the Commander, U.S. Coast Guard Sector Baltimore, Maryland.

(2) ''Designated representative'' means any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port Baltimore to assist in enforcing the safety zone described in paragraph (a) of this section.

(3) ''USS CONSTELLATION ''turn-around'' participants'' means the USS CONSTELLATION, its support craft and the accompanying towing vessels.

(c) *Regulations.* The general safety zone regulations found in 33 CFR 165.23 apply to the safety zone created by this temporary section, § 165.T05–0811.

(1) All persons are required to comply with the general regulations governing safety zones found in 33 CFR 165.23.

(2) With the exception of USS CONSTELLATION ''turn-around'' participants, entry into or remaining in this zone is prohibited unless authorized by the Coast Guard Captain of the Port Baltimore. Vessels already at berth, mooring, or anchor at the time the safety zone is implemented do not have to depart the safety zone. All vessels underway within this safety zone at the time it is implemented are to depart the zone.

(3) Persons desiring to transit the area of the safety zone must first request authorization from the Captain of the Port Baltimore or his designated representative. To seek permission to transit the area, the Captain of the Port Baltimore and his designated representatives can be contacted at telephone number 410–576–2693 or on Marine Band Radio, VHF–FM channel 16 (156.8 MHz). The Coast Guard vessels enforcing this section can be contacted on Marine Band Radio, VHF–FM channel 16 (156.8 MHz). Upon being hailed by a U.S. Coast Guard vessel, or other Federal, State, or local agency vessel, by siren, radio, flashing lights, or other means, the operator of a vessel shall proceed as directed. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port Baltimore or his designated representative and proceed at the minimum speed necessary to maintain a safe course while within the zone.

(4) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the zone by Federal, State, and local agencies.

(d) *Enforcement period.* This section will be enforced from 8 a.m. through 1 p.m. on September 26, 2013, and, if necessary due to inclement weather, from 8 p.m. through 1 p.m. on October 3, 2013.

Dated: August 30, 2013.

Kevin C. Kiefer,

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

[FR Doc. 2013–22431 Filed 9–13–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Parts 30, 150, and 153

[Docket No. USCG–2013–0423]

RIN 1625–AB94

2012 Liquid Chemical Categorization Updates

AGENCY: Coast Guard, DHS.

ACTION: Interim rule; delay of effective date.

SUMMARY: The Coast Guard is delaying the effective date of this interim rule by four months, to give the public additional time in advance of implementing the interim rule. The interim rule updates and revises regulatory tables that list liquid hazardous materials, liquefied gases, and compressed gases that have been approved for maritime transportation in bulk, and that indicate how each substance's pollution potential has been categorized. The interim rule provides new information about approved substances and their categorizations, but would not change which substances are approved or how each substance is categorized. Updated information is of value to shippers and to the owners and operators of U.S.-flag tank and bulk cargo vessels in any waters and most foreign-flag tank and oceangoing bulk cargo vessels in U.S. waters. This interim rule promotes the Coast Guard's maritime safety and stewardship missions.

DATES: The effective date of the interim rule published at 78 FR 50147, August 16, 2013, and amending 46 CFR parts 30, 150, and 153 is delayed from September 16, 2013 until January 16, 2014.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, email or call Mr. Patrick Keffler, Coast Guard; email: *Patrick.A.Keffler@uscg.mil,* telephone: 202–372–1424. If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

Dated: September 10, 2013.

J.G. Lantz,

Director of Commercial Regulations and Standards, U.S. Coast Guard.

[FR Doc. 2013–22412 Filed 9–13–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 121018563–3418–02]

RIN 0648–XC869

Fisheries of the Exclusive Economic Zone Off Alaska; ''Other Rockfish'' in the Aleutian Island Subarea of the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting retention of ''other rockfish'' in the Aleutian Islands subarea of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary because the 2013 total allowable catch (TAC) of ''other rockfish'' in the BSAI has been reached.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), September 11, 2013, through 2400 hrs, A.l.t., December 31, 2013.

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907–586–7269.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands (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 TAC ''other rockfish'' in the Aleutian Islands subarea of the BSAI is 473 metric tons (mt) as established by the final 2013 and 2014 final harvest specifications for groundfish of the BSAI (78 FR 13813, March 1, 2013).

In accordance with § 679.20(d)(2), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2013 TAC of ''other rockfish'' in the Aleutian Islands subarea of the BSAI has been reached. Therefore, NMFS is requiring that ''other rockfish'' caught in the Aleutian Islands subarea of the BSAI be treated as prohibited species in accordance with § 679.21(b).

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 prohibiting the retention of ''other rockfish'' in the Aleutian Islands subarea of the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of September 10, 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 § 679.21 and is exempt from review under Executive Order 12866.

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

Dated: September 11, 2013.

James P. Burgess,

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

[FR Doc. 2013–22463 Filed 9–11–13; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 78, No. 179

Monday, September 16, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 32

[Docket No. PRM–32–7; NRC–2012–0127]

Compatibility of Generally Licensed and Exempt Devices

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; denial.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is denying a petition for rulemaking (PRM), dated May 7, 2012, submitted by Mr. Sean Chapel (the petitioner) on behalf of the Association of Device Distributors and Manufacturers (ADDM). The petition was docketed by the NRC on May 24, 2012, and was assigned Docket No. PRM–32–7. The petitioner requested that the NRC create a new regulation for exempt devices similar to the NRC's regulations for generally licensed devices. The petitioner also requested that the NRC change the Agreement State compatibility designation of the regulations applicable to generally licensed devices that are specified in § 31.6 of Title 10 of the *Code of Federal Regulations* (10 CFR) from ''C'' to ''B''. The NRC is denying the petition because the petitioner failed to present any significant new information or arguments that would support the requested changes, nor has he demonstrated a need for a new provision for exempt devices.

DATES: The docket for the petition for rulemaking, PRM–32–7, is closed on September 16, 2013.

ADDRESSES: Please refer to Docket ID NRC–2012–0127 when contacting the NRC about the availability of information for this petition. You may access publicly-available information related to this petition by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2012–0127. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS*): You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced. The petition, PRM–32–7, is available in ADAMS under Accession No. ML12146A083.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Solomon Sahle, Office of Federal and State Materials and Environmental Management Program, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3781, email: *Solomon.Sahle@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. The Petition

Section 2.802 of 10 CFR, ''Petition for rulemaking,'' provides an opportunity for any interested person to petition the Commission to issue, amend, or rescind any regulation. On May 7, 2012, the NRC received a PRM from Mr. Sean Chapel on behalf of the ADDM. The PRM contained two requests.

The petitioner's first request was ''that language similar to 10 CFR 31.6 be included in section 10 CFR [part] 32 to include the servicing of exempt devices, since these are within the jurisdiction of the NRC.'' The petitioner further asserted that ''[i]t does not make sense that generally licensed devices can be serviced without filing for reciprocity, but exempt devices, which have a lower radiation dose potential, [cannot] be.'' The petitioner suggested the following language for 10 CFR part 32:

Any person who holds a specific license issued by an Agreement State authorizing the holder to manufacture, install or service a device described in [§§] 32.14, 32.22, or 32.26 within such Agreement State is hereby granted a general license to install and service such device in any non-Agreement State and a general license to install and service such device in offshore waters, as defined in § 150.3(f) of this chapter:, [p]rovided [t]hat:

(a) Reserved[.]

(b) The device has been manufactured, labeled, installed and serviced in accordance with the provisions of the specific license issued to such person by the Agreement State.

(c) Such person assures that any labels required to be affixed to the device under regulations of the Agreement State which licensed manufacture of the device bear a statement that removal of the label is prohibited.

The petitioner's second request was that the NRC change the compatibility designation of 10 CFR 31.6, ''General license to install devices generally licensed in § 31.5,'' from ''C'' to ''B.'' The petitioner's basis for the request for compatibility change was that ''inconsistent application of individual Agreement State regulations and policies places an unreasonable burden on licensees to maintain compliance.'' Further, the petitioner stated that in 2000, the NRC changed the compatibility of 10 CFR 31.6 from ''C'' to ''B'' ''in acknowledgement of the problems caused by incompatible State reciprocity regulations.''

The petitioner stated that ''[t]he Commission voted to decrease the compatibility in December 2010, stating that they thought it appropriate for Agreement States to regulate devices in their jurisdiction as they saw fit.'' The petitioner asserted that ''[i]n the Commission ruling, there is no evidence that they fully reviewed the original decision in 2000 to increase the compatibility rating.''

The petitioner stated that ''reciprocity regulations must be standardized at the national level'' to avoid the chaos that ''would be caused if each state had different regulations for occupational radiation doses, nuclear power plant operation, or high and low level radioactive waste.'' The petitioner asserted that ''[t]his is the type of disorder that reciprocity applicants are forced to endure on a daily basis.'' The petitioner stated that ''[t]he NRC should enforce these requirements as part of the

IMPEP [Integrated Materials Performance Evaluation Program] review process.'' The petitioner further stated ''that there are several Agreement States which have adopted 10 CFR 31.6, but do not implement the regulations as they are written, and still require reciprocity to be filed.'' In reference to the change in compatibility, the petitioner is ''not asking that the regulations be re-written, only that they be enforced as written.''

In support of the second request, the petitioner cited a PRM dated June 27, 2005 (ADAMS Accession No. ML051940187), from the Organization of Agreement States (OAS), which requested that the compatibility of 10 CFR 31.6 be revised from ''C'' to ''B.'' The petitioner also noted that the OAS petition ''stated that the reason for changing the compatibility of 10 CFR 31.6 was to assist the tracking and movement of companies and individuals that service these devices.'' The NRC staff asked the petitioner, by telephone, to clarify that the reference was to an OAS PRM requesting that the compatibility of 10 CFR 31.6 be revised from ''B'' to ''C,'' and if so, to resubmit a letter correcting his PRM. By letter dated August 3, 2012 (ADAMS Accession No. ML12219A085), the petitioner corrected his reference to the OAS PRM.

II. Discussion

Reciprocity for Exempt Devices

Section 31.6 of 10 CFR provides a general license to persons holding a specific license issued by an Agreement State that authorizes manufacture, installation, or servicing of a device described in 10 CFR 31.5 to install and service these devices in any non-Agreement State and in offshore waters. The NRC adopted this regulation in 1962 (originally in 10 CFR 30.21(c)(6)) at the same time 10 CFR part 150, ''Exemptions and Continued Regulatory Authority in Agreement States and in Offshore Waters Under Section 274,'' was issued as part of implementing the Agreement State program.

In accordance with 10 CFR 150.15(a)(6), only the NRC can issue licenses for the manufacture, processing, or production of any equipment, device, commodity, or other product containing source material or byproduct material whose subsequent possession, use, transfer, and disposal by all other persons are exempted from licensing and regulatory requirements. Therefore, the Agreement States do not issue licenses to manufacture, install, or service exempt devices. Further, servicing exempt devices does not require a license. Any refurbishing not covered by the exemption, such as replacement of a source in a device, would require an NRC license and/or an Agreement State license. Therefore, a general license is not required to install or service exempt devices, and the petitioner's requested change to the regulations is not needed.

Compatibility of 10 CFR 31.6

On January 25, 2012, the NRC published a **Federal Register** notice (FRN) (77 FR 3640) to withdraw a proposed rule and to close PRM–31–5 (NRC–2005–0018; NRC–2008–0272). PRM–31–5 requested that the NRC amend its regulations to strengthen the regulation of radioactive materials by requiring a specific license for higher-activity devices that are currently available under a general license and by changing the compatibility designation of 10 CFR 31.6 from category ''B'' to category ''C.'' In this FRN, the NRC also addressed a related request filed by the Florida Department of Health, Bureau of Radiation Control, in conjunction with the OAS petition to change the compatibility category of a certain part of the applicable regulations from category ''B'' to category ''C.''

In response to PRM–31–5, the NRC developed a proposed rule that would have limited the quantity of byproduct material contained in a generally licensed device to below one-tenth of the International Atomic Energy Agency Category 3 thresholds. It would also have changed the compatibility of the applicable regulations.

The compatibility change requested in PRM–31–5 was filed in response to the 2000 general license rule (65 FR 79162; December 18, 2000), which designated the requirements in 10 CFR 31.5 and 10 CFR 31.6 as compatibility category ''B.'' The general license rule adopted compatibility ''B'' for these regulations because the Commission was concerned that essentially identical regulations were needed to ensure reciprocal recognition of licenses and licensing requirements among Agreement States and the NRC. After evaluating the post-2000 general license regulations in response to PRM–31–5, the NRC reassessed its position. The NRC found that since 2000, Agreement States took a variety of actions that were not consistent with the rule, despite its designation as compatibility category ''B.'' Many Agreement States adopted stricter regulations of generally licensed devices, including registration with annual reporting requirements and periodic inspection; expanded registration of more types of generally licensed devices; specific licensing of certain generally licensed devices; and specific licensing of all generally licensed devices currently registered by the NRC. However, the NRC did not observe any transboundary problems from these different practices that would have supported the continued use of compatibility ''B'' for 10 CFR 31.5 and 31.6. Further, complexity and cost are not aspects of determining significant transboundary health and safety impacts under the Commission's 1997 Policy Statement on Adequacy and Compatibility of Agreement State Programs (62 FR 46517; September 3, 1997). Therefore, the NRC believed it was appropriate to change the compatibility category from ''B'' to ''C'' for 10 CFR 31.5 and 10 CFR 31.6. This action allowed many Agreement States to continue the practices they had already implemented and to take additional steps they deem appropriate based on local circumstances, including retaining the use of tools to track the location and movement of devices, manufacturers, and service providers within the State; addressing issues specific to their jurisdictions; continuing programs that have proven beneficial; and adopting requirements based on their specific circumstances and needs.

After further review, the Commission addressed the compatibility-related issues raised in PRM–31–5. Although the Commission disapproved publication of the final rule and withdrew the proposed rule, it approved the change in compatibility for 10 CFR 31.5 and 10 CFR 31.6. The Commission also directed the staff to assess the degree to which the Agreement States modify their programs as a result of the change in compatibility category and to analyze any transboundary impacts to regulated entities, particularly those operating in multiple jurisdictions. If transboundary problems are identified, the staff will suggest corrective actions that may be necessary (ADAMS Accession No. ML103360262). The Commission also planned to consider proposed updates to the Policy Statement on Adequacy and Compatibility of Agreement State Programs and associated guidance documents to include both safety and source security considerations in the determination process. The NRC closed PRM–31–5 because all of the petitioners' requests had been resolved.

As previously discussed, the NRC is denying this portion of the petitioner's request because the compatibility of § 31.6 was recently and thoroughly addressed in the response to PRM–31–5, and the NRC is not aware of any new

information that would cause it to reevaluate this decision.

III. Conclusion

The NRC is denying PRM–32–7 because the petition did not present a need for any revision of the regulations to add a general license for installation and servicing of exempt devices. The petition failed to present any significant new information or arguments that would warrant the requested amendment. The NRC elected not to request public comment on PRM–32–7 because no new regulation is necessary to accomplish the petitioner's request; accordingly, there were no public comments on this petition.

As to the additional request for a compatibility change for 10 CFR 31.6, the issues concerning this categorization were considered and addressed by the Commission in a recent decision (77 FR 3640; January 25, 2012). The Commission will not reconsider that decision at this time in the absence of new information that warrants the requested change.

For the previously cited reasons, the NRC is denying PRM–32–7.

Dated at Rockville, Maryland, this 10th day of September 2013.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. 2013–22464 Filed 9–13–13; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–148812–11]

RIN 1545–BK80

Arbitrage Rebate Overpayments on Tax-Exempt Bonds

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of Proposed Rulemaking and Notice of Public Hearing.

SUMMARY: This document contains proposed regulations that provide guidance on the recovery of overpayments of arbitrage rebate on tax-exempt bonds and other tax-advantaged bonds. These proposed regulations provide the deadline for filing a claim for an arbitrage rebate overpayment and certain other rules. These proposed regulations affect issuers of tax-exempt and tax-advantaged bonds. This document also provides notice of a public hearing on these proposed regulations.

DATES: Written or electronic comments must be received by December 16, 2013. Requests to speak and outlines of topics to be discussed at the public hearing scheduled for February 5, 2014, at 2 p.m., must be received by December 16, 2013.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–148812–11), Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered to: CC:PA:LPD:PR Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR, (REG–148812–11), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC, or sent electronically via the Federal eRulemaking Portal at *www.regulations.gov* (IRS REG–148812–11). The public hearing will be held at the Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Timothy Jones at (202) 622–3980; concerning submissions of comments and the hearing, Oluwafunmilayo (Funmi) Taylor at (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

This document contains proposed amendments to the Income Tax Regulations (26 CFR part 1) on the arbitrage investment restrictions on tax-exempt bonds and other tax-advantaged bonds under section 148 of the Internal Revenue Code (Code) (Proposed Regulations). Section 1.148–3(i) of the Income Tax Regulations provides that an issuer may recover an overpayment of arbitrage rebate and similar payments on an issue of tax-exempt bonds if the issuer establishes to the satisfaction of the IRS Commissioner that the overpayment occurred. Revenue Procedure 2008–37, 2008–2 CB 137, provides procedures for filing claims for a refund of arbitrage rebate and similar payments and imposes a deadline for filing such claims. In particular, a claim for a refund must be filed no later than 2 years after the final arbitrage computation date for the issue from which the claim arose. A transition rule applies to issues with a final computation date before June 24, 2008. The Proposed Regulations include this 2-year limitation on filing claims as well as the transition rule.

The Proposed Regulations also provide that the Commissioner may request additional information to support a claim, specify a date for a return of that information, and deny the claim if the information is not returned by the date specified or as extended by the Commissioner. Under the Proposed Regulations, if the Commissioner denies a claim because it was filed after the 2-year deadline or requested information is not received by the date specified in the request for such additional information, the issuer may appeal the denial to the Office of Appeals. If Appeals concludes the claim was timely filed or the requested information was timely submitted, as applicable, the case will be returned to the Commissioner for further consideration of the merits of the claim. See 26 CFR 601.601(d)(2).

In accordance with section 7805(b)(1), § 1.148–3(i)(3)(i) of the Proposed Regulations applies to refund claims arising from an issue of bonds to which § 1.148–3(i) applies and for which the final computation date is after June 24, 2008. Issues for which the actual final computation date is on or before June 24, 2008, are deemed to have a final computation date of July 1, 2008. Section 1.148–3(i)(3)(ii) and (iii) of the Proposed Regulations apply to refund claims arising from an issue of bonds to which § 1.148–3(i) applies and for which the final computation date is after the date of publication of the Proposed Regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. It is hereby certified that these Proposed Regulations will not have a significant economic impact on a substantial number of small entities. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. The proposed changes reaffirm or clarify filing deadlines previously published in other administrative guidance. Pursuant to section 7805(f) of the Internal Revenue Code, this regulation has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these Proposed Regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to

the IRS as prescribed in this preamble under the **ADDRESSES** heading. The IRS and the Treasury Department request comments on all aspects of the proposed rules. All comments will be available at *www.regulations.gov* or upon request.

A public hearing has been scheduled for February 5, 2014, at 2 p.m., in the IRS Auditorium, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 15 minutes before the hearing starts. For more information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit written or electronic comments and an outline of the topics to be discussed and the time to be devoted to each topic by December 16, 2013. Submit a signed paper original and eight (8) copies or an electronic copy. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these regulations is Timothy Jones, Office of Associate Chief Counsel (Financial Institutions and Products), IRS. However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by removing the entry for § 1.148–6 and revising the entry for §§ 1.148–0 through 1.148–11 to read in part as follows:

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

Sections 1.148–0 through 1.148–11 also issued under 26 U.S.C. 148(i). * * *

■ **Par. 2.** Section 1.148–0 is amended by adding entries to paragraph (c) for §§ 1.148–3(i)(3) and 1.148–11(k) and (l) and revising § 1.148–11 section heading to read as follows:

§ 1.148–0 Scope and table of contents.

* * * * *

(c) * * *

§ 1.148–3 General arbitrage rebate rules.

* * * * *

(i) * * *

(3) Time and manner for requesting refund.

* * * * *

§ 1.148–11 Effective/applicability dates.

* * * * *

(k) [Reserved]

(l) Additional arbitrage guidance updates.

(1) [Reserved]

(2) [Reserved]

(3) [Reserved]

(4) Application.

■ **Par. 3.** Section 1.148–3 is amended by adding paragraph (i)(3) to read as follows:

§ 1.148–3 General arbitrage rebate rules.

* * * * *

(i) * * *

(3) *Time and manner for requesting refund*—(i) An issuer must request a refund of an overpayment no later than the date that is 2 years after the final computation date for the issue to which the overpayment relates (the filing deadline). The request must be made using the form provided by the Commissioner for this purpose.

(ii) The Commissioner may request additional information to support a refund request. The issuer must file the additional information by the date specified in the Commissioner's request which date may be extended by the Commissioner if unusual circumstances warrant.

(iii) A claim described in either paragraph (i)(3)(iii)(A) or (i)(3)(iii)(B) of this section that has been denied by the Commissioner may be appealed to the Office of Appeals under this paragraph (i)(3)(iii). Upon a determination in favor of the issuer, Appeals must return an undeveloped case to the Commissioner for further consideration of the substance of the claim.

(A) A claim is described in this paragraph (i)(3)(iii)(A) if the claim is filed after the filing deadline.

(B) A claim is described in this paragraph (i)(3)(iii)(B) if it is a claim for which additional information satisfactory to the Commissioner is not submitted within the time specified in the request for information or any extension of such specified time period.

* * * * *

■ **Par. 4.** Section 1.148–11 is amended by revising the section heading and adding paragraphs (k) and (l) to read as follows:

§ 1.148–11 Effective/applicability dates.

* * * * *

(k) [Reserved]

(l) *Additional arbitrage guidance updates.* (1) [Reserved]

(2) [Reserved]

(3) [Reserved]

(4) *Application.* (i) Section 1.148–3(i)(3)(i) applies to refund claims arising from an issue of bonds to which § 1.148–3(i) applies and for which the final computation date is after June 24, 2008. For purposes of this paragraph (l)(4), issues for which the actual final computation date is on or before June 24, 2008, are deemed to have a final computation date of July 1, 2008.

(ii) Section 1.148–3(i)(3)(ii) and (iii) apply to refund claims arising from an issue of bonds to which § 1.148–3(i) applies and for which the final computation date is after September 16, 2013.

Beth Tucker,

Deputy Commissioner for Operations Support.

[FR Doc. 2013–21879 Filed 9–13–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–148659–07]

RIN 1545–BH38

Arbitrage Restrictions on Tax-Exempt Bonds

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of Proposed Rulemaking and Notice of Public Hearing.

SUMMARY: This document contains proposed regulations on the arbitrage restrictions under section 148 of the Internal Revenue Code applicable to tax-exempt bonds and other tax-advantaged bonds. These proposed regulations amend existing regulations to address certain current market developments, simplify certain provisions, address certain technical issues, and make the regulations more administrable. These proposed regulations affect issuers of tax-exempt and other tax-advantaged

bonds. This document also provides notice of a public hearing on these proposed regulations.

DATES: Written or electronic comments must be received by December 16, 2013. Requests to speak and outlines of topics to be discussed at the public hearing scheduled for February 5, 2014, at 10:00 a.m., must be received by December 16, 2013.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–148659–07), Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered to: CC:PA:LPD:PR Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–148659–07), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC, or sent electronically via the Federal eRulemaking Portal at *www.regulations.gov* (IRS REG–148659–07). The public hearing will be held at the Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Zoran Stojanovic at (202) 622–3980; concerning submissions of comments and the hearing, Oluwafunmilayo Taylor at (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collection of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, SE:CAR:MP:T:T:SP, Washington DC 20224. Comments on the collection of information should be received by November 15, 2013.

Comments are sought on whether the proposed collection of information is necessary for the proper performance of the Internal Revenue Service, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collection of information;

How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collection of information may be minimized, including through the application of automated collection techniques and other forms of information technology; and

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of service to provide information.

The collection of information in this proposed regulation is in § 1.148–4(h)(2)(viii) which contains a requirement that the issuer maintain in its records a certificate provided by the hedge provider. Existing regulations require, among other items, that a hedge must be identified by the actual issuer on its books and records to be a qualified hedge. The identification must specify the hedge provider, the terms of the contract, and the hedged bonds. The proposed regulations require that the identification also include a certificate provided by the hedge provider specifying certain information regarding the hedge. The respondents are issuers of tax-exempt bonds that enter into hedges on their bonds and the hedge providers.

Estimated total annual recordkeeping burden: 232 hours.

Estimated average annual burden hours per respondent: 1 hour 45 minutes.

Estimated number of respondents: 130.

Estimated annual frequency of responses: 130.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally tax returns and tax return information are confidential, as required by section 6103.

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR part 1) on the arbitrage investment restrictions under section 148 of the Internal Revenue Code (Code) and related provisions. On June 18, 1993, the Department of the Treasury (Treasury) and the IRS published comprehensive final regulations in the **Federal Register** (TD 8476, 58 FR 33510) on the arbitrage investment restrictions and related provisions for tax-exempt bonds under sections 103, 148, 149, and 150, and, since that time, those final regulations have been amended in certain limited respects (the regulations issued in 1993 and the amendments thereto are collectively referred to as the Existing Regulations). A Notice of Proposed Rulemaking was published in the **Federal Register** (72 FR 54606; REG–106143–07) on September 26, 2007 (2007 Proposed Regulations), which proposes amendments to the Existing Regulations to address market developments, simplify certain provisions, address certain technical issues, and make the regulations more administrable. One notable change in the 2007 Proposed Regulations addresses a municipal market development in which issuers seek to modify interest rate risks by entering into hedging transactions that are based on taxable interest rate indexes (for example, LIBOR-based interest rate swaps). The 2007 Proposed Regulations clarify that these hedges qualify to be taken into account with the hedged bonds on a net basis in determining bond yield for arbitrage purposes. Among the other notable changes in the 2007 Proposed Regulations are (1) a revision to an investment bidding safe harbor to accommodate certain transparent internet-based electronic bidding procedures; (2) removal of the authority in the Existing Regulations to permit issuers of qualified mortgage bonds and qualified student loan bonds to compute a single joint bond yield for purposes of applying the arbitrage restrictions to two or more issues of these types of tax-exempt bonds; and (3) clarification that the amount an issuer is entitled to receive under a rebate refund claim is the excess of the total amount actually paid over the rebate amount. Among the technical changes in the 2007 Proposed Regulations are changes to the rules that address qualified hedges for arbitrage purposes and additions to the rules on permitted yield reduction payments. This document (the Proposed Regulations) proposes additional amendments to the Existing Regulations.

Explanation of Provisions

I. Definitions and Elections (§ 1.148–1)

A. *Issue price definition.* Section 148(h) provides that yield on an issue is to be determined on the basis of the issue price (within the meaning of sections 1273 and 1274). The issue price definition under the Existing Regulations generally follows the issue price definition used for computing

original issue discount on debt instruments under sections 1273 and 1274 of the Code, with certain modifications. Specifically, the issue price definition under the Existing Regulations applies a reasonable expectations standard (rather than a standard based on actual sales) for determining the issue price of bonds that are publicly offered. Under this standard, the first price at which a substantial amount (defined to mean ten percent) of the bonds is reasonably expected to be sold to the public is treated as the issue price and is used in determining the yield on the issue.

The standard uses reasonable expectations to allow issuers of advance refunding bonds to estimate the yield on the issue before the actual sales prices of the bonds are known so that the issuer can purchase yield-restricted investments for a refunding escrow to defease the prior bonds at the time of the sale of the refunding bonds. The issue prices of bonds with different payment and credit terms are determined separately. Notice 2010–35 (2010–19 IRB 660) provides that the arbitrage definition of issue price also applies to other tax-advantaged bond programs, including Build America Bonds under section 54AA and other Qualified Tax Credit Bonds under section 54A. See 26 CFR 601.601(d)(2).

The Treasury Department and the IRS are concerned that certain aspects of the Existing Regulations for determining the issue price of tax-exempt bonds are no longer appropriate in light of market developments since those regulations were published. In particular, the Treasury Department and the IRS are concerned that the ten-percent test does not always produce a representative price for the bonds. Underwriters of tax-exempt bonds may sell bonds of an issue with the same payment and credit terms in an initial public offering at different prices but execute the first ten percent of the sales of those bonds at the lowest price (and thus the highest yield), causing the issue price of the bonds to be a lower price than is representative of the prices at which the remaining bonds were sold.

In addition, increasing transparency about pricing information in the municipal bond market (for example, publicly-available pricing information from the Municipal Securities Rulemaking Board through its Electronic Municipal Market Access (EMMA) platform) has led to heightened scrutiny of issue price standards. The reported data has shown, in certain instances, actual sales to the public at prices that differed significantly from the issue price used by the issuer. These price differences have raised questions about the ability of the reasonable expectations standard to produce a representative issue price. The reported trade data has also called into question whether sales to underwriters and security dealers have been included as sales to the public in determining issue price in certain instances.

To address these concerns and to provide greater certainty, the Proposed Regulations amend the issue price definition used for arbitrage purposes in certain significant respects. Consistent with section 148(h), the Proposed Regulations retain the rule that issue price generally will be determined under the rules of sections 1273 and 1274. The Proposed Regulations remove the reference to issue price of bonds that are ''publicly offered'' because the existing section 1273 regulations do not distinguish between public offering and private placement. The Proposed Regulations parallel the language in the existing section 1273 regulations that refer to debt instruments issued for money.

The Proposed Regulations provide that the issue price of tax-exempt bonds issued for money is the first price at which a substantial amount of the bonds is sold to the public. (As described further below, the Proposed Regulations define the term ''public'' to mean any person other than an ''underwriter'' and provide a new definition of the term ''underwriter.'') The Proposed Regulations, however, remove the definition of substantial amount as ten percent. Instead, the Proposed Regulations provide a safe harbor under which an issuer may treat the first price at which a minimum of 25 percent of the bonds in an issue (with the same credit and payment terms) is sold to the public as the issue price, provided that all orders at this price received from the public during the offering period are filled (to the extent that the public orders at such price do not exceed the amount of bonds sold). Consistent with section 1273, the Proposed Regulations base the determination of issue price on actual sale prices instead of reasonably expected sale prices.

The Treasury Department and the IRS understand that, in the case of a refunding issue, an issuer may need to estimate the yield on the issue before the actual issue price can be determined so that the issuer can purchase yield-restricted investments for a refunding escrow to defease the prior bonds at the time of the sale of the refunding bonds. The Proposed Regulations provide relief in these situations by permitting issuers to make curative payments to the IRS, called ''yield reduction payments,'' to reconcile differences between expected and actual issue prices of the refunding bonds for arbitrage compliance purposes.

The Existing Regulations disregard sales to ''underwriters'' or ''wholesalers'' in determining the issue price of tax-exempt bonds that are offered to the public. The Proposed Regulations provide that the issue price of tax-exempt bonds issued for money is the first price at which a substantial amount of the bonds is sold to the public and, for this purpose, define the term ''public'' to mean any person other than an ''underwriter.'' The Proposed Regulations also define the term ''underwriter'' to mean any person that purchases bonds from the issuer for the purpose of effecting the original distribution of the bonds, or otherwise participates directly or indirectly in the original distribution. An underwriter includes a lead underwriter and any member of a syndicate that contractually agrees to participate in the underwriting of the bonds for the issuer. A securities dealer (whether or not a member of the issuer's underwriting syndicate) that purchases bonds (whether or not from the issuer) for the purpose of effecting the original distribution of the bonds is also treated as an underwriter for this purpose. An underwriter generally includes a related party to an underwriter.

The Proposed Regulations eliminate the reference to ''wholesalers'' in the issue price definition, because the revised, more comprehensive definition of underwriter includes those persons who would otherwise be treated as ''wholesalers'' under the Existing Regulations.

Under the Proposed Regulations, a person that holds bonds for investment is not an underwriter with respect to those bonds. The Treasury Department and the IRS solicit public comment on whether specific identification rules, such as the section 1236(b) identification rules, should be provided for determining when a bond is held for investment.

B. *Working capital expenditures and replacement proceeds definition.* The Existing Regulations impose a number of arbitrage investment restrictions to limit arbitrage incentives for excessive use of tax-exempt bond financing for ''working capital expenditures'' (working capital), such as operating expenses or seasonal cash flow deficits (as distinguished from capital projects). The Proposed Regulations amend the treatment of working capital financings in several respects to simplify this area and to provide objective parameters for longer-term working capital financings.

An issuer is relieved of arbitrage investment restrictions on bond proceeds only after the proceeds are spent. The Existing Regulations impose a strict ''bond proceeds-spent-last'' accounting assumption for spending proceeds of tax-exempt bonds on working capital. This accounting rule recognizes that sources of funds are fungible and treats bond proceeds as spent for working capital purposes only after the issuer depletes other ''available amounts'' that the issuer otherwise could use for this purpose. An issuer, however, need not be ''broke to borrow'' for working capital purposes. Here, the Existing Regulations allow an issuer to maintain a ''reasonable working capital reserve'' fund that need not be spent before spending bond proceeds on working capital. The Existing Regulations provide a general rule that the permitted size of this reasonable working capital reserve fund is an objective measure equal to five percent of the issuer's actual working capital expenditures in the previous fiscal year from operations. In addition, the Existing Regulations include a broad prohibition against direct or indirect financing of a working capital reserve itself. This prohibition against financing working capital reserves imposes another complex limit on the size of the permitted working capital reserve fund that requires analysis of amounts previously maintained for such purpose.

The Proposed Regulations remove the restriction against financing a working capital reserve. This restriction inappropriately penalizes those State and local governments that have previously maintained the least amount of working capital reserves and that may have the most bona fide need to finance working capital expenditures. Further, this restriction is complex. The Proposed Regulations retain the existing general five percent test for the size of a permitted reasonable working capital reserve fund.

The Existing Regulations also limit working capital financings through the concept of replacement proceeds. The arbitrage rules apply to more than the actual proceeds of the issue; they apply to gross proceeds, which include proceeds and replacement proceeds of an issue. The Existing Regulations provide broadly that replacement proceeds arise if an issuer reasonably expects as of the issue date that (1) the term of an issue will be longer than reasonably necessary for the governmental purposes of the issue, and (2) there will be available amounts for expenditures of the type being financed during the period that the issue remains outstanding longer than necessary. One purpose of the replacement proceeds rules is to discourage issuers from issuing tax-exempt bonds with unduly long maturities or leaving tax-exempt bonds outstanding longer than reasonably necessary. The replacement proceeds rules particularly affect working capital financings.

The Existing Regulations provide a safe harbor against the creation of replacement proceeds for short-term working capital bond financings that are outstanding for no longer than two years. To address concerns about arbitrage incentives associated with certain short-term financing practices, however, Rev. Proc. 2002–31 (2002–1 CB 916) shortened the safe-harbor for these financings from two years to 13 months in most circumstances. Questions have arisen with respect to the interaction between the Existing Regulations and Rev. Proc. 2002–31. See 26 CFR 601.601(d)(2).

The Proposed Regulations provide that the maturity safe harbor against the creation of replacement proceeds for short-term working capital financings is 13 months. This change conforms the regulatory safe harbor to the more recent administrative standard under Rev. Proc. 2002–31 for the traditional short-term working capital financings for seasonal cash flow deficits.

The Existing Regulations, however, provide no safe harbors against the creation of replacement proceeds or other specific guidance regarding appropriate limits for longer-term working capital financings, such as longer-term deficit financings for issuers experiencing financial distress. State and local governments have sought guidance on appropriate parameters for such financings. The Proposed Regulations provide a new objective safe harbor against the creation of replacement proceeds for working capital financings that have terms longer than the proposed 13-month safe harbor. This new safe harbor requires an issuer to determine the first year in which it expects to have available amounts for working capital expenditures, monitor for actual available amounts in each year beginning with the year it first expects to have such amounts, and apply such available amounts in each year either to retire or to invest in tax-exempt bonds that are not investment property under section 148(b)(3) of the Code (that is, tax-exempt bonds that are not subject to the alternative minimum tax). Consistent with the purpose of the replacement proceeds rules, this new safe harbor aims to control the burden of unnecessary tax-exempt financings on the tax-exempt bond market by requiring issuers to redeem or purchase tax-exempt bonds.

The Existing Regulations have a general arbitrage anti-abuse rule, which provides, in part, that specific factors (particularly bona fide cost under-runs and long-term financial distress) may justify a bond maturity that exceeds the maturity safe harbors against the creation of replacement proceeds. Separately, the Existing Regulations provide more favorable accounting rules for certain extraordinary, non-recurring working capital items, such as casualty losses. The Proposed Regulations add extraordinary working capital items to the factors that may justify a bond term beyond the maturity safe harbors against the creation of replacement proceeds.

II. Qualified Hedge Provisions (§ 1.148–4)

To determine the yield on hedged bonds for purposes of the arbitrage investment restrictions, the Existing Regulations permit issuers to take into account and integrate the net payments on certain qualified hedges entered into to modify the risk of interest rate changes with the payments on the associated hedged tax-exempt bonds. In general, to be a qualified hedge, the terms of the hedge must correspond closely with those of the hedged bonds, the issuer must identify the hedge, and the hedge must contain no significant investment element.

The Existing Regulations provide that a termination of a qualified hedge includes any sale or other disposition of the hedge by the issuer or the acquisition by the issuer of an offsetting hedge. The Existing Regulations further provide that a deemed termination of a qualified hedge occurs when certain material modifications or assignments of a hedge result in a realization event to the issuer under section 1001. Under the Existing Regulations, if a hedge is deemed terminated, the issuer is deemed to have made or received a termination payment and, if applicable (such as when there is a material modification of the hedge), a deemed acquisition payment for a ''new'' hedge. Because the hedge is integrated with the bond yield, the deemed payments, like actual termination payments, can affect the yield on the bonds.

Issues have arisen in this area as a result of market conditions during the last several years. State and local governments have faced a number of circumstances that have put pressure on issuers to modify or terminate their existing qualified hedges. Treasury and the IRS have also received questions indicating that there is uncertainty about what constitutes an ''offsetting

hedge'' that terminates a qualified hedge.

In the 2007 Proposed Regulations, Treasury and the IRS solicited public comments regarding the types of offsetting hedges that are necessary for valid business purposes and recommendations on how to clarify the rule in the Existing Regulations regarding offsetting hedges. The Proposed Regulations consider those comments and propose rules that provide greater certainty regarding hedge terminations and clarify and simplify the treatment of modifications and terminations of qualified hedges.

A. *Modifications of qualified hedges.* The Proposed Regulations provide guidance on the treatment of modifications of qualified hedges while eliminating the concept of offsetting hedges. The Proposed Regulations provide that a modification, including an actual modification, an acquisition of another hedge, or an assignment, generally will result in a deemed termination of a hedge if the modification is material and results in a deemed disposition under section 1001.

The Proposed Regulations provide, however, that a material modification of a qualified hedge that otherwise would result in a deemed termination will not result in such a termination if the modified hedge is a qualified hedge. For this purpose, the Proposed Regulations require testing the modified hedge for compliance with the requirements for qualified hedges at the time of the modification.

These proposed changes generally produce results that are economically comparable to the Existing Regulations, but in a simpler manner. The Proposed Regulations reduce complexity associated with the approach under the Existing Regulations by eliminating the need to account for deemed hedge termination and acquisition payments, which deemed payments generally offset each other without substantive effect on the yield on the hedged bonds.

B. *Continuations of qualified hedges in refundings.* The Existing Regulations generally treat a refunding of hedged bonds as a deemed termination of a qualified hedge and require accounting for the deemed termination payment in the yield on the refunding bonds over the remaining term of the original hedge in accordance with economic substance. The Proposed Regulations simplify the treatment of qualified hedges upon refunding hedged bonds when there is no actual termination of the associated hedge. If the affected hedge meets the requirements for a qualified hedge of the refunding bonds as of the issue date of the refunding bonds, with certain exceptions, the Proposed Regulations treat the affected hedge as continuing as a qualified hedge of the refunding bonds instead of being terminated. Similar to the proposed treatment of hedge modifications, the proposed treatment of these continuations of qualified hedges in refundings under the Proposed Regulations generally produces economically comparable results as the Existing Regulations in a simpler manner.

C. *Termination of hedges at fair market value.* The 2007 Proposed Regulations clarify that the termination payment for a termination or a deemed termination of a qualified hedge is equal to the fair market value of the hedge on the termination date. In response to comments received on the clarification in the 2007 Proposed Regulation, these Proposed Regulations modify the 2007 proposed rule. For a deemed termination of a qualified hedge, the Proposed Regulations provide that the amount of the termination payment is equal to the fair market value of the qualified hedge on the termination date. For an actual termination of a qualified hedge, the Proposed Regulations provide that the amount of the hedge termination payment treated as made or received on the hedged bonds (i) may not exceed the fair market value of the qualified hedge if paid by the issuer, and (ii) may not be less than the fair market value of the qualified hedge if received by the issuer. Comments on the 2007 Proposed Regulations as well as comments received in response to these Proposed Regulations will be considered in connection with finalizing this rule.

III. Other Technical Changes

The Proposed Regulations make other technical changes to the Existing Regulations. This section describes the technical changes.

A. *Temporary period spending exception to yield restriction (§ 1.148–2).* The Existing Regulations provide certain short-term exceptions, called ''temporary period'' exceptions, which allow investment of proceeds of tax-exempt bonds for fairly short periods without yield restriction. These exceptions reduce administrative burdens and recognize that limited arbitrage potential exists for bond proceeds that are spent promptly.

The Existing Regulations provide no express exceptions for proceeds used for certain types of working capital expenditures, such as certain extraordinary working capital items. The Proposed Regulations broaden the existing 13-month temporary period exception to yield restriction for restricted working capital expenditures to include all working capital expenditures.

B. *Certification of hedge provider (§ 1.148–4).* Concerns have been raised about pricing of hedges involving tax-exempt bonds. Existing regulations require, among other items, that a hedge must be identified by the actual issuer on its books and records to be a qualified hedge. The identification must specify the hedge provider, the terms of the contract, and the hedged bonds. To promote greater accountability and transparency about pricing of these hedges, the Proposed Regulations require that the identification also include a certificate provided by the hedge provider specifying certain information regarding the hedge including a statement about the bona fide, arm's-length nature of the pricing and information about payments beyond those properly taken into account as payments to modify the risk of interest rate changes.

C. *Yield and valuation of investments (§ 1.148–5).* The Existing Regulations provide guidance on how to value investments allocated to an issue. Absent a special rule, the Existing Regulations give issuers the option to choose a valuation method, provided that the chosen method is consistently applied for arbitrage purposes on a valuation date. The special rules in the Existing Regulations leave some ambiguity about when the present value and the fair market value methods of valuation are permitted or required.

The Proposed Regulations clarify that the fair market value method of valuation generally is required for any investment (including a yield-restricted investment) on the date the investment is first allocated to an issue or first ceases to be allocated to an issue as a consequence of a deemed acquisition or a deemed disposition.

The Existing Regulations include only one exception to this mandatory fair market value rule. The issuer has the option to value an investment at present value when proceeds are allocated from one bond issue to another bond issue as transferred proceeds in refundings or universal cap allocations, provided that both affected bond issues consist exclusively of tax-exempt bonds. This exception applies only to transfers between two tax-exempt bond issues to address a concern about allocating excessive value to obligations without arbitrage restrictions. This exception, however, creates a disincentive against retiring tax-exempt bonds with taxable bonds, such as when the fair market value of the investment would cause investment yield to exceed the tax-

exempt bond yield. Such a disincentive is inconsistent with the general policies behind the arbitrage rules as stated in § 1.148–0. To provide more appropriate incentives, the Proposed Regulations change this rule to require only that the issue from which the investment is allocated (that is, the first issue in an allocation from one issue to another) consists exclusively of tax-exempt bonds.

D. *Authority of Commissioner under anti-abuse rule (§ 1.148–10).* The Existing Regulations provide the Commissioner with authority to exercise discretion with respect to any transaction entered into for the principal purpose of obtaining a material financial advantage based on the difference between tax-exempt and taxable interest rates in a manner that is inconsistent with the arbitrage rules. The Proposed Regulations revise the Existing Regulations to clarify that the Commissioner has the authority to depart from the arbitrage rules as necessary to prevent such material financial advantage.

E. *Transition provision for certain guarantee funds (§ 1.148–11).* Section 1.148–11(d)(1) provides a transition rule that allows certain State perpetual trust funds (for example, certain state permanent school funds) to pledge funds to guarantee tax-exempt bonds without resulting in arbitrage-restricted replacement proceeds. In Notice 2010–5 (2010–2 IRB 256) the Treasury Department and the IRS proposed to increase the amount of tax-exempt bonds that such funds could guarantee under this special rule and stated their intent to issue proposed regulations to implement this change. The Proposed Regulations include these changes. The Proposed Regulations also extend this rule to cover certain tax-exempt bonds issued to finance public charter schools in response to comments received on the Notice. See 26 CFR 601.601(d)(2).

F. *Definitions and special rules (§ 1.150–1).*

1. *Definition of tax-advantaged bonds.* The Proposed Regulations provide a new definition of tax-advantaged bonds as tax-exempt bonds under section 103, taxable bonds that provide Federal tax credits to investors to subsidize the issuer's borrowing costs, and taxable bonds that provide refundable Federal tax credits payable directly to issuers under section 6431, or any future similar bonds that provide a Federal subsidy for any portion of an issuer's borrowing costs.

2. *Definition of issue.* The Existing Regulations provide that tax-exempt bonds and taxable bonds are not part of the same issue. Questions have arisen regarding the appropriate treatment of taxable tax-advantaged bonds for purposes of this composite issue provision. The Proposed Regulations clarify that taxable tax-advantaged bonds and other taxable bonds are treated as part of different issues. The Proposed Regulations also clarify that different types of tax-advantaged bonds are treated as parts of different issues.

3. *Definition and treatment of grants.* The Existing Regulations include a definition of a grant. The Existing Regulations also provide a special arbitrage spending rule that treats proceeds used by an issuer to make a grant to an unrelated party as spent for arbitrage investment tracking purposes when the grant is made. A longstanding question is whether an issuer may look at the grantee's use of the grant funds to determine whether the bond issue complies with other arbitrage and general program restrictions on tax-exempt bonds. For example, taking into account the grantee's use may impact whether the issue finances capital projects or working capital expenditures, and accordingly which arbitrage rules apply to that issue. The Proposed Regulations expand the application of the existing definition of grant for arbitrage purposes to apply that definition to other tax-exempt bond provisions. The Proposed Regulations clarify that the character and nature of a grantee's use of proceeds generally is taken into account in determining whether other applicable non-arbitrage requirements of the issue are met.

IV. Effective/Applicability Dates

The Proposed Regulations generally are proposed to apply prospectively to bonds that are sold on or after the date that is 90 days after publication of final regulations in the **Federal Register**. Section 1.148–4(h)(2)(viii) is proposed to apply to qualified hedges that are entered into on or after the date that is 90 days after the date of publication of the final regulations in the **Federal Register**. Section 1.148–4(h)(3)(iv)(A) through (H) and (h)(4)(iv) are proposed to apply to hedges that are entered into on or after the date that is 90 days after the date of publication of final regulations in the **Federal Register**, to qualified hedges that are modified on or after such date with respect to such modifications, and to qualified hedges on bonds that are refunded on or after such date with respect to such refunding.

In addition, except as otherwise provided in the next paragraph, issuers may apply and rely upon the Proposed Regulations, in whole or in part, with respect to bonds that are sold on or after September 16, 2013, and before the date that is 90 days after publication of final regulations in the **Federal Register**.

Issuers may apply and rely upon § 1.148–4(h)(3)(iv)(A) through (H) and (h)(4)(iv) of the Proposed Regulations in whole to hedges that are entered into on or after September 16, 2013, and before the date that is 90 days after publication of final regulations in the **Federal Register**; to qualified hedges that are modified on or after September 16, 2013, and before the date that is 90 days after publication of final regulations in the **Federal Register** with respect to such modifications; and to qualified hedges on bonds that are refunded on or after September 16, 2013, and before the date that is 90 days after publication of final regulations in the **Federal Register** with respect to such refunding.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. It is hereby certified that these proposed regulations will not have a significant economic impact on a substantial number of small entities. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Some of the proposed changes clarify or simplify existing regulatory provisions, or otherwise involve simplifying or clarifying changes that will not have a significant economic impact on governmental jurisdictions or other entities of any size. These proposed regulations amend the issue price definition used for arbitrage purposes and provide a new objective safe harbor against the creation for replacement proceeds for long term working capital financings. These proposed changes are not expected to have a significant economic impact because they provide greater certainty to issuers and assist issuers in complying with the arbitrage restrictions on tax-exempt bonds.

Other proposed changes involve the treatment of certain hedging transactions, including requiring a certificate from a hedge provider. Although there is a lack of available data regarding the extent of usage of these hedging transactions by small entities, the IRS and the Treasury Department understand that these hedging transactions are used primarily by larger State and local governments and large counterparties. The IRS and the Treasury Department specifically solicit comment from any party,

particularly small entities, on the accuracy of this certification. Pursuant to section 7805(f) of the Code, this regulation has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these Proposed Regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS as prescribed in this preamble under the **ADDRESSES** heading. The IRS and the Treasury Department request comments on all aspects of the proposed rules. All comments that are submitted by the public will be available for public inspection and copying at *www.regulations.gov* or upon request.

A public hearing has been scheduled for February 5, 2014, at 10:00 a.m. in the IRS Auditorium, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 15 minutes before the hearing starts. For more information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit written or electronic comments and an outline of the topics to be discussed and the time to be devoted to each topic by December 16, 2013. Submit a signed paper original and eight (8) copies or an electronic copy. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal authors of these regulations are Johanna Som de Cerff, Office of Associate Chief Counsel (Financial Institutions and Products), IRS, and Vicky Tsilas, Office of Tax Policy. However, other personnel from the IRS and Treasury participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by removing the entry for § 1.148–6 and revising the entry for §§ 1.148–0 through 1.148–11 to read in part as follows:

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

Sections 1.148–0 through 1.148–11 also issued under 26 U.S.C. 148(i).

■ **Par. 2.** Section 1.141–0 is amended by revising the section heading for § 1.141–15 and adding new entries for § 1.141–15(l), (m), and (n) to read as follows:

§ 1.141–0 Table of contents.

* * * * *

§ 1.141–15 Effective/applicability dates.

* * * * *

(l) [Reserved]

(m) [Reserved]

(n) *Effective/applicability dates for certain regulations relating to certain definitions.*

* * * * *

■ **Par. 3.** Section 1.141–1 is amended by revising paragraph (a) to read as follows:

§ 1.141–1 Definitions and rules of general application.

(a) *In general.* For purposes of §§ 1.141–0 through 1.141–16, the following definitions and rules apply: the definitions in this section, the definitions in § 1.150–1, the definition of placed in service in § 1.150–2(c), the definition of reasonably required reserve or replacement fund in § 1.148–2(f), and the definitions in § 1.148–1 of bond year, commingled fund, fixed yield issue, higher yielding investments, investment, investment proceeds, issue price, issuer, nonpurpose investment, purpose investment, qualified guarantee, qualified hedge, reasonable expectations or reasonableness, rebate amount, replacement proceeds, sale proceeds, variable yield issue and yield.

* * * * *

■ **Par. 4.** Section 1.141–15 is amended by revising the section heading and adding paragraphs (l), (m), and (n) to read as follows:

§ 1.141–15 Effective/applicability dates.

* * * * *

(l) [Reserved]

(m) [Reserved]

(n) *Effective/applicability dates for certain regulations relating to certain definitions.* Revised § 1.141–1(a) applies to bonds that are sold on or after the date that is 90 days after publication of final regulations in the **Federal Register**.

■ **Par. 5.** Section 1.148–0 is amended by adding new entries in paragraph (c) for §§ 1.148–1(f) and 1.148–11(k) and (l); and revising the entries for §§ 1.148–2(e)(3) and 1.148–10(e) and section heading for § 1.148–11 to read as follows:

§ 1.148–0 Scope and table of contents.

* * * * *

(c) *Table of contents.* * * *

§ 1.148–1 Definitions and elections.

* * * * *

(f) Definition of issue price.

(1) In general.

(2) Tax-exempt bonds issued for money.

(3) Definitions.

(4) Special rules.

§ 1.148–2 General arbitrage yield restriction rules.

* * * * *

(e) * * *

(3) Temporary period for working capital expenditures.

* * * * *

§ 1.148–10 Anti-abuse rules and authority of Commissioner.

* * * * *

(e) Authority of the Commissioner to prevent transactions that are inconsistent with the purpose of the arbitrage rules.

* * * * *

§ 1.148–11 Effective/applicability dates.

* * * * *

(k) [Reserved]

(l) Certain arbitrage guidance updates.

■ **Par. 6.** Section 1.148–1 is amended by:

■ 1. Revising the definition of *issue price* in paragraph (b).

■ 2. Revising paragraphs (c)(4)(i)(B)(*1*) and (c)(4)(ii).

■ 3. Removing the ''or'' at the end of paragraph (c)(4)(i)(B)(*2*).

■ 4. Removing the period at the end of paragraph (c)(4)(i)(B)(*3*) and adding in its place a semi-colon and the word ''or''.

■ 5. Adding a new paragraphs (c)(4)(i)(B)(*4*) and (f).

The additions and revisions read as follows:

§ 1.148–1 Definitions and elections.

* * * * *

(b) * * *

Issue price means issue price as defined in paragraph (f) of this section.

* * * * *

(c) * * *

(4) * * *

(i) * * *

(B) * * *

(*1*) For the portion of an issue that is to be used to finance restricted working capital expenditures, if that portion is not outstanding longer than the temporary period under § 1.148–2(e)(3) for which the proceeds qualify;

* * * * *

(*4*) For the portion of an issue that is to be used to finance working capital expenditures and that is outstanding for a period longer than the temporary period under § 1.148–2(e)(3), if that portion satisfies paragraph (c)(4)(ii) of this section.

(ii) *Safe harbor for longer-term working capital financings.* A portion of an issue used to finance working capital expenditures satisfies this paragraph (c)(4)(ii) if the issuer meets the requirements of paragraphs (c)(4)(ii)(A) and (c)(4)(ii)(B) of this section.

(A) *Determine expected available amounts.* An issuer meets the requirements of this paragraph (c)(4)(ii)(A) if—

(*1*) On the issue date, the issuer determines the first fiscal year following the applicable temporary period (determined under § 1.148–2(e)) in which it reasonably expects to have available amounts for the financed working capital expenditures (first testing year), but in no event can the first testing year be later than five years after the issue date; and

(*2*) Beginning with the first testing year and for each subsequent fiscal year for which the applicable portion of the issue remains outstanding, the issuer determines its available amounts for the financed working capital expenditures as of the first day of the fiscal year (yearly available amount).

(B) *Application of yearly available amount to reduce burden on tax-exempt bond market.* An issuer meets the requirements of this paragraph (c)(4)(ii)(B) if, within 90 days after the start of each year in which it determines a yearly available amount, the issuer applies an amount equal to the yearly available amount for such year to redeem or invest in tax-exempt bonds that are excluded from investment property under section 148(b)(3) (that is, tax-exempt bonds that are not subject to the alternative minimum tax)(eligible tax-exempt bonds). The maximum amount required to be applied in such manner shall equal the outstanding principal amount of the applicable portion of the issue subject to the safe harbor in this paragraph (c)(4)(ii), determined as of the date of such redemption or investment. Any amounts invested in eligible tax-exempt bonds shall be invested or reinvested continuously in such tax-exempt bonds, except during a permitted reinvestment period of no more than 30 days in a fiscal year, for as long as the applicable portion of the issue remains outstanding.

* * * * *

(f) *Definition of issue price*—(1) *In general.* Except as otherwise provided in this paragraph (f), *issue price* is defined in sections 1273 and 1274 and the regulations under those sections. In determining the issue price under section 1274 of a bond that is issued for property, the adjusted applicable Federal rate, as computed for purposes of section 1288, is used in lieu of the applicable Federal rate in determining the issue price.

(2) *Tax-exempt bonds issued for money*—(i) *In general.* The issue price of tax-exempt bonds issued for money is the first price at which a substantial amount of the bonds is sold to the public (as defined in paragraph (f)(3)(i) of this section). See paragraph (f)(4)(ii) of this section for an issue including bonds with different payment and credit terms.

(ii) *Safe harbor for determining issue price of tax-exempt bonds issued for money.* For purposes of paragraph (f)(2)(i) of this section, the issuer may treat the first price at which a minimum of 25 percent of the bonds is sold to the public as the issue price. However the preceding sentence applies only if all orders at this sale price received from the public within the offering period are filled to the extent the public orders at such price do not exceed the amount of bonds sold.

(3) *Definitions.* For purposes of this paragraph (f), the following definitions apply:

(i) *Public. Public* means any person (as defined in section 7701(a)(1)) other than an underwriter.

(ii) *Underwriter*—(A) *In general.* Except as otherwise provided in paragraph (f)(3)(ii)(C) of this section, the term *underwriter* means any person (as defined in section 7701(a)(1)) that purchases bonds from an issuer for the purpose of effecting the original distribution of the bonds or that otherwise participates directly or indirectly in such original distribution. An underwriter includes a lead underwriter and any member of a syndicate that contractually agrees to participate in the underwriting of the bonds for the issuer. A securities dealer (whether or not a member of an underwriting syndicate for the issuer) that purchases bonds (whether or not from the issuer) for the purpose of effecting the original distribution of the bonds is also treated as an underwriter for purposes of this section

(B) *Certain related parties included.* Except as otherwise provided in paragraph (f)(3)(ii)(C) of this section, an underwriter includes any related party (as defined in § 1.150–1(b)) to an underwriter.

(C) *Holding for investment.* A person (as defined in section 7701(a)(1)) that holds bonds for investment is treated as a member of the public with respect to those bonds.

(iii) *Securities dealer. Securities dealer* means a dealer in securities, as defined in section 475(c)(1).

(4) *Special rules.* For purposes of this paragraph (f), the following special rules apply:

(i) *Subsequent sale at a different price.* The issue price as determined under paragraph (f)(1) or (2) of this section does not change if part of the issue is later sold at a different price.

(ii) *Separate determinations.* The issue price of bonds in an issue that do not have the same credit and payment terms is determined separately.

■ **Par. 7.** Section 1.148–2 is amended by revising paragraph (e)(3)(i) to read as follows:

§ 1.148–2 General arbitrage yield restriction rules.

* * * * *

(e) * * *

(3) * * *

(i) *General rule.* The proceeds of an issue that are reasonably expected to be allocated to working capital expenditures within 13 months after the issue date qualify for a temporary period of 13 months beginning on the issue date. Paragraph (e)(2) of this section contains additional temporary period rules for certain working capital expenditures that are treated as part of a capital project.

* * * * *

■ **Par. 8.** Section 1.148–4 is amended by:

■ 1. Revising paragraphs (h)(2)(viii) and (h)(3)(iv)(A).

■ 2. Redesignating paragraph (h)(3)(iv)(B) as newly redesignated paragraph (h)(3)(iv)(E) and revising newly redesignated paragraph (h)(3)(iv)(E).

■ 3. Redesignating paragraph (h)(3)(iv)(C) as newly redesignated paragraph (h)(3)(iv)(F) and revising the first sentence in newly redesignated paragraph (h)(3)(iv)(F).

■ 4. Redesignating paragraph (h)(3)(iv)(D) as newly redesignated paragraph (h)(3)(iv)(G) and revising

newly redesignated paragraph (h)(3)(iv)(G).

■ 5. Redesignating paragraph (h)(3)(iv)(E) as newly redesignated paragraph (h)(3)(iv)(H) and revising the first sentence in newly redesignated paragraph (h)(3)(iv)(H).

■ 6. Adding new paragraphs (h)(3)(iv)(B), (h)(3)(iv)(C), (h)(3)(iv)(D) and (h)(4)(iv).

The revisions and additions read as follows:

§ 1.148–4 Yield on an issue of bonds.

* * * * *

(h) * * *

(2) * * *

(viii) *Identification*—(A) *In general.* The contract must be identified by the actual issuer on its books and records maintained for the hedged bonds not later than 15 calendar days after the date on which the issuer and the hedge provider enter into the hedge contract. The identification must be maintained by the actual issuer and must specify the name of the hedge provider, the terms of the contract, the hedged bonds, and include a hedge provider's certification as described in paragraph (h)(2)(viii)(B) of this section. The identification must contain sufficient detail to establish that the requirements of this paragraph (h)(2) and, if applicable, paragraph (h)(4) of this section are satisfied. In addition, the existence of the hedge must be noted on the first form relating to the issue of which the hedged bonds are a part that is filed with the Internal Revenue Service on or after the date on which the contract is identified pursuant to this paragraph (h)(2)(viii).

(B) *Hedge provider's certification.* The hedge provider's certification must provide that—

(*1*) The terms of the hedge were agreed to between a willing buyer and willing seller in a bona fide, arm's-length transaction;

(*2*) The rate payable by the issuer under the hedge is comparable to the rate that the hedge provider would have quoted on the trade date to enter into a reasonably comparable hedge with a counterparty that is similarly situated to the issuer and that involves a hedge on debt obligations other than tax-exempt bonds, taking into account all the terms of the hedge;

(*3*) The hedge provider has not made, and does not expect to make, any payment to any third party in connection with the hedge, except for any such third-party payment that the hedge provider expressly identifies in documents for the hedge; and

(*4*) The amounts paid or received pursuant to the hedge do not include any payments other than payments reasonably allocable to the modification of risk of interest rate changes and to the hedge provider's overhead that are properly taken into account under paragraph (h)(3)(i) of this section, unless the hedge provider separately identifies such payments.

(3) * * *

(iv) *Accounting for modifications and terminations*—(A) *Modification defined.* A modification of a qualified hedge includes, without limitation, a change in the terms of the hedge, an issuer's acquisition of another hedge with terms that have the effect of modifying an issuer's risks of interest rate changes or other terms of an existing qualified hedge, or an assignment of a hedge provider's remaining rights and obligations under the hedge to a third party. For example, if the issuer enters into a qualified hedge that is an interest rate swap under which it receives payments based on LIBOR, and subsequently enters a second hedge (with the same or different provider) that limits the issuer's exposure under the existing qualified hedge to variations in LIBOR, the new hedge modifies the qualified hedge.

(B) *Termination defined.* A termination means either an actual or a deemed termination of a qualified hedge. Except as otherwise provided, an actual termination of a qualified hedge occurs to the extent that the issuer sells, disposes of, or otherwise actually terminates all or a portion of the hedge. A deemed termination of a qualified hedge occurs if the hedge ceases to meet the requirements for a qualified hedge of the hedged bonds; the issuer makes a modification (as defined in paragraph (h)(3)(iv)(A) of this section) that results in a deemed exchange of the hedge and a realization event to the issuer under section 1001; or the issuer redeems all or a portion of the hedged bonds.

(C) *Special rules for certain modifications when the hedge remains qualified.* A modification of a qualified hedge that otherwise would result in a deemed termination under paragraph (h)(3)(iv)(B) of this section does not result in such a termination if the modified hedge meets the requirements for a qualified hedge, determined as of the date of the modification. For purposes of this paragraph (h)(3)(iv)(C), when determining whether the hedge is qualified, the fact that the existing qualified hedge is off-market as of the date of the modification is disregarded and the identification requirement in paragraph (h)(2)(viii) of this section applies by measuring the time period for identification from the date of the modification and without regard to the requirement for a hedge provider's certification.

(D) *Continuations of certain qualified hedges in refundings.* If hedged bonds are redeemed using proceeds of a refunding issue, the qualified hedge is not actually terminated, and the hedge meets the requirements for a qualified hedge for the refunding bonds as of the issue date of the refunding bonds, then no termination of the hedge occurs and the hedge instead is treated as a qualified hedge for the refunding bonds. For purposes of this paragraph (h)(3)(iv)(D), when determining whether the hedge is a qualified hedge for the refunding bonds, the fact that the hedge is off-market with respect to the refunding bonds as of the issue date of the refunding bonds is disregarded and the identification requirement in paragraph (h)(2)(viii) of this section applies by measuring the time period for identification from the issue date of the refunding bonds and without regard to the requirement for a hedge provider's certification.

(E) *General allocation rules for hedge termination payments.* Except as otherwise provided in paragraphs (h)(3)(iv)(F), (G), and (H) of this section, a payment made or received by an issuer to terminate a qualified hedge, or a payment deemed made or received for a deemed termination, is treated as a payment made or received, as appropriate, on the hedged bonds. Upon an actual termination of a qualified hedge, the amount of the payment that an issuer may treat as a termination payment made or received on the hedged bonds—

(*1*) May not exceed the fair market value of the qualified hedge on such date if paid by the issuer; and

(*2*) May not be less than the fair market value of the qualified hedge on such date if received by the issuer.

Upon a deemed termination of a qualified hedge, the amount of the termination payment is equal to the fair market value of the qualified hedge on the termination date. Except as otherwise provided, a termination payment is reasonably allocated to the remaining periods originally covered by the terminated hedge in a manner that reflects the economic substance of the hedge.

(F) *Special rule for terminations when bonds are redeemed.* Except as otherwise provided in this paragraph (h)(3)(iv)(F) and in paragraph (h)(3)(iv)(G) of this section, when a qualified hedge is deemed terminated because the hedged bonds are redeemed, the termination payment as determined under paragraph

(h)(3)(iv)(E) of this section is treated as made or received on that date. * * *

(G) *Special rules for refundings.* When there is a termination of a qualified hedge because there is a refunding of the hedged bonds, to the extent that the hedged bonds are redeemed using the proceeds of a refunding issue, the termination payment is accounted for under paragraph (h)(3)(iv)(E) of this section by treating it as a payment on the refunding issue, rather than the hedged bonds. In addition, to the extent that the refunding issue is redeemed during the period to which the termination payment has been allocated to that issue, paragraph (h)(3)(iv)(F) of this section applies to the termination payment by treating it as a payment on the redeemed refunding issue.

(H) *Safe harbor for allocation of certain termination payments.* A payment to terminate a qualified hedge does not result in that hedge failing to satisfy the applicable provisions of paragraph (h)(3)(iv)(E) of this section if that payment is allocated in accordance with this paragraph (h)(3)(iv)(H). * * *

(4) * * *

(iv) *Consequences of certain modifications.* The special rules under paragraph (h)(4)(iii) of this section regarding the effects of terminations of qualified hedges of fixed yield hedged bonds also applies in the same manner to modifications of a qualified hedge under paragraph (h)(3)(iv)(C) of this section. Thus, for example, a modification may result in a prospective change in the yield on the hedged bonds for arbitrage rebate purposes under § 1.148–3.

* * * * *

■ **Par. 9.** Section 1.148–5 is amended by:

■ 1. Revising paragraphs (c)(3), (d)(2) and (d)(3).

■ 2. Revising the last sentence in paragraph (d)(6)(i) and adding a sentence at the end of the paragraph.

The revisions and additions read as follows:

§ 1.148–5 Yield and valuation of investments.

* * * * *

(c) * * *

(3) *Applicability of special yield reduction rule*—(i) through (ix) [Reserved].

(x) Investments allocable to gross proceeds of an issue to the extent that the yield reduction payments made with respect to such investments under paragraph (c)(1) of this section relate to any difference between the amount of the actual issue price of the issue and the issuer's reasonable expectations regarding such issue price determined as of the sale date of the issue.

(d) * * *

(2) *Mandatory valuation of certain yield restricted investments at present value.* Except as otherwise provided in paragraphs (b)(3) and (d)(3) of this section, a yield restricted investment must be valued at present value.

(3) *Mandatory valuation of certain investments at fair market value*—(i) *In general.* Except as otherwise provided in paragraphs (d)(3)(ii) and (d)(4) of this section, an investment must be valued at fair market value on the date that it is first allocated to an issue or first ceases to be allocated to an issue as a consequence of a deemed acquisition or deemed disposition. For example, if an issuer deposits existing nonpurpose investments into a sinking fund for an issue, those investments must be valued at fair market value as of the date first deposited into the fund.

(ii) *Exception to fair market value requirement for transferred proceeds allocations, universal cap allocations, and commingled funds.* Paragraph (d)(3)(i) of this section does not apply if the investment is allocated from one issue to another as a result of the transferred proceeds allocation rule under § 1.148–9(b) or the universal cap rule under § 1.148–6(b)(2), provided that the issue from which the investment is allocated (that is, the first issue in an allocation from one issue to another) consists exclusively of tax-exempt bonds. In addition, paragraph (d)(3)(i) of this section does not apply to investments in a commingled fund (other than a bona fide debt service fund) unless it is an investment being initially deposited in or withdrawn from a commingled fund described in § 1.148–6(e)(5)(ii).

* * * * *

(6) * * * (i) * * * On the purchase date, the fair market value of a United States Treasury obligation that is purchased directly from the United States Treasury, including a State and Local Government Series (SLGS) security, is its purchase price. The fair market value of a SLGS security on any date other than the original purchase date is the redemption price for redemption on that date.

* * * * *

§ 1.148–6 [Amended]

■ **Par. 10.** In § 1.148–6, paragraph (d)(4)(iii) is removed.

■ **Par. 11.** Section 1.148–10 is amended by revising the last sentence of paragraph (a)(4) and the heading and first sentence of paragraph (e) to read as follows:

§ 1.148–10 Anti-abuse rules and authority of Commissioner.

(a) * * *

(4) * * * These factors may be outweighed by other factors, such as bona fide cost underruns, an issuer's bona fide need to finance extraordinary working capital items, or an issuer's long-term financial distress.

* * * * *

(e) *Authority of the Commissioner to prevent transactions that are inconsistent with the purpose of the arbitrage rules.* If an issuer enters into a transaction for a principal purpose of obtaining a material financial advantage based on the difference between tax-exempt and taxable interest rates in a manner that is inconsistent with the purposes of section 148, the Commissioner may exercise the Commissioner's discretion to depart from the rules of §§ 1.148–1 through 1.148–11 as necessary to prevent such financial advantage. * * *

■ **Par. 12.** Section 1.148–11 is amended by:

■ 1. Revising the section heading.

■ 2. Redesignating paragraph (d)(1) as newly redesignated paragraph (d)(1)(i).

■ 3. Redesignating paragraphs (d)(1)(i), (d)(1)(ii), (d)(1)(iii), (d)(1)(iv), (d)(1)(v), and (d)(1)(vi) as newly redesignated paragraphs (d)(1)(i)(A), (d)(1)(i)(B), (d)(1)(i)(C), (d)(1)(i)(D), (d)(1)(i)(E), and (d)(1)(i)(F), respectively.

■ 4. Revising newly redesignated paragraphs (d)(1)(i)(B), (d)(1)(i)(D), and (d)(1)(i)(F), and adding new paragraphs (d)(1)(ii), (k) and (l).

The revisions and additions read as follows:

§ 1.148–11 Effective/applicability dates.

* * * * *

(d) * * *

(1) * * *

(i) * * *

(B) The corpus of the guarantee fund may be invaded only to support specifically designated essential governmental functions (designated functions) carried on by political subdivisions with general taxing powers or public elementary and public secondary schools;

* * * * *

(D) The issue guaranteed consists of obligations that are not private activity bonds (other than qualified 501(c)(3) bonds) substantially all of the proceeds of which are to be used for designated functions;

* * * * *

(F) As of the sale date of the bonds to be guaranteed, the amount of the bonds to be guaranteed by the fund plus the then-outstanding amount of bonds

previously guaranteed by the fund does not exceed a total amount equal to 500 percent of the total costs of the assets held by the fund as of December 16, 2009.

(ii) The Commissioner may, by published guidance, set forth additional circumstances under which guarantees by certain perpetual trust funds will not cause amounts in the fund to be treated as replacement proceeds.

* * * * *

(k) [Reserved]

(l) *Additional arbitrage guidance updates*—(1) *In general.* Sections 1.148–1(b); 1.148–1(c)(4)(i)(B)(*1*); 1.148–1(c)(4)(i)(B)(*4*); 1.148–1(c)(4)(ii); 1.148–1(f); 1.148–2(e)(3)(i); 1.148–5(c)(3); 1.148–5(d)(2); 1.148–5(d)(3); 1.148–5(d)(6)(i); 1.148–6(d)(4); 1.148–10(a)(4); 1.148–10(e); 1.148–11(d)(1)(i)(B); 1.148–11(d)(1)(i)(D); 1.148–11(d)(1)(i)(F); and 1.148–11(d)(1)(ii) apply to bonds that are sold on or after the date that is 90 days after the date of publication of final regulations in the **Federal Register**.

(2) Section 1.148–4(h)(2)(viii) applies to hedges that are entered into on or after the date that is 90 days after the date of publication of the final regulations in the **Federal Register**.

(3) Section 1.148–4(h)(3)(iv)(A) through (H) and (h)(4)(iv) apply to—

(i) Hedges that are entered into on or after the date that is 90 days after the date of publication of the final regulations in the **Federal Register**;

(ii) Qualified hedges that are modified on or after the date that is 90 days after the date of publication of the final regulations in the **Federal Register** with respect to modifications on or after such date; and

(iii) Qualified hedges on bonds that are refunded on or after the date that is 90 days after the date of publication of the final regulations in the **Federal Register** with respect to the refunding on or after such date.

■ **Par. 13.** Section 1.150–1 is amended by:

■ 1. Adding a new paragraph (a)(2)(iii).

■ 2. Adding a definition for tax-advantaged bond in alphabetical order to paragraph (b).

■ 3. Revising paragraph (c)(2).

■ 4. Adding a new paragraph (f).

The revisions and additions read as follows:

§ 1.150–1 Definitions.

(a) * * *

(2) * * *

(iii) *Special effective date for definitions of tax-advantaged bond, issue, and grant.* The definition of *tax-advantaged bond* in paragraph (b) of this section, the revisions to the definition of issue in paragraph (c)(2) of this section, and the definition and rules regarding the treatment of grants in paragraph (f) of this section apply to bonds that are sold on or after the date that is 90 days after publication of final regulations in the **Federal Register**.

* * * * *

(b) * * *

Tax-advantaged bond means a tax-exempt bond, a taxable bond that provides a Federal tax credit to the investor with respect to the issuer's borrowing costs, a taxable bond that provides a refundable Federal tax credit payable directly to the issuer of the bond for its borrowing costs under section 6431, or any future similar bond that provides a Federal subsidy for any portion of the borrowing costs. Examples of tax-advantaged bonds include qualified tax credit bonds under section 54A(d)(1) and build America bonds under section 54AA.

* * * * *

(c) * * *

(2) *Exceptions for different types of tax-advantaged bonds and taxable bonds.* Each type of tax-advantaged bond that has a different structure for delivery of the borrowing subsidy or different program eligibility requirements is treated as part of a different issue under this paragraph (c). Further, tax-advantaged bonds and bonds that are not tax-advantaged bonds are treated as part of different issues under this paragraph (c). The issuance of tax-advantaged bonds in a transaction with other non tax-advantaged bonds must be tested under the arbitrage anti-abuse rules under § 1.148–10(a) and other applicable anti-abuse rules (for example, limitations against window maturity structures or unreasonable allocations of bonds).

* * * * *

(f) *Definition and treatment of grants*—(1) *Definition. Grant* means a transfer for a governmental purpose of money or property to a transferee that is not a related party to or an agent of the transferor. The transfer must not impose any obligation or condition to directly or indirectly repay any amount to the transferor or a related party. Obligations or conditions intended solely to assure expenditure of the transferred moneys in accordance with the governmental purpose of the transfer do not prevent a transfer from being a grant.

(2) *Treatment.* Except as otherwise provided (for example, § 1.148–6(d)(4), which treats proceeds used for grants as spent for arbitrage purposes when the grant is made), the character and nature of a grantee's use of proceeds are taken into account in determining which rules are applicable to the bond issue and whether the applicable requirements for the bond issue are met.

For example, a grantee's use of proceeds generally determines whether the proceeds are used for capital projects or working capital expenditures under section 148 and whether the qualified purposes for the specific type of bond issue are met.

Beth Tucker,

Deputy Commissioner for Operations Support.

[FR Doc. 2013–21880 Filed 9–13–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF JUSTICE

28 CFR Part 16

[CPCLO Order No. 005–2013]

Exemption of Records Systems Under the Privacy Act

AGENCY: Executive Office for Organized Crime Drug Enforcement Task Forces (OCDETF), Department of Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Justice (the Department or DOJ) proposes to amend its Privacy Act regulations for two systems of records entitled the ''Drug Enforcement Task Force Evaluation and Reporting System, JUSTICE/DAG–003,'' last published, March 10, 1992 in the **Federal Register**, and the ''Organized Crime Drug Enforcement Task Force Fusion Center and International Organized Crime Intelligence and Operations Center System, JUSTICE/CRM–028,'' last published, June 3, 2009 in the **Federal Register**. These Privacy Act regulations are being amended to reflect a recent reorganization of the Department establishing the Executive Office for OCDETF as a separate DOJ component, and transferring responsibility for these systems from the Office of the Deputy Attorney General (ODAG) and the Criminal Division to this component. In light of this departmental reorganization, JUSTICE/DAG–003 is being renumbered to JUSTICE/OCDETF–001 and will be renamed as the ''Organized Crime Drug Enforcement Task Forces Management Information System (OCDETF MIS).'' JUSTICE/CRM–028 is being renumbered to JUSTICE/OCDETF–002 but will retain its system name. When under the responsibility of ODAG and the Criminal Division, these systems were exempted from certain provisions of the Privacy Act of 1974 by exemptions placed in the Code of Federal Regulations (CFR) sections containing

exemptions for ODAG's and the Criminal Division's Privacy Act systems. These proposed amendments will remove references to these systems from the CFR sections for ODAG and Criminal Division exemptions and add a new section for OCDETF exemptions. Public comment is invited.

DATES: Comments must be received by October 16, 2013.

ADDRESSES: Address all comments to Privacy Analyst, Office of Privacy and Civil Liberties, National Place Building, 1331 Pennsylvania Avenue NW., Suite 1000, Washington, DC 20530, or by facsimile to 202–307–0693. To ensure proper handling, please reference the CPCLO Order Number on your correspondence. You may review an electronic version of the proposed rule at *http://www.regulations.gov,* and you may also comment by using that Web site's comment form for this regulation. Please include the CPCLO Order Number in the subject box.

Please note that the Department is requesting that electronic comments be submitted before midnight Eastern Time on the day the comment period closes because this is when *http://www.regulations.gov* terminates the public's ability to submit comments. Commenters in time zones other than Eastern Time may want to consider this so that their electronic comments are received. All comments sent via regular or express mail will be considered timely if postmarked on or before the day the comment period closes.

Posting of Public Comments: Please note that all comments received are considered part of the public record and made available for public inspection online at *http://www.regulations.gov* and in the Department's public docket. Such information includes personally identifying information (such as your name, address, etc.) voluntarily submitted by the commenter.

If you want to submit personally identifying information (such as your name, address, etc.) as part of your comment, but do not want it to be posted online or made available in the public docket, you must include the phrase ''PERSONALLY IDENTIFYING INFORMATION'' in the first paragraph of your comment. You must also place all the personally identifying information you do not want posted online or made available in the public docket in the first paragraph of your comment and identify what information you want redacted.

If you want to submit confidential business information as part of your comment, but do not want it to be posted online or made available in the public docket, you must include the phrase ''CONFIDENTIAL BUSINESS INFORMATION'' in the first paragraph of your comment. You must also prominently identify confidential business information to be redacted within the comment. If a comment has so much confidential business information that it cannot be effectively redacted, all or part of that comment may not be posted online or made available in the public docket.

Personally identifying information and confidential business information identified and located as set forth above will be redacted and the comment, in redacted form, will be posted online and placed in the Department's public docket file. Please note that the Freedom of Information Act applies to all comments received. If you wish to inspect the agency's public docket file in person by appointment, please see the **FOR FURTHER INFORMATION CONTACT** paragraph.

FOR FURTHER INFORMATION CONTACT: Jill Aronica, Chief Information Systems Section, Executive Office for OCDETF, U.S. Department of Justice, 1331 Pennsylvania Avenue NW., Suite 1060, Washington, DC 20530, phone 202–514–1860.

SUPPLEMENTARY INFORMATION: In the Notices section of today's **Federal Register**, the Department has published two modified systems of records notices for the ''Organized Crime Drug Enforcement Task Force Fusion Center and International Organized Crime Intelligence and Operations Center System'' (last published at 74 FR 26733 (June 3, 2009)) and the ''Organized Crime Drug Enforcement Task Forces Management Information System'' (last published at 57 FR 8473 (March 10, 1992)). Previously, when these systems were under the purview of ODAG and of the Criminal Division, these systems of records were exempted from certain provisions of the Privacy Act pursuant to 5 U.S.C. 552a(j) and (k). These exemptions were promulgated in the sections of the CFR for exemptions of ODAG systems (28 CFR 16.71) and of Criminal Division systems (28 CFR 16.91). The Department is now proposing to establish a new section for exemptions of OCDETF systems (28 CFR 16.135); to delete references to the exemptions for the Drug Enforcement Task Force Evaluation and Reporting System, JUSTICE/DAG–003 in 28 CFR 16.71; and to delete references to the Organized Crime Drug Enforcement Task Force Fusion Center and International Organized Crime Intelligence and Operations Center System, JUSTICE/CRM–028 in 28 CFR 16.91. The Department intends that the exemptions previously established under 28 CFR 16.71 and 28 CFR 16.91 will continue to apply to these systems and all their records until the effective date of 28 CFR 16.135.

Regulatory Flexibility Act

This proposed rule relates to individuals, as opposed to small business entities. Nevertheless, pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–612, the proposed rule will not have a significant economic impact on a substantial number of small entities.

Small Entity Inquiries

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 801 et seq., requires the Executive Office for OCDETF to comply with small entity requests for information and advice about compliance with statutes and regulations within the Executive Office for OCDETF's jurisdiction. Any small entity that has a question regarding this document may contact the person listed in **FOR FURTHER INFORMATION CONTACT**. Persons can obtain further information regarding SBREFA on the Small Business Administration's Web page at *http://www.sba.gov/advocacy/825.*

Paperwork Reduction Act

The Paperwork Reduction Act of 1995, 44 U.S.C. 3507(d), requires that the Executive Office for OCDETF consider the impact of paperwork and other information collection burdens imposed on the public. There are no current or new information collection requirements associated with this proposed rule. The records that are contributed to this system would be created in any event by law enforcement entities and their sharing of this information electronically will not increase the paperwork burden on these entities.

Analysis of Regulatory Impacts

This proposed rule is not a ''significant regulatory action'' within the meaning of Executive Order 12866 and therefore further regulatory evaluation is not necessary. This proposed rule will not have a significant economic impact on a substantial number of small entities, because it applies only to information about individuals.

Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, 109 Stat. 48, requires Federal agencies to assess the effects of

certain regulatory actions on State, local, and tribal governments, and the private sector. UMRA requires a written statement of economic and regulatory alternatives for proposed and final rules that contain Federal mandates. A ''Federal mandate'' is a new or additional enforceable duty imposed on any State, local, or tribal government or the private sector. If any Federal mandate causes those entities to spend, in aggregate, $100 million or more in any one year, the UMRA analysis is required. This proposed rule would not impose Federal mandates on any State, local, or tribal government or the private sector.

List of Subjects in 28 CFR Part 16

Administrative practice and procedure, Courts, Freedom of information, Privacy, Sunshine Act.

Pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a and delegated to me by Attorney General Order 2940–2008, the Department of Justice proposes to amend 28 CFR part 16 as follows:

PART 16—[AMENDED]

■ 1. The authority citation for part 16 continues to read as follows:

Authority: 5 U.S.C. 301, 552, 552a, 552b(g), 553; 18 U.S.C. 4203(a)(1); 28 U.S.C. 509, 510, 534; 31 U.S.C. 3717, 9701.

Subpart E—Exemption of Records Systems Under the Privacy Act

§ 16.71 [Amended]

■ 2. Amend § 16.71 as follows:

■ a. Remove the existing paragraphs (c)(1) and (c)(2) and amend paragraph (c) to read as follows: ''The General Files System of the Office of the Deputy Attorney General (JUSTICE/DAG–013) is exempt from 5 U.S.C. 552a(c)(3) and (4); (d); (e)(1), (2), (3) and (5); and (g).''

■ b. Remove the first two sentences of paragraph (d);

■ c. Remove existing paragraph (e)(7); and

■ d. Redesignate paragraph (e)(8) as paragraph (e)(7).

§ 16.91 [Amended]

■ 3. Amend § 16.91 by removing paragraphs (u) and (v)

§ 16.135 [Added]

■ 4. Add § 16.135 to subpart E to read as follows:

§ 16.135 Exemptions of Executive Office for Organized Crime Drug Enforcement Task Forces Systems.

(a) The following systems of records are exempt from 5 U.S.C. 552a(c)(3) and (4); (d)(1), (2), (3), and (4); (e)(1), (2), (3), (4)(G), (H), and (I), (5), and (8); (f); and (g):

(1) The Organized Crime Drug Enforcement Task Forces Management Information System (OCDETF MIS) (JUSTICE/OCDETF–001); and

(2) The Organized Crime Drug Enforcement Task Force Fusion Center and International Organized Crime Intelligence and Operations Center System (JUSTICE/OCDETF–002).

(b) These exemptions apply only to the extent that information is subject to exemption under 5 U.S.C. 552a(j) and/or (k).

(c) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) because to provide the subject with an accounting of disclosures of records in these systems could inform that individual of the existence, nature, or scope of an actual or potential law enforcement or counterintelligence investigation by the Organized Crime Drug Enforcement Task Forces, the Organized Crime Drug Enforcement Task Force Fusion Center, the International Organized Crime Intelligence and Operations Center, or the recipient agency, and could permit that individual to take measures to avoid detection or apprehension, to learn of the identity of witnesses and informants, or to destroy evidence, and would therefore present a serious impediment to law enforcement or counterintelligence efforts. In addition, disclosure of the accounting would amount to notice to the individual of the existence of a record. Moreover, release of an accounting may reveal information that is properly classified pursuant to Executive Order.

(2) From subsection (c)(4) because this subsection is inapplicable to the extent that an exemption is being claimed for subsections (d)(1), (2), (3), and (4).

(3) From subsection (d)(1) because disclosure of records in the system could alert the subject of an actual or potential criminal, civil, or regulatory violation of the existence of that investigation, of the nature and scope of the information and evidence obtained as to his or her activities, of the identity of confidential witnesses and informants, of the investigative interest of the Organized Crime Drug Enforcement Task Forces, the Organized Crime Drug Enforcement Task Force Fusion Center, the International Organized Crime Intelligence and Operations Center, and other intelligence or law enforcement agencies (including those responsible for civil proceedings related to laws against drug trafficking or related financial crimes or international organized crime); could lead to the destruction of evidence, improper influencing of witnesses, fabrication of testimony, and/or flight of the subject; could reveal the details of a sensitive investigative or intelligence technique, or the identity of a confidential source; or could otherwise impede, compromise, or interfere with investigative efforts and other related law enforcement and/or intelligence activities. In addition, disclosure could invade the privacy of third parties and/or endanger the life, health, and physical safety of law enforcement personnel, confidential informants, witnesses, and potential crime victims. Access to records could also result in the release of information properly classified pursuant to Executive Order.

(4) From subsection (d)(2) because amendment of the records thought to be inaccurate, irrelevant, incomplete, or untimely would also interfere with ongoing investigations, criminal or civil law enforcement proceedings, and other law enforcement activities; would impose an impossible administrative burden by requiring investigations, analyses, and reports to be continuously reinvestigated and revised; and may impact information properly classified pursuant to Executive Order.

(5) From subsections (d)(3) and (4) because these subsections are inapplicable to the extent that exemption is claimed from subsections (d)(1) and (2) and for the reasons stated in paragraphs (b)(3) and (b)(4), above.

(6) From subsection (e)(1) because, in the course of their acquisition, collation, and analysis of information under the statutory authority granted, the Organized Crime Drug Enforcement Task Forces, the Organized Crime Drug Enforcement Task Force Fusion Center, and the International Organized Crime Intelligence and Operations Center will occasionally obtain information, including information properly classified pursuant to Executive Order, that concerns actual or potential violations of law that are not strictly within their statutory or other authority or may compile and maintain information which may not be relevant to a specific investigation or prosecution. This is because it is impossible to determine in advance what information collected during an investigation or in support of these mission activities will be important or crucial to an investigation. In the interests of effective law enforcement, it is necessary to retain such information in this system of records because it can aid in establishing patterns of criminal activity of a suspect and can provide valuable leads for federal and other law

enforcement agencies. This consideration applies equally to information acquired from, or collated or analyzed for, both law enforcement agencies and agencies of the U.S. foreign intelligence community and military community.

(7) From subsection (e)(2) because in a criminal, civil, or regulatory investigation, prosecution, or proceeding, the requirement that information be collected to the greatest extent practicable from the subject individual would present a serious impediment to law enforcement because the subject of the investigation, prosecution, or proceeding would be placed on notice as to the existence and nature of the investigation, prosecution, or proceeding and would therefore be able to avoid detection or apprehension, to influence witnesses improperly, to destroy evidence, or to fabricate testimony. Moreover, thorough and effective investigation and prosecution may require seeking information from a number of different sources.

(8) From subsection (e)(3) because to comply with the requirements of this subsection during the course of an investigation could impede the information-gathering process, thus hampering the investigation or intelligence gathering. Disclosure to an individual of investigative interest would put the subject on notice of that fact and allow the subject an opportunity to engage in conduct intended to impede that activity or avoid apprehension. Disclosure to other individuals would likewise put them on notice of what might still be a sensitive law enforcement interest and could result in the further intentional or accidental disclosure to the subject or other inappropriate recipients, convey information that might constitute unwarranted invasions of the personal privacy of other persons, unnecessarily burden law enforcement personnel in information-collection activities, and chill the willingness of witnesses to cooperate.

(9) From subsections (e)(4)(G) and (H) because this system is exempt from the access and amendment provisions of subsection (d).

(10) From subsection (e)(4)(I) to the extent that this subsection could be interpreted to require more detail regarding system record sources than has been published in the **Federal Register**. Should this subsection be so interpreted, exemption from this provision is necessary to protect the sources of law enforcement and intelligence information and to protect the privacy and safety of witnesses and informants and other information sources. Further, greater specificity could compromise other sensitive law enforcement information, techniques, and processes.

(11) From subsection (e)(5) because the acquisition, collation, and analysis of information for law enforcement purposes from various agencies does not permit a determination in advance or a prediction of what information will be matched with other information and thus whether it is accurate, relevant, timely, and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light, and the accuracy of such information can often only be determined in a court of law. The restrictions imposed by subsection (e)(5) would restrict the ability of trained investigators, intelligence analysts, and government attorneys to exercise their judgment in collating and analyzing information and would impede the development of criminal or other intelligence necessary for effective law enforcement.

(12) From subsection (e)(8) because the individual notice requirements could present a serious impediment to law enforcement by revealing investigative techniques, procedures, evidence, or interest, and by interfering with the ability to issue warrants or subpoenas; could give persons sufficient warning to evade investigative efforts; and would pose an unacceptable administrative burden on the maintenance of these records and the conduct of the underlying investigations.

(13) From subsections (f) and (g) because these subsections are inapplicable to the extent that the system is exempt from other specific subsections of the Privacy Act.

Dated: August 21, 2013.

Joo Y. Chung,

Acting Chief Privacy and Civil Liberties Officer, United States Department of Justice.

[FR Doc. 2013–22370 Filed 9–13–13; 8:45 am]

BILLING CODE 4410–NY–P

Notices

Federal Register

Vol. 78, No. 179

Monday, September 16, 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

Submission for OMB Review; Comment Request

September 11, 2013.

The Department of Agriculture has submitted the following information collection requirement(s) to Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, 725—17th Street NW., Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Rural Utilities Service

Title: Technical Assistance Program, 7 CFR part 1775.

OMB Control Number: 0572–0112.

Summary of Collection: Section 306 of the Consolidated Farm and Rural Development Act (CONACT), 7 U.S.C. 1926, authorizes Rural Utilities Service (RUS) to make loans and grants to public agencies, American Indian tribes, and nonprofit corporations. The loans and grants fund the development of drinking water, wastewater, and solid waste disposal facilities in rural areas with populations of up to 10,000 residents. Nonprofit organizations receive Technical Assistance and Training (TAT) and Solid Waste Management (SWM) grants to help small rural communities or areas identify and solve problems relating to community drinking water, wastewater, or solid waste disposal systems. The technical assistance is intended to improve the management and operation of the systems and reduce or eliminate pollution of water resources. TAT and SWM are competitive grant programs administered by RUS.

Need and Use of the Information: Nonprofit organizations applying for TAT and SWM grants must submit a pre-application, which includes an application form, narrative proposal, various other forms, certifications and supplemental information. RUS will collect information to determine applicant's eligibility, project feasibility, and the applicant's ability to meet the grant and regulatory requirements. RUS will review the information, evaluate it, and, if the applicant and project are eligible for further competition, invite the applicant to submit a formal application. Failure to collect proper information could result in improper determinations of eligibility, improper use of funds, or hindrances in making grants authorized by the TAT and SWM program.

Description of Respondents: Not-for-profit institutions; State, Local or Tribal Governments.

Number of Respondents: 142.

Frequency of Responses: Reporting: On occasion; Quarterly.

Total Burden Hours: 6,250.

Rural Utilities Service

Title: Special Evaluation Assistance for Rural Communities and Households Program

(SEARCH).

OMB Control Number: 0572–0146.

Summary of Collection: The Food, Conservation and Energy Act of 2008, Public Law 110–234 (Farm Bill) amended Section 306(a)(2) of the Consolidated Farm and Rural Development Act (CONACT) (7 U.S.C. 1926(a)(2)). The amendment created a grant program to make Special Evaluation Assistance for Rural Communities and Households (SEARCH) Program grants.

Under the SEARCH program, the Secretary may make predevelopment and planning grants to public or quasi-public agencies, organizations operated on a not-for-profit basis or Indian tribes on Federal and State reservations and other federally recognized Indian tribes. The grant recipients use the grant funds for feasibility studies, design assistance, and technical assistance for direct loans, grants and guaranteed loans, to financially distress communities in rural areas with populations of 2,500 or fewer inhabitants for water and waste disposal projects as authorized in Sections 306(a)(1), 306(a)(2) and 306(a)(24) of the CONACT.

Need and Use of the Information: Applicants applying for SEARCH grants must submit an application which includes an application form, various other forms, certifications, and supplemental information. Rural Utility Service will use the information collected from applicants, borrowers, and consultants to determine applicant eligibility, project feasibility, and the applicant's ability to meet the grant and regulatory requirements.

Failure to collect proper information could result in improper determinations of eligibility, improper use of funds, or hindrances in making grants authorized by the SEARCH program.

Description of Respondents: Not-for-profit Institutions and State, Local or Tribal Government.

Number of Respondents: 16.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 516.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2013–22451 Filed 9–13–13; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

September 10, 2013.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by October 16, 2013 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725 17th Street NW., Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Animal Plant and Health Inspection Service

Title: Export Health Certificate For Animal Products.

OMB Control Number: 0579–0256.

Summary of Collection: The Animal Health Protection Act (AHPA) of 2002 is the primary Federal law governing the protection of animal health. The law gives the Secretary of Agriculture board authority to detect, control, or eradicate pests or diseases of livestock or poultry. The export of agricultural commodities, including animals and animal products, is a major business in the United States and contributes to a favorable balance of trade. To facilitate the export of U.S. animals and products, the U.S. Department of Agriculture, Animal and Plant Health Inspection Service (APHIS), Veterinary Services maintains information regarding the import health requirements of other countries for animals and animal products exported from the United States. Many countries that import animal products from the United States require a certification from APHIS that the United States is free of certain diseases. These countries may also require that our certification statement contain additional declarations regarding the U.S. animal products being exported. Form VS–16–4 and VS–16–4A, Export Certificate for Animal Products and Export Certificate for Animal Products Continuation Sheet, a Hearing Request to appeal VS' decision to refuse to grant a certificate, and a Notification of Tampered Certificate can be used to meet these requirements. Regulations pertaining to export certification of animals and animal products are contained in 9 CFR parts 91.

Need and Use of the Information: Form VS 16–4 and VS 16–4A serves as the official certification that the United States is free of rinderpest, foot-and-mouth disease, classical swine fever, swine vesicular disease, African swine fever, bovine fever, bovine spongiform encephalopathy, and contagious bovine pleuropneuomia. APHIS will collect the exporter's name, address, the name and address of the consignee, the quantity, and unit of measure, type of product being exported, the exporter's identification, and type of conveyance (ship, train, and truck) that will transport the products. The form also asks for any declarations the receiving country might require, such as statements concerning where the product originated and how it was processed. Without the information, many countries would not accept animal products from the United States, creating a serious trade imbalance and adversely affecting U.S. exporters.

Description of Respondents: Business or other-for-profit.

Number of Respondents: 42,000.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 57,122.

Animal and Plant Health Inspection Service

Title: Importation of Shepherd's Purse with Roots from the Republic of Korea into the United States.

OMB Control Number: 0579–0366.

Summary of Collection: Under the Plant Protection Act (7 U.S.C. 7701 *et seq.*), the Secretary of Agriculture is authorized to carry out operations or measures to detect, eradicate, suppress, control, prevent, or retard the spread of plant pests new to the United States or not know to be widely distributed throughout the United States. The Animal and Plant Health Inspection Service (APHIS) regulations concerning the importation of fruits and vegetables allow for the importation of fresh shepherd's purse with roots from the Republic of Korea into the United States under a combination of mitigations to reduce the risk of introducing a variety of pests. As a condition of entry, fresh shepherd's purse have to be produced in accordance with a system approach that includes requirements for importation of commercial consignments, pest-free place of production, and inspection for quarantine pests by the National Plant Protection Organization (NPPO) of the Republic of Korea.

Need and Use of the Information: APHIS uses the following information collection activities, phytosanitary certificate, sampling and microscopic inspection, recordkeeping, and production site registration to increase the supply of fresh shepherd's purse without increasing the risk of introducing pests into the United States.

Description of Respondents: Business or other for-profit; Federal Government.

Number of Respondents: 54.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 163.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2013–22409 Filed 9–13–13; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2013–0030]

Codex Alimentarius Commission: Meeting of the Codex Committee on Nutrition and Foods for Special Dietary Uses

AGENCY: Office of the Under Secretary for Food Safety, USDA.

ACTION: Notice of public meeting and request for comments.

SUMMARY: The Office of the Under Secretary for Food Safety, U.S. Department of Agriculture (USDA), and the Food and Drug Administration (FDA), Office of Nutrition, Labeling, and Dietary Supplements are sponsoring a public meeting on October 3, 2013. The objective of the public meeting is to provide information and receive public comments on agenda items and draft United States positions that will be discussed at the Thirty-fifth session of the Codex Committee on Nutrition and Foods for Special Dietary Uses (CCNFSDU), taking place in Bad Soden am Taunus, Germany from November 4–8, 2013. The Under Secretary for Food Safety and the FDA recognize the importance of providing interested parties the opportunity to obtain background information on the 35th session of the CCNFSDU and to address items on the agenda.

DATES: The public meeting is scheduled for October 3, 2013 from 1:00 p.m.–4:00 p.m.

ADDRESSES: The public meeting will be held in the Harvey Wiley Building, United States Food and Drug Administration, CFSAN, 5100 Paint Branch Parkway, Room (1A–001 & 1A002), College Park, MD 20740.

Documents related to the 35th session of the CCNFSDU will be accessible via the World Wide Web at the following address: *http://www.codexalimentarius.org/meetings-reports/en/.* Paula Trumbo, U.S. Delegate to the 35th session of the CCNFSDU invites U.S. interested parties to submit their comments electronically to the following email address: *CCNFSDU@fda.hhs.gov.*

Pre-Registration

To pre-register for this meeting, please send the following information to this email address: (*nancy.crane@fda.hhs.gov*).

- Your name
- Organization
- Mailing address
- Phone number
- Email address

Call-In Number

If you wish to participate in the public meeting for the 35th session of the CCNFSDU by conference call, please use the call-in number and participant code listed below.

Call-in Number: 1–866–859–5767

Participant Code: 2225276

For Further Information About the 35th Session of the CCNFSDU Contact: Nancy Crane, Senior Advisor to the U.S. CCNFSDU Delegate, Office of Nutritional Products, Labeling and Dietary Supplements, Center for Food Safety and Applied Nutrition, Food and Drug Administration, (HFS–830), 5100 Paint Branch Parkway, College Park, MD 20740; Telephone: (240) 402–1450, Fax: (301) 436–2636, Email: *Nancy.Crane@fda.hhs.gov.*

For Further Information About the Public Meeting Contact: Doreen Chen-Moulec, U.S. Codex Office, 1400 Independence Avenue SW., Room 4865, Washington, DC 20250; Telephone: (202) 720–4063, Fax: (202) 720–3157, Email: *Doreen.Chen-Moulec@fsis.usda.gov.*

SUPPLEMENTARY INFORMATION: The Codex Alimentarius Commission (Codex) was established in 1963 by two United Nations organizations, the Food and Agriculture Organization (FAO) and the World Health Organization (WHO). Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their implementation by governments, Codex seeks to protect the health of consumers and ensure that fair practices are used in trade.

The CCNFSDU is Responsible for:

(a) Studying specific nutritional problems assigned to it by the Commission and advising the Commission on general nutrition issues;

(b) drafting general provisions, as appropriate, concerning the nutritional aspects of all foods;

(c) developing standards, guidelines or related texts for foods for special dietary uses, in cooperation with other committees where necessary;

(d) considering, amending if necessary, and endorsing provisions on nutritional aspects proposed for inclusion in Codex standards, guidelines and related texts.

Issues To Be Discussed at the Public Meeting

The following items on the Agenda for the 35th session of the CCNFSDU will be discussed during the public meeting:

- Matters Referred to the Committee by the Codex Alimentarius Commission and/or Other Codex Committees.
- Matters of Interest Arising from FAO and WHO.
- Proposed Draft Additional or Revised Nutrient Reference Values for Labeling Purposes in the Codex Guidelines on Nutrition Labeling at Step 4.
- Proposed Draft Revision of the Codex General Principles for the Addition of Essential Nutrients to Foods at Step 4.
- Proposed Draft Amendment of the Standard for Processed Cereal-Based Foods for infants and Young Children (Codex Stan 74–1981) to include a New Part B for underweight Children at Step 4.
- Review of the Codex Standard for Follow-up Formula (Codex Stan 156–1987).
- Proposed Draft Revision of the List of Food Additives.
- Discussion Paper on a Potential NRV for Potassium in relation to the risk of NCD.
- Discussion Paper on Biofortification.

Each issue listed will be fully described in documents distributed, or to be distributed, by the Secretariat prior to the Meeting. Members of the public may access or request copies of these documents (see **ADDRESSES**).

USDA Nondiscrimination Statement

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibited bases apply to all programs).

Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's Target Center at (202) 720–2600 (voice and TTY).

To file a written complaint of discrimination, write USDA Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW., Washington, DC 20250–9410 or call (202) 720–5964 (voice and TTY). USDA is an equal opportunity provider and employer.

FSIS will announce this notice on-line through the FSIS Web page located at *http://www.fsis.usda.gov/wps/portal/fsis/topics/regulations/federal-register.* FSIS also will 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, recalls, 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 and farm groups, consumer interest groups, allied health professionals, and other individuals who have asked to be included. The update is available on the FSIS Web page. Through the Listserv and Web page, FSIS is able to provide information to a much broader and more diverse audience. In addition, FSIS offers an email 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 account.

Done at Washington, DC, on: September 10, 2013.

Mary Frances Lowe,

U.S. Codex Manager.

[FR Doc. 2013–22488 Filed 9–13–13; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–41–2013]

Foreign-Trade Zone 75—Phoenix, Arizona, Authorization of Limited Production Activity, Honeywell Aerospace, Inc. (Aircraft Engines, Systems and Components), Phoenix and Tempe, Arizona

On May 3, 2013, the City of Phoenix, grantee of FTZ 75, submitted a notification of proposed production activity to the Foreign-Trade Zones (FTZ) Board on behalf of Honeywell Aerospace, Inc., within Subzone 75J, in Phoenix and Tempe, Arizona.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (78 FR 27951–27952, 05–13–2013). Based on the FTZ Board's determination in this proceeding, the production activity described in the notification is authorized, subject to the FTZ Act and the Board's regulations, including Section 400.14, and further subject to a restriction requiring the admission in privileged foreign status (19 CFR 146.41) of the unwrought titanium-alloy input proposed for the production activity.

Dated: September 4, 2013.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2013–22474 Filed 9–13–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–51–2013]

Foreign-Trade Zone 267—Fargo, North Dakota; Authorization of Production Activity; CNH America, LLC, (Construction and Agricultural Equipment), Fargo, North Dakota

On May 10, 2013, the Fargo Municipal Airport Authority, grantee of FTZ 267, submitted a notification of proposed production activity to the Foreign-Trade Zones (FTZ) Board on behalf of CNH America, LLC, within FTZ 267, in Fargo, North Dakota.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (78 FR 33052, 06–03–2013). The FTZ Board has determined that no further review of the activity is warranted at this time. The production activity described in the notification is authorized, subject to the FTZ Act and the Board's regulations, including Section 400.14.

Dated: September 6, 2013.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2013–22505 Filed 9–13–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Proposed Information Collection; Comment Request; Triangular Transactions Covered by a U.S. Import Certificate

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before November 15, 2013.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Larry Hall, BIS ICB Liaison, (202) 482–4895, *Lawrence.Hall@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This collection of information provides a means to authorize approved imports to the U.S. to be transhipped to another destination instead of being imported to the U.S. as approved on an International Import Certificate. A triangular symbol is stamped on import certificates as notification that the importer does not intend to import or retain the items in the country issuing the certificate, but that, in any case, the items will not be delivered to any other destination except in accordance with the Export Administration Regulations.

II. Method of Collection

The stamped certificate is submitted to BIS in paper form.

III. Data

OMB Control Number: 0694–0009.

Form Number(s): N/A.

Type of Review: Regular submission (extension of a current information collection).

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 1.

Estimated Time per Response: 30 minutes.

Estimated Total Annual Burden Hours: 1.

Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the

burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: September 10, 2013.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2013–22391 Filed 9–13–13; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–863]

Honey From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011–2012

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On June 28, 2013, the Department of Commerce (the ''Department'') published the *Preliminary Results* [1] of the 2011–2012 administrative review of the antidumping duty order on honey from the People's Republic of China (''PRC''). The period of review (''POR'') is December 1, 2011, through November 30, 2012. We gave interested parties an opportunity to comment on the *Preliminary Results,* but we received none. The final weighted-average dumping margin for the PRC-wide entity is listed in the ''Final Results of Review'' section below.

DATES: *Effective Date:* September 16, 2013.

FOR FURTHER INFORMATION CONTACT: Emeka Chukwudebe, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0219.

SUPPLEMENTARY INFORMATION:

Background

On June 28, 2013, the Department published the *Preliminary Results.* We invited interested parties to comment on the *Preliminary Results,* but we received none. The Department has conducted this administrative review in accordance with section 751(a) of the Tariff Act of 1930, as amended (''the Act'').

Scope of the Order

The products covered by the order are natural honey, artificial honey containing more than 50 percent natural honey by weight, preparations of natural honey containing more than 50 percent natural honey by weight and flavored honey. The subject merchandise includes all grades and colors of honey whether in liquid, creamed, comb, cut comb, or chunk form, and whether packaged for retail or in bulk form.

The merchandise subject to the order is currently classifiable under subheadings 0409.00.00, 1702.90.90, 2106.90.99, 0409.00.0010, 0409.00.0035, 0409.00.0005, 0409.00.0045, 0409.00.0056, and 0409.00.0065 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS subheadings are provided for convenience and customs purposes, the Department's written description of the merchandise under the order is dispositive.

Also included in the scope are blends of honey and rice syrup, regardless of the percentage of honey contained in the blend.

PRC-Wide Entity

In the *Preliminary Results,* the Department determined that 66 companies [2] failed to demonstrate their eligibility for a separate rate and were considered part of the PRC-wide entity.[3] After issuing the *Preliminary Results,* the Department did not receive any comments from interested parties. Because nothing has changed with respect to these companies since the *Preliminary Results,* we continue to find them to be part of the PRC-wide entity.

Additionally, we also stated that if our preliminary decision with respect to the U.S. importer Milky Way International Trading Co. (dba MW Polar Foods) (''Milky Way'') remains unchanged for the final results, we would refer the issue of Milky Way importing type 3 entries of subject merchandise as type 1 entries (*i.e.,* not subject to antidumping tariffs) to U.S. Customs and Border Protection (''CBP'').[4] Because nothing has changed with respect to Milky Way, we intend to refer this issue to CBP upon issuance of these final results.

Final Results of Review

The Department has made no changes to the *Preliminary Results.* As a result of our review, we determine that the following dumping margin exists for the period December 1, 2011, through November 30, 2012:

Exporter	Margin (dollars per kilogram)
PRC-wide entity (which includes the companies listed in Appendix 1)	$2.63

Assessment

Pursuant to section 751(a)(2)(C) of the Act, and 19 CFR 351.212(b)(1), the Department has determined, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise and deposits of estimated duties, where applicable, in accordance with the final results of this review. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review. The Department recently announced a refinement to its assessment practice in non-market economy (''NME'') cases.[5] Pursuant to this refinement in practice, for entries that were not reported in the U.S. sales databases submitted by companies individually examined during this review, the Department will instruct CBP to liquidate such entries at the NME-wide rate. In addition, if the Department determines that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.,* at that exporter's rate) will be liquidated at the NME-wide rate.[6]

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments

[1] *See Honey From the People's Republic of China: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review; 2011–2012,* 78 FR 38941 (June 28, 2013), and accompanying Decision Memorandum (''*Preliminary Results*'').

[2] *See* Appendix.

[3] *See Preliminary Results,* and accompanying Decision Memorandum at 3 where the Department stated that while American Honey Producers Association and Sioux Honey Association (''Petitioners'') withdrew their requests for review for 62 additional companies, those companies remain under review as part of the PRC-wide entity and the Department will make a determination with respect to the PRC-wide entity in the preliminary results and the final results.

[4] *See id.*

[5] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011).

[6] *See id.*

of the subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results, as provided by section 751(a)(2)(C) of the Act: (1) For previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (2) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of $2.63 per kilogram; and (3) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notifications

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties has occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as a reminder to parties subject to the administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely notification of the destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing these results and this notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: September 10, 2013.

Paul Piquado,

Assistant Secretary for Import Administration.

Appendix

The following companies are not eligible for separate rate status in this administrative review and are considered part of the PRC-wide Entity:

1. Ahcof Industrial Development Corp., Ltd.
2. Alfred L. Wolff (Beijing) Co., Ltd.
3. Anhui Changhao Import & Export Trading
4. Anhui Honghui Import & Export Trade Co., Ltd.
5. Anhui Cereals Oils and Foodstuffs I/E (Group) Corporation
6. Anhui Hundred Health Foods Co., Ltd.
7. Anhui Native Produce Imp & Exp Corp.
8. Anhui Time Tech Co., Ltd.
9. APM Global Logistics (Shanghai) Co.
10. Baiste Trading Co., Ltd.
11. Cheng Du Wai Yuan Bee Products Co., Ltd.
12. Chengdu Stone Dynasty Art Stone
13. Damco China Limited Qingdao Branch
14. Dongtai Peak Honey Industry Co., Ltd.
15. Eurasia Bee's Products Co., Ltd.
16. Feidong Foreign Trade Co., Ltd.
17. Fresh Honey Co., Ltd. (formerly Mgl. Yun Shen)
18. Golden Tadco Int'l
19. Hangzhou Golden Harvest Health Industry Co., Ltd.
20. Hangzhou Tienchu Miyuan Health Food Co., Ltd.
21. Haoliluck Co., Ltd.
22. Hengjide Healthy Products Co. Ltd.
23. Hubei Yusun Co., Ltd.
24. Inner Mongolia Altin Bee-Keeping
25. Inner Mongolia Youth Trade Development Co., Ltd.
26. Jiangsu Cereals, Oils Foodstuffs Import Export (Group) Corp.
27. Jiangsu Kanghong Natural Healthfoods Co., Ltd.
28. Jiangsu Light Industry Products Imp & Exp (Group) Corp.
29. Jilin Province Juhui Import
30. Maersk Logistics (China) Company Ltd.
31. Nefelon Limited Company
32. Ningbo Shengye Electric Appliance
33. Ningbo Shunkang Health Food Co., Ltd.
34. Ningxia Yuehai Trading Co., Ltd.
35. Product Source Marketing Ltd.
36. Qingdao Aolan Trade Co., Ltd.
37. QHD Sanhai Honey Co., Ltd.
38. Qinhuangdao Municipal Dafeng Industrial Co., Ltd.
39. Renaissance India Mannite
40. Shaanxi Youthsun Co., Ltd.
41. Shanghai Bloom International Trading Co., Ltd.
42. Shanghai Foreign Trade Co., Ltd.
43. Shanghai Hui Ai Mal Tose Co., Ltd.
44. Shanghai Luyuan Import & Export
45. Shine Bal Co., Ltd.
46. Sichuan-Dujiangyan Dubao Bee Industrial Co., Ltd.
47. Sichuan Hasten Imp Exp. Trading Co., Ltd.
48. Silverstream International Co., Ltd.
49. Sunnice Honey
50. Suzhou Aiyi IE Trading Co., Ltd.
51. Suzhou Shanding Honey Product Co. Ltd.
52. Tianjin Weigeda Trading Co., Ltd.
53. Wanxi Haohua Food Co., Ltd.
54. Wuhan Shino-Food Trade Co., Ltd.
55. Wuhu Anjie Food Co., Ltd.
56. Wuhu Deli Foods Co. Ltd.
57. Wuhu Fenglian Co., Ltd.
58. Wuhu Haoyikuai I & E Co.
59. Wuhu Haoyikuai Import & Export Co., Ltd.
60. Wuhu Haoyikuai Food Products Co., Ltd.
61. Wuhu Qinshi Tangye
62. Wuhu Qinshi Tangye Co., Ltd.
63. Wuhu Xinrui Bee-Product Co., Ltd.
64. Xinjiang Jinhui Food Co., Ltd.
65. Youngster International Trading Co., Ltd.
66. Zhejiang Willing Foreign Trading Co.

[FR Doc. 2013–22477 Filed 9–13–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–909]

Certain Steel Nails From the People's Republic of China: Preliminary Results of the Fourth Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (''Department'') is conducting the fourth administrative review of the antidumping duty order on certain steel nails (''nails'') from the People's Republic of China (''PRC'').[1] The Department has preliminarily determined that sales have been made below normal value (''NV'') by the respondents examined during the period of review (''POR''), August 1, 2011, through July 31, 2012. If these preliminary results are adopted in the final results, the Department will instruct U.S. Customs and Border Protection (''CBP'') to assess antidumping duties on all appropriate entries of subject merchandise during the POR. Interested parties are invited to comment on these preliminary results.

DATES: *Effective Date:* September 16, 2013.

FOR FURTHER INFORMATION CONTACT: Javier Barrientos or Matthew Renkey, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone 202–482–2243 or 202–482–2312, respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The merchandise covered by the order includes certain steel nails having a shaft length up to 12 inches. Certain steel nails subject to the order are currently classified under the Harmonized Tariff Schedule of the United States (''HTSUS'') subheadings 7317.00.55, 7317.00.65 and 7317.00.75. While the HTSUS subheadings are provided for convenience and customs

[1] *See Notice of Antidumping Duty Order: Certain Steel Nails From the People's Republic of China,* 73 FR 44961 (August 1, 2008).

purposes, the written description of the scope of the order is dispositive.

For a full description of the scope, *see* ''Certain Steel Nails From the People's Republic of China: Decision Memorandum for the Preliminary Results of the 2011–2012 Antidumping Duty Administrative Review,'' dated concurrently with this notice (''Preliminary Decision Memorandum'').

Methodology

The Department has conducted these reviews in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (''Act''). Constructed export prices and export prices have been calculated in accordance with section 772 of the Act. Because the PRC is a nonmarket economy (''NME'') within the meaning of section 771(18) of the Act, NV has been calculated in accordance with section 773(c) of the Act. For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum, which is dated concurrently with these results and hereby adopted by this notice. The Preliminary Decision Memorandum is a public document and is on file electronically *via* Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (''IA ACCESS''). IA ACCESS is available to registered users at *http://iaaccess.trade.gov,* and is available to all parties in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the internet at *http://www.trade.gov/ia/.* The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Preliminary Results of Review

The Department preliminarily determines that the following weighted-average dumping margins exist for the period August 1, 2011, through July 31, 2012:

Exporter	Weighted-average margin (percent)
(1) Stanley [2]	22.90
(2) JISCO [3]	43.45
(3) Cana (Tianjin) Hardware Industrial Co., Ltd	26.41
(4) Chiieh Yung Metal Ind. Corp.	26.41
(5) China Staple Enterprise (Tianjin) Co., Ltd	26.41
(6) Dezhou Hualude Hardware Products Co., Ltd	26.41
(7) Hebei Cangzhou New Century Foreign Trade Co., Ltd	26.41
(8) Huanghua Jinhai Hardware Products Co., Ltd	26.41
(9) Huanghua Xionghua Hardware Products Co., Ltd	26.41
(10) Nanjing Yuechang Hardware Co., Ltd	26.41
(11) Qingdao D&L Group Ltd	26.41
(12) SDC International Australia Pty., Ltd	26.41
(13) Shandong Dinglong Import & Export Co., Ltd	26.41
(14) Shandong Oriental Cherry Hardware Group Co., Ltd	26.41
(15) Shandong Oriental Cherry Hardware Import and Export Co., Ltd	26.41
(16) Shanghai Curvet Hardware Products Co., Ltd	26.41
(17) Shanghai Yueda Nails Industry Co., Ltd	26.41
(18) Shanxi Hairui Trade Co., Ltd	26.41
(19) Shanxi Pioneer Hardware Industrial Co., Ltd	26.41
(20) Shanxi Tianli Industries Co., Ltd	26.41
(21) S-Mart (Tianjin) Technology Development Co., Ltd	26.41
v22) Suntec Industries Co., Ltd	26.41
(23) Suzhou Xingya Nail Co., Ltd	26.41
(24) Tianjin Jinchi Metal Products Co., Ltd	26.41
(25) Tianjin Jinghai County Hongli Industry & Business Co., Ltd	26.41
(26) Tianjin Lianda Group Co., Ltd	26.41
(27) Tianjin Universal Machinery Imp & Exp Corporation	26.41
(28) Tianjin Zhonglian Metals Ware Co., Ltd	26.41
(29) Xi'an Metals & Minerals Import and Export Co., Ltd	26.41
(30) Zhejiang Gem-Chun Hardware Accessory Co., Ltd	26.41
PRC-Wide Rate	118.04

Disclosure, Public Comment and Opportunity To Request a Hearing

The Department intends to disclose the calculations used in our analysis to parties in these reviews within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Interested parties are invited to comment on the preliminary results of this review. However, we plan to issue post-preliminary supplemental questionnaires and, therefore, will be extending the case brief deadline. The Department will inform interested parties of the updated briefing schedule when it has been confirmed.[4] Rebuttals to case briefs, which must be limited to issues raised in the case briefs, must be filed within five days after the time limit for filing case briefs.[5] Parties who submit arguments are requested to submit with the argument (a) a statement of the issue, (b) a brief summary of the argument, and (c) a table of authorities.[6] Parties submitting briefs should do so pursuant to the Department's electronic filing system, IA ACCESS.

Any interested party may request a hearing within 30 days of publication of

[2] The Stanley Works (Langfang) Fastening Systems Co., Ltd. (''Stanley Langfang''), and Stanley Black & Decker, Inc. (''SBD'') (collectively, ''Stanley'').

[3] Qingdao JISCO Co., Ltd. and ECO System Corporation (d/b/a JISCO Corporation) (collectively, ''JISCO'').

[4] *See* 19 CFR 351.309(c)(1)(ii).

[5] *See* 19 CFR 351.309(d)(1)–(2).

[6] *See* 19 CFR 351.309(c)(2), (d)(2).

this notice.[7] Hearing requests should contain the following information: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing to be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.[8]

The Department intends to issue the final results of this administrative review, which will include the results of our analysis of all issues raised in the case briefs, within 120 days of publication of these preliminary results in the **Federal Register**, pursuant to section 751(a)(3)(A) of the Act.

Deadline for Submission of Publicly Available Surrogate Value Information

In accordance with 19 CFR 351.301(c)(3)(ii), the deadline for submission of publicly available information to value the factors of production under 19 CFR 351.408(c) is 20 days after the date of publication of the preliminary results. In accordance with 19 CFR 351.301(c)(1), if an interested party submits factual information less than 10 days before or on the applicable deadline for submission of such factual information, an interested party may submit factual information to rebut, clarify, or correct the factual information no later than ten days after such factual information is served on the interested party. However, the Department generally will not accept in the rebuttal submission additional or alternative surrogate value (''SV'') information not previously on the record, if the deadline for submission of SV information has passed.[9] Furthermore, the Department generally will not accept business proprietary information in either the SV submissions or the rebuttals thereto, as the regulation regarding the submission of SVs allows only for the submission of publicly available information.[10] Finally, for each piece of factual information submitted with SV rebuttal comments, the interested party must provide a written explanation of what information that is already on the record of the ongoing proceeding that the factual information is rebutting, clarifying, or correcting.

Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review.[11] The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review.

For assessment purposes, the Department applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101 (February 14, 2012). For any individually examined respondent whose weighted average dumping margin is above *de minimis* (*i.e.,* 0.50 percent) in the final results of this review, the Department will calculate importer-specific assessment rates on the basis of the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered value of sales, in accordance with 19 CFR 351.212(b)(1). Where an importer- (or customer-) specific *ad valorem* rate is greater than *de minimis,* the Department will instruct CBP to collect the appropriate duties at the time of liquidation.[12] Where either a respondent's weighted average dumping margin is zero or *de minimis,* or an importer- (or customer-) specific *ad valorem* is zero or *de minimis,* the Department will instruct CBP to liquidate appropriate entries without regard to antidumping duties.[13] For the respondents that were not selected for individual examination in this administrative review and that qualified for a separate rate, the assessment rate will be based on the average of the mandatory respondents.[14] We intend to instruct CBP to liquidate entries containing subject merchandise exported by the PRC-wide entity at the PRC-wide rate.

The Department recently announced a refinement to its assessment practice in NME cases. Pursuant to this refinement in practice, for entries that were not reported in the U.S. sales databases submitted by companies individually examined during the administrative review, the Department will instruct CBP to liquidate such entries at the PRC-wide rate. Additionally, if the Department determines that an exporter had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.,* at that exporter's rate) will be liquidated at the PRC-wide rate.[15]

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of these reviews for shipments of the subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by sections 751(a)(2)(C) of the Act: (1) For the companies listed above that have a separate rate, the cash deposit rate will be that established in the final results of these reviews (except, if the rate is zero or *de minimis,* then zero cash deposit will be required); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be that for the PRC-wide entity; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during the POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This preliminary determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

[7] *See* 19 CFR 351.310(c).

[8] *See* 19 CFR 351.310(d).

[9] *See Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission, in Part,* 72 FR 58809 (October 17, 2007), and accompanying Issues and Decision Memorandum at Comment 2.

[10] *See* 19 CFR 351.301(c)(3).

[11] *See* 19 CFR 351.212(b) .

[12] *See* 19 CFR 351.212(b)(1).

[13] *See* 19 CFR 351.106(c)(2).

[14] *See* Preliminary Decision Memorandum.

[15] For a full discussion of this practice, *see Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011).

Dated: September 3, 2013.

Paul Piquado,

Assistant Secretary for Import Administration.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

1. Case History
2. Scope of the Order
3. Preliminary Determination of No Shipments
4. Non-Market Economy Country Status
5. Separate Rates
6. Separate Rate Calculation for Companies Not Individually Examined
7. PRC-Wide Entity
8. Facts Available
9. Surrogate Country and Surrogate Value Data
10. Date of Sale
11. Determination of Comparison Method
12. Results of the Differential Pricing Analysis
13. Comparisons to Normal Value
14. U.S. Price
15. Normal Value
16. Factor Valuations
17. Currency Conversion

[FR Doc. 2013–22475 Filed 9–13–13; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–929]

Small Diameter Graphite Electrodes From the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty Order and Rescission of Later-Developed Merchandise Anticircumvention Inquiry

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Department) determines that imports from the People's Republic of China (PRC) of graphite electrodes, produced and/or exported by Sinosteel Jilin Carbon Co., Ltd. and Jilin Carbon Import & Export Company (collectively, Jilin Carbon), with an actual or nominal diameter of 17 inches, and otherwise meeting the description of in-scope merchandise, constitute merchandise altered in form or appearance in such minor respects that it should be included within the scope of the *Order,* pursuant to section 781(c) of the Tariff Act of 1930, as amended (the Act).[1]

DATES: *Effective Date:* September 16, 2013.

FOR FURTHER INFORMATION CONTACT: Thomas Schauer or Minoo Hatten, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC, 20230; telephone: (202) 482–0410, and (202) 482–1690, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 17, 2013, the Department published in the **Federal Register** the affirmative *Preliminary Determination* that graphite electrodes produced and/or exported by Jilin Carbon, with an actual or nominal diameter of 17 inches, and otherwise meeting the description of in-scope merchandise, constitute merchandise altered in form or appearance in such minor respects that it should be included within the scope of the *Order,* pursuant to section 781(c) of the Act.[2]

On May 15, 2013, and May 17, 2013, SGL Carbon LLC and Superior Graphite Co. (Petitioners), Jilin Carbon, and Ceramark Technology, Inc. (Ceramark) filed case briefs.[3] On May 22, 2013, Petitioners filed a rebuttal brief.[4]

On June 27, 2013, we initially contacted U.S. International Trade Commission (ITC) staff via telephone to discuss our preliminary affirmative circumvention determination[5] and on August 2, 2013, we formally notified the ITC of our *Preliminary Determination*.[6] On August 16, 2013, the ITC sent a letter in reply.[7]

Scope of the Antidumping Duty Order

The merchandise subject to the order is small diameter graphite electrodes. The small diameter graphite electrodes subject to the order is currently classifiable under the following subheadings of the Harmonized Tariff Schedule of the United States (HTSUS): 8545.11.0010,[8] 3801.10,[9] and 8545.11.0020.[10] The HTSUS subheadings are provided for convenience and customs purposes. A full description of the scope of the order is contained in the Issues and Decision Memorandum, which is hereby adopted by this notice. The written description is dispositive.

The Issues and Decision Memorandum is a public document and is on file electronically *via* Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at *http://iaaccess.trade.gov* and is available to all parties in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the Internet at *http://www.trade.gov/ia/.* The signed Issues and Decision Memorandum and the electronic versions of the Issues and Decision Memorandum are identical in content.

Scope of the Anticircumvention Inquiry

The merchandise subject to this anticircumvention inquiry consists of graphite electrodes from the PRC, produced and/or exported by Jilin Carbon, Beijing Fangda Carbon-Tech Co., Ltd. and Fangda Carbon New Material Co., Ltd., and Fushun Jinly Petrochemical Carbon, with diameters

[1] *See Antidumping Duty Order: Small Diameter Graphite Electrodes From the People's Republic of China,* 74 FR 8775 (February 26, 2009) (*Order*).

[2] *See Small Diameter Graphite Electrodes From the People's Republic of China: Affirmative Preliminary Determination of Circumvention of the Antidumping Duty Order and Intent To Rescind Later-Developed Merchandise Circumvention Inquiry,* 78 FR 22843 (April 17, 2013) (*Preliminary Determination*).

[3] *See* Petitioners' case brief dated May 17, 2013, Jilin Carbon's case brief dated May 17, 2013, and Ceramark's case brief dated May 15, 2013.

[4] *See* Petitioners' rebuttal brief dated May 22, 2013.

[5] *See* Memorandum to the file, ''Circumvention Inquiry of the Antidumping Duty Order on Small Diameter Graphite Electrodes From the People's Republic of China: Informal Telephone Consultation With the International Trade Commission'' (August 2, 2013).

[6] *See* Letter to Irving A. Williamson, Chairman, U.S. International Trade Commission, ''Small Diameter Graphite Electrodes From the People's Republic of China: Notification of Affirmative Preliminary Determination of Circumvention of the Antidumping Duty Order'' (August 2, 2013).

[7] *See* Letter from Lisa R. Barton, ''Small Diameter Graphite Electrodes From China, Commerce Anticircumvention Inquiry A–570–929'' (August 16, 2013).

[8] The scope described in the *Order* refers to the HTSUS subheading 8545.11.0000. Petitioners have informed the Department that, starting in 2010, imports of small diameter graphite electrodes are classified in the HTSUS under subheading 8545.11.0010 and imports of large diameter graphite electrodes are classified under subheading 8545.11.0020. *See* Letter from Petitioners, ''Small Diameter Graphite Electrodes: Request for Scope/Circumvention Ruling'' (April 5, 2012) at 5.

[9] HTSUS subheading 3801.10 was added to the scope of the *Order* based on a determination in a prior anticircumvention proceeding. *See Small Diameter Graphite Electrodes From the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty Order,* 77 FR 47596 (August 9, 2012).

[10] We have added this HTSUS subheading in order to capture the merchandise subject to this inquiry. *See* Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Import Administration, ''Anticircumvention Inquiry Regarding the Antidumping Duty Order on Small Diameter Graphite Electrodes From the People's Republic of China: Issues and Decision Memorandum for the Final Determination of the Anticircumvention Inquiry'' dated concurrently with this notice (Issues and Decision Memorandum) at Comment 2.

larger than 16 inches but less than 18 inches, and otherwise meeting the description of the scope of the *Order.* Consistent with the *Preliminary Determination,* we have limited the application of our affirmative final determination to graphite electrodes produced and/or exported by Jilin Carbon with an actual or nominal diameter of 17 inches because record evidence shows that among the named producers, only Jilin Carbon produces or exports merchandise subject to this proceeding and, moreover, that Jilin Carbon produces and/or exports only 17-inch diameter graphite electrodes to the United States.[11]

Analysis of Comments Received

All issues raised in the post-preliminary comments by parties in this proceeding are addressed in the Issues and Decision Memorandum. A list of the issues which the parties raised and to which the Department responds in the Issues and Decision Memorandum is attached to this notice as an appendix. The Issues and Decision Memorandum is a proprietary document with a public version, and the public version is on file electronically *via* IA ACCESS.

Final Determination

As detailed in the Issues and Decision Memorandum, we determine, pursuant to section 781(c) of the Act, that imports from the PRC of certain graphite electrodes, produced and/or exported by Jilin Carbon, with a diameter of 17 inches, and otherwise meeting the description of in-scope merchandise, constitute merchandise altered in form or appearance in such minor respects that it is properly subject to the *Order.*

Continuation of Suspension of Liquidation

As a result of this determination, and consistent with 19 CFR 351.225(l)(3), we are continuing to direct Customs and Border Protection to suspend liquidation and to require a cash deposit of estimated duties at the applicable rate on unliquidated entries of graphite electrodes, produced and/or exported by Sinosteel Jilin Carbon Co., Ltd. and Jilin Carbon Import & Export Company, with an actual or nominal diameter of 17 inches, and otherwise meeting the description of in-scope merchandise, that were entered, or withdrawn from warehouse, for consumption on or after June 25, 2012, the date of publication of the initiation of this inquiry.

Rescission of Later-Developed Merchandise Anticircumvention Inquiry

Because we are making an affirmative determination of circumvention pursuant to section 781(c) of the Act, we do not find it necessary to determine pursuant to section 781(d) of the Act whether this is later-developed merchandise that is circumventing the *Order.* Accordingly, we are rescinding the later-developed-merchandise anticircumvention inquiry.

Notification to Interested Parties

This notice serves as the only reminder to parties subject to the administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This determination of circumvention is in accordance with section 781(c) of the Act and 19 CFR 351.225(i).

Dated: September 10, 2013.

Paul Piquado,

Assistant Secretary for Import Administration.

Appendix—*Discussion of the Issues*

Comment 1: Whether Graphite Electrodes With a 17-inch Diameter Should Be Covered by the Order

Comment 2: Whether the Scope of the Order Should be Updated To Reflect Subsequent Anticircumvention Determinations

[FR Doc. 2013–22476 Filed 9–13–13; 8:45 am]

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[11] *See* Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Import Administration, ''Preliminary Analysis Memorandum for the Circumvention Inquiry of the Antidumping Duty Order on Small Diameter Graphite Electrodes From the People's Republic of China'' dated April 17, 2013, at 3–4.

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–858, C–489–817]

Certain Oil Country Tubular Goods From India and Turkey: Postponement of Preliminary Determination in the Countervailing Duty Investigations

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

FOR FURTHER INFORMATION CONTACT: Sean Carey at (202) 482–3964 (India); Shane Subler at (202) 482–0189 (Turkey), AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On July 22, 2013, the Department of Commerce (the Department) initiated the countervailing duty investigations of certain oil country tubular goods from India and Turkey.[1] Currently, the preliminary determinations are due no later than September 25, 2013.

Postponement of Due Date for the Preliminary Determination

Section 703(b)(1) of the Tariff Act of 1930, as amended (the Act), requires the Department to issue the preliminary determination in a countervailing duty investigation within 65 days after the date on which the Department initiated the investigation. However, if the Department concludes that the parties concerned in the investigation are cooperating and determines that the investigation is extraordinarily complicated, section 703(c)(1)(B) of the Act allows the Department to postpone making the preliminary determination until no later than 130 days after the date on which the administering authority initiated the investigation.

The Department has determined that the parties involved in these proceedings are cooperating, and that the investigations are extraordinarily complicated.[2] Specifically, the Department is investigating numerous alleged subsidy programs in both India and Turkey; these programs include loans, grants, income tax incentives, and the provision of goods and services for less than adequate remuneration. Due to the number and complexity of the alleged countervailable subsidy practices being investigated, we determine that these investigations are extraordinarily complicated. Therefore, in accordance with section 703(c)(1)(B) of the Act, we are fully extending the due date for the preliminary determinations to not later than 130 days after the day on which the investigations were initiated. Thus, the deadline for completion of the preliminary determinations is now Friday, November 29, 2013.

This notice is issued and published pursuant to section 703(c)(2) of the Act and 19 CFR 351.205(f)(1).

[1] *See Certain Oil Country Tubular Goods from India and Turkey: Initiation of Countervailing Duty Investigations,* 78 FR 45502 (July 29, 2013).

[2] *See* section 703(c)(1)(B) of the Act.

Dated: September 5, 2013.

Paul Piquado,

Assistant Secretary for Import Administration.

[FR Doc. 2013–22471 Filed 9–13–13; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

National Climate Assessment and Development Advisory Committee (NCADAC)

AGENCY: Office of Oceanic and Atmospheric Research (OAR), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of open meeting.

SUMMARY: The National Climate Assessment and Development Advisory Committee (NCADAC) was established by the Secretary of Commerce under the authority of the Global Change Research Act of 1990 to synthesize and summarize the science and information pertaining to current and future impacts of climate.

Time and Date: The meeting will be held October 1, 2013 from 9 a.m. to 5 p.m. and October 2, 2013 from 9 a.m. to 12 p.m. These times are subject to change. Please refer to the Web page *http://www.nesdis.noaa.gov/NCADAC/index.html* for changes and for the most up-to-date meeting agenda.

Place: The meeting will be held at the Four Points by Sheraton located at 1201 K Street NW., Washington, DC 20005. Please check the Web site *http://www.nesdis.noaa.gov/NCADAC/index.html* for confirmation of the venue and for directions.

Status: Seating will be available on a first come, first serve basis. Members of the public must RSVP in order to attend all or a portion of the meeting by contacting the NCADAC DFO (*Cynthia.Decker@noaa.gov*) by September 23, 2013. The meeting will be open to public participation with a public comment period; October 1, 2013 from 4:30 p.m. to 4:55 p.m. (check Web site to confirm time). The NCADAC expects that public statements presented at its meetings will not be repetitive of previously submitted verbal or written statements. In general, each individual or group making a verbal presentation will be limited to a total time of five (5) minutes. Individuals or groups planning to make a verbal presentation should contact the NCADAC DFO (*Cynthia.Decker@noaa.gov*) by September 23, 2013 to schedule their presentation. Written comments should be received in the NCADAC DFO's Office by September 23, 2013 to provide sufficient time for NCADAC review. Written comments received by the NCADAC DFO after September 23, 2013 will be distributed to the NCADAC, but may not be reviewed prior to the meeting date.

Special Accommodations: These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Dr. Cynthia Decker (301–563–6162, *Cynthia.decker@noaa.gov*) by September 23, 2013.

FOR FURTHER INFORMATION CONTACT: Dr. Cynthia Decker, Designated Federal Official, National Climate Assessment and Development Advisory Committee, NOAA OAR, R/SAB, 1315 East-West Highway, Silver Spring, Maryland 20910. (Phone: 301–734–1156, Fax: 301–713–1459, Email: *Cynthia.Decker@noaa.gov;* or visit the NCADAC Web site at *http://www.nesdis.noaa.gov/NCADAC/index.html.*

Dated: September 11, 2013.

Jason Donaldson,

Chief Financial Officer/Chief Administrative Officer, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. 2013–22497 Filed 9–13–13; 8:45 am]

BILLING CODE 3510–KD–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2013–OS–0193]

Proposed Collection; Comment Request

AGENCY: Defense Finance and Accounting Service (DFAS), DoD.

ACTION: Notice.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the *Paperwork Reduction Act of 1995,* the DFAS 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 November 15, 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 the Defense Finance and Accounting Services-Cleveland, 1240 East 9th Street, Cleveland, OH 44199, ATTN: Mr. Charles Moss, *charles.moss@dfas.mil,* 216–204–4426.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Representative Payee Application; DD Form X632, OMB Control Number 0730–TBD.

Needs and Uses: To establish a representative payee to receive survivor annuity payments on behalf of a minor, mentally incompetent, or otherwise legally disabled person for whom a guardian or other fiduciary has not been appointed.

Affected Public: Individuals or households.

Annual Burden Hours: 300 hours.

Number of Respondents: 300.

Responses per Respondent: 1.

Average Burden per Response: 1 hour.

Frequency: On occasion.

The form is used by the Directorate of Retired and Annuity Pay, Defense Finance and Accounting Service, in order to establish a representative payee to receive survivor annuity payments.

Dated: September 11, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–22467 Filed 9–13–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2013–HA–0192]

Proposed Collection; Comment Request

AGENCY: Office of the Assistant Secretary of Defense for Health Affairs, DoD.

ACTION: Notice.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the *Paperwork Reduction Act of 1995,* the Office of the Assistant Secretary of Defense for Health Affairs 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 November 15, 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 the National Center for Telehealth and Technology (T2), OMAMC 9933 West Hayes ST, Joint Base Lewis-McChord 98433 or call (253) 968–4838.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Department of Defense Suicide Event Report, 0720–TBD.

Needs and Uses: This data system will provide integrated enterprise and survey data to be used for direct reporting of suicide events and ongoing population-based health surveillance activities. These surveillance activities include the systematic collection, analysis, interpretation, and reporting of outcome-specific data for use in planning, implementation, evaluation, and prevention of suicide behaviors within the Department of Defense. Data is collected on individuals with reportable suicide and self-harm behaviors (to include suicide attempts, self harm behaviors, and suicidal ideation). All other DoD active and reserve military personnel records collected without evidence of reportable suicide and self-harm behaviors will exist as a control group. Records are integrated from enterprise systems and created and revised by civilian and military personnel in the performance of their duties.

Affected Public: Individuals and households.

Annual Burden Hours: 330.

Number of Respondents: 1975.

Responses per Respondent: 1.

Average Burden per Response: 10 minutes.

Frequency: As required by a qualifying event.

Form completers are behavioral and medical health providers, military unit leadership or their designees. The DoDSER form is used to collect information regarding suicide events of military service members. Form completers collect information from military personnel records, military medical records, enterprise data systems within the DoD and persons (respondent) familiar with the event details. Respondents include but are not limited to family members, friends, unit members, unit leadership and clergy members. The DoDSER form data is used to produce ad hoc reports for services leadership and the DoDSER Annual Report. The annual report is a comprehensive on the data collected which provides information for the DoD suicide prevention effort.

Dated: September 11, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–22461 Filed 9–13–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2013–ICCD–0093]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Program for International Student Assessments (PISA) Validation Study

AGENCY: Institute of Education Sciences/National Center for Education Statistics (IES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before October 16, 2013.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2013–ICCD–0093 or via postal mail, commercial delivery, or hand delivery. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E103, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For questions related to collection activities or burden, please call Katrina Ingalls, 703–620–3655 or electronically mail *ICDocketMgr@ed.gov.* Please do not send comments here.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection

necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Program for International Student Assessments (PISA) Validation Study.

OMB Control Number: 1850–NEW.

Type of Review: A new collection.

Respondents/Affected Public: Individuals or households.

Total Estimated Number of Annual Responses: 5,810.

Total Estimated Number of Annual Burden Hours: 2,240.

Abstract: PISA (Program for International Student Assessment OMB #1850–0755) is an international assessment of 15-year-olds designed to evaluate, at the end of compulsory education, how well students are prepared for further education or entry into the workforce and, more fundamentally, to contribute to society as functioning young adults. However, PISA has been implemented as a cross-sectional study and, thus, the claim that PISA assesses key competencies for later success has never been tested in the United States. What is lacking is an empirical linkage between PISA and measures of successful transition from high school to postsecondary education, the workforce, or the types of skills required for successful participation in adult life. This Validation Study is designed to provide this empirical linkage. (A separate OMB number is being requested for this clearance since it is a separate study from the PISA #1850–0755 collection.) Students in the U.S. who participated in PISA in 2012 and supplied contact information will be contacted in early 2013 and invited to participate in the PISA Validation Study. In 2015, when these students will be 18 years old, they will be asked to complete an online questionnaire and assessment, based on those used in the Program for the International Assessment of Adult Competencies (PIAAC), assessing their literacy, numeracy, and problem-solving skills, and asking them about their educational attainment, education and work experiences, skills used in daily life, and aspects of health and well-being. This submission is for address updates of both filed trial and main study sample members, and will be followed in 2014 by requests for field test and main study recruitment and data collections activities.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2013–22473 Filed 9–13–13; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2013–ICCD–0123]

Agency Information Collection Activities; Comment Request; Lender's Request for Payment of Interest and Special Allowance—LaRS

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before November 15, 2013.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2013–ICCD–0123 or via postal mail, commercial delivery, or hand delivery. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E103, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For questions related to collection activities or burden, please call Kate Mullan, 202–401–0563 or electronically mail *ICDocketMgr@ed.gov.* Please do not send comments here.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Lender's Request for Payment of Interest and Special Allowance—LaRS.

OMB Control Number: 1845–0013.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: State, Local, or Tribal Governments.

Total Estimated Number of Annual Responses: 8,232.

Total Estimated Number of Annual Burden Hours: 20,066.

Abstract: The Lender's Request for Payment of Interest and Special Allowance (ED Form 799) is used by approximately 2,900 lenders participating in Title IV, Part B loan programs. The ED Form 799 is used to pay interest and special allowance to holders of the Part B loans; and to capture quarterly data from lender's loan portfolio for financial and budgetary projections.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2013–22430 Filed 9–13–13; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Adjustment of Indemnification for Inflation

AGENCY: Office of General Counsel, U.S Department of Energy.

ACTION: Notice of adjusted indemnification amount.

SUMMARY: The Department of Energy (DOE) is announcing the adjusted

amount of indemnification provided under subsection 170d. of the Atomic Energy Act of 1954 (AEA), 42 U.S.C. 2210d., commonly known as the Price-Anderson Act. Subsection 170t. of the AEA requires an inflation adjustment of the indemnification amount at least once during each 5-year period following July 1, 2003, in accordance with the aggregate percentage change in the Consumer Price Index (CPI) . This notice announces $12,697,798,000 as the second inflation-adjusted amount based on the aggregate percentage change in the CPI during the 5-year period from July 2008 to July 2013.

DATES: This action is effective September 16, 2013.

FOR FURTHER INFORMATION CONTACT: Sophia Angelini, Attorney Advisor (GC–52), Office of the General Counsel, U.S. Department of Energy, 1000 Independence Ave. SW., Washington, DC 20585, (202) 586–0319.

SUPPLEMENTARY INFORMATION: The Price-Anderson Act, section 170 of the AEA (42 U.S.C. 2210), establishes a system of financial protection for persons who may be liable for a ''nuclear incident,'' as defined at section 11q. of the AEA (42 U.S.C. 2014q.). The Price-Anderson Act is administered by the DOE with respect to the nuclear activities of contractors acting on DOE's behalf. Subsection 170d. provides that the Secretary of Energy shall enter into agreements of indemnification with any person who may conduct activities under a contract with DOE that involve the risk of public liability and that are not subject to the financial protection requirements of the Nuclear Regulatory Commission system. DOE's Price-Anderson Act indemnification contract provisions are codified in the Department of Energy Acquisition Regulation (DEAR), which sets forth a standard nuclear indemnification clause, the Nuclear Hazard Indemnity Clause at 48 CFR 952.250–70, that is incorporated into all DOE contracts and subcontracts involving source, special nuclear, or by-product material.

Subsection 170t.(2) of the AEA requires that the Secretary adjust for inflation the amount of indemnification provided under an indemnification agreement pursuant to subsection 170d. at least once during each 5-year period following July 1, 2003, in accordance with the aggregate percentage change in the Consumer Price Index (CPI). The CPI is defined in subsection 170t.(3) to mean the CPI for all urban consumers published by the Secretary of Labor. DOE's initial adjustment increased the indemnification amount to $11.961 billion, 74 FR 52793 (October 14, 2009).

This notice announces DOE's second periodic inflation adjustment for the 5-year period following July 1, 2013 based on the aggregate percentage change in the CPI between July 1, 2008 and July 1, 2013.

The CPI in July 2008 was 219.964. In June 2013, the CPI was 233.504. This difference represents an increase of approximately 6.16%. Application of this increase to the initial inflation-adjusted $11.961 billion DOE indemnification amount results in an inflation-adjusted indemnification amount rounded to the nearest thousand of $12,697,798,000.

The inflation adjustment under AEA, subsection 170t., applies only to a nuclear incident within the United States. There is no corresponding inflation adjustment for a nuclear incident outside the United States. Accordingly, the indemnification amount for a nuclear incident outside the United States continues to be $500 million.

The next inflation adjustment will be based on the incremental change in the CPI between July 1, 2013 and the date of the adjustment, which will be no later than July 1, 2018.

This notice of indemnification inflation adjustment is a ''rule'' as defined in the Administrative Procedure Act (APA) (5 U.S.C. 551(4)). However, the APA (5 U.S.C. 553(b)(B)) does not require an agency to use the public notice and comment process ''when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefore in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'' In this instance, DOE has concluded that solicitation of public comment is unnecessary. Congress has required DOE to adjust the amount of indemnification provided under an agreement of indemnification pursuant to section 170d. to reflect inflation in the initial and each subsequent 5-year period following July 1, 2003. The statute provides no discretion regarding the substance of the adjustment. DOE is required only to perform a ministerial computation to determine the relevant amount. On the same basis, DOE finds good cause, pursuant to 5 U.S.C. 553(d)(3) to waive the requirement for a 30-day delay in the effective date for this rule. As such, this rule is effective September 16, 2013.

DOE has determined that this notice of indemnification inflation adjustment is the type of action that does not individually or cumulatively have a significant impact on the human environment as set forth in DOE's regulations implementing the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Specifically, the rule is covered under the categorical exclusion in paragraph A6 of Appendix A to subpart D, 10 CFR part 1021, which applies to rulemakings that are strictly procedural. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

Issued in Washington, DC, on September 6, 2013.

Ernest J. Moniz,

Secretary of Energy.

[FR Doc. 2013–22494 Filed 9–13–13; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Nuclear Infrastructure Programmatic Environmental Impact Statement Supplement Analysis Determination for Plutonium-238 Production for Radioisotope Power Systems

AGENCY: Department of Energy.

ACTION: Notice of availability of supplement analysis and determination.

SUMMARY: The Department of Energy (DOE) has completed the Supplement Analysis (SA) of the *Programmatic Environmental Impact Statement for Accomplishing Expanded Civilian Nuclear Energy Research and Development and Isotope Production Missions in the United States, Including the Role of the Fast Flux Test Facility* (Nuclear Infrastructure or NI PEIS) (DOE/EIS–0310) published in December 2000. In accordance with DOE's National Environmental Policy Act (NEPA) Implementing Procedures at 10 CFR 1021.314, DOE has determined that the SA has not identified substantial changes to the original proposal for production of Pu-238 analyzed in the NI PEIS or significant new circumstances or information relevant to environmental concerns which would warrant preparation of a supplement to the NI PEIS or a new EIS and that the NI PEIS Record of Decision (ROD) published on January 26, 2001 (66 FR 7877) may be implemented without any additional NEPA review.

FOR FURTHER INFORMATION CONTACT: For further information on the Pu-238 Production Program, please contact: Ms. Rebecca Onuschak, Pu-238 Production Program Manager, Office of Space and Defense Power Systems (NE–75), Office of Nuclear Energy, U.S. Department of Energy, 1000 Independence Ave. SW., Washington, DC 20585, Phone 301–903–0023, *Rebecca.onuschak@nuclear.energy.gov.*

For copies of the SA and the Determination or information on NEPA analysis for Pu-238 production, please contact:

Dr. Rajendra Sharma, NEPA Compliance Officer, Office of Nuclear Energy (NE–31), U.S. Department of Energy, 1000 Independence Ave. SW., Washington, DC 20585, Phone 301–903–2899, *rajendra.sharma@nuclear.energy.gov.*

For general information on the DOE NEPA process, please contact: Ms. Carol Borgstrom, Director, Office of NEPA Policy and Compliance (GC–54), U.S. Department of Energy, 1000 Independence Ave. SW., Washington, DC 20585, Phone 202–586–4600; leave a message at 1–800–472–2756; facsimile 202–586–7031; or send email to: *asknepa@hq.doe.gov.*

SUPPLEMENTARY INFORMATION

Background

DOE published a **Federal Register** notice (78 FR 1848) on January 9, 2013, to announce its intent to implement the decision made in 2001 for production of Pu-238, which was based on the analyses conducted in the NI PEIS (DOE/EIS–0310) issued in 2000. Because the NI PEIS was published 13 years ago, the Department decided to conduct a supplement analysis of the NI PEIS to ascertain if there are significant new circumstances or new information relevant to environmental concerns which should be analyzed prior to implementing the 2001 decision.

This NI PEIS SA (DOE/EIS–0310–SA–02) was prepared in accordance with DOE's NEPA Implementing Procedures at 10 CFR 1021.314. The relevant environmental aspects analyzed in the NI PEIS were re-analyzed, as necessary, with updated information. The Department also analyzed the alternatives which were evaluated in the NI PEIS, including any additional reasonable alternatives that may warrant analysis and consideration in the SA. The proposed action as analyzed in the NI PEIS has not changed except for the change in storage location of neptunium-237 (Np-237, the target material) from the Oak Ridge National Laboratory (ORNL) in Tennessee to the Materials and Fuels Complex at the Idaho National Laboratory (INL) in Idaho. After completing an earlier SA (DOE/EIS–0310–SA–01), the Department published an Amended Record of Decision for this change of storage location in August 2004 (69 FR 50180). After completing this SA, the Department has determined that the analysis contained in the NI PEIS, including the analysis of alternatives, is still valid. There are no significant new circumstances or information relevant to environmental concerns which would warrant preparation of a supplement to the NI PEIS or a new EIS. Therefore, the Department reaffirms the decision made in the NI PEIS ROD (January 26, 2001; 66 FR 7877) for production of up to five kilograms of Pu-238 per year using the Advanced Test Reactor at INL and the High Flux Isotope Reactor at ORNL to irradiate Np-237 targets, and using the Radiochemical Engineering Development Center (REDC) at ORNL to fabricate Np-237 targets and isolate Pu-238. The processing of Pu-238 into fuel pellets at the Los Alamos National Laboratory (LANL) in New Mexico and assembly and testing of radioisotope power systems (RPSs) at INL in existing facilities will continue as ongoing operations. The RPSs are used to support the National Aeronautics and Space Administration and national security missions.

The NI PEIS SA, including the determination, has been posted on the DOE NEPA Web site at *http://energy.gov/nepa/supplement-analyses-sa*, with internet links provided on the Office of Nuclear Energy (*http://energy.gov/ne/*), Idaho Operations Office (*http://www.id.energy.gov/insideNEID/PublicInvolvement.htm*), and Oak Ridge Office (*http://www.oakridge.doe.gov/external/*) Web sites. Copies of the SA and the determination have been placed in the DOE public reading room(s) in Washington, DC; Idaho Falls, Idaho; and Oak Ridge, Tennessee; for a reasonable period of time. Copies may also be requested from Dr. Rajendra Sharma at the address provided above.

Issued in Washington, DC, on September 10, 2013.

Peter B. Lyons,

Assistant Secretary for Nuclear Energy.

[FR Doc. 2013–22452 Filed 9–13–13; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

DOE/NSF Nuclear Science Advisory Committee

AGENCY: Office of Science, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the DOE/NSF Nuclear Science Advisory. Committee (NSAC). The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Monday, October 7, 2013, 9:00 a.m.–5:00 p.m.

ADDRESSES: Gaithersburg Marriott Washingtonian Center, 9751 Washingtonian Boulevard, Gaithersburg, Maryland 20878, 301–590–0044.

FOR FURTHER INFORMATION CONTACT: Brenda L. May, U.S. Department of Energy; SC–26, Germantown Building, 1000 Independence Avenue SW., Washington, DC 20585–1290; Telephone: 301–903–0536

SUPPLEMENTARY INFORMATION:

Purpose of Meeting: To provide advice and recommendations to the Department of Energy and the National Science Foundation on scientific priorities within the field of basic nuclear science research.

Tentative Agenda: Agenda will include discussions of the following:

Monday, October 7, 2013

- Perspectives from Department of Energy and National Science Foundation
- Update from the Department of Energy and National Science Foundation's Nuclear Physics Office's
- The 2013 ONP Comparative Research Review
- Presentation of the Charge on Neutrino-less Double Beta
- Presentation of the Charge on NNSA Development of Mo–99 Domestic Supply
- Public Comment (10-minute rule)

Note: The NSAC Meeting will be broadcast live on the Internet. You may find out how to access this broadcast by going to the following site prior to the start of the meeting. A video record of the meeting, including the presentations that are made will be archived at this site after the meeting ends: *www.tvworldwide.com/events/doe/131007*.

Public Participation: The meeting is open to the public. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make oral statements regarding any of these items on the agenda, you should contact Brenda L. May by telephone at: 301–903–0536 or *Brenda.May@science.doe.gov* (email). You must make your request for an oral statement at least 5 business days before the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chairperson of the Committee will conduct the meeting to facilitate the orderly conduct of business. Public comment will follow the 10-minute rule.

Minutes: The minutes of the meeting will be available on the U.S. Department of Energy's Nuclear Science Advisory Committee Web site—*http://science.energy.gov/np/nsac.*

Issued at Washington, DC, on September 10, 2013.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2013–22455 Filed 9–13–13; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Advanced Scientific Computing Advisory Committee

AGENCY: Office of Science, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Advanced Scientific Computing Advisory Committee (ASCAC). The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the Federal Register.

DATES: Tuesday, October 8, 2013, 9:00 a.m.–5:00 p.m.; Wednesday, October 9, 2013, 9:00 a.m.–12:00 p.m.

ADDRESSES: American Geophysical Union, (AGU), 2000 Florida Avenue NW., Washington, DC 20009–1277.

FOR FURTHER INFORMATION CONTACT: Melea Baker, Office of Advanced Scientific Computing Research; SC–21/Germantown Building; U.S. Department of Energy; 1000 Independence Avenue SW.; Washington, DC 20585–1290; Telephone (301) 903–7486.

SUPPLEMENTARY INFORMATION:

Purpose of the Meeting: The purpose of this meeting is to provide advice and recommendations to the Department of Energy on scientific priorities within the field of advanced scientific computing research.

Tentative Agenda Topics

- View from Washington
- View from Germantown
- Update on Exascale
- Update from Exascale technical approaches subcommittee
- Facilities update
- Report from Applied Math Committee of Visitors
- Exascale technical talks
- Public Comment (10-minute rule)

Public Participation: The meeting is open to the public. A Webcast of this meeting will be available. Please check the Web site below for updates and information on how to view the meeting. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make oral statements regarding any of the items on the agenda, you should contact Melea Baker by telephone at: (301) 903–7486 or email: (*Melea.Baker@science.doe.gov*). You must make your request for an oral statement at least five business days prior to the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chairperson of the Committee will conduct the meeting to facilitate the orderly conduct of business. Public comment will follow the 10-minute rule.

Minutes: The minutes of this meeting will be available for viewing on the U.S. Department of Energy's Office of Advanced Scientific Computing Web site at *http://science.energy.gov/ascr*.

Issued at Washington, DC, on September 10, 2013.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2013–22457 Filed 9–13–13; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Portsmouth

AGENCY: Department of Energy (DOE).

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Portsmouth. 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, October 2, 2013, 6:00 p.m.

ADDRESSES: Ohio State University, Endeavor Center, 1862 Shyville Road, Piketon, Ohio 45661.

FOR FURTHER INFORMATION CONTACT: Greg Simonton, Alternate Deputy Designated Federal Officer, Department of Energy Portsmouth/Paducah Project Office, Post Office Box 700, Piketon, Ohio 45661, (740) 897–3737, *Greg.Simonton@lex.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

- Call to Order, Introductions, Review of Agenda
- Approval of July Minutes
- Deputy Designated Federal Officer's Comments
- Federal Coordinator's Comments
- Liaison's Comments
- Presentation
- Administrative Issues
  - Annual Executive Planning and Leadership Training Session Update
- Subcommittee Updates
- Election of Chair and Vice Chair
- Adoption of Fiscal Year 2014 Work Plan
- Public Comments
- Final Comments From the Board
- Adjourn

Public Participation: The meeting is open to the public. The EM SSAB, Portsmouth, 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 Greg Simonton 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 statements pertaining to agenda items should contact Greg Simonton at the address or telephone number listed above. Requests 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 will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Greg Simonton at the address and phone number listed above. Minutes will also be available at the following Web site: *http://www.ports-ssab.energy.gov/.*

Issued at Washington, DC, on September 10, 2013.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2013–22453 Filed 9–13–13; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 7477–013]

SilverStreet Hydro, LLC; Ampersand Olcott Harbor Hydro, LLC; Notice of Transfer of Exemption

1. By letter filed August 26, 2013, Ampersand Olcott Harbor Hydro, LLC

informed the Commission that the exemption from licensing for the Burt Dam Project, FERC No. 9403, originally issued May 15, 1986,[1] has been transferred from SilverStreet Hydro, LLC to Ampersand Olcott Harbor Hydro, LLC, effective August 9, 2013. The project is located on the Eighteenmile Creek in Niagara County, New York. The transfer of an exemption does not require Commission approval.

2. Ampersand Olcott Harbor Hydro, LLC located at 717 Atlantic Avenue, Suite 1A, Boston, MA 02111, is now the exemptee of the Burt Dam Project, FERC No. 7477.

Dated: September 10, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–22435 Filed 9–13–13; 8:45 am]

BILLING CODE 6717–01–P

[1] 35 FERC ¶ 62,329, Order Granting Exemption from Licensing (5 MW or Less).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CD13–3–000]

City of Barre, Vermont; Notice of Preliminary Determination of a Qualifying Conduit Hydropower Facility and Soliciting Comments and Motions To Intervene

On August 29, 2013, City of Barre, Vermont filed a notice of intent to construct a qualifying conduit hydropower facility, pursuant to section 30 of the Federal Power Act, as amended by section 4 of the Hydropower Regulatory Efficiency Act of 2013 (HREA). The Nelson Street 17 kW In-Conduit Hydroelectric Net-Metered Project would be located on the City of Barre, Washington County, Vermont's water supply system that runs from the Barre Water Treatment Facility for distribution in the City of Barre, Vermont.

Applicant Contact: Steve Mackenzie, City Manager, City of Barre, 6 North Main Street, Barre, VT 05641, Phone No. (802) 476–0241.

FERC Contact: Robert Bell, Phone No. (202) 502–6062, email: *robert.bell@ferc.gov*.

Qualifying Conduit Hydropower Facility Description: The proposed project would consist of: (1) A new eight-inch diameter intake pipeline receiving water flows from an existing 12-inch diameter pipeline; (2) an existing pressure reducing vault, containing one 17-kilowatt generating unit; (3) a new eight-inch diameter discharge pipeline leading to an existing 16-inch diameter, low pressure pipeline; and (4) appurtenant facilities. The proposed project would have an estimated annual generating capacity of 92 megawatt-hours.

A qualifying conduit hydropower facility is one that is determined or deemed to meet all of the criteria shown in the table below.

TABLE 1—CRITERIA FOR QUALIFYING CONDUIT HYDROPOWER FACILITY

Statutory provision	*Description*	*Satisfies (Y/N)*
FPA 30(a)(3)(A), as amended by HREA ...	The conduit the facility uses is a tunnel, canal, pipeline, aqueduct, flume, ditch, or similar manmade water conveyance that is operated for the distribution of water for agricultural, municipal, or industrial consumption and not primarily for the generation of electricity.	Y
FPA 30(a)(3)(C)(i), as amended by HREA	The facility is constructed, operated, or maintained for the generation of electric power and uses for such generation only the hydroelectric potential of a non-federally owned conduit.	Y
FPA 30(a)(3)(C)(ii), as amended by HREA	The facility has an installed capacity that does not exceed 5 megawatts.	Y
FPA 30(a)(3)(C)(iii), as amended by HREA.	On or before August 9, 2013, the facility is not licensed, or exempted from the licensing requirements of Part I of the FPA.	Y

Preliminary Determination: Based upon the above criteria, Commission staff preliminarily determines that the proposal satisfies the requirements for a qualifying conduit hydropower facility not required to be licensed or exempted from licensing.

Comments and Motions to Intervene: Deadline for filing comments contesting whether the facility meets the qualifying criteria is 45 days from the issuance date of this notice.

Deadline for filing motions to intervene is 30 days from the issuance date of this notice.

Anyone may submit comments or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210 and 385.214. Any motions to intervene must be received on or before the specified deadline date for the particular proceeding.

Filing and Service of Responsive Documents: All filings must (1) bear in all capital letters the ''COMMENTS CONTESTING QUALIFICATION FOR A CONDUIT HYDROPOWER FACILITY'' or ''MOTION TO INTERVENE,'' as applicable; (2) state in the heading the name of the applicant and the project number of the application to which the filing responds; (3) state the name, address, and telephone number of the person filing; and (4) otherwise comply with the requirements of sections 385.2001 through 385.2005 of the Commission's regulations.[1] All comments contesting Commission staff's preliminary determination that the facility meets the qualifying criteria must set forth their evidentiary basis.

The Commission strongly encourages electronic filing. Please file motions to intervene and comments using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp*. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp*. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov*, (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed

[1] 18 CFR 385.2001–2005 (2013).

in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Locations of Notice of Intent: Copies of the notice of intent can be obtained directly from the applicant or such copies can be viewed and reproduced at the Commission in its Public Reference Room, Room 2A, 888 First Street NE., Washington, DC 20426. The filing may also be viewed on the web at *http://www.ferc.gov/docs-filing/elibrary.asp* using the ''eLibrary'' link. Enter the docket number (e.g., CD13–3–000) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659.

Dated: September 10, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–22434 Filed 9–13–13; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: The Federal Communications Commission (FCC), as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act (PRA) of 1995. Comments are requested concerning whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before November 15, 2013. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0221.

Title: Section 90.155, Time in Which Station Must Be Placed in Operation.

Form No.: FCC Form 601.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, and State, Local or Tribal Government.

Number of Respondents and Responses: 490 respondents; 1,104 responses.

Estimated Time per Response: 1 hour.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in 47 U.S.C. 154(i), 161, 303(r), 303(g), 332(c)(7), unless otherwise noted.

Total Annual Burden: 1,104 hours.

Annual Cost Burden: None.

Privacy Act Impact Assessment: None.

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

Needs and Uses: Section 90.155(b) provides that a period longer than 12 months may be granted to local government entities to place their stations in operation on a case-by-case basis upon a showing of need. This rule provides flexibility to state and local governments. An application for extension of time to commence service may be made on FCC Form 601. Extensions of time must be filed prior to the expiration of the construction period. Extensions will be granted only if the licensee shows that the failure to commence service is due to causes beyond its control.

Section 90.155(d)—In 1995, via a *Report and Order* in PR Docket No. 93–61; FCC 95–41, published at 60 FR 15248, the Commission established construction deadlines for Location and Monitoring Service (LMS) licensees in the market-licensed multilateration LMS services. On July 8, 2004, the Commission adopted a *Report and Order* under WT Docket Nos. 02–381, 01–14, and 03–202; FCC 04–166, published at 69 FR 75144, that amended § 90.155(d) to provide holders of multilateration location service authorizations with five- and ten-year benchmarks to place in operation their base stations that utilize multilateration technology to provide multilateration location service to one-third of the Economic Area's (EA's) population within five years of initial license grant, and two-thirds of the population within ten years. At the five- and ten-year benchmarks, licensees are required to file a map and FCC Form 601 showing compliance with the coverage requirements pursuant to § 1.946 of the Commission's rules.

On January 31, 2007, via an *Order on Reconsideration, and Memorandum Opinion and Order,* under DA 07–479, the FCC granted two to three additional years to meet the five-year construction requirement for certain multilateration Location and Monitoring Service Economic Area licenses, and extended the 10-year requirement for such licenses two years.

These requirements will be used by Commission personnel to evaluate whether or not certain licensees are providing substantial service as a means of complying with their construction requirements, or have demonstrated that an extended period of time for construction is warranted.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2013–22447 Filed 9–13–13; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: The Federal Communications Commission (FCC), as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to take this

opportunity to comment on the following information collection, as required by the Paperwork Reduction Act (PRA) of 1995. Comments are requested concerning whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before November 15, 2013. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0360.

Title: Section 80.409, Station Logs (Maritime Services).

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities, not-for-profit institutions, and state, local and tribal government.

Number of Respondents: 19,919 respondents; 19,919 responses.

Estimated Time per Response: 27.3–95 hours.

Frequency of Response: Recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in 47 U.S.C. 151–155 and 301–609.

Total Annual Burden: 561,188 hours.

Annual Cost Burden: N/A.

Privacy Act Impact Assessment: This collection does not address any private matters of a sensitive nature.

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

Needs and Uses: The Commission will submit this extension (no change in the recordkeeping requirement) to the OMB after this 60 day comment period to obtain the full three-year clearance from them. The information collection requirements are as follows:

Section 80.409(c), Public Coast Station Logs: This requirement is necessary to document the operation and public correspondence of public coast radio telegraph, public coast radiotelephone stations, and Alaska public-fixed stations, including the logging of distress and safety calls where applicable. Entries must be made giving details of all work performed which may affect the proper operation of the station. Logs must be retained by the licensee for a period of two years from the date of entry, and, where applicable, for such additional periods such as logs relating to a distress situation or disaster must be retained for three years from the date of entry in the log. If the Commission has notified the licensee of an investigation, the related logs must be retained until the licensee is specifically authorized in writing to destroy them. Logs relating to any claim or complaint of which the station licensee has notice must be retained until the claim or complaint has been satisfied or barred by statute limiting the time for filing suits upon such claims.

Section 80.409(d), Ship Radiotelegraph Logs: Logs of ship stations which are compulsorily equipped for radiotelegraphy and operating in the band 90 to 535 kHz must contain specific information in log entries according to this subsection.

Section 80.409(e), Ship Radiotelephone Logs: Logs of ship stations which are compulsorily equipped for radiotelephony must contain specific information in applicable log entries and the time of their occurrence.

The recordkeeping requirements contained in section 80.409 is necessary to document the operation and public correspondence service of public coast radiotelegraph, public coast radiotelephone stations and Alaska-public fixed stations, ship radiotelegraph, ship radiotelephone and applicable radiotelephone including the logging of distress and safety calls where applicable.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2013–22446 Filed 9–13–13; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[AU Docket No. 13–53; DA 13–1876]

Comment Sought on Petition for Reconsideration of Auction 902 Procedures Public Notice

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document announces that on September 6, 2013, Smith Bagley, Inc. (SBI) filed a petition requesting that the Commission's Wireless Telecommunications Bureau and Wireline Competition Bureau reconsider their decision to deny SBI's request that additional census blocks in the northwestern region of New Mexico be included in the list of eligible areas for the Tribal Mobility Fund Phase I auction, Auction 902. This document seeks comment on SBI's Petition for Reconsideration.

DATES: Oppositions are due on or before September 16, 2013, and Replies to Oppositions are due on or before September 23, 2013.

ADDRESSES: All filings in response to this public notice must refer to AU Docket No. 13–53. The Wireless Telecommunications Bureau and Wireline Competition Bureau strongly encourage the use of electronic filing to facilitate expeditious review of the record in light of the schedule for this upcoming auction, and request that an additional copy of all oppositions and replies be submitted electronically to the following address: *auction902@fcc.gov.* Comments may be submitted by any of the following methods:

- *Electronic Filers:* Federal Communications Commission's Web site: *http://fjallfoss.fcc.gov/ecfs2/.* Follow the instructions for submitting comments.
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Attn: WTB/ASAD, Office of the Secretary, Federal Communications Commission.
- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th Street SW., Room TW–A325, Washington, DC 20554. The filing hours are 8 a.m. to 7 p.m. Eastern Time. All hand deliveries must be held together

with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.

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

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

• People with Disabilities: 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 FURTHER INFORMATION CONTACT: Patricia Robbins, Wireless Telecommunications Bureau, Auctions and Spectrum Access Division at (202) 418–0660.

SUPPLEMENTARY INFORMATION: This is a summary of the *Auction 902 Petition for Reconsideration Public Notice* released on September 9, 2013. The complete text of the *Auction 902 Petition for Reconsideration Public Notice,* including related Commission documents, is available for public inspection and copying from 8:00 a.m. to 4:30 p.m. Eastern Time (ET) Monday through Thursday or from 8:00 a.m. to 11:30 a.m. ET on Fridays in the FCC Reference Information Center, 445 12th Street SW., Room CY–A257, Washington, DC 20554. The *Auction 902 Petition for Reconsideration Public Notice* and related Commission documents also may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCPI), 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone 202–488–5300, fax 202–488–5563, or you may contact BCPI at its Web site: *http://www.BCPIWEB.com.* When ordering documents from BCPI, please provide the appropriate FCC document number, for example, DA 13–1876 for the *Auction 902 Petition for Reconsideration Public Notice.* The *Auction 902 Petition for Reconsideration Public Notice* and related documents also are available on the Internet at the Commission's Web site: *http://wireless.fcc.gov/auctions/902/,* or by using the search function for AU Docket No. 13–53 on the Commission's Electronic Comment Filing System (ECFS) Web page at *http://www.fcc.gov/cgb/ecfs/.* This matter shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules.

Federal Communications Commission.

Gary Michaels,

Deputy Chief, Auctions and Spectrum Access Division, WTB.

[FR Doc. 2013–22482 Filed 9–13–13; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[AU Docket No. 13–53; DA 13–1672]

Tribal Mobility Fund Phase I Auction Rescheduled for December 19, 2013; Notice and Filing Requirements and Other Procedures for Auction 902

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Wireless Telecommunications Bureau and the Wireline Competition Bureau (the Bureaus) announce the procedures and filing requirements for a reverse auction to award up to $50 million in one-time Tribal Mobility Fund Phase I support and reschedule the auction to be held on December 19, 2013. The Bureaus also announce the availability of eligible area data in various formats.

DATES: Short-form applications, FCC Form 180, are due prior to 6:00 p.m. on October 9, 2013.

FOR FURTHER INFORMATION CONTACT: *Wireless Telecommunications Bureau, Auctions and Spectrum Access Division:* For Tribal Mobility Fund Phase I questions: Patricia Robbins at (202) 418–0660; for auction process questions: Lisa Stover at (717) 338–2868. *Wireline Competition Bureau, Telecommunications Access Policy Division:* For general universal service questions: Alex Minard at (202) 418–7400. *Consumer and Governmental Affairs Bureau, Office of Native Affairs and Policy:* For questions regarding Tribal lands and Tribal governments: Geoffrey Blackwell at (202) 418–3629 or Irene Flannery at (202) 418–1307.

SUPPLEMENTARY INFORMATION: This is a summary of the *Auction 902 Procedures Public Notice* released on August 7, 2013. The complete text of the *Auction 902 Procedures Public Notice,* including attachments and related Commission documents, is available for public inspection and copying from 8:00 a.m. to 4:30 p.m. Eastern Time (ET) Monday through Thursday or from 8:00 a.m. to 11:30 a.m. ET on Fridays in the FCC Reference Information Center, 445 12th Street SW., Room CY–A257, Washington, DC 20554. The *Auction 902 Procedures Public Notice* and related Commission documents also may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCPI), 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone 202–488–5300, fax 202–488–5563, or you may contact BCPI at its Web site: *http://www.BCPIWEB.com.* When ordering documents from BCPI, please provide the appropriate FCC document number, for example, DA 13–1672 for the *Auction 902 Procedures Public Notice.* The *Auction 902 Procedures Public Notice* and related documents also are available on the Internet at the Commission's Web site: *http://wireless.fcc.gov/auctions/902/* or by using the search function for AU Docket No. 13–53 on the Commission's Electronic Comment Filing System (ECFS) Web page at *http://www.fcc.gov/cgb/ecfs/*

I. Introduction and Summary

1. The Bureaus establish the procedures that will apply to the reverse auction that will award up to $50 million in one-time Tribal Mobility Fund Phase I support. This auction, which is designated as Auction 902, is rescheduled to be held on December 19, 2013. The *Auction 902 Procedures Public Notice* establishes the procedures, terms, and conditions governing Auction 902, including the pre- and post-auction application processes, and provides other important information for parties that wish to seek Tribal Mobility Fund Phase I support.

2. Auction 902 will award one-time support to carriers that commit to provide 3G or better mobile voice and broadband services to Tribal lands that lack such services. Support will be allocated to maximize the population covered by new mobile services without exceeding the budget of $50 million. Winning bidders will be obligated to choose whether to deploy 3G service within two years or 4G service within three years after the award of support.

3. Auction 902 will award high-cost universal service support through reverse competitive bidding. The *USF/ICC Transformation Order,* 76 FR 73830, November 29, 2011 and 76 FR 81562, December 28, 2011, established the Mobility Fund as a universal service support mechanism dedicated expressly to mobile services and adopted rules for distribution of the $50 million budget for Tribal Mobility Fund Phase I. The Commission concluded in the *USF/ICC Transformation Order* that a population-based metric is appropriate for the Tribal Mobility Fund Phase I auction. In the *USF/ICC Transformation Order,* the Commission delegated authority to the Bureaus to implement Tribal Mobility

Fund Phase I, including the authority to prepare for and conduct an auction and administer program details. On March 29, 2013, the Bureaus released the *Auction 902 Comment Public Notice,* 78 FR 21355, April 10, 2013, which provided a summary of census blocks potentially eligible for Tribal Mobility Fund Phase I support, announced the availability on the web of the complete list of potentially eligible census blocks, and sought comment on whether census blocks should be added to or removed from the list of potentially eligible blocks on Tribal lands, on the details of auction procedures, and on certain related program requirements for Auction 902.

4. After considering the record encompassing 44 separate filings in response to the *Auction 902 Comment Public Notice,* the Bureaus, among other things: (1) Provide an updated summary of census blocks eligible for Tribal Mobility Fund Phase I support in Auction 902, with the complete list available on the web; (2) conclude that the Bureaus will conduct Auction 902 as a single-round, sealed bid auction; (3) provide for bidding on predefined bidding areas consisting of eligible census blocks aggregated by Tribal lands and census tracts, and in some cases consisting of individual census blocks in Alaska; (4) establish bidding procedures, including stopping procedures to help assure that winning bids make cost-effective use of limited available funds and implement the Commission's commitment to fiscal responsibility; (5) permit winning bidders to demonstrate that they offer supported services at rates comparable to those in urban areas by offering one stand-alone voice and one data plan in supported areas that match plans in urban areas and cost no more than the matching plans; and (6) require that each winning bidder provide coverage, consistent with the performance requirements of the rules adopted in the *USF/ICC Transformation Order,* to 75 percent or more of the population associated with the eligible blocks in each bidding area for which it receives support and describe acceptable methods for demonstrating such coverage.

5. In addition, the *Auction 902 Procedures Public Notice* reviews important Tribal Mobility Fund Phase I program requirements, including eligibility requirements for participation in Auction 902 and the public interest obligations of winning bidders; describes in detail pre-auction procedures and auction application requirements; explains requirements and details related to the structure and procedures for bidding; and provides an overview of the post-auction procedures, requirements, and deadlines, including information on the post-auction application and on default payment requirements that will be used to enforce carriers' obligations.

6. The Bureaus in the *Auction 902 Procedures Public Notice* announce a new auction date. The auction was originally scheduled to be held on October 24, 2013—the date announced in the *Auction 902 Comment Public Notice.* In order to provide interested parties ample time to analyze the updated lists of eligible census blocks released concurrently with the *Auction 902 Procedures Public Notice* and to take any further steps required to establish eligibility for participation in Auction 902, the Bureaus delay the auction date until December 19, 2013. The *Auction 902 Procedures Public Notice* provides additional information regarding other dates related to Auction 902, including the short-form application deadline.

7. Throughout the *Auction 902 Procedures Public Notice,* the term ''per-pop'' means per population (or per person) within a given geographic area. The term ''3G'' refers to third generation wireless networks, and ''4G'' refers to fourth generation wireless networks. The terms ''3G,'' ''3G or better,'' ''current generation,'' and ''advanced'' are used interchangeably to refer to mobile wireless services that provide voice telephony service on networks that also provide services such as Internet access and email. Areas without 3G or better services and the population within them are referred to as ''unserved,'' even though there may be existing service at a lower level. The *Auction 902 Procedures Public Notice* refers to ''awarding'' or ''selecting awardees'' by auction for simplicity of expression. Each party that becomes a winning bidder in the auction must file an application for support. Only after review of the application to confirm compliance with all the applicable requirements will a winning bidder become authorized to receive support.

II. General Information

A. Overview of Tribal Mobility Fund Phase I

i. Background

8. In the *USF/ICC Transformation Order,* the Commission comprehensively reformed and modernized the high-cost component of the Universal Service Fund (USF) to help ensure the universal availability of fixed and mobile communication networks capable of providing voice and broadband services, and established a universal service support mechanism dedicated exclusively to mobile services—the Mobility Fund.

9. Tribal Mobility Fund Phase I will provide up to $50 million in one-time support to address gaps in mobile services availability by supporting the buildout of current- and next-generation mobile networks on Tribal lands where these networks are unavailable. The support offered under Tribal Mobility Fund Phase I is in addition to any ongoing support provided under existing high-cost universal service program mechanisms.

10. The goal for Tribal Mobility Fund Phase I is to extend the availability of mobile voice and broadband service on networks that provide 3G or better performance and to accelerate the deployment of 4G wireless networks in areas where it is cost effective to do so with one-time support. To maximize the population covered in eligible areas on Tribal lands within the established budget of $50 million, the *USF/ICC Transformation Order* established general rules for a reverse auction to identify those areas where additional investment can make as large a difference as possible in a transparent, simple, speedy, and effective way. In this reverse auction, bidders will indicate the amount of one-time support they require to deploy service meeting the defined performance standard in given eligible areas. Because the auction generally will award support based on the lowest per-pop bid amount irrespective of geographic area, bidders will compete not only against other carriers that may be seeking support in the same areas, but also against carriers bidding for support in other areas nationwide. Support will be awarded based on the lowest per-pop bid amounts submitted, but will not be awarded to more than one provider per area. In the *USF/ICC Transformation Order,* the Commission provided for a 25 percent bidding credit for Tribally-owned or -controlled providers that participate in Auction 902.

ii. Identification of Census Blocks Eligible for Tribal Mobility Fund Support

11. In the *Auction 902 Comment Public Notice,* the Bureaus sought comment on a list of census blocks identified as potentially eligible for Tribal Mobility Fund Phase I support. The Bureaus received numerous comments addressing census block eligibility.

12. In the *USF/ICC Transformation Order,* the Commission decided to target Mobility Fund Phase I support,

including Tribal Mobility Fund Phase I support, to census blocks without 3G or better service at the geometric center of the block, referred to as the centroid (i.e., the internal point latitude/longitude of a census block polygon), and concluded that Mosaik Solutions (Mosaik) data is the best available data source for determining the availability of such service. More specifically, the Commission concluded that it would consider any census block in the 2010 Census as unserved, and thus eligible for support, if an analysis of the Mosaik data indicated that the centroid is not covered by networks using EV–DO, EV–DO Rev A, or UMTS/HSPA or better. In the *Auction 902 Comment Public Notice,* the Bureaus concluded that January 2013 Mosaik data was the most recently available for the purpose of doing an analysis to identify eligible census blocks within Tribal lands and described the methodology for identifying potentially eligible blocks. ''Tribal lands'' include any federally recognized Indian Tribe's reservation, pueblo or colony, including former reservations in Oklahoma, Alaska Native regions established pursuant to the Alaska Native Claims Settlement Act, and Indian Allotments, as well as Hawaiian Home Lands—areas held in trust for native Hawaiians by the state of Hawaii, pursuant to the Hawaiian Homes Commission Act, as amended.

13. The *USF/ICC Transformation Order* also concluded that population should be the basis for calculating the number of units in each eligible census block for purposes of comparing bids and measuring the performance of Tribal Mobility Fund Phase I support recipients. In particular, the Commission concluded, based on concerns raised by Tribes, that using a population-based metric would provide greater assurance that mobile deployment supported by Tribal Mobility Fund Phase I would focus more directly on population centers.

14. The Bureaus first identified census blocks within Tribal lands using 2010 Census data. The Bureaus proposed to identify Tribal lands in Alaska using Census data boundaries for the Annette Island Reserve and Alaska Native village statistical areas. Alaska Native village statistical areas represent the more densely settled portions of Alaska Native villages, which are the associations, bands, clans, communities, groups, Tribes, or villages recognized pursuant to the Alaska Native Claims Settlement Act.

15. The Bureaus used geographic information system (GIS) software to determine whether the Mosaik data showed 3G or better wireless coverage at the centroid of each block. The Bureaus used ArcGIS software from Esri to determine whether the Mosaik data showed 3G or better coverage at each block's centroid. The following technologies were considered 3G or better: EV–DO, EV–DO Rev A, UMTS/HSPA, HSPA+, WiMAX, and LTE. If the Mosaik data did not show such coverage, the Bureaus determined the block to be potentially eligible. Because Tribal Mobility Fund Phase I support will be awarded based on the bid amounts that will maximize the population covered by new mobile services, the Bureaus excluded any of these census blocks without population. The Bureaus then excluded any blocks that, during the Auction 901 challenge process, they determined to be served or to be ineligible for Mobility Fund Phase I support because a provider had made a regulatory commitment to provide 3G or better wireless service or had received a funding commitment from a federal executive department or agency in response to the provider's commitment to provide 3G or better wireless service in that area. In addition, the Bureaus identified those census blocks that were the subject of winning bids in Auction 901. The Bureaus noted that any census block that was the subject of a winning bid in Auction 901 and for which support is authorized at the conclusion of the Auction 901 long-form application review will not be eligible for Tribal Mobility Fund Phase I support. If prior to Auction 902 the Bureaus determine that any of the identified winning bids from Auction 901 cannot be authorized, but would otherwise be eligible for Auction 902, then such eligible blocks will be included in Auction 902.

16. In the *Auction 902 Comment Public Notice,* the Bureaus sought comment on whether there were any additional census blocks not identified during the Auction 901 challenge process for which, notwithstanding the absence of 3G service, any provider had made a regulatory commitment to provide 3G or better wireless service, or had received a funding commitment from a federal executive department or agency in response to the provider's commitment to provide 3G or better wireless service. The Bureaus did not receive any comments addressing this issue.

17. In the *Auction 902 Comment Public Notice,* the Bureaus asked commenters identifying census blocks for removal and/or addition to the list of potentially eligible census blocks to provide detailed information in support of their views. The Bureaus noted that in making such determinations for Auction 901, they found demonstrations of coverage to be more credible and convincing where they were supported by maps, discussions of drive tests, explanation of methodologies for determining coverage, and certifications by one or more individuals as to the veracity of the material provided. For Auction 901, the Bureaus did not make changes to potentially eligible areas based on submissions making assertions of coverage without any supporting evidence.

18. In response to the comments the Bureaus received regarding their list of potentially eligible census blocks, they add certain eligible census blocks, for purposes of Auction 902, based on the Commission's definition of ''Tribal lands.'' Specifically, the Bureaus add populated, unserved census blocks in Alaska and in the Navajo Eastern Agency. The Bureaus conclude, however, that other areas that were ceded to the United States by treaty are not eligible for Tribal Mobility Fund Phase I support because they do not fall within the applicable definition of ''Tribal lands.'' The Bureaus remove all state designated Tribal statistical areas (SDTSAs) from the list of eligible census blocks for purposes of Auction 902 because they do not qualify as ''Tribal lands'' under the Commission's definition. Separately, the Bureaus also remove certain Tribal designated statistical areas (TDSAs), as defined by the 2010 Census data, that do not qualify as ''Tribal lands'' under the Commission's definition. In addition, the bureaus add and remove census blocks based on credible and convincing demonstrations by commenters regarding service coverage, or the lack thereof.

19. The Bureaus add populated, unserved census blocks in the Alaska Native regions to the updated list of bidding areas and the corresponding list of eligible census blocks that are available on the Auction 902 Web site (*http://wireless.fcc.gov/auctions/902/*). The Bureaus identify the eligible Tribal lands in Alaska using the boundaries of the twelve geographic Alaska Native regional corporations and the Annette Island Reserve, which together cover the entire state of Alaska.

20. The Tribal bidding credit and special ETC provisions are available to entities that are owned or controlled by federally-recognized Alaska Native villages. Specifically, a Tribal entity that is owned or controlled by an Alaska Native village may receive these benefits in eligible areas that are within the boundaries of the Alaska Native village statistical area associated with that village, as well as in eligible areas that

are not within any Alaska Native village statistical area but are within the same Alaska Native region as that village. In addition, the Bureaus note that the Office of Native Affairs and Policy, in coordination with the Bureaus, has provided guidance on the Tribal engagement requirements that apply to providers serving Tribal lands, including Alaska. In order to facilitate engagement with appropriate Tribal government officials in Alaska, the Bureaus' list of eligible areas identifies the Alaska Native village statistical areas, which indicate where the Alaska Native villages are more densely settled. Appropriate Tribal government officials are elected or duly authorized government officials of federally recognized American Indian Tribes and Alaska Native Villages.

21. The Bureaus also add populated, unserved census blocks in the Navajo Eastern Agency. The Bureaus conclude that all of the populated, unserved census blocks in the Navajo Eastern Agency should be included in the Tribal Mobility Fund Phase I auction.

22. The Bureaus decline to include certain areas that Tribes previously ceded to the United States by treaty. These areas do not fall within the Commission's definition of ''Tribal lands,'' and thus, such areas are not eligible for Tribal Mobility Fund Phase I support.

23. The Bureaus remove all SDTSAs from the updated list of eligible census blocks because they do not qualify as ''Tribal lands'' under the Commission's definition. Separately, the Bureaus also remove certain TDSAs, as defined by the 2010 Census data, that do not qualify as ''Tribal lands'' under the Commission's definition.

24. The Bureaus also received several challenges to their initial determination based on Mosaik data that certain census blocks are either served or unserved. The Bureaus find four of these demonstrations to be sufficiently credible and convincing to meet the requirements of the *USF/ICC Transformation Order* and incorporate the requested changes into the updated list of eligible census blocks. The Bureaus conclude that ten commenters that seek additions to the list of eligible blocks do not demonstrate actual lack of service, and therefore do not provide a basis for the Bureaus to depart from their initial determination of potentially eligible census blocks.

25. The list of census blocks on Tribal lands released concurrently with the *Auction 902 Procedures Public Notice* now includes all of the eligible census blocks that were identified by analyzing 2010 Census data, January 2013 Mosaik data, and information submitted by third parties. The differences between this list and the list provided with the *Auction 902 Comment Public Notice* are as follows: (1) The Bureaus have added blocks based on comments received regarding their application of the definition of ''Tribal lands'' to Alaska and the Navajo Eastern Agency, (2) the Bureaus have removed all SDTSAs and certain TDSAs, (3) the Bureaus have added blocks based on the comments of one carrier that provided a sufficiently credible and convincing demonstration regarding the absence of 3G or better coverage, (4) the Bureaus have removed blocks based on the comments of three carriers that provided sufficiently credible and convincing demonstrations regarding the presence of 3G or better coverage, and (5) the Bureaus have removed blocks for which Auction 901 support has been authorized, and have added blocks (i.e., removed the asterisks next to blocks) for which Auction 901 defaults have been determined. In this list, the Bureaus continue to identify census blocks that were covered by winning bids in Auction 901 for which the relevant long-form applications remain pending. If the Bureaus determine prior to Auction 902 that any winning bids from Auction 901 cannot be authorized, and any of those bids cover census blocks that would otherwise be eligible for Auction 902, then such eligible blocks will be available in the auction. Similarly, if support is authorized prior to Auction 902 for any of the census blocks covered by Auction 901 winning bids, those census blocks will be excluded from Auction 902. The Bureaus will announce by public notice the removal of any census blocks for which support is authorized for Auction 901 winning bids.

26. The Bureaus are mindful of the Commission's goal of moving quickly to expand the availability of advanced mobile services by providing one-time support with the limited funds budgeted for this purpose. The Bureaus also heed the Commission's warning that more extended dialog and pre-auction review of these issues might risk undue delay in the award of this support. As was true for the list of eligible areas for Auction 901, the Bureaus recognize that no such list will be perfect or perfectly up-to-date. Accordingly, the list of census blocks on Tribal lands that the Bureaus released concurrently with the *Auction 902 Procedures Public Notice* on August 7, 2013, contains their determinations with respect to the areas eligible for Tribal Mobility Fund Phase I support, with the exception of census blocks covered by Auction 901 winning bids, which may be removed from this list by public notice at the conclusion of the Auction 901 long-form application review. The eligible census blocks will, in most cases, be aggregated into predefined bidding areas by Tribal lands and census tracts. Eligible census blocks in Alaska will be aggregated by Alaska Native village statistical areas and census tracts, and where there are not Alaska Native village statistical areas, bidding will be conducted on a census block basis.

27. The Bureaus remind those interested in seeking Tribal Mobility Fund Phase I support that applicants for Auction 902 are required to certify that they will not seek support for any areas in which they made a public commitment to deploy 3G or better service by December 31, 2012.

28. Attachment A–1 released with the *Auction 902 Procedures Public Notice* provides a summary of the list of eligible census blocks. Attachment A–2 released with the *Auction 902 Procedures Public Notice* provides a list of the bidding areas. Due to the large number of eligible blocks, the complete list of the individual blocks is provided in electronic format only, available as a separate ''Attachment A'' file at *http://wireless.fcc.gov/auctions/902/*. In addition to these attachments and files, the Bureaus provide an interactive map for this information on the Commission Web site. The Bureaus note that the names assigned to the bidding areas listed in the Attachment A files have been changed since the release of the *Auction 902 Comment Public Notice* in order to conform to the requirements of the FCC Auction System. A crosswalk between the names used in the Attachment A files released with the *Auction 902 Procedures Public Notice* and the names used in the *Auction 902 Comment Public Notice* is available on the Commission Web site.

iii. Establishing Eligible Units

29. The Bureaus conclude that they must use population to determine units in Auction 902, and that they cannot deviate from their proposal to use Census data to determine which census blocks are populated. The Bureaus lack delegated authority to revise this rule to use road miles, as some commenters suggest, or any other metric other than population.

30. The Bureaus conclude that the population-based metric for comparing bids and assessing coverage for Tribal Mobility Fund Phase I requires that the Bureaus must exclude census blocks without population from Auction 902 eligibility. The Bureaus recognize that

winning bidders may need to extend their networks to or through unpopulated blocks that are not eligible for Tribal Mobility Fund Phase I support in order to meet their Tribal Mobility Fund Phase I performance requirements. The Commission's rules with respect to how winning bidders can use Tribal Mobility Fund Phase I funds to meet their performance requirements do not preclude this. Therefore, the Bureaus decline to accept the suggestion that all census blocks should be scored with a minimum population of one.

31. The Bureaus further conclude that they should not deviate from their proposal to use Census data as the basis for limiting eligible blocks to those where there is a population greater than zero. Given the Commission's decision to use population as the bidding comparison unit, the Bureaus must use reliable data on population in order to conduct the Tribal Mobility Fund Phase I auction.

iv. Public Interest Obligations

32. *Voice and Broadband Service.* All Tribal Mobility Fund Phase I recipients must satisfy specified public interest obligations in exchange for the support they receive, as must all recipients of any Connect America Fund support. Specifically, all Connect America Fund recipients, including Tribal Mobility Fund Phase I recipients, must offer stand-alone voice service to the public. Tribal Mobility Fund Phase I recipients must offer voice service with coverage of at least 75 percent or more of the population within the area for which support is provided. If an awardee can prove coverage of at least 75 percent of the actual population associated with the eligible census blocks within a winning bid area, it may provide and prove coverage in any combination across eligible census blocks within that single bidding area, including providing coverage to more than 75 percent of the population in one eligible census block and less than 75 percent of the population in another eligible census block in the same bidding area. In the alternative, the Bureaus will also permit proof of coverage by relying on a geographic area safe harbor, by which an awardee may show that it is providing coverage to at least 75 percent of the geographic area in a census block as a proxy for providing service to at least 75 percent of the population within that census block. If a winning bidder relies on the geographic area safe harbor for a particular winning bid area, it must provide and prove coverage to at least 75 percent of the geographic area of each eligible census block within that winning bid area. Furthermore, receipt of Tribal Mobility Fund Phase I support is conditioned upon the recipient providing service over a network that achieves particular data rates under particular conditions, which the Commission, for this purpose, refers to as 3G networks or better. The Commission expects that ETCs that offer standalone broadband service in any portion of their service territory will also offer such service in all areas that receive Connect America Fund support.

33. *Data Rates.* For purposes of Tribal Mobility Fund Phase I, the Commission refers to a network as a 3G network if it achieves outdoor minimum data transmission rates of 50 kilobits per second (kbps) uplink and 200 kbps downlink at vehicle speeds appropriate for the areas covered. Also for purposes of Tribal Mobility Fund Phase I, the Commission refers to a network as a 4G network if it achieves outdoor minimum data transmissions rates of 200 kbps uplink and 768 kbps downlink at vehicle speeds appropriate for the area covered. With respect to both 3G and 4G networks, transmission latency must be low enough to enable the use of real-time applications, such as Voice over Internet Protocol (VoIP).

34. *Performance Deadlines.* Winning bidders in Auction 902 will commit to provide service over either a 3G or a 4G network, as those terms are used with respect to Tribal Mobility Fund Phase I, in their post-auction long-form applications for support. Those parties committing to provide service over a 3G network must do so for at least 75 percent or more of the population within the winning bidding area within two years of being authorized to receive support. Winning bidders committing to provide service over a 4G network must do so for at least 75 percent or more of the population within the winning bidding area within three years of being authorized to receive support. To the extent that a recipient covers population in excess of the minimum, support will be available for up to 100 percent of the eligible population for which the recipient demonstrates coverage within the timeframe required for the technology deployed.

35. *Reasonably Comparable Rates.* Recipients of Tribal Mobility Fund Phase I support must certify annually that they offer service in supported areas at rates that are within a reasonable range of rates for similar service plans offered by mobile wireless providers in urban areas. This requirement extends for a period ending five years after the date of award of support.

36. *Collocation.* In exchange for the support provided, Tribal Mobility Fund Phase I support recipients shall allow for reasonable collocation by other providers of services that would meet the voice and data requirements of Tribal Mobility Fund Phase I on newly-constructed towers that the recipient owns or manages in the area for which it receives support. Consistent with this requirement, a recipient may not enter into facilities access arrangements regarding relevant facilities that restrict any party to the arrangement from allowing others to collocate on the facilities.

37. *Voice and Data Roaming.* Recipients of Tribal Mobility Fund Phase I support must provide voice and data roaming on networks built with the support, consistent with the requirements of 47 CFR 20.12, as those rules were in effect on the date the Commission adopted the *USF/ICC Transformation Order.* This condition of support is independent of subsequent changes to the Commission's rules on voice and data roaming. In other words, even if 47 CFR 20.12 is amended, support recipients must continue to meet the requirements of 47 CFR 20.12 as that rule existed as of October 27, 2011. To the extent the Commission adopts any new rules regarding voice and data roaming that are generally applicable, recipients of Tribal Mobility Fund Phase I support may be subject to those new rules as well. As these requirements, and all of the other public interest obligations, are a condition of Tribal Mobility Fund Phase I support, violations may result in the withholding or clawing back, i.e., return, of universal service support in addition to any other applicable sanctions.

v. Tribal Mobility Fund Phase I Eligibility Requirements

38. In order to participate in Auction 902 and receive Tribal Mobility Fund Phase I support, an applicant must be designated as an eligible telecommunications carrier (ETC) for the areas on which it wishes to bid or, if it is a Tribally-owned or -controlled entity, have a pending application for ETC designation for the relevant areas within the boundaries of the Tribal land associated with the Tribe that owns or controls the entity. A Tribally-owned or -controlled entity must have its application for ETC designation pending at the relevant short-form application deadline. The ETC designation must cover a sufficient portion of the bidding area to allow the applicant to satisfy the applicable performance requirements. A Tribal entity that wins support in Auction 902 while its ETC petition is pending must receive an ETC designation prior to support being

authorized and disbursed. Allowing a Tribally-owned or -controlled entity to participate at auction while its ETC petition is pending in no way prejudges the ultimate decision on its pending ETC petition. Because of the lead time necessary to receive designation as an ETC, prospective applicants that need to do so are strongly encouraged to initiate the process as soon as possible in order to increase the likelihood that they will be eligible to participate in Auction 902. Carriers subject to the jurisdiction of a state in which they seek designation should petition that state's commission for designation as an ETC to provide voice service. Carriers not subject to the jurisdiction of the relevant state commission should petition the Commission for designation as an ETC. The Commission has established a framework for determining whether a state commission or the Commission itself has jurisdiction to designate ETCs on Tribal lands. First, a carrier serving Tribal lands must petition the Commission for a determination on whether the state has jurisdiction over the carrier. The Commission then determines whether the carrier is subject to the jurisdiction of a state commission or whether it is subject to a Tribal authority given the Tribal interests involved. In the latter case, the Commission has jurisdiction to designate the carrier as an ETC and will proceed to consider the merits of the carrier's petition for designation. The Bureaus have provided guidance on existing requirements for filing an ETC application with the Commission in a separate public notice: *Eligible Telecommunications Carrier Designation for Participation in Mobility Fund Phase I,* 77 FR 14012, March 8, 2012. Petitions for designation as an ETC should be filed in WC Docket No. 09–197 and WT Docket No. 10–208, and should not be filed in the docket for Auction 902, AU Docket No. 13–53. The Bureaus adopted a protective order limiting access to proprietary and confidential information that may be filed in WC Docket No. 09–197 and WT Docket No. 10–208 in connection with petitions filed for designation as an ETC for purposes of participation in any Mobility Fund auction.

39. An applicant for Auction 902 must also demonstrate that it has access to the spectrum necessary to satisfy the applicable performance requirements. The requirement that parties have access to spectrum applies equally to all parties, including Tribal entities. In addition, an applicant must certify that it is financially and technically capable of providing 3G or better service.

vi. Annual Reporting and Record Retention Requirements

40. Winning bidders that are authorized to receive Tribal Mobility Fund Phase I support are required to submit to the Commission an annual report each year for the five years after being so authorized. In addition, authorized winning bidders are required to submit certain reports before receiving disbursements of support. Tribal Mobility Fund Phase I support will be available for disbursement to authorized winning bidders in three stages, with the first disbursement made when the winning bidder is authorized to receive support. A winning bidder authorized to receive Tribal Mobility Fund Phase I support and all of its agents are required to retain any documentation prepared for, or in connection with, the award of Tribal Mobility Fund Phase I support for a period of not less than ten years after the date on which the winning bidder receives its final disbursement of Tribal Mobility Fund Phase I support.

B. Auction Specifics

i. Auction Start Date

41. Bidding in Auction 902 will be held on Thursday, December 19, 2013. Unless otherwise announced, bidding for all eligible census blocks will be offered at the same time.

42. The start and finish time of bidding will be announced by public notice approximately one week before the start of the auction.

ii. Bidding Methodology

43. The bidding methodology for Auction 902 will be a single-round reverse auction format. The Commission will conduct this auction over the Internet using the FCC Auction System. Qualified bidders must bid electronically via the Internet. Telephonic bidding will not be available for Auction 902 because it will not be feasible given the number of eligible geographic areas and the manner in which bids will be uploaded.

iii. Pre-Auction Dates and Deadlines

44. The following dates and deadlines apply to Auction 902: (1) An auction tutorial will be available (via Internet) by September 25, 2013; (2) the short-form application (FCC Form 180) filing window will open on September 25, 2013, at 12:00 noon ET; (3) the short-form application (FCC Form 180) filing window will close on October 9, 2013, at 6:00 p.m. ET; (4) a mock auction will be held on December 16, 2013; and (5) Auction 902 will be held on December 19, 2013.

iv. Requirements for Participation

45. Those wishing to participate in this auction must: (1) Submit a short-form application (FCC Form 180) electronically prior to 6:00 p.m. ET, October 9, 2013, following the electronic filing procedures described in Attachment D of the *Auction 902 Procedures Public Notice;* and (2) comply with all provisions outlined in the *Auction 902 Procedures Public Notice* and applicable Commission rules.

C. Rules and Disclaimers

i. Relevant Authority

46. Prospective applicants in Auction 902 must familiarize themselves with the Commission's general universal service rules, contained in 47 CFR Part 54, and the Mobility Fund specifically, 47 CFR 54.1001–54.1010. They should also familiarize themselves with the Commission's decision in the *USF/ICC Transformation Order* to implement the Mobility Fund Phase I, including Tribal Mobility Fund Phase I.

47. Prospective bidders in Auction 902 must be familiar with the specific competitive bidding rules for universal service support contained in 47 CFR 1.21000–1.21004, as well as the procedures, terms, and conditions contained in the *Auction 902 Procedures Public Notice* and all other public notices related to Auction 902 (AU Docket No. 13–53). Additionally, prospective Auction 902 bidders will find it helpful to familiarize themselves with the processes established for the Commission's first auction of Mobility Fund Phase I support (Auction 901) and with the Commission's general competitive bidding rules, including recent amendments and clarifications; and Commission decisions in proceedings regarding competitive bidding procedures, application requirements, and obligations of Commission licensees. Information on Auction 901, including copies of all Auction 901 public notices and auction results, may be found on the Commission's Auction 901 Web page at *http://wireless.fcc.gov/auctions/901.*

48. The terms contained in the Commission's rules, relevant orders, and public notices are not negotiable. The Commission may amend or supplement the information contained in its public notices at any time, and will issue public notices to convey any new or supplemental information to applicants. It is the responsibility of all applicants to remain current with all Commission rules and with all public notices pertaining to this auction.

ii. Prohibited Communications and Compliance With Antitrust Laws

49. To ensure the competitiveness of the auction process, 47 CFR 1.21002 prohibits an applicant in a Mobility Fund auction from cooperating or collaborating with any other applicant with respect to its own, or one another's, or any other competing applicant's bids or bidding strategies, and from communicating with any other applicant in any manner the substance of its own, or one another's, or any other competing applicant's bids or bidding strategies, until after the post-auction deadline for winning bidders to submit applications for support, unless such applicants are members of a joint bidding arrangement identified on the short-form application(s) pursuant to 47 CFR 1.21001(b)(3) and (b)(4).

50. 47 CFR 1.21002 is based on a similar rule used in competitive bidding for spectrum licenses, 47 CFR 1.2105(c). Potential bidders should familiarize themselves with 47 CFR 1.2105(c) and 1.21002, and with the judicial, Commission, and Wireless Bureau decisions addressing application of the rule prohibiting certain communications listed in Attachment E of the *Auction 902 Procedures Public Notice.* Because 47 CFR 1.21002 was adopted for Mobility Fund competitive bidding relatively recently, the Commission's prior experience in this area is in the context of 47 CFR 1.2105(c). Applicants should review information regarding the interpretation of 47 CFR 1.2105(c) to gain insight into the Commission's views on prohibited communications during competitive bidding for Mobility Fund support.

a. Entities Subject to Section 1.21002, the Rule Prohibiting Certain Communications

51. 47 CFR 1.21002's prohibition of certain communications will apply to any applicant that submits a short-form application to participate in Auction 902. Thus, unless they have identified each other on their short-form applications as parties with whom they have entered into agreements under 47 CFR 1.21001(b)(3), applicants in Auction 902 must affirmatively avoid all communications with or disclosures to each other that affect or have the potential to affect bids or bidding strategy. In some instances, this prohibition extends to communications regarding the post-auction market structure. This prohibition applies to all applicants regardless of whether such applicants become qualified bidders or actually bid.

52. All bidders will compete for support with all other bidders in Auction 902, regardless of the geographic areas they seek to serve with Tribal Mobility Fund Phase I support. Therefore, applicants will be prohibited from making certain communications with all other applicants in Auction 902 regardless of the eligible areas for which they seek support, unless the parties disclose agreements reached between them on their short-form applications.

53. For purposes of the prohibition of certain communications, 47 CFR 1.21002 defines ''applicant'' broadly to include the applicant, each party capable of controlling the applicant, including all officers and directors, and each party that may be controlled by the applicant or by a party capable of controlling the applicant.

54. Individuals and entities subject to 47 CFR 1.21002 should take special care in circumstances where their officers, directors, and employees may receive information directly or indirectly relating to any competing applicant's bids or bidding strategies. For example, the Wireless Bureau has found that when an individual serves as an officer for two or more applicants, the bids and bidding strategies of one applicant are conveyed to the other applicant, and, absent a disclosed bidding agreement, an apparent violation of the rule prohibiting certain communications occurs. The Wireless Bureau has not addressed a situation where non-principals (i.e., those who are not officers or directors, and thus not considered to be the applicant) receive information regarding a competing applicant's bids or bidding strategies and whether that information should be presumed to be communicated to the applicant.

55. Moreover, the Bureaus encourage Auction 902 applicants not to use the same individual authorized bidder as is used by another applicant. A violation of 47 CFR 1.21002 could occur if an individual acts as the authorized bidder for two or more competing applicants, and conveys information concerning the substance of bids or bidding strategies between such applicants. Also, if the authorized bidders are different individuals employed by the same organization (e.g., a law firm, engineering firm, or consulting firm), a violation similarly could occur. In such a case, at a minimum, applicants should certify on their applications that precautionary steps have been taken to prevent communication between authorized bidders, and that the applicant and its bidders will comply with 47 CFR 1.21002.

b. Prohibition Applies Until Long-Form Application Deadline

56. The 47 CFR 1.21002 prohibition of certain communications begins at the short-form application filing deadline and ends at the long-form application deadline after the auction closes, which will be announced in a future public notice.

c. Prohibited Communications

57. Applicants must not communicate directly or indirectly about bids or bidding strategy to other applicants in this auction. 47 CFR 1.21002 prohibits not only communication about an applicant's own bids or bidding strategy, but also communications about another applicant's bids or bidding strategy. While 47 CFR 1.21002 does not prohibit non-auction-related business negotiations among auction applicants, each applicant must remain vigilant so as not to directly or indirectly communicate information that affects, or could affect, bids or bidding strategies.

58. Applicants are cautioned that the Commission remains vigilant about prohibited communications taking place outside of the auction itself. For example, the Commission has warned that prohibited ''communications concerning bids and bidding strategies may include communications regarding capital calls or requests for additional funds in support of bids or bidding strategies to the extent such communications convey information concerning the bids and bidding strategies directly or indirectly.'' Moreover, the Commission has found a violation of the rule against prohibited communications where an applicant used the Commission's bidding system to disclose ''its bidding strategy in a manner that explicitly invited other auction participants to cooperate and collaborate in specific markets,'' and has placed auction participants on notice that the use of its bidding system ''to disclose market information to competitors will not be tolerated and will subject bidders to sanctions.'' Applicants also should use caution in their dealings with other parties, such as members of the press, financial analysts, or others who might become conduits for the communication of prohibited bidding information. For example, an applicant's statement to the press that it intends to stop bidding in the auction could give rise to a finding of a 47 CFR 1.21002 violation. Similarly, an applicant's public statement of intent not to participate in Auction 902 bidding could also violate the rule. Applicants are hereby placed on notice

that public disclosure of information relating to bids, bidding strategies, or post-auction market structures may violate 47 CFR 1.21002.

d. Disclosure of Bidding Agreements and Arrangements

59. The Commission's rules do not prohibit applicants from entering into otherwise lawful bidding agreements before filing their short-form applications, as long as they disclose the existence of the agreements in their short-form applications. Applicants must identify in their short-form applications all parties with whom they have entered into any agreements, arrangements, or understandings of any kind relating to the Tribal Mobility Fund Phase I support they seek, including any agreements relating to post-auction market structure.

60. If parties agree in principle on all material terms prior to the short-form application filing deadline, each party to the agreement must identify the other party or parties to the agreement on its short-form application under 47 CFR 1.21001(b)(3), even if the agreement has not been reduced to writing. If the parties have not agreed in principle by the short-form filing deadline, they should not include the names of parties to discussions on their applications, and they may not continue negotiation, discussion or communication with any other applicants after the short-form application filing deadline.

61. 47 CFR 1.21002 does not prohibit non-auction-related business negotiations among auction applicants. However, certain discussions or exchanges could touch upon impermissible subject matters because they may convey pricing information and bidding strategies. Such subject areas include, but are not limited to, issues such as management, sales, local marketing agreements, and other transactional agreements.

e. Section 1.21001(b)(4)–(5) Applicant Certifications

62. By electronically submitting a short-form application, each applicant in Auction 902 certifies its compliance with 47 CFR 1.21001(b)(3) and 1.21002. In particular, an applicant must certify under penalty of perjury that the application discloses all real parties in interest to any agreements involving the applicant's participation in the competitive bidding for Tribal Mobility Fund support. Also, the applicant must certify that it and all applicable parties have complied with and will continue to comply with 47 CFR 1.21002.

63. The Bureaus caution, however, that merely filing a certifying statement as part of an application will not outweigh specific evidence that a prohibited communication has occurred, nor will it preclude the initiation of an investigation when warranted. The Commission has stated that it ''intend[s] to scrutinize carefully any instances in which bidding patterns suggest that collusion may be occurring.'' Any applicant found to have violated 47 CFR 1.21001(b)(4) or (b)(5) may be subject to sanctions.

f. Duty To Report Prohibited Communications

64. 47 CFR 1.21002(c) provides that any applicant that makes or receives a communication that appears to violate 47 CFR 1.21002 must report such communication in writing to the Commission immediately, and in no case later than five business days after the communication occurs. An applicant's obligation to make such a report continues until the report has been made. This reporting requirement applies even if the communication of bids or bidding strategies does not result in a bidding arrangement, agreement, or understanding.

65. In addition, 47 CFR 1.65 requires an applicant to maintain the accuracy and completeness of information furnished in its pending application and to notify the Commission of any substantial change that may be of decisional significance to that application. Thus, 47 CFR 1.65 requires an Auction 902 applicant to notify the Commission of any substantial change to the information or certifications included in its pending short-form application. An applicant is therefore required by 47 CFR 1.65 to report to the Commission any communication the applicant has made to or received from another applicant after the short-form application filing deadline that affects or has the potential to affect bids or bidding strategy, unless such communication is made to or received from a party to an agreement identified under 47 CFR 1.21001(b)(3) and (b)(4).

66. 47 CFR 1.65(a) and 1.21002 require each applicant in competitive bidding proceedings to furnish additional or corrected information within five days of a significant occurrence, or to amend its short-form application no more than five days after the applicant becomes aware of the need for amendment. These rules are intended to facilitate the auction process by making the information available promptly to all participants and to enable the Bureaus to act expeditiously on those changes when such action is necessary.

g. Procedure for Reporting Prohibited Communications

67. A party reporting any prohibited communication pursuant to 47 CFR 1.65, 1.21001(b), or 1.21002(c) must take care to ensure that any report of the prohibited communication does not itself give rise to a violation of 47 CFR 1.21002. For example, a party's report of a prohibited communication could violate the rule by communicating prohibited information to other applicants through the use of Commission filing procedures that would allow such materials to be made available for public inspection.

68. Parties must file only a single report concerning a prohibited communication and must file that report with Commission personnel expressly charged with administering the Commission's auctions. This process differs from filing procedures used in connection with other Commission rules and processes which may call for submission of filings to the Commission's Office of the Secretary or via the Commission's Electronic Comment Filing System (ECFS). Filing through the Office of the Secretary or ECFS could allow the report to become publicly available and might result in the communication of prohibited information to other auction applicants. This rule is designed to minimize the risk of inadvertent dissemination of information in such reports. Any reports required by 47 CFR 1.21002(c) must be filed consistent with the instructions set forth in the *Auction 902 Procedures Public Notice.* For Auction 902, such reports must be filed with the Chief of the Auctions and Spectrum Access Division, Wireless Telecommunications Bureau, by the most expeditious means available. Any such report should be submitted by email to the following email address: *auction902@fcc.gov.* If you choose instead to submit a report in hard copy, any such report must be delivered only to Margaret W. Wiener, Chief, Auctions and Spectrum Access Division, Wireless Telecommunications Bureau, Federal Communications Commission, 445 12th Street SW., Room 6423, Washington, DC 20554.

69. A party seeking to report such a prohibited communication should consider submitting its report with a request that the report or portions of the submission be withheld from public inspection by following the procedures specified in 47 CFR 0.459. Filers requesting confidential treatment of documents must be sure that the cover page of the filing prominently displays that the documents seek confidential treatment. For example, a filing might

include a cover page stamped with ''Request for Confidential Treatment Attached'' or ''Not for Public Inspection.'' Any such request must cover all of the material to which the request applies. The Bureaus encourage such parties to coordinate with the Auctions and Spectrum Access Division staff about the procedures for submitting such reports.

h. Winning Bidders May Need To Disclose Terms of Agreements

70. Each applicant that is a winning bidder may be required to disclose in its long-form application the specific terms, conditions, and parties involved in any agreement it has entered into. This may apply to any bidding consortium, joint venture, partnership, or agreement, understanding, or other arrangement entered into relating to the competitive bidding process, including any agreement relating to the post-auction market structure. Failure to comply with the Commission's rules can result in enforcement action.

i. Additional Information Concerning Rule Prohibiting Certain Communications

71. A summary listing of documents issued by the Commission and the Wireless Bureau addressing the application of the rule prohibiting certain communications may be found in Attachment E of the *Auction 902 Procedures Public Notice.* These documents are available on the Commission's auction Web page at *http://wireless.fcc.gov/auctions/prohibited_communications*.

j. Antitrust Laws

72. The Bureaus also remind applicants that, regardless of compliance with the Commission's rules, they remain subject to the antitrust laws, which are designed to prevent anticompetitive behavior in the marketplace. Compliance with the disclosure requirements of 47 CFR 1.21002 will not insulate a party from enforcement of the antitrust laws. For instance, a violation of the antitrust laws could arise out of actions taking place well before any party submitted a short-form application. The Commission has cited a number of examples of potentially anticompetitive actions that would be prohibited under antitrust laws: For example, actual or potential competitors may not agree to divide territories in order to minimize competition, regardless of whether they split a market in which they both do business, or whether they merely reserve one market for one and another market for the other. Similarly, the Wireless Bureau previously reminded potential applicants and others that ''[e]ven where the applicant discloses parties with whom it has reached an agreement on the short-form application, thereby permitting discussions with those parties, the applicant is nevertheless subject to existing antitrust laws.''

73. To the extent the Commission becomes aware of specific allegations that suggest that violations of the federal antitrust laws may have occurred, the Commission may refer such allegations to the United States Department of Justice for investigation. If an applicant is found to have violated the antitrust laws or the Commission's rules in connection with its participation in the competitive bidding process, it may be subject to a forfeiture and may be prohibited from participating in future auctions, among other sanctions.

iii. Due Diligence

74. The Bureaus remind each potential bidder that it has sole responsibility for investigating and evaluating all technical and marketplace factors that may have a bearing on the level of Tribal Mobility Fund Phase I support it submits as a bid in Auction 902. Each bidder is responsible for assuring that, if it wins the support, it will be able to build and operate facilities in accordance with the Mobility Fund obligations and the Commission's rules generally.

75. Applicants should be aware that Auction 902 represents an opportunity to apply for Mobility Fund support, subject to certain conditions and regulations. Auction 902 does not constitute an endorsement by the FCC of any particular service, technology, or product, nor does Mobility Fund support constitute a guarantee of business success.

76. An applicant should perform its due diligence research and analysis before proceeding, as it would with any new business venture. In particular, the Bureaus strongly encourage each potential bidder to review all underlying Commission orders, including the *USF/ICC Transformation Order.* Each potential bidder should perform technical analyses or refresh its previous analyses to assure itself that, should it become a winning bidder for Tribal Mobility Fund Phase I support, it will be able to build and operate facilities that will fully comply with all applicable technical and legal requirements. The Bureaus strongly encourage each applicant to inspect any prospective transmitter sites located in, or near, the service area for which it plans to construct transmitters with Mobility Fund support, to confirm the availability of such sites, and to familiarize itself with the Commission's rules regarding environmental compliance.

77. The Bureaus strongly encourage each applicant to conduct its own research prior to Auction 902 in order to determine the existence of pending administrative or judicial proceedings that might affect its decision to participate in the auction. The due diligence considerations mentioned in the *Auction 902 Procedures Public Notice* do not comprise an exhaustive list of steps that should be undertaken prior to participating in this auction. As always, the burden is on the potential bidder to determine how much research to undertake, depending upon specific facts and circumstances related to its interests.

78. The Bureaus also remind each applicant that pending and future judicial proceedings, as well as certain pending and future proceedings before the Commission—including applications for modification, petitions for rulemaking, requests for special temporary authority, waiver requests, petitions to deny, petitions for reconsideration, informal objections, and applications for review—may relate to particular licensees or applicants for support in Auction 902. Each prospective applicant is responsible for assessing the likelihood of the various possible outcomes and for considering the potential impact on Tribal Mobility Fund Phase I support available through this auction.

79. Each applicant is solely responsible for identifying associated risks and for investigating and evaluating the degree to which such matters may affect its ability to bid on or otherwise receive Tribal Mobility Fund Phase I support. Each potential bidder is responsible for undertaking research to ensure that any support won in this auction will be suitable for its business plans and needs. Each potential bidder must undertake its own assessment of the relevance and importance of information gathered as part of its due diligence efforts.

80. The Commission makes no representations or guarantees regarding the accuracy or completeness of information in its databases or any third party databases, including, for example, court docketing systems. To the extent the Commission's databases may not include all information deemed necessary or desirable by an applicant, it must obtain or verify such information from independent sources or assume the risk of any incompleteness or inaccuracy in said

databases. Furthermore, the Commission makes no representations or guarantees regarding the accuracy or completeness of information that has been provided by incumbent licensees and incorporated into its databases.

iv. Use of FCC Auction System

81. Bidders will be able to participate in Auction 902 over the Internet using the FCC Auction System. The Commission makes no warranty whatsoever with respect to the FCC Auction System. In no event shall the Commission, or any of its officers, employees, or agents, be liable for any damages whatsoever (including, but not limited to, loss of business profits, business interruption, loss of business information, or any other loss) arising out of or relating to the existence, furnishing, functioning, or use of the FCC Auction System that is accessible to qualified bidders in connection with this auction. Moreover, no obligation or liability will arise out of the Commission's technical, programming, or other advice or service provided in connection with the FCC Auction System.

v. Environmental Review Requirements

82. Recipients of Mobility Fund support, like all licensees, must comply with the Commission's rules regarding implementation of the National Environmental Policy Act and other federal environmental statutes. The construction of a wireless antenna facility is a federal action, and any entity constructing a wireless antenna facility must comply with the Commission's environmental rules for each such facility. The Commission's environmental rules require, among other things, that the entity constructing the facility consult with expert agencies having environmental responsibilities, including the U.S. Fish and Wildlife Service, the State Historic Preservation Office, the Army Corps of Engineers, and the Federal Emergency Management Agency (through the local authority with jurisdiction over floodplains). If the facility will not be located on Tribal lands as defined in the Nationwide Programmatic Agreement Regarding the Section 106 National Historic Preservation Act Review Process (NPA), the entity constructing the facility must follow the provisions of the NPA in assessing the effect of facilities construction on historic properties. However, if the facility will be located on Tribal lands as defined in the NPA, the entity must follow the procedures set forth in the rules of the Advisory Council on Historic Preservation. The NPA defines Tribal lands as ''all lands within the exterior boundaries of any Indian reservation and all dependent Indian communities,'' and does not include Native Hawaiian Home Lands. The entity must prepare environmental assessments for facilities that may have a significant impact in or on wilderness areas, wildlife preserves, threatened or endangered species or designated critical habitats, historical or archaeological sites, Indian religious sites, floodplains, and surface features. The entity also must prepare environmental assessments for facilities that include high intensity white lights in residential neighborhoods or excessive radio frequency emission, or that are over 450 feet in height. Facilities that require antenna registration will also be required to complete an environmental notification process.

III. Short-Form Application Requirements

A. General Information Regarding Short-Form Applications

83. An application to participate in Auction 902, referred to as a short-form application or FCC Form 180, provides information used to determine whether the applicant is legally, technically, and financially qualified to participate in Commission auctions for universal service funding support. The short-form application is the first part of the Commission's two-phased auction application process. In the first phase, each party desiring to participate in the auction must file a streamlined, short-form application in which it certifies under penalty of perjury as to its qualifications. Each applicant must take seriously its duties and responsibilities and carefully determine before filing an application that it has the legal, technical, and financial resources to participate in the auction and to meet the public interest obligations associated with Tribal Mobility Fund Phase I support. Eligibility to participate in bidding is based on the applicant's short-form application and certifications. In the second phase of the process, each winning bidder must file a more comprehensive long-form application (FCC Form 680).

84. Every entity seeking support available in Auction 902 must file a short-form application electronically via the FCC Auction System prior to 6:00 p.m. ET on October 9, 2013, following the procedures prescribed in Attachment D to the *Auction 902 Procedures Public Notice.* The short-form application requires each applicant to establish its eligibility for bidding for Tribal Mobility Fund Phase I support. Among other things, to establish eligibility at the short-form stage, an applicant must certify that it is a designated ETC in any geographic area for which it will seek support, or that it is a Tribally-owned or -controlled entity with a pending application for ETC designation, and provide the Study Area Codes (SACs) associated with its ETC designation and/or provide the names of its corresponding Tribal lands in lieu of SACs. Each applicant will also be required to provide a general narrative description of its access to the spectrum it plans to use to meet Mobility Fund obligations in the particular areas for which it plans to bid and certify that it will retain its access to the spectrum for at least five years from the date of award of support. If an applicant claims eligibility for a bidding credit as a Tribally-owned or -controlled entity, the information provided in its FCC Form 180 will be used in determining whether the applicant is eligible for the claimed bidding credit. Each applicant bears full responsibility for submitting an accurate, complete, and timely short-form application. Each applicant must certify on its short-form application under penalty of perjury that it is legally, technically, financially, and otherwise qualified to receive universal service support funding. Each applicant should read carefully the instructions set forth in Attachment D to the *Auction 902 Procedures Public Notice* and should consult the Commission's rules to ensure that all of the information required is included in its short-form application.

85. A party may not submit more than one short-form application for Auction 902. If a party submits multiple short-form applications, only one application may be accepted for filing.

86. Each applicant also should note that submission of a short-form application (and any amendments thereto) constitutes a representation by the certifying official that he or she is an authorized representative of the applicant, that he or she has read the form's instructions and certifications, and that the contents of the application, its certifications, and any attachments are true and correct. An applicant is not permitted to make major modifications to its application; such impermissible changes include a change of the certifying official to the application. Submission of a false certification to the Commission may result in penalties, including monetary forfeitures, the forfeiture of universal service support, license forfeitures, ineligibility to participate in future auctions, and/or criminal prosecution.

B. SAC Identification

87. An applicant will not be required to select the specific census blocks on which it wishes to bid when submitting its short-form application. Based on the SACs or Tribal lands information entered by an applicant, the FCC Auction System will identify during the application process bidding areas for which the applicant may be eligible. The FCC Auction System will identify the bidding areas on which the applicant is potentially eligible to bid based on information provided in the applicant's FCC Form 180. Applicants are reminded that this is not a determination of eligibility under the Commission's rules. The identification of an area as one in which the applicant is potentially eligible to bid does not mean that the applicant is actually eligible to bid for support in that area. Some of the areas may be outside the areas for which a bidder is actually eligible to bid pursuant to the Commission's rules—i.e., the areas in which it is designated as an ETC or, in the case of a Tribally-owned or -controlled entity, areas in its Tribal lands for which it has a pending petition for designation as an ETC.

C. Disclosure of Bidding Arrangements

88. An applicant will be required to identify in its short-form application all real parties in interest to any agreements relating to the participation of the applicant in the competitive bidding for Tribal Mobility Fund support.

89. Each applicant will also be required to certify under penalty of perjury in its short-form application that it has disclosed all real parties in interest to any agreements involving the applicant's participation in the competitive bidding for Tribal Mobility Fund support. If an applicant has had discussions, but has not reached an agreement by the short-form application filing deadline, it should not include the names of parties to the discussions on its application and may not continue such discussions with any other applicant after the deadline.

90. Moreover, each applicant will also be required to certify under penalty of perjury in its short-form application that it and all applicable parties have complied with and will continue to comply with 47 CFR 1.21002, the rule prohibiting certain communications. While 47 CFR 1.21002 does not prohibit non-auction-related business negotiations among auction applicants, the Bureaus remind applicants that certain discussions or exchanges could touch upon impermissible subject matters because they may convey pricing information and bidding strategies. Further, compliance with the disclosure requirements of 47 CFR 1.21002 will not insulate a party from enforcement of the antitrust laws.

D. Ownership Disclosure Requirements

91. Each applicant must comply with the uniform Part 1 ownership disclosure standards and provide information required by 47 CFR 54.1005(a)(1) and 1.2112(a) (47 CFR 54.1005(a)(1) requires the disclosure on the short-form application of the applicant's ownership information as set forth in 47 CFR 1.2112(a)). Specifically, in completing the short-form application, an applicant will be required to fully disclose information on the real party- or parties-in-interest and the ownership structure of the applicant, including both direct and indirect ownership interests of 10 percent or more, as prescribed in 47 CFR 1.2112(a). Each applicant is responsible for ensuring that information submitted in its short-form application is complete and accurate.

92. In certain circumstances, an applicant's most current ownership information on file with the Commission, if in an electronic format compatible with the short-form application (such as information submitted in an FCC Form 602 or in an FCC Form 175 filed for a previous Commission spectrum license auction, or FCC Form 180 for a previous Mobility Fund auction using the FCC Auction System), will automatically be entered into the applicant's short-form application (FCC Form 180). Each applicant must carefully review any information automatically entered to confirm that it is complete and accurate as of the deadline for filing the short-form application for Auction 902. Any information that needs to be corrected or updated must be changed directly in the short-form application.

E. Specific Tribal Mobility Fund Phase I Eligibility Requirements and Certifications

i. ETC Designation Certification

93. In the *USF/ICC Transformation Order,* the Commission concluded that, in order to apply to participate in an auction offering Mobility Fund support, any entity first had to be designated as an ETC pursuant to section 214 of the Communications Act in any geographic area for which it seeks support, with one narrow exception for Tribally-owned or -controlled entities. An applicant must be the entity designated by a state or the Commission as an ETC in that geographic area. For example, if a designated ETC is a subsidiary of a parent holding company, only the subsidiary that is designated an ETC, and not the holding company, would be eligible to participate in the auction. For purposes of participation in the Mobility Fund, a party's ETC designation may not be limited in any way. Accordingly, a party designated as an ETC solely for purposes of the Low Income Program cannot satisfy the ETC eligibility requirement for the Mobility Fund on that basis. Of course, nothing prohibits such a party from seeking a general designation as an ETC and then, if it receives such a designation, participating in the Mobility Fund.

94. ETC status carries with it certain obligations. So that a party might obtain the required ETC designation but not be subject to those obligations unless and until it wins any Mobility Fund support, the Commission further determined that a party might participate with an ETC designation conditioned upon the party winning support in the auction. The Bureaus note that prior to Auction 901, where the Commission granted a conditional designation, it did so contingent only on the applicant winning Mobility Fund Phase I support, thus requiring no additional substantive determinations post-auction. The Bureaus anticipate that the Commission will grant any request for conditional designation in the same manner for Auction 902, and they suggest that an applicant be mindful of this approach when requesting a similar determination from its state's designating authority. At the short-form application stage, an applicant will be required to state that it is designated as an ETC in any area for which it will seek support or is a Tribal entity with a pending application to become an ETC in any such area, and certify that the disclosure is accurate. A winning bidder will be required to provide proof of its ETC designation in all of the areas in which it will receive support before it may receive support.

95. The Commission further decided to permit participation by a Tribally-owned or -controlled entity that at the short-form application deadline has an application for ETC designation pending for the provision of service within the boundaries of the associated Tribal land. The Commission did so to afford Tribes an increased opportunity to participate at auction, in recognition of their interest in self-government and self-provisioning on their own lands. However, allowing such participation at auction in no way prejudges the ultimate decision on a Tribally-owned or -controlled entity's petition for ETC designation. Moreover, support will be disbursed only after an applicant receives such designation. A Tribally-

owned or -controlled entity that does not obtain and provide the required ETC designation will not be entitled to any support payments and may ultimately be in default in accordance with the rules. A Tribally-owned or -controlled entity whose application for ETC designation remains pending at the short-form application deadline should provide the date the application was filed, with whom (i.e., the Commission or relevant state regulatory agency), any file or case number associated with the application, and its current status. The following entities may be designated as qualifying Tribal entities: (1) Tribes, which are federally-recognized American Indian Tribes and Alaska Native Villages; (2) Tribal consortia; and (3) entities that are more than 50 percent owned and controlled by a Tribe or Tribes.

96. GRIC/GRTI supports the Commission's rule requiring an applicant to state on its short-form application that it is designated as an ETC in any area for which it will seek support or is a Tribal entity with a pending application to become an ETC in any such area, and to certify that the disclosure is accurate. Bad River Tribe, however, argues that the Commission should only impose this requirement as a post-auction condition of funding. NTUA notes with concern that the lengthy timeframe that can be associated with resolving ETC applications may create a chilling effect on Tribal participation in the auction.

97. The Commission adopted the requirement that, at the time of the short-form filing deadline, an Auction 902 applicant must be designated as an ETC for the areas on which it wishes to bid or, if it is a Tribally-owned or -controlled entity, have a pending application for ETC designation for the relevant areas within the boundaries of the Tribal land associated with the Tribe that owns or controls the entity. These ETC designation rules cannot be amended in the context of establishing procedures for Auction 902.

98. Pursuant to the rules, an applicant's ETC designation must cover a sufficient portion of the bidding area to allow it to satisfy the applicable performance requirements. Additionally, as explained in the *USF/ICC Transformation Order,* a Tribal entity that wins support in Auction 902 while its ETC petition is pending must receive an ETC designation prior to support being authorized. Although the Bureaus realize that in some limited situations the ETC designation process can be arduous, the Commission takes significant efforts to resolve pending filings before it in an expeditious manner.

ii. Access to Spectrum Description and Certification

99. Pursuant to the rules that the Commission adopted in the *USF/ICC Transformation Order,* and as explained in the *Auction 902 Comment Public Notice,* any applicant for Auction 902 must have access to the necessary spectrum to fulfill any obligations related to support. In an application to participate in Auction 902, each applicant must describe its required spectrum access and certify that the description is accurate and that the applicant will retain such access for at least five years from the date on which it is authorized to receive support. Specifically, an applicant will be required to disclose whether it currently holds, leases, or has otherwise contracted for access to spectrum consistent with Commission rules and whether such spectrum access is contingent on obtaining support in Auction 902. For the described spectrum access to be sufficient as of the date of the short-form application, the applicant must obtain any necessary approvals from the Commission for the spectrum access prior to filing the application. A pending request for such an approval is not sufficient to satisfy this requirement. Furthermore, only assured access is sufficient, which means that the access must be to licensed spectrum subject to limited access.

100. Tribal entities responding to the *Auction 902 Comment Public Notice* reiterated policy concerns that have been raised in another rulemaking proceeding concerning the use of spectrum over Tribal lands and the difficulties Tribes face in acquiring spectrum in the secondary market. Several Tribal entities contend that requiring auction participants to have spectrum access as of the date they file their short-form applications for Auction 902 may preclude many Tribes from participating. Other Tribal entities urge the Commission to delay an applicant's certification regarding access to spectrum in the pre-auction phase of Auction 902, and to instead impose the rule on winning bidders as a condition of funding.

101. In the *USF/ICC Transformation Order,* the Commission rejected the suggestion of some commenters to apply a more relaxed standard that might allow entities to seek to acquire access to spectrum only after becoming a winning bidder. The Commission instead concluded that ''failing to ensure spectrum access, on at least a conditional basis, prior to entering a Mobility Fund Auction would be inconsistent with the serious undertaking implicit in bidding for support.''

102. The requirement for an applicant to obtain access to spectrum as of the date of the short-form application was adopted by the Commission as a rule and cannot be amended in the context of establishing procedures for Auction 902. The Bureaus recognize the challenges all applicants may face in negotiating access to spectrum over Tribal lands. The Mobility Fund rules afford entities the flexibility to consider whatever spectrum arrangements might meet their individual needs, as long as those arrangements comply with all Mobility Fund Phase I and other regulatory requirements. Accordingly, an applicant for Auction 902 should identify the license applicable to the spectrum to be accessed, the licensee, and, if the licensee is a different party than the applicant, the relationship between the applicant and the licensee that provides the applicant with the required access sufficient to fulfill its obligations related to the support. With the exception of the certification, the terms of which are set forth in FCC Form 180, an applicant must provide all required information relating to spectrum access in an attachment to FCC Form 180, designated as a ''Spectrum Access'' attachment.

iii. Financial and Technical Capability Certification

103. The Commission requires that an applicant certify in the pre-auction short-form application that it is financially and technically capable of providing 3G or better service within the specified timeframe in the geographic areas for which it seeks support. This certification indicates that an applicant for Tribal Mobility Fund Phase I funds can provide the requisite service without any assurance of ongoing support for the areas in question after Tribal Mobility Fund Phase I support has been exhausted. An applicant should be aware that in making a certification to the Commission it exposes itself to liability for a false certification. An applicant should take care to review its resources and its plans before making the required certification and be prepared to document its review, if necessary.

iv. Certification That Applicant Will Not Seek Support for Areas in Which It Has Made a Public Commitment To Deploy 3G or Better Service by December 31, 2012

104. The Commission requires each applicant for Tribal Mobility Fund Phase I support to certify that the applicant will not seek support for any areas for which it made a public commitment to deploy 3G or better wireless service by December 31, 2012. In determining whether an applicant made such a public commitment, the Bureaus would consider any public statement made with some specificity as to geographic area, time period, and level of service. This requirement helps to assure that Tribal Mobility Fund Phase I support will not go to finance coverage that carriers would have provided in the near term without any subsidy. Furthermore, the requirement may conserve funds and avoid displacing private investment by making a carrier that made such a commitment ineligible for Tribal Mobility Fund Phase I support with respect to the relevant geographic area. Because circumstances are more likely to change over a longer term, the Bureaus do not hold providers to any statements for any time period beyond December 31, 2012. Applicants should note that this restriction does not prevent a party from seeking and receiving support for an eligible geographic area where another provider has announced such a commitment to deploy 3G or better wireless service.

F. Tribally-Owned or -Controlled Providers—25% Reverse Bidding Credit

105. The Commission adopted a 25 percent ''reverse'' bidding credit for Tribally-owned or -controlled providers seeking either general or Tribal Mobility Fund Phase I support. In order to be eligible for the bidding credit, a qualifying Tribally-owned or -controlled provider must certify in its short-form application that it is qualified and identify the applicable Tribe and Tribal lands.

106. The bidding credit will effectively reduce the Tribal entity's bid amount by 25 percent for the purpose of comparing it to other bids, thus increasing the likelihood that Tribally-owned and -controlled entities will receive funding. If the Tribally-owned or -controlled entity were to win, support would be calculated at the full, undiscounted bid amount. The preference is available with respect to the eligible census blocks located within the geographic area defined by the boundaries of the Tribal land associated with the Tribally-owned or -controlled provider seeking support.

107. The bidding credit adopted by the Commission applies only to Tribally-owned or -controlled entities with respect to bids for support within the boundaries of associated Tribal lands. In the *USF/ICC Transformation Order,* the Commission declined to adopt other types of bidding credits or prioritization mechanisms. The rule cannot be amended in the context of establishing procedures for Auction 902, and thus cannot be extended to apply to any entities that are not in fact owned or controlled by the Tribe or to areas outside of the Tribe's own Tribal lands.

108. The Bureaus note that although the bidding credit applies to Tribally-owned or -controlled entities, it was adopted in recognition of Tribes' interest in self-government and self-provisioning on their own lands, and with the Commission's unique government-to-government relationship with Tribes in mind. As such, the Bureaus retain discretion to look behind assertions of Tribal ownership and assertions of Tribal control to ensure that the Tribe is the true beneficiary of the bidding credit. This standard would be satisfied by the following entities: (1) Tribes (federally-recognized American Indian Tribes and Alaska Native Villages); (2) Tribal consortia; and (3) entities that are more than 50 percent owned and controlled by a Tribe or Tribes.

G. Commission Red Light Rules

109. Applications to participate in Auction 902 are subject to the Commission's rules regarding an applicant with delinquent debts, often referred to as the Commission's Red Light Rules. Parties familiar with spectrum license auctions should note that the stricter spectrum license application rules supersede the Commission's Red Light Rules in the context of a spectrum license auction. No corresponding provision applies with respect to Auction 902, however. Accordingly, the Commission's standard Red Light Rules will apply. Pursuant to the Red Light Rules, unless otherwise expressly provided for, the Commission will withhold action on an application by any entity found to be delinquent in its debt to the Commission for purposes of the Red Light Rule. Accordingly, parties interested in filing applications to participate in Auction 902 should review the status of any debts that they owe the Commission before submitting their application and resolve any delinquent debts. The Commission maintains a Red Light Display System (RLD) to enable entities doing business with the FCC to determine if they have any outstanding delinquent debt. The RLD enables a party to check the status of its account by individual FCC Registration Numbers (FRNs), and links other FRNs sharing the same Tax Identification Number (TIN) when determining whether there are outstanding delinquent debts. The RLD is available at *http://www.fcc.gov/redlight/.* Additional information is available at *http://transition.fcc.gov/debt_collection/.*

H. USF Debarment

110. The Commission's rules provide for the debarment of those convicted of or found civilly liable for defrauding the high-cost support program. Applicants are reminded that those rules apply with equal force to the Tribal Mobility Fund Phase I.

I. Minor Modifications to Short-Form Applications

111. After the deadline for filing short-form applications, an Auction 902 applicant is permitted to make only minor changes to its application. Permissible minor changes include, among other things, deletion and addition of authorized bidders (to a maximum of three) and revision of the addresses and telephone numbers of the applicant and its contact person. An applicant is not permitted to make a major modification to its application (e.g., change in control of the applicant or change of the certifying official) after the initial application filing deadline. Thus, any change in control of an applicant, resulting from a merger, for example, will be considered a major modification, and the application will consequently be dismissed. The Bureaus reiterate that even if an applicant's short-form application is dismissed, the applicant would remain subject to the communication prohibitions of 47 CFR 1.21002 until the long-form application deadline after the auction closes.

112. If an applicant wishes to make permissible minor changes to its short-form application, such changes should be made electronically to its short-form application using the FCC Auction System whenever possible. For the change to be submitted and considered by the Commission, be sure to click on the SUBMIT button. After the revised application has been submitted, a confirmation page will be displayed that states the submission time, submission date, and a unique file number. The Bureaus advise applicants to print and retain a copy of this confirmation page.

113. An applicant cannot use the FCC Auction System outside of the initial and resubmission filing windows to

make changes to its short-form application other than administrative changes (e.g., changing certain contact information or the name of an authorized bidder). If permissible minor changes need to be made outside of these windows, the applicant must submit a letter briefly summarizing the changes and subsequently update its short-form application in the FCC Auction System once it is available. Moreover, after the filing window has closed, the system will not permit applicants to make certain changes, such as the applicant's legal classification.

114. Any letter describing changes to an applicant's short-form application must be submitted by email to *auction902@fcc.gov.* The email summarizing the changes must include a subject or caption referring to Auction 902 and the name of the applicant, for example, ''RE: Changes to Auction 902 Short-Form Application of ABC Corp.'' The Bureaus request that parties format any attachments to email as Adobe® Acrobat® (pdf) or Microsoft® Word documents. Questions about short-form application amendments should be directed to the Auctions and Spectrum Access Division at (202) 418–0660.

115. Any application amendment and related statements of fact must be certified by an appropriate party. Appropriate parties include one of the partners if the applicant is a partnership; an officer, director, or duly authorized employee, if the applicant is a corporation; or a member who is an officer, if the applicant is an unincorporated association.

116. Applicants must not submit application-specific material through the Commission's Electronic Comment Filing System (ECFS), which was used for submitting comments regarding Auction 902. Further, parties submitting information related to their applications should use caution to ensure that their submissions do not contain confidential information or communicate information that would violate 47 CFR 1.21002 or the limited information procedures adopted for Auction 902. A party seeking to submit information that might reflect non-public information should consider submitting any such information along with a request that the filing or portions of the filing be withheld from public inspection until the end of the prohibition of certain communications pursuant to 47 CFR 1.21002.

J. Maintaining Current Information in Short-Form Applications

117. 47 CFR 1.65 requires an applicant to maintain the accuracy and completeness of information furnished in its pending application. If an amendment reporting changes is a ''major amendment,'' as defined by 47 CFR 1.21001(d)(4), the major amendment will not be accepted and may result in the dismissal of the application. After the application filing deadline, applicants may make only minor changes to their applications.

IV. Pre-Auction Procedures

A. Online Auction Tutorial—Available September 25, 2013

118. No later than Wednesday, September 25, 2013, the Commission will post an educational auction tutorial on the Auction 902 Web page for prospective bidders to familiarize themselves with the auction process. This online tutorial will provide information about pre-auction procedures, completing short-form applications, auction conduct, the FCC Auction System, auction rules, and Mobility Fund rules. The tutorial will also provide an avenue to ask FCC staff questions about the auction, auction procedures, filing requirements, and other matters related to this auction.

119. This interactive, online tutorial should provide an efficient and effective way for interested parties to further their understanding of the auction process. The Auction 902 online tutorial will allow viewers to navigate the presentation outline, review written notes, listen to audio of the notes, and search for topics using a text search function. Additional features of this web-based tool include links to auction-specific Commission releases, email links for contacting Commission staff, and a timeline with deadlines for auction preparation. The online tutorial will be accessible through a web browser with Adobe Flash Player. As always, Commission staff will be available to promptly answer questions posed by telephone and email throughout the auction process.

120. The auction tutorial will be accessible from the FCC's Auction 902 Web page at *http://wireless.fcc.gov/auctions/902/* through an ''Auction Tutorial'' link. Once posted, this tutorial will remain available for reference in connection with the procedures outlined in this Public Notice and accessible anytime.

B. Short-Form Applications—Due Prior to 6:00 p.m. ET on October 9, 2013

121. In order to be eligible to bid in this auction, applicants must first follow the procedures set forth in Attachment D to the *Auction 902 Procedures Public Notice* to submit a short-form application (FCC Form 180) electronically via the FCC Auction System. This short-form application must be submitted prior to 6:00 p.m. ET on October 9, 2013. Late applications will not be accepted. No application fee is required.

122. Applications may generally be filed at any time beginning at noon ET on September 25, 2013, until the filing window closes at 6:00 p.m. ET on October 9, 2013. The Bureaus strongly encourage applicants to file early and allow for adequate time for the filing process. Applications can be updated or amended multiple times until the filing deadline on October 9, 2013.

123. An applicant must always click on the SUBMIT button on the ''Certify & Submit'' screen to successfully submit its FCC Form 180 and any modifications; otherwise the application or changes to the application will not be received or reviewed by Commission staff. Additional information about accessing, completing, and viewing the FCC Form 180 is included in Attachment D of the *Auctions 902 Procedures Public Notice.* FCC Auctions Technical Support is available at (877) 480–3201, option nine; (202) 414–1250; or (202) 414–1255 (text telephone (TTY)); hours of service are Monday through Friday, from 8:00 a.m. to 6:00 p.m. ET. In order to provide better service to the public, all calls to Technical Support are recorded.

C. Application Processing and Minor Corrections

124. After the deadline for filing FCC Form 180 applications, Commission staff will process all timely submitted applications to determine which are complete, and subsequently will issue a public notice identifying (1) those that are complete; (2) those that are rejected; and (3) those that are incomplete or deficient because of minor defects that may be corrected. The public notice will include the deadline for resubmitting corrected applications.

125. After the application filing deadline on October 9, 2013, applicants can make only minor corrections to their applications. They will not be permitted to make major modifications (e.g., change control of the applicant or change of the certifying official).

126. Commission staff will communicate only with an applicant's contact person or certifying official, as designated on the short-form application, unless the applicant's certifying official or contact person notifies the Commission in writing that applicant's counsel or other representative is authorized to speak on its behalf. Authorizations may be sent

by email to *auction902@fcc.gov.* In no event, however, will the Commission send auction registration materials to anyone other than the contact person listed on the applicant's FCC Form 180 or respond to a request for replacement registration materials from anyone other than the authorized bidder, contact person, or certifying official listed on the applicant's FCC Form 180.

D. Auction Registration

127. Approximately ten days before the auction, the Bureaus will issue a public notice announcing all qualified bidders for the auction. Qualified bidders are those applicants with submitted FCC Form 180 applications that are deemed timely-filed, accurate, and complete.

128. All qualified bidders are automatically registered for the auction. Registration materials will be distributed prior to the auction by overnight mail. The mailing will be sent only to the contact person at the contact address listed in the FCC Form 180 and will include the SecurID® tokens that will be required to place bids, the ''FCC Auction System Bidder's Guide,'' and the Auction Bidder Line telephone number for bidding questions.

129. Qualified bidders that do not receive this registration mailing will not be able to submit bids. Therefore, any qualified bidder that has not received this mailing by noon on Wednesday, December 11, 2013, should call the Auctions Hotline at (717) 338–2868. Receipt of this registration mailing is critical to participating in the auction, and each applicant is responsible for ensuring it has received all of the registration material.

130. In the event that SecurID® tokens are lost or damaged, only a person who has been designated as an authorized bidder, the contact person, or the certifying official on the applicant's short-form application may request replacements. To request replacement of these items, call Technical Support at (877) 480–3201, option nine; (202) 414–1250; or (202) 414–1255 (TTY).

E. Remote Electronic Bidding

131. The Commission will conduct this auction over the Internet. Only qualified bidders are permitted to bid. Each authorized bidder must have its own SecurID® token, which the Commission will provide at no charge. Each applicant with one authorized bidder will be issued two SecurID® tokens, while applicants with two or three authorized bidders will be issued three tokens. Bidders cannot bid without their SecurID tokens. For security purposes, the SecurID® tokens, a telephone number for bidding questions, and the ''FCC Auction System Bidder's Guide'' are only mailed to the contact person at the contact address listed on the FCC Form 180. Each SecurID® token is tailored to a specific auction. SecurID® tokens issued for other auctions or obtained from a source other than the FCC will not work for Auction 902.

132. The SecurID® tokens can be recycled and the Bureaus encourage bidders to return the tokens to the FCC. Pre-addressed envelopes will be provided to return the tokens once the auction has ended.

F. Mock Auction—December 16, 2013

133. All qualified bidders will be eligible to participate in a mock auction on Monday, December 16, 2013. The mock auction will enable qualified bidders to become familiar with the FCC Auction System and to practice submitting bids prior to the auction. The Bureaus strongly recommend that all qualified bidders participate to gain experience with the bidding procedures. Details will be announced by public notice.

V. Auction Event

A. Auction Structure—Reverse Auction Mechanism

134. Auction 902 will be held on Thursday, December 19, 2013. The start and finish time of the bidding round will be announced in a public notice listing the qualified bidders, which will be released approximately 10 days before the start of the auction. The Bureaus' choice of auction design for Auction 902—a single-round format with other design characteristics—is specific to the particular context of the Tribal Mobility Fund Phase I auction. The choices the Bureaus make here do not prejudge their future auction design choices for other phases of the Mobility Fund or other competitive bidding mechanisms related to the USF.

i. Single-Round Sealed-Bid Reverse Auction Format

135. The Bureaus will conduct Auction 902 using a single round of bidding. The Bureaus conclude that a multiple-round auction would not be appropriate in the context of the Tribal Mobility Fund Phase I auction.

ii. Aggregation Method—Predefined Aggregation

136. The Commission determined that the census block should be the minimum geographic building block for which support is provided, but left to the Bureaus the task of deciding how to facilitate bidding on aggregations of eligible census blocks. The Commission recognized that some aggregation of census blocks may be necessary because census blocks are numerous and can be quite small, but encouraged the Bureaus to consider permitting bidding on individual census blocks in Alaska because they are so much larger on average than census blocks elsewhere.

137. *Aggregation of census blocks by Tribal lands and census tracts.* In the *Auction 902 Comment Public Notice,* the Bureaus proposed aggregating eligible census blocks by Tribal land, and subdividing the aggregation by census tract where applicable. That is, for any Tribal land covering more than one census tract, the eligible census blocks would be aggregated into one bidding area for each tract. Aggregating by Tribal lands may also create—for any census tract with more than one Tribal land—more than one bidding area for the tract. A bidder would bid on these bidding areas, not on individual census blocks. The Bureaus proposed that while census blocks in Alaska are larger than those in other parts of the country, aggregations by Tribal land and census tract—due to many instances of census tracts in Alaska covering multiple Tribal lands—would result in Alaska aggregations being closer in size to the aggregations in other parts of the country.

138. In all eligible areas other than in Alaska, the Bureaus adopt their original proposal to establish bidding areas consisting of predefined aggregations of eligible census blocks. Under this approach, eligible census blocks will be grouped by the Tribal land in which they are located, and bidders will be able to bid for support for these bidding areas. Bidders will not bid on individual blocks, except for some blocks in Alaska. If a single Tribal land includes more than one census tract, then the Tribal land will be subdivided by tract for bidding area purposes; there will be one bidding area for each tract in the Tribal land. For each bidding area on which a bidder bids, the bidder will indicate a per-pop price to cover the population in the bidding area. The auction will assign support to an awardee equal to the per-pop rate of its bid multiplied by the population associated with the eligible census blocks within the bidding area as shown in the files provided by the Bureaus. A bidder may bid on multiple bidding areas and win support for any or all of them. This approach requires separate bids on individual bidding areas. An awardee will be required to cover a given percentage of the total population of the eligible census blocks in the bidding area.

139. For Alaska the eligible Tribal lands will be identified using not only the Alaska Native village statistical areas (ANVSAs) that were originally proposed for inclusion in Auction 902, but also the boundaries of the twelve geographic Alaska Native regional corporations and the Annette Island Reserve, which together cover the entire state of Alaska. This requires that the Bureaus establish bidding areas that are different from those originally proposed for Alaska. The eligible census blocks in ANVSAs will be aggregated as proposed. That is, eligible census blocks will be aggregated by Alaska Native village statistical areas, and if an ANVSA covers more than one tract, there will be a bidding area for each tract in that ANVSA.

140. For eligible census blocks in Alaska outside of ANVSAs, each block will be a single bidding area. As with other bidding areas, bidders will indicate a per-pop price to cover the population in the block. The auction will assign support to an awardee equal to the per-pop rate of its bid multiplied by the population associated with the eligible census block, as shown in the files provided by the Bureaus. A bidder may bid on multiple bidding areas—be they individual blocks and/or predefined aggregations of blocks—and may win support for any or all of them.

141. *Coverage requirement.* Each awardee will be required to provide voice and broadband service meeting the established minimum standards over at least 75 percent of the population associated with each bidding area for which it receives support—that is, at least 75 percent of the total population of the eligible blocks that comprise the bidding area. If a winning bidder covers more than 75 percent of the population within the required timeframe, it may collect support for up to 100 percent of the population in the bidding area. The required minimum standards for service will depend on whether a winning bidder elects to deploy 3G or 4G service. Pursuant to the *USF/ICC Transformation Order,* awardees meeting the minimum coverage requirement could receive their winning bid amount for that population and for any additional population covered in excess of the 75 percent minimum, up to 100 percent of the population associated with the eligible blocks, subject to the rules on disbursement of support.

iii. Winner Selection Process

142. Under the auction format that the Bureaus adopt, during the single bidding round, bidders will be able to submit bids that indicate a per-pop support price at which they are willing to meet the Bureaus' requirements to cover the population in the eligible census blocks of the bidding areas covered by the bids. The population of each bidding area can be found in Attachment A, which is available on the Auction 902 Web page.

143. After the single bidding round closes, the FCC Auction System will rank bids from lowest to highest per-pop bid amount and assign support first to the lowest per-pop bid. An amount equal to the per-pop bid times the population in the bidding area will be deducted from the total available funds. The auction system will continue to assign support to the next lowest per-pop bid in turn, as long as support has not already been assigned for that geographic area, deducting assigned support funds from the remaining available funds. The auction system will stop assigning support when the next ranked per-pop bid implies a support amount exceeding the remaining funds available. A bidder will be eligible to receive support for each of its winning bids equal to the per-pop rate of the bid multiplied by the population in the eligible census blocks covered by the bid, subject to meeting the obligations associated with receiving support. For bidders claiming eligibility for a Tribal entity bidding credit, the auction system will reduce those bid amounts by 25 percent for the purpose of comparing them to other bids, thus increasing the likelihood that Tribally-owned and -controlled entities will receive funding.

144. To ensure that the finite resource of universal service support is used to extend mobile voice and broadband services to as many people on Tribal lands as possible, the Bureaus may, in their sole discretion, stop assigning support in the rank order of per-pop bids immediately prior to a bid even though funds remain available. In determining when to exercise this authority, the Bureaus will carefully consider the costs and benefits given the unique challenges associated with deploying mobile broadband on Tribal lands, as well as whether dedication of the funds to other programs for eligible Tribal lands could help bring broadband to a greater number of people in those lands. The Bureaus conclude that these steps will reduce incentives to submit extremely high per-pop bids in an attempt to take advantage of the potential for reduced competition relative to Auction 901 and help assure that winning bids will make cost-effective use of the limited funds.

145. Bids will be assigned a random selection number that will be used to determine the ranking of tied bids. If there are any identical bids—in the same per-pop amounts to cover the same block, submitted by different bidders—only the bid with the highest random selection number will be considered in the ranking. Tied bids for different areas, submitted by the same or different bidders, will be considered for support in the order of the random number. Bidders that submit multiple bids for the same per-pop amount for different areas, but that have a preference for the order in which the Bureaus consider such bids, may wish to vary the per-pop bid by some small amount in order to indicate a preferential ranking of the tied bids that otherwise will be ranked randomly.

iv. Limited Information Disclosure Procedures: Information Available to Bidders Before and During the Auction

146. The Bureaus will conduct Auction 902 using procedures for limited information disclosure. That is, for Auction 902, the Bureaus will withhold, until after the close of bidding and announcement of auction results, the public release of (1) information from applicants' short-form applications regarding their interests in bidding areas in particular Tribal lands and (2) information that may reveal the identities of bidders placing bids and taking other bidding-related actions. Because the Bureaus will conduct Auction 902 using a single round of bidding, they do not anticipate a need to release bidding-related actions during the auction as they would in a multiple-round auction. If such circumstances arise prior to the release of non-public information and auction results, however, the Bureaus will not indicate the identity of any bidders taking such actions. After the close of bidding, information regarding applicants' interests in eligible areas in particular Tribal lands, their bids, and any other bidding-related actions and information will be made publicly available.

v. Auction Delay, Suspension, or Cancellation

147. In the *Auction 902 Comment Public Notice,* the Bureaus proposed that, by public notice or by announcement during the auction, they may delay, suspend, or cancel the auction in the event of natural disaster, technical obstacle, administrative or weather necessity, evidence of an auction security breach or unlawful bidding activity, or for any other reason that affects the fair and efficient conduct of competitive bidding. The Bureaus received no comments on this issue.

148. Because this approach has proven effective in resolving exigent

circumstances in previous auctions, the Bureaus adopt these proposals regarding auction delay, suspension, or cancellation. By public notice or by announcement during the auction, the Bureaus may delay, suspend, or cancel the auction in the event of natural disaster, technical obstacle, administrative or weather necessity, evidence of an auction security breach or unlawful bidding activity, or for any other reason that affects the fair and efficient conduct of competitive bidding. In such cases, the Bureaus, in their sole discretion, may elect to resume the auction starting from the point at which the auction was suspended, or cancel the auction in its entirety. Network interruption may cause the Bureaus to delay or suspend the auction. The Bureaus emphasize that they will exercise this authority solely at their discretion.

B. Bidding Procedures

i. Bidding

149. All bidding will take place through the web-based FCC Auction System. To place bids a bidder will upload a text file that includes, for each bid, the bidding area name and the bid amount, expressed in a dollars per-pop price to cover the population in the eligible census blocks of that bidding area. When a bidder uploads a bid file, the FCC Auction System will provide a verification that includes the bidding area names, the dollars per-pop bid for each bidding area, the population in each bidding area, the total bid amount for each bidding area, and the county, state, and Tribal land for each bidding area. The bidder then submits the bids, or the bidder can cancel the bids if it wishes to make changes.

150. Bidders must submit their bids before the finish time of the bidding round, which will be announced in a public notice listing the qualified bidders, and which will be released approximately 10 days before the start of the auction.

ii. Reserve Prices

151. The Bureaus conclude that a reserve price is not needed to ensure the commitment to fiscal responsibility made in the *USF/ICC Transformation Order.* The Bureaus will stop assigning support at the point at which remaining funds are insufficient to satisfy the next ranked per-pop bid. Thus, in Auction 902, the Bureaus will not award support at higher per-pop bid amounts but for lower total support amounts in order to use as much of the budget as possible. In addition, the Bureaus retain the authority to stop the assignment of support to unreasonably high per-pop bids.

iii. Bid Removal

152. For Auction 902, before the end of the single round of bidding, a bidder will have the option of removing any bid it has placed. By removing a selected bid, a bidder may effectively ''undo'' a bid placed within the single round of bidding. Once the single round of bidding ends, a bidder may no longer remove any of its bids.

153. To remove bids a bidder will upload a text file that includes the bidding area name for each bid it wants to remove. When a bidder uploads such a file, the FCC Auction System will provide a verification that includes the bidding area names, and the county, state, and Tribal land for each bidding area.

iv. Auction Announcements

154. The Bureaus will use auction announcements to report necessary information. All auction announcements will be available by clicking a link in the FCC Auction System.

v. Auction Results

155. The Bureaus will determine the winning bids based on the lowest per-pop bids, as described in the *Auction 902 Procedures Public Notice.* After the Bureaus announce the auction results, the Bureaus will provide downloadable files of the bidding and results data.

VI. Post-Auction Procedures

A. General Information Regarding Long-Form Applications

156. After the conclusion of Auction 902, each winning bidder will be required to file a long-form application to demonstrate that it qualifies for Tribal Mobility Fund Phase I support. Shortly after bidding has ended, the Commission will issue a public notice declaring the auction closed, identifying the winning bidders, and establishing the deadline for the long-form application. Winning bidders will use FCC Form 680 and the FCC Auction System to submit the long-form application. The public notice announcing the close of the auction will provide details regarding the submission and processing of the long-form application. Unless otherwise provided by public notice, as was the case for Auction 901, a winning bidder must file its long-form application no later than 10 business days after being identified by public notice as such a winning bidder. The Bureaus note that in Auction 901, winning bidders initially had 21 business days to file long-form applications, and this deadline was later extended to 23 business days. The Bureaus anticipate that they will provide at least a similar time period before the long-form application deadline for Auction 902.

157. In addition to the long-form application process described in the *Auction 902 Procedures Public Notice,* any bidder winning support in Auction 902 must notify the relevant Tribal government(s) no later than five business days after being identified by public notice as such a winning bidder. The Office of Native Affairs and Policy (ONAP), in coordination with the Bureaus, has provided guidance regarding the appropriate points of contact for Tribal governments.

B. Long-Form Application: Disclosures and Certifications

158. By the due date specified in the auction closing public notice, a winning bidder must electronically submit a properly-completed long-form application (FCC Form 680) for the bidding areas of its winning bids. A Tribally-owned or -controlled provider claiming eligibility for a Tribal entity bidding credit must certify as to its eligibility for the bidding credit. Further filing instructions will be provided to winning bidders in the auction closing public notice.

i. Ownership Disclosure

159. In the *USF/ICC Transformation Order,* the Commission adopted for Mobility Fund Phase I auctions the existing Part 1 ownership disclosure requirements that already apply to short-form applicants to participate in spectrum license auctions and long-form applicants for licenses in wireless services. Under these requirements, an applicant for Mobility Fund support must fully disclose its ownership structure as well as information regarding the real party- or parties-in-interest of the applicant or application.

160. As the Commission has previously noted, wireless providers that have participated in spectrum license auctions will already have ownership disclosure reports (in the short-form application) on file with the Commission, which may simply need to be updated. To minimize the reporting burden on winning bidders, the Bureaus will allow them to use ownership information stored in existing Commission databases and update that information as necessary.

ii. Documentation of ETC Designation

161. A winning bidder must submit with its long-form application appropriate documentation of its ETC

designation in all of the areas for which it will receive support and certify that its proof is accurate. Although a Tribally-owned or -controlled entity may participate in Auction 902 so long as it has an application to be designated as an ETC pending at the relevant short-form application deadline, a Tribally-owned or -controlled entity may receive Tribal Mobility Fund support only after it has become an ETC and has provided the appropriate documentation. Appropriate documentation should include the original designation orders, any relevant modifications, e.g., expansion of service area or inclusion of wireless services, and any relevant name-change orders. Any ETC designation documentation provided as an attachment to the long-form application must be designated as an ''Eligible Telecommunications Carrier'' attachment.

162. Each winning bidder should connect the designated areas (e.g., wire centers, exchanges, and study areas) to its winning bid areas so that it is clear that the applicant has ETC status in each winning bid area. This obligation may be satisfied by providing maps of the recipient's ETC designation area, map overlays of the winning bid areas, charts listing designated areas and associated winning bid areas, and narrative descriptions explaining the connections between the ETC designations and the winning bid areas. An applicant must demonstrate that it has been designated as an ETC throughout a sufficient portion of each winning bid area to satisfy the applicable performance requirements.

iii. Financial and Technical Capability Certification

163. As in the pre-auction short-form application stage, a long-form applicant must certify that it is financially and technically capable of providing 3G or better service within the specified timeframe in the geographic areas in which it seeks support. This certification indicates that an applicant for Tribal Mobility Fund Phase I funds can provide the requisite service without any assurance of ongoing support for the areas in question after Tribal Mobility Fund Phase I support has been exhausted. An applicant should be aware that in making a certification to the Commission it exposes itself to liability for a false certification. An applicant should take care to review its resources and its plans before making the required certification and be prepared to document its review, if necessary.

iv. Project Construction Schedule/Specifications

164. Applicants are required to provide in their long-form application a ''Project Description'' attachment for each winning bid with a detailed project description that describes the network, identifies the proposed technology, demonstrates that the project is technically feasible, discloses the complete project budget, and describes each specific phase of the project, e.g., network design, construction, deployment, and maintenance, as those details pertain to each winning bid. Applicants are urged to include an initial summary paragraph in layman's terms that describes the project for each winning bid. A complete project schedule, including timelines, milestones, and costs, also must be provided in detail for each winning bid. Milestones should include the start and end date for network design, start and end date for drafting and posting requests for proposal (RFPs), start and end date for selecting vendors and negotiating contracts, start date for commencing construction and end date for completing construction, and the dates by which the applicant will meet applicable requirements to receive the installments of Mobility Fund support. To the extent an applicant has one project description for multiple winning bids, it still must provide all of the specific details described herein as those details correspond to each winning bid. Additionally, applicants need to ensure that each winning bid's project description corresponds with the applicant's access to spectrum certification for each winning bid, and that all prior Commission approvals have been obtained. In order to demonstrate eligibility for Auction 902, applicants relying on Cellular Geographic Service Area (CGSA) expansion to demonstrate spectrum access must have prior approvals in place or alternative access to spectrum until such approvals are obtained.

165. Applicants will indicate for each winning bid whether the supported network will provide 3G mobile service within the period prescribed by 47 CFR 54.1006(a) or 4G mobile service within the period prescribed by 47 CFR 54.1006(b). The description of the proposed technology should include information on whether the network will qualify as either a 3G or 4G network.

v. Spectrum Access

166. Applicants are required to provide a description of the spectrum access that the applicant will use to meet its obligations in areas for which it is the winning bidder, including whether the applicant currently holds a license for, leases, or otherwise has contracted for access to the spectrum consistent with Commission rules. The description should identify the license applicable to the spectrum to be accessed. The description of the license must include the type of service (e.g., AWS, 700 MHz, BRS, PCS), the particular frequency bands, and the call sign. If the licensee is a different party than the applicant, the licensee name and the relationship and type of agreement between the applicant and the licensee that provides the applicant with the required access should be described. If the applicant is leasing spectrum, the lease number should be provided along with the license information. An applicant must provide this required information relating to spectrum access in an attachment to the long-form application that is designated as a ''Spectrum Access'' attachment.

167. Applicants must also certify that the description of the spectrum access is accurate and that the applicant will retain such access for at least five years after the date on which it is authorized to receive support. Applications will be reviewed to assess the reasonableness of the certification.

vi. Letter of Credit Commitment Letter

168. A winning bidder must submit with its long-form application either a Letter of Credit (LOC) for each winning bid or a written commitment letter from an acceptable bank to issue such an LOC. If the applicant submits a commitment letter, the letter must at a minimum provide the dollar amount of the LOC and the issuing bank's agreement to follow the terms and conditions of the Commission's model LOC, set forth in Appendix N of the *USF/ICC Transformation Order.* The commitment letter must be from an acceptable bank, as defined in 47 CFR 54.1007(a)(1). The Bureaus waived 47 CFR 54.1007(a)(1) on their own motion to allow Auction 901 winning bidders seeking authorization for Mobility Fund Phase I support to use CoBank, ACB as an issuing bank for the required LOC, in addition to the acceptable banks described in 47 CFR 54.1007(a)(1).

vii. Letter of Credit and Bankruptcy Code Opinion Letter

169. After receipt and review of the long-form applications, the Commission will issue a public notice identifying each winning bidder and bid that may be authorized to receive Tribal Mobility Fund Phase I support. Upon notice from the Commission, a winning bidder for

Tribal Mobility Fund Phase I support must submit an irrevocable stand-by LOC, issued in substantially the same form as set forth in the model LOC provided in Appendix N of the *USF/ICC Transformation Order,* by a bank that is acceptable to the Commission. An LOC must be submitted for each winning bid in an amount equal to one-third of the winning bid amount plus an additional 10 percent of the winning bid amount which shall serve as a performance default payment. The Commission's rules provide specific requirements, as defined in 47 CFR 54.1007(a)(1), for a bank to be acceptable to the Commission to issue the LOC. Those requirements vary for U.S. banks and non-U.S. banks.

170. In addition, a winning bidder will be required to provide with the LOC an opinion letter from legal counsel clearly stating, subject only to customary assumptions, limitations, and qualifications, that in a proceeding under the Bankruptcy Code, the bankruptcy court would not treat the LOC or proceeds of the LOC as property of the winning bidder's bankruptcy estate, or the bankruptcy estate of any other bidder-related entity requesting issuance of the LOC, under section 541 of the Bankruptcy Code.

viii. Certification as to Program Requirements

171. The long-form application contains certifications that the applicant has available funds for all project costs that exceed the amount of support to be received and will comply with all program requirements. The program requirements include the public interest obligations contained in the Commission's rules and set forth in the *Auction 902 Procedures Public Notice.* Also, an applicant must certify that it will meet the applicable deadline for construction of a network meeting the coverage and performance requirements set forth in the rules, that it will comply with the Mobility Fund collocation obligations specified in the rules, and that it will comply with the voice and data roaming obligations that the Commission has established with respect to Phase I of the Mobility Fund.

ix. Reasonably Comparable Rate Certification

172. The Commission's rules require a recipient of Mobility Fund Phase I support—including Tribal Mobility Fund Phase I support—to certify on its long-form application that it will offer service in supported areas at consumer rates that are within a reasonable range of rates for similar service plans offered by mobile wireless providers in urban areas. Recipients will be subject to this requirement for five years after the date of the award of support. Recipients must offer service plans in supported areas that meet the public interest obligations specified in the Commission's Mobility Fund rules and that include a stand-alone voice service plan.

173. In the *Auction 902 Comment Public Notice,* the Bureaus proposed to permit a recipient of Tribal Mobility Fund Phase I support to demonstrate compliance with the reasonably comparable rates requirement in the same manner as recipients of general Mobility Fund Phase I support. This would require a supported provider to demonstrate that its required stand-alone voice plan, and one service plan that offers data services, if it offers such plans, are (1) substantially similar to a service plan offered by at least one mobile wireless service provider in an urban area, and (2) offered for the same or a lower rate than the matching urban service plan. The Bureaus note that any provider that itself offers the same service plan for the same rate in a supported area and in an urban area would be able to meet this requirement. For purposes of Tribal Mobility Fund Phase I, the Bureaus proposed to treat any rate equal to or less than the highest rate for a matching service charged in an urban area as reasonably comparable to, i.e., within a reasonable range of, rates for similar service in urban areas. For purposes of this requirement, the Bureaus proposed to define ''urban area'' as one of the 100 most populated CMAs in the United States. (A list of the top 100 CMAs is available in Attachment B to the *Auction 902 Procedures Public Notice*). The Bureaus also proposed to retain discretion to consider whether and how variable rate structures should be taken into account, and further proposed to address such issues on a case-by-case basis. To provide recipients with flexibility to tailor their offerings to consumer demand while complying with the rule, the Bureaus proposed to deem a Tribal Mobility Fund Phase I support recipient compliant with the terms of the required certification if it can demonstrate that its rates for services satisfy the requirements, and if it provides supporting documentation. Under this approach, the supported party must offer services at rates within the range but that do not exceed one particular rate that is presumed to be a part of that range.

174. The Bureaus proposed to make a limited exception for supported parties serving Alaska in light of the distinct character of Alaska and the related costs of providing service, and in line with the approach adopted for Auction 901. Specifically, the Bureaus proposed that supported parties in Alaska may demonstrate comparability by comparison with rates offered in the CMA for Anchorage, Alaska.

175. The Bureaus adopt the proposals in the *Auction 902 Comment Public Notice* for Tribal Mobility Fund Phase I, including the proposed limited exception for supported providers serving Alaska.

x. Tribal Engagement Requirements: Certification and Summary of Engagement

176. Beginning at the long-form application stage, and continuing throughout the term of support, Tribal Mobility Fund Phase I winning bidders are required to comply with the Tribal engagement obligations applicable to all ETCs. As the Commission discussed in the *USF/ICC Transformation Order,* these obligations are designed to ensure that Tribal governments have been formally and effectively engaged in the planning process and that the services to be provided will advance the goals established by the Tribal government. Thus, the Bureaus encourage applicants seeking to serve Tribal lands to begin engaging with the appropriate Tribal governments as soon as possible. The Bureaus note that any such engagement must be done consistent with the rules prohibiting certain communications during the competitive bidding process.

177. Any bidder winning support in Auction 902 must notify the appropriate Tribal government(s) of its winning bid no later than five business days after being identified by public notice as such a winning bidder. A winning bidder's engagement with the appropriate Tribal government(s) must consist, at a minimum, of discussion regarding: (i) A needs assessment and deployment planning with a focus on Tribal community anchor institutions; (ii) feasibility and sustainability planning; (iii) marketing services in a culturally sensitive manner; (iv) rights of way processes, land use permitting, facilities siting, environmental and cultural preservation review processes; and (v) compliance with Tribal business and licensing requirements. Thereafter, at the long-form application stage and in annual reports, a bidder winning support in Auction 902 will be required to certify that it has substantively engaged appropriate Tribal government officials regarding the minimum discussion topics, as well as any other issues specified by the Commission, and provide a summary of the results of such engagement. A copy of the certification and summary must be sent

to the appropriate Tribal officials when it is sent to the Commission. Appropriate Tribal government officials are elected or duly authorized government officials of federally recognized American Indian Tribes and Alaska Native Villages. In the instance of the Hawaiian Home Lands, this engagement must occur with the State of Hawaii Department of Hawaiian Home Lands and Office of Hawaiian Affairs. The Bureaus remind carriers that failure to satisfy the Tribal government engagement obligations could subject them to financial consequences including potential reduction in support should they fail to fulfill their obligations.

178. The Tribal engagement obligations established by the Commission will apply to Auction 902. The Bureaus note that there are three pending petitions for reconsideration of certain aspects of 47 CFR 54.313(a)(9), which mandates that annual reports on the Tribal government engagement requirements be filed by carriers receiving high-cost universal service support other than or in addition to any mobility fund support. In addition, there is a pending petition for reconsideration and clarification of the *Tribal Engagement Further Guidance.*

C. Coverage Requirements, Reporting Obligations, and Payment Disbursements

i. Coverage Requirements

179. Support recipients will be required to provide voice and broadband service meeting the established minimum standards over at least 75 percent of the population associated with the eligible blocks in each bidding area for which they receive support. Because Census data does not specify how population is distributed within a census block, the Bureaus sought comment on how to determine whether this coverage requirement is met. If a provider demonstrates new coverage over the entirety of an eligible census block, the Bureaus can assume coverage of the entire population of that census block. However, the Bureaus sought input on how to evaluate the population served by new coverage where a provider demonstrates new coverage over part of an eligible census block. In particular, the Bureaus asked whether they should assume that census block population is evenly distributed and assess coverage on the proportion of the geographic area covered, and they also sought comment on alternatives.

180. The Bureaus conclude that support recipients will be able to prove coverage as follows. If an awardee can prove coverage of at least 75 percent of the actual population associated with the eligible census blocks within a winning bid area, it may provide and prove coverage in any combination across eligible census blocks within that single bidding area, including providing coverage to more than 75 percent of the population in one eligible census block and less than 75 percent of the population in another eligible census block in the same bidding area. In response to comments, in the alternative the Bureaus will also permit proof of coverage by relying on a geographic area safe harbor, by which an awardee may show that it is providing coverage to at least 75 percent of the geographic area in a census block as a proxy for providing service to at least 75 percent of the population within that census block. Because using a geographic proxy is a safe harbor, geographic coverage must be shown on a census-block by census-block basis, rather than within the winning bid area as a whole. In other words, if a winning bidder relies on the geographic area safe harbor for a particular winning bid area, it must provide and prove coverage to at least 75 percent of the geographic area of each eligible census block within that winning bid area. With respect to demonstrating compliance with the coverage requirements, the Commission's rules set forth the standards for applicable drive test data and scattered site testing.

181. The Commission recognized the unique challenges of Tribal lands, which may have sparse roads and isolated populations for which a winning bidder would be required to prove coverage. In particular, given that the Commission adopted a population-based coverage metric for Tribal Mobility Fund Phase I, the Commission explained that providers may demonstrate coverage of an area with scattered site tests—i.e., a statistically significant number of tests in the vicinity of residences being covered. The Commission also noted that equipment to conduct such testing could be transported by off-road vehicles, such as snow-mobiles or other vehicles appropriate to local conditions.

ii. Annual Reporting and Record Retention Requirements

182. Winning bidders that are authorized to receive Tribal Mobility Fund Phase I support are required to submit to the Commission an annual report each year for the five years after being so authorized. Each annual report covers the preceding calendar year. As a result, any Auction 902 winning bidder that is first authorized to receive Tribal Mobility Fund Phase I support in 2014 will not be required to file an annual report regarding such support until the applicable deadline in 2015. The information and certifications required to be included in the annual report are described in 47 CFR 54.1009. As explained in the *USF/ICC Transformation Order,* if a recipient of Mobility Fund support is a carrier subject to other existing or new annual reporting requirements under 47 CFR 54.313 of the rules based on their receipt of universal service support under another high cost mechanism, it will be permitted to satisfy its Mobility Fund Phase I reporting requirements by filing a separate Mobility Fund annual report or by including this additional information in a separate section of its other annual report filed with the Commission. Mobility Fund recipients choosing to fulfill their Mobility Fund reporting requirements in an annual report filed under 47 CFR 54.313 must, at a minimum, file a separate Mobility Fund annual report notifying the Commission that the required information is included in the other annual report. In addition, authorized winning bidders are required to submit certain reports before receiving disbursements of support. A winning bidder authorized to receive Tribal Mobility Fund Phase I support and all of its agents are required to retain any documentation prepared for, or in connection with, the award of Tribal Mobility Fund Phase I support for a period of not less than ten years after the date on which the winning bidder receives its final disbursement of Tribal Mobility Fund Phase I support.

iii. Disbursement of Payments

183. Tribal Mobility Fund Phase I support will be available for disbursement to authorized winning bidders in three stages, with the first disbursement made when the winning bidder is authorized to receive support. A recipient will be eligible to receive the second disbursement when it submits a report demonstrating coverage of 50 percent of the applicable coverage requirements of 47 CFR 54.1006. The report a recipient files for this purpose will be subject to review and verification before support is disbursed. A recipient will be eligible to receive the final disbursement when it submits a report demonstrating coverage meeting the applicable requirements of 47 CFR 54.1006. A party's final payment will be the difference between the total amount of support based on the population covered—i.e., a figure between the required 75 percent and 100 percent of

the population—and any support previously received.

D. Default Payment Requirements

184. In the *USF/ICC Transformation Order,* the Commission determined that it would impose two types of default payment obligations on winning bidders: a default payment owed by Mobility Fund winning bidders that default on their winning bids prior to approval for receiving support, and a default payment owed by Mobility Fund winning bidders that apply for and are approved to receive support but subsequently fail to meet their public interest obligations or other terms and conditions of Mobility Fund support. Under the competitive bidding rules adopted in the *USF/ICC Transformation Order,* bidders selected by the auction process to receive USF support have a binding obligation to file a post-auction long-form application—by the applicable deadline and consistent with other requirements of the long-form application process—and failure to do so constitutes an auction default. In addition, a performance default occurs when a winning bidder that the Commission has authorized to receive support fails to meet its minimum coverage requirement or adequately comply with quality of service or any other requirements upon which support was granted.

i. Auction Default Payment

185. Any winning bidder that fails to timely file a long-form application, is found ineligible or unqualified to receive Mobility Fund support, has its long-form application dismissed, or otherwise defaults on its bid or is disqualified for any reason after the close of the auction and prior to the authorization of support for each winning bid will be subject to an auction default payment. Agreeing to such payment in event of a default is a condition for participating in bidding. In the event of an auction default, the Bureaus will assess a default payment of five percent of the total defaulted bid. Liability for the auction default payment will be imposed without regard to the intentions or fault of any specific defaulting bidder.

186. The Bureaus' experience in Auction 901 has demonstrated that this amount, which is well below the maximum allowable percentage, provides bidders sufficient incentive to fully inform themselves of the obligations associated with participation in the Tribal Mobility Fund Phase I auction and to commit to fulfilling those obligations, and yet is not unduly punitive. The Bureaus anticipate that such a requirement here should serve to deter failures to fulfill auction obligations that might undermine the stability and predictability of the auction process and impose costs on the Commission as well as higher support costs for USF. The Bureaus therefore adopt their proposal.

187. The Bureaus did not receive any comments on whether there should be an alternative methodology for calculation of an auction default payment, or whether an applicant should be required to furnish a bond or place funds on deposit prior to bidding. The Bureaus conclude that their adoption of an auction default payment calculated as five percent of the total defaulted bid will provide adequate protection against costs to the Commission and the USF, and therefore they find that establishing a bond or deposit requirement is unnecessary.

ii. Performance Default Payment

188. A winning bidder that has received notice from the Commission that it is authorized to receive Mobility Fund support will be subject to a performance default payment if it fails or is unable to meet its minimum coverage requirement, other service requirements, or fails to fulfill any other term or condition of Tribal Mobility Fund Phase I support. The Bureaus conclude that in the event of a performance default, they will assess a default payment of ten percent of the total defaulted bid. The LOC that a winning bidder will be required to provide for each winning bid must include an additional ten percent based on the total amount of support for which the winning bidder is eligible.

189. The Commission recognized in the *USF/ICC Transformation Order* that a Mobility Fund recipient's failure to fulfill its obligations may impose significant costs on the Commission and higher support costs for the USF and concluded that it was necessary to adopt a default payment obligation for performance defaults. In addition to being liable for a performance default payment, the recipient will be required to repay the Mobility Fund all of the support it has received, and depending on circumstances, could be disqualified from receiving any additional Mobility Fund or other USF support.

Federal Communications Commission.

Gary Michaels,

Deputy Chief, Auctions and Spectrum Access Division, WTB.

[FR Doc. 2013–22483 Filed 9–13–13; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection Renewal; Comment Request Re: Federal Deposit Insurance Act Section 19 Application

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. chapter 35), the FDIC may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The FDIC hereby gives notice that it is seeking comment on renewal of its information collection, entitled *Federal Deposit Insurance Act Section 19 Applications* (OMB No. 3064–0018). At the end of the comment period, any comments and recommendations received will be analyzed to determine the extent to which the collections should be modified prior to submission to OMB for review and approval.

DATES: Comments must be submitted on or before November 15, 2013.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- *http://www.FDIC.gov/regulations/laws/federal/notices.html*
- *Email: comments@fdic.gov* Include the name of the collection in the subject line of the message.
- *Mail:* Leneta G. Gregorie (202–898–3719), Counsel, Room NY–5050, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.

All comments should refer to the relevant OMB control number. A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Leneta Gregorie, at the FDIC address above.

SUPPLEMENTARY INFORMATION:

Proposal to renew the following currently approved collection of information:

Title: Federal Deposit Insurance Act Section 19 Applications.

OMB Number: 3064–0018.

Form Number: 6710/07.

Frequency of Response: On occasion.

Affected Public: Insured depository institutions.

Estimated Number of Respondents: 26.

Estimated Time per Response: 16 hours.

Total Annual Burden: 416 hours.

General Description of Collection: Section 19 of the Federal Deposit Insurance Act (FDI), 12 U.S.C. 1829, requires the FDIC's consent prior to any participation in the affairs of an insured depository institution by a person who has been convicted of crimes involving dishonesty or breach of trust. To obtain that consent, an insured depository institution must submit an application to the FDIC for approval on Form FDIC 6710/07.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Dated at Washington, DC, this 11th day of September, 2013.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2013–22472 Filed 9–13–13; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0135; Docket 2013–0077; Sequence 12]

Federal Acquisition Regulation; Information Collection; Prospective Subcontractor Requests for Bonds

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act the Regulatory Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection concerning subcontractor requests for bonds.

DATES: Submit comments on or before November 15, 2013.

ADDRESSES: Submit comments identified by Information Collection 9000–0135 by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by inputting ''Information Collection 9000–0135'' under the heading ''Enter Keyword or ID'' and selecting ''Search.'' Select the link ''Submit a Comment'' that corresponds with ''Information Collection 9000–0135.'' Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 9000–0135'' on your attached document.
- *Fax:* 202–501–4067.
- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), 1800 F Street NW., 2nd Floor, Washington, DC 20405–0001. ATTN: Hada Flowers/IC 9000–0135.

Instructions: Please submit comments only and cite Information Collection 9000–0135, in all correspondence related to this collection. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Cecelia L. Davis, Procurement Analyst, Acquisition Policy Division, GSA (202) 219–0202 or email *Cecelia.davis@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

Part 28 of the FAR contains guidance related to obtaining financial protection against damages under Government contracts (*e.g.,* use of bonds, bid guarantees, insurance etc.). Part 52 contains the texts of solicitation provisions and contract clauses. These regulations implement a statutory requirement for information to be provided by Federal contractors relating to payment bonds furnished under construction contracts which are subject to 40 U.S.C. chapter 31, subchapter III, Bonds. This collection requirement is mandated by Section 806 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Pub. L. 102–190), as amended by Section 2091 of the Federal Acquisition Streamlining Act of 1994 (Pub. L. 103–335). The clause at 52.228–12, Prospective Subcontractor Requests for Bonds, implements Section 806(a)(3) of Pub. L. 102–190, as amended, which specifies that, upon the request of a prospective subcontractor or supplier offering to furnish labor or material for the performance of a construction contract for which a payment bond has been furnished to the United States pursuant to 40 U.S.C. chapter 31, subchapter III, Bonds, the contractor shall promptly provide a copy of such payment bond to the requestor.

In conjunction with performance bonds, payment bonds are used in Government construction contracts to secure fulfillment of the contractor's obligations under the contract and to assure that the contractor makes all payments, as required by law, to persons furnishing labor or material in performance of the contract. This regulation provides prospective subcontractors and suppliers a copy of the payment bond furnished by the contractor to the Government for the performance of a Federal construction contract subject to 40 U.S.C. chapter 31, subchapter III, Bonds. It is expected that prospective subcontractors and suppliers will use this information to determine whether to contract with that particular prime contractor. This information has been and will continue to be available from the Government. The requirement for contractors to provide a copy of the payment bond upon request to any prospective subcontractor or supplier under the Federal construction contract is contained in Section 806(a)(3) of Public Law 102–190, as amended by Sections 2091 and 8105 of Public Law 103–355.

B. Annual Reporting Burden

Based on a Federal Procurement Data System (FPDS) report for the number of new construction contract awards over $150,000 (simplified acquisition threshold), there were 9,752 contracts awarded for Fiscal Year (FY) 2012. The Government estimated that each contract awarded had an average of 10 subcontractors (9,752 × 10), resulting in a total universe of 97,520 subcontractors. In consultation with subject matter experts, it was determined that 15% or 14,628 subcontractors (unique vendors) would

request the required information. Consequently, it was determined that 14,628 unique vendors was a sufficient baseline for estimating the number of respondents that would need to comply with this information collection.

An adjustment is being made regarding the estimated number of five annual responses, which was published in the **Federal Register** at 75 FR 62540 on October 12, 2010, to a more appropriate estimate of 1 response annually (i.e., the number a subcontractor would request this information). This adjustment results in a decrease of the estimated burden on the public from 15,872.50 hours to 3,657 hours.

Respondents: 14,628.

Responses per Respondent: 1.

Total Responses: 14,628.

Hours per Response: .25.

Total Burden Hours: 3,657.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (MVCB), 1800 F Street NW., 2nd Floor, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control Number 9000–0135, Prospective Subcontractor Requests for Bonds, in all correspondence.

Dated: September 10, 2013.

Karlos Morgan,

Acting Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2013–22460 Filed 9–13–13; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier: HHS–OS–20518–60D]

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 extension of the approved information collection assigned OMB control number OS–0990–0323, which expires on 30 April 2014. Prior to submitting that 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 November 15, 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–20518–60D for reference.

Information Collection Request Title: Medical Countermeasures.gov

Abstract: In order to route product developers to the most appropriate personnel within the Department of Health and Human Services (HHS), HHS collects some basic information about the company's product through Medical Countermeasures.gov. Using this information and a routing system that has been developed with input from participating agencies within HHS, including the Office of the Assistant Secretary for Preparedness and Response (ASPR), the Centers for Disease Control and Prevention (CDC), the Food and Drug Administration (FDA), and the National Institutes of Health (NIH), Medical Countermeasures.gov routes the meeting request to the appropriate person within HHS. ASPR is requesting an extension by OMB for a three-year clearance.

Need and Proposed Use of the Information: Meeting Request Routing System for Medical Countermeasures.gov—OMB No. 0990–0323—Extension—Office of the Assistant Secretary for Preparedness and Response (ASPR), Office of the Biomedical Advanced Research and Development Authority (BARDA).

Likely Respondents: Medical Countermeasure Developers.

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.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Meeting Request	225	1	8/60	30
Total	225	1	8/60	30

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. 2013–22450 Filed 9–13–13; 8:45 am]

BILLING CODE 4150–37–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–10371]

Emergency Clearance: Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB)

AGENCY: Center for Medicare and Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. 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.

We are, however, requesting an emergency review of the information collection referenced below. In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we have submitted to the Office of Management and Budget (OMB) the following requirements for emergency review. This is necessary to ensure compliance with an initiative of the Administration. We are requesting an emergency review under 5 CFR Part 1320(a)(2)(i) because public harm is reasonably likely to result if the normal clearance procedures are followed. The approval of the data collection tools for outcomes and operational metrics is essential to ensuring that State-based Marketplaces provide substantive operational and monitoring data to CMS in a uniform format from the beginning of the enrollment period, October 1, 2013. Without an emergency clearance process, systematic data collection would not begin until well into the open enrollment period, and states would have to delay critical steps to integrating this reporting into their information systems. Without consistent data, we will be limited in our ability to effectively track states' progress and identify problems during this crucial early implementation period.

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Cooperative Agreement to Support Establishment of State-Operated Health Insurance Exchanges; *Use:* All States (including the 50 States, consortia of States, Territories, and the District of Columbia herein referred to as States) that received a State Planning and Establishment Grant for Affordable Care Act's (ACA) Exchanges are eligible for the Cooperative Agreement to Support Establishment of State Operated Insurance Exchanges. Section 1311 of the Affordable Care Act offers the opportunity for each State to establish an Exchange [now referred to as Marketplace], and provides for grants to States for the planning and establishment of these Exchanges. Given the innovative nature of Exchanges and the statutorily-prescribed relationship between the Secretary and States in their development and operation, it is critical that the Secretary work closely with States to provide necessary guidance and technical assistance to ensure that States can meet the prescribed timelines, Federal requirements, and goals of the statute.

In order to provide appropriate and timely guidance and technical assistance, the Secretary must have access to timely, periodic information regarding State progress. Consequently, the information collection associated with these grants is essential to facilitating reasonable and appropriate federal monitoring of funds, providing statutorily-mandated assistance to States to implement Exchanges in accordance with Federal requirements, and to ensure that States have all necessary information required to proceed, such that retrospective corrective action can be minimized.

The submitted revision adds lists and suggested data reporting formats for Outcomes and Operational Metrics to states' data collection requirements; we will use the resulting data to evaluate Marketplace performance and overall effectiveness of the ACA. Key areas of measurement are the effectiveness of eligibility determination and enrollment processes, impact on affordability for consumers, and the effect of Marketplace participation on health insurances markets. Furthermore, these metrics facilitate actionable feedback and technical assistance to States for quality improvement efforts during the critical early period of operations. This funding opportunity was first released on January 20, 2011. *Form Number:* CMS–10371(OCN: 0938–1121); *Frequency:* Occasionally; *Affected Public:* State, Local or Tribal governments; *Number of Respondents:* 40; *Total Annual Responses:* 1,475; *Total Annual Hours:* 64,695. (For policy questions regarding this collection contact Christina Daw at 301–492–4181.)

We are requesting OMB review and approval of this collection by September 23, 2013, with a 180-day approval period. Written comments and recommendation will be considered from the public if received by the individuals designated below by the noted deadline below.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS's Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995* or Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov,* or call the Reports Clearance Office on (410) 786–1326.

In commenting on the proposed information collections please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in one of the following ways by September 23, 2013:

1. *Electronically.* You may submit your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) accepting comments.

2. *By regular mail.* You may mail written comments to the following address:

CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier (CMS–10371), Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850 and,

OMB Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, New Executive Office Building, Room 10235, Washington,

DC 20503, Fax Number: (202) 395–6974.

Dated: September 12, 2013.

Martique Jones,

Deputy Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2013–22517 Filed 9–13–13; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0514]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Requests for Clinical Laboratory Improvement Amendments Categorization

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by October 16, 2013.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0607. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance. Requests for Clinical Laboratory Improvement Amendments of 1988 (CLIA) Categorization—42 CFR 493.17 (OMB Control Number 0910–0607)—Extension.

A guidance document entitled ''Guidance for Administrative Procedures for CLIA Categorization'' was released on May 7, 2008. The document describes procedures FDA uses to assign the complexity category to a device. Typically, FDA assigns complexity categorizations to devices at the time of clearance or approval of the device. In this way, no additional burden is incurred by the manufacturer because the labeling (including operating instructions) is included in the premarket notification (510(k)) or premarket approval application (PMA). In some cases, however, a manufacturer may request CLIA categorization even if FDA is not simultaneously reviewing a 510(k) or PMA. One example is when a manufacturer requests that FDA assign CLIA categorization to a previously cleared device that has changed names since the original CLIA categorization. Another example is when a device is exempt from premarket review. In such cases, the guidance recommends that manufacturers provide FDA with a copy of the package insert for the device and a cover letter indicating why the manufacturer is requesting a categorization (e.g. name change, exempt from 510(k) review). The guidance recommends that in the correspondence to FDA the manufacturer should identify the product code and classification as well as reference to the original 510(k) when this is available. In the **Federal Register** of May 22, 2013 (78 FR 30312), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN ACTIVITY [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours	Operating and maintenance costs
Request for CLIA categorization	60	15	900	1	900	$46,800

[1] There are no capital costs associated with this collection of information.

The number of respondents is approximately 60. On average, each respondent will request categorizations (independent of a 510(k) or PMA) 15 times per year. The cost, not including personnel, is estimated at $52 per hour (52 × 900), totaling $46,800. This includes the cost of copying and mailing copies of package inserts and a cover letter, which includes a statement of the reason for the request and reference to the original 510(k) numbers, including regulation numbers and product codes. The burden hours are based on FDA familiarity with the types of documentation typically included in a sponsor's categorization requests, and costs for basic office supplies (e.g. paper).

Dated: September 10, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–22443 Filed 9–13–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0001]

Blood Products Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). At least one portion of the meeting will be closed to the public.

Name of Committee: Blood Products Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the Agency on FDA's regulatory issues.

Date and Time: The meeting will be held on November 1, 2013, from 8 a.m. to 4:30 p.m.

Location: FDA Fishers Lane Building, 5630 Fishers Lane, rm. 1066, Rockville, MD 20857. For those unable to attend in person, the meeting will also be Web cast. The Web cast will be available at the following link: *http://fda.yorkcast.com/webcast/Viewer/?peid=18390c01dfff405681afa644b1837e5a1d.*

Contact Person: Bryan Emery or Pearline Muckelvene, Center for Biologics Evaluation

and Research (HFM–71), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–1277 or 301–827–1281, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

Agenda: On the morning of November 1, 2013, the committee will meet in open session to discuss MP Biomedicals' biologic license application for the MP Diagnostics HTLV Blot 2.4, a Western Blot intended for use as a confirmatory test for blood donors. In the afternoon, the committee will hear update presentations on the following topics: (1) The April 2013 FDA public workshop on multiplex detection of transfusion transmissible agents and blood cell antigens in blood donations and (2) FDA safety communications on new boxed warnings for immune globulin products and hydroxyethyl starch solutions. Following the update presentations, the committee will meet in open session to hear presentations on the research programs of the Laboratory of Biochemistry and Vascular Biology, Division of Hematology, Office of Blood Research and Review, Center for Biologics Evaluation and Research, FDA.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: On November 1, 2013, from 8 a.m. to approximately 4 p.m., the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before October 24, 2013. Oral presentations from the public will be scheduled between approximately 11 a.m. and 11:30 a.m. Afternoon presentations will be scheduled between approximately 3:30 p.m. and 4 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before October 16, 2013. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by October 17, 2013.

Closed Committee Deliberations: On November 1, 2013, from approximately 4 p.m. to 4:30 p.m., the meeting will be closed to permit discussion where disclosure would constitute a clearly unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)). The committee will discuss the site visit report of the intramural research programs and make recommendations regarding personnel staffing decisions.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets. Seating for this meeting may be limited, so the public is encouraged to watch the free Web cast if you are unable to attend. The Web cast will be available at 8 a.m. on November 1, 2013, at the link provided.

FDA 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 Bryan Emery at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: September 9, 2013.

Jill Hartzler Warner,

Acting Associate Commissioner for Special Medical Programs.

[FR Doc. 2013–22423 Filed 9–13–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0001]

Antiviral Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Antiviral Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the Agency on FDA's regulatory issues.

Date and Time: The meeting will be held on October 25, 2013, from 8 a.m. to 5 p.m.

Location: Sheraton Silver Spring Hotel, Cypress Ballroom, 8777 Georgia Ave., Silver Spring, MD. The hotel phone number is 301–589–0800.

Contact Person: Karen Abraham-Burrell, Food and Drug Administration, Center for Drug Evaluation and Research, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, FAX: 301–847–8533, email: *AVAC@fda.hhs.gov*, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

Agenda: The committee will discuss new drug application (NDA) 204671, sofosbuvir (an NS5B polymerase inhibitor), manufactured by Gilead Sciences, Inc., with a proposed indication for the treatment of chronic hepatitis C infection, in combination with other agents in adult patients with genotypes 1 to 6 and/or adult patients awaiting liver transplantation.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before October 9, 2013. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before October 1, 2013. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public

hearing session. The contact person will notify interested persons regarding their request to speak by October 2, 2013.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA 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 Karen Abraham-Burrell at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: September 10, 2013.

Jill Hartzler Warner,

Acting Associate Commissioner for Special Medical Programs.

[FR Doc. 2013–22427 Filed 9–13–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-day Comment Request: Family Life, Activity, Sun, Health, and Eating (FLASHE) Study (NCI)

SUMMARY: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH), has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on June 28, 2013, Vol. 78, No. 125, page 28996 and allowed 60-days for public comment. One public comment was received on June 29, 2013 which commented on the expense and topic of the study. An email response was sent on July 8, 2013 stating ''Your comments will be taken into consideration. The Division of Cancer Prevention at the NCI supports research that studies the potential impact from a cell, tissue or organism and the pathways associated with disease process.'' The purpose of this notice is to allow an additional 30 days for public comment. The National Cancer Institute (NCI), National Institutes of Health, may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Direct Comments to OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974, Attention: NIH Desk Officer.

Comment Due Date: Comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this publication.

For Further Information: To obtain a copy of the data collection plans and instruments or request more information on the proposed project contact: Linda Nebeling, Ph.D., Division of Cancer Control and Population Sciences, National Cancer Institute, 9609 Medical Center Drive, Room 3E102, Bethesda, MD 20892–9671 or call non-toll-free number 240–276–6855 or Email your request, including your address to: *nebelinl@mail.nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

Proposed Collection: Family Life, Activity, Sun, Health, and Eating (FLASHE) Study (NCI), 0925–NEW, Expiration Date xx/xx/xxxx, National Cancer Institute (NCI), National Institutes of Health (NIH).

Need and Use of Information Collection: The FLASHE study seeks to examine psychosocial, generational (parent-adolescent), and environmental correlates of cancer preventive behaviors. FLASHE will examine the science of cancer and obesity prevention by examining correlates of cancer preventive behaviors, mainly diet, activity, and sedentary behaviors (but also examining other behaviors such as sleep, sun-safety, and tobacco) in new ways not previously addressed comprehensively on other surveys. The survey's goal is to advance understanding of the dynamic relationship between the environment, psychosocial factors, and behavior from a dyadic perspective. Data collected will ultimately be a public use dataset and resource to the research community. FLASHE will be collecting data from parents and their adolescent children through a web survey with a final sample size of 2,500 dyads with motion sensing data collected in a subsample of 900 adolescents.

OMB approval is requested for 2 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 2,243.

ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Type of respondent	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total annual burden hours
Enrollment and Consent	Parents (enrolling self)	1,250	1	10/60	208
	Parents (enrolling adolescent)	1,250	1	10/60	208
	Adolescents (assenting self)	1,250	1	5/60	104
Web survey with demographics	Parents	1,250	1	20/60	417
	Adolescents	1,250	1	20/60	417
Web survey without demographics	Parents	1,250	1	15/60	313
	Adolescents	1,250	1	15/60	313
Wear Log	Adolescents	450	7	5/60	263

Dated: September 10, 2013.

Vivian Horovitch-Kelley,

NCI Project Clearance Liaison, National Institutes of Health.

[FR Doc. 2013–22487 Filed 9–13–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel; NIDCR Secondary Data Analysis R03 review.

Date: October 7, 2013.

Time: 10:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Democracy Blvd., Bethesda, MD 20852.

Contact Person: Jayalakshmi Raman, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of Dental and Craniofacial Research, One Democracy Plaza, Room 670, Bethesda, MD 20892–4878, 301–594–2904, *ramanj@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: September 10, 2013.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–22383 Filed 9–13–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel; Pathway to Independence Review.

Date: October 10, 2013.

Time: 12:30 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: NIEHS/National Institutes of Health, Keystone Building, 530 Davis Drive, Research Triangle Park, NC 27709, (Telephone Conference Call).

Contact Person: Sally Eckert-Tilotta, Ph.D., Scientific Review Administrator, National Institute of Environmental Health Sciences, Office of Program Operations, Scientific Review Branch, P.O. Box 12233, Research Triangle Park, NC 27709, (919) 541–1446, *eckertt1@niehs.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Healthand Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: September 10, 2013.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–22378 Filed 9–13–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; Vestibular Clinical Trial Review.

Date: October 1, 2013.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Christine A. Livingston, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institutes of Health/NIDCD, 6120 Executive Blvd.—MSC 7180, Bethesda, MD 20892, (301) 496–8683, *livingsc@mail.nih.gov.*

Name of Committee: Communication Disorders Review, Committee.

Date: October 3–4, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.

Contact Person: Andrea B. Kelly, Ph.D., Scientific Review Officer, Division of Extramural Activities, Scientific Review Branch, NIDCD, NIH, 6120 Executive Blvd., Ste 400C, MSC 7180, Rockville, MD 20892, (301) 496–8683, *kellya2@nidcd.nih.gov.*

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; Hearing and Balance Fellowships Review Meeting.

Date: October 11, 2013.

Time: 8:00 a.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW,. Washington, DC 20015.

Contact Person: Kausik Ray, Ph.D., Scientific Review Officer, National Institute on Deafness and Other Communication

Disorders, National Institutes of Health, Rockville, MD 20850, 301–402–3587, *rayk@nidcd.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: September 10, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–22385 Filed 9–13–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; 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: Office of Research Infrastructure Programs Special Emphasis Panel; Stem Cell SEP.

Date: October 8–9, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Sheri A. Hild, Ph.D., Scientific Review Officer, Office of Grants Management & Scientific Review, National Center for Advancing Translational Sciences (NCATS), National Institutes of Health, 6701 Democracy Blvd., Democracy 1, Room 1082, Bethesda, MD 20892, 301–435–0811, *hildsa@mail.nih.gov.*

Name of Committee: Office of Research Infrastructure Programs Special Emphasis Panel; Comparative Medicine Resource Applications.

Date: October 9–10, 2013.

Time: 8:00 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Carol Lambert, Ph.D., Acting Deputy Director, Office of Grants Management & Scientific Review, National Center for Advancing Translational Sciences (NCATS), National Institutes of Health, 6701 Democracy Blvd., Democracy 1, Room 1076, Bethesda, MD 20892, 301–435–0814, *lambert@mail.nih.gov.*

Name of Committee: Office of Research Infrastructure Programs Special Emphasis Panel; Comparative Medicine Training Applications.

Date: October 15, 2013.

Time: 8:00 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Carol Lambert, Ph.D., Acting Deputy Director, Office of Grants Management & Scientific Review, National Center for Advancing Translational Sciences (NCATS), National Institutes of Health, 6701 Democracy Blvd., Democracy 1, Room 1076, Bethesda, MD 20892, 301–435–0814, *lambert@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: September 10, 2013.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–22379 Filed 9–13–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Advisory Committee on Research on Women's Health.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Advisory Committee on Research on Women's Health.

Date: October 8, 2013.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: The Committee serves to advise and make recommendations to the Director, Office of Research on Women's Health (ORWH) on a broad range of topics including, the current scope of research on women's health and the influence of sex and gender on human health, efforts to understand the issues related to women in biomedical careers and their needs, and the current status of inclusion of women in clinical trials research.

Place: National Institutes of Health, Building 31, Room: 6C, 31 Center Drive, Bethesda, MD 20892.

Contact Person: Susan E Maier, Ph.D. NIH/NIAID, 6700B Rockledge Drive, Suite 2212, Rockville, MD 20852, 301–594–7198 *maiers@niaid.nih.gov*.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http://orwh.od.nih.gov/about/acrwh/acrwh-37thmeetings.asp,* where an agenda and any additional information for the meeting will be posted when available. This includes individuals who cannot attend the meeting in person. The meeting will be live videocast on the NIH Videocast network.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: September 10, 2013.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–22387 Filed 9–13–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; PAR–12–265: NIDDK Ancillary Studies: Genomics of IBD.

Date: October 30, 2013.

Time: 1:00 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Najma Begum, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 749, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–8894, *begumn@niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; DDK–D Member Conflict of Interest SEP.

Date: November 1, 2013.

Time: 8:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.

Contact Person: Xiaodu Guo, MD, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 761, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–4719, *guox@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; PAR–12–265 Ancillary Clinical Studies: Bone Health in Diabetes.

Date: November 14, 2013.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Ann A. Jerkins, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 759, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, 301–594–2242, *jerkinsa@niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; NIDDK R03 Small Grants for New Investigators.

Date: November 19, 2013.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Jian Yang, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes Of Health, Room 755, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7799, *yangj@extra.niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: September 10, 2013.

David Clary, Program Analyst,

Office of Federal Advisory Committee Policy.

[FR Doc. 2013–22381 Filed 9–13–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Clinical Trial Planning Grant (R34) and Clinical Trial Implementation Cooperative Agreement (U01).

Date: October 10, 2013.

Time: 9:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6700 B Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Quirijn Vos, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–496–2550, *qvos@niaid.nih.gov.*

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Clinical Trial Planning Grant (R34) and Clinical Trial Implementation Cooperative Agreement (U01).

Date: October 21, 2013.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6700 B Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Quirijn Vos, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, DHHS/NIH/NIAID, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892, 301–451–2666, *qvos@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: *September 10, 2013.*

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–22384 Filed 9–13–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of 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: Center for Scientific Review Special Emphasis Panel; Member Conflict: Hematology and Vascular Signaling.

Date: October 1–2, 2013.
Time: 10:00 a.m. to 7:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Ai-Ping Zou, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118, MSC 7814, Bethesda, MD 20892, 301–408–9497, *zouai@csr.nih.gov.*

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Neural Basis of Psychopathology, Addictions and Sleep Disorders Study Section.
Date: October 2–3, 2013.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Amalfi Hotel, 20 West Kinzie Street, Chicago, IL 60654.
Contact Person: Boris P Sokolov, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5217A, MSC 7846, Bethesda, MD 20892, 301–408–9115, *bsokolov@csr.nih.gov.*

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group; Basic Mechanisms of Cancer Therapeutics Study Section.
Date: October 7–8, 2013.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Torrance Marriott South Bay, 3635 Fashion Way, Torrance, CA 90503.
Contact Person: Lambratu Rahman Sesay, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, MSC 7804, Bethesda, MD 20892, 301–451–3493, *rahman-sesayl@csr.nih.gov.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Neurobiology of Motivated Behavior Study Section.
Date: October 14–15, 2013.
Time: 8:00 a.m. to 1:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Pier 5 Hotel, 711 Eastern Avenue, Baltimore, MD 21202.
Contact Person: Nicholas Gaiano, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5178, MSC 7844, Bethesda, MD 20892–7844, 301–435–1033, *gaianonr@csr.nih.gov.*

Name of Committee: Cell Biology Integrated Review Group; Nuclear and Cytoplasmic Structure/Function and Dynamics Study Section.
Date: October 15–16, 2013.
Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.
Contact Person: David Balasundaram, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5189, MSC 7840, Bethesda, MD 20892, 301–435–1022, *balasundaramd@csr.nih.gov.*

Name of Committee: Vascular and Hematology Integrated Review Group; Molecular and Cellular Hematology Study Section.
Date: October 15–16, 2013.
Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.
Contact Person: Luis Espinoza, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6183, MSC 7804, Bethesda, MD 20892, 301–495–1213, *espinozala@mail.nih.gov.*

Name of Committee: Digestive, Kidney and Urological Systems Integrated Review Group; Hepatobiliary Pathophysiology Study Section.
Date: October 15–16, 2013.
Time: 8:00 a.m. to 1:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Bonnie L Burgess-Beusse, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2182, MSC 7818, Bethesda, MD 20892, 301–435–1783, *beusseb@mail.nih.gov.*

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group; Biobehavioral Mechanisms of Emotion, Stress and Health Study Section.
Date: October 15–16, 2013.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Baltimore Marriott Inner Harbor at Camden Yards, 110 S Eutaw Street, Baltimore, MD 21201.
Contact Person: Maribeth Champoux, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3170, MSC 7848, Bethesda, MD 20892, (301) 594–3163, *champoum@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Radiation Therapy and Biology.
Date: October 15–16, 2013.
Time: 9:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Bo Hong, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6194, MSC 7804, Bethesda, MD 20892, 301–435–5879, *hongb@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: September 9, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–22386 Filed 9–13–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Eye Institute Special Emphasis Panel; NEI Career Development and Pathways to Independence Grant Applications.
Date: October 21–23, 2013.
Time: 8:00 a.m. to 12:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 5635 Fishers Lane, Bethesda, MD 20892, (Virtual Meeting).
Contact Person: Jeanette M Hosseini, Ph.D., Scientific Review Officer, 5635 Fishers Lane, Suite 1300, Bethesda, MD 20892, 301–451–2020, *jeanetteh@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: September 10, 2013.

Melanie Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–22377 Filed 9–13–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Human Genome Research Institute Special Emphasis Panel; H3AFRICA ELSI Research.

Date: October 15, 2013.

Time: 1:00 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Human Genome Research Institute, Suite 3055, 5635 Fishers Lane, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Rudy O. Pozzatti, Ph.D., Scientific Review Officer, Scientific Review Branch, National Human Genome Research Institute, 5635 Fishers Lane, Suite 4076, MSC 9306, Rockville, MD 20852, (301) 402–0838, *pozzattr@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: September 10, 2013.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–22380 Filed 9–13–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of 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 open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Initial Review Group Diabetes, Endocrinology and Metabolic Diseases B Subcommittee.

Date: October 16–18, 2013.

Open: October 16, 2013, 5:30 p.m. to 6:00 p.m.

Agenda: To review policy and procedures.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Closed: October 16, 2013, 6:00 p.m. to 9:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Closed: October 17, 2013, 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Closed: October 18, 2013, 8:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: John F. Connaughton, Ph.D., Chief, Chartered Committees Section, Review Branch, DEA, NIDDK, National Institutes of Health, Room 753, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7797, *connaughtonj@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Initial Review Group Kidney, Urologic and Hematologic Diseases D Subcommittee.

Date: October 23–24, 2013.

Open: October 23, 2013, 8:00 a.m. to 8:30 a.m.

Agenda: To review policy and procedures.

Place: Courtyard Gaithersburg Washingtonian Center, 204 Boardwalk Place, Gaithersburg, MD 20878.

Closed: October 23, 2013, 8:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard Gaithersburg Washingtonian Center, 204 Boardwalk Place, Gaithersburg, MD 20878.

Closed: October 24, 2013, 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard Gaithersburg Washingtonian Center, 204 Boardwalk Place, Gaithersburg, MD 20878.

Contact Person: Barbara A. Woynarowska, Ph.D., Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 754, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 402–7172, *woynarowskab@niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: September 10, 2013.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–22382 Filed 9–13–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Office of Refugee Resettlement

[CFDA Number: 93.598]

Announcement of the Award of Three Single-Source Program Expansion Supplement Grants to National Human Trafficking Victim Assistance Program Grantees

AGENCY: Office of Refugee Resettlement, ACF, HHS.

ACTION: Announcement of the award of single-source expansion supplements to three current grantees to support expanded services to foreign trafficking victims, potential trafficking victims, and certain family members.

SUMMARY: The Administration for Children and Families (ACF), Office of Refugee Resettlement (ORR) announces the award of expansion supplement grants to the following current grantees for a total of $350,000:

Grantee organization	Grant location	Supplement award amount
U.S. Committee for Refugees and Immigrants	Arlington, VA	$170,000
Tapestri, Inc.	Tucker, GA	96,000
Heartland Human Care Services	Chicago, IL	84,000

These supplement grants will ensure sufficient funds to meet clients' essential needs, such as housing, transportation, communication, food, and medical care.

DATES: The period of support under these supplements is August 14, 2013 through September 29, 2013.

FOR FURTHER INFORMATION CONTACT: Maggie Wynne, Director, Division of Anti-Trafficking in Persons, Office of Refugee Resettlement, 901 D Street SW., Washington, DC 20447, Telephone (202) 401–4664. Email: *maggie.wynne@acf.hhs.gov*.

SUPPLEMENTARY INFORMATION: The National Human Trafficking Victim Assistance Program (NHTVAP) provides funding for comprehensive case management services on a per capita basis. The NHTVAP grantees help victims gain access to housing, employability services, mental health screening and therapy, medical care, and some legal services, enabling them to live free of violence and exploitation. During FY 2013, the NHTVAP grantees have served more clients than they planned for in their budgets. Without additional funding, they will have to make significant cuts in services to clients and that enrollment of new clients will be limited. With supplemental funding, the grantees will be able to ensure that all of the clients' essential needs will be met.

Statutory Authority: Trafficking Victims Protection Act of 2000 (TVPA), as amended, Section 107(b)(1)(B), 22 U.S.C. 7105(b)(1)(B), provides funding for benefits and services to foreign victims of severe forms of trafficking in persons in the United States, potential victims of trafficking seeking HHS Certification, and certain family members.

Eskinder Negash,

Director, Office of Refugee Resettlement.

[FR Doc. 2013–22426 Filed 9–13–13; 8:45 am]

BILLING CODE 4184–47–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Office of Refugee Resettlement

[CFDA Number: 93.676]

Announcement of the Award of 15 Single-Source Program Expansion Supplement Grants to Unaccompanied Alien Children's Shelter Care Grantees

AGENCY: Office of Refugee Resettlement, ACF, HHS.

ACTION: Announcement of the award of 15 single-source program expansion grants to 12 current grantees to expand supportive services to the increasing number of unaccompanied alien children (UAC).

SUMMARY: The Administration for Children and Families (ACF), Office of Refugee Resettlement (ORR) announces the award of 15 single-source program expansion supplement grants to the following 12 current grantees, for a total of $1,420,955. Two grantees are receiving multiple supplement grants: BCFS Health and Human Services, San Antonio, TX—$492,123 and $313,916 totaling $806,039; and International Education Services, Los Fresnos, TX—$35,433, $15,486, and $76,698 totaling $127,617.

Organization	Location	Amount
BCFS Health and Human Services	San Antonio, TX	$806,039
Catholic Charities Houston	Houston, TX	170,704
Catholic Charities of Miami—Boystown	Miami, FL	127,769
Children's Center, Inc.	Galveston, TX	19,000
Florence Crittenton Services of Orange County	Fullerton, CA	5,612
International Education Services (IES)	Los Fresnos, TX	127,617
Lutheran Social Services of the South—Bokenkamp Children's Shelter	Austin, TX	77,165
Lutheran Social Services of the South—El Paso	Austin, TX	17,432
Morrison Child and Family Services	Portland, OR	21,660
Tumbleweed Center for Youth Development	Phoenix, AZ	12,000
Youth For Tomorrow	Bristow, VA	8,370
Youthcare	Seattle, WA	27,587

These supplement grants will expand supportive services (additional transportation costs, staff overtime, additional staff hiring) required to meet the number of UAC referrals from the Department of Homeland Security (DHS). The UAC program is mandated by section 462 of the Homeland Security Act to ensure appropriate placement of all referrals from the DHS. The UAC Shelter Care program is tied to DHS apprehension strategies and the sporadic number of border crossers.

DATES: October 1, 2012 through September 30, 2013.

FOR FURTHER INFORMATION CONTACT: Jallyn Sualog, Acting Director, Division of Children's Services, Office of Refugee Resettlement, 901 D Street SW., Washington, DC 20447, Telephone (202) 401–4997. Email: *jallyn.sualog@acf.hhs.gov*.

SUPPLEMENTARY INFORMATION: Since the beginning of FY 2013, the UAC program has seen a dramatic increase in the number of DHS referrals. The influx of border crossers referred by DHS has grown beyond anticipated rates and has resulted in the need for a significant increase in the supportive services provided to unaccompanied children. The UAC program has specific requirements for the provision of services to unaccompanied alien children. These grantee organizations are the only entities with the infrastructure, licensing, experience, and appropriate level of trained staff to meet the service requirements and the urgent need for the expansion of services required to respond to unexpected arrivals of unaccompanied children.

Statutory Authority: Section 462 of the Homeland Security Act, (6 U.S.C. 279) and sections 235(c) and 235(d) of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1232(c) and 1232(d)).

Eskinder Negash,

Director, Office of Refugee Resettlement.

[FR Doc. 2013–22424 Filed 9–13–13; 8:45 am]

BILLING CODE 4184–45–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2013–0015; OMB No. 1660–0017]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a revision of a currently approved information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning information collected for the Public Assistance (PA) program eligibility determinations, grants management, and compliance with Federal laws and regulations.

DATES: Comments must be submitted on or before November 15, 2013.

ADDRESSES: To avoid duplicate submissions to the docket, please use only one of the following means to submit comments:

(1) *Online.* Submit comments at *www.regulations.gov* under Docket ID FEMA–2013–0015. Follow the instructions for submitting comments.

(2) *Mail.* Submit written comments to Docket Manager, Office of Chief Counsel, DHS/FEMA, 500 C Street SW., Suite 840, Washington, DC 20472–3100.

All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice that is available via the link in the footer of *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Clifford Brown, Executive Officer, Recovery Directorate, Public Assistance Division, (202) 646–4136. You may contact the Records Management Division for copies of the proposed collection of information at facsimile number (202) 646–3347 or email address: *FEMA-Information-Collections-Management@dhs.gov.*

SUPPLEMENTARY INFORMATION: The Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207 (the Stafford Act), authorizes grants to assist State, Tribal, and local governments and certain Private Non-Profit entities with the response to and recovery from disasters following Presidentially declared major disasters and emergencies. 44 CFR Part 206 specifies the information collections necessary to facilitate the provision of assistance under the PA Program. 44 CFR 206.202 describes the general application procedures for the PA program.

The Sandy Recovery Improvement Act of 2013 (SRIA) directed FEMA to establish a Dispute Resolution Pilot Program for Public Assistance (assistance provided under sections 403, 406, or 407 of the Stafford Act), to include arbitration. FEMA selected arbitration as one method of dispute resolution that will be used. Section 1105 of SRIA will only be available for disasters that occurred on or after October 30, 2012, where the applicant has a legitimate dispute equal to or in excess of $1 million (adjusted annually) with a non-Federal share, and applicants have completed a first appeal pursuant to 44 CFR 206.206. To seek arbitration, applicants must submit a Request for Arbitration form, which may be accompanied by a recommendation from the Grantee.

Collection of Information

Title: Public Assistance Program.

Type of Information Collection: Revision of a currently approved information collection.

FEMA Forms: FEMA Form 009–0–49 Request for Public Assistance; FEMA Form 009–0–91 Project Worksheet (PW); FEMA Form 009–0–91A Project Worksheet (PW)—Damage Description and Scope of Work Continuation Sheet; FEMA Form 009–0–91B Project Worksheet (PW)—Cost Estimate Continuation Sheet; FEMA Form 009–0–91C Project Worksheet (PW)—Maps and Sketches Sheet; FEMA Form 009–0–91D Project Worksheet (PW)—Photo Sheet; FEMA Form 009–0–120 Special Considerations Questions; FEMA Form 009–0–121 PNP Facility Questionnaire; FEMA Form 009–0–123 Force Account Labor Summary Record; FEMA Form 009–0–124 Materials Summary Record; FEMA Form 009–0–125 Rented Equipment Summary Record; FEMA Form 009–0–126 Contract Work Summary Record; FEMA Form 009–0–127 Force Account Equipment Summary Record; FEMA Form 009–0–128 Applicant's Benefits Calculation Worksheet; FEMA Form 009–0–111, Quarterly Progress Reports; FEMA Form 055–0–0–1, Request for Arbitration.

Abstract: The information collected is utilized by FEMA to make determinations for Public Assistance grants based on the information supplied by the respondents.

Affected Public: State, Local or Tribal Government.

Number of Respondents: 56.

Number of Responses: 346,960.

Estimated Total Annual Burden Hours: 361,826 hours.

Estimated Cost: There are no record keeping, capital, start-up maintenance costs associated with this information collection.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Dated: September 6, 2013.

Loretta Cassatt,

Branch Chief, Records Management Division, Mission Support Bureau, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2013–22433 Filed 9–13–13; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5683–N–82]

30-Day Notice of Proposed Information Collection: Training Evaluation Form

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with

the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* October 16, 2013.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on July 8, 2013.

A. Overview of Information Collection

Title of Information Collection: Training Evaluation Form.

OMB Approval Number: 2577–0271.

Type of Request: Extension without of a currently approved collection.

Form Number: HUD–50945.

Description of the need for the information and proposed use: Executive Order 13571, ''Streamlining Service Delivery and Improving Customer Service'' states ''The public deserves competent, efficient, and responsive service from the Federal Government. Executive departments and agencies (agencies) must continuously evaluate their performance in meeting this standard and work to improve it. Executive Order 12862 (Setting Customer Service Standards), issued on September 11, 1993, requires agencies that provide significant services directly to the public to identify and survey their customers, establish service standards and track performance against those standards, and benchmark customer service performance against the best in business.

To that end, the Office of Public and Indian Housing (PIH) will use a standardized training assessment instrument to evaluate learners' reactions to training or technical assistance programs. With the information collected PIH will measure, evaluate, and compare the performance of its various training programs over time. The design of this form follows industry-accepted best practices, allowing additional comparisons to other training programs in business and government.

Examples of how the Training Evaluation Form is currently being used and will be used are: On-site Core Curriculum training in Financial Management and Governance training at in 22 locations in FY 2013. This training will be web-based in the future. To inspect HUD insured and assisted properties, prospective contract inspectors are required to successfully complete HUD Uniform Physical Condition Standards (UPCS) inspection training. The training consists of pre-requisite computer-based component followed by an instructor led component. To become familiar with the UPCS inspection process and requirements, thereby facilitating and enhancing maintenance of properties and preparation for upcoming contract inspections, public housing agency (PHA) employees and multifamily property owners and agents (POAs) are able to take a computer-based UPCS training.

PIH proposes to use the training form in the future for all other training offered to PIH program participants and stakeholders on major regulatory changes, such as was done for asset management in 2010 and 2011. These sessions may be held as technical assistance seminars, conferences, or briefings.

And, PIH anticipates launching a Web site dedicated to providing links to existing HUD Web-based learning materials.

Respondents (i.e., affected public): The training evaluation form will be completed by members of the public and individuals at state and local government entities who participate in a HUD training course.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Training Eval. Form	64,180	1	64,180	.033	2,120	$24.10	$51,092
Total	64,180	1	64,180	.033	2,120	24.10	51,092

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: September 11, 2013.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2013–22454 Filed 9–13–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5689–N–08]

Proposed Information Collection for Public Comment: Impact of Housing and Services Interventions on Homeless Families—36-Month Follow-Up Data Collection

AGENCY: Office of Policy Development and Research, HUD.

ACTION: Notice of proposed information collection.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* November 15, 2013.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: The Impact of Housing and Services Interventions on Homeless Families—36-month Follow-up Data Collection.

OMB Approval Number: N/A.

Type of Request: New.

Form Number: N/A.

Description of the need for the information and proposed use: The 36-Month Head of Household Follow-up Survey Instrument and the 36-Month Child Data Collection Instruments will support the collection of data from families enrolled in the *Family Options Study.* The *Family Options Study,* formerly referred to as The Impact of Housing and Services Interventions on Homeless Families, was launched by HUD in 2008 in response to Senate Report 109–109 for the FY 2006 Transportation, Treasury, the Judiciary, Housing and Urban Development and Related Agencies Appropriations Bill, which directed HUD to ''undertake research to ascertain the impact of various service and housing interventions in ending homelessness for families.'' The *Family Options Study* is comparing several combinations of housing assistance and services in a rigorous, multi-site experiment to determine which interventions work best to promote housing stability, family preservation, child well-being, adult well-being, and self-sufficiency. Between 2010 and 2012, over 2,300 families in twelve communities enrolled in the study. Prior rounds of data collection from the adult head of household have been conducted at the point of study enrollment/random assignment, and eighteen (18) months following the date of study enrollment/random assignment. Extensive data collection from a sample of children within study families has also been conducted by the research team with funding from the *Eunice Kennedy Shriver* National Institute of Child Health and Human Development (NICHD). This next phase of data collection in the *Family Options Study* will support the continued collection of data from study families 36 months following the date of study enrollment/random assignment. Given the length of time which families are eligible to remain in the interventions being tested (one of the four interventions being studied can serve families for up to 18 months, and a second can serve families for up to 24 months), this final wave of data is critical to understanding how families fare after an intervention ends, and whether the same interventions that are effective in the short-term (18 months), are also effective in the longer-term (36 months).

Respondents (i.e. affected public): Study households.

Form	Respondent sample	Number of respondents	Average time to complete (minimum, maximum) in minutes	Frequency	Total burden (hours)
36-Month Head of Household Follow-up Survey Instrument.	All enrolled study families (N = 2,307).	2,307	65 (55–75)	1	2,500
36-Month Child Data Collection	Up to two children per family	2,800	60 (50–70)	1	2,800
Total Burden Hours	.....	.....	.....	.....	5,300

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: September 6, 2013.

Jean Lin Pao,

General Deputy Assistant Secretary, Office of Policy Development and Research.

[FR Doc. 2013–22456 Filed 9–13–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5730–N–01]

Notice of Certain Operating Cost Adjustment Factors for 2014

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: This notice establishes operating cost adjustment factors (OCAFs) for project based assistance contracts for eligible multifamily housing projects having an anniversary date on or after February 11, 2014. OCAFs are annual factors used to adjust Section 8 rents renewed under section 524 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (MAHRA).

DATES: *Effective Date:* February 11, 2014.

FOR FURTHER INFORMATION CONTACT: Stan Houle, Housing Program Manager, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; telephone number 202–402–2572 (this is not a toll-free number). Hearing- or speech-impaired individuals may access this number through TTY by calling the toll-free Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

I. OCAFs

Section 514(e)(2) of MAHRA (42 U.S.C. 1437f note) requires HUD to establish guidelines for rent adjustments based on an OCAF. The statute requiring HUD to establish OCAFs for Low-Income Housing Preservation and Resident Homeownership Act (LIHPRHA) (12 U.S.C. 4101, *et seq.*) projects and projects with contract renewals or adjustments under section 524(b)(1)(A) of MAHRA is similar in wording and intent. HUD has therefore developed a single factor to be applied uniformly to all projects utilizing OCAFs as the method by which renewal rents are established or adjusted.

LIHPRHA projects are low-income housing projects insured by the Federal Housing Administration (FHA). LIHPRHA projects are primarily low-income housing projects insured under section 221(d)(3) below-market interest rate (BMIR) and section 236 of the National Housing Act, respectively. Both categories of projects have low-income use restrictions that have been extended beyond the 20-year period specified in the original documents, and both categories of projects also receive assistance under section 8 of the U.S. Housing Act of 1937 to support the continued low-income use.

MAHRA gives HUD broad discretion in setting OCAFs, referring, for example, in sections 524(a)(4)(C)(i), 524(b)(1)(A), 524(b)(3)(A) and 524(c)(1) simply to ''an operating cost adjustment factor established by the Secretary.'' The sole limitation to this grant of authority is a specific requirement in each of the foregoing provisions that application of an OCAF ''shall not result in a negative adjustment.'' Contract rents are adjusted by applying the OCAF to that portion of the rent attributable to operating expenses exclusive of debt service.

The OCAFs provided in this notice and applicable to eligible projects having a project based assistance contracts anniversary date of on or after February 11, 2014, are calculated using the same method as those published in HUD's 2013 OCAF notice published on October 16, 2012 (77 FR 63324). Specifically, OCAFs are calculated as the sum of weighted average cost changes for wages, employee benefits, property taxes, insurance, supplies and equipment, fuel oil, electricity, natural gas, and water/sewer/trash using publicly available indices. The weights used in the OCAF calculations for each of the nine cost component groupings are set using current percentages attributable to each of the nine expense categories. These weights are calculated in the same manner as in HUD's October 16, 2012, notice. Average expense proportions were calculated using three years of audited Annual Financial Statements from projects covered by OCAFs. The expenditure percentages for these nine categories have been found to be very stable over time, but using three years of data increases their stability. The nine cost component weights were calculated at the state level, which is the lowest level of geographical aggregation with enough projects to permit statistical analysis. These data were not available for the Western Pacific Islands, so data for Hawaii were used as the best available indicator of OCAFs for these areas.

The best current price data sources for the nine cost categories were used in calculating annual change factors. State-level data for fuel oil, electricity, and natural gas from Department of Energy surveys are relatively current and continue to be used. Data on changes in employee benefits, insurance, property taxes, and water/sewer/trash costs are only available at the national level. The data sources for the nine cost indicators selected used were as follows:

- *Labor Costs:* First quarter, 2013 Bureau of Labor Statistics (BLS) ECI, Private Industry Wages and Salaries, All Workers (Series ID CIU2020000000000I) at the national level and Private Industry Benefits, All Workers (Series ID CIU2030000000000I) at the national level.
- *Property Taxes:* Census Quarterly Summary of State and Local Government Tax Revenue—Table 1 *http://www2.census.gov/govs/qtax/2013/q1t1.xls.* 12-month property taxes are computed as the total of four quarters of tax receipts for the period from April through March. Total 12-month taxes are then divided by the number of occupied housing units to arrive at average 12-month tax per housing unit. The number of occupied housing units is taken from the estimates program at the Bureau of the Census. *http://www.census.gov/housing/hvs/data/histtab8.xls.*
- *Goods, Supplies, Equipment:* May 2012 to May 2013 Bureau of Labor Statistics (BLS) Consumer Price Index, All Items Less Food, Energy and Shelter (Series ID CUUR0000SA0L12E) at the national level.
- *Insurance:* May 2012 to May 2013 Bureau of Labor Statistic (BLS) Consumer Price Index, Tenants and Household Insurance Index (Series ID CUUR0000SEHD) at the national level.
- *Fuel Oil:* October 2012—March 2013 U.S. Weekly Heating Oil and Propane Prices report. Average weekly residential heating oil prices in cents per gallon excluding taxes for the period from October 1, 2012 through March 18, 2013 are compared to the average from October 3, 2011 through March 19, 2012. For the States with insufficient fuel oil consumption to have separate estimates, the relevant regional Petroleum Administration for Defense Districts (PADD) change between these two periods is used; if there is no regional PADD estimate, the U.S. change between these two periods is used. *http://www.eia.gov/dnav/pet/pet_pri_wfr_a_EPD2F_prs_dpgal_w.htm.*
- *Electricity:* Energy Information Agency, February 2013 ''Electric Power

Monthly'' report, Table 5.6.B. *http://www.eia.gov/electricity/monthly/current_year/february2013.pdf*.

• *Natural Gas:* Energy Information Agency, Natural Gas, Residential Energy Price, 2011–2012 annual prices in dollars per 1,000 cubic feet at the state level. Due to EIA data quality standards several states were missing data for one or two months in 2012; in these cases, data for these missing months were estimated using data from the surrounding months in 2012 and the relationship between that same month and the surrounding months in 2011. *http://www.eia.gov/dnav/ng/ng_pri_sum_a_EPG0_PRS_DMcf_a.htm*.

• *Water and Sewer:* May 2012 to May 2013 Consumer Price Index, All Urban Consumers, Water and Sewer and Trash Collection Services (Series ID CUUR0000SEHG) at the national level.

The sum of the nine cost component percentage weights equals 100 percent of operating costs for purposes of OCAF calculations. To calculate the OCAFs, state-level cost component weights developed from AFS data are multiplied by the selected inflation factors. For instance, if wages in Virginia comprised 50 percent of total operating cost expenses and increased by 4 percent from 2012 to 2013, the wage increase component of the Virginia OCAF for 2014 would be 2.0 percent (50% * 4%). This 2.0 percent would then be added to the increases for the other eight expense categories to calculate the 2014 OCAF for Virginia. The OCAFs for 2014 are included as an Appendix to this Notice.

II. MAHRA and LIHPRHA OCAF Procedures

MAHRA, as amended, created the Mark-to-Market Program to reduce the cost of federal housing assistance, enhance HUD's administration of such assistance, and ensure the continued affordability of units in certain multifamily housing projects. Section 524 of MAHRA authorizes renewal of Section 8 project-based assistance contracts for projects without restructuring plans under the Mark-to-Market Program, including projects that are not eligible for a restructuring plan and those for which the owner does not request such a plan. Renewals must be at rents not exceeding comparable market rents except for certain projects. As an example, for Section 8 Moderate Rehabilitation projects, other than single room occupancy projects (SROs) under the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11301 *et seq.*), that are eligible for renewal under section 524(b)(3) of MAHRA, the renewal rents are required to be set at the lesser of: (1) the existing rents under the expiring contract, as adjusted by the OCAF; (2) fair market rents (less any amounts allowed for tenant-purchased utilities); or (3) comparable market rents for the market area.

LIHPRHA (see, in particular, section 222(a)(2)(G)(i), 12 U.S.C. 4112(a)(2)(G) and HUD's regulations at 24 CFR 248.145(a)(9)) requires that future rent adjustments for LIHPRHA projects be made by applying an annual factor, to be determined by HUD to the portion of project rent attributable to operating expenses for the project and, where the owner is a priority purchaser, to the portion of project rent attributable to project oversight costs.

III. Findings And Certifications

Environmental Impact

This issuance sets forth rate determinations and related external administrative requirements and procedures that do not constitute a development decision affecting the physical condition of specific project areas or building sites. Accordingly, under 24 CFR 50.19(c)(6), this notice is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number for this program is 14.187.

Dated: September 9, 2013.

Carol J. Galante,

Assistant Secretary for Housing—Federal Housing Commissioner.

Appendix

Operating Cost Adjustment Factors for 2014

Alabama 2.2
Alaska 1.7
Arizona 2.1
Arkansas 2.1
California 2.0
Colorado 1.9
Connecticut 1.6
Delaware 1.8
District of Columbia 1.3
Florida 2.0
Georgia 2.0
Hawaii 2.4
Idaho 2.2
Illinois 1.4
Indiana 1.9
Iowa 2.0
Kansas 2.2
Kentucky 2.0
Louisiana 1.6
Maine 1.8
Maryland 1.7
Massachusetts 1.7
Michigan 1.9
Minnesota 1.6
Mississippi 2.0
Missouri 2.1
Montana 1.7
Nebraska 2.2
Nevada 2.0
New Hampshire 1.2
New Jersey 1.4
New Mexico 1.9
New York 1.4
North Carolina 2.1
North Dakota 2.0
Ohio 1.7
Oklahoma 2.0
Oregon 2.1
Pacific Islands 2.4
Pennsylvania 1.5
Puerto Rico 1.9
Rhode Island 1.6
South Carolina 2.2
South Dakota 2.3
Tennessee 1.9
Texas 2.0
Utah 2.4
Vermont 2.2
Virgin Islands 2.2
Virginia 2.0
Washington 2.1
West Virginia 2.3
Wisconsin 1.7
Wyoming 2.2
US Average 1.9

[FR Doc. 2013–22458 Filed 9–13–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5711–N–02]

Notice of Regulatory Waiver Requests Granted for the Second Quarter of Calendar Year 2013

AGENCY: Office of the General Counsel, HUD.

ACTION: Notice.

SUMMARY: Section 106 of the Department of Housing and Urban Development Reform Act of 1989 (the HUD Reform Act) requires HUD to publish quarterly **Federal Register** notices of all regulatory waivers that HUD has approved. Each notice covers the quarterly period since the previous **Federal Register** notice. The purpose of this notice is to comply with the requirements of section 106 of the HUD Reform Act. This notice contains a list of regulatory waivers granted by HUD during the period beginning on April 1, 2013, and ending on June 30, 2013.

FOR FURTHER INFORMATION CONTACT: For general information about this notice, contact Camille E. Acevedo, Associate General Counsel for Legislation and Regulations, Department of Housing and Urban Development, 451 7th Street SW., Room 10282, Washington, DC 20410–0500, telephone 202–708–1793 (this is not a toll-free number). Persons with hearing- or speech-impairments may

access this number through TTY by calling the toll-free Federal Relay Service at 800–877–8339.

For information concerning a particular waiver that was granted and for which public notice is provided in this document, contact the person whose name and address follow the description of the waiver granted in the accompanying list of waivers that have been granted in the second quarter of calendar year 2013.

SUPPLEMENTARY INFORMATION: Section 106 of the HUD Reform Act added a new section 7(q) to the Department of Housing and Urban Development Act (42 U.S.C. 3535(q)), which provides that:

1. Any waiver of a regulation must be in writing and must specify the grounds for approving the waiver;

2. Authority to approve a waiver of a regulation may be delegated by the Secretary only to an individual of Assistant Secretary or equivalent rank, and the person to whom authority to waive is delegated must also have authority to issue the particular regulation to be waived;

3. Not less than quarterly, the Secretary must notify the public of all waivers of regulations that HUD has approved, by publishing a notice in the **Federal Register**. These notices (each covering the period since the most recent previous notification) shall:

a. Identify the project, activity, or undertaking involved;

b. Describe the nature of the provision waived and the designation of the provision;

c. Indicate the name and title of the person who granted the waiver request;

d. Describe briefly the grounds for approval of the request; and

e. State how additional information about a particular waiver may be obtained.

Section 106 of the HUD Reform Act also contains requirements applicable to waivers of HUD handbook provisions that are not relevant to the purpose of this notice.

This notice follows procedures provided in HUD's Statement of Policy on Waiver of Regulations and Directives issued on April 22, 1991 (56 FR 16337). In accordance with those procedures and with the requirements of section 106 of the HUD Reform Act, waivers of regulations are granted by the Assistant Secretary with jurisdiction over the regulations for which a waiver was requested. In those cases in which a General Deputy Assistant Secretary granted the waiver, the General Deputy Assistant Secretary was serving in the absence of the Assistant Secretary in accordance with the office's Order of Succession.

This notice covers waivers of regulations granted by HUD from April 1, 2013 through June 30, 2013. For ease of reference, the waivers granted by HUD are listed by HUD program office (for example, the Office of Community Planning and Development, the Office of Fair Housing and Equal Opportunity, the Office of Housing, and the Office of Public and Indian Housing, etc.). Within each program office grouping, the waivers are listed sequentially by the regulatory section of title 24 of the Code of Federal Regulations (CFR) that is being waived. For example, a waiver of a provision in 24 CFR part 58 would be listed before a waiver of a provision in 24 CFR part 570.

Where more than one regulatory provision is involved in the grant of a particular waiver request, the action is listed under the section number of the first regulatory requirement that appears in 24 CFR and that is being waived. For example, a waiver of both § 58.73 and § 58.74 would appear sequentially in the listing under § 58.73.

Waiver of regulations that involve the same initial regulatory citation are in time sequence beginning with the earliest-dated regulatory waiver.

Should HUD receive additional information about waivers granted during the period covered by this report (the second quarter of calendar year 2013) before the next report is published (the third quarter of calendar year 2013), HUD will include any additional waivers granted for the second quarter in the next report.

Accordingly, information about approved waiver requests pertaining to HUD regulations is provided in the Appendix that follows this notice.

Dated: September 10, 2013.

Helen R. Kanovsky,

General Counsel.

Appendix—Listing of Waivers of Regulatory Requirements Granted by Offices of the Department of Housing and Urban Development April 1, 2013 through June 30, 2013

Note to Reader: More information about the granting of these waivers, including a copy of the waiver request and approval, may be obtained by contacting the person whose name is listed as the contact person directly after each set of regulatory waivers granted.

The regulatory waivers granted appear in the following order:

I. Regulatory waivers granted by the Office of Community Planning and Development.
II. Regulatory waivers granted by the Office of Housing.
III. Regulatory waivers granted by the Office of Public and Indian Housing.

I. Regulatory Waivers Granted by the Office of Community Planning and Development

For further information about the following regulatory waivers, please see the name of the contact person that immediately follows the description of the waiver granted.

• *Regulation:* 24 CFR 58.22(a).

Project/Activity: The Seattle Housing Authority in the State of Washington requested a waiver of HUD's environmental regulations at 24 CFR 58.22(a), for entering into a Purchase and Sale Agreement to dispose of property contained within an Environmental Impact Statement (EIS) on the Yesler Terrace Redevelopment Project prior to the approval of the Request for Release of Funds. This was for a Choice Neighborhoods project in the City of Seattle that combines public housing with neighborhood revitalization.

Nature of Requirement: The regulation at 24 CFR 58.22(a) prohibits commitment of funds or choice-limiting actions before HUD's approval of the environmental review. In this case a purchase and sales agreement was signed prior to the approval of the environmental review.

Granted By: Mark Johnston, Deputy Assistant Secretary for Special Needs.

Date Granted: June 28, 2013.

Reason Waived: The waiver was granted because the project furthers HUD's mission and advances program goals, the grantee unknowingly violated the regulation, and the project was found to have no unmitigated, adverse environmental impacts.

Contact: Kathryn Au, Office of Environment and Energy, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW., Room 7248, Washington, DC 20410, telephone 202–402–6340.

• *Regulation:* 24 CFR 84.32(c)(2).

Project/Activity: AIDS Alabama, a competitive Housing Opportunities for Persons With AIDS (HOPWA) grantee based in Birmingham, AL, requested a waiver of the HUD property disposition requirements for one manufactured home that met the HOPWA minimum use period requirements at 24 CFR 574.310(c)(1)(i) and that the grantee sought to sell. In 2012, AIDS Alabama received a waiver of the property disposition regulations stated above for eight manufactured homes. Pursuant to the previous waiver, AIDS Alabama sold seven of the eight manufactured homes. The waiver would allow AIDS Alabama one year to sell the remaining manufactured home and reinvest the real property proceeds back in to the Alabama Rural AIDS Project (ARAP) by supporting the master leasing program.

Nature of Requirement: The HUD property disposition requirement states: ''The recipient may be directed to sell the property under guidelines provided by HUD and pay the Federal Government for that percentage of the current fair market value of the property attributable to the Federal participation in the project.''

Granted By: Mark Johnston, Deputy Assistant Secretary for Special Needs.

Date Granted: May 17, 2013.

Reason Waived: The physical condition of these manufactured homes deteriorated over

time and the current cost of maintenance is prohibitive for the tenants and the organization. Moreover, the tenants realized expensive utility costs and the cost of maintenance exceeded funding for the homes. The manufactured home met the minimum use period and served HOPWA program purposes during the minimum use period. The master leasing project will continue to serve program participants in the same service area.

Contact: William Rudy, Acting Director of the Office of HIV/AIDS Housing, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW., Room 7212, Washington, DC 20410, telephone (202) 708–1934.

• *Regulations:* 24 CFR 92.500(d)(1)(C).

Project/Activity: The City of New Orleans, LA, requested a waiver of its March 31, 2013, expenditure deadline to provide additional time to facilitate its ongoing recovery from the devastation caused by Hurricanes Katrina, Rita and Gustav. The City is located within a declared disaster area pursuant to Title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

Nature of Requirements: The City requested a waiver of 24 CFR 92.500(d)(1)(C) which requires that a participating jurisdiction expend its annual allocation of funds under the HOME Investment Partnerships (HOME) program within five years after HUD notifies a participating jurisdiction that HUD has executed the jurisdiction's HOME agreement.

Granted By: Mark Johnston, Deputy Assistant Secretary for Special Needs.

Date Granted: May 23, 2013.

Reasons Waived: The waiver was granted to ensure that needed funds would not be deobligated and that the City would have sufficient flexibility and time to continue implementing its housing recovery strategy.

Contact: Virginia Sardone, Director, Office of Affordable Housing, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW., Room 7164, Washington, DC 20410–7000, telephone (202) 708–2684.

• *Regulations:* 24 CFR 92.251(c) and 24 CFR 92.504(d).

Project/Activity: The following participating jurisdictions were granted a limited waiver of HOME property standards and on-site inspection requirements for participating in HUD's Physical Inspections Alignment Pilot Program. The participating jurisdictions are: the State of Ohio, the State of Minnesota, the State of Wisconsin, the State of Michigan, the State of Oregon, and the State of Washington.

Nature of Requirements: This waiver involved the requirement under 24 CFR 92.251(c) that HOME-assisted rental housing must meet HUD's Housing Quality Standards, when no State or local housing quality standards or code requirements apply, and the requirement under 24 CFR 92.504(d) that the participating jurisdiction must perform on-site inspections of HOME-assisted rental housing in accordance with the schedule (as stated in section 92.504(d)) in order to determine compliance with section 92.251.

Granted By: Mark Johnston, Deputy Assistant Secretary for Special Needs.

Date Granted: June 18, 2013.

Reasons Waived: The waiver was granted to reduce duplicative inspection for grantees participating in the Physical Inspection Alignment Pilot Program. HUD estimates that eliminating duplicative inspections may result in over 20,000 fewer property inspections per year.

Contact: Virginia Sardone, Director, Office of Affordable Housing, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW., Room 7164, Washington, DC 20410, telephone (202) 708–2684.

• *Regulations:* 24 CFR 92.503(b)(3) .

Project/Activity: The participating jurisdictions, City of Brownsville, TX and the City of Boulder, CO, requested waivers of 24 CFR 92.503(b)(3) to allow certain repaid funds to be deposited in the participating jurisdictions' HOME Investment Trust Fund local accounts for use in other eligible HOME projects.

Nature of Requirements: Section 92.503(b)(3) requires funds invested in housing that does not meet the affordable housing requirements to be repaid to the HOME Investment Trust Fund account from which the funds were originally disbursed.

Granted By: Mark Johnston, Deputy Assistant Secretary for Special Needs.

Date Granted: April—June, 2013.

Reasons Waived: The waivers were necessary to ensure that the required repayments would be immediately available to the participating jurisdictions for investment in eligible HOME projects, as required by section 219(c) of the Cranston-Gonzalez National Affordable Housing Act.

Contact: Virginia Sardone, Director, Office of Affordable Housing, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW., Room 7164, Washington, DC 20410, telephone (202) 708–2684.

• *Regulation:* 24 CFR 576.106(f) and 24 CFR 576.403(c).

Project/Activity: The City of New York, NY, requested a waiver of the Emergency Solutions Grants (ESG) requirement at 24 CFR 576.106(f) to delay rental assistance payments to property owners until program participants can show that they have paid their share of the rent on time and met other requirements. The City also requested a waiver of section 576.403(c) to allow the City to provide homelessness prevention assistance to program participants who want to stay in their units, even if those units do not meet the habitability standards.

Nature of Requirement: The regulation at § 576.106(f) states that the recipient or subrecipient must make timely payments to each owner in accordance with the rental assistance agreement that is required to be in place between the recipient or subrecipient and the property owner, and that the rental assistance agreement must contain the same payment due date and grace period as the program participant's lease. The regulation at § 576.403(c) states that the recipient or subrecipient cannot use ESG funds to help a program participant remain in or move into housing that does not meet the ESG minimum habitability standards for permanent housing.

Granted By: Mark Johnston, Deputy Assistant Secretary for Special Needs.

Date Granted: May 16, 2013.

Reason Waived: With respect to the timeliness of rental assistance payments, the City of New York sufficiently demonstrated that it implemented a unique program design, which results in the City regularly making rental assistance payments after the due date in the lease, but which is intended to encourage program participants to develop skills that will help them attain long-term housing stability. In the waiver, HUD stipulated that the recipient or subrecipient must continue to make timely payments to the property owner in accordance with the rental assistance agreement.

With respect to the habitability standards, HUD recognized that the City's housing market has unique characteristics, such as a very low vacancy rate in affordable housing, and that, in certain instances, the best way to help program participants avoid homelessness is to keep them in their housing until better housing can be located, or their existing housing can be brought up to code. Therefore, HUD granted a limited waiver of § 576.403(c) to allow the City to provide homelessness prevention assistance to program participants who want to stay in their units, even if the units do not meet the habitability standards, provided that the ESG assistance is limited to services under § 576.105(b); and the City works with the property owners to bring their units into compliance with the habitability standards or assists the program participants to move if the units are unsafe.

Contact: Ann M. Oliva, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW., Room 7262, Washington, DC 20410, telephone (202) 708–4300.

• *Regulation:* Neighborhood Stabilization Program 3 (NSP3) Notice 75 FR 64333 (II.H.3.F) in accordance with Title XII of Division A under the heading Community Planning and Development: Community Development Fund of the American Recovery and Reinvestment Act of 2009.

Project/Activity: Detroit, MI requested a waiver of the 10 percent demolition cap under the Neighborhood Stabilization Program (NSP) which restricts grantees from spending more than 10 percent of total grant funds on demolition activities.

Nature of Requirement: Section II.H.3.F of the NSP3 Notice provides that a grantee may not use more than ten percent of its grant for demolition activities.

Granted By: Mark Johnston, Deputy Assistant Secretary for Special Needs.

Date Granted: May 23, 2013.

Reason Waived: The City of Detroit, MI requested a waiver to spend $7,672,948.50 or approximately 35 percent of its NSP3 allocation of $21,922,710 on demolition of blighted structures. The city provided statistical data evidencing high vacancy and abandonment rates due to significant population and job loss. The city explained that there are a high number of properties

requiring immediate demolition and that it would target NSP3 funds to remove safety hazards and the destabilizing influence of the blighted properties.

Contact: Jessie Handforth Kome, Deputy Director, Office of Block Grant Assistance, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW., Room 7286, Washington, DC 20410, telephone (202) 402–5539.

II. Regulatory Waivers Granted by the Office of Housing—Federal Housing Administration (FHA)

For further information about the following regulatory waivers, please see the name of the contact person that immediately follows the description of the waiver granted.

• *Regulation:* 24 CFR 200.73(c).

Project/Activity: LULAC Amistad Properties, Sinton, Texas, Project Number: 115–11190.

Nature of Requirement: HUD's regulation at 24 CFR 200.73(c) requires that a site contains at least five rental dwelling units. FHA Handbook 4425.1, Chapter 3, Part 3–7, further defines this regulation by stating that scattered sites and non-contiguous sites may be added to equal at least five units if they meet the requirements outlined in the Handbook.

Granted By: Carol J. Galante, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: April 12, 2013.

Reason Waived: All of the properties can be managed as a group, have existing HAP contracts, have demonstrated marketability and are capable of being managed as a single real estate entity.

Contact: Theodore K. Toon, Director, Office of Multifamily Housing Development, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 6134, Washington, DC 20410, telephone (202) 402–8386.

• *Regulation:* 24CFR 200.85(b).

Project/Activity: Crossroads, Pine Bluff, Arkansas Project Number: 082–35445.

Nature of Requirement: HUD's regulation at 24 CFR 200.85(b) requires that the mortgage contain ''A covenant against repayments of a Commissioner approved inferior lien from mortgage proceeds other than surplus cash or residual receipts, except in the case of an inferior lien created pursuant to Section 223(d) of the Act, or a supplemental loan insured pursuant to Section 241 of the Act.''

Granted by: Carol J. Galante, Assistant Secretary for Housing-Federal Housing—Commissioner.

Date Granted: June 17, 2013.

Reason Waived: The Arkansas Development Finance Authority restrictions require repayment of the HOME loan by monthly principal and interest payments. The HOME loan and other subsidies were critical to the overall financing. The Little Rock Program Center determined that there are sufficient funds after expenses and debt service to repay the loan from the project's operating funds and agreed to the secondary subordinate financing.

Contact: Theodore K. Toon, Director, Office of Multifamily Housing Development, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 6134, Washington, DC 20410, telephone (202) 402–8386.

• *Regulation:* 24 CFR 200.85(b).

Project/Activity: Auxora Arms, Little Rock, Arkansas, Project Number: 082–35442.

Nature of Requirement: Section 200.85(b) of HUD's regulations requires ''A covenant against repayments of a Commissioner approved inferior lien from mortgage proceeds other than surplus cash or residual receipts, except in the case of an inferior lien created by an operating loss loan insured pursuant to Section 223(d) of the Act, or a supplemental loan insured pursuant to Section 241 of the Act.''

Granted by: Carol J. Galante, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: June 26, 2013.

Reason Waived: This same requested waiver was granted for the subject property on April 8, 2008, for the predecessor Section 221(d)(4) substantial rehabilitation transaction. The Program Center recommended approval to retain the original maturity date of the HOME loan which will be paid off prior to the maturity date of the new Section 223(a)(7) loan.

Contact: Theodore K. Toon, Director, Office of Multifamily Housing Development, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 6134, Washington, DC 20410, telephone (202) 402–8386.

• *Regulation:* 24 CFR 200.926d(f)(1)(i) and (f)(2)(i).

Project/Activity: Effective for the boroughs of Juneau, Mantanuska-Susitna, Anchorage, Bethel, North Slope (Barrow), Fairbanks (North Star and Southeast) and the Kenai Peninsula where it is not feasible to procure water from conventional water supply systems.

Nature of Requirement: FHA's Minimum Property Standards (MPS) regulations governing new construction for single-family dwellings, provide that to be eligible for FHA insurance, each living unit within newly constructed single-family residential property should be capable of delivering a flow of five gallons per minute (gpm) over a four hour period in order to provide a continuing and sufficient supply of safe water under adequate pressure and appropriate quality for household use. Under these regulatory requirements, water holding tanks, cisterns and similar alternative water supply systems are not considered under FHA requirements as acceptable water supply systems.

Granted By: Carol J. Galante, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: June 18, 2013.

Reason Waived: The waiver of the regulations in § 200.926d(f)(1)(i) and (f)(2)(i) were determined necessary to enable FHA mortgage insurance for mortgage lenders extending mortgage financing to homebuyers for new construction single-family housing in the above referenced boroughs of Alaska, and consistent with the Department's mission in promoting affordable homeownership and waived the provisions for a period of one year.

Contact: Robert L. Frazier, Acting Director, Valuation Policy Division, Office of Single Family Housing, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 9272, Washington, DC 20410, telephone (202) 402–5752.

• *Regulation:* 24 CFR 219.220(b).

Project/Activity: Broadwater Village Apartments, FHA Project Number 093–44019, Helena, Montana. The owner requested deferral of repayment of the Flexible Subsidy Operating Assistance Loan due to their inability to repay the loan in full upon maturity.

Nature of Requirement: Section 219.220(b) of HUD's regulations governs the repayment of operating assistance provided under the Flexible Subsidy Program for Troubled Projects prior to May 1, 1996 states: ''Assistance that has been paid to a project owner under this subpart must be repaid at the earlier of the expiration of the term of the mortgage, termination of mortgage insurance, prepayment of the mortgage, or a sale of the project . . .'' Either of these actions would typically terminate FHA involvement with the property, and the Flexible Subsidy Loan would be repaid, in whole, at that time.

Granted by: Carol J. Galante, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: May 3, 2013.

Reason Waived: The owner requested and was granted waiver of the requirement to defer repayment of the Flexible Subsidy Operating Assistance Loan because the project did not have sufficient funds to repay the loan. The owner was permitted to defer and re-amortize the loan over a 20-year period. A new Rental Use Agreement is to be recorded, extending the long-term affordability of the property through the term of the 20-year deferment period for the citizens of Helena, Montana.

Contact: Mark B. Van Kirk, Director, Office of Asset Management, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 6160, Washington, DC 20410, telephone (202) 708–3730.

• *Regulation:* 24 CFR 219.220(b).

Project/Activity: Lilac Plaza Apartments, FHA Project Number 171–44801, Spokane, Washington. The owner requested to defer repayment of the Flexible Subsidy Operating Assistance Loan due to their inability to pay the loan in full upon maturity.

Nature of Requirement: Section 219.220(b) of HUD's regulations governs the repayment of operating assistance provided under the Flexible Subsidy Program for Troubled Projects prior to May 1, 1996 states: ''Assistance that has been paid to a project owner under this subpart must be repaid at the earlier of the expiration of the term of the mortgage, termination of mortgage insurance, prepayment of the mortgage, or a sale of the project . . .'' Either of these actions would typically terminate FHA involvement with the property, and the Flexible Subsidy Loan would be repaid, in whole, at that time.

Granted by: Carol J. Galante, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: May 3, 2013.

Reason Waived: Waiver of this regulation was granted since the owner demonstrated that deferral of repayment of the Flexible Subsidy Operating Assistance Loan would allow the project to achieve the long-term preservation of the project as an affordable housing resource for the elderly. Approval of this waiver would also allow the owner to re-amortize the loan over a 20-year period, the term of the new financing, and complete much-needed repairs at the project maintaining the project's financial and physical integrity.

Contact: Mark B. Van Kirk, Director, Office of Asset Management, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 6160, Washington, DC 20410, telephone (202) 708–3730.

• *Regulation:* 24 CFR 219.220(b).

Project/Activity: Whatcoat Village Apartments, FHA Project Number 032–44005, Dover, Delaware. The owner requested deferral of repayment of the Flexible Subsidy Operating Assistance Loan due to their inability to pay the loan in full upon maturity.

Nature of Requirement: Section 219.220(b) governs the repayment of operating assistance provided under the Flexible Subsidy Program for Troubled Projects prior to May 1, 1996 states: ''Assistance that has been paid to a project owner under this subpart must be repaid at the earlier of the expiration of the term of the mortgage, termination of mortgage insurance, prepayment of the mortgage, or a sale of the project . . .'' Either of these actions would typically terminate FHA involvement with the property, and the Flexible Subsidy Loan would be repaid, in whole, at that time.

Granted by: Carol J. Galante, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: May 30, 2013.

Reason Waived: This waiver was granted allowing the owner to defer repayment of the Flexible Subsidy Operating Assistance Loan upon the refinance of their loan. The refinance of the loan will in turn recapitalize the property, allowing for rehabilitation and ensuring its preservation as a decent, safe and sanitary affordable housing resource for the elderly and disabled citizens of Dover, Delaware for an additional 20 years.

Contact: Mark B. Van Kirk, Director, Office of Asset Management, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 6160, Washington, DC 20410, telephone (202) 708–3730.

• *Regulation:* 24 CFR 219.220(b).

Project/Activity: Allen Hills Apartments, FHA Project Number 061–35530, Atlanta, Georgia. The owner requested deferral of repayment of the Flexible Subsidy Operating Assistance Loan due to their inability to pay the loan in full upon maturity.

Nature of Requirement: Section 219.220(b) of HUD's regulations governs the repayment of operating assistance provided under the Flexible Subsidy Program for Troubled Projects prior to May 1, 1996 states: ''Assistance that has been paid to a project owner under this subpart must be repaid at the earlier of the expiration of the term of the mortgage, termination of mortgage insurance, prepayment of the mortgage, or a sale of the project . . .'' Either of these actions would typically terminate FHA involvement with the property, and the Flexible Subsidy Loan would be repaid, in whole, at that time.

Granted by: Carol J. Galante, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: May 30, 2013.

Reason Waived: Granting the waiver would allow the owner to defer repayment of the Flexible Subsidy Operating Assistance Loan, refinance the loan and make needed repairs and improvement to the property. A new Rental Use Agreement is to be recorded for an additional 20 years, preserving the project as affordable housing for the citizens of Dover, Delaware.

Contact: Mark B. Van Kirk, Director, Office of Asset Management, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 6160, Washington, DC 20410, telephone (202) 708–3730.

• *Regulation:* 24 CFR 232.505(a), 232.520, 232.605 and 232.620.

Project/Activity: Supplemental loans to finance purchase and installation of fire safety equipment in nursing homes.

Nature of Requirement: HUD's regulations at 232.505(a), 232.540(b), 232.605, 232.620 address the requirements and procedures for obtaining FHA insurance of loans for fire safety equipment.

Granted By: Carol J. Galante, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: April 11, 2013.

Reason Waived: These regulations, promulgated in 1974 and not yet updated, do not reflect current processing requirements insurance of loans for fire safety equipment, and there is an urgent need to install automatic fire sprinkler systems in nursing homes due to a new federal mandate.

Contact: Vance T. Morris, Special Assistant, Office of Healthcare Programs, Department of Housing and Urban Development, 451 7th Street SW., Room #2337, Washington, DC 20410–8000, telephone (202) 402–2419.

• *Regulation:* 24 CFR 232.7.

Project/Activity: Graceland at Garden Ridge is an assisted living/memory care facility that maintains 38 assisted living beds and eight memory care beds in 45 rooms. The project is located in Garden Ridge, Texas.

Nature of Requirement: HUD's regulation at 24 CFR 232.7 mandates in a board and care home or assisted living facility that not less than one full bathroom must be provided for every four residents. The regulation also provides that the bathroom cannot be accessed from a public corridor or area.

Granted By: Carol J. Galante, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: May 14, 2013.

Reason Waived: Graceland has concluded that the construction of an additional bathroom would pose a financial burden to the facility. Further, the construction of a new bathroom would remove common area and much utilized activity space from the residents. Graceland has advised that the existing bathing/shower rooms are designed to provide enough space for staff to safely assist the residents.

Contact: Vance T. Morris, Special Assistant, Office of Healthcare Programs, Department of Housing and Urban Development, 451 7th Street SW., Room #2337, Washington, DC 20410–8000, telephone (202) 402–2419.

• *Regulation:* 24 CFR 232.7.

Project/Activity: Springfield Skilled Care Center & the Lodges are a skilled nursing and board and care facility. The board and care facility has 99 beds for residents that will reside in 45 rooms.

Nature of Requirement: HUD's regulation at 24 CFR 232.7 mandates in a board and care home or assisted living facility that not less than one full bathroom must be provided for every four residents. The regulation also provides that the bathroom cannot be accessed from a public corridor or area.

Granted By: Carol J. Galante, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: June 12, 2013.

Reason Waived: The residents of Brewer need assistance and supervision while bathing. The bathing/shower rooms are specifically designed to provide enough space for staff to safety assist the residents.

Contact: Vance T. Morris, Special Assistant, Office of Healthcare Programs, Department of Housing and Urban Development, 451 7th Street SW., Room #2337, Washington, DC 20410–8000, telephone (202) 402–2419.

• *Regulation:* 24 CFR 232.7.

Project/Activity: Springfield Skilled Care Center & the Lodges are a skilled nursing and board and care facility. The board and care facility has 99 beds for residents that will reside in 45 rooms.

Nature of Requirement: The regulation mandates in a board and care home or assisted living facility that not less than one full bathroom must be provided for every four residents. Also, the bathroom cannot be accessed from a public corridor or area.

Granted By: Carol J. Galante, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: June 12, 2013.

Reason Waived: The residents of Brewer need assistance and supervision while bathing. The bathing/shower rooms are specifically designed to provide enough space for staff to safely assist the residents.

Contact: Vance T. Morris, Special Assistant, Office of Healthcare Programs, Department of Housing and Urban Development, 451 7th Street SW., Room #2337, Washington, DC 20410–8000, telephone (202) 402–2419.

III. Regulatory Waivers Granted By the Office of Public and Indian Housing

For further information about the following regulatory waivers, please see the name of the contact person that immediately follows the description of the waiver granted.

• *Regulation:* Notice PIH 2013–3: Public Housing and Housing Choice Voucher Programs—Temporary Compliance Assistance.

Project/Activity: PIH Notice 2013–3 was issued to establish temporary guidelines for

public housing agencies (PHAs) in fulfilling certain public housing and housing choice voucher requirements during the current and upcoming fiscal year to alleviate some of the burden on already stressed PHA resources. The reduction of burden provided in this notice involved offering PHAs the option to comply with certain alternative requirements to existing regulations, and if they opted to do so the existing regulation would be waived.

Nature of Requirement: The alternative requirements to regulatory requirements that were offered under the notice were the following: The notice allows PHAs to use participants' actual past income to verify income, which would be a waiver of the requirement to project expected income in 24 CFR 5.609(a)(2). The notice allows households to self-certify as to having assets of less than $5,000, which would be a waiver of the requirement under 24 CFR 5.609(b)(3), 982.516(a)(2)(ii), and 960.259(c) for PHAs to verify assets. The notice allows a streamlined reexamination of income for elderly families and disabled families on fixed incomes, which would be a waiver of the requirement in 24 CFR 982.516 and 960.257 for PHAs to undertake the complete process for income verification and rent determination for families on fixed incomes. The notice allows PHAs to establish a payment standard of not more than 120 percent of the fair market rent without HUD approval as a reasonable accommodation, which would be a waiver of 24 CFR 982.503(c)(2)(B)(ii), which allows a PHA to establish a payment standard for the housing choice voucher program only but within limits currently permitted but designated for approval only by a HUD field office.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: January 22, 2013.

Reason Waived: The waivers and alternative requirements were granted because they would help facilitate the ability of PHAs to continue, without interruption and with minimal burden, the delivery of rental assistance to eligible families in their communities. Increased demand for housing assistance without corresponding increased resources strains the operations of PHAs and jeopardizes their ability to assist families at a time when families most need housing assistance.

Contact: Todd Thomas, Senior Program Specialist, Public Housing Management and Occupancy Division, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4210, Washington, DC 20410, telephone 202–402–5849.

• *Regulation:* 24 CFR 5.801(d)(1).

Project/Activity: Housing Authority of the City of Vallejo (VHA), (CA055), Vallejo, CA.

Nature of Requirement: HUD's regulation at 24 CFR 5.801(d)(1) establishes certain reporting compliance dates. The audited financial statements are required to be submitted to the Real Estate Assessment Center (REAC) no later than nine months after the housing authority's (HA) fiscal year end (FYE), in accordance with the Single Audit Act and OMB Circular A–133.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: June 27, 2013.

Reason Waived: The VHA requested a waiver of the audit due date as a result of the State of California dissolving redevelopment agencies and creating successor agencies. In addition, the Assistant Finance Director position at VHA was vacant from October 2012 until March 21, 2013; and the Accounting Manager was absent since June 2012, due to a serious illness. As a result, the Independent Public Accountant (IPA) was unable to begin the audit field work until March 21, 2013. The VHA is also a component unit of the City, and the IPA must complete the Comprehensive Annual Financial Report for the City of Vallejo as a whole before the VHA's audit can be completed. However, the draft audit was entered into HUD's online system on April 2, 2013.

Contact: Judy Wojciechowski, Program Manager, NASS, Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street SW., Suite 100, Washington, DC 20410, telephone (202) 475–7907.

• *Regulation:* 24 CFR 5.801(d)(1).

Project/Activity: Housing Authority of the City of Compton (HACC), (CA071), Compton, CA.

Nature of Requirement: HUD's regulation at 24 CFR 5.801(d)(1) establishes certain reporting compliance dates. The audited financial statements are required to be submitted to the Real Estate Assessment Center (REAC) no later than nine months after the housing authority's (HA) fiscal year end (FYE), in accordance with the Single Audit Act and OMB Circular A–133.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: June 27, 2013.

Reason Waived: The HACC submitted that due to alleged fraud and misuse of city funds, which resulted in a forensic audit investigation, the audited financial submission was not completed by the due date. The HACC requested a waiver of the due date to allow time to acquire an auditing firm to complete analysis and revisions to the audited report, after the investigation is completed.

Contact: Judy Wojciechowski, Program Manager, NASS, Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street SW., Suite 100, Washington, DC 20410, telephone (202) 475–7907.

• *Regulation:* 24 CFR 5.801(d)(1).

Project/Activity: Housing Authority of the City of Napa, (CA073), Napa, CA.

Nature of Requirement: HUD's regulation at 24 CFR 5.801(d)(1) establishes certain reporting compliance dates. The audited financial statements are required to be submitted to the Real Estate Assessment Center (REAC) no later than nine months after the housing authority's (HA) fiscal year end (FYE), in accordance with the Single Audit Act and OMB Circular A–133.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: June 20, 2013.

Reason Waived: The NHA submitted that due to the State's dissolution of all redevelopment agencies, including the agency previously responsible for the city's financial statements, the audited financial submission was not completed by the due date. The NHA requested a waiver of the due date to allow time to complete analysis and revisions to the audit.

Contact: Judy Wojciechowski, Program Manager, NASS, Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street SW., Suite 100, Washington, DC 20410, telephone (202) 475–7907.

• *Regulation:* 24 CFR 5.801(d)(1).

Project/Activity: Housing Authority of the City of Hawaiian Gardens (HGHA), (CA136), Hawaiian Gardens, CA.

Nature of Requirement: HUD's regulation at 24 CFR 5.801(d)(1) establishes certain reporting compliance dates. The audited financial statements are required to be submitted to the Real Estate Assessment Center (REAC) no later than nine months after the housing authority's (HA) fiscal year end (FYE), in accordance with the Single Audit Act and OMB Circular A–133.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: June 20, 2013.

Reason Waived: The HGHA requested a waiver of the audit due date as a result of the State of California dissolving redevelopment agencies and creating successor agencies. In addition, the Finance Director and other key financial staff positions have had prolonged vacancies. As a result, the accounting process to close-out records and submit the audited financial documents to HUD was delayed. The HGHA requested a waiver of the due date is necessary to allow time to complete analysis and make required revisions.

Contact: Judy Wojciechowski, Program Manager, NASS, Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street SW., Suite 100, Washington, DC 20410, telephone (202) 475–7907.

• *Regulation:* 24 CFR 5.801(d)(1).

Project/Activity: San Francisco Housing Authority, (CA001), San Francisco, CA.

Nature of Requirement: HUD's regulation at 24 CFR 5.801(d)(1) establishes certain reporting compliance dates. The audited financial statements are required to be submitted to the Real Estate Assessment Center (REAC) no later than nine months after the housing authority's (HA) fiscal year end (FYE), in accordance with the Single Audit Act and OMB Circular A–133.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: June 27, 2013.

Reason Waived: The SFHA submitted that due to a HUD Office of Inspector General investigative review of certain procurement contracts, followed by the termination of the Executive Director, it would not be able to meet the June 30, 2013, deadline to submit its audited financial documents. SFHA requested a waiver of the due date to allow the newly hired auditor time to complete analysis and revisions to its financial audited records.

Contact: Judy Wojciechowski, Program Manager, NASS, Real Estate Assessment

Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street SW., Suite 100, Washington, DC 20410, telephone (202) 475–7907.

• *Regulation:* 24 CFR 902.20.

Project/Activity: St. John the Baptist Parish Housing Authority (LA095), Laplace, LA

Nature of Requirement: The objective of 24 CFR 902.20 is to determine whether a housing authority (HA) is meeting the standard of decent, safe, sanitary, and in good repair. In accordance with this regulation, HUD's Real Estate Assessment Center (REAC) provides for an independent physical inspection of a HA's property of properties that includes a statistically valid sample of the units.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: June 20, 2013.

Reason Waived: The SJBPHA requested a waiver due to severe property damage from Hurricane Isaac on August 29, 2012. The SJBPHA stated that the procurement process to repair the damaged units could not be completed by May 2013. SJBPHA stated that the restoration project for other vacant units included in the procurement process could be completed by November 2013.

Contact: Judy Wojciechowski, Program Manager, NASS, Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street SW., Suite 100, Washington, DC 20410, telephone (202) 475–7907.

• *Regulation:* 24 CFR 941.606(n)(10)(ii)(B).

Project/Activity: Chicago Housing Authority (CHA), Stateway Gardens HOPE VI Revitalization, Phase 2B, Chicago, IL.

Nature of Requirement: HUD's regulation at 24 CFR 941.606(n)(10)(ii)(B) requires that if a partner and/or owner entity (or any other entity with an identity of interest with such parties) wants to serve as the general contractor for a project or development, it may award itself the construction contract only if it can demonstrate to HUD's satisfaction that its bid is the lowest responsive bid submitted in response to a public request for bids.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: May 28, 2013.

Reason Waived: Office of Public Housing Investments (OPHI) reviewed the mixed-finance proposal and confirmed that the construction costs for this project are below the independent cost review prepared by Clausen Management Services (CMS) and submitted by CHA as part of the justifications for the waiver request. OPHI also performed a fee analysis that showed all of the construction fees were at or below HUD's Cost Control and Safe Harbor Standards (revised April 9, 2003). Therefore, it was determined that good cause existed to waive 24 CFR 941.606(n)(1)(ii)(B) so that Walsh, owned and controlled by Walsh Ventures Management 2B, a member of the development team for Phase 2B, may serve as the general contractor for Phase 2B.

Contact: Dominique Blom, Deputy Assistant Secretary for the Office of Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4134, Washington, DC 20140, telephone (202) 402–4181.

• *Regulation:* 24 CFR 982.503(d).

Project/Activity: Housing Authority of the County of Los Angeles (HACoLA), Los Angeles, CA.

Nature of Requirement: HUD's regulation at 24 CFR 982.503(d) states a PHA may request, and HUD may approve, establishment of payment standards lower than 90 percent of the fair market rent (FMR) for each bedroom size if less than 40 percent of participants in the voucher program have family shares that exceed 30 percent of their adjusted income.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: May 31, 2013.

Reason Waived: Sixty-one percent of participant families were paying more than 30 percent of the adjusted income. However, the Antelope Valley area had gross rents significantly lower than 90 percent of the FMR for the area. It was determined that data analysis supported a payment standard of 80 percent of the area-wide FMRs for both Lancaster and Palmdale, CA.

Contact: Laure Rawson, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(d).

Project/Activity: West Valley City Housing Authority (WVCHA), West Valley City, UT.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(d) states that a public housing agency may only approve a higher payment standard for a family as a reasonable accommodation if the higher payment standard is within the basic range of 90 to 110 percent of the fair market rent (FMR) for the unit size.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: April 4, 2013.

Reason Waived: The participant, who has members of the household with disabilities, required an exception payment standard to remain in his unit. To provide this reasonable accommodation so the family could remain in its unit and pay no more than 40 percent of its adjusted income toward the family share, the WVCHA was allowed to approve an exception payment standard that exceeded the basic range of 90 to 110 percent of the FMR.

Contact: Laure Rawson, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(d).

Project/Activity: San Francisco Housing Authority (SFHA), San Francisco, CA.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(d) states that a public housing agency may only approve a higher payment standard for a family as a reasonable accommodation if the higher payment standard is within the basic range of 90 to 110 percent of the fair market rent (FMR) for the unit size.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: May 1, 2013.

Reason Waived: Ten homeless veterans required an exception payment standard to move to a unit in a building that met their health needs. To provide this reasonable accommodation so these clients could be assisted in this building and pay no more than 40 percent of their adjusted income toward the family share, the SFHA was allowed to approve exception payment standards that exceeded the basic range of 90 to 110 percent of the FMR.

Contact: Laure Rawson, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(d).

Project/Activity: Center for People With Disabilities (CPWD), Boulder, CO.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(d) states that a public housing agency may only approve a higher payment standard for a family as a reasonable accommodation if the higher payment standard is within the basic range of 90 to 110 percent of the fair market rent (FMR) for the unit size.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: May 13, 2013.

Reason Waived: The participant, who is a person with disabilities, required an exception payment standard to remain in her unit. To provide this reasonable accommodation so the client could remain in her unit and pay no more than 40 percent of her adjusted income toward the family share, the CPWD was allowed to approve an exception payment standard that exceeded the basic range of 90 to 110 percent of the FMR.

Contact: Laure Rawson, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(d).

Project/Activity: Crawford County Housing Authority, (CCHA) Crawford County, WI.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(d) states that a public housing agency may only approve a higher payment standard for a family as a reasonable accommodation if the higher payment standard is within the basic range of 90 to 110 percent of the fair market rent (FMR) for the unit size.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: June 1, 2013.

Reason Waived: The applicant, who is a person with disabilities, required an

exception payment standard to move to a unit that met her needs. To provide this reasonable accommodation so that the client could move to a new unit and pay no more than 40 percent of her adjusted income toward the family share, the CCHA was allowed to approve an exception payment standard that exceeded the basic range of 90 to 110 percent of the FMR.

Contact: Laure Rawson, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(d).

Project/Activity: Belmont Housing Authority, (BHA), Belmont, MA.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(d) states that a public housing agency may only approve a higher payment standard for a family as a reasonable accommodation if the higher payment standard is within the basic range of 90 to 110 percent of the fair market rent (FMR) for the unit size.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: June 7, 2013.

Reason Waived: The participant, who is a person with disabilities, required an exception payment standard to move to another unit in the same building that met his needs. To provide this reasonable accommodation so that the client could move to a new unit and pay no more than 40 percent of his adjusted income toward the family share, the BHA was allowed to approve an exception payment standard that exceeded the basic range of 90 to 110 percent of the FMR.

Contact: Laure Rawson, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 983.55(b).

Project/Activity: Housing Authority of Baltimore City (HABC), Baltimore, MD.

Nature of Requirement: HUD's regulation at 24 CFR 983.55 states that the PHA may not enter into an Agreement to Enter into a Housing Assistance Payment contract (AHAP) or housing assistance payments (HAP) contract for the project-based voucher (PBV) program until HUD or an independent entity approved by HUD has conducted any required subsidy layering review (SLR) and determined that the PBV assistance is in accordance with HUD's SLR requirements.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: May 28, 2013.

Reason Waived: This regulation was waived since construction on off-site work for the project had to be completed by a date certain that corresponded with the beginning of the following school year. No construction was permitted on the apartment units until a SLR was completed.

Contact: Laure Rawson, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4210, Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 983.253(b) and 983.259(a)(1) and (2) and (c).

Project/Activity: Massachusetts Department of Housing and Community Development (MDHCD), Boston, MA.

Nature of Requirement: HUD's regulations at: 24 CFR 983.253(b) states that the project-based voucher (PBV) contract unit leased to each family must be appropriate for the size of the family under the public housing agency's subsidy standards; and at 24 CFR 983.259(a)(1) and (2) and (c) state that if the PHA determines that the family is occupying a wrong-sized unit, the PHA must promptly notify the family the owner of this determination. After an offer of comparable rental assistance, the PHA must terminate the housing assistance payments for the wrong-sized unit.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: April 21, 2013.

Reason Waived: This project is participating in the Rental Assistance Demonstration program. This waiver was granted to MDHCD since there were no other one-bedroom units in the project and requiring the families to move would present a significant hardship. The owner was required to accept the one-bedroom rent for the over-housed families.

Contact: Laure Rawson, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4210, Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 983.253(b) and 983.259(a)(1) and (2) and (c).

Project/Activity: Brockton Housing Authority (BHA), Brockton, MA.

Nature of Requirement: HUD's regulations at: 24 CFR 983.253(b) states that the project-based voucher (PBV) contract unit leased to each family must be appropriate for the size of the family under the public housing agency's subsidy standards; and at 24 CFR 983.259(a)(1) and (2) and (c) state that if the PHA determines that the family is occupying a wrong-sized unit, the PHA must promptly notify the family the owner of this determination. After an offer of comparable rental assistance, the PHA must terminate the housing assistance payments for the wrong-sized unit.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: May 28, 2013.

Reason Waived: This project is participating in the Rental Assistance Demonstration program. This waiver was granted since there were no other one-bedroom units in the project and requiring the families to move would present a significant hardship. The owner was required to accept the one-bedroom rent for the over-housed families.

Contact: Laure Rawson, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4210, Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 985.101(a).

Project/Activity: Owatonna Housing and Redevelopment Authority (OHRA), Owatonna, MN.

Nature of Requirement: HUD's regulation at 24 CFR 985.101(a) states a PHA must submit the HUD-required Section Eight Management Assessment Program (SEMAP) certification form within 60 calendar days after the end of its fiscal year.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: April 23, 2013.

Reason Waived: This waiver was granted since OHRA changed its fiscal year and there was miscommunication in regard to SEMAP requirements. OHRA was permitted to submit its SEMAP certification after the due date.

Contact: Laure Rawson, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4210, Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(d).

Project/Activity: San Francisco Housing Authority (SFHA), San Francisco, CA.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(d) states that a public housing agency may only approve a higher payment standard for a family as a reasonable accommodation if the higher payment standard is within the basic range of 90 to 110 percent of the fair market rent (FMR) for the unit size.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: May 1, 2013.

Reason Waived: Ten homeless veterans required an exception payment standard to move to a unit in a building that met their health needs. To provide this reasonable accommodation so these clients could be assisted in this building and pay no more than 40 percent of their adjusted income toward the family share, the SFHA was allowed to approve exception payment standards that exceeded the basic range of 90 to 110 percent of the FMR.

Contact: Laure Rawson, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(d).

Project/Activity: Center for People with Disabilities (CPWD), Boulder, CO.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(d) states that a public housing agency may only approve a higher payment standard for a family as a reasonable accommodation if the higher payment standard is within the basic range of 90 to 110 percent of the fair market rent (FMR) for the unit size.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing

Date Granted: May 13, 2013.

Reason Waived: The participant, who is a person with disabilities, required an exception payment standard to remain in her unit. To provide this reasonable accommodation so the client could remain in her unit and pay no more than 40 percent of her adjusted income toward the family share, the CPWD was allowed to approve an exception payment standard that exceeded the basic range of 90 to 110 percent of the FMR.

Contact: Laure Rawson, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(d).

Project/Activity: Crawford County Housing Authority, (CCHA) Crawford County, WI.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(d) states that a public housing agency may only approve a higher payment standard for a family as a reasonable accommodation if the higher payment standard is within the basic range of 90 to 110 percent of the fair market rent (FMR) for the unit size.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: June 1, 2013.

Reason Waived: The applicant, who is a person with disabilities, required an exception payment standard to move to a unit that met her needs. To provide this reasonable accommodation so that the client could move to a new unit and pay no more than 40 percent of her adjusted income toward the family share, the CCHA was allowed to approve an exception payment standard that exceeded the basic range of 90 to 110 percent of the FMR.

Contact: Laure Rawson, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4216, Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 982.505(d).

Project/Activity: Belmont Housing Authority, (BHA), Belmont, MA.

Nature of Requirement: HUD's regulation at 24 CFR 982.505(d) states that a public housing agency may only approve a higher payment standard for a family as a reasonable accommodation if the higher payment standard is within the basic range of 90 to 110 percent of the fair market rent (FMR) for the unit size.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: June 7, 2013.

Reason Waived: The participant, who is a person with disabilities, required an exception payment standard to move to another unit in the same building that met his needs. To provide this reasonable accommodation so that the client could move to a new unit and pay no more than 40 percent of his adjusted income toward the family share, the BHA was allowed to approve an exception payment standard that exceeded the basic range of 90 to 110 percent of the FMR.

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• *Regulation:* 24 CFR 983.55(b).

Project/Activity: Housing Authority of Baltimore City (HABC), Baltimore, MD.

Nature of Requirement: HUD's regulation at 24 CFR 983.55 states that the PHA may not enter into an Agreement to Enter into a Housing Assistance Payment contract (AHAP) or housing assistance payments (HAP) contract for the project-based voucher (PBV) program until HUD or an independent entity approved by HUD has conducted any required subsidy layering review (SLR) and determined that the PBV assistance is in accordance with HUD's SLR requirements.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: May 28, 2013.

Reason Waived: This regulation was waived since construction on off-site work for the project had to be completed by a date certain that corresponded with the beginning of the following school year. No construction was permitted on the apartment units until a SLR was completed.

Contact: Laure Rawson, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4210, Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 983.253(b) and 983.259(a)(1) and (2) and (c).

Project/Activity: Massachusetts Department of Housing and Community Development (MDHCD), Boston, MA.

Nature of Requirement: HUD's regulations at: 24 CFR 983.253(b) states that the project-based voucher (PBV) contract unit leased to each family must be appropriate for the size of the family under the public housing agency's subsidy standards; and at 24 CFR 983.259(a)(1) and (2) and (c) state that if the PHA determines that the family is occupying a wrong-sized unit, the PHA must promptly notify the family the owner of this determination. After an offer of comparable rental assistance, the PHA must terminate the housing assistance payments for the wrong-sized unit.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: April 21, 2013.

Reason Waived: This project is participating in the Rental Assistance Demonstration program. This waiver was granted to MDHCD since there were no other one-bedroom units in the project and requiring the families to move would present a significant hardship. The owner was required to accept the one-bedroom rent for the over-housed families.

Contact: Laure Rawson, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4210, Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 983.253(b) and 983.259(a)(1) and (2) and (c).

Project/Activity: Brockton Housing Authority (BHA), Brockton, MA.

Nature of Requirement: HUD's regulations at: 24 CFR 983.253(b) states that the project-based voucher (PBV) contract unit leased to each family must be appropriate for the size of the family under the public housing agency's subsidy standards; and at 24 CFR 983.259(a)(1) and (2) and (c) state that if the PHA determines that the family is occupying a wrong-sized unit, the PHA must promptly notify the family the owner of this determination. After an offer of comparable rental assistance, the PHA must terminate the housing assistance payments for the wrong-sized unit.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: May 28, 2013.

Reason Waived: This project is participating in the Rental Assistance Demonstration program. This waiver was granted since there were no other one-bedroom units in the project and requiring the families to move would present a significant hardship. The owner was required to accept the one-bedroom rent for the over-housed families.

Contact: Laure Rawson, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4210, Washington, DC 20410, telephone (202) 708–0477.

• *Regulation:* 24 CFR 985.101(a).

Project/Activity: Owatonna Housing and Redevelopment Authority (OHRA), Owatonna, MN.

Nature of Requirement: HUD's regulation at 24 CFR 985.101(a) states a PHA must submit the HUD-required Section Eight Management Assessment Program (SEMAP) certification form within 60 calendar days after the end of its fiscal year.

Granted By: Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

Date Granted: April 23, 2013.

Reason Waived: This waiver was granted since OHRA changed its fiscal year and there was miscommunication in regard to SEMAP requirements. OHRA was permitted to submit its SEMAP certification after the due date.

Contact: Laure Rawson, Director, Housing Voucher Management and Operations Division, Office of Public Housing and Voucher Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4210, Washington, DC 20410, telephone (202) 708–0477.

[FR Doc. 2013–22459 Filed 9–13–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–R–2013–N089; FXRS282108E8PD0–134–F2013227943]

South Bay Salt Pond Restoration Project, Phase 2 (Ponds R3, R4, R5, S5, A1, A2W, A8, A8S, A19, A20, and A21) at the Don Edwards National Wildlife Refuge; Intent To Prepare an Environmental Impact Statement/ Environmental Impact Report

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Notice of Intent; announcement of meeting; request for public comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (USFWS), in coordination with the California State Coastal Conservancy, are preparing a joint environmental impact statement/ environmental impact report (EIS/EIR) for the proposed restoration of ponds R3, R4, R5, S5, A1, A2W, A8, A8S, A19, A20, and A21 at the Don Edwards National Wildlife Refuge (Refuge) in Alameda, Santa Clara and San Mateo Counties, California.

The proposed project is Phase 2 of the South Bay Salt Pond Restoration Project and consists of restoring and enhancing over 2,000 acres of tidal wetlands and managed pond habitats in the South San Francisco Bay. It would also include storage and use of upland fill and dredged material in one or more of the seasonal ponds in the Refuge or on the levees that surround them. Phase 2 may also include collaborative restoration and/or flood management activities with non-USFWS landowners or managers of public infrastructure on adjacent properties.

This notice advises the public that we intend to gather information necessary to prepare an EIS pursuant to the National Environmental Policy Act (NEPA). We encourage the public and other agencies to participate in the NEPA scoping process by attending the public scoping meeting and/or by sending written suggestions and information on the issues and concerns that should be addressed in the draft EIS/EIR, including the range of alternatives, appropriate mitigation measures, and the nature and extent of potential environmental impacts.

DATES: To ensure that we have adequate time to evaluate and incorporate suggestions and other input, we must receive your comments on or before October 16, 2013. A public scoping meeting will be held on September 24, 2013 from 4:00 p.m. to 6:00 p.m., at the San Jose Santa Clara Water Pollution Control Plant located at 700 Los Esteros Road, San Jose, California. The details of the public scoping meeting will be posted on the SBSP Restoration Project's Web site (*http://www.southbayrestoration.org/events/*). Scoping meeting details will also be emailed to the Project's Stakeholder Forum and to those interested parties who request to be notified. Notification requests can be made by emailing the SBSP Restoration Project's public outreach coordinator, Ariel Ambruster at *aambrust@ccp.csus.edu* or (510)–528–5006.

Persons needing reasonable accommodations in order to attend and participate in the public scoping meeting should contact Ariel Ambruster, at *aambrust@ccp.csus.edu* or (510) 528–5006, at least 1 week in advance of the meeting to allow time to process the request.

ADDRESSES: Send written comments to Eric Mruz, Refuge Manager, Don Edwards San Francisco Bay National Wildlife Refuge, 1 Marshlands Road, Fremont, CA 94555, or to Brenda Buxton, Project Manager, State Coastal Conservancy, 1330 Broadway, 13th Floor, Oakland, CA 94612.

Alternatively, you may send written comments by facsimile to (510) 792–5828, or via email through the public comments link on the SBSP Restoration Project Web site, at *www.southbayrestoration.org/Question_Comment.html.* Your correspondence should indicate which pond complex or issue your comments pertain to.

To have your name added to our mailing list, contact Ariel Ambruster; telephone (510) 528–5006; email *aambrust@ccp.csus.edu.*

FOR FURTHER INFORMATION CONTACT: Anne Morkill, Project Leader, USFWS, (510) 792–0222.

SUPPLEMENTARY INFORMATION:

Background

In December 2007, the USFWS and the CDFW published a Final EIS/EIR for the SBSP Restoration Project at the Don Edwards San Francisco Bay National Wildlife Refuge (Refuge) and the California Department of Fish and Wildlife Eden Landing Ecological Reserve. The overall south bay salt pond restoration area includes 15,100 acres which the USFWS and the CDFW acquired from Cargill, Inc. in 2003. The lands acquired from Cargill are divided into three pond complexes. The Ravenswood Pond Complex, in San Mateo County, is managed by the USFWS. The Alviso Pond complex is managed by the USFWS, which is mostly in Santa Clara County with five ponds in Alameda County. The Eden Landing Pond Complex, in Alameda County, is owned and managed by the CDFW. The SBSP Restoration Project presented in the Final EIS/EIR was both programmatic, covering a 50-year period, as well as project-level, addressing the specific components and implementation of Phase 1.

In January 2008, we signed a Record of Decision selecting the Tidal Emphasis Alternative (Alternative C) for implementation. This alternative will result in 90 percent of the USFWS's ponds on the Refuge being restored to tidal wetlands and 10 percent converted to managed ponds. Under Phase 1 of Alternative C, we restored ponds E8A, E8X, E9, E12, and E13 at the Eden Landing complex; A6, A8, A16, and A17 at the Alviso complex; and SF2 at the Ravenswood complex. We also added several trails, interpretive features, and other recreational access points. Construction is being completed in 2013.

We now propose restoration or enhancement of over 2,000 acres of former salt ponds in the second phase of the SBSP Restoration Project. In this Phase 2 DEIS/EIR, we would provide project level analysis of proposed restoration or enhancement of portions of the following three geographically separate pond clusters: the Ravenswood Pond Complex (R3, R4, R5, and S5), the Alviso Pond Complex—Mountain View Ponds (A1 and A2W), the Alviso Pond Complex—A8 Ponds (A8 and A8S), and the Alviso Pond Complex—Island Ponds (A19, A20, and A21). Phase 2 may also include collaborative restoration and flood management activities with non-USFWS landowners of adjacent lands and managers of public infrastructures. These pond clusters are illustrated in Figures 1–5 on the SBSP Restoration Project Web site at *http://www.southbayrestoration.org/planning/phase2/.*

Phase 2 of the SBSP Restoration Project is intended to restore and enhance tidal wetlands and managed pond habitats in South San Francisco Bay while providing for flood management and wildlife-oriented public access and recreation. In Phase 2, we would continue habitat restoration activities in each pond complex, while also providing recreation and public access opportunities and maintaining or improving current levels of flood protection in the surrounding communities. Phase 2 actions are also being planned for implementation at the Eden Landing Pond Complex, which is owned and managed by the CDFW as part of the Eden Landing Wildlife

Sanctuary, but these actions will be addressed under a separate NEPA/CEQA process. We will address activities at other ponds in subsequent phases.

Alternatives

We will consider a range of alternatives and their impacts in the EIS/EIR, including the No Action/No Project Alternative. Scoping will be an early and open process designed to determine the issues and alternatives to be addressed in the EIS/EIR. The range of alternatives may include varying approaches to restoring tidal marshes and enhancing managed ponds, as well as varying levels and means of flood management and recreation and public access components which correspond to the project objectives. The EIS/EIR will identify the anticipated effects of the alternatives (both negative and beneficial) and describe and analyze direct, indirect, and cumulative impacts of each alternative.

NEPA Compliance

This EIS/EIR is a project-level environmental document that is tiered from the 2007 Final EIS/EIR for the SBSP Restoration Project. Information gathered through this scoping process will assist us in developing a reasonable range of alternatives to address the restoration of the Phase 2 salt ponds of the Refuge and collaborative integration with adjacent landowners and operators of public infrastructure. A detailed description of the proposed action and alternatives will be included in the EIS/EIR. For each issue or potential impact identified, the EIS/EIR will include a discussion of the parameters used in evaluating the impacts as well as recommended mitigation, indicating the effectiveness of mitigation measures proposed to be implemented and what, if any, additional measures would be required to reduce the impacts to a less-than-significant level. The EIS/EIR will include an analysis of the restoration, flood management, and recreation and public access components associated with the proposed restoration.

We will conduct environmental review in accordance with the requirements of NEPA, as amended (42 U.S.C. 4321 et seq.), its implementing regulations (40 CFR parts 1500–1508), other applicable regulations, and our procedures for compliance with those regulations. The environmental document will be prepared to meet both the requirements of NEPA and the California Environmental Quality Act (CEQA). The California State Coastal Conservancy is the CEQA lead agency. We anticipate that a draft EIS/EIR will be available for public review early in 2014.

Public Comment

We are furnishing this notice in accordance with section 1501.7 of the NEPA implementing regulations to obtain suggestions and information from other agencies and the public on the scope of issues to be addressed in the EIS/EIR. We invite written comments from interested parties to ensure identification of the full range of issues.

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 you comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Public Scoping Meeting

In addition to providing written comments, the public is encouraged to attend a public scoping meeting on September 24, 2013, to provide us with suggestions and information on the scope of issues and alternatives to consider when drafting the EIS/EIR. The location of the public scoping meeting is provided in the **DATES** section above.

Persons needing reasonable accommodations in order to attend and participate in the public meeting should contact us at the address listed in the **ADDRESSES** section no later than 1 week before the public meeting. Information regarding the proposed restoration is available in alterative formats upon request. We will accept written comments at the scoping meeting or afterwards.

Alexandra Pitts,

Regional Director, Pacific Southwest Region.

[FR Doc. 2013–22438 Filed 9–13–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–IA–2013–N210; FXIA16710900000P5–123–FF09A30000]

Endangered Species; Issuance of Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of issuance of permits.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have issued the following permits to conduct certain activities with endangered species. We issue these permits under the Endangered Species Act (ESA).

ADDRESSES: Brenda Tapia, Division of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 212, Arlington, VA 22203; fax (703) 358–2280; or email *DMAFR@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Brenda Tapia, (703) 358–2104 (telephone); (703) 358–2280 (fax); *DMAFR@fws.gov* (email).

SUPPLEMENTARY INFORMATION: On the dates below, as authorized by the provisions of the ESA (16 U.S.C. 1531 *et seq.*), as amended, and/or the MMPA, as amended (16 U.S.C. 1361 *et seq.*), we issued requested permits subject to certain conditions set forth therein. For each permit for an endangered species, we found that (1) The application was filed in good faith, (2) The granted permit would not operate to the disadvantage of the endangered species, and (3) The granted permit would be consistent with the purposes and policy set forth in section 2 of the ESA.

ENDANGERED SPECIES

Permit No.	Applicant	Receipt of application **Federal Register** notice	Permit issuance date
91242A, 91243A, 91244A, 91245A, 91246A, 91247A, 91248A,91265A, 91266A, 91256A, 91259A, 91260A, 91261A, 91262A, 91263A and 91264A.	Feld Entertainment, Inc	78 FR 9725; February 11, 2013	May 8, 2013.

ENDANGERED SPECIES—Continued

Permit No.	Applicant	Receipt of application **Federal Register** notice	Permit issuance date
058658, 058659, 058660, 058662, 058665, 058666, 058667, 058668, 058735, 058736, 068350, 068353, 154232,059163, and 182594.	Hawthorn Corporation	78 FR 9725; February 11, 2013	May 8, 2013.
03134B	White Oak Conservation Holdings LLC	78 FR23286; April 18, 2013	June 6, 2013.
03596B	Coastal Exotics Inc	78 FR 25296; April 30, 2013	June 6, 2013.
701525	David Hanson	78 FR 25296; April 30, 2013	June 6, 2013.
676793	Minnesota Zoological Gardens	78 FR 25296; April 30, 2013	June 6, 2013.
03445B	Susan Minor	78 FR 25296; April 30, 2013	June 6, 2013.
228672	Terry Shinn	78 FR 25296; April 30, 2013	June 6, 2013.
03591B	Tiemann Land & Cattle Development Inc.	78 FR 25296; April 30, 2013	June 6, 2013.
203351	Armando Bazaldua	78 FR 25296; April 30, 2013	June 17, 2013.
03577B	Patterson Energy Of Texas, LLC	78 FR 25296; April 30, 2013	June 17, 2013.
71533A	Patterson Energy Of Texas, LLC	78 FR 25296; April 30, 2013	June 17, 2013.
03434B	Four A Ranch	78 FR 25296; April 30, 2013	June 17, 2013.
03435B	Four A Ranch	78 FR 25296; April 30, 2013	June 17, 2013.
673458	Sedgwick County Zoo	78 FR 25296; April 30, 2013	June 26, 2013.
04775B	Susan Minor	78 FR 27253; May 9, 2013	June 17, 2013.
119213	Delorce Bennett	78 FR 27253; May 9, 2013	June 17, 2013.
679476	Sunset Zoological Park	78 FR 27253; May 9, 2013	June 17, 2013.
04821B	Atlanta Fulton County Zoo, Inc	78 FR 27253; May 9, 2013	June 26, 2013.
04821B	Atlanta Fulton County Zoo, Inc	78 FR 27253; May 9, 2013	August 22, 2013.
05176B	Yang Li	78 FR 30325; May 22, 2013	June 26, 2013.
05055B	Comanche Spring Ranch	78 FR 30325; May 22, 2013	July 16, 2013.
05056B	Comanche Spring Ranch	78 FR 30325; May 22, 2013	July 16, 2013.
05058B	Thirsty River Ranch	78 FR 30325; May 22, 2013	July 16, 2013.
05059B	Thirsty River Ranch	78 FR 30325; May 22, 2013	July 16, 2013.
804095	Brad Blevins	78 FR 34118; June 6, 2013	July 16, 2013.
06673B	Animal Conservation Unlimited, Inc	78 FR 34118; June 6, 2013	July 18, 2013.
05648B	Blue Sky Aviaries LLC	78 FR 34118; June 6 2013	July 18, 2013.
05160B	Cord Offermann	78 FR 34118; June 6 2013	July 18, 2013.
840690	Pittsburgh Zoo	78 FR 34118; June 6 2013	July 18, 2013.
156736	Wesley Williams	78 FR 34118; June 6 2013	July 18, 2013.
06542B	Corley Ranch	78 FR 34118; June 6 2013	July 23, 2013.
06662B	Corley Ranch	78 FR 34118; June 6 2013	July 23, 2013.
785246	Robert Blome	78 FR 34118; June 6 2013	July 24, 2013.
06588B	City Of Gainesville	78 FR 34118; June 6 2013	July 24, 2013.
07311B	Douglas Dix	78 FR 34118; June 6 2013	July 24, 2013.
93972A	KHJ Property Management, LLC	78 FR 34118; June 6 2013	July 24, 2013.
05246B	Masquerade Exotic Animals, LLC	78 FR 34118; June 6 2013	July 24, 2013.
682850	Louis Waters	78 FR 34118; June 6 2013	July 24, 2013.
694912	Zoological Society Of San Diego/San Diego Zoo.	78 FR 34118; June 6 2013	July 24, 2013.
06849B	Timothy Gazankas	78 FR 34118; June 6 2013	July 25, 2013.
740398	Atlanta Fulton County Zoo	78 FR 38731; June 27, 2013	July 31, 2013.
08619B	Sandy Blauvelt	78 FR 38731; June 27, 2013	July 31, 2013.
693363	Dickerson Park Zoo	78 FR 38731; June 27, 2013	July 31, 2013.
692868	Greater Baton Rouge Zoo	78 FR 38731; June 27, 2013	July 31, 2013.
08522B	John Messmer	78 FR 38731; June 27, 2013	July 31, 2013.
839465	Nashville Zoo	78 FR 38731; June 27, 2013	July 31, 2013.
668353	National Zoological Park	78 FR 38731; June 27, 2013	July 31, 2013.
816505	Ross Popenoe	78 FR 38731; June 27, 2013	July 31, 2013.
052166	Memphis Zoological Gardens	78 FR 38731; June 27, 2013	August 1, 2013.
49112A	Morani River Ranch	78 FR 38731; June 27, 2013	August 12, 2013.
7778B	Joel Owens	78 FR 38731; June 27, 2013	August 12, 2013.
09121B	Kenneth Siffert	78 FR 38731; June 27, 2013	August 12, 2013.
88777A	Wild Wonders Zoofari	78 FR 38731; June 27, 2013	August 12, 2013.
806176	Metro Richmond Zoo	78 FR 38731; June 27, 2013	August 15, 2013.
757434	Gibbon Conservation Center	78 FR 38731; June 27, 2013	August 27, 2013.
089277	Reide Sneddon	78 FR 40762; July 8, 2013	August 12, 2013.
683352	Walter Sturgeon	78 FR 40762; July 8, 2013	August 12, 2013.
687596	Seneca Park Zoo	78 FR 40762; July 8, 2013	August 15, 2013.
09439B	John Anderson	78 FR 40762; July 8, 2013	August 27, 2013.
09440B	John Anderson	78 FR 40762; July 8, 2013	August 27, 2013.
09757B	World Class Reptiles	78 FR 40762; July 8, 2013	August 27, 2013.
681252	Cincinnati Zoo & Botanical Garden	78 FR 44961; July 25, 2013	August 27, 2013.
148278	Mary Harris	78 FR 44961; July 25, 2013	August 27, 2013.
748080	Alvin Novosad	78 FR 44961; July 25, 2013	August 27, 2013.
10997B	Lauren Ogburn	78 FR 44961; July 25, 2013	August 27, 2013.

ENDANGERED SPECIES—Continued

Permit No.	Applicant	Receipt of application **Federal Register** notice	Permit issuance date
10983B	Clyde Reams	78 FR 44961; July 25, 2013	August 27, 2013.
154639	Richard Sines	78 FR 44961; July 25, 2013	August 27, 2013.
702166	Tampa's Lowry Park Zoological Gardens.	78 FR 44961; July 25, 2013	August 27, 2013.
09914B	Zoological Society Of San Diego	78 FR 44961; July 25, 2013	August 28, 2013.
09942B	Zoological Society Of San Diego	78 FR 44961; July 25, 2013	August 28, 2013

Availability of Documents

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to: Division of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 212, Arlington, VA 22203; fax (703) 358–2280.

Brenda Tapia,

Program Analyst/Data Administrator, Branch of Permits, Division of Management Authority.

[FR Doc. 2013–22422 Filed 9–13–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R4–ES–2013–N200; 40120–1112–0000–F2]

Receipt of Applications for Endangered Species Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered species. With some exceptions, the Endangered Species Act (ESA) prohibits activities with listed species unless a Federal permit is issued that allows such activities. The ESA requires that we invite public comment before issuing these permits.

DATES: We must receive written data or comments on the applications at the address given below, by *October 16, 2013.*

ADDRESSES: Documents and other information submitted with the applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 200, Atlanta, GA 30345 (Attn: David Dell, Permit Coordinator).

FOR FURTHER INFORMATION CONTACT: David Dell, Permit Coordinator, telephone 404–679–7313; facsimile 404–678–7081.

SUPPLEMENTARY INFORMATION: The public is invited to comment on the following applications for permits to conduct certain activities with endangered and threatened species pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and our regulations in the Code of Federal Regulations (CFR) at 50 CFR 17. This notice is provided under section 10(c) of the Act.

If you wish to comment, you may submit comments by any one of the following methods. You may mail comments to the Fish and Wildlife Service's Regional Office (see **ADDRESSES** section) or send them via electronic mail (email) to: *permitsR4ES@fws.gov.* Please include your name and return address in your email message. If you do not receive a confirmation from the Fish and Wildlife Service that we have received your email message, contact us directly at the telephone number listed above (see **FOR FURTHER INFORMATION CONTACT**). Finally, you may hand-deliver comments to the Fish and Wildlife Service office listed above (see **ADDRESSES**).

Before including your address, telephone number, email address, or other personal identifying information in your comments, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comments to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Permit Application Number: TE00657B

Applicant: Jesse Robinson, Lexington, Kentucky.

The applicant requests authorization to take (survey, capture, handle, tag, and release) blackside dace (*Chrosomus cumberlandensis*) and Cumberland darter (*Etheostoma susanae*) for the purpose of conducting presence/absence/population surveys and assisting in species recovery efforts.

Permit Application Number: TE171493–1B

Applicant: Memphis Zoo, Memphis, Tennessee.

The applicant requests authorization to amend their current permit to take (capture, handle, treat, hold in captivity, transport, euthanize, release) and captive-breed dusky gopher frogs (*Rana sevosa*) for the purpose of maintenance and management of a captive assurance colony that will perpetuate genetic lineages without exceeding captive carrying capacity.

Dated: September 5, 2013.

Mike Oetker,

Acting Regional Director.

[FR Doc. 2013–22441 Filed 9–13–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–IA–2013–N211; FXIA16710900000P5–123–FF09A30000]

Endangered Species; Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered species. With some exceptions, the Endangered Species Act (ESA) prohibits activities with listed

species unless Federal authorization is acquired that allows such activities.

DATES: We must receive comments or requests for documents on or before October 16, 2013.

ADDRESSES: Brenda Tapia, Division of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 212, Arlington, VA 22203; fax (703) 358–2280; or email *DMAFR@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Brenda Tapia, (703) 358–2104 (telephone); (703) 358–2280 (fax); *DMAFR@fws.gov* (email).

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

A. How do I request copies of applications or comment on submitted applications?

Send your request for copies of applications or comments and materials concerning any of the applications to the contact listed under **ADDRESSES**. Please include the **Federal Register** notice publication date, the PRT-number, and the name of the applicant in your request or submission. We will not consider requests or comments sent to an email or address not listed under **ADDRESSES.** If you provide an email address in your request for copies of applications, we will attempt to respond to your request electronically.

Please make your requests or comments as specific as possible. Please confine your comments to issues for which we seek comments in this notice, and explain the basis for your comments. Include sufficient information with your comments to allow us to authenticate any scientific or commercial data you include.

The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) Those supported by quantitative information or studies; and (2) Those that include citations to, and analyses of, the applicable laws and regulations. We will not consider or include in our administrative record comments we receive after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

B. May I review comments submitted by others?

Comments, including names and street addresses of respondents, will be available for public review at the street address listed under **ADDRESSES**. The public may review documents and other information applicants have sent in support of the application unless our allowing viewing would violate the Privacy Act or Freedom of Information Act. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

II. Background

To help us carry out our conservation responsibilities for affected species, and in consideration of section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), along with Executive Order 13576, ''Delivering an Efficient, Effective, and Accountable Government,'' and the President's Memorandum for the Heads of Executive Departments and Agencies of January 21, 2009—Transparency and Open Government (74 FR 4685; January 26, 2009), which call on all Federal agencies to promote openness and transparency in Government by disclosing information to the public, we invite public comment on these permit applications before final action is taken.

III. Permit Applications

A. Endangered Species

Applicant: Dr. Christopher D. Marshall, Texas A & M University, Galveston, TX; PRT–10766B

The applicant requests a permit to import biological specimens from hawksbill sea turtles (*Eretmochelys imbricata*) and loggerhead sea turtles (*Caretta caretta*) collected from the wild in Qatar for the purpose of scientific research. This notification covers activities to be conducted by the applicant over a 3-year period.

Applicant: Sandy Blauvelt, Mansfield, TX; PRT–08619B

The applicant requests amendment of their captive-bred wildlife registration under 50 CFR 17.21(g) to include the Galapagos tortoise (*Chelonoidis nigra*) to enhance their propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Rancho Santa Ana Botanic Garden, Claremont, CA; PRT–15316B

The applicant requests a permit to export and re-import non-living museum/herbarium specimens of endangered and threatened species (excluding animals) previously legally accessioned into the applicant's collection for scientific research. This notification covers activities to be conducted by the applicant over a 5-year period.

Brenda Tapia,

Program Analyst/Data Administrator, Branch of Permits, Division of Management Authority.

[FR Doc. 2013–22421 Filed 9–13–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLOR9360000.L63500000.DF0000 13XL1116AF]

Renewal of Approved Information Collection

AGENCY: Bureau of Land Management, Interior.

ACTION: 60-Day notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act, the Bureau of Land Management (BLM) invites public comments on, and plans to request approval to continue, the collection of information from private landowners in western Oregon who are authorized to transport timber over roads controlled by the BLM. The Office of Management and Budget (OMB) has assigned control number 1004–0168 to this information collection.

DATES: Please submit comments on the proposed information collection by November 15, 2013.

ADDRESSES: Comments may be submitted by mail, fax, or electronic mail.

Mail: U.S. Department of the Interior, Bureau of Land Management, 1849 C Street NW., Room 2134LM, Attention: Jean Sonneman, Washington, DC 20240.

Fax: to Jean Sonneman at 202–245–0050.

Electronic mail: Jean_Sonneman@blm.gov.

Please indicate ''Attn: 1004–0168'' regardless of the form of your comments.

FOR FURTHER INFORMATION CONTACT: Dustin Wharton at 541–471–6659. Persons who use a telecommunication device for the deaf may call the Federal Information Relay Service at 1–800–877–8339 to leave a message for Mr. Wharton.

SUPPLEMENTARY INFORMATION: OMB regulations at 5 CFR part 1320, which implement provisions of the Paperwork Reduction Act, 44 U.S.C. 3501–3521, require that interested members of the

public and affected agencies be given an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d) and 1320.12(a)). This notice identifies an information collection that the BLM plans to submit to OMB for approval. The Paperwork Reduction Act provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

The BLM will request a 3-year term of approval for this information collection activity. Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) The accuracy of the agency's burden estimates; (3) Ways to enhance the quality, utility and clarity of the information collection; and (4) Ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will accompany our submission of the information collection requests to OMB.

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.

The following information is provided for the information collection:

Title: Tramroads and Logging Roads (43 CFR part 2810).

OMB Control Number: 1004–0168.

Summary: This collection pertains to rights-of-way on public lands in western Oregon that were returned to the United States after being conveyed for construction of the Oregon & California Railroad. The BLM Oregon State Office has authority under the Act of August 28, 1937 (43 U.S.C. 1181a and 1181b) and subchapter V of the Federal Land Policy and Management Act (43 U.S.C. 1761–1771) to grant rights-of-way to private landowners to transport their timber over roads controlled by the BLM. The information collected under this control number enables the BLM to calculate and collect appropriate fees for this use of public lands.

Frequency of Collection: Annually, biannually, quarterly, or monthly, depending on the terms of the pertinent right-of-way.

Forms: Form 2812–6, Report of Road Use.

Description of Respondents: Private landowners who hold rights-of-way for the use of BLM-controlled roads in western Oregon.

Estimated Annual Responses: 272.

Estimated Annual Burden Hours: 2,176.

Estimated Annual Non-Hour Costs: None.

The estimated annual burdens for respondents are itemized in the following table:

A. Type of response and 43 CFR citation	B. Number of responses	C. Hours per response	D. Total hours (Column B x Column C)
Form OR–2812–6, Report of Road Use 43 CFR 2812.3 and 43 CFR 2812.5	272	8	2,176
Total	272	8	2,176

Jean Sonneman,

Bureau of Land Management, Information Collection Clearance Officer.

[FR Doc. 2013–22440 Filed 9–13–13; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF JUSTICE

[CPCLO Order No. 004–2013]

Privacy Act of 1974; System of Records

AGENCY: Executive Office for Organized Crime Drug Enforcement Task Forces (OCDETF), Department of Justice.

ACTION: Notice of a modified system of records.

SUMMARY: Pursuant to the Privacy Act of 1974, 5 U.S.C. 552a, and Office of Management and Budget (OMB) Circular No. A–130, notice is hereby given that the Department of Justice (Department or DOJ), Executive Office for OCDETF, proposes to amend an existing system of records notice (SORN) entitled, ''Organized Crime Drug Enforcement Task Force Fusion Center and International Organized Crime Intelligence and Operations Center System,'' JUSTICE/CRM–028, last published at 74 FR 26733, June 3, 2009. This amendment reflects a reorganization of the Department of Justice establishing the Executive Office for OCDETF as a new component and the resulting transfer of responsibility for this system of records from the Criminal Division to the Executive Office for OCDETF. Accordingly, the Executive Office for OCDETF is changing the system number from JUSTICE/CRM–028 to JUSTICE/OCDETF–002, and making revisions to reflect the Executive Office for OCDETF's own record-keeping practices and the overall modernization and technological changes of the system. Accordingly, this modified SORN will replace the SORN for JUSTICE/CRM–028. In addition, this amended SORN updates and modifies the previous SORN as follows: In the Categories of Individuals Covered by the System, a new category has been added for individuals who seek to or in fact do enter, exit, or transit the border of the United States and individuals associated with any such travel, including owners/lessees of the conveyances used; the Categories of Records in the System includes additional examples of records that may be associated with this new category of individuals; Executive Office for OCDETF contact information has been updated; and various other minor revisions have been made.

DATES: In accordance with 5 U.S.C. 552a(e)(4) and (11), the public is given a 30-day period in which to comment. Therefore, please submit any comments by October 16, 2013.

ADDRESSES: The public, OMB, and Congress are invited to submit any comments to the Department of Justice, ATTN: Privacy Analyst, Office of Privacy and Civil Liberties, U.S. Department of Justice, National Place Building, 1331 Pennsylvania Avenue NW., Suite 1000, Washington, DC 20530–0001, or by facsimile to 202–307–0693.

FOR FURTHER INFORMATION CONTACT: Jill Aronica, Chief Information Systems Section, Executive Office for OCDETF, U.S. Department of Justice, 1331

Pennsylvania Avenue NW., Suite 1060, Washington, DC 20530, phone 202–514–1860.

SUPPLEMENTARY INFORMATION:

This system serves two primary purposes. The first is to facilitate the mission of the OCDETF Program, which is to reduce the illegal drug supply by identifying, disrupting, and dismantling the most significant international and domestic drug supply and money laundering organizations and related criminal operations (e.g., arms traffickers, alien smugglers, terrorists). The second purpose of this system is to facilitate the mission of the International Organized Crime Intelligence and Operations Center (IOC–2) and its member agencies to significantly disrupt and dismantle those international criminal organizations posing the greatest threat to the United States. Recognizing the demonstrated interrelationship between criminal organizations that engage in illicit drug trafficking (and related criminal activities) and those that engage in international organized crime, involving a broader variety of criminal activity, the IOC–2 and OCDETF formed a partnership to facilitate both OCDETF and IOC–2 mission needs by collocating multi-source criminal law enforcement and intelligence data for the compilation, fusion, storage, and comprehensive analysis of drug, international organized crime, financial, and related investigative information. Using this system, the OCDETF Fusion Center/IOC–2 develop investigative leads, operational intelligence products, and strategic intelligence assessments on new or evolving threats for dissemination as appropriate to cognizant law enforcement, regulatory, intelligence, and military agencies to assist them in enforcing criminal, civil, and regulatory laws related to drug trafficking, money laundering, firearms trafficking, alien smuggling, organized crime, terrorism, and other crimes, including the identification, apprehension, and prosecution of individuals who threaten the United States' national and international security interests through their involvement in such crimes.

Before the Executive Office for OCDETF became its own Department component, this system of records was exempted from certain provisions of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2) and (k)(2). These exemptions are codified in the Code of Federal Regulations (CFR) section for exemptions of Criminal Division systems (28 CFR 16.91(u) and (v)). The Department is establishing a new CFR section for exemptions of OCDETF systems (28 CFR 16.135) and redesignating the existing exemptions to be part of this new OCDETF section. In the meantime, the Department intends that the exemptions established in 28 CFR 16.91(u) and (v) will continue to apply to this system and all its records until 28 CFR 16.135 is effective.

In accordance with 5 U.S.C. 552a(r), the Department has provided a report to OMB and Congress on this modified system of records notice.

Dated: August 21, 2013.

Joo Y. Chung,

Acting Chief Privacy and Civil Liberties Officer, United States Department of Justice.

JUSTICE/OCDETF–002

SYSTEM NAME:

Organized Crime Drug Enforcement Task Force Fusion Center and International Organized Crime Intelligence and Operations Center System.

SECURITY CLASSIFICATION:

Classified and unclassified.

SYSTEM LOCATION:

OCDETF Fusion Center, Executive Office for OCDETF, U.S. Department of Justice, 1331 Pennsylvania Avenue NW., Suite 1060, Washington, DC 20530–0001. Some or all system information may be duplicated at other locations for purposes including system backup, emergency preparedness, and continuity of operations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

1. Individuals charged with, convicted of, or known, suspected, or alleged to be involved with, illicit drug trafficking or other potentially related criminal activity, including but not limited to facilitating the transportation of drug proceeds, money laundering, firearms trafficking, alien smuggling, and terrorist activity, or involved with international organized crime. For these purposes international organized crime refers to those self-perpetuating associations of individuals who operate internationally for the purpose of obtaining power, influence, monetary, and/or commercial gains, wholly or in part by illegal means, while protecting their activities through a pattern of corruption and/or violence, or while protecting their activities through an international organizational structure and the exploitation of international commerce or communication mechanisms.

2. Individuals with pertinent knowledge of some circumstances or aspects of a case or record subject, such as witnesses, associates of record subjects, informants, and law enforcement or intelligence personnel.

3. Individuals reasonably suspected of engaging in money laundering, other financial crimes, terrorism, and other criminal activity, including individuals referenced in information provided to the Financial Crimes Enforcement Network from financial institutions and other sources.

4. Individuals identified in or involved with the filing, evaluation, or investigation of reports under the Bank Secrecy Act and its implementing regulations.

5. Immigrant and nonimmigrant visa applicants.

6. Individuals who seek to or in fact do enter, exit, or transit the border of the United States by air, land, or sea, regardless of method of transportation or conveyance, including those beginning or concluding a portion of their international travel by traveling domestically within the United States, and individuals associated with any such travel, including owners/lessees of the conveyances used.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records may contain investigative and intelligence information about the individuals in this system, including their identifying information such as, but not limited to, name, date of birth, gender, social security number, address, physical description, photograph, operator license (e.g., driver, airman, mariner), international travel information (e.g., visa adjudication, issuance, and refusal information, country of citizenship, travel documents, admission and departure processing), vehicle license plate/number and other information on conveyances used, bank account number, location//activities, as well as other data which may assist the OCDETF Fusion Center in fulfilling its responsibilities and/or the International Organized Crime Intelligence and Operations Center (IOC–2) in fulfilling its responsibilities. Information includes multi-source data that may assist law enforcement agencies, regulatory agencies, and agencies of the U.S. foreign intelligence community or military community in executing their responsibilities with respect to drug trafficking, international organized crime, money laundering, firearms trafficking, alien smuggling, terrorism, and other enforcement efforts, including the identification, location, arrest and prosecution of suspects, and civil proceedings and other activities related to such enforcement activities.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Consolidated Appropriations Act, 2004, Public Law 108–199, 118 Stat. 3; Comprehensive Drug Abuse Prevention and Control Act of 1970, Public Law 91–513, 84 Stat. 1236 (21 U.S.C. 801 et seq.); the United Nations Single Convention on Narcotic Drugs, 1961; the Organized Crime Control Act of 1970, Public Law 91–452, 84 Stat. 922; the United Nations Convention on Transnational Organized Crime, 2000; and E.O. 11396, 33 FR 2689, 3 CFR, 1966–1970 Comp., p. 711. Additional authority is derived from Treaties, Statutes, Executive Orders, and Presidential Proclamations which the Department of Justice (DOJ) has been charged with administering.

PURPOSE(S):

This system serves two primary purposes. The first is to facilitate the mission of the OCDETF Program, which is to reduce the illegal drug supply by identifying, disrupting, and dismantling the most significant international and domestic drug supply and money laundering organizations and related criminal operations (e.g., arms traffickers, alien smugglers, terrorists). The second purpose of this system is to facilitate the mission of the International Organized Crime Intelligence and Operations Center (IOC–2) and its member agencies to significantly disrupt and dismantle those international criminal organizations posing the greatest threat to the United States. Recognizing the demonstrated interrelationship between criminal organizations that engage in illicit drug trafficking (and related criminal activities) and those that engage in international organized crime, involving a broader variety of criminal activity, the IOC–2 and OCDETF formed a partnership to facilitate both OCDETF and IOC–2 mission needs by collocating multi-source criminal law enforcement and intelligence data for the compilation, fusion, storage, and comprehensive analysis of drug, international organized crime, financial, and related investigative information. Using this system, the OCDETF Fusion Center/IOC–2 develop investigative leads, operational intelligence products, and strategic intelligence assessments on new or evolving threats for dissemination as appropriate to cognizant law enforcement, regulatory, intelligence, and military agencies to assist them in enforcing criminal, civil, and regulatory laws related to drug trafficking, money laundering, firearms trafficking, alien smuggling, organized crime, terrorism, and other crimes, including the identification, apprehension, and prosecution of individuals who threaten the United States' national and international security interests through their involvement in such crimes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b), relevant information contained in this system of records may be disclosed as follows:

(a) To any criminal, civil, or regulatory law enforcement authority (whether federal, state, local, territorial, tribal, or foreign) where the information is relevant to the recipient entity's law enforcement responsibilities.

(b) To a governmental entity lawfully engaged in collecting law enforcement, law enforcement intelligence, or national security intelligence information for such purposes.

(c) To any person, organization, or governmental entity in order to notify them of a serious terrorist threat for the purpose of guarding against or responding to such a threat.

(d) To any person or entity if deemed by the Executive Office for OCDETF/IOC–2 to be necessary in order to elicit information or cooperation from the recipient for use by the Executive Office for OCDETF/IOC–2 in the performance of an authorized law enforcement activity.

(e) To the Department of State and components thereof to further the efforts of those agencies with respect to the national security and foreign affairs aspects of international drug trafficking, money laundering, firearms trafficking, alien smuggling, terrorism, and related crimes.

(f) To the Department of Defense and components thereof to support its role in the detection and monitoring of the transportation of illegal drugs and money laundering in the United States or such other roles in support of counter-drug and money laundering law enforcement, counter-firearms trafficking, counter-alien smuggling, and related crimes as may be permitted by law.

(g) To the United Nations and its employees to the extent that the information is relevant to the recipient's law enforcement or international security functions.

(h) To the White House (the President, Vice President, their staffs, and other entities of the Executive Office of the President), and, during Presidential transitions, to the President-elect and Vice-President-elect and to their designated transition team staff, for coordination of activities that relate to or have an effect upon the carrying out of the constitutional, statutory, or other official or ceremonial duties of the President, President-elect, Vice President, or Vice-President-elect.

(i) To complainants and/or victims to the extent necessary to provide such persons with information and explanations concerning the progress and/or results of the investigation or case arising from the matters of which they complained and/or of which they were a victim.

(j) In an appropriate proceeding before a court, grand jury, or administrative or adjudicative body, when the Department of Justice determines that the records are arguably relevant to the proceeding; or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.

(k) To an actual or potential party to litigation or the party's authorized representative for the purpose of negotiation or discussion on such matters as settlement, plea bargaining, or in informal discovery proceedings.

(l) To the news media and the public, including disclosures pursuant to 28 CFR 50.2, unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

(m) To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the federal government, when necessary to accomplish an agency function related to this system of records.

(n) To designated officers and employees of state, local, territorial, or tribal law enforcement or detention agencies in connection with the hiring or continued employment of an employee or contractor, where the employee or contractor would occupy or occupies a position of public trust as a law enforcement officer or detention officer having direct contact with the public or with prisoners or detainees, to the extent that the information is relevant and necessary to the recipient agency's decision.

(o) To appropriate officials and employees of a federal agency or entity that requires information relevant to a decision concerning the hiring, appointment, or retention of an employee; the assignment, detail, or deployment of an employee; the issuance, renewal, suspension, or revocation of a security clearance; the execution of a security or suitability

investigation; the letting of a contract; or the issuance of a grant or benefit.

(p) To a former employee of the Department for purposes of: responding to an official inquiry by a federal, state, or local government entity or professional licensing authority, in accordance with applicable Department regulations; or facilitating communications with a former employee that may be necessary for personnel-related or other official purposes where the Department requires information and/or consultation assistance from the former employee regarding a matter within that person's former area of responsibility.

(q) To federal, state, local, territorial, tribal, foreign, or international licensing agencies or associations which require information concerning the suitability or eligibility of an individual for a license or permit.

(r) To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.

(s) To the National Archives and Records Administration for purposes of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

(t) To appropriate agencies, entities, and persons when (1) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

(u) To such recipients and under such circumstances and procedures as are mandated by federal statute or treaty.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computerized records are stored in databases and/or on hard disks, removable storage devices, or other electronic media. Some information, including investigative files and information incorporated into analytical products may be retained in hard copy format and stored in individual file folders and file cabinets with controlled access, and/or other appropriate GSA-approved security containers.

RETRIEVABILITY:

Individual records are accessed by use of data-retrieval capabilities of computer software acquired and developed for processing of information in the OCDETF Fusion Center and IOC–2 System. (Hard-copy formats are accessed via manual retrieval.) Data will be retrieved through a number of criteria, including personally identifiable information such as name and social security number.

SAFEGUARDS:

These records are housed in a secure building restricted to DOJ employees and other authorized personnel, and those persons transacting business with the DOJ who are escorted by DOJ or other authorized personnel. Physical and electronic access to system records is safeguarded in accordance with DOJ rules and policies governing automated systems security and access, including the maintenance of technical equipment in restricted areas. The selection of containers or facilities is made in consideration of the sensitivity or National Security Classification of the files. System records are contained in a room secured by intruder alarms and other appropriate physical and electronic security controls. Access to system computer terminal(s) is further restricted to DOJ employees, detailees to DOJ from other government agencies, and individual contractors who have authorized access (including individual passwords and identification codes), appropriate security clearances, and a demonstrated and lawful need to know the information in order to perform assigned functions on behalf of the OCDETF Fusion Center and/or IOC–2. All OCDETF Fusion Center and IOC–2 personnel capable of accessing system records will have successfully passed a background investigation. Unauthorized access to the telecommunications terminals is precluded by a complex authentication procedure.

RETENTION AND DISPOSAL:

Records in this system are maintained and disposed of in accordance with appropriate authority of the National Archives and Records Administration.

SYSTEM MANAGER AND ADDRESS:

Director, Executive Office for OCDETF, U.S. Department of Justice, 950 Pennsylvania Avenue NW., Washington, DC 20530–0001.

NOTIFICATION PROCEDURE:

Same as Record Access Procedures.

RECORD ACCESS PROCEDURES:

A request for access to a record from this system must be submitted in writing and comply with 28 CFR part 16, and should be sent to the Executive Office for OCDETF, U.S. Department of Justice, National Place Building, 1331 Pennsylvania Avenue NW., Suite 1060, Washington, DC 20530–0001. The envelope and the letter should be clearly marked ''Privacy Act Access Request.'' The request should include a general description of the records sought and must include the requester's full name, current address, and date and place of birth. The request must be signed and dated and either notarized or submitted under penalty of perjury. While no specific form is required, requesters may obtain a form (Form DOJ–361) for use in certification of identity from the FOIA/Privacy Act Mail Referral Unit, Justice Management Division, United States Department of Justice, 950 Pennsylvania Avenue NW., Washington, DC 20530–0001, or from the Department's Web site at *http://www.justice.gov/oip/forms/cert_ind.pdf.* As described below in the section entitled ''Exemptions Claimed for the System,'' the Attorney General has exempted this system of records from the notification, access, and amendment provisions of the Privacy Act. These exemptions apply only to the extent that the information in this system is subject to exemption pursuant to 5 U.S.C. 552a(j) and/or (k). An individual who is the subject of a record in this system may seek access to those records that are not exempt from the access provisions. A determination whether a record may be accessed will be made at the time a request is received.

CONTESTING RECORD PROCEDURES:

Individuals seeking to contest or amend information maintained in the system should direct their requests to the address indicated in the ''Record Access Procedures'' section, above. The request must comply with 28 CFR 16.46, and state clearly and concisely what information is being contested, the

reasons for contesting it, and the proposed amendment of the information. Some information may be exempt from the amendment provisions. An individual who is the subject of a record in this system may seek amendment of those records that are not exempt. A determination whether a record may be amended will be made at the time a request is received.

RECORD SOURCE CATEGORIES:

Information is provided by federal, state, local, tribal, territorial, and foreign law enforcement agencies; agencies of the U.S. foreign intelligence community and military community; the private sector; and open sources, such as broadcast and print media and publicly available databases.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

The Attorney General has exempted this system from subsections (c)(3) and (4); (d)(1), (2), (3), and (4); (e)(1), (2), (3), (4)(G), (H), and (I), (5), and (8); (f); and (g) of the Privacy Act. The exemptions will be applied only to the extent that information in a record is subject to exemption pursuant to 5 U.S.C. 552a(j) and/or (k). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e), and have been published in today's **Federal Register**.

[FR Doc. 2013–22368 Filed 9–13–13; 8:45 am]

BILLING CODE 4410–NY–P

DEPARTMENT OF JUSTICE

Membership of the Senior Executive Service Standing Performance Review Boards

AGENCY: Department of Justice.

ACTION: Notice of Department of Justice's standing members of the Senior Executive Service Performance Review Boards.

SUMMARY: Pursuant to the requirements of 5 U.S.C. 4314(c)(4), the Department of Justice announces the membership of its 2013 Senior Executive Service (SES) Standing Performance Review Boards (PRBs). The purpose of a PRB is to provide fair and impartial review of SES performance appraisals, bonus recommendations and pay adjustments. The PRBs will make recommendations regarding the final performance ratings to be assigned, SES bonuses and/or pay adjustments to be awarded.

FOR FURTHER INFORMATION CONTACT: Terence L. Cook, Director, Human Resources, Justice Management Division, Department of Justice, Washington, DC 20530; (202) 514–4350.

Lee J. Lofthus,

Assistant Attorney General, for Administration.

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GOLDSMITH, ANDREW	NATIONAL CRIMINAL DISCOVERY COORDINATOR.
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STEMPLEWICZ, JOHN	SENIOR TRIAL ATTORNEY.
BLUME, MICHAEL	DIRECTOR, CONSUMER PROTECTION BRANCH.
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Name	Position title
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Civil Rights Division—CRT	
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AUSTIN, ROY	DEPUTY ASSISTANT ATTORNEY GENERAL.
FRIEL, GREGORY	DEPUTY ASSISTANT ATTORNEY GENERAL.
HILL, EVE LYNNE	DEPUTY ASSISTANT ATTORNEY GENERAL.
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MCCONKEY, MILTON	EXECUTIVE OFFICER.
KENNEBREW, DELORA	CHIEF, EMPLOYMENT LITIGATION SECTION.
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KOWALSKI, BARRY F	SPECIAL LEGAL COUNSEL.
BHARGAVA, ANURIMA	CHIEF, EDUCATIONAL OPPORTUNITIES SECTION.
ROSENBAUM, STEVEN H	CHIEF, HOUSING AND CIVIL ENFORCEMENT SECTION.
JANG, DEEANA L	CHIEF, COORDINATION AND REVIEW SECTION.
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SMITH, JONATHAN M	CHIEF, SPECIAL LITIGATION SECTION.
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O'BRIEN, PAUL M	DEPUTY ASSISTANT ATTORNEY GENERAL.
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FELTON, KATHLEEN A	DEPUTY CHIEF, APPELLATE SECTION.
HULSER, RAYMOND	DEPUTY CHIEF, PUBLIC INTEGRITY SECTION.
JONES, JOSEPH M	SENIOR COUNSEL FOR INTERNATIONAL DEVELOPMENT AND TRAINING.
KING, DAMON A	SENIOR LITIGATION COUNSEL, CHILD EXPLOITATION AND OBSCENITY SECTION.
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PAINTER, CHRISTOPHER M	SENIOR COUNSEL FOR CYBERCRIME.
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ROSENBAUM, ELI M	DIRECTOR, HUMAN RIGHTS ENFORCEMENT STRATEGY AND POLICY.
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JAFFE, DAVID	DEPUTY CHIEF, ORGANIZED CRIME AND GANG SECTION.
ROTH, MONIQUE P	DIRECTOR, OFFICE OF ENFORCEMENT OPERATIONS.
WARLOW, MARY ELLEN	DIRECTOR, OFFICE OF INTERNATIONAL AFFAIRS.
WEBB, JANET D	DEPUTY DIRECTOR, OFFICE OF ENFORCEMENT OPERATIONS.
WROBLEWSKI, JONATHAN J	DIRECTOR, OFFICE OF POLICY AND LEGISLATION.
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Environmental and Natural Resources Division—ENRD	
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SHENKMAN, ETHAN	DEPUTY ASSISTANT ATTORNEY GENERAL.
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SILVERMAN, STEVEN	DEPUTY ASSISTANT ATTORNEY GENERAL.
GELBER, BRUCE S	DEPUTY ASSISTANT ATTORNEY GENERAL.
ALEXANDER, S. CRAIG	CHIEF, INDIAN RESOURCES SECTION.
BARSKY, SETH	CHIEF, WILDLIFE AND MARINE RESOURCES.
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COLLIER, ANDREW	EXECUTIVE OFFICER.
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GETTE, JAMES	DEPUTY CHIEF, NATURAL RESOURCES SECTION.
GOLDFRANK, ANDREW M	CHIEF, LAND ACQUISITION SECTION.
GRISHAW, LETITIA J	CHIEF, ENVIRONMENTAL DEFENSE SECTION.
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KILBOURNE, JAMES C	CHIEF, APPELLATE SECTION.
MAHAN, ELLEN M	DEPUTY CHIEF, ENVIRONMENTAL ENFORCEMENT SECTION.
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Executive Office for Immigration Review—EOIR	
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O'LEARY, BRIAN M	CHIEF IMMIGRATION JUDGE.
MCGOINGS, MICHAEL	DEPUTY CHIEF IMMIGRATION JUDGE.
SCHMIDT, PAUL W	SENIOR IMMIGRATION JUDGE.
NEAL, DAVID	CHAIRMAN, BOARD OF IMMIGRATION APPEALS.
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ROSENBLUM, JEFFREY A	GENERAL COUNSEL.
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MANN, ANA	ATTORNEY EXAMINER.
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GREER, ANNE J	ATTORNEY EXAMINER.
GUENDELSBERGER, JOHN W	ATTORNEY EXAMINER.
HOLMES, DAVID B	ATTORNEY EXAMINER.
MALPHRUS, GARRY D	ATTORNEY EXAMINER.
MILLER, NEIL P	ATTORNEY EXAMINER.
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WONG, NORMAN Y	DEPUTY DIRECTOR AND COUNSEL TO THE DIRECTOR.
FLINN, SHAWN	CHIEF HUMAN RESOURCES OFFICER.
Executive Office for U.S. Trustees—EOUST	
WHITE III, CLIFFORD J	DIRECTOR.
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ELLIOTT, RAMONA D	DEPUTY DIRECTOR GENERAL COUNSEL.
Justice Management Division—JMD	
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JOHNSTON, JAMES W	DIRECTOR, PROCUREMENT SERVICES STAFF.
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National Security Division—NSD	
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SANZ–REXACH, GABRIEL	CHIEF, OPERATIONS SECTION.
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Office of Information Policy—OIP	
PUSTAY, MELANIE ANN	DIRECTOR.
Office of the Inspector General—OIG	
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FORTINE OCHOA, CAROL	ASSISTANT INSPECTOR GENERAL FOR OVERSIGHT AND REVIEW.
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PETERS, GREGORY T	ASSISTANT INSPECTOR GENERAL FOR MANAGEMENT AND PLANNING.
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Office of Justice Programs—OJP	
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MARTIN, RALPH	DEPUTY CHIEF FINANCIAL OFFICER.
BECK, ALLEN J	SENIOR STATISTICIAN.
Office of Legal Counsel—OLC	
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BIES, JOHN	DEPUTY ASSISTANT ATTORNEY GENERAL.
MIZER, BENJAMIN	DEPUTY ASSISTANT ATTORNEY GENERAL.
KRUGER, LEONDRA	DEPUTY ASSISTANT ATTORNEY GENERAL.
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THIEMANN, ROBYN L	DEPUTY ASSISTANT ATTORNEY GENERAL.
ZUBRENSKY, MICHAEL	DEPUTY ASSISTANT ATTORNEY GENERAL.
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Office of Public Affairs—PAO	
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HANSON, BEATRICE	PRINCIPAL DEPUTY DIRECTOR.
Professional Responsibility Advisory Office—PRAO	
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HUBBERT, DAVID A	DEPUTY ASSISTANT ATTORNEY GENERAL.
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SULLIVAN, JOHN	SENIOR TRIAL ATTORNEY.

Name	Position title
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U.S. Marshals Service—USMS	
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O'BRIEN, HOLLEY	ASSISTANT DIRECTOR, FINANCIAL SERVICES.
MOHAN, KATHERINE	ASSISTANT DIRECTOR, HUMAN RESOURCES.
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VARGO, BRUCE E	SENIOR ADVISOR.

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DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—IMS Global Learning Consortium, Inc.

Notice is hereby given that, on August 16, 2013, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), IMS Global Learning Consortium, Inc. (''IMS Global'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Dell Inc., Austin, TX; Miami-Dade College—Virtual College, Miami, FL; National Labor College, Silver Spring, MD; Texas A&M—Commerce, Commerce, TX; SK C&C, Gyeonggi-Do, Republic of Korea; and Ocean County College, Toms River, NJ, have withdrawn as parties to this venture.

In addition, EmbanetCompass has changed its name to Pearson Embanet, Orlando, FL.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and IMS Global intends to file additional written notifications disclosing all changes in membership.

On April 7, 2000, IMS Global filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on September 13, 2000 (65 FR 55283).

The last notification was filed with the Department on May 30, 2013. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on June 21, 2013 (78 FR 37571).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

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BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Opendaylight Project, Inc.

Notice is hereby given that, on August 14, 2013, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), OpenDaylight Project, Inc. (''OpenDaylight'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Adva Optical Networking SE., Munich, Germany; Versa Networks, Santa Clara, CA; Guavus, San Mateo, CA; Pantheon Technologies, Bratislava, Slovakia; and Plexxi Inc., Cambridge, MA, have been added as parties to this venture.

In addition, Big Switch Networks, Mountain View, CA has withdrawn as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and OpenDaylight intends to file additional written notifications disclosing all changes in membership.

On May 23, 2013, OpenDaylight filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on July 1, 2013 (78 FR 39326).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2013–22395 Filed 9–13–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

[OMB Number 1110–0046]

Agency Information Collection Activities; Existing Collection—Reinstatement, Comments Requested: Friction Ridge Cards: Arrest and Institution; Applicant; Personal Identification; FBI Standard Palm Print; Supplemental Finger and Palm Print

ACTION: 60-day Notice.

The Department of Justice, Federal Bureau of Investigation (FBI), Criminal Justice Information Services (CJIS) Division will be submitting the following information collection renewal to the Office of Management and Budget (OMB) for review in accordance with established review procedures of the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until November 15, 2013. This process is conducted in accordance with 5 CFR 1320.10.

All comments, suggestions, or questions regarding additional information, to include obtaining a copy of the proposed information collection instrument with instructions, should be directed to Cynthia Johnston, Supervisory Management and Program Analyst, Federal Bureau of Investigation, Criminal Justice Information Services Division (CJIS), Biometric Services Section, Customer Support Unit, Module E–1, 1000 Custer Hollow Road, Clarksburg, West Virginia, 26306; or by facsimile to (304) 625–5392.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have a practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques of other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of information collection:* Reinstatement, with change, of a previously approved collection for which approval has expired. Reference: OMB control number of 1110–0046.

(2) *The title of the form/collection:* Friction Ridge Cards: Arrest and Institution; Applicant; Personal Identification; FBI Standard Palm Print; Supplemental Finger and Palm Print.

(3) *The agency form number, if any, and the applicable component of the department sponsoring the collection:* Forms FD–249 (Arrest and Institution), FD–258 (Applicant), FD–353 (Personal Identification); FD–884 (FBI Standard Palm Print); FD–884a (Supplemental Finger and Palm Print) encompassed under OMB 1110–0046; CJIS Division, FBI, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: City, county, state, federal and tribal law enforcement agencies; civil entities requesting security clearance and background checks. This collection is needed to collect information on individuals requesting background checks, security clearance, or those individuals who have been arrested for or accused of criminal activities. Acceptable data is stored as part of the Integrated Automated Fingerprint Identification System (IAFIS) of the FBI.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There are approximately 74,793 agencies as respondents at 10 minutes per friction ridge card completed.

(6) *An estimate of the total public burden (in hours) associated with this collection:* There are approximately 10.1 million annual burden hours associated with this collection.

If additional information is required contact: Jerri Murray, Department Clearance Officer, Justice Management Division, United States Department of Justice, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 1407B, Washington, DC 20530.

Dated: September 11, 2013.

Jerri Murray,

Department Clearance Officer for PRA, United States Department of Justice.

[FR Doc. 2013–22449 Filed 9–13–13; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OMB Number 1121–0219]

Agency Information Collection Activities; Proposed Collection; Comments Requested: Juvenile Residential Facility Census (Extension, without change, of a currently approved collection)

ACTION: 30 Day Notice.

The Department of Justice (DOJ), Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This information collection was previously published in the **Federal Register** Volume 78, Number 128, pages 40189–40190, on July 3, 2013, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until October 16, 2013. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Brecht Donoghue, (202) 305–1270, Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, U.S. Department of Justice, 810 Seventh Street NW., Washington, DC 20531.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection Back to Top

(1) *Type of information collection:* Extension, without change, of a currently approved collection.

(2) *The title of the form/collection:* Juvenile Residential Facility Census.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number is CJ–15, Office of Juvenile Justice and Delinquency Prevention, United States Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Federal Government, State, Local or Tribal. Other: Not-for-profit institutions; Business or other for-profit.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that 2,545 respondents will complete a 2-hour questionnaire.

(6) *An estimate of the total public burden (in hours) associated with the collection:* Approximately 5,090 hours.

If additional information is required, contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 1407–B, Washington, DC 20530.

Dated: September 10, 2013.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2013–22371 Filed 9–13–13; 8:45 am]

BILLING CODE 4410–18–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 13–114]

Aerospace Safety Advisory Panel; Meeting

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the Aerospace Safety Advisory Panel.

DATES: Friday, October 11, 2013, 10:00 a.m. to 11:00 a.m. local time.

ADDRESSES: NASA Johnson Space Center, NASA Parkway, Building 1, Room 966, Houston, TX 77058.

FOR FURTHER INFORMATION CONTACT: Ms. Harmony Myers, Aerospace Safety Advisory Panel Executive Director, National Aeronautics and Space Administration, Washington, DC 20546, (202) 358–1857.

SUPPLEMENTARY INFORMATION: The Aerospace Safety Advisory Panel (ASAP) will hold its Fourth Quarterly Meeting for 2013. This discussion is pursuant to carrying out its statutory duties for which the Panel reviews, identifies, evaluates, and advises on those program activities, systems, procedures, and management activities that can contribute to program risk. Priority is given to those programs that involve the safety of human flight. The agenda will include:

- Updates on the Exploration Systems Development
- Updates on the Commercial Crew Program
- Updates on the International Space Station Program

The meeting will be open to the public up to the seating capacity of the room. Seating will be on a first-come basis. Attendees will be required to sign a visitor's register and to comply with NASA security requirements, including the presentation of a valid picture ID, before receiving an access badge. Any member of the public desiring to attend the ASAP 2013 Fourth Quarterly Meeting at the Johnson Space Center must provide their full name and company affiliation (if applicable) to Ms. Marian Norris at *mnorris@nasa.gov* by October 8, 2013. Foreign Nationals attending the meeting will be required to provide the following information no less than 7 working days prior to the meeting: Full name; gender; date/place of birth; citizenship; visa/green card information (number, type, expiration date); passport information (number, country, expiration date); employer/affiliation information (name of institution, address, country, telephone); and title/position of attendee. Additional information may be requested. This would also include Permanent Resident information: Green card number and expiration date. Persons with disabilities who require assistance should indicate this. Photographs will only be permitted during the first 10 minutes of the meeting.

At the beginning of the meeting, members of the public may make a verbal presentation to the Panel on the subject of safety in NASA, not to exceed 5-minutes in length. To do so, members of the public must contact Ms. Marian Norris at *mnorris@nasa.gov* or at (202) 358–4452 at least 48 hours in advance. Any member of the public is permitted to file a written statement with the Panel at the time of the meeting. Verbal presentations and written comments should be limited to the subject of safety in NASA. It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Patricia D. Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2013–22436 Filed 9–13–13; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meetings of Humanities Panel

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given that seventeen meetings of the Humanities Panel will be held during October, 2013 as follows. The purpose of the meetings is for panel review, discussion, evaluation, and recommendation of applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965 (20 U.S.C. 951–960, as amended).

DATES: See **SUPPLEMENTARY INFORMATION** section for meeting dates.

ADDRESSES: The meetings will be held at the Old Post Office Building, 1100 Pennsylvania Ave. NW., Washington, DC 20506. See **SUPPLEMENTARY**

INFORMATION section for meeting room numbers.

FOR FURTHER INFORMATION CONTACT: Lisette Voyatzis, Committee Management Officer, 1100 Pennsylvania Ave. NW., Room 529, Washington, DC 20506, or call (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the National Endowment for the Humanities' TDD terminal at (202) 606–8282.

SUPPLEMENTARY INFORMATION:

Meetings

1. *Date*: October 03, 2013
Time: 8:30 a.m. to 5:00 p.m.
Room: 415

This meeting will discuss applications on the subjects of the History of Science, Technology and Medicine for the Humanities Collections and Reference Resources grant program, submitted to the Division of Preservation and Access.

2. *Date*: October 07, 2013
Time: 8:30 a.m. to 5:00 p.m.
Room: 315

This meeting will discuss applications for the Bridging Cultures at Community Colleges grant program, submitted to the Division of Education Programs.

3. *Date*: October 08, 2013
Time: 8:30 a.m. to 5:00 p.m.
Room: 315

This meeting will discuss applications for the Bridging Cultures at Community Colleges grant program, submitted to the Division of Education Programs.

4. *Date*: October 08, 2013
Time: 8:30 a.m. to 5:00 p.m.
Room: 415

This meeting will discuss applications on the subject of World Studies for the Humanities Collections and Reference Resources grant program, submitted to the Division of Preservation and Access.

5. *Date*: October 10, 2013
Time: 8:30 a.m. to 5:00 p.m.
Room: 415

This meeting will discuss applications on the subjects of New World Archaeology and Culture for the Humanities Collections and Reference Resources grant program, submitted to the Division of Preservation and Access.

6. *Date*: October 17, 2013
Time: 8:30 a.m. to 5:00 p.m.
Room: 415

This meeting will discuss applications on the subjects of U.S. History and Culture for the Humanities Collections and Reference Resources grant program, submitted to the Division of Preservation and Access.

7. *Date*: October 17, 2013
Time: 8:30 a.m. to 5:00 p.m.
Room: 421

This meeting will discuss applications on the subject of American Studies for America's Media Makers: Production Grants, submitted to the Division of Public Programs.

8. *Date*: October 21, 2013
Time: 8:30 a.m. to 5:00 p.m.
Room: 421

This meeting will discuss applications on the subject of U.S. History for America's Historical & Cultural Organizations: Implementation Grants, submitted to the Division of Public Programs.

9. *Date:* October 22, 2013
Time: 8:30 a.m. to 5:00 p.m.
Room: 421

This meeting will discuss applications on the subject of U.S. History for America's Media Makers: Production Grants, submitted to the Division of Public Programs.

10. *Date:* October 22, 2013
Time: 8:30 a.m. to 5:00 p.m.
Room: 415

This meeting will discuss applications on the subject of Literature for the Humanities Collections and Reference Resources grant program, submitted to the Division of Preservation and Access.

11. *Date:* October 24, 2013
Time: 8:30 a.m. to 5:00 p.m.
Room: 421

This meeting will discuss applications on the subject of Art History for America's Historical & Cultural Organizations: Implementation Grants, submitted to the Division of Public Programs.

12. *Date:* October 28, 2013
Time: 8:30 a.m. to 5:00 p.m.
Room: 421

This meeting will discuss applications on International subjects for America's Media Makers: Production Grants, submitted to the Division of Public Programs.

13. *Date:* October 29, 2013.
Time: 8:30 a.m. to 5:00 p.m.
Room: 421.

This meeting will discuss applications on the subject of U.S. History for America's Media Makers: Production Grants, submitted to the Division of Public Programs.

14. *Date:* October 29, 2013.
Time: 8:30 a.m. to 5:00 p.m.
Room: 415.

This meeting will discuss applications on the subject of World Studies for the Humanities Collections and Reference Resources grant program, submitted to the Division of Preservation and Access.

15. *Date:* October 30, 2013.
Time: 8:30 a.m. to 5:00 p.m.
Room: 415.

This meeting will discuss applications on the subject of Art History for the Humanities Collections and Reference Resources grant program, submitted to the Division of Preservation and Access.

16. *Date:* October 30, 2013.
Time: 8:30 a.m. to 5:00 p.m.
Room: 315.

This meeting will discuss applications for Fellowship Programs at Independent Research Institutions, submitted to the Division of Research Programs.

17. *Date:* October 31, 2013.
Time: 8:30 a.m. to 5:00 p.m.
Room: 421.

This meeting will discuss applications on the subject of Historic Sites for America's Historical & Cultural Organizations: Implementation Grants, submitted to the Division of Public Programs.

Because these meetings will include review of personal and/or proprietary financial and commercial information given in confidence to the agency by grant applicants, the meetings will be closed to the public pursuant to sections 552b(c)(4) and 552b(c)(6) of Title 5 U.S.C., as amended. I have made this determination pursuant to the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings dated July 19, 1993.

Dated: September 10, 2013.

Lisette Voyatzis,

Committee Management Officer.

[FR Doc. 2013–22448 Filed 9–13–13; 8:45 am]

BILLING CODE 7536–01–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request

AGENCY: National Science Foundation.

ACTION: Submission for OMB Review; Comment Request.

SUMMARY: The National Science Foundation (NSF) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. This is the second notice for public comment; the first was published in the **Federal Register** at 78 FR 40517, and one comment was received. NSF is forwarding the proposed submission to the Office of Management and Budget (OMB) for clearance simultaneously

with the publication of this second notice. The full submission (including comments) may be found at: *http://www.reginfo.gov/public/do/PRAMain.*

Comments: Comments regarding (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for National Science Foundation, 725 17th Street NW., Room 10235, Washington, DC 20503, and to Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 1265, Arlington, Virginia 22230 or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays).

DATES: Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling 703–292–7556.

NSF may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

SUPPLEMENTARY INFORMATION:

Comments: As required by 5 CFR 1320.8(d), comments on the information collection activities as part of this study were solicited through publication of a 60-Day Notice in the **Federal Register** on July 5, 2013, at 78 FR 40517. We received one comment, to which we here respond.

Commenter: The Center for Equal Opportunity provided the following comment:

We are not sure to what extent (or why) race and ethnicity will play a role in this program, but the references to ''minority-serving'' institutions, ''diversity,'' and ''underrepresented'' groups prompt us to ask that it play as little a role as possible under whatever statutes are applicable. As you know, it is generally illegal for the government to show favoritism or even use classifications based on race or ethnicity. See *Adarand Constructors, Inc.* v. *Pena,* 515 U.S. 200, 227 (1995) (''all racial classifications . . . must be analyzed by a reviewing court under strict scrutiny''). See also Title VI of the 1964 Civil Rights Act, 42 U.S.C. 2000d (prohibiting discrimination on the basis of race, color, and national origin in federally funded programs). Indeed, such classifications and favoritism are ''presumptively invalid'' (see *Personnel Administrator* v. *Feeney,* 442 U.S. 256 (1979)).

Response: NSF has standing authority to support activities to improve the participation of women and minorities in science and engineering under the Science and Engineering Equal Opportunities Act (Pub. L. 96–516), and authority to collect data on those issues.

The MRSEC program treats those issues in a Centers appropriate manner. The MRSEC program originates from the transfer of the Interdisciplinary Laboratories (IDLs) created by the Advanced Research Projects Agency in the 1960s. These were transferred to NSF in 1972, and with modifications, evolved into the current MRSEC program, which began in 1994. Under the requirement of all NSF proposals to address ''Broader impacts'' and authority of Public Law 96–516, information on diversity in the program, after the award has been made, has been collected since the inception of the program. As noted in a 2007 National Academies study, ''NSF does not require that specific activities or audiences be targeted by the MRSEC, with the exception of the Research Experience for Undergraduates (REU) program, and a general dictum to broaden participation by underrepresented groups in the STEM field.''

This data collection described in the **Federal Register** notice is within the scope of NSF's authorization on such collection, and is only about collecting data on activities that exist after an award is made, so there is no favoritism as suggested by the comment.

After consideration of this comment, we are moving forward with our submission to OMB.

Title of Collection: Grantee Reporting Requirements for Materials Research Science and Engineering Centers (MRSECs).

OMB Number: 3145–NEW.

Type of Request: Intent to seek approval to establish an information collection.

Overview of this Information Collection: The Materials Research Science and Engineering Centers (MRSECs) Program supports innovation in interdisciplinary research, education, and knowledge transfer. MRSECs build intellectual and physical infrastructure within and between disciplines, weaving together knowledge creation, knowledge integration, and knowledge transfer. MRSECs conduct world-class research through partnerships of academic institutions, national laboratories, industrial organizations, and/or other public/private entities. New knowledge thus created is meaningfully linked to society.

MRSECs enable and foster excellent education, integrate research and education, and create bonds between learning and inquiry so that discovery and creativity more fully support the learning process. MRSECs capitalize on diversity through participation in center activities and demonstrate leadership in the involvement of groups underrepresented in science and engineering.

MRSECs will be required to submit annual reports on progress and plans, which will be used as a basis for performance review and determining the level of continued funding. To support this review and the management of a Center, MRSECs will be required to develop a set of management and performance indicators for submission annually to NSF via the Research Performance Project Reporting module in Research.gov and an external technical assistance contractor that collects programmatic data electronically. These indicators are both quantitative and descriptive and may include, for example, the characteristics of center personnel and students; sources of financial support and in-kind support; expenditures by operational component; characteristics of industrial and/or other sector participation; research activities; education activities; knowledge transfer activities; patents, licenses; publications; degrees granted to students involved in Center activities; descriptions of significant advances and other outcomes of the MRSEC effort. Such reporting requirements will be included in the cooperative agreement that is binding between the academic institution and the NSF.

Each Center's annual report will address the following categories of

activities: (1) Research, (2) education, (3) knowledge transfer, (4) partnerships, (5) shared experimental facilities, (6) diversity, (7) management, and (8) budget issues.

For each of the categories the report will describe overall objectives for the year, problems the Center has encountered in making progress towards goals, anticipated problems in the following year, and specific outputs and outcomes.

MRSECs are required to file a final report through the RPPR and external technical assistance contractor. Final reports contain similar information and metrics as annual reports, but are retrospective.

Use of the Information: NSF will use the information to continue funding of the Centers, and to evaluate the progress of the program.

Estimate of Burden: 185 hours per center for 223 centers for a total of 4,070 hours.

Respondents: Non-profit institutions.

Estimated Number of Responses per Report: One from each of the 22 MRSECs.

Dated: September 11, 2013.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2013–22442 Filed 9–13–13; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Geosciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Geosciences (1755).

Dates: October 9, 2013, 8:30 a.m.–5:00 p.m.; October 10, 2013, 8:30 a.m.–1:30 p.m.

Place: Stafford I, Room 1235, National Science Foundation, 4201 Wilson Blvd. Arlington, Virginia 22230.

Type of Meeting: Open.

Contact Person: Melissa Lane, National Science Foundation, Suite 705, 4201 Wilson Blvd, Arlington, Virginia 22230. Phone 703–292–8500.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To provide advice, recommendations, and oversight on support for geoscience research and education including atmospheric, geo-space, earth, ocean and polar sciences.

Agenda

October 9, 2013

- Meeting with the Acting Director.
- Directorate and NSF activities and plans.
- Topical subcommittees on education/diversity, facilities, research and cyber-infrastructure.
- COV reports.

October 10, 2013

- Discussion of NSF Education Programs.
- Division Subcommittee meetings.
- Action Items/Planning for Fall Meeting.

Dated: September 11, 2013.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 2013–22425 Filed 9–13–13; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meetings; National Science Board

The National Science Board, pursuant to NSF regulations (45 CFR part 614), the National Science Foundation Act, as amended (42 U.S.C. 1862n–5), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice of the scheduling of meetings for the transaction of National Science Board business, as follows:

DATE AND TIME: September 19, 2013 from 8:00 a.m. to 11:00 a.m. and from 4:00 p.m. to 4:15 p.m.

PLACE: The morning meeting will be held at the University of Washington, Odegaard Undergraduate Library, Room 220, 4060 George Washington Lane, Seattle, Washington 98195. It is open to the public. The afternoon meeting will be held at the University of Washington, Gerberding Hall. This meeting is closed to the public.

STATUS: Portion open; portion closed.

ADDITIONAL INFORMATION: Please refer to the National Science Board Web site (*http://www.nsf.gov/nsb/notices/*) for additional information and schedule updates, or contact Jennie Moehlmann, *jmoehlma@nsf.gov*, or (703) 292–7000. The Public Affairs contact is Dana Topousis, *dtopousi@nsf.gov*, (703) 292–7750.

Plenary Board Meeting Agenda

Open Session: 8:00–11:00 a.m.

- Chairman's introduction and welcome from the University of Washington
- Presentations and Panel Discussion: ''The Future of Advanced Cyberinfrastructure for Science and Engineering, Research and Education.'' Moderator, Dr. Kelvin Droegemeier, NSB Vice-chairman.
- Chairman's remarks

Plenary Executive Closed Session: 4:00–4:15 p.m.

- Chairman's remarks
- Nominations Committee recommendations

Meeting Adjourns: 4:15 p.m.

Ann Bushmiller,

Senior Counsel to the National Science Board.

[FR Doc. 2013–22590 Filed 9–12–13; 4:15 pm]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–9091–MLA; ASLBP No. 12–915–01–MLA–BD01]

Strata Energy, Inc. (Ross In Situ Recovery Uranium Project); Notice of Atomic Safety and Licensing Board Reconstitution

Pursuant to 10 CFR 2.313(c) and 2.321(b), the Atomic Safety and Licensing Board (Board) in the above-captioned *Strata Energy, Inc.* case is hereby reconstituted by appointing Administrative Judge Craig M. White to serve on the Board in place of Administrative Judge Kenneth L. Mossman.

All correspondence, documents, and other materials shall continue to be filed in accordance with the NRC E-Filing rule. *See* 10 CFR 2.302 *et seq.*

Issued at Rockville, Maryland this 10th day of September 2013.

E. Roy Hawkens,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 2013–22466 Filed 9–13–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–27; NRC–2011–0115]

Pacific Gas and Electric Company; Humboldt Bay Independent Spent Fuel Storage Installation

AGENCY: Nuclear Regulatory Commission.

ACTION: Environmental assessment and finding of no significant impact.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an environmental assessment (EA) and a finding of no significant impact (FONSI) for an amendment request submitted by Pacific Gas and Electric Company (PG&E), on September 8, 2010, as supplemented, for the Humboldt Bay Independent Spent Fuel Storage Installation (ISFSI).

ADDRESSES: Please refer to Docket ID NRC–2011–0115 when contacting the

NRC about the availability of information regarding this document. You may access publicly-available information related to this document using any of the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2011–0115. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced. In addition, for the convenience of the reader, the ADAMS accession numbers are provided in a table in the section of this document entitled, Availability of Documents.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Kristina Banovac, Project Manager, Office of Nuclear Material Safety and Safeguards, telephone: 301–287–0686, email: *Kristina.Banovac@nrc.gov*; U.S. Nuclear Regulatory Commission, Washington, DC 20555.

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is considering issuance of an amendment to Materials License No. SNM–2514 that would allow for the storage of greater than Class C (GTCC) process waste at the Humboldt Bay ISFSI. PG&E submitted its license amendment request by letter dated September 8, 2010 (ADAMS Accession No. ML102530291), as supplemented on January 28, 2011 (ADAMS Accession No. ML110400027), April 1, 2011 (ADAMS Accession No. ML110940211), September 9, 2011 (ADAMS Accession No. ML112521432), June 19, 2012 (ADAMS Accession No. ML12171A306), June 25, 2012 (ADAMS Accession No. ML12178A273), October 4, 2012 (ADAMS Accession No. ML12279A041), January 16, 2013 (ADAMS Accession No. ML13017A375), March 7, 2013 (ADAMS Accession No. ML13071A073), and March 21, 2013 (ADAMS Accession No. ML13084A078). On April 14, 2011, the NRC staff found PG&E's application to be acceptable for a detailed review (ADAMS Accession No. ML111050245). The NRC published a notice of amendment and opportunity to request a hearing and to petition for leave to intervene in the **Federal Register** on May 27, 2011 (76 FR 30980).

The NRC staff has prepared an EA (ADAMS Accession No. ML13241A289) in support of its review of PG&E's license amendment request, in accordance with the NRC regulations in part 51 of Title 10 of the *Code of Federal Regulations* (10 CFR), ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions,'' which implement the National Environmental Policy Act of 1969, as amended (42 U.S.C. § 4321 et seq.). Based on the EA, the NRC staff has determined that the proposed amendment to License No. SNM–2514 to allow storage of GTCC process waste at the Humboldt Bay ISFSI will not significantly affect the quality of the human environment, and the NRC, thus, has concluded that a FONSI is appropriate. The NRC staff further finds that preparation of an environmental impact statement (EIS) is not warranted.

II. Environmental Assessment Summary

Background

The Humboldt Bay ISFSI is located on the Humboldt Bay Power Plant (HBPP) site, in Humboldt County, California, approximately 4.8 kilometers (3 miles) southwest of the city of Eureka, California. PG&E is currently storing spent nuclear fuel and is authorized by NRC, under License No. SNM–2514, to also store GTCC activated metal waste at the Humboldt Bay ISFSI.

Proposed Action

PG&E initiated the proposed federal action by submitting an application to amend NRC License No. SNM–2514 to allow approximately 0.5 cubic feet of solid GTCC process waste to be stored at the Humboldt Bay ISFSI. The GTCC process waste consists of miscellaneous solid waste resulting from HBPP Unit 3 operations and from decommissioning, including debris from spent fuel pool cleanup. The license amendment, if approved, would allow PG&E to store the GTCC process waste at the Humboldt Bay ISFSI, in accordance with the requirements in 10 CFR part 72.

The proposed license amendment does not involve any construction activities, land disturbance, excavation, or physical changes to the HBPP facilities, site, or environment. The proposed action involves a change associated with ISFSI operations, by the addition of the GTCC process waste as a material that can be stored at the existing Humboldt Bay ISFSI. The GTCC process waste would be stored in the same GTCC storage cask as the GTCC activated metal waste that is already approved to be stored in the ISFSI. The proposed action involves a minor change in the design of the GTCC storage cask, in that a section of pipe is welded to the bottom of the inner canister to hold and provide stabilization for the process waste container that contains the process waste. The proposed action also involves a minor change in the loading operations in the HBPP Unit 3 spent fuel pool, in that the process waste container would need to be placed in the storage cask before the activated metal is placed in the cask.

Purpose and Need for the Proposed Action.

The purpose and need for the proposed action is to provide an option that allows temporary dry storage of GTCC process waste resulting from operation and decommissioning of HBPP Unit 3. PG&E is in the process of decommissioning HBPP Unit 3. As decommissioning activities commenced, it became apparent to PG&E that License No. SNM–2514 would need to be amended to allow storage of the GTCC process waste at the ISFSI. Removal of GTCC process waste from the HBPP Unit 3 spent fuel pool to the existing ISFSI would permit the dismantling and decommissioning of the existing reactor structures (including the spent fuel pool) of the HBPP Unit 3 facility. This would allow earlier termination of the 10 CFR part 50 license for HBPP Unit 3 (License No. DPR–7) and release of most areas for unrestricted use.

Environmental Impacts of the Proposed Action

The NRC staff has determined that potential environmental impacts associated with storage of the GTCC process waste at the Humboldt Bay ISFSI are bounded by the environmental impacts associated with construction, operation, and decommissioning of the ISFSI. These environmental impacts were evaluated in the NRC staff's assessment, ''Environmental

Assessment Related to the Construction and Operation of the Humboldt Bay Independent Spent Fuel Storage Installation,'' dated October 2005, in which the NRC staff concluded that the construction, operation, and decommissioning of the Humboldt Bay ISFSI would not result in a significant impact to the environment (ADAMS Accession No. ML052430106).

The NRC staff expects the radiological doses to workers and to the public associated with the proposed action to be bounded by previous analyses, and that radiological doses would be below the NRC's regulatory limits in 10 CFR Part 20 and Part 72. Additionally, the NRC staff expects that non-radiological environmental impacts from storage of the GTCC process waste at the ISFSI, would be bounded by those previously analyzed, because: (1) The proposed action would not involve any construction activities, land disturbance, excavation, physical changes to the HBPP facilities, or changes in land use; (2) operation of the ISFSI does not require usage of water resources; and (3) the ISFSI does not generate gaseous, liquid, or solid effluents or wastes during operation.

The NRC staff evaluated the direct effects, indirect effects, and cumulative impacts that each resource area—land use, transportation, socioeconomics, air quality, geology and soils, water resources, ecology, including threatened and endangered species, noise, visual and scenic resources, public and occupational health, and waste management—may encounter from the proposed action. The NRC staff determined that the impacts in these areas would not be significant. The NRC staff also analyzed the impacts of the proposed action on historic and cultural resources and determined that the proposed action will have no effect on historic and cultural resources. The NRC staff also evaluated the impacts from a hypothetical terrorist attack on the GTCC process waste and concluded that a hypothetical terrorist attack would not result in a significant environmental impact.

Alternative to the Proposed Action

As an alternative to the proposed action, the NRC staff considered denial of the amendment request (i.e., the ''no-action'' alternative). Under the no-action alternative, PG&E would continue to store the GTCC process waste under its 10 CFR Part 50 license for HBPP Unit 3, either in the spent fuel pool or in another appropriately shielded configuration. PG&E would not be able to completely decommission the existing Unit 3 radioactive reactor structures and facility, including the spent fuel pool, and therefore would not be able to request termination of the 10 CFR part 50 license (License No. DPR–7) and release of most areas of the site for unrestricted use. PG&E would continue to maintain and monitor the spent fuel pool, the management of solid radioactive wastes, and the monitoring of effluents under the existing 10 CFR part 50 license. Denial of the amendment request would result in no change to the environmental impacts associated with storage of GTCC process waste at the spent fuel pool under the 10 CFR part 50 license.

Agencies and Persons Consulted

The NRC staff consulted with several other agencies and parties regarding the environmental impacts of the proposed action. These consultations were intended to afford the designated agency or party the opportunity to comment on the proposed action and to ensure that the requirements of Section 106 of the National Historic Preservation Act, Section 7 of the Endangered Species Act, and Section 305 of the Magnuson-Stevens Fishery Conservation and Management Act are met with respect to the proposed action. With regard to the above laws, NRC staff requested input from the California Office of Historic Preservation, the California Native American Heritage Commission, Federally-recognized Indian Tribes (the Wiyot Tribe, the Bear River Band of Rohnerville Rancheria, and the Blue Lake Rancheria), the U.S. Fish and Wildlife Service, and the National Oceanic and Atmospheric Administration National Marine Fisheries Service. The NRC staff used the information provided during the consultations to inform its EA.

The NRC staff provided a draft of its EA to the California Energy Commission for review. On July 12, 2013, the California Energy Commission responded by electronic mail and stated that it had no comments on the EA.

III. Finding of No Significant Impact

The NRC staff has reviewed PG&E's license amendment request to allow storage of GTCC process waste at the Humboldt Bay ISFSI. Based on its review of the proposed action, in accordance with the requirements in 10 CFR part 51, the NRC staff has determined that approval of the proposed amendment to NRC License No. SNM–2514 to allow storage of GTCC process waste at the Humboldt Bay ISFSI will not significantly affect the quality of the human environment. For these reasons, NRC has determined that pursuant to 10 CFR 51.31, preparation of an EIS is not required for the proposed action, and pursuant to 10 CFR 51.32, a Finding of No Significant Impact is appropriate.

IV. Availability of Documents

The following documents, related to this Notice, can be found using any of the methods provided in the following table. Instructions for accessing ADAMS were provided under the **ADDRESSES** section of this Notice.

Date	Document	ADAMS Accession No./ **Federal Register** citation
September 8, 2010	PG&E's application for license amendment	ML102530291
January 28, 2011	Supplement to PG&E's application for license amendment	ML110400027
April 1, 2011	Supplement to PG&E's application for license amendment	ML110940211
September 9, 2011	Supplement to PG&E's application for license amendment	ML112521432
June 19, 2012	Supplement to PG&E's application for license amendment	ML12171A306
June 25, 2012	Supplement to PG&E's application for license amendment	ML12178A273
October 4, 2012	Supplement to PG&E's application for license amendment	ML12279A041
January 16, 2013	Supplement to PG&E's application for license amendment	ML13017A375
March 7, 2013	Supplement to PG&E's application for license amendment	ML13071A073
March 21, 2013	Supplement to PG&E's application for license amendment	ML13084A078
April 14, 2011	NRC acceptance of PG&E's application for detailed review	ML111050245
May 27, 2011	Notice of amendment and opportunity to request a hearing and to petition for leave to intervene.	76 FR 30980
September 9, 2013	NRC staff's EA for the license amendment	ML13241A289

Date	Document	ADAMS Accession No./ **Federal Register** citation
October 2005	NRC staff's original EA supporting issuance of license for Humboldt Bay ISFSI	ML052430106

Dated at Rockville, Maryland, this 9th day of September 2013.

For the Nuclear Regulatory Commission.

Kristina L. Banovac,

Project Manager, Licensing Branch, Division of Spent Fuel Storage and Transportation, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2013–22468 Filed 9–13–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–10; NRC–2013–0207]

Prairie Island; Independent Spent Fuel Storage Installation; Notice of Docketing of Amendment Request to Special Nuclear Materials; License No. 2506 Containing Sensitive Unclassified Non-Safeguards Information

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment request; opportunity to request a hearing and petition for leave to intervene; order.

SUMMARY: Northern States Power Company requests a revision to the Technical Specifications of the TN–40HT cask utilized at its Prairie Island independent spent fuel storage installation located in Welch, Minnesota.

DATES: Requests for a hearing or petition for leave to intervene must be filed by November 15, 2013. Any potential party as defined in Section 2.4 of Title 10 of the *Code of Federal Regulations* (10 CFR), who believes access to Sensitive Unclassified Non-Safeguards Information (SUNSI) is necessary to respond to this document must request document access by September 26, 2013.

ADDRESSES: Please refer to Docket ID NRC–2013–0207 when contacting the NRC about the availability of information regarding this document. You may access information related to this document, which the NRC possesses and is publicly available, using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2013–0207. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.''* For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Chris Allen, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–287–9225; email: *William.Allen@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) received, by letter dated July 17, 2013, a license amendment application from Northern States Power Company (NSPM), requesting a revision to the Technical Specifications of the TN–40HT cask utilized at its Prairie Island independent spent fuel storage installation located in Welch, Minnesota (ADAMS Accession No. ML13205A141). License No. SNM–2506 authorizes the licensee to receive, store, and transfer spent fuel from Prairie Island Nuclear Station Units 1 and 2. Specifically, the amendment seeks to lower the allowed thermal conductance of the neutron absorber and aluminum 1100 plate utilized in the TN–40HT cask from 3.98 BTU/hr-deg F to 3.55 BTU/hr-deg F.

An NRC administrative review, documented in a letter to NSPM dated August 9, 2013, found the application acceptable to begin a technical review (ADAMS Accession No. ML13226A085). If the NRC approves the amendment, the approval will be documented in an amendment to NRC License No. SNM–2506. However, before approving the proposed amendment, the NRC will need to make the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the NRC's regulations. These findings will be documented in a Safety Evaluation Report. The NRC will also make findings consistent with the National Environmental Policy Act (NEPA) and Part 51 of Title 10 of the *Code of Federal Regulations* (10 CFR).

II. Opportunity To Request a Hearing and Petitions for Leave To Intervene

Requirements for hearing requests and petitions for leave to intervene are found in 10 CFR 2.309, ''Hearing requests, petitions to intervene, requirements for standing, and contentions.'' Interested persons should consult 10 CFR 2.309, which is available at the NRC's PDR, located at O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852 or call the PDR at 1–800–397–4209 or 301–415–4737. The NRC's regulations are also accessible electronically from the NRC Library on the NRC's Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/.*

Any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for hearing and petition for leave to intervene. As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. Pursuant to 10 CFR 2.390(d), the petition must provide the name, address, and telephone number of the petitioner and specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order that may be entered in the proceeding on the petitioner's interest.

A petition for leave to intervene must also include a specification of the

contentions that the petitioner seeks to have litigated in the hearing. For each contention, the petitioner must provide a specific statement of the issue of law or fact to be raised or controverted, as well as a brief explanation of the basis for the contention. Additionally, the petitioner must demonstrate that the issue raised by each contention is within the scope of the proceeding and is material to the findings the NRC must make to support the granting of a license amendment in response to the application. The petition must also include a concise statement of the alleged facts or expert opinions which support the position of the petitioner and on which the petitioner intends to rely at hearing, together with references to the specific sources and documents on which the petitioner intends to rely. Finally, the petition must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact, including references to specific portions of the application for amendment that the petitioner disputes and the supporting reasons for each dispute, or, if the petitioner believes that the application for amendment fails to contain information on a relevant matter as required by law, the identification of each failure and the supporting reasons for the petitioner's belief. Each contention must be one that, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that person's admitted contentions, including the opportunity to present evidence and to submit a cross-examination plan for cross-examination of witnesses, consistent with NRC regulations, policies, and procedures. The Atomic Safety and Licensing Board (the Licensing Board) will set the time and place for any prehearing conferences and evidentiary hearings, and the appropriate notices will be provided.

Requests for hearing, petitions for leave to intervene, and motions for leave to file contentions that are filed after the 60-day deadline will not be entertained absent a determination by the presiding officer that the new amended filing demonstrates good cause by satisfying the three factor in 10 CFR 2.309(c)(1)(i)–(iii).

A State, local governmental body, Federally-recognized Indian tribe, or agency thereof may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1) and (2). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission by November 15, 2013. The petition must be filed in accordance with the filing instructions in Section III of this document, and should meet the requirements for petitions for leave to intervene set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or Federally-recognized Indian tribe does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. A State, local governmental body, Federally-recognized Indian tribe, or agency thereof may also have the opportunity to participate under 10 CFR 2.315(c).

If a hearing is granted, any person who does not wish to become a party to the proceeding may, in the discretion of the presiding officer, be permitted to make a limited appearance under 10 CFR 2.315(a), by making an oral or written statement of his or her position on the issues at any session of the hearing or at any pre-hearing conference, within the limits and conditions fixed by the presiding officer. However, that person may not otherwise participate in the proceeding.

III. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139; August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.* System requirements for accessing the E-Submittal server are detailed in the NRC's ''Guidance for Electronic Submission,'' which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system

time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov*, or by a toll-free call at 866–672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/ehd/,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. However, a request to intervene will require including information on local residence in order to demonstrate a proximity assertion of interest in the proceeding. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information for Contention Preparation.

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing Sensitive Unclassified Non-Safeguards Information (SUNSI).

B. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party who believes access to SUNSI is necessary to respond to this notice may request such access. A ''potential party'' is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI submitted later than 10 days after publication of this notice will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requester shall submit a letter requesting permission to access SUNSI to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Associate General Counsel for Hearings, Enforcement and Administration, Office of the General Counsel, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The email address for the Office of the Secretary and the Office of the General Counsel are *Hearing.Docket@nrc.gov* and *OGCmailcenter@nrc.gov,* respectively.[1] The request must include the following information:

(1) A description of the licensing action with a citation to this **Federal Register** notice;

(2) The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in C.(1); and

(3) The identity of the individual or entity requesting access to SUNSI and the requester's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly-available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention.

D. Based on an evaluation of the information submitted under paragraph C.(3) the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI.

E. If the NRC staff determines that the requestor satisfies both D.(1) and D.(2) above, the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order[2] setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.

F. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI must be filed by the requestor no later than 25 days after the requestor is

[1] While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's ''E-Filing Rule,'' the initial request to access SUNSI under these procedures should be submitted as described in this paragraph.

[2] Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.

granted access to that information. However, if more than 25 days remain between the date the petitioner is granted access to the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions no later than that later deadline.

G. Review of Denials of Access.

(1) If the request for access to SUNSI is denied by the NRC staff after a determination on standing and need for access, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) The requester may challenge the NRC staff's adverse determination by filing a challenge within 5 days of receipt of that determination with: (a) The presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an administrative law judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues with that officer.

H. Review of Grants of Access. A party other than the requester may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed with the Chief Administrative Judge within 5 days of the notification by the NRC staff of its grant of access.

If challenges to the NRC staff determinations are filed, the normal process for litigating disputes concerning access to information apply and not these procedures. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.[3]

I. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR Part 2. Attachment 1 to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

It is so ordered.

Dated at Rockville, Maryland, this 10th day of September 2013.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

Attachment 1—General Target Schedule for Processing and Resolving Requests for Access to Sensitive Unclassified Non-Safeguards Information in This Proceeding

Day	Event/activity
0	Publication of **Federal Register** notice of hearing and opportunity to petition for leave to intervene, including order with instructions for access requests.
10	Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) with information: Supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding.
60	Deadline for submitting petition for intervention containing: (i) Demonstration of standing; and (ii) all contentions whose formulation does not require access to SUNSI (+25 Answers to petition for intervention; +7 petitioner/requestor reply).
20	Nuclear Regulatory Commission (NRC) staff informs the requester of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows need for SUNSI. (NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents).
25	If NRC staff finds no ''need'' or no likelihood of standing, the deadline for petitioner/requester to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds ''need'' for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.
A	If access granted: issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI consistent with decision issuing the protective order.
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI.
A + 60	(Answer receipt +7) Petitioner/Intervenor reply to answers.
>A + 60	Decision on contention admission.

[FR Doc. 2013–22462 Filed 9–13–13; 8:45 am]

BILLING CODE 7590–01–P

[3] Requesters should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007) apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI request submitted to the NRC staff under these procedures.

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETINGS: Nuclear Regulatory Commission [NRC–2013–0001]

DATE: Weeks of September 16, 23, 30, October 7, 14, 21, 2013.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of September 16, 2013.

There are no meetings scheduled for the week of September 16, 2013.

Week of September 23, 2013—Tentative

There are no meetings scheduled for the week of September 23, 2013.

Week of September 30, 2013—Tentative

There are no meetings scheduled for the week of September 30, 2013.

Week of October 7, 2013—Tentative

There are no meetings scheduled for the week of October 7, 2013.

Week of October 14, 2013—Tentative

Wednesday, October 16, 2013

1:00 p.m. Briefing on Flooding and Other Extreme Weather Events (Public Meeting); (Contact: George Wilson, 301–415–1711).

This meeting will be webcast live at the Web address—*www.nrc.gov.*

Friday, October 18, 2013.

9:00 a.m. Meeting with the Advisory Committee on the Medical Uses of Isotopes (Public Meeting); (Contact: Sophie Holiday, 301–415–7865).

This meeting will be webcast live at the Web address—*www.nrc.gov.*

1:00 p.m. Briefing on Proposed Rulemaking Concerning Medical Use of Byproduct Material (Public Meeting); (Contact: Ashley Cockerham, 240–888–7129).

This meeting will be webcast live at the Web address—*www.nrc.gov.*

Week of October 21, 2013—Tentative

There are no meetings scheduled for the week of October 21, 2013.

* * * * *

*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings, call (recording)—301–415–1292. Contact person for more information: Rochelle Bavol, 301–415–1651.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at:*http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

* * * * *

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g. braille, large print), please notify Kimberly Meyer, NRC Disability Program Manager, at 301–287–0727, or by email at *kimberly.meyer-chambers@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

This notice is distributed electronically to subscribers. If you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969), or send an email to *darlene.wright@nrc.gov.*

Dated: September 11, 2013.

Rochelle C. Bavol,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2013–22573 Filed 9–12–13; 4:15 pm]

BILLING CODE 7590–01–P

OVERSEAS PRIVATE INVESTMENT CORPORATION

Sunshine Act Meeting; Revised Notice; Board of Directors Meeting

TIME AND DATE: Thursday, September 19, 2013, 2 p.m. (OPEN Portion), 2:15 p.m. (CLOSED Portion).

PLACE: Offices of the Corporation, Twelfth Floor Board Room, 1100 New York Avenue NW., Washington, DC.

STATUS: Meeting OPEN to the Public from 2 p.m. to 2:15 p.m. Closed portion will commence at 2:15 p.m. (approx.).

MATTERS TO BE CONSIDERED:

1. President's Report
2. Tribute—Ambassador Demetrios J. Marantis
3. Tribute—Robert D. Hormats
4. Confirmation—Michael S. Whalen as Vice President, Structured Finance
5. Minutes of the Open Session of the June 13, 2013 Board of Directors Meeting

FURTHER MATTERS TO BE CONSIDERED (Closed to the Public 2:15 p.m.):

1. Proposed FY 2015 Budget
2. Finance Project—Kenya and Tanzania
3. Finance Project –Pakistan
4. Finance Project—Chile
5. Finance Project—Brazil
6. Finance Project—Turkey
7. Finance Project—Chile
8. Insurance Project—Egypt
9. Minutes of the Closed Session of the June 13, 2013 Board of Directors Meeting
10. Minutes of the August 14, 2013 Special Meeting of the Board of Directors
11. Minutes of the August 19, 2013 Special Meeting of the Board of Directors
12. Reports
13. Pending Major Projects

Written summaries of the projects to be presented are posted on OPIC's Web site.

CONTACT PERSON FOR INFORMATION: Information on the meeting may be obtained from Connie M. Downs at (202) 336–8438.

Dated: September 11, 2013.

Connie M. Downs,

Corporate Secretary, Overseas Private Investment Corporation.

[FR Doc. 2013–22507 Filed 9–12–13; 11:15 am]

BILLING CODE 3210–01–P

PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD

[Notice–PCLOB–2013–06; Docket No. 2013–0005; Sequence No. 6]

Notice of Hearing

ACTION: Notice of a hearing.

SUMMARY: The Privacy and Civil Liberties Oversight Board (PCLOB) will conduct a public hearing with current and former government officials and others to address the activities and responsibilities of the executive and judicial branches of the federal government regarding the government's counterterrorism surveillance programs. This hearing will continue the PCLOB's study of the federal government's surveillance programs operated pursuant to Section 215 of the USA PATRIOT Act and Section 702 of Foreign Intelligence Surveillance Act. Recommendations for changes to these programs and the operations of the Foreign Intelligence Surveillance Court will be considered at the hearing to ensure that counterterrorism efforts properly balance the need to protect privacy and civil liberties. Visit www.pclob.gov for the full agenda closer to the hearing date.

Comments

You may submit comments with the docket number PCLOB–2013–0005 by the following method:

• *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the

on-line instructions for submitting comments.

• Written comments may be submitted at any time prior to the closing of the docket at 11:59 p.m. Eastern Time on October 25, 2013.

All comments will be made publicly available and posted without change. Do not include personal or confidential information.

Addresses

Time and Date: 9:00 a.m.–4:30 p.m. (Eastern Time) on Friday, October 4, 2013.

Place: Mayflower Renaissance Hotel Washington, 1127 Connecticut Ave. NW., Washington DC 20036. Facility's location is near Farragut North Metro station.

Contact Person for More Information: Susan Reingold, Chief Administrative Officer, 202–331–1986. For email inquiries, please email *info@pclob.gov.*

SUPPLEMENTARY INFORMATION:

Procedures for Public Participation

The hearing will be open to the public. Individuals who plan to attend and require special assistance, such as sign language interpretation or other reasonable accommodations, should contact Susan Reingold, Chief Administrative Officer, 202–331–1986, at least 72 hours prior to the meeting date.

Dated: September 10, 2013.

Diane Janosek,

Chief Legal Officer, Privacy and Civil Liberties Oversight Board.

[FR Doc. 2013–22393 Filed 9–13–13; 8:45 am]

BILLING CODE P

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Notice of Meetings: Public Meetings of the National Science and Technology Council; Committee on Technology; Nanoscale Science, Engineering, and Technology Subcommittee; National Nanotechnology Coordination Office

AGENCY: Office of Science and Technology Policy.

ACTION: Notice of public meetings.

SUMMARY: The National Nanotechnology Coordination Office (NNCO), on behalf of the Nanoscale Science, Engineering, and Technology (NSET) Subcommittee of the Committee on Technology, National Science and Technology Council (NSTC) and in collaboration with the European Commission, will hold the 2013 ''U.S.-EU Bridging NanoEHS Research Efforts'' joint workshop on December 2–3, 2013, in Arlington, Virginia. The workshop will bring together the U.S.-EU Communities of Research (CORs), which are a platform for scientists to develop a shared repertoire of protocols and methods to overcome research gaps and barriers and to address environmental, health, and safety questions about nanomaterials. The goal of this workshop is to publicize progress towards COR goals and objectives, clarify and communicate future plans, share best practices, and identify areas of cross-Community collaboration.

NNCO and the European Commission will also host meetings for the CORs on the topic of environmental, health, and safety issues related to nanomaterials between the publication date of this Notice and September 30, 2014. The co-chairs for each COR will convene meetings and set meeting agendas with administrative support from the European Commission and the NNCO. The CORs were proposed at the first U.S.-EU workshop on *Bridging NanoEHS Research Efforts,* which was held in Washington, DC, in March 2011. Based on feedback from the workshop participants, the following six Communities were launched in 2012:

• Exposure through the Life Cycle, with Material Characterization
• Ecotoxicity Testing and Predictive Models, with Material Characterization
• Predictive Modeling for Human Health, with Material Characterization
• Databases and Ontologies
• Risk Assessment
• Risk Management and Control

The 2013 workshop is intended to further develop and support the CORs' activities.

The CORs directly address Goal 4.2 of the 2011 National Nanotechnology Initiative Strategic Plan: ''Develop tools and procedures for . . . international outreach and engagement to assist stakeholders in developing best practices for communicating and managing risks.'' However, the CORs are not envisioned to provide any government agency with advice or recommendations.

The CORs will hold several webinars and/or conference calls between the publication date of this Notice and September 30, 2014. The envisioned end date for the CORs is September 30, 2014.

DATES: Monday, December 2, 2013, from 9:00 a.m. until 5:00 p.m. and Tuesday, December 3, 2013, from 9:00 a.m. until 4:00 p.m.

ADDRESSES: The workshop will be held at the National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia. Teleconferences and web meetings for the CORs will take place periodically between the publication date of this Notice and September 30, 2014. Meeting dates and call-in information will be posted on the Community of Research page at *http://us-eu.org/* as meetings are scheduled.

Registration: Due to space limitations, pre-registration for the workshop is required. Registration is on a first-come, first-served basis and will be capped at approximately 100 participants. Registration will open on October 16, 2013. Individuals planning to attend the workshop should register online at *http://us-eu.org/2013-u-s-eu-nanoehs-workshop/.* Written notices of participation by email should be sent to *sstandridge@nnco.nano.gov* or mailed to Stacey Standridge, 4201 Wilson Blvd., Stafford II, Suite 405, Arlington, VA 22230. Individuals wishing to participate in any of the CORs should send the participant's name, affiliation, and country of residence to Stacey Standridge at either of the addresses above. NNCO will collect email addresses from registrants to ensure that they are included in COR conference calls and other meetings and that they receive information relevant to the COR scope from other COR members. Email addresses are submitted on a completely voluntary basis.

Those interested in presenting 3–5 minutes of public comments at the U.S.-EU workshop on *Bridging NanoEHS Research Efforts* or any of the COR meetings should register for the appropriate event. For those who are unable to attend the workshop or COR meetings in person, written or electronic comments should be submitted by email to *sstandridge@nnco.nano.gov* at least two business days prior to each meeting to provide time to copy and distribute the written comments to the participants.

FOR FURTHER INFORMATION CONTACT: For information regarding this Notice, please contact Stacey Standridge at National Nanotechnology Coordination Office, by telephone (703–292–8103) or email (*sstandridge@nnco.nano.gov*). Additional information about the workshop, including the agenda, is posted at *http://us-eu.org/2013-u-s-eu-nanoehs-workshop/.* Additional information about the CORs and their upcoming meetings is posted at *http://us-eu.org/.*

Meeting Accomodations: Individuals requiring special accommodation to access these public meetings should contact Stacey Standridge (telephone 703–292–8103) at least ten business

days prior to each meeting so that appropriate arrangements can be made.

Ted Wackler,

Deputy Chief of Staff and Assistant Director.

[FR Doc. 2013–22551 Filed 9–13–13; 8:45 am]

BILLING CODE 3170–F3–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold an Open Meeting on September 17, 2013, at 3:00 p.m., in Room 10800 at the Commission's headquarters building, to hear oral argument in an appeal by Montford and Company, Inc., d/b/a Montford Associates, and Earnest V. Montford from an initial decision of an administrative law judge.

The law judge found that Montford Associates, a former investment adviser, and Montford, its president and sole owner, violated Sections 206(1) and (2) of the Investment Advisers Act of 1940 by failing to disclose a material conflict of interest: That they were receiving substantial payments from an investment manager they were also recommending. The law judge further found that they made materially false and misleading statements in Forms ADV in violation of Advisers Act Section 207 and that the firm failed to amend its Forms ADV in violation of Advisers Act Section 204 and Rule 204–1(a)(2), misconduct that Montford aided and abetted and caused. The law judge imposed an industry-wide bar against Montford, entered a cease-and-desist order against both Respondents, and ordered them to pay disgorgement and civil penalties totaling $860,000.

The issues likely to be considered at oral argument include whether the proceeding should be dismissed under Section 4E of the Securities Exchange Act of 1934, which provides a ''deadline for completing enforcement investigations . . . not later than 180 days after'' issuance of a Wells notice; whether Respondents violated the Advisers Act and its rule by failing to disclose their receipt of $210,000 from an investment manager that they recommended to clients and, if so, the extent to which sanctions are warranted under the circumstances.

For further information, please contact the Office of the Secretary at (202) 551–5400.

Dated: September 10, 2013.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–22508 Filed 9–12–13; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70366; File No. SR–OCC–2013–805]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of an Advance Notice To Amend an Existing Interpretation and Policy To Give OCC Discretion Not To Grant a Particular Clearing Member Margin Credit for an Otherwise Eligible Security

September 10, 2013.

Pursuant to Section 806(e)(1) of the Payment, Clearing, and Settlement Supervision Act of 2010 (''Clearing Supervision Act'') [1] and Rule 19b–4(n)(1)(i) [2] of the Securities Exchange Act of 1934 (''Act''), notice is hereby given that on August 15, 2013, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the advance notice as described in Items I, II and III below, which Items have been prepared by OCC.[3] The Commission is publishing this notice to solicit comments on the advance notice from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Advance Notice

OCC proposes to amend an existing Interpretation and Policy so that OCC has discretion to disapprove as margin collateral for a particular clearing member, shares of an otherwise eligible security held as margin.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Advance Notice

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed advance notice and discussed any comments it received on the proposed advance notice. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A) and (B) below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Advance Notice

The purpose of the proposed advance notice is to provide OCC with discretion with regard to granting or not granting margin credit to a clearing member. OCC currently may withhold margin credit from all clearing members with respect to a specific security. OCC proposes to address the risk presented by concentrated positions of securities posted as margin by particular clearing members by withholding margin credit from such clearing member's accounts. OCC proposes to enhance its ability to limit its risk exposure to a concentrated position of equity securities posted as margin by a specific clearing member by providing OCC with the discretion to disregard, for the purposes of granting margin credit, some or all of the otherwise eligible equity securities posted as margin. In addition, the proposed advance notice is designed to provide OCC with discretion to make exceptions to proposed Interpretation and Policy .14 with respect to a specific clearing member. Accordingly, OCC may allow margin credit for an otherwise ineligible security for a specific clearing member in situations in which OCC determines that such security serves as a hedge to positions in cleared contracts in the same account of such clearing member.

Rule 604 lists the acceptable types of assets that clearing members may post with OCC to satisfy their margin requirements under Rule 601, including equity securities, and establishes the eligibility criteria for such assets. Equity securities are the most common form of margin assets posted by clearing members and, under Rule 601, are included in OCC's STANS margining system for the purposes of valuing such equity securities and determining on a portfolio basis a clearing member's margin obligation to OCC. Interpretation and Policy .14 to Rule 604 allows OCC to disapprove a security as margin collateral for all clearing members based on a consideration of the factors set forth in the interpretation, including number of outstanding shares, number of outstanding shareholders and overall trading volume. The STANS system currently takes into account the risk to a portfolio presented by fluctuations in the market price of concentrated security positions by identifying the two

[1] 12 U.S.C. 5465(e)(1).

[2] 17 CFR 240.19b–4(n)(1)(i).

[3] OCC is a designated financial market utility and is required to file advance notices with the Commission. *See* 12 U.S.C. 5465(e). OCC also filed the proposal contained in this advance notice as a proposed rule change under Section 19(b)(1) of the Exchange Act and Rule 19b–4 thereunder. 15 U.S.C. 78s(b)(1) and 17 CFR 240.19b–4, respectively. *See* SR–OCC–2013–14.

individual securities whose adverse price movements would result in the largest losses in each account and applying additional margin requirements to an account based on those losses if appropriate. However, this test does not evaluate a large equity securities position in relation to the securities position's average daily trade volume, which would be relevant if OCC were required to liquidate the position. OCC has determined that in the event of a clearing member liquidation, OCC may be exposed to concentration risk arising from a large equity security position deposited or pledged as margin by a particular clearing member. Depending on the relationship between the average daily trading volume of a particular security and the number of outstanding shares of such security deposited by a clearing member as margin, it is possible that the listed equities markets may not be able to quickly absorb the equity securities OCC seeks to sell, or without an appreciable negative price impact, in the event OCC needs to liquidate the clearing member's accounts. This risk is greatest when the number of shares being sold is large and the average daily trading volume is low. Neither the STANS system nor Rule 604 explicitly addresses this type of concentration risk.

To address concentration risk arising from the potential need to liquidate a particular clearing member's margin collateral, OCC proposes to expand its discretion under Interpretation and Policy .14 to limit, in OCC's discretion, the margin credit granted to an individual clearing member account which maintains a concentrated equity securities position by disregarding some or all of the otherwise eligible equity securities posted as margin based on an assessment of specific factors listed in Interpretation and Policy .14. OCC considers an equity security's average daily trading volume and the number of shares a clearing member deposited as margin to be the two most significant factors when making a decision to limit margin credit due to concentration risk.[4] In addition, OCC proposes to amend Interpretation and Policy .14 so that it may grant margin credit when otherwise ineligible securities are deposited as margin collateral if such ineligible securities act as a hedge against cleared contracts held in the same account. For example, if a clearing member deposits otherwise ineligible equity securities as margin, OCC may nevertheless deem such ineligible securities to be acceptable margin collateral to the extent that the position is a hedge against a short position in its cleared contracts, because a decline in the value of the securities that serve as a hedge would be wholly or partially offset by an increase in value in the hedged position thereby reducing or eliminating the concentration risk. In such a situation, OCC will limit the margin credit granted to the lesser of a multiple of the daily trading volume or the ''delta equivalent position'' [5] for the particular equity security, taking into account the hedging position.[6]

OCC staff has been monitoring concentrated securities positions and assessing the impact of the proposed change described in this advance notice filing. OCC believes that, with OCC's assistance by supplying additional information to clearing members, clearing members will be able to accommodate the proposed changes without undue hardship. Accordingly, after receiving regulatory approval for the proposed advance notice, OCC will implement the change and work on an ''as needed'' manual basis with clearing members that are impacted until the limits are imposed systematically and the distribution of the applicable files and reports to clearing members is automated.

The proposed advance notice is consistent with Section 806(e)(1)(A) [7] of the Payment, Clearing, and Settlement Supervision Act of 2010 because the proposed change could be deemed to materially affect the nature or level of risks presented by OCC. The proposed advance notice enhances OCC's ability to limit its risk exposure to potential losses from defaults by clearing members under normal market conditions through the use of risk-based parameters and encourages clearing members to have sufficient financial resources to meet their obligations to OCC. The proposed advance notice is not inconsistent with any existing OCC By-Laws or Rules, including those proposed to be amended.

(B) Clearing Agency's Statement on Comments on the Proposed Advance Notice Received From Members, Participants, or Others

Written comments on the proposed advance notice were not and are not intended to be solicited with respect to the proposed advance notice and none have been received.

III. Date of Effectiveness of the Advance Notice and Timing for Commission Action

The clearing agency may implement the proposed change pursuant to Section 806(e)(1)(G) of the Clearing Supervision Act [8] if it has not received an objection to the proposed change within 60 days of the later of (i) the date that the Commission received the advance notice or (ii) the date the Commission receives any further information it requested for consideration of the notice. The clearing agency shall not implement the proposed change if the Commission objects to the proposed change within the required time period.

The Commission may extend the period for review by an additional 60 days if the proposed change raises novel or complex issues, subject to the Commission providing the clearing agency with prompt written notice of the extension. A proposed change may be implemented in less than 60 days from the date of receipt of the advance notice, or the date the Commission receives any further information it requested, if the Commission notifies the clearing agency in writing that it does not object to the proposed change and authorizes the clearing agency to implement the proposed change on an earlier date, subject to any conditions imposed by the Commission.

The clearing agency shall post notice on its Web site of proposed changes that are implemented.

The proposal shall not take effect until all regulatory actions required

[4] The limit is currently two times the equity security's average daily trading volume.

[5] The ''delta equivalent position'' is the value of a securities position that takes into account the position's use as a hedge against cleared option or futures positions. This value is calculated using the ''delta'' of the option or futures contract, which is the ratio between the theoretical change in the price of an underlying asset to the corresponding change in the price of the options or futures contract. Thus, delta measures the sensitivity of an options or futures contract price to changes in the price of the underlying asset. For example, a delta of +0.7 means that for every $1 increase in the price of the underlying stock, the price of a call option will increase by $0.70. Delta for an option or future can be expressed in shares of the underlying asset. For example, a standard put option with a delta of -.45 would have a delta of -45 shares, because the unit of trading is 100 shares.

[6] Assume, for example, an average daily trade volume of 250 shares, a threshold of 2 times the average daily trade volume, and a delta of -300 shares for the options on a particular security in a particular account. A position of 700 shares that did not hedge any short options or futures would receive credit for only 500 shares (i.e., 2 times the average daily trade volume). If the net long position in the account, as adjusted for the delta of short option and futures positions, were only 400, credit would be given for the entire 700 shares since the delta equivalent position is below the 500 share threshold. However, if the option delta were +300, the net long position would be 1000, and credit would only be given for 500 shares because the delta equivalent position would exceed the 500 share threshold.

[7] 12 U.S.C. 5465(e)(l)(A).

[8] 12 U.S.C. 5465(e)(1)(G).

with respect to the proposal are completed.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. 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–OCC–2013–805 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–OCC–2013–805. 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 of submission. 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 advance notice that are filed with the Commission, and all written communications relating to the advance notice between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of OCC and on OCC's Web site at *http://www.theocc.com/components/docs/legal/rules_and_bylaws/sr_occ_13_805.pdf.* All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–OCC–2013–805 and should be submitted on or before October 7, 2013.

By the Commission.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–22405 Filed 9–13–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70362; File No. SR–ISE–2013–42]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change to List Options on the Nations VolDex Index

September 10, 2013.

On July 17, 2013, International Securities Exchange, LLC (''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade options on the Nations VolDex index. The proposed rule change was published for comment in the **Federal Register** on August 2, 2013.[3] The Commission received one comment letter on this proposal.[4]

Section 19(b)(2) of the Act [5] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day for this filing is September 16, 2013. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider this proposed rule change, which would allow the listing of a new options product, the comment letter that was submitted in connection with this proposed rule change, and any response to the comment letter submitted by the Exchange.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[6] designates October 31, 2013 as the date by which the Commission should either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–ISE–2013–42).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–22402 Filed 9–13–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70360; File No. SR–BATS–2013–049]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Fees for Use of BATS Exchange, Inc.

September 10, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 30, 2013, BATS Exchange, Inc. (the ''Exchange'' or ''BATS'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act [3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange filed a proposal to amend the fee schedule applicable to Members [5] and non-members of the

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 70059 (July 29, 2013), 78 FR 47041.

[4] *See* letter to Elizabeth M. Murphy, Secretary, Commission, from Edward T. Tilly, Chief Executive Officer, Chicago Board Options Exchange, Incorporated, dated August 23, 2013.

[5] 15 U.S.C. 78s(b)(2).

[6] 15 U.S.C. 78s(b)(2).

[7] 17 CFR 200.30–3(a)(31).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] A Member is any registered broker or dealer that has been admitted to membership in the Exchange.

Exchange pursuant to BATS Rules 15.1(a) and (c). While changes to the fee schedule pursuant to this proposal will be effective upon filing, the changes will become operative on September 3, 2013.

The text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to modify its fee schedule applicable to use of the Exchange effective September 3, 2013, in order to modify pricing related to executions that occur on NASDAQ OMX BX, Inc. (''NASDAQ BX'') through the Exchange's TRIM routing strategy.[6] NASDAQ BX implemented certain pricing changes effective September 3, 2013, including modification from a highest potential rebate[7] of $0.0014 per share when removing liquidity to a highest potential rebate of $0.0013 per share when removing liquidity. To maintain a direct pass through of the applicable economics for TRIM executions at NASDAQ BX (assuming the Exchange is able to achieve the highest potential rebate), the Exchange proposes to rebate $0.0013 per share for an order routed through its TRIM routing strategy and executed on NASDAQ BX, rather than the rebate of $0.0014 per share that it currently offers for such orders. The Exchange is not proposing any other changes to its routing fees at this time.

[6] As defined in BATS Rule 11.13(a)(3)(G).

[7] NASDAQ BX maintains a tiered pricing structure that results in variable rebates and fees depending on the amount of liquidity added or removed.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6 of the Act.[8] Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,[9] in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using any facility or system which the Exchange operates or controls. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. The Exchange believes that the proposed changes to the Exchange's routing fee for TRIM executions at NASDAQ BX are equitably allocated, fair and reasonable, and non-discriminatory in that they are equally applicable to all Members and are designed to mirror the rebate applicable to the execution if such routed orders were executed directly by the Member at NASDAQ BX.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. Because the market for order execution is extremely competitive, Members may readily opt to disfavor the Exchange's routing services if they believe that alternatives offer them better value. For orders routed through the Exchange and executed at NASDAQ BX through the TRIM routing strategy, the proposed fee change is designed to equal the rebate that a Member would have received if such routed orders would have been executed directly by a Member at NASDAQ BX.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

[8] 15 U.S.C. 78f.

[9] 15 U.S.C. 78f(b)(4).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[10] and paragraph (f) of Rule 19b–4 thereunder.[11] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BATS–2013–049 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BATS–2013–049. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f).

filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BATS–2013–049 and should be submitted on or before October 7, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–22400 Filed 9–13–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70363; File No. SR–EDGX–2013–33]

Self-Regulatory Organizations; EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments to the EDGX Exchange, Inc. Fee Schedule

September 10, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 30, 2013, EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Fee Schedule to: (i) add the Tape B Step Up Tier; (ii) add the Mega Tier 3; (iii) move the bullets related to ''added flags,'' ''removal flags,'' and ''routed flags'' from the Definitions section to the General Notes section; and (iv) amend the phrase ''Step Up'' to ''Step-Up'' in the tiers in Footnote 1. All of the changes described herein are applicable to EDGX Members.[3] The text of the proposed rule change is available on the Exchange's Internet Web site at *www.directedge.com,* at the Exchange's principal office, and at the Public Reference Room of the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fee Schedule to: (i) add the Tape B Step Up Tier; (ii) add the Mega Tier 3; (iii) move the bullets related to ''added flags,'' ''removal flags,'' and ''routed flags'' from the Definitions section to the General Notes section; and (iv) amend the phrase ''Step Up'' to ''Step-Up'' in the tiers in Footnote 1.

Addition of Tape B Step Up Tier

The Exchange proposes to add a new tier to its Fee Schedule, the Tape B Step Up Tier. The Tape B Step Up Tier would provide a rebate of $0.0025 per share for orders yielding flags B and 4 (adds liquidity to EDGX in Tape B securities) to Members that add 600,000 shares in average daily volume (''ADV'') in Tape B securities more than the Member's August 2013 ADV in Tape B securities added to EDGX. The Exchange proposes to remove the word ''Reserved'' from Footnote 2 to its Fee Schedule and replace it with the Tape B Step Up Tier. Furthermore, the Exchange proposes to append Footnote 2 to flags B and 4, both of which would qualify for the tiered rebate if a Member meets the aforementioned requirement.

Addition of the Mega Tier 3

The Exchange proposes to add a new tier to its Fee Schedule, the Mega Tier 3. The Mega Tier 3 would provide a rebate of $0.0032 per share for orders that add liquidity yielding flags B, V, Y, 3, 4 and ZA provided the Member (i) adds or routes at least 1,500,000 shares of ADV prior to 9:30 a.m. or after 4:00 p.m. and (ii) adds a minimum of 0.75% of the total consolidated volume (''TCV'') on a daily basis measured monthly, including during both market hours and pre- and post-trading hours. The Exchange proposes to add the Mega Tier 3 below Mega Tier 2 and above the Market Depth Tier within the list of volume tiers in Footnote 1 to its Fee Schedule.

Amendments to Lists of Added, Removal and Routed Flags

Currently, the Definitions section in the Fee Schedule contains three bullets that contain the list of applicable ''added flags,'' ''removal flags,'' and ''routed flags,'' that may be considered when calculating whether a Member satisfied a certain tier. The Exchange proposes to move the text contained within each of the three bullets to the General Notes section. In addition, the Exchange proposes to re-word the text of each bullet to improve readability and remove references to the flags as defined terms. For example, the amended bullet regarding added flags would read as follows: ''Unless otherwise indicated, the following added flags are counted towards tiers . . .'' The Exchange notes that the list of added/removal/routed flags associated with each bullet would remain unchanged.

Amendment to Step-Up Tiers in Footnote 1

Currently, the Step-Up Tiers in Footnote 1 to the Fee Schedule are lacking a hyphen between the words ''Step'' and ''Up.'' The Exchange proposes to add a hyphen so that each tier so-titled would no longer be a ''Step Up'' tier but a ''Step-Up'' tier. The Exchange notes that the criteria necessary to achieve the tiers and the rates offered by the tiers would remain unchanged.

Implementation Date

The Exchange proposes to implement these amendments to its Fee Schedule on September 3, 2013.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[4] in general, and furthers the objectives of Section 6(b)(4),[5] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities.

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] As defined in Exchange Rule 1.5(n).

[4] 15 U.S.C. 78f.

[5] 15 U.S.C. 78f(b)(4).

Addition of Tape B Step Up Tier

The Exchange believes that its proposal to add the Tape B Step Up Tier to Footnote 2 to its Fee Schedule represents an equitable allocation of reasonable dues, fees, and other charges among Members and other persons using its facilities because the tier would encourage Members to add liquidity to EDGX in Tape B securities in order to qualify for a higher rebate. The Exchange currently offers a rebate of $0.0020 per share for orders that add liquidity to EDGX in Tape B securities yielding flags B (regular session) and 4 (pre and post market). The Tape B Step Up Tier would provide Members with an increased rebate of $0.0025 per share for orders that yield flags B and 4, provided Members meet the increased volume requirement necessary to achieve the tier. As such, the Exchange believes that the rate offered by the Tape B Step Up Tier is reasonable because it is directly related to a Member's level of executions in Tape B Securities during the month.

The Exchange also notes that the Tape B Step Up Tier is similar to the Step-Up Tier 1 in Tape B securities offered by NYSE Arca, Inc. (''Arca'').[6] Arca currently offers a non-tiered rebate for adding liquidity in Tape B securities of $0.22 per share and a non-tiered fee for removing liquidity in Tape B securities of $0.30 per share. Arca's Step-Up Tier 1 provides for an add rebate of $0.23 per share and a removal fee of $0.28 for firms that add an excess of 0.20% in ADV in Tape B securities over a benchmark month, subject to a minimum increase of 20 million shares. The Tape B Step Up Tier is similar to the Arca's Step-Up Tier 1 in that it provides Members with an increased rebate in exchange for increased volume.

Lastly, The Exchange believes that the proposed rate is non-discriminatory in that it applies uniformly to all Members.

Addition of the Mega Tier 3

The Exchange believes that its proposal to add the Mega Tier 3 to the list of volume tiers in Footnote 1 to its Fee Schedule represents an equitable allocation of reasonable dues, fees, and other charges among Members and other persons using its facilities because the tier would encourage Members to add liquidity to EDGX during pre- and post-trading hours. Fewer Members generally trade during pre- and post-trading hours because of the limited time parameters associated with these trading sessions, which generally results in less liquidity. In addition, the Exchange assigns a higher value to this resting liquidity because liquidity received prior to the regular trading session typically remains resident on the EDGX Book throughout the remainder of the entire trading day. Furthermore, liquidity received during pre- and post-trading hours is an important contributor to price discovery and acts as an important indication of price for the market as a whole considering the relative illiquidity of the pre- and post-trading hour sessions. The Exchange believes that offering a higher rebate incentivizes Members to provide liquidity during these trading sessions.

The Exchange also believes that the Mega Tier 3 is reasonable and equitably allocated because such increased liquidity benefits all investors by deepening EDGX's liquidity pool and improving investor protection. Volume-based rebates such as the one proposed herein are widely utilized in the cash equities markets, and are equitable because they are open to all Members on an equal basis and provide incentives that are reasonably related to the value to an exchange's market quality associated with higher levels of market activity, such as higher levels of liquidity provision and opportunities for price improvement.

Furthermore, the Exchange believes that the criteria for the Mega Tier 3 represents an equitable allocation of reasonable dues, fees, and other charges because higher rebates are directly correlated with more stringent criteria.

For example, in order for a Member to qualify for the Mega Tier 1 and be provided with a rebate of $0.0035 and a $ 0.0015 discounted routing and removal rate, the Member would have to (i) add or route at least 4,000,000 shares of ADV during pre- and post-trading hours (ii) add a minimum of 35,000,000 shares of ADV on EDGX in total, including during both market hours and pre- and post-trading hours and (iii) have an ''added liquidity'' to ''added plus removed liquidity'' ratio of at least 85%. When comparing the first criteria of the Mega Tier 1 to that of the Mega Tier 3, it is apparent that the Mega Tier 1 requires a volume requirement during pre- and post-trading hours that is 2,500,000 shares higher than that required by the Mega Tier 3, which only requires 1,500,000 shares of ADV during pre- and post-trading hours. With regard to the second criteria of both tiers, based on a TCV for September 2013 of six (6) billion shares, a Member would be required to add 40,000,000 shares in ADV on EDGX in total, including both market hours and pre- and post-trading hours to meet the second criteria to achieve the Mega Tier 3, which is higher than the 35,000,000 shares required to meet the second criteria under the Mega Tier 1. Although the ADV required under the second criteria of the Mega Tier 3 is higher than that required by the Mega Tier 1, the Mega Tier 1 contains yet a third criteria not required of the Mega Tier 3—that a Member have an ''added liquidity'' to ''added plus removed liquidity'' ratio of at least 85%. Members that primarily post liquidity are more valuable Members to the Exchange and the marketplace in terms of liquidity provision. Therefore, the Exchange offers a higher rebate to those Members that are able to meet the ''added liquidity'' to ''added plus removed liquidity'' ratio of 85% under the third criteria of the Mega Tier 1. Accordingly, the Mega Tier 1 is the most stringent of the volume tiers and provides the highest rebate.

In order to qualify for the next best tier, the Market Depth Tier, and receive a rebate of $0.0033 per share for displayed liquidity, a Member must post at least 0.50% of the TCV in ADV on EDGX in total, where at least 1.8 million shares are non-displayed orders that add liquidity to EDGX yielding Flag HA. Based on a TCV for May 2013 of six (6) billion shares, this would amount to 30,000,000 shares for the Market Depth Tier and 45,000,000 shares for the Mega Tier 3. While the Mega Tier 3's TCV requirement is higher, Members seeking to achieve the Market Depth Tier would also be required to post at least 1.8 million shares are non-displayed orders that add liquidity to EDGX yielding Flag HA. The Exchange believes that this requirement regarding non-displayed liquidity is more stringent and warrants a higher rebate because non-displayed orders do not have the same ability to attract contra-side orders to the marketplace because they are hidden on the EDGX book, are less commonplace than displayed liquidity, and Members are not eligible for the same rebates that displayed liquidity qualify for.[7] In addition, because of the hierarchy of priority in Rule 11.8(a)(2), for equally priced trading interest, non-displayed orders always have a lower priority than displayed orders. As a result, a Member has a priority disadvantage when using such order type and therefore, the criteria to satisfy the Market Depth Tier are more stringent than those of the Mega Tier 3 and warrant a higher rebate.

Mega Tier 3 provides the same rebate as Mega Tier 2. To achieve the Mega

[6] Arca, NYSE Arca Equities Trading Fees, *available at http://usequities.nyx.com/markets/nyse-arca-equities/trading-fees.*

[7] Non-displayed orders that add liquidity (Flag HA) are eligible for a $0.0015 per share rebate instead of the standard rebate for displayed liquidity of $0.0020 per share.

Tier 2 and receive a rebate of $0.0032 per share, a Member must (1) add or route at least 4,000,000 shares of ADV prior to 9:30 a.m. or after 4:00 p.m. (includes all flags except 6); and (2) add a minimum of 0.20% of the TCV on a daily basis measured monthly, including during both market hours and pre and post-trading hours. Based on a TCV for September 2013 of six (6) billion shares, this would amount to 12,000,000 shares for the Mega Tier 2 and 45,000,000 shares for the Mega Tier 3. Although the TCV requirement is higher for the Mega Tier 3, the Mega Tier 3 only requires that a Member add or route at least 1.5 million shares of ADV prior to 9:30 a.m. or after 4:00 p.m., whereas the Mega Tier 2 requires that a Member add or route at least 4 million shares prior to 9:30 a.m. or after 4:00 p.m. The Exchange believes that these requirements essentially render the two tiers equally difficult to obtain, and therefore proposes to offer the same rebate for either tier.

In order to qualify for the next tier after the Mega Tier 3, the Ultra Tier, a Member must, on a daily basis, measured monthly, post 0.50% of TCV in ADV to EDGX to receive a rebate of $ 0.0031 per share. The criteria for this tier is less stringent than the Mega Tier 3 because a Member aspiring to meet the Mega Tier 3 must satisfy two criteria: (1) Add or route at least 1.5 million shares of ADV prior to 9:30 a.m. or after 4:00 p.m.; and (2) add a minimum of 0.75% of the TCV on a daily basis measured monthly, including during both market hours and pre and post-trading hours. The Ultra Tier only requires a Member post 0.50% of TCV in ADV to EDGX. Based on a TCV for September 2013 of six (6) billion shares, this would amount to 30,000,000 shares for the Ultra Tier and 45,000,000 shares for the Mega Tier 3. The higher volume requirement necessary to achieve the Mega Tier 3 justifies its higher rebate.

Amendments to Lists of Added, Removal and Routed Flags

The Exchange believes that the proposed relocation and changes to the bullets related to ''added flags,'' ''removal flags,'' and ''routed flags'' in its Fee Schedule are reasonable because they provide Members with greater clarity with regard to which added, removal or routed flags count toward certain tiers, and remove potential confusion regarding the definition of such flags. The Exchange notes that the proposed change is not designed to amend any fee or rebate, nor alter the manner in which it assesses fees or calculates rebates. The Exchange believes that the proposed amendment is intended to make the Fee Schedule clearer and less confusing for investors and eliminate potential investor confusion, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest.

Amendment to Step-Up Tiers in Footnote 1

The Exchange believes that changing the ''Step Up'' tiers in Footnote 1 of its Fee Schedule to the ''Step-Up'' tiers is reasonable because it conforms to the spelling of the proposed Tape B Step-Up Tier as well as the step-up tier available on EDGA Exchange, Inc. (''EDGA'').[8] The Exchange notes that the criteria necessary to achieve the tiers and the rates offered by the tiers would remain unchanged.

B. Self-Regulatory Organization's Statement on Burden on Competition

These proposed rule changes do not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that any of these changes represent a significant departure from previous pricing offered by the Exchange or pricing offered by the Exchange's competitors. Additionally, Members may opt to disfavor EDGX's pricing if they believe that alternatives offer them better value. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of Members or competing venues to maintain their competitive standing in the financial markets.

Addition of Tape B Step Up Tier

The Exchange believes that the proposed addition of the Tape B Step Up Tier would increase intermarket competition because it would encourage market participants to send additional liquidity in Tape B securities to EDGX in exchange for an increased rebate. The Exchange believes that the proposed tier would neither increase nor decrease intramarket competition because the increased rebate offered by the tier would apply uniformly to all Members that meet the requirements necessary to achieve the tier.

Addition of the Mega Tier 3

The Exchange believes that the proposed addition of Mega Tier 3 would increase intermarket competition because it would encourage market participants to send additional liquidity to EDGX in exchange for an increased rebate. The Exchange believes that the proposed tier would neither increase nor decrease intramarket competition because the increased rebate offered by the tier would apply uniformly to all Members that meet the requirements necessary to achieve the tier.

Amendments to Lists of Added, Removal and Routed Flags

The Exchange believes that the proposed relocation and changes to the bullets related to ''added flags,'' ''removal flags,'' and ''routed flags'' in its Fee Schedule would not affect intermarket nor intramarket competition because this change is not designed to amend any fee or rebate or alter the manner in which the Exchange assesses fees or calculates rebates. The proposed change is intended to provide greater transparency to Members with regard to which added, removal and routed flags are counted towards certain tiers.

Amendment to Step-Up Tiers in Footnote 1

The Exchange believes that the proposed non-substantive change to the ''Step-Up'' tiers in Footnote 1 would not affect intermarket nor intramarket competition because the change does not alter the criteria necessary to achieve the tiers nor the rates offered by the tiers.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from Members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[9] and Rule 19b–4(f)(2)[10] thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

[8] EDGA, Fee Schedule, *available at http://www.directedge.com/Membership/FeeSchedule/EDGXFeeSchedule.aspx* (offering the ''Step-Up Tier'').

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4 (f)(2).

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–EDGX–2013–33 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–EDGX–2013–33. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–EDGX–2013–33 and should be submitted on or before October 7, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–22403 Filed 9–13–13; 8:45 am]

BILLING CODE 8011–01–P

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70357; File No. SR–MIAX–2013–42]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 1014

September 10, 2013.

Pursuant to the provisions of 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 30, 2013, Miami International Securities Exchange LLC (''MIAX'' or ''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 the Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend Rule 1014.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.miaxoptions.com/filter/wotitle/rule_filing*, at MIAX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Exchange Rule 1014, entitled ''Imposition of Fines for Minor Rule Violations,'' by expanding the list of violations eligible for disposition under Exchange Rule 1014 in order to improve the consistency of the Exchange Rule 1014 with the rules of other options exchanges.

Exchange Rule 1014 promotes compliance with select rules and helps reduce the number and extent of violations of those rules committed by Members and associated persons. Exchange Rule 1014 allows the Exchange to promptly impose a limited but meaningful financial penalty soon after a rule violation is detected. The prompt imposition of a financial penalty helps to quickly educate and improve the conduct of Members and associated persons that have engaged in inadvertent or otherwise minor violations of the Exchange's Rules.

The proposed changes would allow the Exchange to impose fines ranging from $500 to $5,000. By promptly imposing a meaningful financial penalty for such violations, Exchange Rule 1014 focuses on correcting conduct before it gives rise to more serious enforcement action. As discussed above, Exchange Rule 1014 provides a reasonable means of addressing rule violations that do not necessarily rise to the level of requiring formal disciplinary proceedings, while also providing a greater flexibility in handling certain violations. Adopting a provision that would allow the Exchange to sanction violators under Exchange Rule 1014 by no means minimizes the importance of compliance with these rules. The Exchange believes that the violation of any of its Rules is a serious matter. The addition of a sanction under Exchange Rule 1014 simply serves to add an additional method for disciplining violators of the additional Rules. The Exchange will continue to conduct surveillance with due diligence and make its determination, on a case by case basis, whether a violation of these additional Rules should be subject to formal disciplinary proceedings.

The Exchange proposes to incorporate five additional violations into Exchange Rule 1014. Specifically, the Exchange proposes to incorporate into Exchange Rule 1014 additional violations regarding: (i) Exercise limits; (ii) reports related to position limits; (iii) trading in restricted classes; (iv) Market Maker

continuous quoting requirements; and (v) amending Form U4, Form U5, and Form BD.

Exercise Limits

MIAX Rule 309 generally prohibits Members from exceeding certain exercise limits.[3] MIAX is proposing to incorporate violations consisting of exceeding such exercise limits into the Exchange Rule 1014 under Proposed Exchange Rule 1014(d)(10).

MIAX is proposing to implement a fine of $500 for the first violation of Rule 309 within a twenty-four month rolling period. A second violation within the rolling twenty-four month period would be allocated a $1,000 fine, a third violation a $2,500 fine, and a fourth violation a $5,000 fine. Any subsequent violations within the rolling twenty-four month period would be allocated a $5,000 fine. MIAX notes that this proposal is consistent with rules in place at the Chicago Board Options Exchange, Inc. (''CBOE'').[4]

Reports Related to Position Limits

MIAX Rule 310 requires Members to file with the Exchange reports once certain positional thresholds are exceeded.[5] MIAX is proposing to incorporate violations consisting of the failure to file such position limit reports into Exchange Rule 1014 under Proposed Exchange Rule 1014(d)(11). All the options exchanges, including MIAX, have entered into a plan pursuant to Rule 17d–2 of the Act (the ''Options Market Surveillance Plan'' or the ''Plan'') under which the exchanges have agreed to allocate regulatory responsibility for certain rules common to all options exchanges. The common rules relate to compliance with position limits, the use of position limit exemptions and the reporting of large options positions. Adding Rule 310 to Exchange Rule 1014 makes Exchange Rule 1014 more consistent with rules of other self-regulatory organizations, including with respect to rules that are classified as common rules pursuant to the Options Market Surveillance Plan. The Exchange believes that aspects of Exchange Rule 1014 with respect to the handling of violations of rules that are common rules pursuant to the Plan should be consistent with the other options exchanges that are parties to the Plan.

MIAX is proposing to implement a fine of $500 for the first violation of Rule 310 within a twenty-four month rolling period. A second violation within the rolling twenty-four month period would be allocated a $1,000 fine and a third violation a $2,500 fine. Any subsequent violations within the rolling twenty-four month period would be allocated a $5,000 fine. MIAX notes that this proposal is consistent with the rules in place at the BATS Options Market (''BATS Options'').[6]

Trading in Restricted Classes

MIAX Rule 403 provides that MIAX may prohibit any opening purchase transactions in series of options previously opened to the extent it deems such action necessary or appropriate.[7] MIAX is proposing to incorporate violations related to trading in restricted classes into Exchange Rule 1014 under Proposed Exchange Rule 1014(d)(12).

MIAX is proposing to implement a fine of $500 for the first violation within a twenty-four month rolling period. A second violation within the rolling twenty-four month period would be allocated a $2,500 fine and a third violation a $5,000 fine. Any subsequent violations within the rolling twenty-four month period would become subject to formal disciplinary action under Exchange Rule 1003 or 1004. MIAX notes that this proposal is consistent with rules in place at the CBOE, NYSE Arca, Inc. (''NYSE Arca''), and NYSE MKT, Inc. (''NYSE MKT'').[8]

Market Maker Continuous Quoting Obligations

MIAX Rule 604(e) requires each class of Market Maker to meet a specific continuous quoting threshold.[9] MIAX is proposing to incorporate violations of these continuous quoting obligations into Exchange Rule 1014 under Exchange Rule 1014(d)(13).

MIAX is proposing to issue a Letter of Caution for the first violation within a twenty-four month rolling period. Any subsequent offense would be subject to a $300 fine charged per day. MIAX notes that this proposal is consistent with rules in place at the NASDAQ Options Market (''NOM''), NASDAQ OMX BX, Inc. Market (''BX Options''), and BATS Options.[10]

Amending Form U4, Form U5, and Form BD

Under the Securities and Exchange Act of 1934,[11] and the rules promulgated thereunder, and applicable Exchange Rules, Members are required to file and amend to keep current the applicable Form U4,[12] Form U5,[13] or Form BD.[14] Amendments shall be made no later than thirty (30) days after the filer knew or should have known of the need for the amendment. MIAX is proposing to incorporate the failure to make a timely amendment to the applicable Form U4, Form U5, or Form BD into Exchange Rule 1014 under Proposed Exchange Rule 1014(d)(14).

MIAX is proposing to implement a fine of $500 for the first violation within a twelve month rolling period. A second violation within the rolling twelve month period would be allocated a $1,000 fine and a third violation a $2,000 fine. Any subsequent violations within the rolling twelve month period would become subject to formal disciplinary action under Exchange Rule 1003 or 1004. MIAX notes that this proposal is consistent with rules in place at the NOM, BX Options, and BOX Options Exchange LLC (''BOX Options'').[15]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[16] in general, and furthers the objectives of Section 6(b)(5) of the Act,[17] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system. The proposed rule change is consistent with the statute in that it directly addresses fraudulent and manipulative acts and practices by MIAX Members. The Exchange believes that the proposed rule changes furthers the objectives of Section 6(b)(1)[18] of the Act to enforce compliance by its Members to the Exchange's Rules,

[3] *See* MIAX Rule 309.

[4] *See* CBOE Rule 17.50(g)(1).

[5] *See* MIAX Rule 310.

[6] *See* BATS Exchange Rule 25.3(b).

[7] *See* MIAX Rule 403.

[8] *See* CBOE Rule 17.50(g)(11); NYSE Arca Rule 10.12(h)(22); NYSE MKT Rule 476A Supp. Mat. Part 1C(i)(37).

[9] *See* MIAX Rule 604(e).

[10] *See* Chapter X, Section 7(c) of NOM Rules; Chapter X, Section 7(c) of BX Options Rules; and BATS Exchange Rule 25.3(d).

[11] *See* 15 U.S.C. 78o.

[12] *See* MIAX Rules 1301(b) and 1302(c).

[13] *See* MIAX Rules 1301(c) and 1303.

[14] *See* 15 U.S.C. 78o.

[15] *See* Chapter X, Section 7(k) of NOM Rules; Chapter X, Section 7(k) of BX Options Rules; BOX Options Rule 12140(d)(8).

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(5).

[18] 15 U.S.C. 78f(b)(1).

Section b(b)(6) [19] of the Act to appropriately discipline Members of the Exchange's Rules, and Section 6(b)(7) [20] of the Act to provide a fair procedure of disciplining Members as the proposal will strengthen its ability to carry out its oversight responsibilities as a self-regulatory organization and reinforce its surveillance and enforcement functions. Additionally, this proposed rule change will promote consistency with rules of other exchanges.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposal relates to the Exchange's role and responsibilities as a self-regulatory organization and the manner in which it disciplines its Members and associated persons for violations of its Rules. In the unlikely event that Members will determine where to send options orders based on the type of disciplinary program in place at an options exchange, the expansion of Exchange Rule 1014 will lessen the impact on competition by making Exchange Rule 1014 more consistent with rules at the 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 after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act [21] and Rule 19b–4(f)(6) [22] thereunder.

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–MIAX–2013–42 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–MIAX–2013–42. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MIAX–2013–42, and should be submitted on or before October 7, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Kevin M. O'Neill,

Deputy Secretary.

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[19] 15 U.S.C. 78f(b)(6).

[20] 15 U.S.C. 78f(b)(7).

[21] 15 U.S.C. 78s(b)(3)(A).

[22] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[23] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70361; File No. SR–NASDAQ–2013–114]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to the Qualified Market Maker Program Under Rule 7014, the Fees Assessed Under Rule 7015(g), and the Schedule of Fees and Rebates Under Rule 7018(a)

September 10, 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 29, 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 the Qualified Market Maker Program under Rule 7014, the fees assessed under Rule 7015(g), and the its schedule of fees and rebates for execution and routing of orders for securities priced at $1 or more under Rule 7018(a). NASDAQ will begin assessing the fees effective September 1, 2013.

The text of the proposed rule change is available at *http://nasdaq.cchwallstreet.com,* at NASDAQ's principal office, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

QMM Incentive Program

In November 2012,[3] NASDAQ introduced a market quality incentive program under which a member may be designated as a QMM with respect to one or more of its market participant identifiers (''MPIDs'') if:

- the member is not assessed any ''Excess Order Fee'' under Rule 7018 during the month;[4] and
- through such MPID the member quotes at the national best bid or best offer (''NBBO'') at least 25% of the time during regular market hours[5] in an average of at least 1,000 securities during the month.[6]

Thus, to be a QMM, a member must make a significant contribution to market quality by providing liquidity at the NBBO in a large number of stocks for a significant portion of the day. In addition, the member must avoid imposing the burdens on NASDAQ and its market participants that may be associated with excessive rates of entry of orders away from the inside and/or order cancellation. A QMM may be, but is not required to be, a registered market maker in any security; thus, the QMM designation does not by itself impose a two-sided quotation obligation or convey any of the benefits associated with being a registered market maker. The designation does, however, reflect the QMM's commitment to provide meaningful and consistent support to market quality and price discovery by extensive quoting at the NBBO in a large number of securities. Thus, the program is designed to attract liquidity both from traditional market makers and from other firms that are willing to commit capital to support liquidity at the NBBO. By providing incentives under the program, NASDAQ hopes to provide improved trading conditions for all market participants through narrower bid-ask spreads and increased depth of liquidity available at the inside market. In addition, the program reflects an effort to use financial incentives to encourage a wider variety of members, including members that may be characterized as high-frequency trading firms, to make positive commitments to promote market quality.

Currently, a member that is a QMM with respect to a particular MPID (a ''QMM MPID'') is eligible to receive certain financial benefits. These benefits are described below:

- The QMM may receive an NBBO Setter Incentive credit of $0.0005 with respect to orders that qualify for the NBBO Setter Incentive Program (*i.e.,* displayed orders with a size of at least one round lot that set the NBBO or join another trading center at the NBBO)[7] and that are entered through the QMM MPID. In order to receive an NBBO Setter Incentive credit at the $0.0005 rate, the QMM must also have a volume of liquidity provided through the QMM MPID (as a percentage of Consolidated Volume)[8] that exceeds the lesser of the volume of liquidity provided through such QMM MPID during the first month in which the MPID qualified as a QMM MPID (as a percentage of Consolidated Volume) or 1.0% of Consolidated Volume.[9] If a QMM does not satisfy these volume requirements, it will receive an NBBO Setter Incentive credit of $0.0002 per share executed with respect to orders that qualify for the NBBO Setter Incentive Program.[10]
- The QMM receives a credit of $0.0001 per share executed with respect to all other displayed orders in securities priced at $1 or more per share that provide liquidity and that are entered through a QMM MPID (in addition to any credit payable under Rule 7018).[11] Designated Retail Orders are not eligible to receive this additional credit.
- For a number of shares not to exceed the lower of the number of shares of liquidity provided through a QMM MPID or 20 million shares per trading day (the ''Numerical Cap''), NASDAQ has charged a fee of $0.0028 per share executed for orders in securities priced at $1 or more per share that access liquidity on the NASDAQ Market Center and that are entered through the same QMM MPID; provided, however, that orders that would otherwise be charged $0.0028 per share executed under Rule 7018 have not counted toward the Numerical Cap; and provided further that after the first month in which an MPID becomes a QMM MPID, the QMM's volume of liquidity added, provided, and/or routed through the QMM MPID during the month (as a percentage of Consolidated Volume) is not less than 0.05% lower than the volume of liquidity added, provided, and/or routed through such QMM MPID during the first month in which the MPID qualified as a QMM MPID (as a percentage of Consolidated Volume). For shares above the Numerical Cap, NASDAQ has charged the rate otherwise applicable under Rule 7018.

With regard to the $0.0028 per share executed access fee paid by QMMs, as described above, NASDAQ is proposing to eliminate the Numerical Cap and increase the charge for removing liquidity from NASDAQ from $0.0028 to $0.0029 per share executed for orders in securities priced at $1 or more per share that access liquidity on the NASDAQ

[3] Securities Exchange Act Release No. 68209 (November 9, 2012), 77 FR 69519 (November 19, 2012) (SR–NASDAQ–2012–126).

[4] Rule 7018(m). Last year, NASDAQ introduced an Excess Order Fee, aimed at reducing inefficient order entry practices of certain market participants that place excessive burdens on the systems of NASDAQ and its members and that may negatively impact the usefulness and life cycle cost of market data. In general, the determination of whether to impose the fee on a particular MPID is made by calculating the ratio between (i) entered orders, weighted by the distance of the order from the NBBO, and (ii) orders that execute in whole or in part. The fee is imposed on MPIDs that have an ''Order Entry Ratio'' of more than 100.

[5] Defined as 9:30 a.m. through 4:00 p.m., or such shorter period as may be designated by NASDAQ on a day when the securities markets close early (such as the day after Thanksgiving).

[6] A member MPID is considered to be quoting at the NBBO if it has a displayed order at either the national best bid or the national best offer or both the national best bid and offer. On a daily basis, NASDAQ will determine the number of securities in which the member satisfied the 25% NBBO requirement. To qualify for QMM designation, the MPID must meet the requirement for an average of 1,000 securities per day over the course of the month. Thus, if a member MPID satisfied the 25% NBBO requirement in 900 securities for half the days in the month, and satisfied the requirement for 1,100 securities for the other days in the month, it would meet the requirement for an average of 1,000 securities.

[7] See Rule 7014(f) and (g).

[8] ''Consolidated Volume'' is the total consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities.

[9] The QMM will also receive the $0.0005 per share rate during the first month in which an MPID becomes a QMM MPID.

[10] Designated Retail Orders (as defined in Rule 7018) are not be eligible to receive an NBBO Setter Incentive credit.

[11] If the QMM also participates in NASDAQ Investor Support Program (the ''ISP'') NASDAQ will pay the greater of any applicable credit under the ISP or the QMM program, but not a credit under both programs.

Market Center and that are entered through a QMM MPID.

NASDAQ adopted the $0.0028 access fee in March 2013.[12] The change reduced the rate QMMs were paying prior to the change from $0.0030 or $0.0029 per share executed but limited the number of shares on which the fee was calculated to a number of shares not to exceed the number of shares of liquidity provided through a QMM MPID.[13] In adopting the lower rate together with other new incentives, NASDAQ noted that the proposed changes to the program were intended to encourage members to promote price discovery and market quality by quoting at the NBBO for a significant portion of each day in a large number of securities, thereby benefitting NASDAQ and other investors by committing capital to support the execution of orders. NASDAQ subsequently limited the number of shares eligible for the incentive program's access fee rate to the lower of a number of shares not to exceed the number of shares of liquidity provided through a QMM MPID or 20 million shares per trading day.[14]

NASDAQ is now proposing to increase the fee assessed to members, but no longer restrict the number of shares eligible for the lower rate. NASDAQ believes that eliminating the Numerical Cap will further incent members to participate in the program by eliminating any restriction on the total number of shares eligible for the program's lower fee. NASDAQ notes that the increase in the charge to $0.0029 continues to represent a reduction in the access fees that most market participants are assessed under Rule 7018. NASDAQ will continue to require QMMs seeking to qualify for the $0.0029 rate to have, after the first month in which an MPID becomes a QMM MPID, volume of liquidity added, provided, and/or routed through the QMM MPID during the month (as a percentage of Consolidated Volume) that is not less than 0.05% lower than the volume of liquidity added, provided, and/or routed through such QMM MPID during the first month in which the MPID qualified as a QMM MPID (as a percentage of Consolidated Volume).

Amended Fees for TCP ITCH Data Feed Pairs

The Exchange is proposing to increase the fee assessed for use of TCP ITCH data feed pairs to connect to the NASDAQ System. TCP ITCH data feed pairs are a type of port pair[15] to which firms may subscribe to receive market data through a private (*i.e.,* not shared) connection to NASDAQ. By contrast, a firm may subscribe to a Multicast ITCH data feed pair,[16] which provides access to a shared distribution of market data, which is distributed to all subscribers simultaneously. NASDAQ assesses a fee of $500 per month for each port pair used to connect to NASDAQ using protocols other than Multicast ITCH. Currently, subscription to a TCP ITCH data feed pair is covered by this fee. Unlike Multicast ITCH data, TCP ITCH data requires substantially greater hardware infrastructure to support subscribers because NASDAQ must support each individual TCP ITCH connection, including the transmission of the large volume of market data through each port. By contrast, NASDAQ transmits market data for Multicast ITCH through a single point, which is accessed by all subscribers. In light of increased costs resulting from a need to support the hardware and support demands of the service, the Exchange is proposing to increase the fees for subscription to a TCP ITCH data port from $500 per month, per port pair to $750 per month, per port pair.

Changes to NASDAQ Market Center Tiers

NASDAQ is proposing to modify several tiers under which members may receive credits with respect to orders that provide liquidity. First, under Rule 7018(a)(1), NASDAQ provides credits to member firms for their displayed quotes/orders that provide liquidity in securities listed on NASDAQ. The tiers are based on various measurements of providing liquidity. Currently, the lowest credit NASDAQ provides is $0.0020 per share executed. This tier is the default if a member firm does not fall within any of the other tiers of the rule. NASDAQ is proposing to adopt a new default tier under which members would receive $0.0015 per share executed, while imposing modest volume requirements with respect to the $0.0020 tier. Specifically, to qualify for that tier, a member must have shares of liquidity provided in all securities during the month less than 0.10% of Consolidated Volume during the month,[17] through one or more of its Nasdaq Market Center MPIDs, including a daily average volume of shares of liquidity provided in securities listed on an exchange other than NASDAQ of at least 250,000. NASDAQ believes that the change to the $0.0020 tier will provide an incentive for members that trade NASDAQ-listed securities on NASDAQ to also use NASDAQ to trade securities listed on other exchanges. In addition, the reduction in the level of the default credit will allow NASDAQ to reduce costs in a period of persistent low trading volumes in the cash equities markets.

NASDAQ is also eliminating several tiers under Rules 7018(a)(1)–(3), which are tied to activity on the NASDAQ Options Market and which are not used significantly by market participants. Specifically, NASDAQ is removing from each subparagraph of Rule 7018(a) the following credit tiers, together with associated credits:

- member with (i) shares of liquidity provided in all securities during the month representing more than 0.10% of Consolidated Volume during the month, through one or more of its Nasdaq Market Center MPIDs, and (ii) an average daily volume during the month of more than 100,000 contracts of liquidity accessed or provided through one or more of its Nasdaq Options Market MPIDs.
- member with (i) shares of liquidity provided in all securities during the month representing more than 1.0% of Consolidated Volume during the month, through one or more of its Nasdaq Market Center MPIDs, and (ii) an average daily volume during the month of more than 200,000 contracts of liquidity accessed or provided through one or more of its Nasdaq Options Market MPIDs.
- member (i) with shares of liquidity provided in all securities during the month representing at least 0.05% of Consolidated Volume during the month, through one or more of its Nasdaq Market Center MPIDs, and (ii) that qualifies for the Penny Pilot Tier 4 NOM Market Maker Rebate to Add Liquidity under Chapter XV, Section 2 of the Nasdaq Options Market rules during the month through one or more of its Nasdaq Options Market MPIDs.
- member (i) with shares of liquidity provided in all securities during the

[12] Securities Exchange Act Release No. 68905 (February 12, 2013), 78 FR 11716 (February 19, 2013) (SR–NASDAQ–2013–023).

[13] See Rules 7018(a)(1)–(3), which assess a fee of $0.0030 or $0.0029 per share executed for orders that access liquidity on the NASDAQ Market Center.

[14] Securities Exchange Act Release No. 69376 (April 15, 2013), 78 FR 23611 (April 19, 2013) (SR–NASDAQ–2013–063).

[15] NASDAQ uses the term ''data feed pair'' herein and in the rule as a more precise description of the intended use and functionality of the port pair.

[16] For a fee of $1,000 per month for software-based TotalView-ITCH or $2,500 per month for combined software- and hardware-based TotalView-ITCH.

[17] If the member has at least 0.10% of Consolidated Volume during the month through one or more of its Nasdaq Market Center MPIDs, it would qualify for a credit of $0.0025 under Rule 7018(a)(1).

month representing at least 0.10% of Consolidated Volume during the month, through one or more of its Nasdaq Market Center MPIDs, and (ii) that qualifies for the Penny Pilot Tier 4 NOM Market Maker Rebate to Add Liquidity under Chapter XV, Section 2 of the Nasdaq Options Market rules during the month through one or more of its Nasdaq Options Market MPIDs.

NASDAQ is modifying the eligibility requirements for a tier found under each subparagraph of Rule 7018(a). Specifically, each of the identical tiers currently provides two means to qualify for a credit, which are based on the liquidity provided by a member's Designated Retail Orders. Currently, the tiers provide a:

• credit for displayed Designated Retail Orders, if entered through an MPID through which (i) at least 90% of the shares of liquidity provided during the month are provided through Designated Retail Orders, or (ii) the member provides shares of liquidity through Designated Retail Orders that represent at least 0.30% of Consolidated Volume during the month and the member qualifies for the Penny Pilot Tier 4 Customer and Professional Rebate to Add Liquidity under Chapter XV, Section 2 of the Nasdaq Options Market rules during the month through one or more of its Nasdaq Options Market MPIDs.

NASDAQ is removing the second criteria from each of the tiers, which ties eligibility for a credit to the volume of liquidity provided through Designated Retail Orders and the member's qualification for the Penny Pilot Tier 4 during the month through one or more of its Nasdaq Options Market MPIDs. A member will continue to qualify for the credit if it meets the remaining criteria focused on the extent to which the member uses an MPID for Designated Retail Orders.

NASDAQ is also clarifying language in two credit tiers under each subparagraph of Rule 7018(a). The language is designed to align the text of the tier with terms and definitions used in the NASDAQ Options Market rules, which are also referenced in the tiers. Specifically, NASDAQ is amending:

• the tier that provides a credit to members (i) with shares of liquidity provided in all securities during the month representing more than 0.15% of Consolidated Volume during the month, through one or more of its Nasdaq Market Center MPIDs, and (ii) an average daily volume during the month of more than 100,000 contracts of liquidity accessed or provided through one or more of its Nasdaq Option Market MPIDs. NASDAQ is deleting language concerning the volume calculation and replacing it with more precise language that references the NASDAQ Option Market rules. NASDAQ is not changing how eligibility for the tier is calculated in any way.

• The tier that provides a credit to members (i) with shares of liquidity provided in all securities during the month representing at least 0.45% of Consolidated Volume during the month, through one or more of its Nasdaq Market Center MPIDs, and (ii) that qualifies for the Penny Pilot Tier 8 Customer and Professional Rebate to Add Liquidity under Chapter XV, Section 2 of the Nasdaq Options Market rules during the month through one or more of its Nasdaq Options Market MPIDs. NASDAQ is adding, deleting and rearranging language in the rule to use more precise terms in references to rebates under the NASDAQ Options Market rules. NASDAQ is not changing how eligibility for the tier is calculated in any way.

Amended Fees for Execution and Routing of Securities Listed on NYSE

NASDAQ is proposing to amend fees assessed for routing orders in New York Stock Exchange, Inc. (''NYSE'') listed securities that execute at NYSE. Currently, NASDAQ assesses a charge of $0.0025 per share executed for DOTI, STGY, SCAN, SKNY, SKIP, TFTY, SAVE or SOLV orders executed at NYSE, as well as LIST orders executed at NYSE outside of an opening, closing, or reopening process. NASDAQ generally assesses a charge of $0.0030 per share executed for such orders executed elsewhere.[18] NASDAQ is proposing to increase the charge assessed for DOTI, STGY, SCAN, SKNY, SKIP, LIST, TFTY, SAVE and SOLV orders executed at NYSE to $0.0030 so that it is consistent with the fee generally charged for such order routing.

NASDAQ is also proposing to increase the fee assessed for execution of MOPB and MOPP orders executed at NYSE. Currently, NASDAQ assesses a charge of $0.0027 per share executed for MOPB or MOPP orders executed at NYSE, and a charge of $0.0035 per share executed for MOPB or MOPP orders executed at venues other than NYSE. NASDAQ is proposing to increase the charge assessed for execution of MOPB and MOPP orders executed at NYSE to $0.0035 per share executed, so that it is consistent with the fee assessed for such orders executed at venues other than NYSE.

2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[19] in general, and with Sections 6(b)(4) and 6(b)(5) of the Act,[20] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which NASDAQ operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The changes to the QMM Program are reasonable because they serve to maintain an incentive structure designed to benefit all market participants by encouraging quoting at or near the NBBO in a wide range of securities. The QMM program is intended to encourage members to promote price discovery and market quality by quoting at the NBBO for a significant portion of each day in a large number of securities, thereby benefitting NASDAQ and other investors by committing capital to support the execution of orders. The proposed changes to the program are intended to further promote these goals by eliminating the Numerical Cap, which limited the number of shares eligible for the reduced fee, while increasing the fee a modest amount to offset the now unlimited number of shares eligible for the lower fee of the program. Accordingly, NASDAQ hopes thereby to maintain the benefits associated with the QMM program while reducing its cost, thereby making the program sustainable in the longer term. In addition, the elimination of the Numerical Cap and the rate change are consistent with an equitable allocation of fees and not unfairly discriminatory because they do not alter the eligibility of QMMs to participate in the program and receive associated benefits.

The proposed fee increase to TCP ITCH data feed pairs under Rule 7015(g) is reasonable because it reflects the increased costs associated with offering the connectivity option. NASDAQ notes that it not raising the fee assessed for

[18] Members are charged $0.0005 per share executed for TFTY orders that execute at venues other than NYSE, NASDAQ OMX BX or NASDAQ OMX PSX. This rate reflects the fact that the routing table for TFTY orders is generally focused on low-cost execution venues. In addition, orders that execute at NASDAQ OMX BX or NASDAQ OMX PSX are generally assessed different fees than orders executed at other venues. NASDAQ also provides a credit of $0.0015 per share executed for orders that add liquidity at the NYSE after routing. See Rule 7018(a)(2).

[19] 15 U.S.C. 78f.

[20] 15 U.S.C. 78f(b)(4) and (5).

subscription to TCP ITCH to a level that equals or exceeds the subscription fee assessed for Multicast ITCH data subscription, which requires less hardware infrastructure and support than TCP ITCH. NASDAQ is taking a measured approach to increasing the fee and may further increase the fee in the future to more closely align the fee with costs. The proposed fee is equitable and not unfairly discriminatory because the Exchange is assessing the fee equally among subscribers to the service. Moreover, the proposed fee is not unfairly discriminatory as it enables the Exchange to allocate the increased costs of the connectivity option to those who subscribe to the service. The Exchange believes that the proposed fee for TCP ITCH data port connectivity access services will enable it to cover its costs and earn an appropriate return on its investment in market technology and services.

The modified criteria for the $0.0020 credit tier for members active in NASDAQ-listed securities is reasonable because it imposes a modest requirement to attain the credit. The change is also reasonable because it requires members that provide liquidity in securities listed on NASDAQ to also use NASDAQ for trading other securities, thereby promoting greater use of NASDAQ as a trading venue for such securities and potentially enhancing the level of liquidity provided in non-NASDAQ securities. The change is consistent with an equitable allocation of fees because the standards for the $0.0020 credit tier requires a level of liquidity provision that is less rigorous than tiers that provide larger credits, yet provides incentive for members to provide liquidity sufficient to achieve a larger credit than is available under the new default $0.0015 credit tier. The new criteria are not unreasonably discriminatory because NASDAQ believes that it will not be difficult for members currently receiving the $0.0020 credit to continue to qualify for it if they wish to do so.

The new default tier of $0.0015 per share executed is reasonable because although it will result in a reduction of credits for members not achieving other tiers, it will provide a means of reducing costs in a period of persistently low trading volumes. In addition, the new tier is consistent with an equitable allocation of fees and not unreasonably discriminatory because numerous tiers remain in effect through which members that support NASDAQ through more extensive levels of liquidity provision may receive higher credits. Accordingly, the lower tier is paid with respect to members whose participation in NASDAQ as liquidity providers is limited. To the extent that such members have opted to be more active on other trading venues, it is likely that they are receiving higher credits from such venues and will therefore not be significantly affected by the change on NASDAQ.

The proposed deletions of the credit tiers under the subparagraphs of Rule 7018(a) are reasonable because they have not been significantly used by market participants, and therefore have not had the intended effect of attracting order flow to NASDAQ. Elimination of unused tiers is consistent with an equitable allocation of fees and is not unfairly discriminatory because no members will be impacted by the change.

Similarly, the elimination of the optional criteria of tiers under each of the subparagraphs Rule 7018(a), which are tied to providing a certain level of shares of liquidity through Designated Retail Orders and qualifying for the Penny Pilot Tier 4 during a given month through one or more of its Nasdaq Options Market MPIDs, is reasonable because the optional criteria are not significantly used by market participants to qualify under the tiers. As a consequence, the criteria have not had the intended effect of attracting order flow to NASDAQ. Therefore, elimination of the unused criteria is consistent with an equitable allocation of fees and is not unfairly discriminatory because no members will be impacted by the change.

The change with respect to the charges assessed for routing NYSE-listed securities executed at NYSE is reasonable because it harmonizes these fees with the fees generally assessed for routing to venues other than NYSE. NASDAQ does not believe at this juncture that fees assessed members for routing NYSE-listed securities to the NYSE should be lower than the fees assessed members for routing such securities to other markets other than NYSE. The change is consistent with an equitable allocation of fees because it is allocated solely to members that use NASDAQ's routing services and opt to use the specified routing strategies for accessing NYSE. The change is not unfairly discriminatory because it will make the economics applicable to executions on NYSE less disparate from the fees applicable to executions on other venues. Moreover, the change is not discriminatory because it applies equally to all members using the specified routing strategies.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASDAQ does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.[21] NASDAQ notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, NASDAQ must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, NASDAQ believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. In this instance, although the change to the QMM program may limit the benefits of the program, the incentive program in question remain in place and is itself reflective of the need for exchanges to offer significant financial incentives to attract order flow. The changes to routing fees do not impose a burden on competition because NASDAQ's routing services are optional and are the subject of competition from other exchanges and broker-dealers that offer routing services, as well as the ability of members to develop their own routing capabilities. Finally, the changes to fee tiers and access services fees, although constituting fee increases, are being made with respect to basic trading services for which numerous substitutes exist. Accordingly, if the changes are unattractive to market participants, it is likely that NASDAQ will lose market share as a result. Accordingly, NASDAQ does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

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.

[21] 15 U.S.C. 78f(b)(8).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing change has become effective pursuant to Section 19(b)(3)(A) of the Act,[22] and paragraph (f)[23] of Rule 19b–4, thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2013–114 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–2013–114. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2013–114 and should be submitted on or before October 7, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–22401 Filed 9–13–13; 8:45 am]

BILLING CODE 8011–01–P

[22] 15 U.S.C. 78s(b)(3)(A).

[23] 17 CFR 240.19b–4(f).

[24] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70358; File No. SR–FINRA–2013–031]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change Relating to Participation on the Alternative Display Facility

September 10, 2013.

On July 18, 2013, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend FINRA Rules 6271 and 6272 regarding the requirements for members seeking registration as FINRA Alternative Display Facility (''ADF'') Market Participants. The proposed rule change was published for comment in the **Federal Register** on August 1, 2013.[3] The Commission received one comment letter in response to the proposed rule change.[4]

Section 19(b)(2) of the Act[5] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day for this filing is September 15, 2013. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider this proposed rule change, comments received, and any response to comments submitted by FINRA.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[6] designates October 30, 2013 as the date by which the Commission should either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–FINRA–2013–031).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–22399 Filed 9–13–13; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 70048 (July 26, 2013), 78 FR 46652.

[4] *See* Letter to Elizabeth M. Murphy, Secretary, Commission, from David Harris, Chairman and CEO, National Stock Exchange, Inc., dated September 9, 2013.

[5] 15 U.S.C. 78s(b)(2).

[6] 15 U.S.C. 78s(b)(2).

[7] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

Release No. 34–70364; File No. SR–EDGA–2013–26]

Self-Regulatory Organizations; EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments to the EDGA Exchange, Inc. Fee Schedule

September 10, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 30, 2013, EDGA Exchange, Inc. (the ''Exchange'' or ''EDGA'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Fee Schedule to: (i) Decrease the fee for orders yielding Flag RP; (ii) add the Step-Up Tier 2; and (iii) move the bullets related to ''added flags,'' ''removal flags,'' and ''routed flags'' from the Definitions section to the General Notes section. All of the changes described herein are applicable to EDGA Members.[3] The text of the proposed rule change is available on the Exchange's Internet Web site at *www.directedge.com,* at the Exchange's principal office, and at the Public Reference Room of the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fee Schedule to: (i) Decrease the fee for orders yielding Flag RP; (ii) add the Step-Up Tier 2; and (iii) move the bullets related to ''added flags,'' ''removal flags,'' and ''routed flags'' from the Definitions section to the General Notes section.

Flag RP

Currently, the Exchange assesses a fee of $0.0005 per share for non-displayed orders that add liquidity using the Route Peg order type, yielding Flag RP. The Exchange proposes to decrease this rate from a fee of $0.0005 to $0.0004 per share, resulting in a rate that is $0.0001 below the standard rate of $0.0005 for adding liquidity on the Exchange.

Addition of Step-Up Tier 2

Currently, Footnote 4 of the Fee Schedule contains the Step-Up Tier, which provides Members with a reduced fee of $0.0003 per share to add liquidity to the Exchange when the Member, on an MPID basis, adds more than 0.10% of the total consolidated volume (''TCV'') on EDGA on a daily basis, measured monthly, more than the MPID's December 2012 added TCV. Where an MPID's December 2012 TCV is zero, the Exchange applies a default TCV baseline of 10,000,000 shares. The Exchange proposes to add the Step-Up Tier 2 to Footnote 4 of the Fee Schedule. The Step-Up Tier 2 would provide Members with a reduced fee of $0.0003 per share to add liquidity to the Exchange when the Member: (i) On an MPID basis, adds more than 0.05% of the TCV on EDGA on a daily basis, measured monthly, more than the MPID's December 2012 added TCV; and (ii) has an ''added liquidity'' to ''added plus removed liquidity'' ratio of at least 85%. Where an MPID's December 2012 TCV is zero, the Exchange would apply a default TCV baseline of 10,000,000 shares.

The Exchange also proposes to change the name of the Step-Up Tier to the ''Step-Up Tier 1'' to differentiate it from the proposed Step-Up Tier 2. Furthermore, the Exchange proposes to remove the phrase ''Volume from non-displayed orders that add liquidity will count towards this tier'' under the Step-Up Tier 1 because the Fee Schedule includes the flags assigned to non-displayed orders that add liquidity (DM, HA, PA and RP) in the list of added flags that count towards tiers under the Definitions section (proposed to be moved to the General Notes section, see below). The Exchange notes that volume from non-displayed orders that add liquidity will continue to count towards the volume tiers in Footnote 4, and would also count towards the proposed Step-Up Tier 2.

Amendments to Lists of Added, Removal and Routed Flags

Currently, the Definitions section in the Fee Schedule contains three bullets that contain the list of applicable ''added flags,'' ''removal flags,'' and ''routed flags,'' that may be considered when calculating whether a Member satisfied a certain tier. The Exchange proposes to move the text contained within each of the three bullets to the General Notes section. In addition, the Exchange proposes to re-word the text of each bullet to improve readability and remove references to the flags as defined terms. For example, the amended bullet regarding added flags would read as follows: ''Unless otherwise indicated, the following added flags are counted towards tiers . . .'' The Exchange notes that the list of added/removal/routed flags associated with each bullet would remain unchanged.

Implementation Date

The Exchange proposes to implement these amendments to its Fee Schedule on September 3, 2013.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[4] in general, and furthers the objectives of Section 6(b)(4),[5] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities.

Flag RP

The Exchange believes that amending the fee for orders that yield Flag RP from $0.0005 to $0.0004 per share represents an equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities because a rate of $0.0004 continues to be less than the prevailing rates for other forms of non-displayed order types that add liquidity (e.g., the Exchange assesses a charge of $0.0005 per share for non-displayed orders that add liquidity using the Midpoint Discretionary order type yielding Flag DM and $0.0010 per share for non-displayed orders that add liquidity yielding Flag HA).[6] Within the non-displayed category of liquidity, Route Peg orders have the lowest order book priority, followed by Midpoint Discretionary orders and then non-displayed orders. Lower order book priority correlates to a lower chance of execution, which justifies a lower fee. Therefore, the Exchange is proposing to continue to offer a lower fee for Flag RP. Furthermore, the Exchange notes that the proposed rate change is in response to the August 2013 change in the standard rate from a fee of $0.0006 per share to $0.0005 per share for adding liquidity on EDGA.[7] The proposed change would cause the fee for Flag RP to continue to be $0.0001 per share below the standard rate for adding liquidity on the Exchange. Lastly, the Exchange believes that the proposed rate is non-discriminatory in that it would apply uniformly to all Members.

[3] As defined in Exchange Rule 1.5(n).

[4] 15 U.S.C. 78f.

[5] 15 U.S.C. 78f(b)(4).

[6] *See* Securities Exchange Act Release No. 67839 (September 12, 2012), 77 FR 57631 (September 18, 2012) (SR–EDGA–2012–41) (adding Flag RP to the Fee Schedule).

[7] *See* Securities Exchange Release No. 70146 (August 8, 2013), 78 FR 49574 (August 14, 2013) (SR–EDGA–2013–21).

Addition of Step-Up Tier 2

The Exchange believes a reduced fee of $0.0003 per share for adding liquidity provided by the Step-Up Tier 2 versus the standard fee of $0.0005 per share represents an equitable allocation of reasonable dues, fees, and other charges since reduced fees reward higher liquidity provision commitments by Members. The Exchange believes that offering Members a reduced fee will incentivize adding liquidity on the Exchange. Such increased volume would increase potential revenue to the Exchange and allow the Exchange to spread its administrative and infrastructure costs over a greater number of shares, which would result in lower per share costs. The Exchange may then pass on these savings to Members in the form of reduced fees. The increased liquidity would also benefit all investors by deepening EDGA's liquidity pool, offering additional flexibility for all investors to enjoy cost savings, supporting the quality of price discovery, promoting market transparency and improving investor protection. Volume-based reduced fees such as the proposed Step-Up Tier 2 have been widely adopted in the cash equities markets, and are equitable because volume-based reduced fees are open to all Members on an equal basis and provide discounts that are reasonably related to the value to an exchange's market quality associated with higher levels of market activity, such as higher levels of liquidity provision and introduction of higher volumes of orders into the price and volume discovery process.

In addition, the criteria for the Step-Up Tier 2 is also reasonable as compared to similar pricing mechanisms employed by The Nasdaq Stock Market LLC (''Nasdaq'') that also offers rebates and tiers to add liquidity through a single MPID.[8] The concept of a single MPID also encourages those MPIDs that do the most to enhance EDGA's market quality through unified management of a high volume of added liquidity. The Exchange also wishes to ensure that its Fee Schedule does not provide excessive encouragement to Members to aggregate the activity of multiple MPIDs for the sole purpose of achieving a tiered discounted rate. Thus, a Member that is not able to achieve the requisite level of liquidity provision will not be able to meet the threshold by coordinating and consolidating the trading activity of other related firms using multiple MPIDs. The Exchange believes that it is reasonable and equitable to offer a discounted rate to Members that provide volume through a single MPID because the Exchange believes that such Members are most likely to provide consistent liquidity during periods of market stress and to manage their quotes/orders in a coordinated manner that promotes price discovery and market stability.

The Exchange notes that the reduced fee provided by the Step-Up Tier 2 is equivalent to that provided by the Step-Up Tier 1. The Exchange believes that the reduced fee of $0.0003 per share provided by the Step-Up Tier 2 is reasonable because, although the Step-Up Tier 2 requires a lower added TCV threshold in comparison to the Step-Up Tier 1, the Step-Up Tier 2 contains an additional requirement that the Member have an ''added liquidity'' to ''added plus liquidity'' ratio of at least 85%. The Exchange believes that the requirement that a Member have an ''added liquidity'' to ''added plus removed liquidity'' ratio of at least 85% is reasonable because it would incentivize Members aspiring to achieve the Step-Up Tier 2 to add liquidity to the Exchange. Members that primarily post liquidity are more valuable Members to the Exchange and the marketplace in terms of liquidity provision and would therefore be rewarded with a reduced fee for having a high ''added liquidity'' to ''added plus removed liquidity'' ratio.

The Exchange also believes that removal of the phrase ''Volume from non-displayed orders that add liquidity will count towards this tier'' under the Step-Up Tier 1 is reasonable because the Fee Schedule already includes the flags assigned to non-displayed orders that add liquidity (DM, HA, PA and RP) in the list of added flags that count towards tiers under the Definitions section (proposed to be moved to the General Notes section, see below). The Exchange notes that volume from non-displayed orders that add liquidity will continue to count towards the volume tiers in Footnote 4, and would also count towards the proposed Step-Up Tier 2. The removal of such language from Footnote 4 eliminates redundancy and clarifies the Fee Schedule.

Lastly, the Exchange believes that the proposed Step-Up Tier 2 is non-discriminatory because it would apply uniformly to all Members.

B. Self-Regulatory Organization's Statement on Burden on Competition

These proposed rule changes do not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that any of these changes represent a significant departure from previous pricing offered by the Exchange or pricing offered by the Exchange's competitors. Additionally, Members may opt to disfavor EDGA's pricing if they believe that alternatives offer them better value. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of Members or competing venues to maintain their competitive standing in the financial markets.

Flag RP

The Exchange believes that its proposal to decrease the fee for orders yielding Flag RP from $0.0005 to $0.0004 per share would increase intermarket competition because the lower fee for orders that yield Flag RP would incent market participants to send to the Exchange non-displayed orders that add liquidity using the Route Peg order type and yield Flag RP. The Exchange believes that the proposed rate change would neither increase nor decrease intramarket competition because the proposed rate would apply uniformly to all Members.

Addition of Step-Up Tier 2

The Exchange believes that the proposed addition of the Step-Up Tier 2 would increase intermarket competition as it would incentivize market participants to add liquidity to the Exchange in order to qualify for the reduced fee for adding liquidity. The Exchange believes that the Step-Up Tier 2 would neither increase nor decrease intramarket competition because the reduced fee for adding liquidity would be available to all Members that satisfy the criteria required to achieve the tier.

Amendments to Lists of Added, Removal and Routed Flags

The Exchange believes that the proposed relocation and changes to the bullets related to ''added flags,'' ''removal flags,'' and ''routed flags'' in its Fee Schedule would not affect intermarket nor intramarket competition because this change is not designed to amend any fee or rebate or alter the manner in which the Exchange assesses fees or calculates rebates. The proposed change is intended to provide greater transparency to Members with regard to which added, removal and routed flags are counted towards certain tiers.

[8] *See* Nasdaq OMX, Price List—Trading & Connectivity, *http://nasdaqtrader.com/Trader.aspx?id=PriceListTrading2.*

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from Members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [9] and Rule 19b–4(f)(2) [10] thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–EDGA–2013–26 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–EDGA–2013–26. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–EDGA–2013–26 and should be submitted on or before October 7, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–22404 Filed 9–13–13; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4 (f)(2).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70356; File No. SR–NYSEArca–2013–86]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change To List and Trade Shares of Franklin Short Duration U.S. Government ETF Under NYSE Arca Equities Rule 8.600

September 10, 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 27, 2013, NYSE Arca, Inc. (''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade shares of the following under NYSE Arca Equities Rule 8.600 (''Managed Fund Shares''): Franklin Short Duration U.S. Government ETF. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade shares (''Shares'') of the following under NYSE Arca Equities Rule 8.600, which governs the listing and trading of Managed Fund Shares[3] on the Exchange: Franklin Short Duration U.S. Government ETF (the ''Fund'').[4] The Shares of the Fund will be offered by Franklin ETF Trust (the ''Trust''). The Trust will be registered with the Commission as an open-end

[1] 15 U.S.C.78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] A Managed Fund Share is a security that represents an interest in an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1) (''1940 Act'') organized as an open-end investment company or similar entity that invests in a portfolio of securities selected by its investment adviser consistent with its investment goal and policies. In contrast, an open-end investment company that issues Investment Company Units, listed and traded on the Exchange under NYSE Arca Equities Rule 5.2(j)(3), seeks to provide investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index or combination thereof.

[4] The Securities and Exchange Commission (''Commission'') has previously approved listing and trading on the Exchange of a number of actively managed funds under Rule 8.600. *See, e.g.,* Securities Exchange Act Release Nos. 57801 (May 8, 2008), 73 FR 27878 (May 14, 2008) (SR–NYSEArca–2008–31) (order approving Exchange listing and trading of twelve actively-managed funds of the WisdomTree Trust); 60460 (August 7, 2009), 74 FR 41468 (August 17, 2009) (SR–NYSEArca–2009–55) (order approving listing and trading of Dent Tactical ETF); 63076 (October 12, 2010), 75 FR 63874 (October 18, 2010) (SR–NYSEArca–2010–79) (order approving listing and trading of Cambria Global Tactical ETF).

management investment company.[5] Franklin Advisers, Inc. will serve as the investment manager to the Fund (the ''Manager''). Franklin Templeton Distributors, Inc. (the ''Distributor'') will be the principal underwriter and distributor of the Fund's Shares. Franklin Templeton Services, LLC (the ''Administrator'') will serve as administrator for the Fund and The Bank of New York Mellon will serve as sub-administrator for the Fund. The Bank of New York Mellon will serve as the custodian and transfer agent for the Fund (''Custodian'' and ''Transfer Agent,'' respectively).

Commentary .06 to Rule 8.600 provides that, if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect a ''fire wall'' between the investment adviser and the broker-dealer with respect to access to information concerning the composition of and/or changes to such investment company portfolio. Commentary .06 further requires that personnel who make decisions on the open-end fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the open-end fund's portfolio.[6] Commentary .06 to Rule 8.600 is similar to Commentary .03(a)(i) and (iii) to NYSE Arca Equities Rule 5.2(j)(3); however, Commentary .06 in connection with the establishment of a ''fire wall'' between the investment adviser and the broker-dealer reflects the applicable open-end fund's portfolio, not an underlying benchmark index, as is the case with index-based funds. The Manager is not registered as a broker-dealer but it is affiliated with a broker-dealer and has represented that it has implemented a fire wall with respect to its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio. In the event (a) the Manager or any sub-adviser becomes newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, they will implement a fire wall with respect to their relevant personnel or broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

Fund Investments

According to the Registration Statement, the Fund's investment goal is to provide a high level of current income as is consistent with prudent investing, while seeking preservation of capital. The Fund will seek to achieve its investment goal by investing, under normal market conditions,[7] at least 80% of its net assets in securities issued or guaranteed by the U.S. government, its agencies, or instrumentalities. The Fund currently targets an estimated average portfolio duration[8] of three (3) years or less. The Manager calculates the duration of the portfolio by modeling the cash flows of all the individual holdings, including the impact of prepayment variability and coupon adjustments where applicable, to determine the duration of each holding and then aggregating based on the size of the position. In performing this duration calculation, the Manager utilizes third party models as adjusted based on the Manager's market expectations with respect to interest rates, borrower-level factors affecting credit availability, the condition of the housing market as well as broader economic factors, among other things, consistent with industry practice. Because the Fund publishes its portfolio on a daily basis, market participants have the ability to assess whether the duration calculation is consistent with generally accepted market calculations of duration.

According to the Registration Statement, the Fund generally will invest a substantial portion of its assets in mortgage-backed securities[9] issued or guaranteed by the U.S. government, its agencies or instrumentalities, including adjustable rate mortgage securities, but the Fund also will invest in direct obligations of the U.S. government (such as Treasury bonds, bills and notes) and in securities issued or guaranteed by the U.S. government, its agencies or instrumentalities, including government sponsored entities. All of the Fund's principal investments will be debt securities, including bonds, notes and debentures.

According to the Registration Statement, the mortgage-backed

[5] The Trust will be registered under the 1940 Act. On February 7, 2013, the Trust filed a registration statement on Form N–1A under the Securities Act of 1933 (the ''1933 Act'') (15 U.S.C. 77a), and under the 1940 Act, relating to the Fund (File Nos. 333–186504 and 811–22801) (the ''Registration Statement''). The description of the operation of the Trust and the Fund herein is based, in part, on the Registration Statement. The Trust filed an application on June 8, 2012, and amendments to the application on October 26, 2012 and December 18, 2012, requesting an Order under Section 6(c) of the 1940 Act for exemptions from various provisions of the 1940 Act and rules thereunder (File No. 812–14042) (''Exemptive Application''). The Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. *See* Investment Company Act Release No. 30350 (January 15, 2013) (''Exemptive Order''). Investments made by the Fund will comply with the conditions set forth in the Exemptive Application and the Exemptive Order.

[6] An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the ''Advisers Act''). As a result, the Manager and its related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

[7] The term ''under normal market conditions'' includes, but is not limited to, the absence of extreme volatility or trading halts in the equity markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance.

[8] In comparison to maturity (which is the date on which a debt instrument ceases and the issuer is obligated to repay the principal amount), duration is a measure of the expected price volatility of a debt instrument as a result of changes in market rates of interest, based on the weighted average timing of the instrument's expected principal and interest payments and other factors. Duration differs from maturity in that it considers a security's yield, coupon payments, principal payments, call features and coupon adjustments in addition to the amount of time until the security finally matures. As the value of a security changes over time, so will its duration. Prices of securities with lower durations tend to be less sensitive to interest rate changes than securities with higher durations. In general, a portfolio of securities with a lower duration can be expected to be less sensitive to interest rate changes than a portfolio with a higher duration.

[9] Mortgage-backed securities represent an interest in a pool of mortgage loans made by banks and other financial institutions to finance purchases of homes, commercial buildings and other real estate. The individual mortgage loans are packaged or ''pooled'' together for sale to investors. As the underlying mortgage loans are paid off, investors receive principal and interest payments. These securities may be fixed-rate or adjustable-rate mortgage-backed securities (ARMS). Further, these securities can also be categorized as collateralized mortgage obligations (CMOs) or real estate mortgage investment conduits (REMICs) where they are divided into multiple classes with each class being entitled to a different share of the principal and/or interest payments received from the pool of underlying assets.

securities in which the Fund will substantially invest are issued or guaranteed by the U.S. government, its agencies or instrumentalities, such as Ginnie Mae and U.S. government-sponsored entities, such as Fannie Mae and Freddie Mac. Most mortgage-backed securities are pass-through securities, which means they provide investors with monthly payments consisting of a pro rata share of both regular interest and principal payments as well as unscheduled prepayments on the underlying mortgage loans. Because prepayment rates of individual mortgage pools vary widely, the average life of a particular pool cannot be predicted accurately. Adjustable-rate mortgage-backed securities include ARMS and other mortgage-backed securities with interest rates that adjust periodically to reflect prevailing market interest rates.

According to the Registration Statement, the Fund may invest in securities with various levels of credit support [10] including, but not limited to, those issued or guaranteed by the Federal Home Loan Banks, Veterans Administration, Federal Housing Authority, Export-Import Bank of the United States, Overseas Private Investment Corporation, Commodity Credit Corporation, Small Business Administration, U.S. Agency for International Development, Tennessee Valley Authority and Farm Credit System.

The Fund may invest in callable agency securities, which give the issuer (the U.S. government agency) the right to redeem the security prior to maturity. The Fund may also invest in U.S. government inflation-indexed securities.[11] Additionally, the Fund may invest, without limitation, in mortgage dollar rolls.[12] However, the Fund will invest only in covered mortgage dollar rolls, meaning that the Fund establishes a segregated account with liquid securities equal in value to the securities it will repurchase. The Fund intends to enter into mortgage dollar rolls only with high quality securities dealers and banks as determined by the Manager under board approved counterparty review procedures.

Other Investments

According to the Registration Statement, when the Manager believes market or economic conditions are unfavorable for investors, the Manager may invest up to 100% of the Fund's assets in a temporary defensive manner by holding all or a substantial portion of its assets in cash, cash equivalents or other high quality short-term investments. Temporary defensive investments generally may include short-term U.S. government securities, high-grade commercial paper, bank obligations, repurchase agreements, money market fund shares (including shares of an affiliated money market fund) and other money market instruments. The Manager also may invest in these types of securities or hold cash while looking for suitable investment opportunities or to maintain liquidity.[13]

The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid securities (calculated at the time of investment), including Rule 144A securities deemed illiquid by the Manager.[14] The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid securities. Illiquid securities include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.[15]

The Fund may invest in other investment companies to the extent permitted by the 1940 Act, Commission rules thereunder and exemptions thereto. Section 12(d)(1)(A) of the 1940 Act requires that, as determined immediately after a purchase is made, (i) not more than 5% of the value of the Fund's total assets will be invested in the securities of any one investment company, (ii) not more than 10% of the value of the Fund's total assets will be invested in securities of investment companies as a group, and (iii) not more than 3% of the outstanding voting stock of any one investment company will be owned by the Fund. Certain exceptions to these limitations may apply, and the Fund may also rely on any future applicable Commission rules or orders that provide exceptions to these limitations.

The Fund may invest up to 20% of its net assets in securities not issued or guaranteed by the U.S. government, its agencies or instrumentalities, including mortgage backed securities. According to the Registration Statement, these investments may include investment grade debt securities.[16] The Fund will

[10] Government agency or instrumentality securities have different levels of credit support. For example, Ginnie Mae securities carry a guarantee as to the timely repayment of principal and interest that is backed by the full faith and credit of the U.S. government. However, the full faith and credit guarantee does not apply to the market prices and yields of the Ginnie Mae securities or to the net asset value (''NAV''), trading price or performance of the Fund, which will vary with changes in interest rates and other market conditions. Fannie Mae and Freddie Mac pass-through mortgage certificates are backed by the credit of the respective instrumentality and are not guaranteed by the U.S. government. Other securities issued by government agencies or instrumentalities, including government sponsored entities, may only be backed by the credit worthiness of the issuing institution, not the U.S. Government, or the issuers may have the right to borrow from the U.S. Treasury to meet its obligations.

[11] Inflation-indexed securities are fixed-income securities that are structured to provide protection against inflation. The value of the security's principal or the interest income paid on the security is adjusted to track changes in an official inflation measure. The U.S. Treasury uses the Consumer Price Index for Urban Consumers as the inflation measure.

[12] In a mortgage dollar roll, the Fund will sell (or buy) mortgage-backed securities for delivery on a specified date and simultaneously contract to repurchase (or sell) substantially similar (same type, coupon, and maturity) securities on a future date. During the period between a sale and repurchase, the Fund will forgo principal and interest paid on the mortgage-backed securities. The Fund will earn or lose money on a mortgage dollar roll from any difference between the sale price and the future purchase price. In a sale and repurchase, the Fund also earns money on the interest earned on the cash proceeds of the initial sale.

[13] Circumstances under which the Fund may temporarily depart from its normal investment process include, but are not limited to, extreme volatility or trading halts in the equity markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance.

[14] In reaching liquidity decisions, the Manager may consider the following factors: the frequency of trades and quotes for the security, the number of dealers wishing to purchase or sell the security and the number of other potential purchasers; dealer undertakings to make a market in the security; and the nature of the security and the nature of the marketplace in which it trades (*e.g.,* the time needed to dispose of the security, the method of soliciting offers, and the mechanics of transfer).

[15] The Commission has stated that long-standing Commission guidelines have required open-end funds to hold no more than 15% of their net assets in illiquid securities and other illiquid assets. *See* Investment Company Act Release No. 28193 (March 11, 2008), 73 FR 14618 (March 18, 2008), footnote 34. *See also,* Investment Company Act Release No. 5847 (October 21, 1969), 35 FR 19989 (December 31, 1970) (Statement Regarding ''Restricted Securities''); Investment Company Act Release No. 18612 (March 12, 1992), 57 FR 9828 (March 20, 1992) (Revisions of Guidelines to Form N–1A). A fund's portfolio security is illiquid if it cannot be disposed of in the ordinary course of business within seven days at approximately the value ascribed to it by the fund. *See* Investment Company Act Release No. 14983 (March 12, 1986), 51 FR 9773 (March 21, 1986) (adopting amendments to Rule 2a-7 under the 1940 Act); Investment Company Act Release No. 17452 (April 23, 1990), 55 FR 17933 (April 30, 1990) (adopting Rule 144A under the 1933 Act).

[16] Debt securities that are rated Baa or higher by Moody's, BBB or higher by S&P, or unrated securities deemed by the Manager to be of

not invest in non-investment grade debt securities. The Fund may also lend a portfolio of securities up to 33⅓% of the value of its total assets (measured at the time of the most recent loan). In exchange, the Fund will receive cash collateral from a borrower at least equal to the value of the security loaned by the Fund. Cash collateral typically consists of any combination of cash, securities issued by the U.S. government and its agencies and instrumentalities, and irrevocable letters of credit. Such securities will only be loaned to parties that meet creditworthiness standards approved by the Fund's board. The Fund may also invest in multi-class pass-through securities, when-issued, delayed delivery and to-be-announced transactions; callable securities; Franklin Templeton money market funds; repurchase agreements; U.S. Treasury rolls; unrated debt securities deemed by the Manager to be of comparable quality to investment grade debt securities; variable rate securities; and zero coupon, deferred interest and pay-in-kind bonds.

The Fund will not invest in equity securities other than possible investments in shares of other investment companies as noted above.

The Fund will be classified as a ''diversified'' investment company under the 1940 Act.[17]

The Fund will not invest more than 25% of the Fund's net assets in securities of issuers in any one industry (other than securities issued or guaranteed by the U.S. government or any of its agencies or instrumentalities or securities of other investment companies, whether registered or excluded from registration under Section 3(c) of the 1940 Act).[18]

Additionally, the Fund will not purchase the securities of any one issuer (other than the U.S. government or any of its agencies or instrumentalities or securities of other investment companies, whether registered or excluded from registration under Section 3(c) of the 1940 Act) if immediately after such investment (i) more than 5% of the value of the Fund's total assets would be invested in such issuer or (ii) more than 10% of the outstanding voting securities of such issuer would be owned by the Fund, except that up to 25% of the value of the Fund's total assets may be invested without regard to such 5% and 10% limitations.

The Fund intends to qualify for and to elect treatment as a separate regulated investment company (''RIC'') under Subchapter M of the Internal Revenue Code.[19]

The Shares will conform to the initial and continued listing criteria under NYSE Arca Equities Rule 8.600. The Exchange represents that, for initial and/or continued listing, the Fund will be in compliance with Rule 10A–3 [20] under the Act, as provided by NYSE Arca Equities Rule 5.3. A minimum of 100,000 Shares for the Fund will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio as defined in NYSE Arca Equities Rule 8.600(c)(2) will be made available to all market participants at the same time.

Investments in Derivatives

Consistent with the Exemptive Order, to pursue its investment goal, the Fund may invest in interest rate, fixed income index, bond and U.S. Treasury futures contracts. The use of these derivative transactions may allow the Fund to obtain net long or short exposures to selected interest rates or durations. These derivatives may be used to hedge risks associated with the Fund's other portfolio investments. The Fund expects that no more than 20% of the value of the Fund's net assets will be invested in derivative instruments.

The Fund will not invest in options, futures contracts or swap agreements other than as set forth in the preceding paragraph. The Fund's investments will be consistent with its investment goal and will not be used to enhance leverage.

Creation and Redemption of Shares

According to the Registration Statement, the Fund will issue and redeem Shares on a continuous basis at NAV in aggregations of 50,000 Shares (''Creation Units'').

The consideration for purchase of Creation Units of the Fund will consist of (i) a specified all-cash payment (the ''Cash Deposit'') or (ii) a designated portfolio of securities (including any portion of such securities for which cash may be substituted) (the ''Deposit Securities''), together with the deposit of a specified cash payment (the ''Cash Component''). The Cash Component will be equal to the difference between the NAV of the Shares (per Creation Unit) and the market value of the Deposit Securities. Together, the Deposit Securities and the Cash Component or, alternatively, the Cash Deposit, constitute the ''Fund Deposit,'' which will be applicable to creation requests received in proper form. The Fund Deposit represents the minimum initial and subsequent investment amount for a Creation Unit of the Fund.

The Manager will make available through the National Securities Clearing Corporation (''NSCC'') on each business day prior to the opening of business on the Exchange, the list of names and the required number or par value of each Deposit Security and the amount of the Cash Component (or Cash Deposit) to be included in the current Fund Deposit (based on information as of the end of the previous business day for the Fund). Such Fund Deposit is applicable to purchases of Creation Units of Shares until such time as the next-announced Fund Deposit is made available.

To be eligible to place orders with the Distributor and to create a Creation Unit of the Fund, an entity must be: (i) a broker-dealer or other participant in the clearing process through the Continuous Net Settlement System of the NSCC (the ''Clearing Process''), a clearing agency that is registered with the Commission, or (ii) a Depositary Trust Company (''DTC'') Participant, and must have executed an agreement with the Distributor, with respect to creations and redemptions of Creation Units. An entity that satisfies these requirements is known as an ''Authorized Participant.'' Creation Units may be purchased only by or through an Authorized Participant.

To initiate an order for a Creation Unit, an Authorized Participant must submit to the Distributor or its agent an irrevocable order to purchase Shares, in proper form, before 4:00 p.m., Eastern time (the ''Cut-off Time'') on any business day to receive that day's NAV. Once the Fund has accepted an order, upon the next determination of the NAV of the Shares, the Fund will confirm the issuance of a Creation Unit, against receipt of payment, at such NAV. Except as provided in the Registration Statement, a Creation Unit will not be issued until the transfer of good title to the Fund of the Deposit Securities and the payment of the Cash Component (or Cash Deposit) have been completed. A standard creation transaction fee will be imposed to offset the transfer and other transaction costs associated with the issuance of Creation Units.

comparable quality, are considered to be ''investment grade.''

[17] The diversification standard is set forth in Section 5(b)(1) of the 1940 Act.

[18] *See* Form N–1A, Item 9. The Commission has taken the position that a fund is concentrated if it invests more than 25% of the value of its total assets in any one industry. *See, e.g.,* Investment Company Act Release No. 9011 (October 30, 1975), 40 FR 54241 (November 21, 1975).

[19] 26 U.S.C. 851 *et seq.*

[20] 17 CFR 240.10A–3.

Shares of the Fund may be redeemed by Authorized Participants only in Creation Units at their NAV next determined after receipt of a redemption request in proper form by the Distributor and only on a business day. The Manager will make available through the NSCC, prior to the opening of business on the Exchange on each business day, the designated portfolio of securities (including any portion of such securities for which cash may be substituted) that will be applicable to redemption requests received in proper form on that day (''Fund Securities''), and an amount of cash equal to the difference between the NAV of the Shares being redeemed, as next determined after the receipt of a redemption request in proper form, and the value of Fund Securities.

According to the Registration Statement, such Fund Securities and the corresponding cash amount will be applicable, in order to effect redemptions of Creation Units of the Fund, until such time as the next announced composition of the Fund Securities and cash amount is made available. Fund Securities received on redemption may not be identical to Deposit Securities that are applicable to creations of Creation Units.

When partial or full cash redemptions of Creation Units are available or specified, they will be effected in essentially the same manner as in-kind redemptions. In the case of partial or full cash redemption, the Authorized Participant receives the cash equivalent of the Fund Securities it would otherwise receive through an in-kind redemption, plus the same cash amount to be paid to an in-kind redeemer.

Redemption requests for Creation Units of the Fund must be submitted to the Distributor by or through an Authorized Participant. An Authorized Participant must submit an irrevocable request to redeem Shares generally before 4:00 p.m., Eastern time on any business day, in order to receive that day's NAV. A standard redemption transaction fee will be imposed to offset transfer and other transaction costs that may be incurred by the Fund.

The right of redemption may be suspended or the date of payment postponed with respect to the Fund: (i) For any period during which the Exchange is closed (other than customary weekend and holiday closings); (ii) for any period during which trading on the Exchange is suspended or restricted; (iii) for any period during which an emergency exists as a result of which disposal of the Fund's portfolio securities or determination of its NAV is not reasonably practicable; or (iv) in such other circumstance as is permitted by the Commission.

Detailed descriptions of the Fund's procedures for creating and redeeming Shares, transaction fees and expenses, dividends, distributions, taxes, risks, and reports to be distributed to beneficial owners of the Shares can be found in the Registration Statement or on the Web site for the Fund (*www.franklintempleton.com*), as applicable.

Determination of Net Asset Value

According to the Registration Statement, the Fund will calculate the NAV per Share each business day normally as of the close of regular trading on the New York Stock Exchange (''NYSE''), normally 4:00 p.m. Eastern time. The Fund will not calculate the NAV on days the NYSE is closed for trading. The NAV of the Fund will be determined by deducting the Fund's liabilities from the total assets of the portfolio. The NAV per Share will be determined by dividing the total NAV of the Fund by the number of Shares outstanding.

When determining its NAV, the Fund will value cash and receivables at their realizable amounts, and will record interest as accrued and dividends on the ex-dividend date. The Fund will generally utilize two independent pricing services to assist in determining a current market value for each security.

According to the Registration Statement, generally, trading in corporate bonds, U.S. government securities and money market instruments is substantially completed each day at various times before the close of the NYSE. The value of these securities as of such times generally is used in computing the NAV. Occasionally, events affecting the values of these securities may occur between the times at which the values are determined and the close of the NYSE. The Fund will rely on third-party pricing vendors to monitor for events materially affecting the value of these securities during this period. If an event occurs, the third-party pricing vendors will provide revised values to the Fund, which will be incorporated into the calculation of the Fund's NAV.

The Fund will have procedures, approved by the board of trustees, to determine the fair value of individual securities and other assets for which market prices are not readily available or which may not be reliably priced. According to the Registration Statement, some methods for valuing these securities may include: fundamental analysis (earnings multiple, etc.), matrix pricing, discounts from market prices of similar securities, or discounts applied due to the nature and duration of restrictions on the disposition of the securities.

Mortgage pass-through securities, other mortgage-backed securities, CMOs and asset-backed securities generally trade in the over-the-counter market rather than on a securities exchange. The Fund predominantly values these portfolio securities by relying on independent pricing services, but may also utilize quotations from bond dealers and information with respect to bond and note transactions when prices are not readily available from or reliably priced by such independent pricing services, all in accordance with valuation procedures approved by the Fund's board. The Fund's pricing services will use valuation models or matrix pricing to determine current value. In general, they will use information with respect to comparable bond and note transactions, quotations from bond dealers or by reference to other securities that are considered comparable in such characteristics as rating, interest rate, maturity date, option adjusted spread models, prepayment projections, interest rate spreads and yield curves. Matrix pricing is considered a form of fair value pricing.

The Fund will not invest in equity securities other than possible investments in shares of other investment companies as noted above. Redeemable securities issued by open-end investment companies are valued on any given business day using the respective closing NAVs of such companies for purchase and/or redemption orders placed on that day in accordance with valuation procedures approved by the Fund's board. For securities that are traded on an exchange, the Fund will value those securities at the last quoted sale price of the day in accordance with valuation procedures approved by the Fund's board.

Availability of Information

The Fund's Web site (*www.franklintempleton.com*), which will be publicly available prior to the public offering of Shares, will include a form of the prospectus for the Fund that may be downloaded. The Fund's Web site will include additional quantitative information updated on a daily basis, including, for the Fund, (1) the prior business day's NAV and the market closing price or mid-point of the bid/ask spread at the time of calculation of such

NAV (the ''Bid/Ask Price''),[21] and a calculation of the premium or discount of the market closing price or Bid/Ask Price against the NAV, and (2) a table showing the number of days the Market Price (as defined by the Commission in Form N–1A)[22] of the Fund shares was greater than the Fund's NAV and the number of days it was less than the Fund's NAV (i.e., premium or discount) for the most recently completed calendar year, and the most recently completed calendar quarters since that year (or the life of the Fund, if shorter). On each business day, before commencement of trading in Shares in the Core Trading Session on the Exchange, the Fund will disclose on its Web site the Disclosed Portfolio that will form the basis for the Fund's calculation of NAV at the end of the business day.[23]

On a daily basis, the Manager will disclose for each portfolio security or other financial instrument of the Fund the following information on the Fund's Web site: Ticker symbol (if applicable), name of security or financial instrument, number of shares or dollar value of securities and financial instruments held in the portfolio, and percentage weighting of the security and financial instrument in the portfolio. The Web site information will be publicly available at no charge.

In addition, for in-kind creations, a basket composition file, which will include the security names and share quantities to deliver in exchange for Shares, together with estimates and actual cash components, will be publicly disseminated daily prior to the opening of the Exchange via the NSCC. The basket will represent one Creation Unit of the Fund.

Investors can also obtain the Trust's Statement of Additional Information (''SAI''), the Fund's Shareholder Reports, and the Trust's Form N–CSR and Form N–SAR, filed twice a year. The Trust's SAI and Shareholder Reports will be available free upon request from the Trust, and those documents and the Form N–CSR and Form N–SAR may be viewed on-screen or downloaded from the Commission's Web site at *www.sec.gov.* Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. Quotation and last sale information for the Shares will be available via the Consolidated Tape Association (''CTA'') high-speed line. In addition, the Portfolio Indicative Value, as defined in NYSE Arca Equities Rule 8.600(c)(3), will be widely disseminated at least every 15 seconds during the Core Trading Session by one or more major market data vendors.[24] The dissemination of the Portfolio Indicative Value, together with the Disclosed Portfolio, will allow investors to determine the value of the underlying portfolio of the Fund on a daily basis and will provide a close estimate of that value throughout the trading day.

The intra-day, closing and settlement prices of the portfolio securities and other Fund investments will also be readily available from the national securities exchanges trading such securities, automated quotation systems, published or other public sources, or on-line information services such as Bloomberg or Reuters.

Additional information regarding the Trust and the Shares, including investment strategies, risks, creation and redemption procedures, fees, portfolio holdings disclosure policies, distributions and taxes is included in the Registration Statement. All terms relating to the Fund that are referred to, but not defined in, this proposed rule change are defined in the Registration Statement.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Fund.[25] Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the securities and/or the financial instruments comprising the Disclosed Portfolio of the Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares will be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Shares will trade on the NYSE Arca Marketplace from 4:00 a.m. to 8:00 p.m. Eastern time in accordance with NYSE Arca Equities Rule 7.34 (Opening, Core, and Late Trading Sessions). The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NYSE Arca Equities Rule 7.6, Commentary .03, the minimum price variation (''MPV'') for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is $0.01, with the exception of securities that are priced less than $1.00 for which the MPV for order entry is $0.0001.

Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by the Financial Industry Regulatory Authority (''FINRA'') on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[26] The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and

[21] The Bid/Ask Price of the Fund will be determined using the mid-point of the highest bid and the lowest offer on the Exchange as of the time of calculation of the Fund's NAV. The records relating to Bid/Ask Prices will be retained by the Fund and its service providers.

[22] The Commission has defined ''Market Price'' in Form N–1A as the ''last reported sale price at which Exchange-Traded Fund shares trade on the principal U.S. market on which the Fund's Shares are traded during a regular trading session or, if it more accurately reflects the current market value of the Fund's Shares at the time the Fund uses to calculate its net asset value, a price within the range of the highest bid and lowest offer on the principal U.S. market on which the Fund's Shares are traded during a regular trading session.''

[23] Under accounting procedures to be followed by the Fund, trades made on the prior business day (''T'') will be booked and reflected in NAV on the current business day (''T+1''). Accordingly, the Fund will be able to disclose at the beginning of the business day the portfolio that will form the basis for the NAV calculation at the end of the business day.

[24] Currently, it is the Exchange's understanding that several major market data vendors widely disseminate Portfolio Indicative Values taken from CTA or other data feeds.

[25] *See* NYSE Arca Equities Rule 7.12.

[26] FINRA surveils trading on the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations. FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares with other markets and other entities that are members of the Intermarket Surveillance Group (''ISG'') and FINRA, on behalf of the Exchange, may obtain trading information regarding trading in the Shares from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.[27]

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

Information Bulletin

Prior to the commencement of trading, the Exchange will inform its Equity Trading Permit (''ETP'') Holders in an Information Bulletin (''Bulletin'') of the special characteristics and risks associated with trading the Shares. Specifically, the Bulletin will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Unit aggregations (and that Shares are not individually redeemable); (2) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (3) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated Portfolio Indicative Value will not be calculated or publicly disseminated; (4) how information regarding the Portfolio Indicative Value is disseminated; (5) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

In addition, the Bulletin will reference that the Fund is subject to various fees and expenses described in the Registration Statement. The Bulletin will discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act. The Bulletin will also disclose that the NAV for the Shares will be calculated after 4:00 p.m. Eastern time each trading day.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)[28] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Equities Rule 8.600. The Shares will be subject to the existing trading surveillances, administered by FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws. The Manager is not registered as a broker-dealer but it is affiliated with a broker-dealer and has represented that it has implemented a fire wall with respect to its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio.

FINRA, on behalf of the Exchange, may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. In addition, a large amount of information is publicly available regarding the Fund and the Shares, thereby promoting market transparency. Moreover, the Portfolio Indicative Value will be widely disseminated at least every 15 seconds during the Core Trading Session by one or more major market data vendors. On each business day, before commencement of trading in Shares on a national securities exchange, the Fund will disclose on its Web site the identities and quantities of the Fund's portfolio holdings that will form the basis for the Fund's calculation of NAV at the end of that business day. The intra-day, closing and settlement prices of the portfolio securities and other Fund investments will also be readily available from the national securities exchanges trading such securities, automated quotation systems, published or other public sources, or on-line information services such as Bloomberg or Reuters. Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services, and quotation and last sale information will be available via the CTA high-speed line. The Web site for the Fund will include the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information. Moreover, prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable, and trading in the Shares will be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the Portfolio Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. Under normal market conditions, at least 80% of the Fund's net assets will be invested in securities issued or guaranteed by the U.S. government, its agencies, or instrumentalities. As noted above, the Shares will be subject to the existing trading surveillances, administered by FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws and FINRA, on behalf of the Exchange, may obtain information via ISG from other exchanges that are members of ISG or with which the

[27] For a list of the current members of ISG, see *www.isgportal.org*. The Exchange notes that not all components of the Disclosed Portfolio for the Fund may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

[28] 15 U.S.C. 78f(b)(5).

Exchange has entered into a comprehensive surveillance sharing agreement. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the Portfolio Indicative Value and quotation and last sale information for the Shares. The Fund may invest up to 15% of its net assets in illiquid securities (calculated at the time of investment), including Rule 144A securities deemed illiquid by the Manager. The Fund expects that no more than 20% of the value of the Fund's net assets will be invested in derivative instruments as discussed above. Such derivative investments will be consistent with the Fund's investment goal and will not be used to enhance leverage.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. The Exchange notes that the proposed rule change will facilitate the listing and trading of an additional type of actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2013–86 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2013–86. 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 Section, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2013–86 and should be submitted on or before October 7, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[29]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–22397 Filed 9–13–13; 8:45 am]

BILLING CODE 8011–01–P

[29] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

Axcess International, Inc., Gamma Pharmaceuticals, Inc., Innovex, Inc, Knight Energy Corp., Komodo, Inc., Uphonia, Inc., and Wilson Brothers USA, Inc., Order of Suspension of Trading

September 12, 2013.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Axcess International, Inc. because it has not filed any periodic reports since the period ended September 30, 2010.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Gamma Pharmaceuticals, Inc. because it has not filed any periodic reports since the period ended September 30, 2009.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Innovex, Inc because it has not filed any periodic reports since the period ended July 4, 2009.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Knight Energy Corp. because it has not filed any periodic reports since the period ended September 30, 2008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Komodo, Inc. because it has not filed any periodic reports since the period ended June 30, 2008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Uphonia, Inc. because it has not filed any periodic reports since the period ended September 30, 2005.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Wilson Brothers USA, Inc. because it has not filed any periodic reports since the period ended September 30, 2004.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies. Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that

trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EDT on September 12, 2013, through 11:59 p.m. EDT on September 25, 2013.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2013–22554 Filed 9–12–13; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In the Matter of Carbiz, Inc., InZon Corporation, IQ Micro, Inc., Irwin Financial Corporation, and Princeton Media Group, Inc.; Order of Suspension of Trading

September 12, 2013.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Carbiz, Inc. because it has not filed any periodic reports since the period ended October 31, 2009.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of InZon Corporation because it has not filed any periodic reports since the period ended June 30, 2008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of IQ Micro, Inc. because it has not filed any periodic reports since the period ended June 30, 2007.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Irwin Financial Corporation because it has not filed any periodic reports since the period ended June 30, 2009.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Princeton Media Group, Inc. because it has not filed any periodic reports since the period ended December 31, 2006.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies. Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EDT on September 12, 2013, through 11:59 p.m. EDT on September 25, 2013.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2013–22553 Filed 9–12–13; 4:15 pm]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13705 and #13706]

Florida Disaster Number FL–00090

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Florida (FEMA—4138—DR), dated 08/02/2013.

Incident: Severe Storms and Flooding.

Incident Period: 07/02/2013 through 07/07/2013.

Effective Date: 08/22/2013.

Physical Loan Application Deadline Date: 10/01/2013.

Economic Injury (EIDL) Loan Application Deadline Date: 05/02/2014.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of Florida, dated 08/02/2013, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Bay.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2013–22418 Filed 9–13–13; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13759 and #13760]

Missouri Disaster #MO–00068

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Missouri (FEMA–4144–DR), dated 09/06/2013.

Incident: Severe storms, straight-line winds, and flooding.

Incident Period: 08/02/2013 through 08/14/2013.

Effective Date: 09/06/2013.

Physical Loan Application Deadline Date: 11/05/2013.

Economic Injury (EIDL) Loan Application Deadline Date: 06/06/2014.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing And Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 09/06/2013, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Barry, Camden, Cedar, Dade, Dallas, Laclede, Maries, Mcdonald, Miller, Osage, Ozark, Phelps, Pulaski, Shannon, Taney, Texas, Webster, Wright.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations With Credit Available Elsewhere ...	2.875
Non-Profit Organizations Without Credit Available Elsewhere	2.875
For Economic Injury:	
Non-Profit Organizations Without Credit Available Elsewhere	2.875

The number assigned to this disaster for physical damage is 13759B and for economic injury is 13760B.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2013–22419 Filed 9–13–13; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13757 and #13758]

Arkansas Disaster # AR–00065

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Arkansas (FEMA—4143—DR), dated 09/04/2013.

Incident: Severe Storms and Flooding.

Incident Period: 08/08/2013 through 08/14/2013.

Effective Date: 09/04/2013.

Physical Loan Application Deadline Date: 11/04/2013.

Economic Injury (EIDL) Loan Application Deadline Date: 06/04/2014.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 09/04/2013, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties:

Benton, Boone, Carroll, Madison, Marion, Newton.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations With Credit Available Elsewhere ...	2.875
Non-Profit Organizations Without Credit Available Elsewhere	2.875
For Economic Injury:	
Non-Profit Organizations Without Credit Available Elsewhere	2.875

The number assigned to this disaster for physical damage is 13757B and for economic injury is 13758B.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2013–22417 Filed 9–13–13; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13753 and #13754]

Karuk Tribe Disaster #CA–00211

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the Karuk Tribe (FEMA—4142—DR), dated 08/29/2013.

Incident: Wildfire.

Incident Period: 07/29/2013 through 08/01/2013.

Effective Date: 08/29/2013.

Physical Loan Application Deadline Date: 10/28/2013.

Economic Injury (EIDL) Loan Application Deadline Date: 05/29/2014.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 08/29/2013, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Areas: Karuk Tribe and Associated Lands.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-profit organizations with credit available elsewhere	2.875
Non-profit organizations without credit available elsewhere	2.875
For Economic Injury:	
Non-profit organizations without credit available elsewhere	2.875

The number assigned to this disaster for physical damage is 137535 and for economic injury is 137545.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2013–22420 Filed 9–13–13; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13752]

Oregon Disaster #OR–00051 Declaration of Economic Injury

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Economic Injury Disaster Loan (EIDL) declaration for the State of Oregon, dated 09/06/2013.

Incident: Multiple Fire Complexes.

Incident Period: 07/26/2013 and continuing.

Effective Date: 09/06/2013.

EIDL Loan Application Deadline Date: 06/06/2014.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's EIDL declaration, applications for economic injury disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Deschutes, Josephine.

Contiguous Counties:

Oregon: Crook, Curry, Douglas, Harney, Jackson, Jefferson, Klamath, Lake, Lane, Linn.

California: Del Norte, Siskiyou.

The Interest Rates are:

	Percent
Businesses And Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	2.875

The number assigned to this disaster for economic injury is 137520.

The States which received an EIDL Declaration # are Oregon, California.

(Catalog of Federal Domestic Assistance Number 59002)

Dated: September 6, 2013.

Jeanne Hulit,

Acting Administrator.

[FR Doc. 2013–22416 Filed 9–13–13; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 8474]

Culturally Significant Objects Imported for Exhibition Determinations: ''Francesco Vanni: Art in Late Renaissance Siena''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the objects to be included in the exhibition ''Francesco Vanni: Art in Late Renaissance Siena,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Yale University Art Gallery, New Haven, CT, from on or about September 29, 2013, until on or about January 5, 2014, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Julie Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6467). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: September 10, 2013.

Lee Satterfield,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2013–22479 Filed 9–13–13; 8:45 am]

BILLING CODE 4710–05–P

TENNESSEE VALLEY AUTHORITY

Muscle Shoals Reservation Redevelopment, Colbert County, Alabama

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Issuance of Record of Decision (ROD).

SUMMARY: This notice is provided in accordance with the Council on Environmental Quality's regulations (40 CFR 1500 to 1508) and TVA's procedures for implementing the National Environmental Policy Act (NEPA). TVA has decided to adopt the preferred alternative in its final environmental impact statement (EIS) for the redevelopment of the Muscle Shoals Reservation (MSR) in Colbert County, Alabama. The notice of availability (NOA) of the *Final Environmental Impact Statement for the Muscle Shoals Reservation Redevelopment* was published in the **Federal Register** on November 18, 2011. Under this alternative, Unrestricted Land Use, after declaring a large portion of the MSR surplus, TVA would dispose of the property without land use restrictions other than those designed to protect TVA's program interests or to meet legal or environmental requirements.

FOR FURTHER INFORMATION CONTACT: Charles P. Nicholson, Principal Program Manager, Tennessee Valley Authority, 400 West Summit Hill Drive, WT 11D, Knoxville, Tennessee 37902–1499; telephone (865) 632–3582 or email *cpnicholson@tva.gov.*

SUPPLEMENTARY INFORMATION: TVA manages public lands to protect the integrated operation of TVA reservoir and power systems, to provide for appropriate public use and enjoyment of the reservoir system, and to provide for continuing economic growth in the Tennessee Valley. TVA assumed custody and control of the 3,036-acre Muscle Shoals/Wilson Dam Reservation in Colbert County, Alabama, in 1933 when Congress directed its transfer to TVA from the U.S. War Department. TVA has since managed 2,600 acres of this nonreservoir property as the MSR.

Since acquisition of the land, TVA's need for this amount of MSR property has changed. TVA's programs have changed over time, and TVA has greatly reduced its operations and employment at Muscle Shoals. TVA has determined that a portion of its MSR is no longer essential to its needs. Local public and private sector developers have been requesting use of this land for many years. In accordance with its economic development mission, TVA believes sale and redevelopment of up to 1,400 acres of the MSR (the ''MSR study area'') would help stimulate the local and regional economy. The sale of this land would also help TVA reduce its operations and maintenance costs and help TVA reduce its environmental footprint.

Public Involvement

TVA published a notice of intent to prepare an EIS in the **Federal Register** on June 18, 2009. The NOA of the draft EIS was published in the **Federal Register** by the U.S. Environmental Protection Agency (USEPA) on January 14, 2011. TVA accepted comments on the draft EIS until February 28, 2011. Approximately 80 people attended a public meeting on February 3, 2011, in Muscle Shoals, Alabama. TVA received 146 comment submissions from 133 individuals and seven federal and state agencies. The majority of the commenters did not state a preferred future use of the land. Commenters expressed concerns about TVA's purpose and need for the proposal; effects on environmental resources, including wildlife, woodlands, wetlands, aesthetics, and historic buildings and structures; health and safety; socioeconomics and environmental justice; specific future land uses; the role of the comprehensive master plan; and the adequacy of the environmental analysis. Agencies expressed concerns about effects on environmental resources, lack of details about future land uses, cumulative effects analysis, and public health and safety.

After considering and responding to all substantive comments, clarifying action alternatives, and developing a new alternative, i.e., Alternative F, TVA issued the final EIS. The final EIS identifies Alternative F, Unrestricted Land Use, as TVA's preferred alternative. The NOA of the final EIS was published in the **Federal Register** on November 18, 2011.

TVA received comment letters on the final EIS from the USEPA and the Nuclear Regulatory Commission (NRC). TVA has considered these comments, neither of which raised significant new

issues or provided significant new information, in making its decision.

The NRC notified TVA that there may be facilities within the MSR study area that come under current NRC licenses and guidance. The letter stated that coordination with NRC is required prior to the sale of the MSR property. TVA will continue to coordinate with NRC in the development of the comprehensive master plan and the subsequent sale of the MSR property.

USEPA reiterated its preference for Alternative B, Conservation, because it is the most environmentally protective alternative. USEPA expressed concerns that there are no binding commitments being made by TVA with respect to future land use and development of the MSR and that TVA make these binding commitments in the ROD. USEPA also expressed concerns that the development of the comprehensive master plan and the NEPA process have not been concurrent efforts. It was recommended that TVA and stakeholders include protections to environmentally sensitive areas/resources and encourage low impact development.

In response to USEPA's comment about the comprehensive master planning process, TVA will release a draft of the comprehensive master plan and hold a public meeting to obtain stakeholder comments. TVA will then consider these comments, finalize the plan, and make the document available on TVA's Web site. TVA will then formally decide whether to adopt the comprehensive master plan and document this decision in a second ROD in the Winter of 2013. TVA will continue to encourage the participation of the environmental justice communities in the public review process.

Alternatives Considered

Based on comments received on the draft EIS, many readers misunderstood the Action Alternatives presented in the draft EIS. Therefore, TVA added a new Action Alternative and the definitions of Alternatives B through E were changed in the final EIS.

In the final EIS, TVA evaluated six alternatives intended to address a reasonable range of likely future land uses of the 1,400-acre MSR study area. The alternatives include Alternative A—No Action; Alternative B—Conservation; Alternative C—Commercial, Retail, and Residential; Alternative D—Industrial; Alternative E—Mixed Use; and Alternative F—Unrestricted Land Use.

Under all Action Alternatives, the MSR study area would be sold at public auction in accordance with Section 31 of the TVA Act and would be developed in accordance with guidelines described in a comprehensive master plan. The sale would not include the phosphate slag storage area, which may be made available by easement for a utility corridor. Under any of the Action Alternatives, TVA anticipates an approximate 20-year plus development build-out of this property.

Under Alternative A, No Action, TVA would not declare the MSR study area surplus to its needs, and it would remain in federal ownership. TVA would continue to manage the property consistent with its 1996 *Muscle Shoals/Wilson Dam Reservation Land Use Plan.* If other future land sales, transfers, or disposal actions were considered by TVA, those actions would require independent environmental reviews at that time.

Under Alternative B, TVA would declare the MSR study area surplus and sell it with the requirement that it be used only for conservation of natural resources and/or for sustainable limited impact development (LID). Other types of land uses, such as heavy industry, residential development, and commercial development, would not be allowed. Types of LID likely under this alternative include those that generate minimal waste streams and have a small environmental footprint. The reuse of existing buildings and infrastructure would be preferred over new construction. Some natural resources could be integrated into an overall conservation theme. This could involve inclusion of some land with valued resources, such as streams, wetlands, floodplains, woodlands, into areas of future parks, visual or noise buffers, or green space. Typical examples of future land uses under this alternative could include recreation, nature and historic interpretation, open green spaces, ecotourism, botanical gardens, environmental education, and wildlife viewing and management.

Under Alternative C, TVA would declare the MSR study area surplus and sell it with the requirement that it be used only for a mixture of commercial, retail and residential uses. Other uses (e.g., heavy industrial uses) would be prohibited. Typical examples of future land uses likely under this alternative could include mall, theaters, government buildings, gas stations, department stores, restaurants, self-storage buildings, health care institutes, retail shopping, community centers, residential buildings, and religious and educational institutes. Most of the MSR study area is suitable for commercial, retail and residential uses. Consequently, it could take on a suburban or urban character.

Under Alternative D, TVA would declare the MSR study area surplus and sell it with the requirement that it be used only for industrial development purposes. Other uses, including residential, commercial, retail and conservation, would not be allowed. Industry can be generally defined as any type of economic activity producing goods or services for consumers. Possible industries could include primary (mining, growing, forestry, etc.), secondary (lumber milling, metal fabrication, refining oil), tertiary (service industries such as civil service, education, etc.), or quaternary (research and development). All land within the MSR study area could be used for industrial purposes. Under this alternative, the amount of land actually used or required by future industries could vary from a few hundred acres to the entire MSR study area. Depending on the number of industries and the extent of industrial development, the character of the MSR study area could range from that of a maintained open area with some industrial development to that of an industrial park.

Under Alternative E, TVA would declare the MSR study area surplus and sell it with the requirement that it be used for a mixture of conservation and sustainable LID; commercial, retail, and residential; and industrial uses. Potential site development under this alternative would generally include a mixture of land uses described under Alternatives B through D.

Under Alternative F, TVA would declare the MSR study area surplus and dispose of the property without land use restrictions other than those designed to protect TVA's program interests or to meet legal or environmental requirements. TVA would not specify that land on the MSR study area be used for a particular purpose, but instead would allow future uses on the property to be driven by environmental resources and constraints taken into account in the development of the comprehensive master plan and subsequent local zoning or other appropriate land use ordinances. Although TVA would not require a particular type of land uses under Alternative F, the property likely would be used or developed for one or more of the reasonably foreseeable uses identified in Alternatives B through E.

Updated Information

Since the final EIS was published in November 2011, TVA has been developing the comprehensive master plan in concert with the local community. During this process, TVA

identified 400 acres of land (mainly around the TVA-retained solid waste management units) that should be retained by TVA due to ongoing TVA business needs and limited development opportunities due to prior industrial operations. TVA also determined that it should retain ownership of the Western Area Radiological Laboratory and sell the TVA Credit Union site. TVA completed an evaluation of the environmental effects of including the 1.8-acre TVA Credit Union in the proposed MSR study area in November 2012. TVA staff subsequently proposed to the TVA Board of Directors (TVA Board), and the TVA Board approved, the disposal of approximately 1,000 acres instead of the 1,400 acres analyzed in the final EIS.

In support of the development of the comprehensive master plan, TVA conducted additional wetland and floodplain studies to gain a better perspective of the location of these resources. As a result of the survey, approximately 177 acres of wetlands were determined to be present on the MSR study area, a small increase from the 164 acres identified in the final EIS. To ensure compliance with the Clean Water Act and Executive Order (EO) 11990 (Protection of Wetlands), the disposal of wetlands on the MSR will be subject to the mitigation measures described below.

The final EIS contained floodplain information based on 2010 Federal Emergency Management Agency (FEMA) data. TVA conducted a flood study of Pond Creek on the MSR in September 2012 to update the FEMA information. The study results showed that the 100-year and 500-year floodplains cover a larger area than identified in the final EIS. To ensure compliance with EO 11988 (Floodplain Management), TVA will place a requirement in the deed, transfer, or other conveyance document that any proposal for future land-based improvements or water use facilities in the floodplain would be subject to TVA review and approval prior to construction (See Mitigation Measures Section below).

TVA previously granted agricultural licenses on three areas of the MSR study area, as detailed in Section 3.9 of the EIS. TVA has since terminated those agricultural licenses in accordance with their terms.

Environmentally Preferred Alternative

The Environmentally Preferred Alternative is Alternative B (Conservation), under which there would be a deliberate effort to conserve sensitive resources, i.e., wetlands, historic properties and woodlands, and to encourage development with minimal environmental impacts.

Decision

On November 15, 2012, the TVA Board declared 1,000 acres of the MSR to be surplus to TVA's needs and authorized the sale of such acreage at public auction upon a determination by the Senior Vice President, Economic Development, following consultation with the Vice President, Property and Natural Resources, that market conditions warrant selling the fee simple interest in the 1,000 acres or a portion thereof. TVA will develop a comprehensive master plan with the Northwest Alabama Cooperative District and other appropriate local, state, or federal authorities for the holistic redevelopment of the MSR property; the comprehensive master plan is scheduled for completion in Fall/Winter 2013. The sale of the property would be in accordance with TVA's preferred alternative, Alternative F—Unrestricted Land Use in the final EIS. This decision incorporates mitigation measures that would reduce the potential for adverse impacts to the environment. These measures are listed below.

Mitigation Measures

TVA would comply with the following applicable laws, regulations, EOs, and obligations associated with existing agreements.

- TVA would warrant in the sale deed that the property has been cleaned up to the extent believed necessary to protect human health and the environment and that the U.S. will perform any cleanup that becomes necessary in the future as a result of contamination that occurred prior to the sale.
- Approximately 17 acres of land has been remediated (i.e., cleaned up) to industrial screening level. No land within the 2,260-acre area covered by the existing Resource Conservation and Recovery Act Permit would be sold or transferred from federal ownership unless the land is conveyed at the unrestricted use level or with the appropriate environmental covenants and restrictions in the deed, transfer, or other conveyance document. Additional land use restrictions may be applicable as required by Alabama's Uniform Environmental Covenants Act.
- Consistent with TVA implementation procedures for EO 11990, all future owners shall avoid construction within wetland areas without TVA approval. Unless there is no practicable alternative, development may not occur in identified wetland areas.
- Consistent with TVA implementation procedures for EO 11988, all future owners shall avoid construction of obstructions within the limits of the 100-year floodplain without appropriate local government authorization and approval under Section 26a of the TVA Act. Unless there is no practicable alternative, development may not occur in floodplain areas.
- TVA will comply with the terms and conditions of a September 18, 2001 agreement with the Alabama Department of Transportation and the Federal Highway Administration regarding use of Transportation Enhancement Project funds for construction of the 1-mile segment of the National Recreation Trail Complex trail located on the south side of Reservation Road.
- Additional land use restrictions may be applicable as required by Alabama's Uniform Environmental Covenants Act and would be enforced by the Alabama Department of Environmental Management.

TVA would be responsible for requiring, monitoring, and enforcing the following mitigation measures. To the extent practicable, this could be accomplished by placing conditions in the land transfer agreement and coordinating with Alabama Department of Environmental Management's Environmental Covenants Act, where applicable.

- The only permissible use of the phosphate slag storage area is for a utility corridor to the Tennessee River to support any needed infrastructure development on the MSR study area. TVA would not transfer this land for future development but would make it available under specific use agreements, such as easements. Because of environmental and reservoir operations constraints along the left-descending (south bank) shoreline of the Tennessee River in the vicinity of the utility corridor, TVA would not approve a barge terminal, commercial dock, or other similar shoreline facility.
- Total annual exposure to any person within the phosphate slag storage area is to remain restricted to no more than 500 hours per year.
- If conditions at the phosphate slag storage area are altered and it becomes necessary to reevaluate radiation exposure, TVA will verify in consultation with the Alabama Department of Public Health any change to the phosphate slag storage area that would allow increased exposure times. This would include any effort to

mitigate radioactive levels at the site through the use of soil cover or caps of various materials.

• If it becomes necessary through the proposed use of the phosphate slag storage area for subsurface infrastructure enhancements (e.g., buried pipeline), TVA would conduct further radiological measurement and monitoring to determine a worker's potential exposure to ensure safety.

• No subsurface disturbance or other excavation of buried materials would be allowed within the low-level radioactive waste burial site.

• TVA would not allow removal of groundwater for drinking water (i.e., potable use purposes) from anywhere on the MSR study area.

• TVA would adhere to the stipulations in the final executed Memorandum of Agreement between TVA and the Alabama State Historic Preservation Officer to mitigate for the loss of properties eligible for inclusion in the National Register of Historic Places. Such mitigation includes imposition of architectural controls and design guidelines on new owners and consideration of these properties in the comprehensive master plan. TVA would adhere to required measures through inclusion of requirements in the transfer deed.

• Site 1CT495, the remnants of Wilson Power Plant foundations, shall be avoided during any construction in the utility corridor to the Tennessee River.

• In the event of construction within the utility corridor, TVA would take into account the location of the Rockpile Hiking Trail and the paved trail complex on the north side of Reservation Road and, to the extent practicable, avoid trail closure or reduce effects of trail usage through planning or other design features.

• An approximate 900-foot section of paved National Recreation Trail Complex, including a protective corridor, on the Multipurpose Building parcel would be (a) retained by TVA, (b) preserved and managed for public recreation use under an agreement (e.g., easement) between TVA and a new landowner, or (c) relocated to skirt the boundaries of the Multipurpose Building parcel.

• Prior to any TVA land or buildings being transferred from federal ownership under any of the Action Alternatives, TVA would assure that any required environmental due diligence assessments are completed.

The final EIS identified routine and nonroutine measures to which future landowners could implement voluntarily or be required by agencies to comply with other federal, state, or local regulations. These measures along with the above mitigation measures would be taken into consideration in the development of the comprehensive master plan, which would be completed and finalized by the Northwest Alabama Cooperative District and TVA prior to the sale of the MSR property.

Dated: September 5, 2013.

John J. Bradley,

Senior Vice President, Economic Development.

Bruce S. Schofield,

Vice President, Property and Natural Resources.

[FR Doc. 2013–22499 Filed 9–13–13; 8:45 am]

BILLING CODE 8120–08–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket: DOT–OST–2013–0074]

Agency Information Collection; Activity Under OMB Review: Foreign Air Carrier Application for Statement of Authorization

AGENCY: Department of Transportation (DOT), Office of the Secretary (OST).

ACTION: Notice and request for comments; Request OMB Clearance for extension of a currently approved information collection, Foreign Air Carrier Application for Statement of Authorization.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, Public Law 104–13, this notice announces that the Information Collection Request, abstracted below, is being forwarded to the Office of Management and Budget for extension of approval of currently approved ICR–2106–0036, Foreign Air Carrier Application for Statement of Authorization. Earlier, a **Federal Register** Notice with a 60-day comment period was published (78 FR 25781, May 2, 2013). The agency did not receive any comments to its previous notice.

DATES: Written comments should be submitted by October 16, 2013.

FOR FURTHER INFORMATION CONTACT: Darren Jaffe, (202) 366–2512, Office of International Aviation, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Room W86–441, Washington, DC 20590. Office hours are from 9:00 a.m. to 5:30 p.m., Monday through Friday, except Federal holidays.

Comments: Comments should be sent to OMB at the address that appears below and should identify the associated OMB Approval Number 2106–0035 and Docket DOT–OST–2013–0074.

SUPPLEMENTARY INFORMATION:

OMB Approval No. 2106–0035.

Title: Foreign Air Carrier Application for Statement of Authorization.

Form No.: Form OST 4540.

Type of Review: Extension of a currently approved collection.

Respondents: Foreign Air Carriers.

Number of Respondents: Approximately 100.

Estimated Time per Response: 2.25 hours per application.

Total Annual Burden: 1,000 hours.

Abstract: Applicants use Form OST 4540 to request statements of authorization to conduct numerous types of operations authorized under Title 14, CFR Part 212. The form requires basic information regarding the carrier(s) conducting the operation, the party filing the form, the operations being conducted, the number of third- and fourth-freedom flights conducted in the last twelve-month period, and certification of reciprocity from the carrier's homeland government. DOT analysts will use the information collected to determine if applications for fifth-freedom operations meet the public interest requirements necessary to authorize such applications.

Burden Statement: We estimate that the industry-wide total hour burden for this collection to be approximately 1,000 hours or approximately 2.25 hours per application. Conservatively, we estimate the compilation of background information will require 1.75 hours, and the completion and submission of OST Form 4540 will require thirty (30) minutes. Reporting the number of third- and fourth-freedom operations conducted by an applicant carrier will require collection of flight data, and detailed analysis to determine which flights conducted by the carrier are third- and fourth-freedom. Applicants should be able to use data collected for the Department's T–100 program to provide this information (under this program, carriers are required periodically to compile and report certain traffic data to the Department, as more fully described in the Docket referenced in footnote 1 below). The Bureau of Transportation Statistics (BTS) provide carriers with a computer program that allows them to compile and monitor, among other things, flight origin and destination data, to be used in making the carriers' T–100

submissions.[1] We estimated that carriers will require 1.25 hours per application[2] to compile and analyze the data necessary to disclose the number of third- and fourth-freedom flights conducted within the twelve-month period preceding the filing of an application.

Foreign carriers will also have to provide evidence that their homeland government will afford reciprocity to U.S. carriers seeking authority for the similar fifth-, sixth- and seventh-freedom operations. Carriers may cite certifications submitted by carriers from the same homeland if that homeland issued such certification within the preceding six-month period. Approximately 100 carriers from roughly 30 distinct homelands use OST Form 4540 to apply for statements of authorization annually. We estimate that one foreign carrier from any given homeland will expend roughly 4 hours every six-months to obtain certification from its homeland governments.[3] We have apportioned 30 minutes to each application to account for the time required to obtain certifications from homeland governments.

We have no empirical data to indicate how much time is required for a person to complete OST Form 4540; however, anecdotal evidence reveals that respondents spend thirty (30) minutes or less completing the form and brief justification. In some cases, respondents spend a limited amount of time, less than ten (10) minutes, reviewing the form before sending it via facsimile or email to the Department. In the interest of providing a conservative estimate so as to not understate the burden hours, we estimate the hour burden for completing OST Form 4540 as thirty (30) minutes.

[1] The rule-making associated with the T–100 program can be found on the Federal Docket Management System (FDMS) at *http://www.regulations.gov*, in Docket DOT–OST–1998–4043. Information regarding burden hours is on file in the Office of Aviation Analysis (X–50).

[2] The Office of Aviation Analysis (X–50) estimated that small-carriers would require 1 burden hour per report, and large carriers would require 3 burden hours per report to analyze and report T–100 program data. Considering that the data required in this information collection can be derived from data already collected, we have taken an average of the estimated time required, and conservatively shortened the time by 45 minutes because no new data entry will be required.

[3] Calculation: (4 burden hours per application) × (30 foreign homelands) × (2 requests per year) = 240 annual burden hours. Apportioning 240 annual burden hours equally among an average of 430 applications annually = approximately 30 burden minutes per application.

Issued in Washington, DC, on September 9, 2013.

Patricia Lawton,

DOT PRA Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2013–22501 Filed 9–13–13; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (formerly Subpart Q) During the Week Ending August 17, 2013

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 et. seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: DOT–OST–2012–0047.

Date Filed: August 15, 2013.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: September 5, 2013.

Description: Application of Joint Stock Company Aircompany ''Yakutia'' requesting an amended foreign air carrier permit adding authority for Yakutia to engage in scheduled foreign air transportation of persons, property, and mail between any point or points in the Russian Federation and Saipan, Commonwealth of the Northern Mariana Islands (CNMI), via intermediate points, and beyond.

Barbara J. Hairston,

Supervisory Dockets Officer, Docket Operations, Federal Register Liaison.

[FR Doc. 2013–22346 Filed 9–13–13; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2013–0108]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemption, request for comments.

SUMMARY: FMCSA announces receipt of applications from 6 individuals for an exemption from the prohibition against persons with a clinical diagnosis of epilepsy or any other condition which is likely to cause a loss of consciousness or any loss of ability to operate a commercial motor vehicle (CMV) from operating CMVs in interstate commerce. The regulation and the associated advisory criteria published in the Code of Federal Regulations as the ''Instructions for Performing and Recording Physical Examinations'' have resulted in numerous drivers being prohibited from operating CMVs in interstate commerce based on the fact that they have had one or more seizures and are taking anti-seizure medication, rather than an individual analysis of their circumstances by a qualified medical examiner. If granted, the exemptions would enable these individuals who have had one or more seizures and are taking anti-seizure medication to operate CMVs for 2 years in interstate commerce.

DATES: Comments must be received on or before October 16, 2013.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA–2013–0108 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* 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.
- *Fax:* 1–202–493–2251.

Each submission must include the Agency name and the docket ID for this Notice. Note that DOT posts all

comments received without change to *http://www.regulations.gov*, including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on January 17, 2008 (73 FR 3316; January 17, 2008). This information is also available at *http://Docketinfo.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Elaine Papp, Chief, Medical Programs Division, (202) 366–4001, or via email at *fmcsamedical@dot.gov*, or by letter FMCSA, Room W64–113, Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31315 and 31136(e), FMCSA may grant an exemption for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statutes also allow the Agency to renew exemptions at the end of the 2-year period. The 6 individuals listed in this notice have recently requested an exemption from the epilepsy prohibition in 49 CFR 391.41(b)(8), which applies to drivers who operate CMVs as defined in 49 CFR 390.5, in interstate commerce. Section 391.41(b)(8) states that a person is physically qualified to drive a commercial motor vehicle if that person has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control a CMV.

FMCSA provides medical advisory criteria for use by medical examiners in determining whether drivers with certain medical conditions should be certified to operate CMVs in intrastate commerce. The advisory criteria indicate that if an individual has had a sudden episode of a non-epileptic seizure or loss of consciousness of unknown cause which did not require anti-seizure medication, the decision whether that person's condition is likely to cause the loss of consciousness or loss of ability to control a CMV should be made on an individual basis by the medical examiner in consultation with the treating physician. Before certification is considered, it is suggested that a 6-month waiting period elapse from the time of the episode. Following the waiting period, it is suggested that the individual have a complete neurological examination. If the results of the examination are negative and anti-seizure medication is not required, then the driver may be qualified.

In those individual cases where a driver had a seizure or an episode of loss of consciousness that resulted from a known medical condition (e.g., drug reaction, high temperature, acute infectious disease, dehydration, or acute metabolic disturbance), certification should be deferred until the driver has fully recovered from that condition, has no existing residual complications, and is not taking anti-seizure medication. Drivers who have a history of epilepsy/seizures, off anti-seizure medication and seizure-free for 10 years, may be qualified to operate a CMV in interstate commerce. Interstate drivers with a history of a single unprovoked seizure may be qualified to drive a CMV in interstate commerce if seizure-free and off anti-seizure medication for a 5-year period or more.

Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number ''FMCSA–2013–0108'' and click the search button. When the new screen appears, click on the blue ''Comment Now!'' button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. 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 this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number ''FMCSA–2013–0108'' and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to the proposed rulemaking.

Summary of Applications

Stephen Amell, Sr.

Mr. Amell is a 55 year-old driver in Vermont. He has a history of a single seizure in 2004 and has remained seizure free since that time. He takes anti-seizure medication with the dosage and frequency remaining the same since 2007. If granted the exemption, he would like to drive a CMV. His physician states he is supportive of Mr. Amell receiving an exemption.

Erik Fleiner

Mr. Fleiner is a 25 year-old class A commercial driver's license holder in Nevada. He has a history of seizures and has remained seizure free for at least 10 years. He takes anti-seizure medication with the dosage and frequency remaining the same for 10 years. If granted the exemption, he would like to continue to drive a CMV. His physician states he is supportive of Mr. Fleiner receiving an exemption.

Gary Freeman

Mr. Freeman is a 48 year-old class A commercial driver's license holder in Wisconsin. He has a history of seizures and has remained seizure free for at least 10 years. He takes anti-seizure medication with the dosage and frequency remaining the same for over 7 years. If granted the exemption, he

would like to continue to drive large trucks with trailers. He owns and operates a transport business and would like to continue to drive for his business. His physician states he is supportive of Mr. Freeman receiving an exemption.

David Kestner

Mr. Kestner is a 28 year-old driver in Virginia. He has a history of epilepsy and has remained seizure free for 9 years. He takes anti-seizure medication with the dosage and frequency remaining the same for 5 years. If granted the exemption, he would like to drive a tractor trailer. His physician states he is supportive of Mr. Kestner receiving an exemption.

Paul G. Kane

Mr. Kane is a 56 year-old driver in Massachusetts. He has a history of seizures and has remained seizure free since December 2009. He takes anti-seizure medication with the dosage and frequency remaining the same for over 2 years. If granted the exemption, he would like to drive a truck over 10,001 lbs. His physician states he is supportive of Mr. Kane receiving an exemption.

Chad Smith

Mr. Smith is a 36 year-old driver in Massachusetts. He has a history of seizures and has remained seizure free for at least 15 years. He takes anti-seizure medication with the dosage and frequency remaining the same for 6 years. If granted the exemption, he would like to continue to transport automobiles from auctions to dealers. His physician states that he is supportive of Mr. Smith receiving an exemption.

Request for Comments

In accordance with 49 U.S.C. 31315 and 31136(e), FMCSA requests public comment from all interested persons on the exemption applications described in this notice.

We will consider all comments received before the close of business on the closing date indicated earlier in the notice.

Issued on: September 9, 2013.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2013–22489 Filed 9–13–13; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2013–0030]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 32 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs). They are unable to meet the vision requirement in one eye for various reasons. The exemptions will enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision requirement in one eye. The Agency has concluded that granting these exemptions will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these CMV drivers.

DATES: The exemptions are effective September 16, 2013. The exemptions expire on September 16, 2015.

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov*, FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgement that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

Background

On July 12, 2013, FMCSA published a notice of receipt of exemption applications from certain individuals, and requested comments from the public (78 FR 41975). That notice listed 32 applicants' case histories. The 32 individuals applied for exemptions from the vision requirement in 49 CFR 391.41(b)(10), for drivers who operate CMVs in interstate commerce.

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. Accordingly, FMCSA has evaluated the 32 applications on their merits and made a determination to grant exemptions to each of them.

Vision and Driving Experience of the Applicants

The vision requirement in the FMCSRs provides:

A person is physically qualified to drive a commercial motor vehicle if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of a least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing requirement red, green, and amber (49 CFR 391.41(b)(10)).

FMCSA recognizes that some drivers do not meet the vision requirement but have adapted their driving to accommodate their vision limitation and demonstrated their ability to drive safely. The 32 exemption applicants listed in this notice are in this category. They are unable to meet the vision requirement in one eye for various reasons, including aphakia, prosthetic eye, central retinal artery occlusion, strabismic amblyopia, amblyopia, refractive amblyopia, optic neuropathy, complete loss of vision, anisometropic

amblyopia, toxoplasmosis scar, retinal detachment, corneal scar, retinal scar, traumatic cataract, macular pucker, cataract, and coloboma. In most cases, their eye conditions were not recently developed. Nineteen of the applicants were either born with their vision impairments or have had them since childhood.

The thirteen individuals that sustained their vision conditions as adults have had it for a period of 2 to 36 years.

Although each applicant has one eye which does not meet the vision requirement in 49 CFR 391.41(b)(10), each has at least 20/40 corrected vision in the other eye, and in a doctor's opinion, has sufficient vision to perform all the tasks necessary to operate a CMV. Doctors' opinions are supported by the applicants' possession of valid commercial driver's licenses (CDLs) or non-CDLs to operate CMVs. Before issuing CDLs, States subject drivers to knowledge and skills tests designed to evaluate their qualifications to operate a CMV.

All of these applicants satisfied the testing requirements for their State of residence. By meeting State licensing requirements, the applicants demonstrated their ability to operate a CMV, with their limited vision, to the satisfaction of the State.

While possessing a valid CDL or non-CDL, these 32 drivers have been authorized to drive a CMV in intrastate commerce, even though their vision disqualified them from driving in interstate commerce. They have driven CMVs with their limited vision for careers ranging from 2 to 40 years. In the past 3 years, one of the drivers was involved in 2 crashes and four were convicted of moving violations in a CMV.

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the July 12, 2013 notice (78 FR 41975).

Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the vision requirement in 49 CFR 391.41(b)(10) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, our analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting each of these drivers to drive in interstate commerce as opposed to restricting him or her to driving in intrastate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered the medical reports about the applicants' vision as well as their driving records and experience with the vision deficiency.

To qualify for an exemption from the vision requirement, FMCSA requires a person to present verifiable evidence that he/she has driven a commercial vehicle safely with the vision deficiency for the past 3 years. Recent driving performance is especially important in evaluating future safety, according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of crashes and traffic violations. Copies of the studies may be found at Docket Number FMCSA–1998–3637.

We believe we can properly apply the principle to monocular drivers, because data from the Federal Highway Administration's (FHWA) former waiver study program clearly demonstrate the driving performance of experienced monocular drivers in the program is better than that of all CMV drivers collectively (See 61 FR 13338, 13345, March 26, 1996). The fact that experienced monocular drivers demonstrated safe driving records in the waiver program supports a conclusion that other monocular drivers, meeting the same qualifying conditions as those required by the waiver program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that crash rates for the same individual exposed to certain risks for two different time periods vary only slightly (See Bates and Neyman, University of California Publications in Statistics, April 1952). Other studies demonstrated theories of predicting crash proneness from crash history coupled with other factors. These factors—such as age, sex, geographic location, mileage driven and conviction history—are used every day by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future crashes (See Weber, Donald C., ''Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process,'' Journal of American Statistical Association, June 1971). A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall crash predictor for both concurrent and nonconcurrent events is the number of single convictions. This study used 3 consecutive years of data, comparing the experiences of drivers in the first 2 years with their experiences in the final year.

Applying principles from these studies to the past 3-year record of the 32 applicants, one of the drivers was involved in 2 crashes and four were convicted of moving violations in a CMV. All the applicants achieved a record of safety while driving with their vision impairment, demonstrating the likelihood that they have adapted their driving skills to accommodate their condition. As the applicants' ample driving histories with their vision deficiencies are good predictors of future performance, FMCSA concludes their ability to drive safely can be projected into the future.

We believe that the applicants' intrastate driving experience and history provide an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian and vehicular traffic than exists on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances between them are more compact. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions. The veteran drivers in this proceeding have operated CMVs safely under those conditions for at least 3 years, most for much longer. Their experience and driving records lead us to believe that each applicant is capable of operating in interstate commerce as safely as he/she has been performing in intrastate commerce. Consequently, FMCSA finds that exempting these applicants from the vision requirement in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption. For this reason, the Agency is granting the exemptions for the 2-year period allowed by 49 U.S.C. 31136(e) and 31315 to the 32 applicants listed in the notice of July 12, 2013 (78 FR 41975).

We recognize that the vision of an applicant may change and affect his/her ability to operate a CMV as safely as in the past. As a condition of the exemption, therefore, FMCSA will impose requirements on the 32

individuals consistent with the grandfathering provisions applied to drivers who participated in the Agency's vision waiver program.

Those requirements are found at 49 CFR 391.64(b) and include the following: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirement in 49 CFR 391.41(b)(10) and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

Discussion of Comments

FMCSA received seven comments in this proceeding. The comments are considered and discussed below.

The seven comments received were all in support of Steven C. Sheeder receiving a vision exemption.

Conclusion

Based upon its evaluation of the 32 exemption applications, FMCSA exempts Steven L. Albert (PA), Manassah E. Baker (FL), Carl H. Block (NY), Christopher W. Brim (TN), John W. Camp (GA), Ralph Carr (PA), Juan Carranco (TX), William Chisley (MD), Westcott G. Clarke (MA), Jerrald A. Crabtree (WA), John A. Dilts (IN), Phyllis Dodson (IN), Donnie H. Eagle (WV), Phillip L. Ergovich (MO), Udum Khamsoksavath (WA), Michael A. Lancette (WI), Alex P. Makhanov (WA), Mitchell Malcolm (MN), Vincent E. Marsee, Sr. (NC), Phillip P. Mazza (PA), Brandin D. Meester (ND), Charles Moen (MI), Jerome M. Paintner (ND), Louis A. Pence (WY), Jeffrey T. Sanders (NC), Michael Schott (NE), Steven C. Sheeder (IA), Larry C. Smoot, Jr. (CA), David Snellings (MD), Edward A. Spakousky (OR), Jose L. Torres-Perales (KS), and Adam J. Zappetta (WI) from the vision requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above (49 CFR 391.64(b)).

In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for 2 years unless revoked earlier by FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: September 9, 2013.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2013–22490 Filed 9–13–13; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA- 2013–0186]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

AGENCY: Federal Motor Carrier Safety Administration (FMCSA).

ACTION: Notice of applications for exemption; request for comments.

SUMMARY: FMCSA announces receipt of applications from 36 individuals for exemption from the prohibition against persons with insulin-treated diabetes mellitus (ITDM) operating commercial motor vehicles (CMVs) in interstate commerce. If granted, the exemptions would enable these individuals with ITDM to operate CMVs in interstate commerce.

DATES: Comments must be received on or before October 16, 2013.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2013–0186 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* 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.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov*, FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. The 36 individuals listed in this notice have recently requested such an exemption from the diabetes prohibition in 49 CFR 391.41(b)(3), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the

exemption will achieve the required level of safety mandated by statute.

Qualifications of Applicants

Charles E. Andersen

Mr. Andersen, 53, has had ITDM since 2012. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Andersen understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Andersen meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Minnesota.

Ross D. Barker

Mr. Barker, 31, has had ITDM since 2002. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Barker understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Barker meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from Utah.

Philip B. Blythe

Mr. Blythe, 54, has had ITDM since 1978. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Blythe understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Blythe meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he has stable non-proliferative diabetic retinopathy. He holds a Class A CDL from Illinois.

Jay H. Byers

Mr. Byers, 59, has had ITDM since 2009. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Byers understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Byers meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Indiana.

Ryan T. Byndas

Mr. Byndas, 51, has had ITDM since 1991. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Byndas understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Byndas meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from Arizona.

Winfred G. Clemenson

Mr. Clemenson, 58, has had ITDM since 2012. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Clemenson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Clemenson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Washington.

Chad P. Colligan

Mr. Colligan, 37, has had ITDM since 1983. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Colligan understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Colligan meets the vision requirements of 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from New York.

Michael C. Crewse

Mr. Crewse, 43, has had ITDM since 2002. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Crewse understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Crewse meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class C operator's license from Illinois.

James D. Crosson, Jr.

Mr. Crosson, 59, has had ITDM since 2006. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Crosson understands

diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Crosson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist_ examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from Minnesota.

James de la Garza, Sr.

Mr. de la Garza, 59, has had ITDM since 2012. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. de la Garza understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. de la Garza meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from California.

Jerry W. Downey

Mr. Downey, 60, has had ITDM since 2013. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Downey understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Downey meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Ohio.

George J. Ehnot

Mr. Ehnot, 54, has had ITDM since 1992. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Ehnot understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Ehnot meets the vision requirements of 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2012 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

Bruce E. Feltenbarger

Mr. Feltenbarger, 60, has had ITDM since 2012. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Feltenbarger understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Feltenbarger meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Michigan.

Charles A. Fleming, Jr.

Mr. Fleming, 66, has had ITDM since 2013. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Fleming understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Fleming meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Virginia.

Brian W. Hannah

Mr. Hannah, 45, has had ITDM since 2012. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Hannah understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Hannah meets the vision requirements of 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Utah.

Michael P. Huck

Mr. Huck, 47, has had ITDM since 2013. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Huck understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Huck meets the vision requirements of 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Michigan.

Van K. Jarrett

Mr. Jarrett, 46, has had ITDM since 2013. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Jarrett understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Jarrett meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Kentucky.

Keith W. Lewis

Mr. Lewis, 64, has had ITDM since 2011. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the

past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Lewis understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Lewis meets the vision requirements of 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Missouri.

Richard G. McGee, Jr.

Mr. McGee, 41, has had ITDM since 2013. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. McGee understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. McGee meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from West Virginia.

Eugene M. Mikell

Mr. Mikell, 75, has had ITDM since 2010. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Mikell understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Mikell meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from New Hampshire.

Ronny J. Moreau

Mr. Moreau, 67, has had ITDM since 2005. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Moreau understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Moreau meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he has stable non-proliferative diabetic retinopathy. He holds a Class A CDL from New Hampshire.

James M. O'Rourke

Mr. O'Rourke, 52, has had ITDM since 2009. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. O'Rourke understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. O'Rourke meets the vision requirements of 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Massachusetts.

Joshua T. Paumer

Mr. Paumer, 34, has had ITDM since 1993. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Paumer understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Paumer meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he has stable proliferative diabetic retinopathy. He holds a Class A CDL from Montana.

Kent F. Peters

Mr. Peters, 58, has had ITDM since 2013. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Peters understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Peters meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Kansas.

Vladimir B. Petkov

Mr. Petkov, 29, has had ITDM since approximately 2003. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Petkov understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Petkov meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Missouri.

Luther S. Pickell

Mr. Pickell, 71, has had ITDM since 2008. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Pickell understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Pickell meets the vision requirements of 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A operator's license from Kansas.

Robert Pulliam

Mr. Pulliam, 36, has had ITDM since 2013. His endocrinologist examined him

in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Pulliam understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Pulliam meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from Arizona.

Juanita Ringeisen

Ms. Ringeisen, 58, has had ITDM since 2011. Her endocrinologist examined her in 2013 and certified that she has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. Her endocrinologist certifies that Ms. Ringeisen understands diabetes management and monitoring has stable control of her diabetes using insulin, and is able to drive a CMV safely. Ms. Ringeisen meets the requirements of the vision standard at 49 CFR 391.41(b)(10). Her optometrist examined her in 2013 and certified that she does not have diabetic retinopathy. She holds a Class B CDL from Indiana.

Justin W. Robinson

Mr. Robinson, 33, has had ITDM since 2008. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Robinson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Robinson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds an operator's license from Indiana.

Freddie Antonio Velez Silvagnoli

Mr. Silvagnoli, 60, has had ITDM since 2007. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Silvagnoli understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Silvagnoli meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Minnesota.

Richard A. Smith

Mr. Smith, 45, has had ITDM since 2008. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Smith understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Smith meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Washington.

Andrew W. Sprester

Mr. Sprester, 33, has had ITDM since 1996. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Sprester understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Sprester meets the vision requirements of 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class C operator's license from Pennsylvania.

Vincent J. Terrizzi, Sr.

Mr. Terrizzi, 66, has had ITDM since 2013. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Terrizzi understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Terrizzi meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class C CDL from Pennsylvania.

Daniel C. Theis

Mr. Theis, 49, has had ITDM since 2013. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Theis understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Theis meets the vision requirements of 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class E operator's license from Florida.

Richard A. White

Mr. White, 63, has had ITDM since 2001. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. White understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. White meets the vision requirements of 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he does not have

diabetic retinopathy. He holds a Class A CDL from Tennessee.

Mark A. Winning

Mr. Winning, 46, has had ITDM since 1977. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Winning understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Winning meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from Illinois.

Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated in the date section of the notice.

FMCSA notes that section 4129 of the Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users requires the Secretary to revise its diabetes exemption program established on September 3, 2003 (68 FR 52441).[1] The revision must provide for individual assessment of drivers with diabetes mellitus, and be consistent with the criteria described in section 4018 of the Transportation Equity Act for the 21st Century (49 U.S.C. 31305).

Section 4129 requires: (1) Elimination of the requirement for 3 years of experience operating CMVs while being treated with insulin; and (2) establishment of a specified minimum period of insulin use to demonstrate stable control of diabetes before being allowed to operate a CMV.

In response to section 4129, FMCSA made immediate revisions to the diabetes exemption program established by the September 3, 2003 notice. FMCSA discontinued use of the 3-year driving experience and fulfilled the requirements of section 4129 while continuing to ensure that operation of CMVs by drivers with ITDM will achieve the requisite level of safety required of all exemptions granted under 49 U.S.C. 31136(e).

Section 4129(d) also directed FMCSA to ensure that drivers of CMVs with ITDM are not held to a higher standard than other drivers, with the exception of limited operating, monitoring and medical requirements that are deemed medically necessary.

The FMCSA concluded that all of the operating, monitoring and medical requirements set out in the September 3, 2003 notice, except as modified, were in compliance with section 4129(d). Therefore, all of the requirements set out in the September 3, 2003 notice, except as modified by the notice in the **Federal Register** on November 8, 2005 (70 FR 67777), remain in effect.

Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2013–0186 and click the search button. When the new screen appears, click on the blue ''Comment Now!'' button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. 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 this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2013–0186 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to the proposed rulemaking.

Issued on: September 9, 2013.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2013–22486 Filed 9–13–13; 8:45 am]

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[1] Section 4129(a) refers to the 2003 notice as a ''final rule.'' However, the 2003 notice did not issue a ''final rule'' but did establish the procedures and standards for issuing exemptions for drivers with ITDM.

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2000–7918; FMCSA–2001–9561; FMCSA–2003–14504; FMCSA–2005–20027; FMCSA–2006–25246; FMCSA–2007–2663; FMCSA–2007–27897; FMCSA–2009–0086; FMCSA–2011–0024; FMCSA–2011–0124]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 19 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective September 8, 2013. Comments must be received on or before October 16, 2013.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) numbers: Docket No. [Docket No. FMCSA–2000–7918; FMCSA–2001–9561; FMCSA–2003–14504; FMCSA–2005–20027; FMCSA–2006–25246; FMCSA–2007–2663; FMCSA–2007–27897; FMCSA–2009–0086; FMCSA–2011–0024; FMCSA–2011–0124], using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

• *Hand Delivery or Courier:* 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.

• *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *http://www.regulations.gov*, including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov*, FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

Exemption Decision

This notice addresses 19 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 19 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are: Jean-Pierre G. Brefort (CT); Paul W. Dawson (CO); James A. Ellis (NY); Gary D. Hallman (AL); Edward J. Kasper (DE); Jorge Lopez (OH); Robert D. Porter (CA); Robert A. Reyna (UT); Tim M. Seavy (IN); David R. Thomas (AL); James T. Butler, Jr. (TX); Jimmy W. Deadwyler (GA); Waylon E. Hall (LA); John R. Hughes (NY); Richard L. Leonard (TX); William F. Nickel, V (OR); Thomas G. Raymond (FL); J. Bernardo Rodriguez (TX); Lee T. Taylor (FL).

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirements in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) the person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 19 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (65 FR 66286; 66 FR 13825; 66 FR 30502; 66 FR 33990; 66 FR 41654; 68 FR 10300; 68 FR 19598; 68 FR 33570; 68 FR 44837; 70 FR 2701; 70 FR 7546; 70 FR 16887; 70 FR 25878; 70 FR 41811; 72 FR 180; 72 FR 8417; 72 FR 9397; 72 FR 28093; 72 FR 32705; 72 FR 36099; 72 FR 39879; 72 FR 40362; 72 FR 52419; 74 FR 11911; 74 FR 19267; 74 FR 26466; 74 FR 28094; 74 FR 34395; 76 FR 17481; 76 FR 17483; 76 FR 21796; 76 FR 28125; 76 FR 34136; 76 FR 44652; 76 FR 55463). Each of these 19 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the requirement specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption requirements. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

Request for Comments

FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31136(e) and 31315. However, FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by October 16, 2013.

FMCSA believes that the requirements for a renewal of an exemption under 49 U.S.C. 31136(e) and 31315 can be satisfied by initially granting the renewal and then requesting and evaluating, if needed, subsequent comments submitted by interested parties. As indicated above, the Agency previously published notices of final disposition announcing its decision to exempt these 19 individuals from the vision requirement in 49 CFR 391.41(b)(10). The final decision to grant an exemption to each of these individuals was made on the merits of each case and made only after careful consideration of the comments received to its notices of applications. The notices of applications stated in detail the qualifications, experience,

and medical condition of each applicant for an exemption from the vision requirements. That information is available by consulting the above cited **Federal Register** publications.

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket numbers FMCSA–2000–7918; FMCSA–2001–9561; FMCSA–2003–14504; FMCSA–2005–20027; FMCSA–2006–25246; FMCSA–2007–2663; FMCSA–2007–27897; FMCSA–2009–0086; FMCSA–2011–0024; FMCSA–2011–0124 and click the search button. When the new screen appears, click on the blue ''Comment Now!'' button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. 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 this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble. To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2000–7918; FMCSA–2001–9561; FMCSA–2003–14504; FMCSA–2005–20027; FMCSA–2006–25246; FMCSA–2007–2663; FMCSA–2007–27897; FMCSA–2009–0086; FMCSA–2011–0024; FMCSA–2011–0124 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to the proposed rulemaking.

Issued on: September 9, 2013.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2013–22495 Filed 9–13–13; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2013–0002–N–19]

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration (FRA), United States Department of Transportation (USDOT).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and its implementing regulations, the Federal Railroad Administration (FRA) hereby announces that it is seeking renewal of the following currently approved information collection activities. Before submitting these information collection requirements for clearance by the Office of Management and Budget (OMB), FRA is soliciting public comment on specific aspects of the activities identified below.

DATES: Comments must be received no later than November 15, 2013.

ADDRESSES: Submit written comments on any or all of the following proposed activities by mail to either: Mr. Robert Brogan, Office of Safety, Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1200 New Jersey Ave. SE., Mail Stop 17, Washington, DC 20590, or Ms. Kimberly Toone, Office of Information Technology, RAD–20, Federal Railroad Administration, 1200 New Jersey Ave. SE., Mail Stop 35, Washington, DC 20590. Commenters requesting FRA to acknowledge receipt of their respective comments must include a self-addressed stamped postcard stating, ''Comments on OMB control number _____.'' Alternatively, comments may be transmitted via facsimile to (202) 493–6216 or (202) 493–6497, or via email to Mr. Brogan at *Robert.Brogan@dot.gov*, or to Ms. Toone at *Kim.Toone@dot.gov*. Please refer to the assigned OMB control number in any correspondence submitted. FRA will summarize comments received in response to this notice in a subsequent notice and include them in its information collection submission to OMB for approval.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Office of Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1200 New Jersey Ave. SE., Mail Stop 17, Washington, DC 20590 (telephone: (202) 493–6292) or Ms. Kimberly Toone, Office of Information Technology, RAD–20, Federal Railroad Administration, 1200 New Jersey Ave. SE., Mail Stop 35, Washington, DC 20590 (telephone: (202) 493–6132). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, § 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR Part 1320, require Federal agencies to provide 60-days notice to the public for comment on information collection activities before seeking approval for reinstatement or renewal by OMB. 44 U.S.C. 3506(c)(2)(A); 5 CFR 1320.8(d)(1), 1320.10(e)(1), 1320.12(a). Specifically, FRA invites interested respondents to comment on the following summary of proposed information collection activities regarding (i) whether the information collection activities are necessary for FRA to properly execute its functions, including whether the activities will have practical utility; (ii) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (iii) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (iv) ways for FRA to minimize the burden of information collection activities on the public by automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (*e.g.,* permitting electronic submission of responses). *See* 44 U.S.C. 3506(c)(2)(A)(i)–(iv); 5 CFR 1320.8(d)(1)(i)–(iv). FRA believes that soliciting public comment will promote its efforts to reduce the administrative and paperwork burdens associated with the collection of information mandated by Federal regulations. In summary, FRA reasons that comments received will advance three objectives: (i) Reduce reporting burdens; (ii) ensure that it

organizes information collection requirements in a ''user friendly'' format to improve the use of such information; and (iii) accurately assess the resources expended to retrieve and produce information requested. *See* 44 U.S.C. 3501.

Below is a brief summary of currently approved information collection activities that FRA will submit for clearance by OMB as required under the PRA:

Title: Accident/Incident Reporting and Recordkeeping.

OMB Control Number: 2130–0500.

Abstract: The collection of information is due to the railroad accident reporting regulations set forth in 49 CFR Part 225 which require railroads to submit monthly reports summarizing collisions, derailments, and certain other accidents/incidents involving damages above a periodically revised dollar threshold, as well as certain injuries to passengers, employees, and other persons on railroad property. Because the reporting requirements and the information needed regarding each category of accident/incident are unique, a different form is used for each category.

Form Number(s): FRA F 6180.39i; 54; 55; 55A; 56; 57; 78; 81; 97; 98; 99;107; 150.

Affected Public: Businesses.

Respondent Universe: 763 railroads.

Frequency of Submission: On occasion.

REPORTING BURDEN

CFR Section	Respondent universe	Total annual responses	Average time per response	Total annual burden hours
225.6—Consolidated Reporting—Request to FRA by Parent Corporation to treat its Commonly Controlled Carriers as a Single Railroad Carrier for Purposes of this Part.	763 railroads	4 requests	40 hours	160
—Written Agreement by Parent Corporation with FRA on Specific Subsidiaries Included in Its Railroad System.	763 railroads	4 agreements	2 hours	8
—Notification by Parent Corporation Regarding Any Change in the Subsidiaries Making Up Its Railroad System and Amended Written Agreement with FRA.	763 railroads	1 notification + 1 amended agreement.	60 minutes	2
225.9—Telephone Reports of Certain Accidents/Incidents and Other Events.	763 railroads	3,300 phone reports	15 minutes	825
225.11—Reporting of Rail Equipment Accidents/Incidents—Form FRA F 6180.54.	763 railroads	3,600 forms	2 hours	7,200
225.12—Rail Equipment Accident/Incident Reports Alleging Human Factor as Cause—Form FRA F 6180.81.	763 railroads	1,600 forms	15 minutes	400
—Part I Form FRA F 6180.78 (Notices).	763 railroads	1,000 notices + 4,000 copies	10 minutes + 3 minutes	367
—Joint Operations	763 railroads	100 requests	20 minutes	33
—Late Identification	763 railroads	20 attachments + 20 notices	15 MINUTES	10
—Employee Statement Supplementing Railroad Accident Report (Part II Form FRA 6180.78).	Railroad employees	75 statements	1.5 hours	113
—Employee Confidential Letter.	Railroad employees	10 letters	2 hours	20
225.13—Late Reports—RR Discovery of Improperly Omitted Report of Accident/Incident.	763 railroads	25 late reports	1 hour	25
—RR Late/Amended Report of Accident/Incident Based on Employee Statement Supplementing RR Accident Report.	763 railroads	50 amended reports + 40 copies.	1 hour + 3 minutes	52
225.18—RR Narrative Report of Possible Alcohol/Drug Involvement in Accident/Incident.	763 railroads	80 reports	30 minutes	40

REPORTING BURDEN—Continued

CFR Section	Respondent universe	Total annual responses	Average time per response	Total annual burden hours
—Reports Required by Section 219.209(b) Appended to Rail Equipment Accident/Incident Report.	763 railroads	5 reports	30 minutes	3
225.19—Rail-Highway Grade Crossing Accident/Incident Report—Form FRA F 6180.57.	763 railroads	2,880 forms	2 hours	5,760
—Death, Injury, or Occupational Illness (Form FRA F 6180.55a).	763 railroads	12,638 forms	20 min./50 min 60 min.	4,912
225.21—Railroad Injury and Illness Summary: Form FRA F 6180.55.	763 railroads	8,616 forms	10 minutes	1,436
225.21—Annual Railroad Report of Employee Hours and Casualties, By State—Form FRA F 6180.56.	763 railroads	763 forms	15 minutes	191
225.21/25—Railroad Employee Injury and/or Illness Record—Form FRA F 6180.98.	763 railroads	18,900 forms	60 minutes	18,900
—Copies of Forms to Employees.	763 railroads	567 form copies	2 minutes	19
225.21—Initial Rail Equipment Accident/Incident Record—Form FRA F 6180.97.	763 railroads	18,200 forms	30 minutes	9,100
—Completion of Form FRA F 6180.97 because of Rail Equipment Involvement.	763 railroads	1 form	30 minutes	1
225.21—Alternative Record for Illnesses Claimed to Be Work Related—Form FRA F 6180.107.	763 railroads	300 forms	75 minutes	375
225.21—Railroad Accident/Incident Notification and Initial Investigation Report—Form FRA F 6180.39i.	763 railroads	1,000 forms	90 minutes	1,500
225.21—Highway User Statement—RR Cover Letter and Form FRA F 6180.150 sent out to Potentially Injured Travelers Involved in a Highway-Rail Grade Crossing Accident/Incident.	763 railroads	950 Letters/forms	50 minutes	792
—Form FRA F 6180.150 Completed by Highway User and Sent Back to Railroad.	950 Injured Individuals	665 forms	45 minutes	499
225.25(h)—Posting of Monthly Summary.	763 railroads	8,616 lists	16 minutes	2,298
225.27—Retention of Records	763 railroads	18,900 records	2 minutes	630
—Record of Form FRA F 6180.107.	763 railroads	300 records	2 minutes	10
—Record of Monthly Lists	763 railroads	8,616 records	2 minutes	288
—Record of Form FRA F 6180.97.	763 railroads	18,200 records	2 minutes	607
—Record of Employee Human Factor Attachments.	763 railroads	2,675 records	2 minutes	89
—RR Electronic Recordkeeping Systems—Changes to Conform to FRA Requirements.	18 railroads	18 modified systems	120 hours	2,160
225.33—Internal Control Plans—Amendments.	763 railroads	25 amendments	14 hours	350
225.35—Access to Records and Reports.	15 railroads	400 lists	20 minutes	133
—Subsequent Years	4 railroads	16 lists	20 minutes	5
225.37—Optical Media Transfer of of Reports, Updates, and Amendments.	8 railroads	200 transfers	3 minutes	10

REPORTING BURDEN—Continued

CFR Section	Respondent universe	Total annual responses	Average time per response	Total annual burden hours
—Electronic Submission of Reports, Updates, and Amendments.	763 railroads	2,400 submissions	3 minutes	120

Total Responses: 139,791.

Estimated Total Annual Burden: 59,443 hours.

Status: Extension of a Currently Approved Collection.

OMB Control Number: 2130–0524.

Abstract: The Federal Railroad Administration (FRA) amended its radio standards and procedures to promote compliance by making the regulations more flexible; to require wireless communications devices, including radios, for specified classifications of railroad operations and roadway workers; and to re-title this part to reflect its coverage of other means of wireless communications such as cellular telephones, data radio terminals, and other forms of wireless communications to convey emergency and need-to-know information. The new rule establishes safe, uniform procedures covering the use of radio and other wireless communications within the railroad industry.

Form Number(s): N/A.

Affected Public: Businesses.

Respondent Universe: 763 railroads.

Frequency of Submission: On occasion; annually.

REPORTING BURDEN

CFR Section	Respondent universe	Total annual responses	Average time per response	Total annual burden hours
220.8—Waivers Petitions	763 railroads	6 petition letters	60 minutes	6
220.25—Instruction of Employees.	763 railroads	91,000 instructed employees	30 minutes	45,500
—Subsequent Years	763 railroads	12,5400 instructed employees	30 minutes	6,270
—Operational Testing of Employees.	763 railroads	100,000 tests/record	5 minutes	8,333
220.37—Testing Radio/Wireless Communication Equipment.	763 railroads	780,000 tests	30 seconds	6,500
220.61—Transmission of Mandatory Directive.	763 railroads	7,200,000 directives	1.5 minutes	180,000
—Marking Man. Dir	763 railroads	624,000 marks	15 seconds	2,600
220.307—Use of RR Supplied Electronic Devices: Amended RR Code.	763 railroads	763 amended codes	60 minutes	763
—RR Written Document Stating Authorized Business Purpose for Taking Video/Photo with RR Supplied Electronic Device.	763 railroads	50 written documents	60 minutes	50
—Safety Briefing for Use of RR Supplied Electronic Device in Cab of Controlling Locomotive.	763 railroads	5,460,000 briefings	1 minute	91,000
220.313—Railroad Written Program of Instruction and Examination on Part 220 Requirements.	763 railroads	763 amended written Instruction Programs.	60 minutes	763
—Training of RR Employees on Part 220 Requirements.	91,000 Employees	91,000 Trained Employees	15 minutes	22,750
—Employee Training Records	91,000 Employees	91,000 records	5 minutes	7,583
—Approval Process: FRA Disapproval of RR Program of Instruction and Examination.	763 railroads	6 revised/amended programs	60 minutes	6

Total Responses: 14,451,128.

Estimated Total Annual Burden: 372,124 hours.

Status: Extension of a Currently Approved Collection.

OMB Control Number: 2130–0557.

Abstract: The Federal Railroad Administration (FRA) and the Surface Transportation Board (STB), working in conjunction with each other, have issued joint final rules establishing procedures for the development and implementation of safety integration plans (''SIPs'' or ''plans'') by a Class I railroad proposing to engage in certain specified merger, consolidation, or acquisition of control transactions with another Class I railroad, or a Class II railroad with which it proposes to amalgamate operations. The scope of the transactions covered under the two rules is the same. FRA uses the information collected, notably the required SIPs, to maintain and promote a safe rail environment by ensuring that affected railroads (Class Is and some Class IIs) address critical safety issues unique to the amalgamation of large, complex railroad operations.

Form Number(s): N/A.

Affected Public: Railroads.

Respondent Universe: Class I Railroads.

Frequency of Submission: On occasion.

CFR Section	Respondent universe	Total annual responses	Average time per response	Total annual burden hours	Total annual burden cost
244.13—Safety Integration Plans:					
Amalgamation of Operations—SIP Development & Quarterly Meetings.	8 railroads	1 plan	340 hours	340	$24,016
244.17—Procedures	8 railroads	25 reports	40 hours/2 hours	88	5,632
—Responses to FRA Inquiries Re: SIP data.	8 railroads	6 responses	8 hours	48	3,072
—Coordination in Implementing Approved SIP.	8 railroads	25 phone calls	10 minutes	4	256
hh—Request for Confidential Treatment.	8 railroads	1 request	16 hours	16	2,512
244.19—Disposition—Comments on Proposed SIP Amendments.	8 railroads	2 reports	16 hours	32	2,048

Total Responses: 60.

Estimated Total Annual Burden: 528 hours.

Status: Extension of a Currently Approved Collection.

Title: Confidential Close Call Reporting System Evaluation-Related Interview Data Collection.

OMB Control Number: 2130–0574.

Abstract: In the U.S. railroad industry, injury rates have been declining over the last 25 years. Indeed, the industry incident rate fell from a high of 12.1 incidents per 100 workers per year in 1978 to 3.66 in 1996. As the number of incidents has decreased, the mix of causes has also changed toward a higher proportion of incidents that can be attributed to human and organizational factors. This combination of trends—decrease in overall rates but increasing proportion of human factors-related incidents—has left safety managers with a need to shift tactics in reducing injuries to even lower rates than they are now.

In recognition of the need for new approaches to improving safety, FRA has instituted the Confidential Close Call Reporting System (C^3RS). The operating assumption behind C^3RS is that by assuring confidentiality, employees will report events which, if dealt with, will decrease the likelihood of accidents. C^3RS, therefore, has both a confidential reporting component, and a problem analysis/solution component. C^3RS is expected to affect safety in two ways. First, it will lead to problem solving concerning specific safety conditions. Second, it will engender an organizational culture and climate that supports greater awareness of safety and a greater cooperative willingness to improve safety.

If C^3RS works as intended, it could have an important impact on improving safety and safety culture in the railroad industry. While C^3RS has been developed and implemented with the participation of FRA, railroad labor, and railroad management, there are legitimate questions about whether it is being implemented in the most beneficial way, and whether it will have its intended effect. Further, even if C^3RS is successful, it will be necessary to know if it is successful enough to implement on a wide scale. To address these important questions, FRA is implementing a formative evaluation to guide program development, a summative evaluation to assess impact, and a sustainability evaluation to determine how C^3RS can continue after the test period is over. The evaluation is needed to provide FRA with guidance as to how it can improve the program, and how it might be scaled up throughout the railroad industry.

Program evaluation is an inherently data driven activity. Its basic tenet is that as change is implemented, data can be collected to track the course and consequences of the change. Because of the setting in which C^3RS is being implemented, that data must come from the railroad employees (labor and management) who may be affected. Critical data include beliefs about safety and issues related to safety, and opinions/observations about the operation of C^3RS.

The current study is a five-year demonstration project to improve rail safety, and is designed to identify safety issues and propose corrective action based on voluntary reports of close calls submitted to the Bureau of Transportation Statistics. Because of the innovative nature of this program, FRA is implementing an evaluation to determine whether the program is succeeding, how it can be improved and, if successful, what is needed to spread the program throughout the railroad industry. Interviews to evaluate the close call reporting system are being conducted with two groups: (1) Key stakeholders to the process (e.g., FRA officials, industry labor, and carrier management within participating railroads); and (2) Employees in participating railroads who are eligible to submit close call reports to the Confidential Close Call Reporting System. Different questions are addressed to each of these two groups. Interviews are semi-structured, with follow-up questions asked as appropriate depending on the respondent's initial answer.

The confidentiality of the interview data is protected by the Privacy Act of 1974. FRA fully complies with all laws pertaining to confidentiality, including the Privacy Act. Thus, information obtained by or acquired by FRA's contractor, the Volpe Center, from key stakeholders and railroad employees will be used strictly for evaluation purposes. None of the information that might be identifying will be disseminated or disclosed in any way. In addition, the participating railroad sites involved will require Volpe to establish a non-disclosure agreement that prohibits disclosure of company confidential information without the carrier's authorization. Also, the data are protected under the Department of

Transportation regulation Title 49 CFR Part 9, which is in part concerned with the Department involvement in proceedings between private litigants. According to this statute, if information is subpoenaed, Volpe and Volpe contractors cannot ''provide testimony or produce any material contained in the files of the Department, or disclose any information or produce any material acquired as part of the performance of that employee's official duties or because of that employee's official duty status'' unless authorized by agency counsel after determining that, in legal proceedings between private litigants, such testimony would be in the best interests of the Department or that of the United States Government if disclosed. Finally, the name of those interviewed will not be requested.

Form Number(s): FRA F 6180.126A; FRA F 6180.126B.

Affected Public: Railroad Employees and Key Non-railroad Stakeholders.

Respondent Universe: 300 Select Railroad Employees/Non-railroad Stakeholders.

Frequency of Submission: On occasion.

Collection instrument	Respondent universe	Total annual responses	Average time per response (minutes)	Total annual burden hours
Form FRA F 6180.126A	300 Individuals	220 forms	60	220
Form FRA F 6180.126B	300 Individuals	60 forms	60	60

Total Responses: 280.

Estimated Annual Burden: 280 hours.

Status: Extension of a Currently Approved Collection.

Pursuant to 44 U.S.C. 3507(a) and 5 CFR 1320.5(b), 1320.8(b)(3)(vi), FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Authority: 44 U.S.C. 3501–3520.

Rebecca Pennington,

Chief Financial Officer.

[FR Doc. 2013–22394 Filed 9–13–13; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[U.S. DOT Docket Number NHTSA–2013–0096]

Reports, Forms, and Recordkeeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Request for public comment on proposed collection of information.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections. This document describes one collection of information for which NHTSA intends to seek OMB approval.

DATES: Comments must be received on or before November 15, 2013.

ADDRESSES: Comments must refer to the docket notice numbers cited at the beginning of this notice and be submitted to Docket Management, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. Please identify the proposed collection of information for which a comment is provided, by referencing its OMB clearance number. It is requested, but not required, that 2 copies of the comment be provided. The Docket Section is open on weekdays from 10 a.m. to 5 p.m.

FOR FURTHER INFORMATION CONTACT: Gary R. Toth, Office of Data Acquisitions (NVS–410), Room W53–505, 1200 New Jersey Avenue SE., Washington, DC 20590. Mr. Toth's telephone number is (202) 366–5378. Please identify the relevant collection of information by referring to its OMB Control Number.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation (at 5 CFR 1320.8(d), an agency must ask for public comment on the following:

(i) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) how to enhance the quality, utility, and clarity of the information to be collected;

(iv) how to minimize the burden of the collection of information on those who are to respond including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks for public comments on the following proposed collections of information:

Title: National Automotive Sampling System (NASS).

Type of Request: Extension of a currently approved collection.

OMB Control Number: 2127–0021.

Affected Public: Passenger Motor Vehicle Operators.

Abstract: The collection of crash data that support the establishment and enforcement of motor vehicle regulations that reduce the severity of injury and property damage caused by motor vehicle crashes is authorized under the National Traffic and Motor Vehicle Safety Act of 1966 (Pub. L. 89–563, Title 1, Sec. 106, 108, and 112). The National Automotive Sampling System (NASS) Crashworthiness Data System (CDS) of the National Highway Traffic Safety Administration investigates high severity crashes. Once a crash has been selected for investigation, researchers locate, visit, measure, and photograph the crash scene; locate, inspect, and photograph vehicles; conduct a telephone or personal interview with the involved individuals or surrogate; and obtain and record injury information received from various medical data sources. NASS CDS data are used to describe and analyze circumstances, mechanisms, and consequences of high severity motor vehicle crashes in the United

States. The collection of interview data aids in this effort.

Estimated Annual Burden: 5,605 hours.

Number of Respondents: 9,450.

Issued in Washington, DC, on September 11, 2013.

Terry T. Shelton,

Associate Administrator, National Center for Statistics and Analysis.

[FR Doc. 2013–22429 Filed 9–13–13; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Identification of Persons Pursuant to the Iranian Transactions and Sanctions Regulations and Executive Order 13599

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 six individuals and four companies identified as Government of Iran pursuant to the Iranian Transactions and Sanctions Regulations, 31 CFR part 560 (''ITSR''), and Executive Order 13599.

DATES: The identification made by the Acting Director of OFAC of the persons identified in this notice, pursuant to the ITSR and Executive Order 13599, was effective September 6, 2013.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Sanctions Compliance and Evaluation, 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 February 5, 2012, the President issued Executive Order 13599, ''Blocking Property of the Government of Iran and Iranian Financial Institutions'' (the ''Order''). Section 1(a) of the Order blocks, with certain exceptions, all property and interests in property of the Government of Iran, including the Central Bank of Iran, that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person, including any foreign branch. Section 7(d) of the Order defines the term ''Government of Iran'' to mean the Government of Iran, any political subdivision, agency, or instrumentality thereof, including the Central Bank of Iran, and any person owned or controlled by, or acting for or on behalf of, the Government of Iran.

Section 560.211(a) of the ITSR implements Section 1(a) of the Order. Section 560.304 of the ITSR defines the term ''Government of Iran'' to include: ''(a) The state and the Government of Iran, as well as any political subdivision, agency, or instrumentality thereof, including the Central Bank of Iran; (b) Any person owned or controlled, directly or indirectly, by the foregoing; and (c) Any person to the extent that such person is, or has been, since the effective date, acting or purporting to act, directly or indirectly, for or on behalf of any of the foregoing; and (d) Any other person determined by the Office of Foreign Assets Control to be included within [(a) through (c)].'' Section 560.313 of the ITSR further defines an ''entity owned or controlled by the Government of Iran'' to include ''any corporation, partnership, association, or other entity in which the Government of Iran owns a 50 percent or greater interest or a controlling interest, and any entity which is otherwise controlled by that government.''

On September 6, 2013, the Acting Director of OFAC identified six individuals and four companies as Government of Iran meeting the definition of the Government of Iran pursuant to the Order and the ITSR.

The listing for these persons is as follows:

1. SEYYEDI, Seyed Nasser Mohammad; DOB 21 Apr 1963; citizen Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Passport B14354139 (Iran); alt. Passport L18507193 (Iran); alt. Passport X95321252 (Iran); Managing Director, Sima General Trading (individual) [IRAN].
2. PARSAEI, Reza; DOB 09 Aug 1963; citizen Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Director, NIOC International Affairs (London) Ltd. (individual) [IRAN].
3. TABATABAEI, Seyyed Mohammad Ali Khatibi; DOB 27 Sep 1955; citizen Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Director, NIOC International Affairs (London) Ltd.; Director of International Affairs, NIOC (individual) [IRAN].
4. ZIRACCHIAN ZADEH, Mahmoud; DOB 24 Jul 1959; citizen Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Director, Iranian Oil Company (U.K.) Ltd. (individual) [IRAN].
5. MOHADDES, Seyed Mahmoud; DOB 07 Jun 1957; citizen Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Managing Director, Iranian Oil Company (U.K.) Ltd. (individual) [IRAN].
6. MOINIE, Mohammad; DOB 04 Jan 1956; POB Brojerd, Iran; citizen United Kingdom; Additional Sanctions Information—Subject to Secondary Sanctions; Passport 301762718 (United Kingdom); Commercial Director, Naftiran Intertrade Company Sarl (individual) [IRAN].
7. SWISS MANAGEMENT SERVICES SARL, 28C, Route de Denges, Lonay 1027, Switzerland; Additional Sanctions Information—Subject to Secondary Sanctions [IRAN].
8. KASB INTERNATIONAL LLC, United Arab Emirates; Additional Sanctions Information—Subject to Secondary Sanctions [IRAN].
9. PETRO ROYAL FZE, United Arab Emirates; Additional Sanctions Information—Subject to Secondary Sanctions [IRAN].
10. AA ENERGY FZCO, United Arab Emirates; Additional Sanctions Information—Subject to Secondary Sanctions [IRAN].

Dated: September 6, 2013.

Charles M. Steele,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2013–22480 Filed 9–13–13; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0761]

Proposed Collection of Information; 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 proposed revised collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on the correspondence survey that will allow Veterans an opportunity to provide anonymous feedback on how well the HEC addressed their letter. HEC will use this feedback to improve the correspondence processes. The goal of the Customer Modality Survey is to implement a survey process that allows the organization to be proactive in caring for Veterans prior to them receiving services.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before November 15, 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. 2900–0761'' 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: Health Eligibility Center (HEC) Correspondence Satisfaction Letter and Customer Modality Survey

a. Customer Modality Administrative Survey, VA Form 10–0151.

b. VA Form Letter 10–491 & HEC Online Survey, 10–211007.

OMB Control Number: 2900–0761

Type of Review: Revision of a currently approved collection.

Abstract: The HEC goal is to respond to Veterans correspondence, addressing their concerns in a concise and understandable manner. The correspondence survey will allow Veterans an opportunity to provide anonymous feedback on how well the HEC addressed their letter. The Customer Modality Survey is to implement a survey process that allows the organization to be proactive in caring for Veterans prior to them receiving services.

Affected Public: Individuals or households.

Estimated Annual Burden:

a. VA Form 10–0151—11,551 burden hours.

b. VA Form Letter 10–491 & HEC Online Survey 10–211007—83,677 burden hours.

Estimated Average Burden Per Respondent:

a. VA Form 10–0151—4.2 minutes.

b. VA Form Letter 10–491 & HEC Online Survey 10–211007—23 minutes.

Frequency of Response:

a. VA Form 10–0151—1.53 annual.

b. VA Form Letter 10–491 & HEC Online Survey 10–211007—1.9 annual.

Estimated Number of Respondents:

a. VA Form 10–0151—107,851.

b. VA Form Letter 10–491 & HEC Online Survey 10–211007—114,889

Total Annual Responses:

a. VA Form 10–0151—165,012.

b. VA Form Letter 10–491 & HEC Online Survey 10–211007—218,289.

Dated: September 10, 2013.

By direction of the Secretary.

Crystal Rennie,

Department Clearance Officer, U.S. Department of Veterans Affairs.

[FR Doc. 2013–22372 Filed 9–13–13; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0698]

Agency Information Collection (Application for Educational Assistance to Supplement Tuition Assistance) 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 October 16, 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. 2900–0698'' 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. 2900–0698.''

SUPPLEMENTARY INFORMATION:

Title: Application for Educational Assistance to Supplement Tuition Assistance; 38 CFR 21.1030(c), 21.7140(c)(5)

OMB Control Number: 2900–0698.

Type of Review: Revision of a currently approved collection.

Abstract: Claimants who wish to receive educational assistance administered by VA to supplement tuition assistance administered by the Department of Defense must apply to VA. VA will use the data collected to determine the claimant's eligibility to receive educational assistance to supplement the tuition assistance he or she has received and the amount payable.

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.

Affected Public: Not-for-profit institutions.

Estimated Annual Burden: 2,000 hours.

Frequency of Response: On occasion.

Estimated Average Burden per Respondents: 12 minutes.

Estimated Annual Responses: 10,000.

Dated: September 10, 2013.

By direction of the Secretary.

Crystal Rennie,

Department Clearance Officer, U.S. Department of Veterans Affairs.

[FR Doc. 2013–22343 Filed 9–13–13; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0111]

Agency Information Collection (Statement of Purchaser or Owner Assuming Seller's Loans) 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, 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 October 16, 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. 2900–0111'' 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. 2900–0111.''

SUPPLEMENTARY INFORMATION:

Title: Statement of Purchaser or Owner Assuming Seller's Loans, VA Form 26–6382.

OMB Control Number: 2900–0111.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 26–6382 is completed by purchasers who are assuming Veterans' guaranteed, insured, and direct home loans. The information collected is essential in the determinations for release of liability as well as for credit underwriting determinations for substitution of entitlement. If a Veteran chooses to sell his or her VA guaranteed home, VA will allow a qualified purchaser to assume the veteran's loan and all the responsibility under the guaranty or insurance. In regard to substitution of entitlement cases, eligible Veteran purchasers must meet all requirements of liability in addition to having available loan guaranty entitlement.

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 29436.

Affected Public: Individuals or households.

Estimated Annual Burden: 250 hours.

Estimated Average Burden Per Respondent: 15 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 1,000.

Dated: September 10, 2013.

By direction of the Secretary:

Crystal Rennie,

Department Clearance Officer, U.S. Department of Veterans Affairs.

[FR Doc. 2013–22367 Filed 9–13–13; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0099]

Agency Information Collection (Dependent's Request for Change of Program or Place of Training) 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 October 16, 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. 2900–0099'' 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 *denise.mclamb@va.gov.* Please refer to ''OMB Control No. 2900–0099.''

SUPPLEMENTARY INFORMATION:

Title: Dependent's Request for Change of Program or Place of Training, (Under Provisions of Chapter 35, Title 38, U.S.C.), VA Form 22–5495.

OMB Control Number: 2900–0099.

Type of Review: Revision of a currently approved collection.

Abstract: Spouses, surviving spouses, or children of veterans who are eligible for Dependent's Educational Assistance, complete VA Form 22–5495 to change their program of education and/or place of training. VA uses the information collected to determine if the new program selected is suitable to their abilities, aptitudes, and interests and to verify that the new place of training is approved for benefits.

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 pages 29433–29434.

Affected Public: Individuals or households.

Estimated Annual Burden: 36,083 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 144,333.

Dated: September 10, 2013.

By direction of the Secretary.

Crystal Rennie,

Department Clearance Officer, U.S. Department of Veterans Affairs.

[FR Doc. 2013–22349 Filed 9–13–13; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

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Part II

Department of Agriculture

Agricultural Marketing Service

7 CFR Part 1222

Paper and Paper-Based Packaging Promotion, Research and Information Order; Proposed Rule

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1222

[Document Number AMS–FV–11–0069; PR–A2]

RIN 0581–AD21

Paper and Paper-Based Packaging Promotion, Research and Information Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule and referendum order.

SUMMARY: This document proposes a Paper and Paper-Based Packaging Promotion, Research and Information Order (Order). The purpose of the program would be to maintain and expand markets for paper and paper-based packaging. The program would be financed by an assessment on paper and paper-based packaging manufacturers (domestic producers) and importers and would be administered by a board of industry members appointed by the Secretary of Agriculture (Secretary). The assessment rate would initially be $0.35 per short ton. This document also announces that the U.S. Department of Agriculture (USDA) is conducting a referendum among eligible manufacturers and importers to determine whether they favor implementation of the program. The program would be implemented if it is favored by a majority of current U.S. manufacturers and importers voting in the referendum who also represent a majority of the volume of paper and paper-based packaging represented in the referendum who, during a representative period determined by the Secretary, were engaged in the manufacturing or importation of paper and paper-based packaging into the United States. A separate final rule on referendum procedures is being published in this issue of the **Federal Register**.

DATES: The voting period is October 28 through November 8, 2013. To be eligible to vote, current paper and paper-based packaging domestic manufacturers and importers must have domestically manufactured and/or imported 100,000 short tons or more of paper and paper-based packaging during the representative period from January 1 through December 31, 2012. Anyone who believes that they are eligible to vote in the referendum and does not receive a ballot in the mail, may request one from the Referendum Agents by calling the toll free number provided in the **ADDRESSES** section below. Ballots will be mailed to all known domestic manufacturers and importers of paper and paper-based packaging on or before October 21, 2013. Ballots must be received by the referendum agents no later than the close of business 4:30 p.m. (Eastern Standard Time) on November 8, 2013.

ADDRESSES: Copies of the proposed Order may be obtained from the Referendum Agents, Promotion and Economics Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., Room 1406–S, Stop 0244, Washington, DC 20250–0244; telephone: (202) 720–9915 or (888) 720–9917 (toll free); or facsimile: (202) 205–2800; or can be viewed at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Kimberly Coy, Marketing Specialist, Promotion and Economics Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., Room 1406–S, Stop 0244, Washington, DC 20250–0244; telephone: (202) 720–9915 or (888) 720–9917 (toll free); or facsimile: (202) 205–2800; or electronic mail: *Kimberly.Coy@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: This proposed rule is issued pursuant to the Commodity Promotion, Research and Information Act of 1996 (1996 Act) (7 U.S.C. 7411–7425).

As part of this rulemaking process, a proposed rule was published in the **Federal Register** on January 2, 2013 (78 FR 188). That rule provided for a 60-day comment period which ended on March 4, 2013. Seventy-five comments were received. The comments are addressed later in this document.

Background

This document proposes an industry-funded research, promotion and information program for paper and paper-based packaging. The program would cover four types of paper and paper-based packaging—printing, writing and related paper (used to make products for printing, writing and other communication purposes), kraft packaging paper (used for products like grocery bags and sacks), containerboard (used to make corrugated boxes, shipping containers and related products), and paperboard (used for food and beverage packaging, tubes and other miscellaneous products). The program would be financed by an assessment on U.S. manufacturers and importers of paper and paper-based packaging and would be administered by a board of industry members appointed by the Secretary. The assessment rate would initially be $0.35 per short ton. (One short ton equals 2,000 pounds). Entities that domestically manufacture or import less than 100,000 short tons per marketing year would be exempt from the payment of assessments. The purpose of the program would be to maintain and expand markets for paper and paper-based packaging.

The proposal was submitted to USDA by the Paper and Paper-Based Packaging Panel (Panel). The Panel is a group of 14 industry members that was formed in May 2010 to oversee development of the program. The American Forest & Paper Association (AF&PA), a national trade association, provided technical assistance to the Panel.

Authority in 1996 Act

The proposed Order is authorized under the 1996 Act which authorizes USDA to establish agricultural commodity research and promotion orders which may include a combination of promotion, research, industry information and consumer information activities funded by mandatory assessments. Commodity promotion programs provide a unique opportunity for an industry to inform consumers about their particular commodity and have the ability to provide significant conservation benefits to producers and the public. These programs are designed to strengthen the position of agricultural commodity industries in the marketplace, maintain and expand markets and uses for agricultural commodities, develop new uses for agricultural commodities or assist producers in meeting their conservation objectives. As defined under section 513(1)(D) of the 1996 Act, agricultural commodities include the products of forestry, which includes paper and paper-based packaging.

The 1996 Act provides for a number of optional provisions that allow the tailoring of orders for different commodities. Section 516 of the 1996 Act provides permissive terms for orders, and other sections provide for alternatives. For example, section 514 of the 1996 Act provides for orders applicable to (1) producers, (2) first handlers and others in the marketing chain as appropriate, and (3) importers (if imports are subject to assessments). Section 516 states that an order may include an exemption of *de minimis* quantities of an agricultural commodity; different payment and reporting schedules; coverage of research, promotion, and information activities to expand, improve, or make more efficient

the marketing or use of an agricultural commodity in both domestic and foreign markets; provision for reserve funds; provision for credits for generic and branded activities; and assessment of imports.

In addition, section 518 of the 1996 Act provides for referenda to ascertain approval of an order to be conducted either prior to its going into effect or within three years after assessments first begin under the order. An order also may provide for its approval in a referendum based upon different voting patterns. Section 515 provides for establishment of a board or council from among producers, first handlers and others in the marketing chain as appropriate, and importers, if imports are subject to assessment.

Industry Background

Paper and paper-based packaging is produced from pulp. Pulp is made by chemically or mechanically separating fibers from wood or by recycling recovered paper and paper-based packaging products. The separated, moist fibers are then pressed together and dried into flexible sheets.

U.S. Pulpwood Production [1]

Wood used to make pulp is known as pulpwood. Total pulpwood production includes roundwood chipped at mills and other primary industry mill residues. Roundwood includes both softwood and hardwood. Roundwood pulpwood continues to be the primary fiber source used in pulp manufacturing in the United States. Wood residues consist primarily of mill residue chips, a byproduct of sawmilling and veneer mill operations.

According to U.S. Forest Service statistics, in 2008, U.S. pulpwood production totaled 89.2 million cords. Of that total, softwood roundwood and residues accounted for 69 percent (61.4 million cords). Hardwood roundwood and residues accounted for 31 percent (27.7 million cords). By region, the South accounted for 76.4 percent of total U.S. pulpwood production (68.1 million cords). The West accounted for 9.9 percent (8.8 million cords), the Midwest accounted for 7.1 percent (6.3 million cords), and the Northeast accounted for 6.6 percent (5.9 million cords) of total U.S. pulpwood production.

Manufacturers and Converting Operations

The U.S. paper industry encompasses two broad segments—primary producers/manufacturers (mills) and converters. Primary manufacturers make rolls of paper and paper-based packaging (commonly referred to as roll stock) from pulp produced in the same mill or pulp supplied by another mill. Primary manufacturers would be covered under the program.

Converters turn roll stock into final products such as boxes, corrugated boxes, shipping containers, envelopes, magazines, catalogs, copy paper and bags/sacks. Converting operations can take place in a primary producer mill or off-site. When converting is done in a primary producer mill, the roll produced before it is converted into a final product or sold to an off-site converter would be covered under the program. Converting operations (and thus converted products) would not be covered under the program. An exception is the case of cut-size printing and writing papers (including folio sheets) made by primary producers that are cut prior to leaving the mill.[2] These are classified as primary products (not converted products) under the Harmonized Tariff Schedule of the United States (HTSUS) and would, therefore, be assessed under the program.

Types of Paper and Paper-Based Packaging

There are six major types of paper and paper-based packaging produced by manufacturers: (1) Printing, writing and related paper; (2) kraft packaging paper; (3) containerboard; (4) paperboard; (5) tissue paper; and (6) newsprint. The proposed Order would cover the first four of the six types mentioned above.

Printing, writing and related paper is coated or uncoated paper, including thermal but excluding carbonless paper, which is subsequently converted into products used for printing, writing and other communication purposes, such as file folders, envelopes, catalogues, magazines and brochures. Demand for carbonless paper has declined significantly due to other technologies. Thus, the Panel concluded and the Department concurs that the carbonless segment of the industry would not be able to absorb the cost of a promotion program at this time.

Kraft packaging paper is coarse, unbleached, semi-bleached or fully bleached grades of paper that are subsequently converted into products such as grocery bags, multiwall sacks, waxed paper and other products. ''Kraft'' refers to a process for transforming wood into a high quality, strong pulp for making paper and paper-based packaging. Bleaching is the chemical processing of pulp to remove the natural brown color and thus make the pulp and pulp products whiter.

Containerboard includes all forms of linerboard, which is used as the facing material in the production of corrugated or solid fiber shipping boxes, and medium, which is used as the inner fluting material in the manufacture of such boxes. Containerboard is used to manufacture corrugated boxes, shipping containers, point-of-sale displays, pallets and other products.

Paperboard is solid bleached kraft board, recycled board and unbleached kraft board, which is converted into products such as folding boxes, tubes, cans and drums. Paperboard is also used to package food, beverages and other nondurable consumer products such as pharmaceuticals, clothing, footwear and cosmetics. Nondurable goods are used immediately or have a lifespan of 3 years or less.

The two types of paper and paper-based packaging that would not be covered under the program are tissue paper and newsprint. With the exception of restroom hand-dryers versus paper towels, tissue paper products are not facing competition from alternative products. The opposite is true for newsprint. Demand for newsprint has drastically declined due to the shift toward digital communications. However, the Panel concluded and the Department concurs that the newsprint segment of the industry would not be able to incur the cost of a promotion program at this time.

U.S. Manufacturing by Region [3]

In 2011, about 68.5 million short tons of U.S. paper and paper-based packaging to be covered under the program were produced. Of the 68.5 million short tons, it is estimated that 63.2 percent was manufactured in the South, 17.1 percent was manufactured in the Midwest, 10.5 percent was manufactured in the Northeast, and 9.2 percent was manufactured in the West. In terms of type, it is estimated that 50.1 percent was containerboard, 29.1

[1] Johnson, Tony G., Ronald J., Walters, Brian F., Sorenson, Colin, Woodall, Christopher W., Morgan, Todd A., National Pulpwood Production, 2008, USDA, p. 15 (*www.treesearch.fs.fed.us/pubs/37960*).

[2] Cut-size office papers are used in office machines and are sold in sheet form typically 8.5″ x 11″, 8.5″ x 14″ or 11″ x 11″. Folio sheets are cut-size papers sold in sheet form in sizes of 17″ x 22″ or larger. These would be included in the printing, writing and related paper category.

[3] Manufacturing data was compiled by the AF&PA from its 51st Annual Survey of Paper, Paperboard and Pulp, 2011.

percent was printing, writing and related paper, 18.3 percent was paperboard, and 2.5 percent was kraft packaging paper.

Export Markets

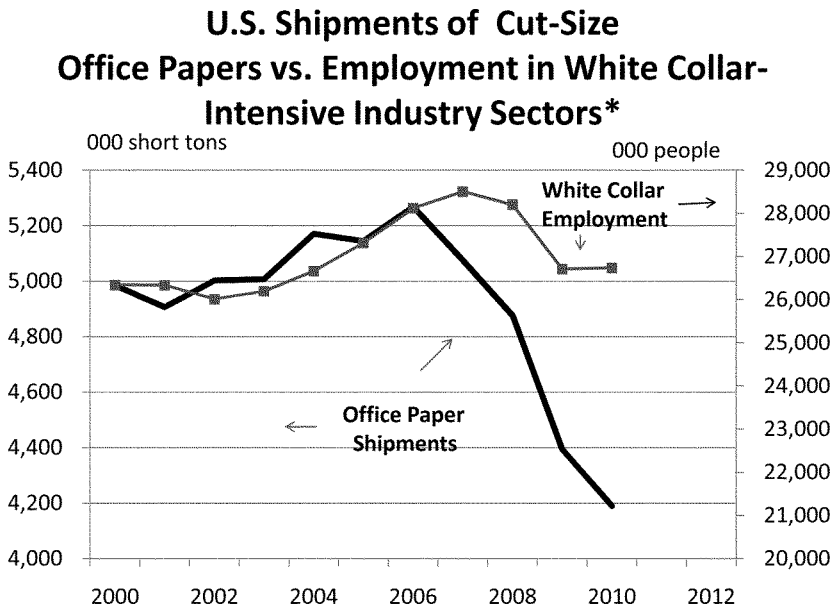
According to U.S. Census data, in 2011, exports of the four types of paper and paper-based packaging to be covered under the proposed Order totaled about 11.5 million short tons, or 17 percent of domestic production. In terms of major export markets in 2011, it is estimated that 18.0 percent went to Western Europe, 16.0 percent each went to Canada and Mexico, 11.0 percent went to the Far East and Oceania, 9.0 percent went to South America and 8.0 percent went to China. Of the 11.5 million short tons, it is estimated that 46.0 percent was containerboard, 26.0 percent was paperboard, 22.0 percent was printing, writing and related paper, and 6.0 percent was kraft packaging paper.

Imports

According to U.S. Customs and Border Protection (Customs) data, in 2011, imports to be covered under the program totaled 7.5 million short tons. Of that total, about 58.6 percent was from Canada, 22.2 percent from Western Europe, 9.8 percent was from China, Japan and the Far East, 2.7 percent was from South America and the remainder was from other countries. In terms of type, about 72.0 percent of the imports were printing, writing and related paper, 13.1 percent was paperboard, 10.1 percent was containerboard and 4.8 percent was kraft packaging paper.

Need for a Program

According to AF&PA data, markets for paper and paper-based packaging that would be covered under the program declined by 15 percent between 2000 and 2010. U.S. shipments of cut-size office papers (one sector of the printing and writing category) grew with employment in white collar-intensive industries between 2000 and 2006. However, between 2006 and 2010, shipments fell 20 percent[4] while employment in white collar-intensive industries declined by 5 percent. Moreover, in 2010, while employment in white collar-intensive industries stabilized,[5] office paper shipments declined another 5 percent.[6] This is illustrated in the following chart.



*Finance, insurance, real estate, professional and business services, membership organizations.

Markets for other printing and writing papers (exclusive of cut-size office papers) declined 27 percent between 2006 and 2010.[7] Digital forms of communication such as Internet advertising and the widespread availability of news, books and other digital information have contributed to this displacement. This is illustrated in the following chart.[8]

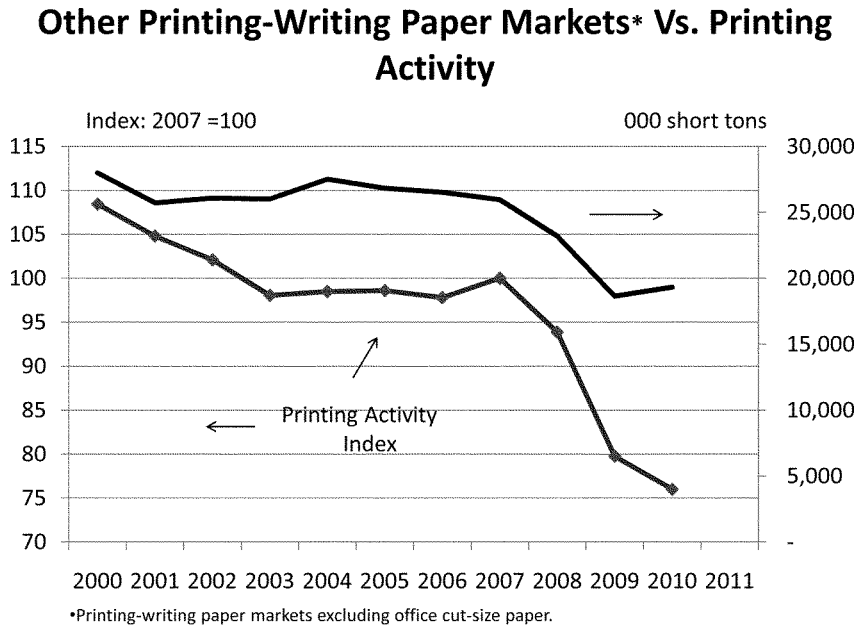
[4] AF&PA's Statistics of Pulp, Paper and Paperboard, p. 7.

[5] Employment data was compiled by the AF&PA from the U.S. Bureau of Labor Statistics, *http://www.bls.gov/data.*

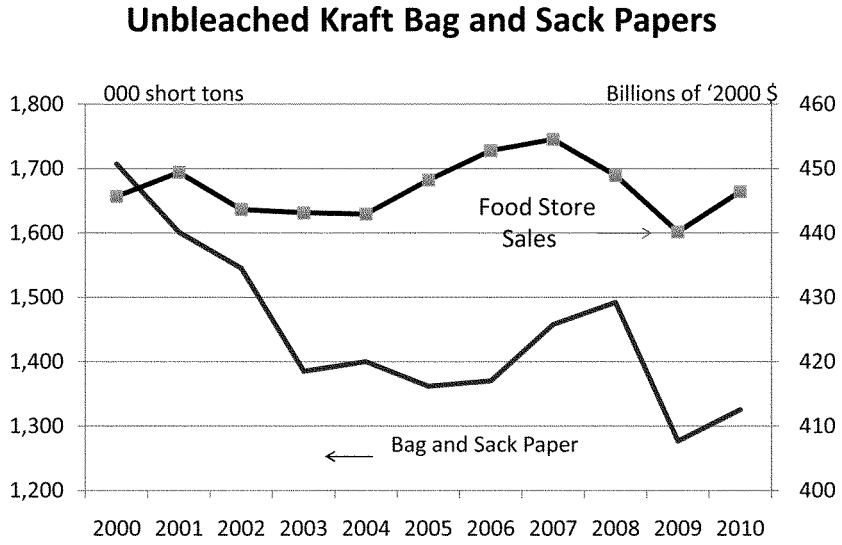
[6] AF&PA's Statistics, p. 7.

[7] AF&PA's Statistics, p. 7 and 12.

[8] Printing activity index is from *http://www.federalreserve.gov/releases/g17/ipdisk/ip_nsa.txt.* The Federal Reserve Board reports production of nondurable goods, as well as other items, as indexes rather than in terms of tons, pounds or units. The base year is 2007, which means that if the index reaches 105 in 2008, production has increased 5 percent relative to the 2007 level. If the index falls to 95, it means that production has declined 5 percent relative to the 2007 level.



According to AF&PA data, kraft paper markets declined 23 percent between 2000 and 2010,[9] even as food store sales rose by 1 percent.[10] This is illustrated in the following chart.



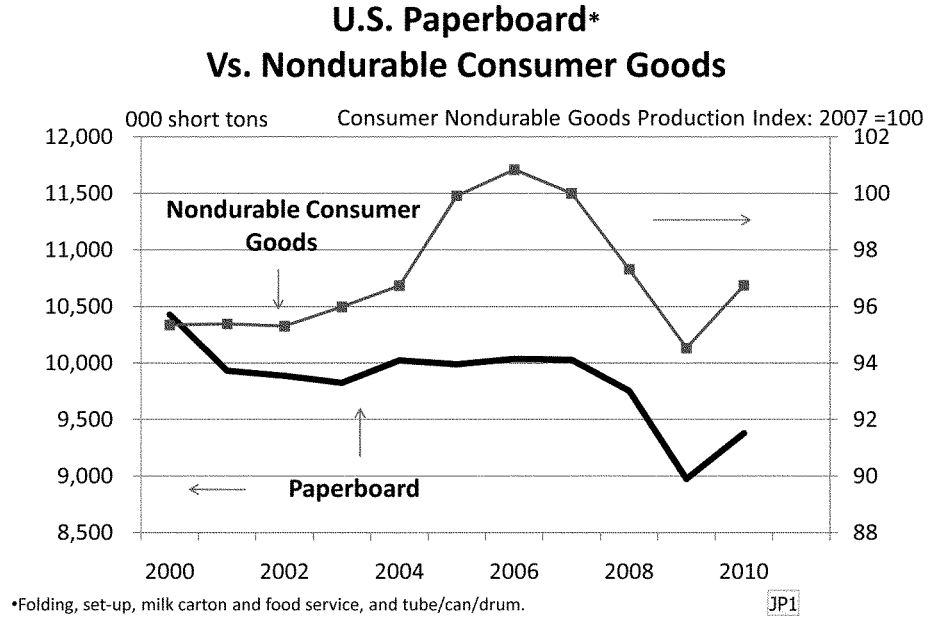
Paperboard markets also have declined over the past decade.[11] Paperboard is mainly facing competition from plastics, but also from foils and, to a lesser extent, glass. Between 2000 and 2010, U.S. paperboard markets contracted 10 percent as compared with a fairly stable demand (i.e., a 1 percent increase) for nondurable consumer goods. Additionally, paperboard markets stagnated when nondurable consumer goods demand grew in the mid-2000s.[12] This is illustrated in the chart below.

[9] AF&PA monthly Kraft Paper Statistical Reports.

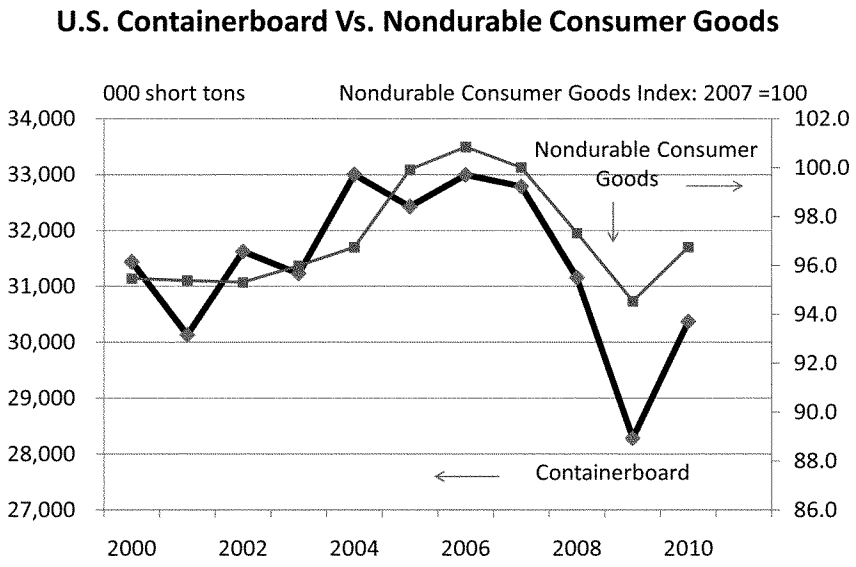
[10] Retail food and beverage store sales data is from the U.S. Census Bureau (*http://www.census.gov/retail*) and was adjusted for inflation by the AF&PA using U.S. Bureau of Labor Statistics' consumer price index for food and beverages (*http://www.bls.gov/data/#prices*).

[11] AF&PA's Statistics, p. 9.

[12] *http://www.federalreserve.gov/releases/g17/ipdisk/ip_nsa.txt.*



AF&PA data show that containerboard markets have remained fairly steady as compared to the other four types of paper and paper-based packaging to be covered under the program. U.S. containerboard markets declined 2 percent between 2000 and 2010,[13] while demand for nondurable consumer goods, which accounts for most of the demand for corrugated boxes, rose 1 percent. As shown below, from 2000 through 2007, containerboard markets largely kept pace with nondurable consumer goods, with containerboard demand growing 4 percent and nondurable goods up 5 percent.[14] This is illustrated in the following chart.



In light of these market conditions, the Panel was formed in May 2010 to assess the merits of a national promotion program. While there have been a number of ongoing campaigns designed to promote specific sectors of the paper industry, the impact of these programs has been limited due to funding. Additionally, while the programs have been useful, their messages have been tailored to specific segments of the industry. Ultimately, the Panel concluded that a national program that would generate about $25 million annually with a unified message that crosses all segments would benefit the entire industry.

Provisions of Proposed Program

Definitions

Pursuant to section 513 of the 1996 Act, sections 1222.1 through 1222.29 of the proposed Order would define certain terms that would be used throughout the Order. Several of the terms are common to all research and promotion programs authorized under

[13] AF&PA's Statistics, p. 9 and 20.

[14] *http://www.federalreserve.gov/releases/g17/ipdisk/ip_nsa.txt.*

the 1996 Act while other terms are specific to the proposed paper and paper-based packaging Order.

Section 1222.1 would define the term ''Act'' to mean the Commodity Promotion, Research and Information Act of 1996 (7 U.S.C. 7411–7425), and any amendments thereto.

Section 1222.2 would define the term ''Board'' to mean the Paper and Paper-Based Packaging Board established pursuant to section 1222.40, or such other name as recommended by the Board and approved by the Department.

Section 1222.4 would define the term ''converted products'' to mean products made from paper and paper-based packaging.

Section 1222.5 would define the term ''Customs'' or ''CBP'' to mean the U.S. Customs and Border Protection, an agency of the U.S. Department of Homeland Security.

Section 1222.7 would define the term ''fiscal period'' and ''marketing year'' to mean the 12-month period ending on December 31 or such other period as recommended by the Board and approved by the Secretary.

Section 1222.9 would define the term ''information'' to mean information and programs for consumers, customers and industry, including educational activities, information and programs designed to enhance and broaden the understanding of the use and attributes of paper and paper-based packaging, increase efficiency in manufacturing paper and paper-based packaging, maintain and expand existing markets, and develop new markets and marketing strategies. These include:

(a) Consumer education and information, which means any action taken to provide information to, and broaden the understanding of, the general public regarding paper and paper-based packaging; and

(b) Industry information, which means information and programs that would enhance the image of the paper and paper-based packaging industry.

Section 1222.12 would define the term ''manufacture'' or ''produce'' to mean the process of transforming pulp into paper and paper-based packaging.

Section 1222.13 would define the term ''manufacturer'' or ''producer'' to mean any person who manufactures paper and paper-based packaging in the United States.

Section 1222.16 would define the term ''Panel'' to mean the Paper and Paper-Based Packaging Panel formed to oversee development of a paper and paper-based packaging promotion, research and information program. As specified in section 1222.41, the Panel would conduct the initial nominations for the Board and submit them to the Secretary. This would be the only role of the Panel under the program.

Section 1222.17 would define the term ''paper and paper-based packaging'' to mean:

(1) Printing, writing and related paper, which is coated or uncoated paper, including thermal but excluding carbonless paper, that is subsequently converted into products used for printing, writing and other communication purposes, such as file folders, envelopes, catalogues, magazines and brochures;

(2) Kraft packaging paper, which is coarse unbleached, semi-bleached or fully bleached grades of paper that is subsequently converted into products such as grocery bags, multiwall sacks, waxed paper and other products;

(3) Containerboard, which is all forms of linerboard and medium, that is used to manufacture corrugated boxes, shipping containers and related products; and

(4) Paperboard, which is solid bleached kraft board, recycled board and unbleached kraft board that is subsequently converted into a wide variety of end uses, including folding boxes, food and beverage packaging, tubes, cans, and drums, and other miscellaneous products. Paperboard does not include construction-related products such as gypsum wallboard facings and panel board.

As previously mentioned, the Order would cover only the four types of paper and paper-based packaging as defined above, not tissue, newsprint or converted products.

Sections 1222.10, 1222.11, 1222.14 and 1222.22 would define the terms ''kraft process,'' ''linerboard,'' ''medium,'' and ''pulp,'' respectively. These terms are used in the definition of paper and paper-based packaging specified in section 1222.17.

Section 1222.20 would define the term ''programs, plans and projects'' to mean those research, promotion and information programs, plans or projects established pursuant to the Order.

Section 1222.21 would define the term ''promotion'' to mean any action, including paid advertising and the dissemination of information, utilizing public relations or other means, to enhance and broaden the understanding of the use and attributes of paper and paper-based packaging for the purpose of maintaining and expanding markets for paper and paper-based packaging.

Section 1222.23 would define the term ''research'' to mean any type of test, study, or analysis designed to enhance the image, desirability, use, marketability, manufacturing, recyclability, reusability or quality of paper and paper-based packaging, including research directed to product characteristics and product development, including new uses of existing products, new products or improved technology in the manufacturing of paper and paper-based packaging.

Section 1222.25 would define the term ''short ton'' or ''ton'' to mean a measure of weight equal to 2,000 pounds.

Sections 1222.3, 1222.6, 1222.8, 1222.15, 1222.19, 1222.24, 1222.26, 1222.27, 1222.28 and 1222.29 would define the terms ''conflict of interest,'' ''Department or USDA,'' ''importer,'' ''Order,'' ''person,'' ''Secretary,'' ''State,'' ''suspend,'' ''terminate,'' and ''United States,'' respectively. The definitions are the same as those specified in section 513 of the Act.

Establishment of the Board

Pursuant to section 515 of the 1996 Act, sections 1222.40 through 1222.47 of the proposed Order would detail the establishment and membership of the proposed Paper and Paper-Based Packaging Board, nominations and appointments, the term of office, removal and vacancies, procedure, reimbursement and attendance, powers and duties, and prohibited activities.

Section 1222.40 would specify the Board establishment and membership. The Board would be composed of domestic manufacturers and importers who manufacture or import to the United States 100,000 short tons or more of paper and paper-based packaging during a fiscal period. Seats on the Board would be apportioned based on the geographic distribution of the quantity of paper and paper-based packaging manufactured in the United States and the quantity of paper and paper-based packaging imported to the United States.

The Board would be composed of 12 members. Eleven members would be manufacturers and 1 member would be an importer. Of the 11 domestic manufacturers, 10 would be allocated to four regions within the United States based on the quantity of paper and paper-based packaging manufactured within the respective region. Of the 10 members, 6 would be from the South, two would be from the Midwest, and one each would be from the Northeast and the West. Specific areas within each domestic region would be specified in section 1222.40(b)(1). One manufacturer representative may be from any region (''at large'') and must produce at least 100,000 short tons but no more than 250,000 short tons of paper and paper-

based packaging annually. This is to help ensure that the views of smaller entities that are subject to assessments are represented on the Board. If there are no eligible nominees, this seat would be allocated to the largest producing region.

The Panel also opted to have no alternate Board members. It wants to ensure that industry members who seek representation and serve on the Board are committed to their service and participate in all Board meetings.

Every 5 years, but no more often than once every 3 years, the Board must review the geographical distribution of the quantity of paper and paper-based packaging manufactured within the United States and the quantity of paper and paper-based packaging imported to the United States. If warranted, the Board would recommend to the Secretary that the Board membership be reapportioned appropriately to reflect such changes, which could include an increase in the number of importer seats. The distribution of quantities between domestic regions would also be considered as well as changes in the size of the Board. Any changes in Board composition would be implemented by the Secretary through rulemaking.

Section 1222.41 of the proposed Order would specify Board nominations and appointments. The initial nominations would be submitted to the Secretary by the Panel. The Panel would publicize the nomination process, using trade press or other means it deems appropriate, and outreach to all known manufacturers and importers who manufacture or import 100,000 short tons or more of paper and paper-based packaging in a marketing year. The Panel would use regional caucuses, mail or other methods to solicit potential nominees and would work with USDA to help ensure that all interested persons are apprised of the nomination process. The Panel would submit the nominations to the Secretary and recommend two nominees for each Board position. The Secretary would select the members of the Board from the nominations submitted by the Panel.

Regarding subsequent nominations, the Board would solicit nominations as described in the preceding paragraph. Eligible persons may nominate themselves or other eligible candidates. Nominees would have the opportunity to provide the Board a short background statement outlining their qualifications to serve on the Board. Nominees must domestically produce or import 100,000 short tons or more of paper and paper-based packaging annually. Entities that are both a domestic manufacturer and an importer could seek nomination to the Board as either a domestic manufacturer or an importer, but not both.

For the domestic seats allocated by region, manufacturers must produce paper and paper-based packaging in the region for which they seek nomination. Domestic manufacturers who manufacture paper and paper-based packaging in more than one region could seek nomination in only one region of their choice. The names of domestic manufacturer nominees would be placed on a ballot by region. The ballots along with the background statements would be mailed to manufacturers who produce 100,000 short tons or more annually for a vote. Manufacturers may vote in each region in which they manufacture paper and paper-based packaging. The votes would be tabulated for each region with the nominee receiving the highest number of votes at the top of the list in descending order by vote. The top two candidates for each position would be submitted to the Secretary.

The names of nominees for the ''at large'' domestic manufacturer seat would also be placed on a ballot. The ballots along with the background statements would be mailed to all manufacturers who manufacture 100,000 short tons or more of paper and paper-based packaging annually. The votes would be tabulated and the nominees receiving the highest number of votes would be placed at the top of the list in descending order by vote. The top two candidates would be submitted to the Secretary.

The names of importer nominees would also be placed on a ballot. The ballots along with the background statements would be mailed to importers who import 100,000 short tons or more annually for a vote. The votes would be tabulated with the nominee receiving the highest number of votes at the top of the list in descending order by vote. The top two candidates for each position would then be submitted to the Secretary.

The Board would submit nominations to the Secretary at least 6 months before the new Board term begins. The Secretary would select the members of the Board from the nominations submitted by the Board.

The Panel also recommended that no two Board members be employed by a single corporation, company, partnership or any other legal entity. This is to help ensure that representation on the Board is balanced.

In order to provide the Board flexibility, the Board could recommend to the Secretary modifications to its nomination procedures. Any such modifications would be implemented through rulemaking by the Secretary.

Section 1222.42 of the proposed Order would specify the term of office. With the exception of the initial Board, each Board member would serve a three-year term or until the Secretary appointed his or her successor. Each term of office would begin on January 1 and end on December 31. No member could serve more than two consecutive terms, excluding any term of office less than three years. For the initial board, the terms of Board members would be staggered for two, three and four years and would be recommended to the Secretary by the Panel.

Section 1222.43 of the proposed Order would specify criteria for the removal of members and for filling vacancies. If a Board member ceased to work for or be affiliated with a domestic manufacturer or importer or ceased to do business in the region he or she represented, such position would become vacant. Additionally, the Board could recommend to the Secretary that a member be removed from office if the member consistently refused to perform his or her duties or engaged in dishonest acts or willful misconduct. The Secretary could remove the member if he or she finds that the Board's recommendation shows adequate cause. The Secretary could also remove a member due to adequate cause absent a Board recommendation. If a position became vacant, nominations to fill the vacancy would be conducted using the nominations process as proposed in section 1222.41 of the Order. A vacancy would not be required to be filled if the unexpired term is less than six months.

Section 1222.44 of the proposed Order would specify procedures of the Board. A majority of the Board members would constitute a quorum. Thus, for the 12-member Board, 7 members would constitute a quorum. If the Board had two vacancies and consisted of only 10 members, 6 members would constitute a quorum. A motion would carry if supported by a majority of Board members, except for recommendations to change the assessment rate or to adopt a budget, both of which would require affirmation by at least two-thirds of the Board members. Thus, for a 12-member Board, 8 members would have to vote in favor of a budget for it to pass. For a 10-member Board (two vacancies), 7 members would have to vote in favor of a budget for it to pass. Proxy voting would not be permitted.

The proposed Order would also provide for the Board to take action by mail, telephone, electronic mail, facsimile, or any other electronic means when the chairperson believes it is

necessary. Actions taken under these procedures would be valid only if all members and the Secretary were notified of the meeting and all members were provided the opportunity to vote and at least a majority of Board members voted in favor of the action (unless two-thirds vote were required under the Order). Additionally, all votes would have to be confirmed in writing and recorded in Board minutes.

The proposed Order would specify that Board members would serve without compensation. However, Board members would be reimbursed for reasonable travel expenses, as approved by the Board, incurred when performing Board business. Similarly, persons who serve on subcommittees or other committees who may not be Board members would also be reimbursed for reasonable travel expenses, as approved by the Board, incurred when performing Board business.

Section 1222.46 of the proposed Order would specify powers and duties of the Board. These are similar in promotion programs authorized under the 1996 Act. They include, among other things, to administer the Order and collect assessments; to develop bylaws and recommend regulations necessary to administer the Order; to select a chairperson and other Board officers; to form committees and subcommittees as necessary; to hire staff or contractors; to provide appropriate notice of meetings to the industry and USDA and keep minutes of such meetings; to develop programs and enter into contracts to implement programs; to submit fiscal year budgets to USDA in accordance with section 1222.50; to borrow funds necessary to cover startup costs of the Order; to invest Board funds appropriately; to recommend changes in the assessment rate as appropriate and within the limits of the Order; to have its books audited by an outside certified public accountant at the end of each fiscal period and at other times as requested by the Secretary; to report and make public reports of its program activities; to make public an accounting of funds received and expended at least once each fiscal year; to receive, investigate and report to the Secretary complaints of violations of the Order; to recommend amendments to the Order as appropriate; and to work to achieve an effective, continuous and coordinated program of promotion, research and information and to carry out programs, plans and projects designed to provide maximum benefits to the paper and paper-based packaging industry.

Section 1222.47 of the proposed Order would specify prohibited activities that are common to all promotion programs authorized under the 1996 Act. In summary, neither the Board nor its employees and agents could engage in actions that would be a conflict of interest; use Board funds to lobby (influencing legislation or governmental action or policy, by local, state, national, and foreign governments or subdivision thereof, other than recommending to the Secretary amendments to the Order); and engage in any advertising or activities that may be false, misleading or disparaging to another agricultural commodity. Additionally, paper and paper-based packaging from all origins would be treated equally.

Expenses and Assessments

Pursuant to sections 516 and 517 of the 1996 Act, sections 1222.50 through 1222.53 of the proposed Order detail requirements regarding the Board's budget and expenses, financial statements, assessments, and exemption from assessments. At least 60 calendar days before the start of the fiscal period, and as necessary during the year, the Board would submit a budget to USDA covering its projected expenses. The budget must include a summary of anticipated revenue and expenses for each program along with a breakdown of staff and administrative expenses. Except for the initial budget, the Board's budgets should include comparative data for at least one preceding fiscal period.

Each budget must provide for adequate funds to cover the Board's anticipated expenses. Any amendment or addition to an approved budget must be approved by USDA, including shifting of funds from one program, plan or project to another. Shifts of funds that do not result in an increase in the Board's approved budget would not have to have prior approval from USDA. For example, if the Board's approved budget provided for $1 million in consumer advertising and $500,000 in research projects, a shift of $50,000 from consumer advertising to research would require USDA approval. However, a shift within the $1 million consumer advertising line item would not require prior USDA approval.

The Board would be authorized to incur reasonable expenses for its maintenance and functioning. During its first year of operation, the Board could borrow funds for startup costs and capital outlay. Any borrowed funds would be subject to the same fiscal, budget and audit controls as other funds of the Board.

The Board could also accept voluntary contributions. Any contributions received by the Board would be free from encumbrances by the donor and the Board would retain control over use of the funds. The Board would also be required to reimburse USDA for costs incurred by USDA in overseeing the Order's operations, including all costs associated with referenda.

The Board would be limited to spending no more than 15 percent of its available funds for administration, maintenance, and the functioning of the Board. This limitation would begin three fiscal years after the Board's first meeting. As an example, if the Board received $20 million in assessments during fiscal year 5, and had available $1 million in reserve funds, the Board's available funds would be $21 million. In this scenario, the Board would be limited to spending no more than $3.2 million (.15 × $21 million) on administrative costs. Reimbursements to USDA would not be considered administrative costs.

The Board could also maintain a monetary reserve and carry over excess funds from one fiscal period to the next. However, such reserve funds could not exceed one fiscal year's budgeted expenses. For example, if the Board's budgeted expenses for a fiscal year were $20 million, it could carry over no more than $20 million in reserve. With approval of the Secretary, reserve funds could be used to pay expenses.

The Board could invest its revenue collected under the Order in the following: (1) Obligations of the United States or any agency of the United States; (2) General obligations of any State or any political subdivision of a State; (3) Interest bearing accounts or certificates of deposit of financial institutions that are members of the Federal Reserve; and (4) Obligations fully guaranteed as to principal interest by the United States.

The Board would be required to submit to USDA financial statements on a quarterly basis, or at any other time as requested by the Secretary. Financial statements should include, at a minimum, a balance sheet, an income statement and an expense budget.

Assessments

The Board's programs and expenses would be funded through assessments on U.S. manufacturers and importers, other income, and other funds available to the Board. The Order would provide for an initial assessment rate of $0.35 per short ton of paper and paper-based packaging domestically manufactured or imported. Domestic manufacturers would pay assessments based on the quantity of paper and paper-based packaging manufactured or produced;

the assessment would be on the rollstock. An exception previously mentioned is the case of cut-size printing and writing papers (including folio sheets) in which case the assessment would be on the cut-size paper. Importers would pay assessments based on the quantity of paper and paper-based packaging imported to the United States.

Two years after the Order becomes effective and periodically thereafter, the Board would review the assessment rate and, if appropriate, recommend a change in the rate. At least two-thirds of the Board members would have to favor a change in the assessment rate. Any change in the assessment rate would be subject to rulemaking by the Secretary. Anticipated income generated at the $0.35 per short ton assessment rate is addressed in the section titled ''Regulatory Flexibility Act Analysis.''

Domestic manufacturers would be required to pay their assessments owed to the Board by the 30th calendar day of the month following the end of the quarter in which the paper and paper-based packaging was manufactured. Thus, the January to December fiscal year would have four quarters ending the last day of March, June, September, and December, respectively. Assessments would be due April 30th, July 30th, October 30th and January 30th. As an example, assessments for paper and paper-based packaging produced in January, February or March would be due to the Board by April 30th.

Importer assessments would be collected through Customs. If Customs did not collect the assessment from an importer, then the importer would be responsible for paying the assessment directly to the Board within 30 calendar days after the end of the quarter in which the paper and paper-based packaging was imported. Imported paper and paper-based packaging identified by the numbers of the HTSUS listed in sections 1222.52(e) would be covered under the Order. The majority of the paper and paper-based packaging imports are in kilograms. One kilogram is equal to 2.20462262 pounds and one short ton is equal to 2,000 pounds. Thus, the $0.35 per short ton assessment rate is equal to a rate of $.000386 per kilogram ($0.35/2,000 pounds times 2.20462262 pounds/kilogram).

The Order would provide authority for the Board to impose a late payment charge and interest for assessments overdue to the Board by 60 calendar days. The late payment charge and rate of interest would be prescribed in the Order's regulations issued by the Secretary.

Exemptions

The Order would provide for two exemptions. First, U.S. manufacturers and importers who domestically produce or import less than 100,000 short tons during a marketing year would be exempt from paying assessments. If an entity is a U.S. manufacturer and an importer, such entity's combined quantity of paper and paper-based packaging manufactured and imported annually would count towards the 100,000 short ton exemption.

Manufacturers would apply to the Board for an exemption prior to the start of the fiscal year. This would be an annual exemption; manufacturers would have to reapply each year. They would have to certify that they expect to domestically manufacture less than 100,000 short tons for the applicable fiscal year. The Board could request past production data to support the exemption request. The Board would then issue, if deemed appropriate, a certificate of exemption to the eligible manufacturer. Once approved, domestic manufacturers would not have to pay assessments to the Board for the applicable fiscal year.

Importers that imported less than 100,000 short tons of paper and paper-based packaging during the prior marketing year would automatically be considered exempt for the fiscal year that assessments are due, and would not be required to apply to the Board for a certificate of exemption. Customs data would be reviewed to determine applicable importers.

Importers that imported more than 100,000 short tons of paper and paper-based packaging during the prior marketing year, but believe and can document that they will import less than 100,000 short tons during the current year could apply to the Board for a certificate of exemption. The Board would then issue, if deemed appropriate, a certificate of exemption to the eligible importer.

Importers which are exempt would have their assessments as collected by Customs refunded by the Board within 60 calendar days after receipt of such assessments by the Board. No interest would be paid on the assessments collected by Customs or the Board.

Manufacturers who did not apply to the Board for an exemption and domestically manufactured less than 100,000 short tons during the fiscal year would receive a refund from the Board for the applicable assessments within 30 calendar days after the end of the fiscal year. The Board would determine the assessments paid and refund the manufacturer accordingly.

Importers who did not apply to the Board for an exemption, imported more than 100,000 short tons of paper and paper-based packaging during the prior marketing year, and imported less than 100,000 short tons during the fiscal year for which assessments are due, would receive a refund from the Board for the applicable assessments within 30 calendar days after the end of the fiscal year. The Board would determine the assessments paid and refund the manufacturer accordingly.

On the other hand, manufacturers and importers who receive an exemption certificate or an automatic exemption but domestically manufacture or import 100,000 short tons or more of paper and paper-based packaging during the fiscal year would have to pay the Board the applicable assessments owed within 30 calendar days after the end of the fiscal year and submit any necessary reports to the Board.

The Board could recommend additional procedures to administer the exemption as appropriate. Any procedures would be implemented through rulemaking by the Secretary.

The exemption procedures in this proposed rule were modified to reduce the paperwork burden on importers that historically import less than 100,000 short tons of paper and paper-based packaging during the marketing year. Accordingly, modifications were made to section 1222.53(a) regarding the exemption procedures.

The second exemption under the proposed Order would be for organic paper and paper-based packaging. A domestic manufacturer who operates under an approved National Organic Program (NOP) (7 CFR part 205) system plan, only manufactures paper and paper-based packaging that is eligible to be labeled as 100 percent organic under the NOP, and is not a split operation, would be exempt from the payment of assessments. Likewise, an importer who imports only paper and paper-based packaging that is eligible to be labeled as 100 percent organic under the NOP, is not a split operation, and who does not import any nonorganic paper and paper-based packaging would be exempt from the payment of assessments.

Promotion, Research and Information

Pursuant to section 516 of the 1996 Act, sections 1222.60 through 1222.62 of the proposed Order would detail requirements regarding promotion, research and information programs, plans and projects authorized under the Order. The Board would develop and submit to the Secretary for approval

programs, plans and projects regarding promotion, research, education and other activities, including consumer and industry information and advertising. The Board would be required to evaluate each plan and program to ensure that it contributes to an effective promotion program. The Order would also require that, at least once every five years, the Board fund an independent evaluation of the effectiveness of the Order and programs conducted by the Board. The Secretary has authority at any time to suspend or terminate the Order if he or she determines that it obstructs or does not tend to effectuate the purpose of the Act.

Finally, the Order would specify that any patents, copyrights, trademarks, inventions, product formulations and publications developed through the use of funds received by the Board would be the property of the U.S. Government, as represented by the Board. These along with any rents, royalties and the like from their use would be considered income subject to the same fiscal, budget, and audit controls as other funds of the Board, and could be licensed with approval of the Secretary.

Reports, Books and Records

Pursuant to section 515 of the 1996 Act, sections 1222.70 through 1222.72 would specify the reporting and recordkeeping requirements under the proposed Order as well as requirements regarding confidentiality of information.

Manufacturers and importers would be required to submit periodically to the Board certain information as the Board may request. Specifically, domestic manufacturers would submit a report to the Board that would include, but not be limited to, the manufacturer's name, address, and telephone number; and the quantity of paper and paper-based packaging manufactured by type. Manufacturers would submit this report by the 30th calendar day of the month following the end of the quarter in which the paper and paper-based packaging was manufactured. The report would accompany the payment of assessments as specified in section 1222.52. Manufacturers who received a certificate of exemption from the Board would not have to submit such a report to the Board. However, exempt manufacturers who produced 100,000 short tons or more during the fiscal year would have to submit such reports to the Board as specified in section 1222.53(a)(6).

Likewise, importers who pay their assessments directly to the Board would be required to submit a report to the Board that would include, but not be limited to, the importer's name, address, and telephone number; the quantity of paper and paper-based packaging imported to the United States by type; and country of export for such paper and paper-based packaging. Importers would submit this report at the same time they remit their assessments to the Board. Importers who paid their assessments through Customs would not have to submit such reports to the Board because Customs would collect this information upon entry.

Additionally, domestic manufacturers and importers, including those who were exempt, would be required to maintain books and records needed to verify any required reports. Such books and records must be made available during normal business hours for inspection by the Board's or USDA's employees or agents. Manufacturers and importers would be required to maintain such books and records for two years beyond the applicable fiscal period.

The Order would also require that all information obtained from persons subject to the Order as a result of proposed recordkeeping and reporting requirements would be kept confidential by all officers, employees, and agents of the Board and USDA. Such information could only be disclosed if the Secretary considered it relevant, and the information were revealed in a judicial proceeding or administrative hearing brought at the direction or at the request of the Secretary or to which the Secretary or any officer of USDA were a party. Other exceptions for disclosure of confidential information would include the issuance of general statements based on reports or on information relating to a number of persons subject to the Order, if the statements did not identify the information furnished by any person, or the publication, by direction of the Secretary, of the name of any person violating the Order and a statement of the particular provisions of the Order violated.

Miscellaneous Provisions

Referenda

Pursuant to section 518 of the 1996 Act, section 1222.81(a) of the proposed Order specifies that the program would not go into effect unless it is approved by a majority of current U.S. manufacturers and importers voting in a referendum who also represent a majority of the volume of paper and paper-based packaging represented in the referendum who, during a representative period determined by the Secretary, were engaged in the manufacturing or importation of paper and paper-based packaging into the United States. For example, if 50 U.S. manufacturers and importers representing 50 million short tons of paper and paper-based packaging voted in a referendum, 26 manufacturers and importers representing over 26 million short tons would have to vote in favor of the Order for it to pass in the referendum.

Section 1222.81(b) of the proposed Order specifies criteria for subsequent referenda. Under the Order, a referendum would be held to ascertain whether the program should continue, be amended, or be terminated. This section specifies that a referendum would be held 7 years after the Order becomes effective, and every 7 years thereafter, to determine whether manufacturers and importers favor continuation of the Order. The Order would continue if favored by a majority of manufacturers and importers voting in the referendum that also represented a majority of the volume of paper and paper-based packaging represented in the referendum.

Additionally, a referendum could be conducted at the request of the Board. A referendum could also be conducted at the request of 10 percent or more of the number of persons eligible to vote in a referendum under the Order. Finally, a referendum could be conducted at any time as determined by the Secretary.

Other Miscellaneous Provisions

Sections 1222.80 and sections 1222.82 through 1222.88 describe the rights of the Secretary; authorize the Secretary to suspend or terminate the Order when deemed appropriate; prescribe proceedings after termination; address personal liability, separability, and amendments; and provide OMB control numbers. These provisions are common to all research and promotion programs authorized under the 1996 Act.

Executive Order 12866 and Executive Order 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as

supplemented by Executive Order 13563. The Office of Management and Budget has not reviewed it under that Order.

We expect the economic impact of this rule to be minimal. The program is intended to include broad, fact-based messages highlighting the renewability, recyclability and reusability of paper and paper-based packaging. Paper produced in the United States relies on fiber from sustainably managed forests and fiber recovered for recycling as its raw material. Broad messages about the recyclability of paper should enhance recovery efforts. Increasing paper recovering for recycling would increase the amount of paper diverted from landfills. Messaging to encourage the use of renewable and recyclable paper and paper-based packaging could help increase the use of bio-based products; paper and paper-based packaging are considered bio-based products because they are composed of wood fiber.

The industry could also educate the public about the sustainability of paper and paper-based packaging. In the United States, more trees are grown than harvested. Between 1953 and 2006, the standing inventory of trees (i.e., the volume of growing trees) in U.S. forests increased by 49 percent and has increased by more than 20 percent since 1970.[15]

Additionally, many paper products are manufactured using renewable energy. In 2008, an estimated 65 percent of the energy needed to operate U.S. pulp and paper mills was generated from renewable fuels derived largely from biomass.[16] Broad campaigns to educate consumers about these factors should help all segments of the industry.

The program would also help the forest products industry maintain 870,000 jobs across the nation and begin to create new jobs.[17] In addition to these jobs, numerous other jobs in related sectors are dependent upon the economic health of this industry.

The proposed program would be funded by industry through an assessment. The program would collect approximately $25 million in assessments from the top producing U.S. manufacturers and importers to conduct marketing and educate consumers about a variety of paper products, thus, benefiting all paper manufacturers and importers, including many small operations that would be exempt from the assessment. While the benefits of the program are difficult to quantify, they are expected to outweigh program costs. If the new program preserves just 0.24 percent of the paper and allied products industry sales by slowing demand declines for some grades and/or increasing demand growth for other grades, the economy could experience 3,360 additional jobs.[18] For example, the Cotton Board has seen a Benefit-Cost Ratio for producers and the government of $8.80 return for each dollar invested; and since 1990, the Benefit-Cost Ratio for importers is a $14.80 return for each dollar invested. Other research and promotion programs have seen similar benefits.

The assessments collected from U.S. manufacturers and importers are expected to be relatively small compared to U.S. manufacturer revenue and the value of paper and paper-based packaging imports. Many businesses make the decision to not pass these costs to consumers and instead keep it as a cost to do business because the costs are so small compared to the total revenue. To calculate the percentage of revenue represented by the assessment rate, the $0.35 per short ton assessment rate is divided by the average price, and that number is multiplied by 100. For domestic manufacturers, using a 2011 average price of $760 per short ton,[19] the percentage of revenue represented by the assessment rate would be .046 percent. For importers, using an average price of $824 per short ton ($6.2 billion in 2011 imports divided by 7.5 million short tons of imports × 100),[20] the percentage revenue represented by the assessment rate would be .042 percent. Thus, for both domestic manufacturers and importers covered under the proposed program, the percentage revenue represented by the assessment rate would be well under 1 percent (just under 5/100ths of a percent) of the average value per ton produced or imported.

Regulatory Flexibility Act Analysis

In accordance with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), Agricultural Marketing Service's (AMS) is required to examine the impact of the proposed rule on small entities. Accordingly, AMS prepared this regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be disproportionately burdened. The Small Business Administration defines, in 13 CFR part 121, small agricultural producers as those having annual receipts of no more than $750,000 and small agricultural service firms (manufacturers and importers) as those having annual receipts of no more than $7.0 million.

According to the AF&PA, in 2011, there were 84 manufacturers in the United States that produced one or more of the four types of paper and paper-based packaging to be covered under the proposed Order. Using an average price of $760 per short ton, a manufacturer who produced less than 9,210 short tons of paper and paper-based packaging per year would be considered a small entity. It is estimated that no more than four manufacturers produced less than 9,210 short tons in 2011. Thus, the majority of manufacturers would not be considered small businesses.

According to Customs data, it is estimated that, in 2011, there were about 2,612 importers of paper and paper-based packaging. Eighty-five importers, or about 3.2 percent, imported more than $7.0 million worth of paper and paper-based packaging. Thus, the majority of importers would be considered small entities. However, no importer who imported 100,000 short tons or more (the Order's proposed exemption threshold) imported less than $7.0 million worth of paper and paper-based packaging (19 importers). Therefore, none of the 19 importers to

[15] National Report of Sustainable Forests (2010), Page II–112, U.S. Forest Service *www.fs.fed.us/research/sustain/*).

[16] This is based on a 2008 survey of AF&PA member companies that produced pulp, paper and paperboard.

[17] Forest products industry employment was calculated by summing March 2012 Bureau of Labor Statistics employment data for the following categories: paper and paper products, logging, wood products, wood kitchen cabinets and countertops.

[18] This is an AF&PA estimate and was computed as follow. The paper and paper products industry currently employs 395,000 people, according to the Bureau of Labor Statistics. The grades of paper and paper-based packaging to be covered by the proposed program accounted for about 83.3 percent of total paper and paper-based packaging in 2011. Hence, an estimated 329,000 direct jobs (83.3 percent of 395,000) are associated with grades that would be covered by the program. Multipliers compiled by the Economic Policy Institute indicate that 100 jobs in the paper industry support an additional 325 jobs outside the industry (supplier industries, government entities and schools, and local communities where paper industry employees spend their wages). Thus, 329,000 paper industry jobs support 1.4 million jobs throughout the economy ((329,000 jobs) + (329,000 jobs × 3.25)). If the proposed program preserves just 0.24 percent of the paper and allied products industry sales by slowing demand declines for some grades and/or increasing demand growth for other grades, the economy will have 3,360 additional jobs (0.24 percent × 1.4 million).

[19] Industry sources do not publish information on average price for paper and paper-based packaging. A reasonable estimate for average price of paper and paper-based packaging is the value per ton of paper and paper-based packaging exports. According to U.S. Census data, the average value of paper and paper-based packaging exports in 2011 was approximately $760 per short ton.

[20] U.S. Customs and Border Protection data.

be covered under the proposed Order would be considered small businesses.

Regarding value of the commodity, with domestic production at about 68.5 million short tons in 2011, and using an average price of $760 per short ton, the value of domestic paper and paper-based packaging in 2011 was about $52 billion. According to Customs data, the value of imported paper and paper-based packaging imports for 2011 was about $6.2 billion.

This document proposes an industry-funded research, promotion, and information program for paper and paper-based packaging. The program would be financed by an assessment on domestic manufacturers and importers and would be administered by a board of industry members appointed by the Secretary. The initial assessment rate would be $0.35 per short ton. Entities that domestically manufacture or import less than 100,000 short tons per marketing year would be exempt from the payment of assessments. In addition domestic manufacturers and importers who would qualify as 100 percent organic under the NOP could submit an ''Organic Exemption Form'' to the Board and request an exemption from assessments. The purpose of the program would be to maintain and expand markets for paper and paper-based packaging. A referendum will be held among eligible manufacturers and importers to determine whether they favor implementation of the program prior to it going into effect. A majority of entities voting the in the referendum by both number, and by volume represented in the referendum, would have to support the program for it to be implemented. The program is authorized under the 1996 Act.

The Order would provide for two exemptions. First, domestic manufacturers and importers who would qualify as 100 percent organic under the NOP could submit an ''Organic Exemption Form'' to the Board and request an exemption from assessments. Second, U.S. manufacturers and importers who domestically produce or import less than 100,000 short tons during a marketing year would be exempt from paying assessments. Of the 84 domestic manufacturers in 2011, it is estimated that about 33 to 39 percent, produced less than 100,000 short tons per year and would thus be exempt from paying assessments under the proposed Order. Of the 2,612 importers in 2011, it is estimated that about 2,593, or 99 percent, imported less than 100,000 short tons per year and would also be exempt from paying assessments. Thus, about 51 domestic manufacturers and 19 importers would pay assessments under the Order. Using 2011 data and deducting exempt tonnage, it is estimated that if 72.5 million short tons of paper and paper-based packaging (67.2 million short tons domestic and 5.3 million short tons imported) were assessed at a rate of $0.35 per short ton, about $25.4 million would be collected in assessments. Of that $25.4 million, 92.5 percent ($23.5 million) would be paid by domestic manufacturers and 7.5 percent ($1.9 million) would be paid by importers.

Regarding alternatives, the Panel considered various options to the program's coverage, the proposed assessment rate and exemption threshold. The Panel considered the merits of assessing all U.S. production of the four types of paper and paper-based packaging to be covered under the program, whether imports should be included, and different assessment rates to generate a range in income from $10 million to $30 million. The Panel also considered the merits of a 25,000 short ton versus a 100,000 short ton exemption. The table below details various rates of assessment and approximate income generated using 2011 data and the 100,000 short ton-exemption threshold.

APPROXIMATE ASSESSMENT INCOME AT VARIOUS ASSESSMENT RATES

Approximate assessment income	U.S. production and imports with a 100,000 short ton-exemption (72.5 million short tons)
$10.0 million	$0.138
$20.0 million	0.276
$25.4 million	0.350
$30.0 million	0.413

After much consideration, the Panel concluded and the Department concurs that an exemption threshold of 100,000 short tons would be appropriate with imports covered under the program as well. The Panel concluded and the Department concurs that this exemption level would help reduce the financial and reporting burden on smaller entities but provide the Board sufficient income to administer the program and conduct research and promotion activities.

This action would impose additional reporting and recordkeeping burdens on manufacturers and importers of paper and paper-based packaging. Manufacturers and importers interested in serving on the Board would be asked to submit a nomination form to the Board indicating their desire to serve or nominating another industry member to serve on the Board. Interested persons could also submit a background statement outlining their qualifications to serve on the Board. Except for the initial Board nominations, manufacturers and importers would have the opportunity to cast a ballot and vote for candidates to serve on the Board. Manufacturer and importer nominees to the Board would have to submit a background form to the Secretary to ensure they are qualified to serve on the Board.

Additionally, manufacturers and importers who manufacture or import less than 100,000 short tons annually could submit a request to the Board for an exemption from paying assessments on this volume. Manufacturers and importers would also be asked to submit a report to the Board regarding their production/imports. Manufacturers and importers who would qualify as 100 percent organic under the NOP could submit a request to the Board for an exemption from assessments. Importers could also request a refund of any assessments paid to Customs.

Finally, manufacturers and importer who want to participate in a referendum to vote on whether the Order should become effective would have to complete a ballot for submission to the Secretary. These forms have been submitted to the OMB for approval under OMB Control No. 0581–0281. Specific burdens for the forms are detailed later in this document in the section titled ''Paperwork Reduction Act''. As with all Federal promotion programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. Finally, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Regarding outreach efforts, the Panel represents a broad cross-section of manufacturers and importers that would be covered under the program. Of the 14 Panel members, 11 are AF&PA members and 3 are non-AF&PA members. According to the Panel, Panel and AF&PA members represent about 81 percent of the domestic industry that would be covered by the program. Panel members representing 69 percent of the domestic production have signed forms indicating their support for the program. Over the past year, the Panel, and

AF&PA staff and industry company employees, on behalf of the Panel, have made presentations on the proposed Order to all three major associations representing paper-based packaging and many of the associations representing the printing and writing paper segment of the industry. In September 2011, the Panel mailed information regarding the program to all Panel-known companies that would pay assessments under the program. This included manufacturers and importers and both AF&PA members and non-members. The Panel also mailed a letter to other parties in the supply chain to continue to educate them about the program. The AF&PA continues to communicate to its members and non-members about the program. Panel members plan to continue outreach to the CEOs of their industry peers to explain the program and help garner support.

Finally, the numbers used in the RFA analysis herein represent the total universe of domestic manufacturers and importers known to USDA and not those who may be eligible to vote in the referendum.

Civil Rights Impact Analysis

Consideration has been given to the potential civil rights implications of this proposed rule on affected parties to ensure that no person or group shall be discriminated against on the basis of race, color, national origin, gender, religion, age, disability, sexual orientation, marital or family status, political beliefs, parental status or protected genetic information. Although detailed information is not available on the domestic manufacturers and importers who would be subject to the program or the users of paper and paper-based packaging, broad consideration was given to the employees of such entities and those individuals who wish to use information collected under this mandatory program. This proposed rule does not require affected entities to relocate or alter their operations in ways that could adversely affect such persons or groups. Moreover, the program would not exclude from participation any persons or groups, deny any persons or groups the benefits of the program, or subject any persons or groups to discrimination.

Executive Order 13175

This action has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. The review reveals that this regulation would not have substantial and direct effects on Tribal governments and would not have significant Tribal implications.

Executive Order 12988

This action has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. Section 524 of the 1996 Act provides that it shall not affect or preempt any other Federal or State law authorizing promotion or research relating to an agricultural commodity.

Under section 519 of the 1996 Act, a person subject to an order may file a written petition with USDA stating that an order, any provision of an order, or any obligation imposed in connection with an order, is not established in accordance with the law, and request a modification of an order or an exemption from an order. Any petition filed challenging an order, any provision of an order, or any obligation imposed in connection with an order, shall be filed within two years after the effective date of an order, provision, or obligation subject to challenge in the petition. The petitioner will have the opportunity for a hearing on the petition. Thereafter, USDA will issue a ruling on the petition. The 1996 Act provides that the district court of the United States for any district in which the petitioner resides or conducts business shall have the jurisdiction to review a final ruling on the petition, if the petitioner files a complaint for that purpose not later than 20 days after the date of the entry of USDA's final ruling.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), AMS has requested approval of a new information collection and recordkeeping requirements for the proposed paper and paper-based packaging program.

Title: Advisory Committee or Research and Promotion Background Information.

OMB Number for background form AD–755: (Approved under OMB No. 0505–0001).

Expiration Date of Approval: May 31, 2015.

Title: Paper and Paper-Based Packaging Promotion, Research and Information Order.

OMB Number: 0581–0281.

Expiration Date of Approval: 3 years from approval date.

Type of Request: New information collection for research and promotion programs.

Abstract: The information collection requirements in the request are essential to carry out the intent of the 1996 Act. The information collection concerns a proposal received by USDA for a national research and promotion program for the paper and paper-based packaging industry. The program would be financed by an assessment on domestic manufacturers and importers and would be administered by a board of industry members appointed by the Secretary. The program would provide for an exemption for manufacturers and importers who manufacture or import less than 100,000 short tons of paper and paper-based packaging during the year. A referendum will be held among eligible manufacturers and importers to determine whether they favor implementation of the program prior to it going into effect. The purpose of the program would be to maintain and expand markets for paper and paper-based packaging.

In summary, the information collection requirements under the program concern Board nominations, the collection of assessments, and referenda. For Board nominations, manufacturers and importers interested in serving on the Board would be asked to submit a ''Nomination Form'' to the Board indicating their desire to serve or to nominate another industry member to serve on the Board. Interested persons could also submit a background statement outlining qualifications to serve on the Board. Except for the initial Board nominations, manufacturers and importers would have the opportunity to submit a ''Nomination Ballot'' to the Board where they would vote for candidates to serve on the Board. Nominees would also have to submit a background information form, ''AD–755,'' to the Secretary to ensure they are qualified to serve on the Board.

Regarding assessments, manufacturers and importers who manufacture or import less than 100,000 short tons annually could submit a request, ''Application for Exemption from Assessments,'' to the Board for an exemption from paying assessments. Manufacturers and importers would be asked to submit a ''Production/Import Report'' that would be submitted to the Board on a quarterly basis that would specify the quantity of paper and paper-based packaging manufactured or imported during the applicable period and the country of export (for imports). Manufacturers who manufacture less than 100,000 short tons annually would be exempt from paying assessments and would not be required to submit this report. Additionally, only importers who pay their assessments directly to the Board would be required to submit this report. If the importer assessments are collected by Customs, Customs would remit the funds to the Board and

the other information would be available from Customs (i.e., country of export, quantity imported). Finally, domestic manufacturers and importers who would qualify as 100 percent organic under the NOP could submit an ''Organic Exemption Form'' to the Board and request an exemption from assessments.

There would also be an additional burden on manufacturers and importers voting in referenda. The referendum ballot, which represents the information collection requirement relating to referenda, is addressed in a final rule on referendum procedures which is published separately in this issue of the **Federal Register**.

Information collection requirements that are included in this proposal include:

(1) Nomination Form

Estimate of Burden: Public recordkeeping burden for this collection of information is estimated to average 0.25 hour per application.

Respondents: Manufacturers and importers.

Estimated Number of Respondents: 20.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 5 hours.

(2) Background Statement

Estimate of Burden: Public recordkeeping burden for this collection of information is estimated to average 0.25 hour per application.

Respondents: Manufacturers and importers.

Estimated Number of Respondents: 20.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 5 hours.

(3) Nomination Ballot

Estimate of Burden: Public recordkeeping burden for this collection of information is estimated to average 0.25 hour per application.

Respondents: Domestic manufacturers and importers.

Estimated Number of Respondents: 75 (56 manufacturers and 19 importers who manufacture/import 100,000 short tons or more annually).

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 18.75 hours.

(4) Background Information Form AD–755 (OMB Form No. 0505–0001)

Estimate of Burden: Public reporting for this collection of information is estimated to average 0.5 hour per response for each Board nominee.

Respondents: Manufacturers and importers.

Estimated Number of Respondents: 12 (24 for initial nominations to the Board, 0 for the second year, and up to 8 annually thereafter).

Estimated Number of Responses per Respondent: 1 every 3 years. (0.3)

Estimated Total Annual Burden on Respondents: 12 hours for the initial nominations to the Board, 0 hours for the second year of operation, and up to 4 hours annually thereafter.

(5) Application for Exemption From Assessments

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.25 hour per manufacturer or importer reporting on paper and paper-based packaging manufactured or imported. Upon approval of an application, manufacturers and importers would receive exemption certification.

Respondents: Domestic manufacturers (33) and importers (2,593) who manufacture or import less than 100,000 short tons of paper and paper-based packaging annually.

Estimated number of Respondents: 2,626.

Estimated number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 656.50 hours.

(6) Production/Import Report

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.5 hour per manufacturer or importer.

Respondents: Manufacturers who manufacture 100,000 short tons or more annually (51) and importers who remit their assessments directly to the Board (computation is based on the scenario where all 19 importers pay their assessments to the Board).

Estimated number of Respondents: 70.

Estimated number of Responses per Respondent: 4.

Estimated Total Annual Burden on Respondents: 140 hours.

(7) Refund of Assessments

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.25 hour.

Respondents: Manufacturers and importers.

Estimated Number of Respondents: 10.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 2.5 hours.

(8) Organic Exemption Form

Estimate of Burden: Public recordkeeping burden for this collection of information is estimated to average 0.5 hours per exemption form.

Respondents: Organic manufacturers and importers.

Estimated Number of Respondents: 1.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 0.5 hour.

(9) A Requirement To Maintain Records Sufficient To Verify Reports Submitted Under the Order

Estimate of Burden: Public recordkeeping burden for keeping this information is estimated to average 0.5 hours per record keeper maintaining such records.

Recordkeepers: Manufacturers (84) and importers (2,612).

Estimated number of recordkeepers: 2,696.

Estimated total recordkeeping hours: 1,348 hours.

As noted above, under the proposed program, manufacturers and importers would be required to pay assessments and file reports with and submit assessments to the Board (importers through Customs). While the proposed Order would impose certain recordkeeping requirements on manufacturers and importers, information required under the proposed Order could be compiled from records currently maintained. Such records must be retained for at least two years beyond the fiscal year of their applicability.

An estimated 2,696 respondents would provide information to the Board (84 domestic manufacturers and 2,612 importers). The estimated cost of providing the information to the Board by respondents would be $72,204. This total has been estimated by multiplying 2,188 total hours required for reporting and recordkeeping by $33, the average mean hourly earnings of various occupations involved in keeping this information. Data for computation of this hourly rate was obtained from the U.S. Department of Labor, Bureau of Labor Statistics.

The proposed Order's provisions have been carefully reviewed, and every effort has been made to minimize any unnecessary recordkeeping costs or requirements, including efforts to utilize information already submitted under other programs administered by USDA and other state programs.

The proposed forms would require the minimum information necessary to effectively carry out the requirements of

the program, and their use is necessary to fulfill the intent of the 1996 Act. Such information can be supplied without data processing equipment or outside technical expertise. In addition, there are no additional training requirements for individuals filling out reports and remitting assessments to the Board. The forms would be simple, easy to understand, and place as small a burden as possible on the person required to file the information.

Collecting information quarterly would coincide with normal industry business practices. The timing and frequency of collecting information are intended to meet the needs of the industry while minimizing the amount of work necessary to fill out the required reports. The requirement to keep records for two years is consistent with normal industry practices. In addition, the information to be included on these forms is not available from other sources because such information relates specifically to individual manufacturers and importers who are subject to the provisions of the 1996 Act. Therefore, there is no practical method for collecting the required information without the use of these forms.

Analysis of Comments

The previously proposed rule concerning this action published in the **Federal Register** on January 2, 2013. Copies of that rule were mailed by USDA to all known domestic manufacturers and importers. The rule was also made available through the Internet by USDA and published in the **Federal Register**. The rule provided a 60-day comment period ending March 4, 2013. Seventy-five comments were received. Of the 75 comments, 5 were duplicates. Of the remaining 70 comments, 62 supported the proposed Order, 6 were opposed, and 2 commented without taking a position on the program. Of the 62 comments in support, 60 supported the rule with no changes, 1 requested clarification on a component of the Order, and 1 recommended a change. In addition, the two commenters that did not take a position also recommended changes to the program. The comments are addressed in the following paragraphs.

Comments in Full Support

The 60 comments which supported the Order with no changes noted the difficult economic conditions that the paper and paper based packaging industry is experiencing. Several commenters stated that the pressures faced from loss of manufacturing jobs has significantly affected, and has the possibility of affecting even more jobs in the industry. Many of the commenters mentioned that the industry supplies numerous jobs in rural areas. They believe that without the Order, many plants across the Country would be forced to close, adversely affecting the families in the rural communities. Many commenters stated that the industry has faced declining markets due to digital competition. They stated that educating the consumer is key to facing this competition. The common theme among all positive comments was the need to provide fact-based messaging to highlight the renewability, reusability, and recyclability of paper and paper based package to aid the public in better understating paper products and change the misconceptions and attitudes about paper.

Comments in Support, With Modification or Requesting Clarification

Two commenters who supported the Order reiterated their comments in full support. However, one of the commenters requested clarification on the exemption process, and one recommended a change to the composition of the Board.

The commenter that requested clarification on the *de minimis* exemption requested details regarding the exemption approval process and requested information on any factors other than production or import volumes that may be considered in making the determination of who receives an exemption. In addition, the commenter requested specific details regarding the process for resolving disputes.

Section 1222.53(a) of the Order provides for an exemption from assessments for U.S. manufacturers and importers who domestically produce or import less than 100,000 short tons during a marketing year. If an entity is a U.S. manufacturer and an importer, such entity's combined quantity of paper and paper-based packaging manufactured and imported annually would count towards the 100,000 short ton exemption.

Manufacturers would apply to the Board for an exemption prior to the start of the fiscal year. This would be an annual exemption; manufacturers would have to reapply each year. They would have to certify that they expect to domestically manufacture less than 100,000 short tons for the applicable fiscal year. Manufacturers may be asked to provide to the Board past production data to verify they produced under the threshold in the prior year.

Importers exempt from assessments in the prior fiscal year would automatically be considered exempt for the fiscal year that assessments are due. Customs data would be reviewed to verify applicable importers. Importers that imported over the threshold in the prior year but believe and can document that they will import less than 100,000 short tons during the current year may apply to the Board for an exemption certificate. Documentation provided to the Board may include multiple past years of import data to support their exemption request.

Once approved, domestic manufacturers would not have to pay assessments to the Board for the applicable fiscal year. Importers which are exempt would have their assessments as collected by Customs refunded by the Board within 60 calendar days after receipt of such assessments by the Board. No interest would be paid on the assessments collected by Customs or the Board.

Manufacturers and importers that received an exemption certificate or an automatic exemption from the Board but manufactured or imported 100,000 short tons or more of paper and paper-based packaging during the marketing year shall pay the Board the applicable assessments owed on the quantity manufactured or imported within 30 calendar days after the end of the marketing year and submit any necessary reports to the Board pursuant to section 1222.70 of the Order.

If there is a dispute, the Board could request additional past production or import data to support the exemption request. Manufacturers and importers could provide other information if appropriate. For example, if a company's production was reduced because of an event like a fire in a plant, the company could provide supporting data to the Board. The Board would then issue, if deemed appropriate, a certificate of exemption to the eligible manufacturer or importer. The Board could also recommend additional procedures to administer the exemption as appropriate. Any procedures would be implemented through rulemaking by the Secretary. Additional details about the exemption are in section 1222.53(a) of this Order.

One commenter that supported the Order suggested that the number of Board seats for importers be increased from one to two, and that one of the members of the Board should be European.

Section 1222.40 of the proposed Order provides for a Board composed of 12 members. Eleven members would be manufacturers and 1 member would be an importer.

Using this distribution, manufacturer members on the Board would account

for 92 percent of Board membership, while importer members would account for 8 percent of Board membership. In 2011, approximately 68.5 million short tons of U.S. paper and paper-based packaging to be covered under the program were produced. According to Customs data, in 2011, imports to be covered under the program totaled 7.5 million short tons. Therefore, in 2011 a total of 76 million short tons would have been covered under the program of which, 90 percent was from domestic manufacturing and nine percent was from imports. Taking into account the amount of domestic and imported product, the composition of the Board as proposed is reasonable since it reflects the volume of imports and domestic production. Furthermore, every 5 years, but no more often than once every 3 years, the Board must review the geographical distribution of the quantity of paper and paper-based packaging manufactured within the United States and the quantity of paper and paper-based packaging imported to the United States. If warranted, the Board would recommend to the Secretary that the Board membership be reapportioned appropriately to reflect such changes, which could include an increase in the number of importer seats. The distribution of quantities between domestic regions would also be considered as well as changes in the size of the Board. Any changes in Board composition would be implemented by the Secretary through rulemaking. Accordingly, the Department is not making any changes to the proposed Order based on this comment.

Comments Opposed

Six comments received were opposed to the proposed program. The six commenters touched on six major themes including: (1) Likening the assessment to a tax, (2) the affordability of the program, (3) the ability of the industry to advertise for themselves, (4) government control of the program, (5) the feasibility of a research and promotion program for the paper and paper-based packaging industry, and (6) justification for the exemptions suggested in the Order. Based on our evaluation of these comments, no changes will be made to the Order. These comments are discussed below.

Four commenters expressed concerned that the assessment collected would be a tax on the industry. In addition, one commenter questioned the use of government resources to run the program. The proposed program would be paid for by the paper and paper-based packaging industry through assessments on domestic manufacturers and importers of 100,000 short tons or more of paper and paper-based packaging annually. Research and promotion programs are self-help programs funded by their respective industry and do not receive taxpayer funds. Furthermore, the Board would be required to reimburse USDA for costs incurred by USDA in overseeing the Order's operations, including all costs associated with referenda.

Three commenters questioned the affordability of the program for paper and paper-based packaging manufacturers. One commenter stated that they cannot afford and likely would not benefit from the promotion. Another commenter opinioned that levying $0.35 per short ton would add more cost to paper, and that cost would be passed on to customers. A third commenter stated that the assessment would add more cost to paper and paper-based packaging.

As previously discussed, the economic downturn as well as competition from digital media, has had an adverse effect on the paper and paper-based packing industry. However, USDA has received sufficient justification to warrant proceeding to a referendum so that industry members may vote as to whether a paper and paper-based packaging research and promotion program should be implemented. Additionally, as previously mentioned, USDA received several comments that referenced the state of the economy and jobs in the rural community attributed to paper and paper-based packaging manufacturing as reasons that the program is essential.

The purpose of the proposed Order is to enhance and broaden the understanding of the use and attributes of paper and paper-based packaging for the purpose of maintaining and expanding markets for paper and paper-based packaging. The proposed Order does not regulate the price of paper and paper-based packaging. Cost distribution is a business decision of the individuals affected by the Order.

Four commenters were concerned about the government's role in marketing and advertising for the paper and paper-based packaging industry. Specifically, one commenter stated that it would be impossible for the scope of advertising achieved by USDA to reach the consumer. Two commenters opinioned that the government should not have a role in the promotion of paper, and companies should be allowed to promote for themselves. An additional comment on the subject stated that companies should be allowed to create their own marketing plans.

The 1996 Act provides the authority for agricultural industries to develop programs for generic research and promotion for their respective industries. Under these programs, it is the Board (composed of industry members) that develops their own budgets and marketing plan. USDA provides oversight of these programs. The Board, with the approval of the Secretary, would decide how the funds are used. Generic promotion, research, and industry information activities play a unique role in advancing the demand for their respective commodities, since such activities may increase the total market demand for the commodity. While, the Board may conduct strategic planning for the industry as a whole, individual companies are not precluded from doing their own advertising and promotion.

One commenter who questioned the government's involvement with the proposed program stated that the program should be voluntary and not mandatory. The proposed Order is authorized under the 1996 Act which authorizes USDA to establish agricultural commodity research and promotion orders which may include a combination of promotion, research, industry information and consumer information activities funded by mandatory assessments. Research and promotions programs overseen by USDA are self-help, government speech programs, initiated by members of the industry. Industry members that would be affected by the program would be given the opportunity to vote in a referendum to determine if the program should be approved prior to the Order going into effect. For the proposed Order to become effective, it must be approved by a majority of manufacturers and importers voting for approval in a referendum, who also represent a majority of the volume of paper and paper-based packaging represented in the referendum. In order to provide notification of an impending vote to those who USDA believes would be regulated under the proposed program, USDA is mailing a copy of this rule to all known industry members and will do a subsequent mailing of ballots, instructions and a summary of the program to all known potential eligible voters. In addition, any one that believes they are eligible to vote in the referendum may request a ballot by calling the toll free number in the **ADDRESSES** section of this document.

Three commenters who opposed the program questioned the feasibility of check-off programs for the paper and paper-based packaging industry. One of the commenters opinioned that check-

off programs are great for consumer based industries, but offer little value to industrial companies. Another commenter stated that check-off programs are ineffective and cost prohibitive, and referenced dairy and orange juice check-off programs to support their statement. A third commenter stated that they personally have derived little or no benefit from the Cotton Research and Promotion program into which they are currently paying assessments.

The commenter that referenced dairy and orange juice check-off programs provided four additional points to support their statement. In reference to the dairy program, the commenter stated that despite the massive outlay of funds since 1983 and a national campaign to promote dairy products: (1) Per capita consumption of milk has been on a downward trend since 1945; (2) Overall milk consumption has declined 3 percent a year in four out of the last five years; (3) Growth in consumption of fluid milk has not kept pace with population growth; and (4) In the highly competitive beverage market, milk has lost significant share since 1980, from 37 percent in 1980 to 19 percent in 2011.

In response to the aforementioned comment, per capita consumption of all milk has declined in the post-war era, but that decline has been reversed since the institution of the National Dairy Promotion and Research Program in 1983 (0.25 percent increase per year since). Overall milk consumption has risen in each of the last 5 years and continues to grow. Finally, independent analysis contracted by USDA shows that there is a significant positive return to fluid milk processors, contrary to the commenter's assertion [21].

In response to the comment regarding the effectiveness of the orange juice program, a Florida Citrus Commission considered the possibility of a research and promotion program. However, the industry decided not to move forward with a proposal prior to submitting a proposal to USDA.

In response to the commenters that question the feasibility of research and promotion programs for industrial industries, other research and promotion programs administered by USDA cover commodities that are from various sources and made into multiple products. The purpose of generic promotion programs is to increase the total market for a product to the benefit of an industry, even when the commodity may be made into various products.

In response to the commenter that stated that they have received little to no benefit from their payment into the Cotton Research and Promotion Program, an in-depth independent economic effectiveness study conducted in early 2011 on the effectiveness of the Cotton Research and Promotion Program concluded that the Cotton Research and Promotion Program generates a positive return for U.S. cotton producers and importers of cotton products [22].

One commenter had two concerns regarding the exemptions in the proposed Order. First, the commenter stated that the proposed rule does not provide justification for excluding tissue paper and newsprint. The two types of paper and paper-based packaging that would not be covered under the program are tissue paper and newsprint. With the exception of restroom hand-dryers versus paper towels, tissue paper products are not facing competition from alternative products. The opposite is true for newsprint. Demand for newsprint has drastically declined due to the shift toward digital communications. However, the Panel concluded and the Department concurs that the newsprint segment of the industry would not be able to incur the cost of a promotion program at this time.

Second, the commenter did not believe that there is justification for an organic exemption. A domestic manufacturer who operates under an approved National Organic Program (NOP) (7 CFR part 205) system plan, only manufactures paper and paper-based packaging that is eligible to be labeled as 100 percent organic under the NOP, and is not a split operation, would be exempt from the payment of assessments. Likewise, an importer who imports only paper and paper-based packaging that is eligible to be labeled as 100 percent organic under the NOP, is not a split operation, and who does not import any nonorganic paper and paper-based packaging would be exempt from the payment of assessments. Section 2103 of the Organic Food Production Act of 1990 (7 U.S.C. 6501–6522) includes the consumption of non-food products. For example, under the Cotton Research and Promotion Program, organic cotton products are exempt from assessment, including non-food products. Thus, organic paper and paper-based products would be exempt from assessment under the proposed Order. Domestic manufacturers and importers would have to provide sufficient information to the Board to warrant an organic exemption.

Additional Comments

In addition, two comments were received that neither supported nor opposed the program, but raised concerns or made recommendations. One commenter raised a concern that although they would be exempt from the program, the paperwork required to request an exemption would be burdensome. The other commenter suggested that the proposed assessment should be based on 1,000 kg metric ton, as the commenter prescribes is the preferred measurement system as promulgated by Executive Order 12770 from 1991.

In response to the comment regarding metric usage, while Executive Order 12770, issued on July 25, 1991, directed agencies to convert to the metric system, Executive Order 12770 Section 2(a)(1) states that metric usage shall not be required to the extent that such use is impractical or is likely to cause significant inefficiencies or loss of markets to United States firms. Furthermore, the paper and paper-based packaging industry utilizes short ton for measurement as an industry standard. Therefore, no change has been made to the Proposed Order based on this comment.

In response to the comment about exemption paperwork, USDA is working to develop a process whereby an importer could provide Customs a copy of the exemption certificate issued by the Board. However, the only available alternative at this time is for Customs to collect the assessment, and the Board to refund such importers their assessment no later than 60 calendar days after receipt by the Board. USDA recognizes that submitting the certificate of exemption may be burdensome for some importers. Therefore, section 1222.53(a) of the Proposed Order is changed to adjust the requirements of importers to submit a certificate of exemption to receive an exemption from the Board. Instead, importers that would have been exempt from assessments in the prior fiscal year would automatically be considered exempt for the fiscal year that assessments are due. However, as stated above, Customs would collect the assessment, and the Board would refund exempt importers their assessment no later than 60 calendar days after receipt by the Board.

In the January 2, 2013, proposed rule, comments were also invited on the information collection requirements prescribed in the Paperwork Reduction

[21] Sources: USDA (AMS, ERS, FAS, FSA, NASS), Department of Labor (BLS), Department of Commerce (Bureau of Census), and ERS calculations.

[22] Cotton Research and Promotion Program Annual Report—2010–2011.

Act section of this rule. Specifically, comments were solicited on: (a) Whether the proposed collection of information is necessary for the proper performance of functions of the proposed Order and USDA's oversight of the proposed Order, including whether the information would have practical utility; (b) the accuracy of USDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) the accuracy of USDA's estimate of the principal manufacturing areas in the United States for paper and paper-based packaging; (d) the accuracy of USDA's estimate of the number of manufacturers and importers of paper and paper-based packaging that would be covered under the program; (e) ways to enhance the quality, utility, and clarity of the information to be collected; and (f) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. No comments were received regarding information collection.

While the proposal set forth below has not received the approval of USDA, it is determined that this proposed Order is consistent with and would effectuate the purposes of the 1996 Act.

As previously mentioned, for the proposed Order to become effective, it must be approved by a majority of manufacturers and importers voting for approval in a referendum, who also represent a majority of the volume of paper and paper-based packaging represented in the referendum. Referendum procedures will be published separately in this issue of the **Federal Register**.

Referendum Order

Pursuant to the 1996 Act, a referendum will be conducted to determine whether eligible domestic manufacturers and importers favor issuance of the proposed Order. Section 518 of the 1996 Act authorizes USDA to conduct a referendum prior to the Order going into effect.

The representative period for establishing voter eligibility for the referendum shall be the period from January 1 through December 31, 2012. Domestic manufacturers must have manufactured 100,000 short tons or more of paper and paper-based packaging within the United States and importers must have imported 100,000 short tons or more of paper and paper-based packaging to the United States during the representative period to be eligible to vote. In addition, entities eligible to vote must be currently engaged in the domestic manufacturing or importation of paper and paper-based packaging. If the Order becomes effective, entities that are not be eligible to vote in the referendum because they manufactured and/or imported less than 100,000 short tons of paper and paper-based packaging during the representative period, may be subject to assessments if they domestically manufacture and/or import 100,000 short tons or more of paper and paper-based packaging during subsequent marketing year. The Order shall become effective if it is approved by a majority of eligible U.S. manufacturers and importers voting in the referendum who also represent a majority of the volume of paper and paper-based packaging represented in the referendum.

The referendum procedures that were issued pursuant to the 1996 Act shall be used to conduct the referendum (7 CFR 1222.100 through 1222.108). The referendum shall be conducted by mail from October 28 through November 8, 2013. Ballots must be received by the referendum agents no later than the close of business 4:30 p.m. (Eastern Standard Time) on November 8, 2013, to be counted.

Marlene Betts and Kimberly Coy of the USDA, AMS, Promotion and Economics Division, are designated as the referendum agents to conduct the referendum. Prior to the first day of the voting period, the referendum agents will mail the ballots to be cast in the referendum and voting instructions to all eligible voters. Any domestic manufacturer or importer who does not receive a ballot should contact the referendum agents cited in the **FOR FURTHER INFORMATION CONTACT** section no later than one week before the end of the voting period.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the referendum ballot was submitted to the OMB and approved under OMB Control No. 0581–0282.

List of Subjects in 7 CFR Part 1222

Administrative practice and procedure, Advertising, Consumer information, Marketing agreements, Paper and paper-based-packaging promotion, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, it is proposed that 7 CFR part 1222, as added elsewhere in this issue of the **Federal Register**, be amended as follows:

PART 1222—PAPER AND PAPER-BASED PACKAGING PROMOTION, RESEARCH AND INFORMATION ORDER

■ 1. The authority citation for part 1222 continues to read as follows:

Authority: 7 U.S.C. 7411–7425; 7 U.S.C. 7401.

■ 2. Subpart A is added to read as follows:

Subpart A—Paper and Paper-Based Packaging Promotion, Research and Information Order

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Subpart A—Paper and Paper-Based Packaging Promotion, Research and Information Order

Definitions

§ 1222.1 Act.

Act means the Commodity Promotion, Research and Information Act of 1996 (7 U.S.C. 7411–7425), and any amendments thereto.

§ 1222.2 Board.

Board means the Paper and Paper-Based Packaging Board established pursuant to § 1222.40, or such other name as recommended by the Board and approved by the Department.

§ 1222.3 Conflict of interest.

Conflict of interest means a situation in which a member or employee of the Board has a direct or indirect financial interest in a person who performs a service for, or enters into a contract with, the Board for anything of economic value.

§ 1222.4 Converted products.

Converted products means products made from paper and paper-based packaging.

§ 1222.5 Customs or CBP.

Customs or CBP means the U.S. Customs and Border Protection, an agency of the U.S. Department of Homeland Security.

§ 1222.6 Department or USDA.

Department or USDA means the U.S. Department of Agriculture, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in the Secretary's stead.

§ 1222.7 Fiscal period and marketing year.

Fiscal period and marketing year means the 12-month period ending on December 31 or such other period as recommended by the Board and approved by the Secretary.

§ 1222.8 Importer.

Importer means any person who imports paper and paper-based packaging from outside the United States for sale in the United States as a principal or as an agent, broker, or consignee of any person who manufactures paper and paper-based packaging outside the United States for sale in the United States, and who is listed in the import records as the importer of record for such paper and paper-based packaging.

§ 1222.9 Information.

Information means information and programs for consumers, customers and industry, including educational activities, information and programs designed to enhance and broaden the understanding of the use and attributes of paper and paper-based packaging, increase efficiency in manufacturing paper and paper-based packaging, maintain and expand existing markets, and develop new markets and marketing strategies. These include:

(a) Consumer education and information, which means any action taken to provide information to, and broaden the understanding of, the general public regarding paper and paper-based packaging; and

(b) Industry information, which means information and programs that would enhance the image of the paper and paper-based packaging industry.

§ 1222.10 Kraft process.

Kraft process means a process that transforms wood into a high quality strong pulp for making paper and paper-based packaging.

§ 1222.11 Linerboard.

Linerboard means a grade of containerboard that is used as facing material in the manufacture of corrugated or solid fiber shipping boxes.

§ 1222.12 Manufacture or produce.

Manufacture or produce means the process of transforming pulp into paper and paper-based packaging.

§ 1222.13 Manufacturer or producer.

Manufacturer or producer means any person who manufactures paper and paper-based packaging in the United States.

§ 1222.14 Medium.

Medium means a grade of containerboard used as the inner fluting material in the manufacture of corrugated or solid fiber shipping boxes.

§ 1222.15 Order.

Order means an order issued by the Secretary under section 514 of the Act that provides for a program of generic promotion, research, and information regarding agricultural commodities authorized under the Act.

§ 1222.16 Panel.

Panel means the Paper and Paper-Based Packaging Panel formed to pursue development of a paper and paper-based packaging promotion, research and information program.

§ 1222.17 Paper and paper-based packaging.

(a) *Paper and paper-based packaging* means:

(1) Printing, writing and related paper, which is coated or uncoated paper that is subsequently converted into products used for printing, writing and other communication purposes, such as file folders, envelopes, catalogues, magazines and brochures. For purposes of this Order, printing, writing and related paper includes thermal paper but does not include carbonless paper;

(2) Kraft packaging paper, which is coarse unbleached, semi-bleached or fully bleached grades of paper that are subsequently converted into products such as grocery bags, multiwall sacks, waxed paper and other products;

(3) Containerboard, which is all forms of linerboard and medium that is used to manufacture corrugated boxes, shipping containers and related products; and

(4) Paperboard, which is solid bleached kraft board, recycled board and unbleached kraft board that is subsequently converted into a wide variety of end uses, including folding boxes, food and beverage packaging, tubes, cans, and drums, and other miscellaneous products. Paperboard does not include construction-related products such as gypsum wallboard facings and panel board.

(b) For purposes of this Order, paper and paper-based packaging does not include tissue paper, newsprint or converted products.

§ 1222.18 Part and subpart.

Part means the Paper and Paper-Based Packaging Promotion, Research and Information Order and all rules, regulations, and supplemental orders issued pursuant to the Act and the Order. The Order shall be a *subpart* of such part.

§ 1222.19 Person.

Person means any individual, group of individuals, partnership, corporation, association, cooperative, or any other legal entity.

§ 1222.20 Programs, plans and projects.

Programs, plans and projects means those research, promotion and information programs, plans or projects established pursuant to the Order.

§ 1222.21 Promotion.

Promotion means any action, including paid advertising and the dissemination of information, utilizing public relations or other means, to enhance and broaden the understanding of the use and attributes of paper and paper-based packaging for the purpose of maintaining and expanding markets for paper and paper-based packaging.

§ 1222.22 Pulp.

Pulp means the material that is produced by chemically or mechanically separating cellulose fibers from wood or recycling recovered fiber.

§ 1222.23 Research.

Research means any type of test, study, or analysis designed to enhance the image, desirability, use, marketability, manufacturing, recyclability, reusability or quality of paper and paper-based packaging, including research directed to product characteristics and product development, including new uses of existing products, new products or improved technology in the manufacturing of paper and paper-based packaging.

§ 1222.24 Secretary.

Secretary means the Secretary of Agriculture of the United States, or any other officer or employee of the Department to whom authority has been delegated, or to whom authority may hereafter be delegated, to act in the Secretary's stead.

§ 1222.25 Short ton or ton.

Short ton or ton means a measure of weight equal to 2,000 pounds.

§ 1222.26 State.

State means any of the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

§ 1222.27 Suspend.

Suspend means to issue a rule under section 553 of title 5 U.S.C. to temporarily prevent the operation of an order or part thereof during a particular period of time specified in the rule.

§ 1222.28 Terminate.

Terminate means to issue a rule under section 553 of title 5 U.S.C. to cancel permanently the operation of an order or part thereof beginning on a date certain specified in the rule.

§ 1222.29 United States.

United States means collectively the 50 States, the District of Columbia, the Commonwealth of Puerto Rico and the territories and possessions of the United States.

Paper and Paper-Based Packaging Board

§ 1222.40 Establishment and membership.

(a) *Establishment of the Board.* There is hereby established a Paper and Paper-Based Packaging Board to administer the terms and provisions of this Order. The Board shall be composed of manufacturers and importers of paper and paper-based packaging that manufacture or import 100,000 short tons or more of paper and paper-based packaging during a marketing year. Seats on the Board shall be apportioned as set forth in paragraph (b) of this section based on the geographical distribution of the quantity of paper and paper-based packaging manufactured in the United States and the quantity of paper and paper-based packaging imported to the United States.

(b) The Board shall be composed of 12 members and shall be established as follows:

(1) *Manufacturers.* Eleven members shall be manufacturers. Of the 11 manufacturers, 10 shall be from the following four regions:

(i) Six members shall be from the South, which consists of the states of Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, West Virginia, and all other parts of the United States not listed in paragraphs (b)(1)(ii), (b)(1)(iii), and (b)(1)(iv) of this section;

(ii) One member shall be from the Northeast, which consists of the states of Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island and Vermont;

(iii) Two members shall be from the Midwest, which consists of the states of Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, North Dakota, Ohio, South Dakota, Wisconsin and Wyoming; and

(iv) One member shall be from the West, which consists of the states of Alaska, Arizona, California, Hawaii, Idaho, Montana, New Mexico, Nevada, Oregon, Utah, and Washington.

(v) One manufacturer member at large may be from any region and shall manufacture at least 100,000 short tons but no more than 250,000 short tons of paper and paper-based packaging annually. If there are no eligible nominees, this seat shall be allocated to the largest producing region specified in paragraphs (b)(1)(i) through (b)(1)(iv).

(2) *Importers.* One member shall be an importer.

(c) At least once in every five-year period, but not more frequently than once in every three-year period, the Board will review the geographical distribution of the quantity of paper and paper-based packaging manufactured within the United States and the quantity of paper and paper-based packaging imported to the United States. The review will be conducted using the Board's annual assessment receipts and, if available, other reliable reports from the industry. If warranted, the Board will recommend to the Secretary that the membership or size of the Board be adjusted to reflect changes in geographical distribution of the quantity of paper and paper-based packaging manufactured in the United States and the quantity of paper and paper-based packaging imported to the United States. Any changes in Board composition shall be implemented by the Secretary through rulemaking.

§ 1222.41 Nominations and appointments.

(a) Nominees must manufacture or import 100,000 short tons or more of paper and paper-based packaging in a marketing year.

(b) Initial nominations shall be submitted to the Secretary by the Panel. Before considering any nominations, the Panel shall publicize the nomination process, using trade press or other means it deems appropriate, and shall conduct outreach to all known manufacturers and importers manufacturing or importing 100,000 short tons or more of paper and paper-based packaging in a marketing year to generate nominees that reflect the range of operations within the paper and paper-based packaging industry. The Panel may use regional caucuses, mail or other methods to elicit potential nominees. The Panel shall work with USDA to ensure that all eligible candidates are aware of the opportunity to serve on the Board. The Panel shall submit the nominations to the Secretary and recommend two nominees for each Board position specified in § 1222.40(b). The Secretary shall select the initial members of the Board from the nominations submitted by the Panel.

(c) Subsequent nominations shall be conducted as follows:

(1) The Board shall conduct outreach to all known manufacturers and importers manufacturing or importing 100,000 short tons or more of paper and paper-based packaging in a marketing year. Manufacturers and importers may submit nominations to the Board;

(2) Manufacturer and importer nominees may provide the Board a short background statement outlining their qualifications to serve on the Board;

(3) Nominees that are both a manufacturer and an importer may seek nomination to the Board as either a manufacturer or an importer, but not both;

(4) For the domestic seats allocated by region, domestic manufacturers must manufacture paper and paper-based packaging in the region for which they seek nomination. Nominees that manufacture in more than one region may seek nomination in one region of their choice. Nominees must specify for which region they are seeking nomination. The names of manufacturer nominees shall be placed on a ballot by region. The ballots along with the background statements shall be mailed to all manufacturers who manufacture 100,000 short tons or more of paper and paper-based packaging per marketing year. Manufacturers may vote in each region in which they manufacture paper and paper-based packaging. The votes shall be tabulated for each region and the nominees receiving the highest number of votes shall be placed at the top of the list in descending order by vote. The top two candidates for each position shall be submitted to the Secretary;

(5) The names of nominees for at large domestic manufacturers shall be placed on a ballot. The ballots along with the background statements shall be mailed to all manufacturers who manufacture 100,000 short tons or more of paper and paper-based packaging per marketing year. The votes shall be tabulated and the nominees receiving the highest number of votes shall be placed at the top of the list in descending order by vote. The top two candidates shall be submitted to the Secretary;

(6) The names of importer nominees shall be placed on a ballot. The ballots along with background statements shall be mailed to importers who import 100,000 short tons or more of paper and paper-based packaging per marketing year. The votes shall be tabulated and the nominees receiving the highest number of votes shall be placed at the top of the list in descending order by vote. The top two candidates for each position shall be submitted to the Secretary;

(7) The Board must submit nominations to the Secretary at least six months before the new Board term begins;

(8) Any manufacturer or importer nominated to serve on the Board shall file with the Secretary at the time of the nomination a background questionnaire;

(9) From the nominations made pursuant to this section, the Secretary shall appoint the members of the Board on the basis of representation provided in § 1222.40(b);

(10) No two members shall be employed by a single corporation, company, partnership or any other legal entity; and

(11) The Board may recommend to the Secretary modifications to its nomination procedures as it deems appropriate. Any such modifications shall be implemented through rulemaking by the Secretary.

§ 1222.42 Term of office.

(a) With the exception of the initial Board, each Board member shall serve for a term of three years or until the Secretary selects his or her successor. Each term of office shall begin on January 1 and end on December 31. No member may serve more than two full consecutive three-year terms, except as provided in paragraph (b) of this section.

(b) For the initial Board, the terms of the Board members shall be staggered for two, three and four years. Determination of which of the initial members shall serve a term of two, three or four years shall be recommended to the Secretary by the Panel.

§ 1222.43 Removal and vacancies.

(a) The Board may recommend to the Secretary that a member be removed from office if the member consistently fails or refuses to perform his or her duties properly or engages in dishonest acts or willful misconduct. If the Secretary determines that any person appointed under this subpart consistently fails or refuses to perform his or her duties properly or engages in acts of dishonesty or willful misconduct, the Secretary shall remove the person from office. A person appointed under this subpart or any employee of the Board may be removed by the Secretary if the Secretary determines that the person's continued service would be detrimental to the purposes of the Act.

(b) If a member resigns, is removed from office, or in the event of death of any member or if any member of the Board ceases to work for or be affiliated with a manufacturer or importer, or if a manufacturer ceases to do business in the region he or she represents, such position shall become vacant.

(c) If a position becomes vacant nominations to fill the vacancy will be conducted using the nominations process set forth in this Order or the Board may recommend to the Secretary that he or she appoint a successor from the most recent list of nominations for the position.

(d) A vacancy will not be required to be filled if the unexpired term is less than six months.

§ 1222.44 Procedure.

(a) A majority of the Board members shall constitute a quorum.

(b) Each member of the Board shall be entitled to one vote on any matter put to the Board and the motion will carry if supported by a majority of Board members, except for recommendations to change the assessment rate or to adopt a budget, both of which require affirmation by two-thirds of the total number of Board members.

(c) At an assembled meeting, all votes shall be cast in person.

(d) In lieu of voting at an assembled meeting and, when in the opinion of the chairperson of the Board such action is considered necessary, the Board may take action if supported by a majority of members (unless two-thirds is required under the Order) by mail, telephone, electronic mail, facsimile, or any other means of communication. In that event, all members must be notified and provided the opportunity to vote. Any action so taken shall have the same force and effect as though such action had been taken at an assembled meeting. All votes shall be recorded in Board minutes.

(e) There shall be no proxy voting.

§ 1222.45 Reimbursement and attendance.

Board members shall serve without compensation, but shall be reimbursed for reasonable travel expenses, as approved by the Board, which they incur when performing Board business.

§ 1222.46 Powers and duties.

The Board shall have the following powers and duties:

(a) To administer this subpart in accordance with its terms and conditions and to collect assessments;

(b) To develop and recommend to the Secretary for approval such bylaws as may be necessary for the functioning of the Board, and such rules and regulations as may be necessary to administer the Order, including activities authorized to be carried out under the Order;

(c) To meet not less than annually, organize, and select from among the members of the Board a chairperson, vice chairperson, secretary/treasurer, other officers, and committees and subcommittees, as the Board determines to be appropriate. The committee and subcommittees may include persons other than Board members, including representatives of Board members, as the Board deems necessary and appropriate, provided Board members

or their representative constitute a majority of all committees and subcommittees;

(d) To employ or contract with persons, other than the Board members, as the Board considers necessary to assist the Board in carrying out its duties, and to determine the compensation and specify the duties of the persons;

(e) To notify manufacturers and importers of all Board meetings through a press release or other means and to give the Secretary the same notice of meetings of the Board (including committee, subcommittee, and the like) as is given to members so that the Secretary's representative(s) may attend such meetings, and to keep and report minutes of each meeting of the Board to the Secretary;

(f) To develop and submit programs, plans and projects to the Secretary for the Secretary's approval, and enter into contracts or agreements related to such programs, plans and projects, which must be approved by the Secretary before becoming effective, for the development and carrying out of programs, plans or projects of promotion, research and information. The payment of costs for such activities shall be from funds collected pursuant to this Order. Each contract or agreement shall provide that:

(1) The contractor or agreeing party shall develop and submit to the Board a program, plan or project together with a budget or budgets that shall show the estimated cost to be incurred for such program, plan or project;

(2) The contractor or agreeing party shall keep accurate records of all its transactions and make periodic reports to the Board of activities conducted, submit accounting for funds received and expended, and make such other reports as the Secretary or the Board may require;

(3) The Secretary may audit the records of the contracting or agreeing party periodically; and

(4) Any subcontractor who enters into a contract with a Board contractor and who receives or otherwise uses funds allocated by the Board shall be subject to the same provisions as the contractor.

(g) To prepare and submit for the approval of the Secretary fiscal year budgets in accordance with § 1222.50;

(h) To borrow funds necessary for startup expenses of the Order during the first year of operation by the Board;

(i) To invest assessments collected and other funds received pursuant to the Order and use earnings from invested assessments to pay for activities carried out pursuant to the Order;

(j) To recommend changes to the assessment rates as provided in this part;

(k) To cause its books to be audited by an independent auditor at the end of each fiscal year and at such other times as the Secretary may request, and to submit a report of the audit directly to the Secretary;

(l) To periodically prepare and make public reports of program activities and, at least once each fiscal year, to make public an accounting of funds received and expended;

(m) To maintain such minutes, books and records and prepare and submit such reports and records from time to time to the Secretary as the Secretary may prescribe; to make appropriate accounting with respect to the receipt and disbursement of all funds entrusted to it; and to keep records that accurately reflect the actions and transactions of the Board;

(n) To act as an intermediary between the Secretary and any manufacturer or importer;

(o) To receive, investigate, and report to the Secretary complaints of violations of the Order;

(p) To recommend to the Secretary such amendments to the Order as the Board considers appropriate; and

(q) To work to achieve an effective, continuous, and coordinated program of promotion, research, and information and to carry out programs, plans, and projects designed to provide maximum benefits to the paper and paper-based packaging industry.

§ 1222.47 Prohibited activities.

The Board may not engage in, and shall prohibit the employees and agents of the Board from engaging in:

(a) Any action that would be a conflict of interest;

(b) Using funds collected by the Board under the Order to undertake any action for the purpose of influencing legislation or governmental action or policy, by local, state, national, and foreign governments or subdivision thereof, other than recommending to the Secretary amendments to the Order; and

(c) No program, plan or project including advertising shall be false, misleading or disparaging to another agricultural commodity. Paper and paper-based packaging of all geographic origins shall be treated equally.

Expenses and Assessments

§ 1222.50 Budget and expenses.

(a) At least 60 calendar days prior to the beginning of each fiscal year, and as may be necessary thereafter, the Board shall prepare and submit to the Department a budget for the fiscal year covering its anticipated expenses and disbursements in administering this part. The budget for research, promotion or information may not be implemented prior to approval by the Secretary. Each such budget shall include:

(1) A statement of objectives and strategy for each program, plan or project;

(2) A summary of anticipated revenue, with comparative data for at least one preceding fiscal year, except for the initial budget;

(3) A summary of proposed expenditures for each program, plan or project; and

(4) Staff and administrative expense breakdowns, with comparative data for at least one preceding fiscal year, except for the initial budget.

(b) Each budget shall provide adequate funds to defray its proposed expenditures and to provide for a reserve as set forth in this Order.

(c) Subject to this section, any amendment or addition to an approved budget must be approved by the Department, including shifting funds from one program, plan or project to another. Shifts of funds that do not result in an increase in the Board's approved budget and are consistent with governing bylaws need not have prior approval by the Department.

(d) The Board is authorized to incur such expenses, including provision for a reserve, as the Secretary finds reasonable and likely to be incurred by the Board for its maintenance and functioning, and to enable it to exercise its powers and perform its duties in accordance with the provisions of this subpart. Such expenses shall be paid from funds received by the Board.

(e) With approval of the Department, the Board may borrow money for the payment of startup expenses subject to the same fiscal, budget, and audit controls as other funds of the Board. Any funds borrowed shall be expended only for startup costs and capital outlays and are limited to the first year of operation by the Board.

(f) The Board may accept voluntary contributions. Such contributions shall be free from any encumbrance by the donor and the Board shall retain complete control of their use. The Board may receive funds from outside sources with approval of the Secretary for specific authorized projects.

(g) The Board shall reimburse the Secretary for all expenses incurred by the Secretary in the implementation, administration, enforcement and supervision of the Order, including all referendum costs in connection with the Order.

(h) For fiscal years beginning three years after the date of the establishment of the Board, the Board may not expend for administration, maintenance, and the functioning of the Board an amount that is greater than 15 percent of the assessment and other income received by and available to the Board for the fiscal year. For purposes of this limitation, reimbursements to the Secretary shall not be considered administrative costs.

(i) The Board may establish an operating monetary reserve and may carry over to subsequent fiscal years excess funds in any reserve so established: *Provided,* That, the funds in the reserve do not exceed one fiscal year's budget of expenses. Subject to approval by the Secretary, such reserve funds may be used to defray any expenses authorized under this subpart.

(j) Pending disbursement of assessments and all other revenue under a budget approved by the Secretary, the Board may invest assessments and all other revenues collected under this part in:

(1) Obligations of the United States or any agency of the United States;

(2) General obligations of any State or any political subdivision of a State;

(3) Interest bearing accounts or certificates of deposit of financial institutions that are members of the Federal Reserve System;

(4) Obligations fully guaranteed as to principal interest by the United States; or

(5) Other investments as authorized by the Secretary.

§ 1222.51 Financial statements.

(a) The Board shall prepare and submit financial statements to the Department on a quarterly basis, or at any other time as requested by the Secretary. Each such financial statement shall include, but not be limited to, a balance sheet, income statement, and expense budget. The expense budget shall show expenditures during the time period covered by the report, year-to-date expenditures, and the unexpended budget.

(b) Each financial statement shall be submitted to the Department within 30 calendar days after the end of the time period to which it applies.

(c) The Board shall submit to the Department an annual financial statement within 90 calendar days after the end of the fiscal year to which it applies.

§ 1222.52 Assessments.

(a) The Board's programs and expenses shall be paid by assessments on manufacturers and importers, other income of the Board, and other funds available to the Board.

(b) Subject to the exemptions specified in § 1222.53, each manufacturer and importer shall pay an assessment to the Board in the amount of 35 cents per short ton or its equivalent manufactured and imported. The assessment shall be on the roll of paper and paper-based packaging manufactured or imported, except that the assessment for cut-size printing and writing paper imported or made by domestic manufacturers prior to leaving the manufacturer's mill shall be on the cut-size paper.

(c) At least 24 months after the Order becomes effective and periodically thereafter, the Board shall review and may recommend to the Secretary, upon an affirmative vote of at least two-thirds of the Board, a change in the assessment rate. A change in the assessment rate is subject to rulemaking by the Secretary.

(d) Domestic manufacturers shall remit to the Board the amount due no later than the 30th calendar day of the month following the end of the quarter in which the paper and paper-based packaging was manufactured.

(e) Each importer of paper and paper-based packaging shall pay through Customs to the Board an assessment on the paper and paper-based packaging imported into the United States identified in the Harmonized Tariff Schedule of the United States (HTSUS) numbers listed in the table below.

Paper and paper-based packaging	Assessment $/kg
4802.54.1000	$.000386
4802.54.3100	.000386
4802.54.5000	.000386
4802.54.6100	.000386
4802.55.1000	.000386
4802.55.2000	.000386
4802.55.4000	.000386
4802.55.6000	.000386
4802.55.7020	.000386
4802.55.7040	.000386
4802.56.1000	.000386
4802.56.2000	.000386
4802.56.4000	.000386
4802.56.6000	.000386
4802.56.70	.000386
4802.57.1000	.000386
4802.57.2000	.000386
4802.57.4000	.000386
4802.58.1000	.000386
4802.58.20	.000386
4802.58.5000	.000386
4802.58.60	.000386
4802.61.1000	.000386
4802.61.2000	.000386
4802.61.30	.000386
4802.61.5000	.000386
4802.61.60	.000386
4802.62.1000	.000386
4802.62.2000	.000386
4802.62.3000	.000386
4802.62.5000	.000386
4802.62.60	.000386
4802.69	.000386
4804.11.0000	.000386
4804.19.0000	.000386
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(f) If Customs does not collect an assessment from an importer, the importer is responsible for paying the assessment directly to the Board within 30 calendar days after the end of the quarter in which the paper and paper-based packaging was imported.

(g) When a manufacturer or importer fails to pay the assessment within 60 calendar days of the date it is due, the Board may impose a late payment charge and interest. The late payment charge and rate of interest shall be prescribed in regulations issued by the Secretary. All late assessments shall be subject to the specified late payment charge and interest. Persons failing to remit total assessments due in a timely manner may also be subject to actions under federal debt collection procedures.

(h) The Board may accept advance payment of assessments from any manufacturer or importer that will be credited toward any amount for which that person may become liable. The Board may not pay interest on any advance payment.

(i) If the Board is not in place by the date the first assessments are to be collected, the Secretary shall receive assessments and shall pay such assessments and any interest earned to the Board when it is formed.

§ 1222.53 Exemption from assessment.

(a) *Minimum quantity exemption.* (1) Manufacturers that manufacture less than 100,000 short tons of paper and paper-based packaging in a marketing year are exempt from paying assessments. Such manufacturers must apply to the Board, on a form provided by the Board, for a certificate of exemption prior to the start of the marketing year. This is an annual exemption and manufacturers must reapply each year. Such manufacturers shall certify that they will manufacture less than 100,000 short tons of paper and paper-based packaging during the marketing year for which the exemption is claimed. Upon receipt of an application for exemption, the Board shall determine whether an exemption may be granted. The Board may request past manufacturing data to support the exemption request. The Board will issue, if deemed appropriate, a certificate of exemption to the eligible manufacturer. It is the responsibility of the manufacturer to retain a copy of the certificate of exemption.

(2) Importers that import into the United States less than 100,000 short tons of paper and paper-based packaging in a marketing year are exempt from paying assessments. This is an annual exemption and importers must qualify each year.

(i) Importers that imported less than 100,000 short tons of paper and paper-based packaging during the prior marketing year shall automatically be considered exempt during the upcoming marketing year. Customs data will be reviewed to verify applicable importers.

(ii) Importers that imported more than 100,000 short tons of paper and paper-based packaging during the prior marketing year, but believe and can document that they will import less than 100,000 short tons of paper and paper-based packaging during the upcoming marketing year, may apply to the Board, on a form provided by the Board, for a certificate of exemption prior to the start of the fiscal year. Such importers shall certify that they will import less than 100,000 short tons of paper and paper-based packaging during the marketing year for which the exemption is claimed. Upon receipt of an application for exemption, the Board shall determine whether an exemption may be granted. The Board may request past import data and other documentation to support the exemption request. The Board will issue, if deemed appropriate, a certificate of exemption to the eligible importer. It is the responsibility of the importer to retain a copy of the certificate of exemption.

(iii) The Board shall refund such importers considered exempt their assessments as collected by Customs no later than 60 calendar days after receipt of such assessments by the Board. The Board will stop refund of assessments to such importers who during the marketing year import more than 100,000 short tons of paper and paper based packaging. These importers will be notified accordingly. No interest shall be paid on the assessments collected by Customs or the Board.

(3) Manufacturers that did not apply to the Board for an exemption and that manufactured less than 100,000 short tons of paper and paper-based packaging during the marketing year shall automatically receive a refund from the Board for the applicable assessments within 30 calendar days after the end of the marketing year. Board staff shall determine the assessments paid and refund the amount due to the manufacturer accordingly.

(4) Importers that did not apply to the Board for an exemption, imported more than 100,000 short tons of paper and paper-based packaging during the prior marketing year, and that imported less than 100,000 short tons of paper and paper-based packaging during the marketing year shall automatically receive a refund from the Board for the applicable assessments within 30 calendar days after the end of the marketing year.

(5) If an entity is a manufacturer and an importer, such entity's combined quantity of paper and paper-based packaging manufactured and imported during a marketing year shall count towards the 100,000 short ton-exemption.

(6) Manufacturers and importers that received an exemption certificate or an automatic exemption from the Board but manufactured or imported 100,000 short tons or more of paper and paper-based packaging during the marketing year shall pay the Board the applicable assessments owed on the quantity manufactured or imported within 30 calendar days after the end of the marketing year and submit any necessary reports to the Board pursuant to § 1222.70.

(7) The Board may develop additional procedures to administer this exemption as appropriate. Such procedures shall be implemented through rulemaking by the Secretary.

(b) *Organic.* (1) Organic Act means section 2103 of the Organic Foods Production Act of 1990 (7 U.S.C. 6501–6522).

(2) A manufacturer who operates under an approved National Organic Program (NOP) (7 CFR part 205) system plan, only manufactures paper and paper-based packaging that is eligible to be labeled as 100 percent organic under the NOP and is not a split operation shall be exempt from payment of assessments. To obtain an organic exemption, an eligible manufacturer shall submit a request for exemption to the Board, on a form provided by the Board, at any time initially and annually thereafter on or before the start of the fiscal year as long as such manufacturer continues to be eligible for the exemption. The request shall include the following: The manufacturer's name and address; a copy of the organic operation certificate provided by a USDA-accredited certifying agent as defined in the Organic Act, a signed certification that the applicant meets all of the requirements specified for an assessment exemption, and such other information as may be required by the Board and with the approval of the Secretary. The Board shall have 30

calendar days to approve the exemption request. If the exemption is not granted, the Board will notify the applicant and provide reasons for the denial within the same time frame.

(3) An importer who imports only paper and paper-based packaging that is eligible to be labeled as 100 percent organic under the NOP and is not a split operation shall be exempt from the payment of assessments. To obtain an organic exemption, an eligible importer must submit documentation to the Board and request an exemption from assessment on 100 percent of organic paper and paper-based packaging, on a form provided by the Board, at any time initially and annually thereafter on or before the beginning of the fiscal year as long as the importer continues to be eligible for the exemption. This documentation shall include the same information as required by manufacturers in paragraph (b)(2) of this section. If the importer complies with the requirements of this section, the Board will grant the exemption and issue a Certificate of Exemption to the importer. The Board will also issue the importer a 9-digit alphanumeric number valid for 1 year from the date of issue. This alphanumeric number should be entered by the importer to Customs at entry summary. Any line item entry of 100 percent organic paper and paper-based packaging bearing this alphanumeric number assigned by the Board will not be subject to assessments.

(4) Importers who are exempt from assessment in paragraph (d)(3) of this section shall also be eligible for reimbursement of assessments collected by Customs and may apply to the Board for a reimbursement. The importer would be required to submit satisfactory proof to the Board that the importer paid the assessment on exempt organic products.

(5) The exemption will apply immediately following the issuance of the exemption certificate.

Promotion, Research and Information

§ 1222.60 Programs, plans and projects.

(a) The Board shall develop and submit to the Secretary for approval programs, plans and projects authorized by this subpart. Such programs, plans and projects shall provide for promotion, research, information and other activities including consumer and industry information and advertising.

(b) No program, plan or project shall be implemented prior to its approval by the Secretary. Once a program, plan or project is so approved, the Board shall take appropriate steps to implement it.

(c) The Board must evaluate each program, plan and project authorized under this subpart to ensure that it contributes to an effective and coordinated program of research, promotion and information. The Board must submit the evaluations to the Secretary. If the Board finds that a program, plan or project does not contribute to an effective program of promotion, research, or information, then the Board shall terminate such program, plan or project.

§ 1222.61 Independent evaluation.

At least once every five years, the Board shall authorize and fund from funds otherwise available to the Board, an independent evaluation of the effectiveness of the Order and the programs conducted by the Board pursuant to the Act. The Board shall submit to the Secretary, and make available to the public, the results of each periodic independent evaluation conducted under this paragraph.

§ 1222.62 Patents, copyrights, trademarks, inventions, product formulations, and publications.

Any patents, copyrights, trademarks, inventions, product formulations, and publications developed through the use of funds received by the Board under this subpart shall be the property of the U.S. Government, as represented by the Board, and shall along with any rents, royalties, residual payments, or other income from the rental, sales, leasing, franchising, or other uses of such patents, copyrights, trademarks, inventions, product formulations, or publications, inure to the benefit of the Board, shall be considered income subject to the same fiscal, budget, and audit controls as other funds of the Board, and may be licensed subject to approval by the Secretary. Upon termination of this subpart, § 1222.83 shall apply to determine disposition of all such property.

Reports, Books, and Records

§ 1222.70 Reports.

(a) Manufacturers and importers will be required to provide periodically to the Board such information as the Board, with the approval of the Secretary, may require. Such information may include, but not be limited to:

(1) For manufacturers:

(i) The name, address and telephone number of the manufacturer; and

(ii) The quantity of paper and paper-based packaging manufactured by type.

(2) For importers:

(i) The name, address and telephone number of the importer;

(ii) The quantity of paper and paper-based packaging imported by type; and

(iii) The country of export.

(b) For manufacturers, such information shall be reported to the Board no later than the 30th calendar day of the month following the end of the quarter in which the paper and paper-based packaging was manufactured and shall accompany the collected payment of assessments as specified in § 1222.52. First quarter data (January–March) shall be reported to the Board no later than the 30th calendar day of April; second quarter data (April–June) shall be reported no later than the 30th calendar day of July; third quarter data (July–September) shall be reported no later than the 30th calendar day of October; and fourth quarter data (October–December) shall be reported no later than the 30th calendar day of January of the following marketing year.

(c) For importers who pay their assessments directly to the Board, such information shall accompany the payment of collected assessments within 30 calendar days after the end of the quarter in which the paper and paper-based packaging was imported specified in § 1222.52.

§ 1222.71 Books and records.

Each manufacturer and importer shall maintain any books and records necessary to carry out the provisions of this subpart and regulations issued thereunder, including such records as are necessary to verify any required reports. Such books and records must be made available during normal business hours for inspection by the Board's or Secretary's employees or agents. Manufacturers and importers must maintain the books and records for two years beyond the fiscal year to which they apply.

§ 1222.72 Confidential treatment.

All information obtained from books, records, or reports under the Act, this subpart and the regulations issued thereunder shall be kept confidential by all persons, including all employees and former employees of the Board, all officers and employees and former officers and employees of contracting and subcontracting agencies or agreeing parties having access to such information. Such information shall not be available to Board members or manufacturers and importers. Only those persons having a specific need for such information solely to effectively administer the provisions of this subpart shall have access to such information. Only such information so obtained as the Secretary deems relevant shall be disclosed by them, and then only in a

judicial proceeding or administrative hearing brought at the direction, or at the request, of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving this subpart. Nothing in this section shall be deemed to prohibit:

(a) The issuance of general statements based upon the reports of the number of persons subject to this subpart or statistical data collected therefrom, which statements do not identify the information furnished by any person; and

(b) The publication, by direction of the Secretary, of the name of any person who has been adjudged to have violated this part, together with a statement of the particular provisions of this part violated by such person.

Miscellaneous

§ 1222.80 Right of the Secretary.

All fiscal matters, programs, plans or projects, contracts, rules or regulations, reports, or other substantive actions proposed and prepared by the Board shall be submitted to the Secretary for approval.

§ 1222.81 Referenda.

(a) *Initial referendum.* The Order shall not become effective unless the Order is approved by a majority of manufacturers and importers voting in the referendum who also represent a majority of the volume of paper and paper-based packaging represented in the referendum and who, during a representative period determined by the Secretary, have been engaged in the manufacturing or importation of paper and paper-based packaging. A single entity who domestically manufactures and imports paper and paper-based packaging may cast one vote in the referendum.

(b) *Subsequent referenda.* The Secretary shall conduct subsequent referenda:

(1) For the purpose of ascertaining whether manufacturers and importers favor the amendment, continuation, suspension, or termination of the Order;

(2) Not later than seven years after this Order becomes effective and every seven years thereafter, to determine whether manufacturers and importers favor the continuation of the Order. The Order shall continue if it is favored by a majority of manufacturers and importers voting in the referendum who also represent a majority of the volume of paper and paper-based packaging represented in the referendum and who, during a representative period determined by the Secretary, have been engaged in the manufacturing or importation of paper and paper-based packaging;

(3) At the request of the Board established in this Order;

(4) At the request of 10 percent or more of the number of persons eligible to vote in a referendum as set forth under the Order; or

(5) At any time as determined by the Secretary.

§ 1222.82 Suspension or termination.

(a) The Secretary shall suspend or terminate this part or subpart or a provision thereof, if the Secretary finds that this part or subpart or a provision thereof obstructs or does not tend to effectuate the purposes of the Act, or if the Secretary determines that this subpart or a provision thereof is not favored by persons voting in a referendum conducted pursuant to the Act.

(b) The Secretary shall suspend or terminate this subpart at the end of the fiscal year whenever the Secretary determines that its suspension or termination is favored by a majority of manufacturers and importers voting in the referendum who also represent a majority of the volume represented in the referendum who, during a representative period determined by the Secretary, have been engaged in the manufacturing or importation of paper and paper-based packaging.

(c) If, as a result of a referendum the Secretary determines that this subpart is not approved, the Secretary shall:

(1) Not later than one hundred and eighty (180) calendar days after making the determination, suspend or terminate, as the case may be, the collection of assessments under this subpart.

(2) As soon as practical, suspend or terminate, as the case may be, activities under this subpart in an orderly manner.

§ 1222.83 Proceedings after termination.

(a) Upon termination of this subpart, the Board shall recommend to the Secretary up to five of its members to serve as trustees for the purpose of liquidating the Board's affairs. Such persons, upon designation by the Secretary, shall become trustees of all of the funds and property then in the possession or under control of the Board, including claims for any funds unpaid or property not delivered, or any other existing claim at the time of such termination.

(b) The said trustees shall:

(1) Continue in such capacity until discharged by the Secretary;

(2) Carry out the obligations of the Board under any contracts or agreements entered into pursuant to the Order;

(3) From time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the Board and trustees, to such person or person as the Secretary directs; and

(4) Upon request of the Secretary execute such assignments or other instruments necessary or appropriate to vest in such persons title and right to all of the funds, property, and claims vested in the Board or the trustees pursuant to the Order.

(c) Any person to whom funds, property, or claims have been transferred or delivered pursuant to the Order shall be subject to the same obligations imposed upon the Board and upon the trustees.

(d) Any residual funds not required to defray the necessary expenses of liquidation shall be turned over to the Secretary to be disposed of, to the extent practical, to one or more paper and paper-based packaging organizations in the United States whose mission is generic promotion, research, and information programs.

§ 1222.84 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any regulation issued pursuant thereto, or the issuance of any amendment to either thereof, shall not:

(a) Affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this subpart or any regulation issued thereunder;

(b) Release or extinguish any violation of this subpart or any regulation issued thereunder; or

(c) Affect or impair any rights or remedies of the United States, or of the Secretary or of any other persons, with respect to any such violation.

§ 1222.85 Personal liability.

No member or employee of the Board shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member or employee, except for acts of dishonesty or willful misconduct.

§ 1222.86 Separability.

If any provision of this subpart is declared invalid or the applicability of it to any person or circumstances is held invalid, the validity of the remainder of this subpart, or the applicability thereof

to other persons or circumstances shall not be affected thereby.

§ 1222.87 Amendments.

Amendments to this subpart may be proposed from time to time by the Board or any interested person affected by the provisions of the Act, including the Secretary.

§ 1222.88 OMB control numbers.

The control numbers assigned to the information collection requirements by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, are OMB control number 0505–0001 (Board nominee background statement) and OMB control number 0581–0281.

Dated: September 10, 2013.

Rex A. Barnes,

Associate Administrator.

[FR Doc. 2013–22330 Filed 9–13–13; 8:45 am]

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