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Contents

Federal Register

Vol. 78, No. 227

Monday, November 25, 2013

Agricultural Marketing Service
RULES
General Cull and Handling Requirements:
Irish Potatoes Grown in Colorado, 70191–70193
NOTICES
Requests for Nominations:
2013–2015 Fruit and Vegetable Industry Advisory Committee, 70259–70260

Agriculture Department
See Agricultural Marketing Service
See Rural Business-Cooperative Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 70257–70259
Meetings:
Council for Native American Farming and Ranching, 70259

Air Force Department
NOTICES
Exclusive Patent Licenses, 70294

Army Department
See Engineers Corps
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 70294

Bureau of Consumer Financial Protection
RULES
Consumer Leasing (Regulation M), 70193–70194
Truth in Lending (Regulation Z), 70194–70196

Centers for Disease Control and Prevention
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 70300–70302
Predict the Influenza Season Challenge; Requirements and Registration, 70303–70305

Children and Families Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 70305

Coast Guard
RULES
Drawbridge Operations:
Hackensack River, Kearney and Jersey City, NJ, 70218–70219
Umpqua River, Reedsport, OR, 70220–70222
Regulated Navigation Areas:
Upper Mississippi River between mile 0.0 and 109.9; Cairo, IL to Chester, IL, 70222–70225

Commerce Department
See International Trade Administration
See National Oceanic and Atmospheric Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 70267

Defense Acquisition Regulations System
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Administrative Matters, 70294–70295

Defense Department
See Air Force Department
See Army Department
See Defense Acquisition Regulations System
See Engineers Corps
See Navy Department
RULES
Federal Acquisition Regulations:
Accelerated Payments to Small Business Subcontractors, 70477–70479
Federal Acquisition Circular 2005–71; Introduction, 70476
Federal Acquisition Circular 2005–71; Small Entity Compliance Guide, 70482–70483
New Designated Country—Croatia, 70480–70481
Technical Amendments, 70481–70482
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 70283–70284
Non-Foreign Overseas Per Diem Rates; Revision, 70284–70293

Department of Transportation
See Pipeline and Hazardous Materials Safety Administration

Education Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Lender's Request for Payment of Interest and Special Allowance – LaRS, 70296–70297

Energy Department
See Federal Energy Regulatory Commission

Engineers Corps
NOTICES
Environmental Impact Statements; Availability, etc.:
Dam Safety Modification Report, Bluestone Dam, Hinton, Summers County, WV, 70295–70296

Environmental Protection Agency
RULES
National Oil and Hazardous Substances Pollution Contingency Plan:
National Priorities List, Deletion of the Columbus Old Municipal Landfill No. 1 Superfund Site, 70231–70235
State Hazardous Waste Management Program:
West Virginia; Final Authorization of Revisions, 70225–70231

PROPOSED RULES
Air Quality State Implementation Plans; Approvals and Promulgations:
Commonwealth of the Northern Mariana Islands; Prevention of Significant Deterioration; Special Exemptions from Requirements of the Clean Air Act, 70248–70255
National Oil and Hazardous Substances Pollution Contingency Plan:
National Priorities List, Deletion of the Columbus Old Municipal Landfill No. 1 Superfund Site, 70256
State Hazardous Waste Management Program:
West Virginia; Final Authorization of Revisions, 70255

Executive Office of the President
See Presidential Documents

Federal Aviation Administration
RULES
Airworthiness Directives:
Airbus Airplanes, 70207–70209
AQUILA – Aviation by Excellence AG Airplanes, 70200–70202
Eurocopter France Helicopters, 70202–70207
Rolls-Royce Deutschland Ltd and Co KG Turbofan Engines, 70198–70200
The Boeing Company Airplanes, 70196–70198, 70211–70216
Thielert Aircraft Engines, 70216–70218
XtremeAir GmbH Airplanes, 70209–70211
PROPOSED RULES
Airworthiness Directives:
Eurocopter France Helicopters, 70242–70244
Lycoming Engines, Fuel Injected Reciprocating Engines, 70240–70242
NOTICES
Waivers:
Orbital Sciences Corp., 70392–70394

Federal Communications Commission
RULES
Operation of Wireless Communications Services in the 2.3 GHz Band:
Digital Audio Radio Satellite Service in the 2310–2360 MHz Frequency Band, 70237–70238
Survey of Urban Rates, 70238–70239
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 70299–70300

Federal Emergency Management Agency
RULES
Suspension of Community Eligibility, 70235–70237
NOTICES
Meetings:
National Advisory Council, 70316–70317

Federal Energy Regulatory Commission
NOTICES
Combined Filings, 70297–70299
Initial Market-Based Rate Filings Including Requests for Blanket Section 204 Authorization:
Capacity Markets Partners, LLC, 70299

Federal Highway Administration
NOTICES
Buy America Waivers, 70394–70396

Federal Maritime Commission
NOTICES
Agreements Filed, 70300

Federal Motor Carrier Safety Administration
NOTICES
Parts and Accessories Necessary for Safe Operation:
Con-way Freight, TK Holdings, Inc., and Bendix; Exemptions, 70396–70398

Federal Railroad Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 70398–70399

Federal Reserve System
RULES
Consumer Leasing (Regulation M), 70193–70194
Truth in Lending (Regulation Z), 70194–70196
NOTICES
Changes in Bank Control:
Acquisitions of Shares of a Bank or Bank Holding Company, 70300

Fish and Wildlife Service
NOTICES
Environmental Assessments; Availability, etc.:
Cat Island National Wildlife Refuge; West Feliciana Parish, LA; Correction, 70318

Food and Drug Administration
PROPOSED RULES
Medical Gas Regulation Review Meeting; Correction, 70248
NOTICES
Guidance for Industry and Staff; Availability:
Distribution of In Vitro Diagnostic Products Labeled for Research Use Only or Investigational Use Only, 70306–70307
Guidance for Industry:
Preclinical Assessment of Investigational Cellular and Gene Therapy Products, 70307

General Services Administration
RULES
Federal Acquisition Regulations:
Accelerated Payments to Small Business Subcontractors, 70477–70479
Federal Acquisition Circular 2005–71; Introduction, 70476
Federal Acquisition Circular 2005–71; Small Entity Compliance Guide, 70482–70483
New Designated Country—Croatia, 70480–70481
Technical Amendments, 70481–70482

Government Ethics Office
RULES
Post-Employment Conflict of Interest:
Exempted Senior Employee Positions; Withdrawal of Final Rule, 70191

Health and Human Services Department
See Centers for Disease Control and Prevention
See Children and Families Administration
See Food and Drug Administration
See Health Resources and Services Administration
See National Institutes of Health

Health Resources and Services Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 70308

Homeland Security Department
See Coast Guard
See Federal Emergency Management Agency
NOTICES
Privacy Act; Systems of Records, 70313–70316

Interior Department
See Fish and Wildlife Service
See Land Management Bureau
See National Park Service
NOTICES
Meetings:
Invasive Species Advisory Committee; Teleconference, 70317
Secretarial Commission on Indian Trust Administration and Reform, 70317–70318

International Trade Administration
NOTICES
Antidumping Duty Administrative Reviews; Results, Extensions, Amendments, etc.:
Multilayered Wood Flooring from the People's Republic of China, 70267–70271
Steel Wire Garment Hangers from the People's Republic of China, 70271–70274
Meetings:
United States Travel and Tourism Advisory Board, 70274–70275
Request for Nominations:
United States Travel and Tourism Advisory Board, 70275–70276
Trade Missions:
Automotive Trade Mission to New Delhi, Pune and Chennai, India, 70278–70281
Colombia, Peru, Chile, Panama, and Ecuador in Conjunction with Trade Winds – The Americas, 70276–70278
United States–Mexico High Level Economic Dialogue, 70281–70282

International Trade Commission
NOTICES
Investigations; Determinations, Modifications, Rulings, etc.:
Certain Mobile Handset Devices and Related Touch Keyboard Software, 70320
Meetings; Sunshine Act, 70320–70321

Justice Department
NOTICES
Consent Decrees under the Clean Air Act, 70321
Proposed Consent Decrees under CERCLA, 70321

Labor Department
See Mine Safety and Health Administration
See Occupational Safety and Health Administration

Land Management Bureau
NOTICES
Meetings:
California Desert District Advisory Council, 70318–70319

Mine Safety and Health Administration
NOTICES
Petitions:
Mandatory Safety Standards; Modifications, 70321–70324

National Aeronautics and Space Administration
RULES
Federal Acquisition Regulations:
Accelerated Payments to Small Business Subcontractors, 70477–70479
Federal Acquisition Circular 2005–71; Introduction, 70476
Federal Acquisition Circular 2005–71; Small Entity Compliance Guide, 70482–70483
New Designated Country—Croatia, 70480–70481
Technical Amendments, 70481–70482

National Highway Traffic Safety Administration
RULES
Federal Motor Vehicle Safety Standards:
Occupant Crash Protection, 70416–70474

National Institutes of Health
NOTICES
Exclusive Licenses:
Development of Chitosan/IL–12 Conjugate as Immunotherapeutic Products for Human Cancers, 70308–70309
Meetings:
Center for Scientific Review, 70312–70313
Eunice Kennedy Shriver National Institute of Child Health and Human Development, 70309–70311
National Cancer Institute, 70312
National Institute of Arthritis and Musculoskeletal and Skin Diseases, 70312
National Institute of General Medical Sciences, 70311
National Institute of Mental Health, 70312
National Institute of Neurological Disorders and Stroke, 70310–70311
National Institute on Aging, 70310

National Labor Relations Board
NOTICES
Appointments:
Members of Performance Review Boards, 70352

National Oceanic and Atmospheric Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Cost-Earnings Surveys of Hawaii and American Samoa Small Boat-Based Fisheries, 70282
Meetings:
New England Fishery Management Council, 70282–70283
Pacific Fishery Management Council, 70283

National Park Service
NOTICES
National Register of Historic Places:
Notification of Pending Nominations and Related Actions, 70319–70320

Navy Department
NOTICES
Meetings:
U.S. Naval Academy Board of Visitors, 70296

Neighborhood Reinvestment Corporation
NOTICES
Meetings; Sunshine Act, 70352–70353

Nuclear Regulatory Commission
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 70353–70354
Draft Guidance for Industry and Staff:
Conceptual Example of a Proposed Risk Management Regulatory Framework Policy Statement, 70354–70356
Reliable Hardened Containment Vents Capable of Operation, 70356–70358

Occupational Safety and Health Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Hydrostatic Testing Provision of the Portable Fire Extinguishers Standard, 70324–70326
Rigging Equipment for Material Handling, 70326–70327
Nationally Recognized Testing Laboratories:
Modifications to Scopes of Recognition, 70329–70349
Proposed Revision of Policy for Incorporation of Standards into List of Appropriate Test Standards, 70349–70352
TUV SUD Product Services GmbH, 70327–70329

Overseas Private Investment Corporation
NOTICES
Meetings; Sunshine Act, 70358

Pipeline and Hazardous Materials Safety Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Paperless Hazard Communications Pilot Program, 70399–70410

Presidential Documents
PROCLAMATIONS
Special Observances:
National Child's Day (Proc. 9059), 70189–70190

Railroad Retirement Board
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 70358–70359

Rural Business-Cooperative Service
NOTICES
Funding Availabilities:
Value-Added Producer Grants, 70260–70267

Securities and Exchange Commission
NOTICES
Applications:
WisdomTree Trust, et al., 70359–70368
Meetings; Sunshine Act, 70368
Self-Regulatory Organizations; Proposed Rule Changes:
Chicago Mercantile Exchange Inc., 70368–70370
International Securities Exchange, LLC, 70382–70386
NASDAQ Stock Market LLC, 70388–70391
New York Stock Exchange LLC, 70386–70388
NYSE Arca, Inc., 70370–70380
NYSE MKT LLC, 70380–70382

Social Security Administration
PROPOSED RULES
Electronic Interim Assistance Reimbursement Program, 70244–70248
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 70391

State Department
NOTICES
Meetings:
Advisory Committee on International Law, 70392
Shipping Coordinating Committee, 70391–70392

Surface Transportation Board
NOTICES
Control Exemptions:
John D. Nielsen; Nebkota Railway, Inc., 70410–70411

Transportation Department
See Federal Aviation Administration
See Federal Highway Administration
See Federal Motor Carrier Safety Administration
See Federal Railroad Administration
See National Highway Traffic Safety Administration
See Pipeline and Hazardous Materials Safety Administration
See Surface Transportation Board

Treasury Department
See United States Mint
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 70411–70414

United States Mint
NOTICES
Product Pricing:
Coin and Chronicles Set – Theodore Roosevelt, 70414
Limited Edition Silver Proof Set, 70414

Veterans Affairs Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Supportive Services for Veteran Families Program, 70414

Separate Parts In This Issue

Part II
Transportation Department, National Highway Traffic Safety Administration, 70416–70474

Part III
Defense Department, 70476–70483
General Services Administration, 70476–70483
National Aeronautics and Space Administration, 70476–70483

Reader Aids
Consult the Reader Aids section at the end of this page for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

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CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR

Proclamations:

9059 70189

5 CFR

2641 70191

7 CFR

948 70191
980 70191

12 CFR

213 70193
226 70194
1013 70193
1026 70194

14 CFR

39 (10 documents) 70196, 70198, 70200, 70202, 70205, 70207, 70209, 70211, 70214, 70216

Proposed Rules:

39 (2 documents) 70240, 70242

20 CFR

Proposed Rules:

416 70244

21 CFR

Proposed Rules:

Ch. I 70248

33 CFR

117 (2 documents) 70218, 70220
165 70222

40 CFR

271 70225
300 70231

Proposed Rules:

52 70248
69 70248
271 70255
300 70256

44 CFR

64 70235

47 CFR

27 70237
54 70238

48 CFR

Ch. 1 (2 documents) 70476, 70482
12 70477
22 70480
25 70480
31 70481
32 70477
52 (3 documents) 70477, 70480, 70481

49 CFR

571 70416

Federal Register
Vol. 78, No. 227
Monday, November 25, 2013

Presidential Documents

Title 3—

The President

Proclamation 9059 of November 19, 2013

National Child's Day, 2013

By the President of the United States of America

A Proclamation

Each year on National Child's Day, America takes time to celebrate our most precious resource. We reaffirm our commitment to giving our next generation the tools to lead, innovate, and pursue their own measure of happiness.

In the United States of America, no matter where you come from, who you are, or how you look, you should have a chance to succeed. That is why we must build ladders of opportunity for all children—including high-quality preschool, strong education in key fields like math and science, and nutritious meals that give young people the energy to focus. Through First Lady Michelle Obama's *Let's Move!* initiative, my Administration is helping children develop habits that will let them lead healthier lives, and we are partnering with businesses, local governments, and non-profit organizations to ensure families have the information they need to give our children the happy, healthy futures they deserve.

Yet equal opportunity cannot exist while some parents are forced to choose between buying groceries, paying the rent, or taking their children to the doctor. Under the Affordable Care Act, new health insurance options are now available to millions of Americans. Millions of families will gain access to affordable coverage options through the new Health Insurance Marketplace, including through Medicaid in those States that have chosen to expand coverage. Thanks to this law, children can no longer be denied coverage because they have a pre-existing condition. And most health plans are covering recommended preventive services for children, including developmental screenings and immunizations, without cost-sharing.

With the support of a Nation and the guidance of parents and mentors, our children can lead America into a bright new age. Today, let us strengthen our resolve to provide the opportunities their energy and creativity demand.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim November 20, 2013, as National Child's Day. I call upon all citizens to observe this day with appropriate activities, programs, and ceremonies, and to rededicate ourselves to creating the bright future we want for our Nation's children.

IN WITNESS WHEREOF, I have hereunto set my hand this nineteenth day of November, in the year of our Lord two thousand thirteen, and of the Independence of the United States of America the two hundred and thirty-eighth.

[FR Doc. 2013–28303
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Rules and Regulations

Federal Register
Vol. 78, No. 227
Monday, November 25, 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.

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OFFICE OF GOVERNMENT ETHICS

5 CFR Part 2641

RIN 3209–AA14

Post-Employment Conflict of Interest Regulations; Exempted Senior Employee Positions; Withdrawal of Final Rule

AGENCY: Office of Government Ethics (OGE).

ACTION: Withdrawal of final rule.

SUMMARY: The Office of Government Ethics is withdrawing the final rule ''Post-Employment Conflict of Interest Regulations; Exempted Senior Employee Positions'' published October 3, 2013, at 78 FR 61153.

DATES: *Effective Date:* The final rule published on October 3, 2013, at 78 FR 61153 is withdrawn, effective November 25, 2013.

FOR FURTHER INFORMATION CONTACT: Christopher J. Swartz, Assistant Counsel, Ethics Law & Policy Branch, Office of Government Ethics; telephone: 202–482–9300; TTY: 800–877–8339; FAX: 202–482–9237.

SUPPLEMENTARY INFORMATION: On October 3, 2013, the U.S. Office of Government Ethics (OGE) published a final rule in the **Federal Register**, at 78 FR 61153, concerning the revocation of certain regulatory exemptions of senior employee positions at the Securities and Exchange Commission (SEC) from the one-year post-employment restrictions of 18 U.S.C. 207(c) and (f). Pursuant to the rulemaking action taken on October 3, 2013, the revocation of regulatory exemptions for covered positions at the SEC, as well as the removal of those exempted positions from Appendix A to 5 CFR part 2641, was to be effective on January 2, 2014. At the request of the SEC, OGE is now withdrawing its final rule of October 3, 2013, to allow the SEC time to effectively educate affected employees before the exemption revocation takes effect. For that reason, the notice of revocation is being rescinded and the final rule withdrawn. Positions that would have been affected by the issuance of October 3, 2013, shall continue to be exempted from the prohibitions of 18 U.S.C. 207(c) and (f), until 90 days from such time that OGE republishes notice of revocation in the **Federal Register**. OGE anticipates republishing this notice and final rule in January 2014.

Approved: November 19, 2013.

Walter M. Shaub, Jr.,

Director, Office of Government Ethics.

[FR Doc. 2013–28156 Filed 11–22–13; 8:45 am]

BILLING CODE 6345–03–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 948 and Part 980

[Doc. No. AMS–FV–13–0001; FV13–948–1 FIR]

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

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim rule that modified the size requirements for potatoes handled under the Colorado potato marketing order, Area No. 2 (order). The order regulates the handling of Irish potatoes grown in Colorado and is administered locally by the Colorado Potato Administrative Committee, Area No. 2 (Committee). The interim rule revised the 1-inch minimum to 1¾-inch maximum diameter size allowance for U.S. Commercial and better grade potatoes contained in the order's handling regulation for Area No. 2 to ¾-inch minimum to 1⅝-inch maximum diameter. In addition, this action revised the minimum size requirement under the order's general cull regulation to ¾-inch diameter. As required under section 8e of the Agricultural Marketing Agreement Act of 1937, this action also revised the size requirements for imported round type potatoes, other than red-skinned varieties. This change is expected to facilitate the handling and marketing of the Area No. 2 potato crop; provide producers, handlers, and importers with increased returns; and offer consumers increased potato purchasing options.

DATES: Effective November 26, 2013.

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

Small businesses may obtain 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 No. 97 and Marketing Order No. 948, both as amended (7 CFR part 948), regulating the handling of Irish potatoes grown in Colorado and 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.''

This rule is also issued under section 8e of the Act, which provides that whenever certain specified commodities, including potatoes, are regulated under a Federal marketing order, imports of these commodities into the United States are prohibited unless they meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodities.

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

The handling of potatoes grown in Area No. 2 of Colorado is regulated by

7 CFR part 948. Prior to this change, the smallest potatoes that could be shipped outside the state of Colorado under the order were 1-inch to 1¾-inch diameter potatoes that met or exceeded the requirements of the U.S. Commercial grade. Potatoes measuring less than 1-inch could not be shipped outside the state, regardless of grade. This restrictive requirement precluded the Colorado Area No. 2 handlers from supplying an emerging market for smaller size U.S. Commercial grade potatoes. Therefore, this rule continues in effect the interim rule that relaxed the allowable minimum diameter for U.S. Commercial and better grade potatoes to ¾-inch, which is in line with the minimum size requirements contained in the handling regulations of the other domestic potato marketing orders.

Additionally, prior to this change, the order's general cull regulation required all potatoes handled under the order to meet the minimum requirements of the U.S. No. 2 grade, or be greater than 1½-inches in diameter. For marketing purposes, the general cull regulations need to be consistent with the handling regulations. Therefore, this rule also continues in effect the interim rule that relaxed the minimum size requirement under the order's general cull regulation to ¾-inch diameter.

Imported potatoes are subject to regulations specified in 7 CFR part 980. Under those regulations, imported potatoes must meet the same or comparable grade, size, quality, and maturity requirements as specified for domestic potatoes under the order. Therefore, the relaxation of the size requirements effectuated by this rule for domestic potatoes covered by the order likewise relaxes the size requirements for U.S. Commercial and better grade round type potatoes, other than red-skinned varieties, that are imported into the United States. Importers may now ship Creamer size (¾-inch minimum to 1⅝-inch maximum diameter) U.S. Commercial and better grade round type potatoes, other than red-skinned varieties, into the United States.

In an interim rule (Doc. No. AMS–FV–13–0001; FV13–948–1 IR) published in the **Federal Register** on June 14, 2013, and effective on June 15, 2013 (78 FR 35743), § 948.126 was amended by changing the minimum diameter for potatoes handled under the order from 1½-inch to ¾-inches. Likewise, § 948.386 was modified by relaxing the size allowance for U.S. Commercial and better grade potatoes from 1-inch minimum to 1¾-inch maximum diameter to ¾-inch minimum to 1⅝-inch maximum diameter (Creamer size).

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 80 handlers of Colorado Area No. 2 potatoes subject to regulation under the order and approximately 180 producers in the regulated production area. In addition, there are approximately 571 potato importers. Small agricultural service firms are defined by the Small Business Administration 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)

During the 2011–2012 marketing year, the most recent full marketing year for which statistics are available, 15,072,963 hundredweight of Colorado Area No. 2 potatoes were inspected under the order and sold into the fresh market. Based on an estimated average f.o.b. price of $12.60 per hundredweight, the Committee estimates that 66 Area No. 2 handlers, or about 83 percent, had annual receipts of less than $7,000,000. In view of the foregoing, the majority of Colorado Area No. 2 potato handlers may be classified as small entities.

In addition, based on information provided by the National Agricultural Statistics Service, the average producer price for the 2011 Colorado fall potato crop was $10.70 per hundredweight. Multiplying $10.70 by the shipment quantity of 15,072,963 hundredweight yields an annual crop revenue estimate of $161.281 million. Therefore, the average annual fresh potato revenue for each of the 180 Colorado Area No. 2 potato producers is calculated to be approximately $896,000 ($161.281 million divided by 180), which is greater than the SBA threshold of $750,000. Consequently, on average, many of the Area No. 2 Colorado potato producers may not be classified as small entities.

Information from the Foreign Agricultural Service, USDA, indicates that the dollar value of imported fresh potatoes averaged $128.962 million over the past five years, ranging from a low of approximately $106.502 million in 2012 to a high of approximately $155.358 million in 2008. Using these values, it is estimated that the majority of the 571 potato importers have annual receipts of less than $7 million and may be classified as small entities.

This rule continues in effect the action that relaxed the size allowance for U.S. Commercial and better grade potatoes in the order's handling regulation and modified the size requirement in the order's general cull regulation. Prior to this action, the smallest size range allowed to be handled under the order was 1-inch minimum diameter to 1¾-inch maximum diameter if the potatoes were otherwise U.S. Commercial or better grade. As a result of this rule, Creamer size (¾-inch to 1⅝-inch diameter) U.S. Commercial and better grade potatoes may now be handled under the order. Additionally, the minimum size requirement under the order's general cull regulation was changed from 1½-inch to ¾-inch diameter. All other size requirements in the order's handling regulation remain unchanged. Authority for this action is contained in §§ 948.20, 948.21, and 948.22.

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

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

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

relevant Federal rules that duplicate, overlap, or conflict with this rule.

Further, the Committee's meeting was widely publicized throughout the Colorado Area No. 2 potato industry and all interested persons were invited to attend the meeting and participate in Committee deliberations. Like all Committee meetings, the December 20, 2012, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue.

Comments on the interim rule were required to be received on or before August 13, 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-13-0001-0001*.

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).

In accordance with section 8e of the Act, the United States Trade Representative has concurred with the issuance of this rule.

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 35743, June 14, 2013) will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 948

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

Accordingly, the interim rule that amended 7 CFR part 948 and that was published at 78 FR 35743 on June 14, 2013, is adopted as a final rule, without change.

Dated: November 18, 2013

Rex A. Barnes,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2013–28067 Filed 11–22–13; 8:45 am]

BILLING CODE 3410–02–P

FEDERAL RESERVE SYSTEM

12 CFR Part 213

[Docket No. R–1469]

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1013

[Docket No. CFPB–2013–0034]

Consumer Leasing (Regulation M)

AGENCY: Board of Governors of the Federal Reserve System (Board); and Bureau of Consumer Financial Protection (Bureau).

ACTION: Final rules, official interpretations and commentary.

SUMMARY: The Board and the Bureau are publishing final rules amending the official interpretations and commentary for the agencies' regulations that implement the Consumer Leasing Act (CLA). The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) amended the CLA by requiring that the dollar threshold for exempt consumer leases be adjusted annually by any annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI–W). Based on the annual percentage increase in the CPI–W as of June 1, 2013, the Board and the Bureau are adjusting the exemption threshold to $53,500, effective January 1, 2014. Because the Dodd-Frank Act also requires similar adjustments in the Truth in Lending Act's threshold for exempt consumer credit transactions, the Board and the Bureau are making similar amendments to each of their respective regulations implementing the Truth in Lending Act elsewhere in the **Federal Register**.

DATES: This final rule is effective January 1, 2014.

FOR FURTHER INFORMATION CONTACT: *Board:* Vivian W. Wong, Counsel, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, at (202) 452–3667; for users of Telecommunications Device for the Deaf (TDD) only, contact (202) 263–4869.

Bureau: David Friend, Counsel, Office of Regulations, Bureau of Consumer Financial Protection, at (202) 435–7700.

SUPPLEMENTARY INFORMATION:

I. Background

The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act) increased the threshold in the Consumer Leasing Act (CLA) for exempt consumer leases from $25,000 to $50,000, effective July 21, 2011.[1] In addition, the Dodd-Frank Act requires that this threshold be adjusted annually for inflation by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI–W), as published by the Bureau of Labor Statistics. In April 2011, the Board issued a final rule amending Regulation M (which implements the CLA) consistent with these provisions of the Dodd-Frank Act.[2]

Title X of the Dodd-Frank Act transferred rulemaking authority for a number of consumer financial protection laws from the Board to the Bureau, effective July 21, 2011. In connection with this transfer of rulemaking authority, the Bureau issued its own Regulation M implementing the CLA in an interim final rule, 12 CFR part 1013 (Bureau Interim Final Rule).[3] The Bureau Interim Final Rule substantially duplicated the Board's Regulation M, including the revisions to the threshold for exempt transactions made by the Board in April 2011. Although the Bureau has the authority to issue rules to implement the CLA for most entities, the Board retains authority to issue rules under the CLA for certain motor vehicle dealers covered by section 1029(a) of the Dodd-Frank Act, and the Board's Regulation M continues to apply to those entities.[4]

Section 213.2(e)(1) of the Board's Regulation M and § 1013.2(e)(1) of the Bureau's Regulation M, and their accompanying commentaries, provide that the exemption threshold will be adjusted annually effective January 1 of

[1] Public Law 111–203 § 1100E, 124 Stat. 1376 (2010).

[2] 76 FR 18349 (Apr. 4, 2011).

[3] 76 FR 78500 (Dec. 19, 2011).

[4] Section 1029(a) of the Dodd-Frank Act states: ''Except as permitted in subsection (b), the Bureau may not exercise any rulemaking, supervisory, enforcement, or any other authority * * * over a motor vehicle dealer that is predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both.'' 12 U.S.C. 5519(a). Section 1029(b) of the Dodd-Frank Act states: ''Subsection (a) shall not apply to any person, to the extent that such person (1) provides consumers with any services related to residential or commercial mortgages or self-financing transactions involving real property; (2) operates a line of business (A) that involves the extension of retail credit or retail leases involving motor vehicles; and (B) in which (i) the extension of retail credit or retail leases are provided directly to consumers; and (ii) the contract governing such extension of retail credit or retail leases is not routinely assigned to an unaffiliated third party finance or leasing source; or (3) offers or provides a consumer financial product or service not involving or related to the sale, financing, leasing, rental, repair, refurbishment, maintenance, or other servicing of motor vehicles, motor vehicle parts, or any related or ancillary product or service.'' 12 U.S.C. 5519(b).

each year based on any annual percentage increase in the CPI–W that was in effect on the preceding June 1. Any increase in the threshold amount will be rounded to the nearest $100 increment. For example, if the annual percentage increase in the CPI–W would result in a $950 increase in the threshold amount, the threshold amount will be increased by $1,000. However, if the annual percentage increase in the CPI–W would result in a $949 increase in the threshold amount, the threshold amount will be increased by $900. *See* comments 2(e)–9 in Supplements I of 12 CFR part 213 and 12 CFR part 1013.

II. Adjustment and Commentary Revision

Effective January 1, 2014, the adjusted exemption threshold amount is $53,500. This adjustment is based on the CPI–W index in effect on June 1, 2013, which was reported on May 16, 2013. The Bureau of Labor Statistics publishes consumer-based indices monthly, but does not report a CPI change on June 1; adjustments are reported in the middle of the month. The CPI–W is a subset of the CPI–U index (based on all urban consumers) and represents approximately 28 percent of the U.S. population. The adjustment reflects a 0.9 percent increase in the CPI–W from April 2012 to April 2013 and is rounded to the nearest $100 increment. Accordingly, the Board and the Bureau are revising the commentaries to their respective regulations to add new comment 2(e)–9.v stating that, from January 1, 2014 through December 31, 2014, the threshold amount is $53,500. These revisions are effective January 1, 2014.

III. Administrative Law Matters

Administrative Procedure Act

Under the Administrative Procedure Act, notice and opportunity for public comment are not required if the Board and the Bureau find that notice and public comment are impracticable, unnecessary, or contrary to the public interest. 5 U.S.C. 553(b)(B). This annual adjustment is required by statute. The amendment in this notice is technical and non-discretionary, and it applies the method previously established in the agencies' regulations for determining adjustments to the exemption threshold. For these reasons, the Board and the Bureau have determined that publishing a notice of proposed rulemaking and providing opportunity for public comment are unnecessary. Therefore, the amendments are adopted in final form.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) does not apply to a rulemaking where a general notice of proposed rulemaking is not required. 5 U.S.C. 603 and 604. As noted previously, the agencies have determined that it is unnecessary to publish a general notice of proposed rulemaking for this joint final rule. Accordingly, the RFA's requirements relating to an initial and final regulatory flexibility analysis do not apply.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506; 5 CFR part 1320), the agencies reviewed this final rule. No collections of information pursuant to the Paperwork Reduction Act are contained in the final rule.

List of Subjects

12 CFR Part 213

Advertising, Consumer leasing, Consumer protection, Federal Reserve System, Reporting and recordkeeping requirements.

12 CFR Part 1013

Advertising, Consumer leasing, Reporting and recordkeeping requirements.

Board of Governors of the Federal Reserve System

Text of Final Revisions

For the reasons set forth in the preamble, the Board amends Regulation M, 12 CFR part 213, as set forth below:

PART 213—CONSUMER LEASING (REGULATION M)

■ 1. The authority citation for part 213 continues to read as follows:

Authority: 15 U.S.C. 1604 and 1667f; Pub. L. 111–203 § 1100E, 124 Stat. 1376.

■ 2. In Supplement I to Part 213, under *Section 213.2—Definitions,* under *2(e) Consumer Lease,* paragraph 9.v is added to read as follows:

Supplement I to Part 213—Official Staff Interpretations

* * * * *

Section 213.2—Definitions

* * * * *

2(e) Consumer Lease.

9. *Threshold amount.* * * *

* * * * *

v. From January 1, 2014 through December 31, 2014, the threshold amount is $53,500.

* * * * *

Bureau of Consumer Financial Protection

Authority and Issuance

For the reasons set forth in the preamble, the Bureau amends Regulation M, 12 CFR part 1013, as set forth below:

PART 1013—CONSUMER LEASING (REGULATION M)

■ 1. The authority citation for part 1013 continues to read as follows:

Authority: 15 U.S.C. 1604 and 1667f; Pub. L. 111–203 § 1100E, 124 Stat. 1376.

■ 2. In Supplement I to part 1013, under *Section 1013.2—Definitions,* under *2(e) Consumer Lease,* paragraph 9.v is added to read as follows:

Supplement I to Part 1013—Official Interpretations

* * * * *

Section 1013.2—Definitions

* * * * *

2(e) Consumer Lease.

9. *Threshold amount.* * * *

* * * * *

v. From January 1, 2014 through December 31, 2014, the threshold amount is $53,500.

* * * * *

By order of the Board of Governors of the Federal Reserve System, November 19, 2013.

Robert deV. Frierson,

Secretary of the Board.

Dated: November 17, 2013.

Richard Cordray,

Director, Bureau of Consumer Financial Protection.

[FR Doc. 2013–28194 Filed 11–22–13; 8:45 am]

BILLING CODE 6210–01–P; 4810–AM–P

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Docket No. R–1470]

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1026

[Docket No. CFPB–2013–0035]

Truth in Lending (Regulation Z)

AGENCY: Board of Governors of the Federal Reserve System (Board); and Bureau of Consumer Financial Protection (Bureau).

ACTION: Final rules, official interpretations and commentary.

SUMMARY: The Board and the Bureau are publishing final rules amending the official interpretations and commentary for the agencies' regulations that

implement the Truth in Lending Act (TILA). The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) amended TILA by requiring that the dollar threshold for exempt consumer credit transactions be adjusted annually by any annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI–W). Based on the annual percentage increase in the CPI–W as of June 1, 2013, the Board and the Bureau are adjusting the exemption threshold to $53,500, effective January 1, 2014. Because the Dodd-Frank Act also requires similar adjustments in the Consumer Leasing Act's threshold for exempt consumer leases, the Board and the Bureau are making similar amendments to each of their respective regulations implementing the Consumer Leasing Act elsewhere in the **Federal Register**.

DATES: This final rule is effective January 1, 2014.

FOR FURTHER INFORMATION CONTACT: *Board:* Vivian W. Wong, Counsel, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, at (202) 452–3667; for users of Telecommunications Device for the Deaf (TDD) only, contact (202) 263–4869.

Bureau: David Friend, Counsel, Office of Regulations, Bureau of Consumer Financial Protection, at (202) 435–7700.

SUPPLEMENTARY INFORMATION:

I. Background

The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act) increased the threshold in the Truth in Lending Act (TILA) for exempt consumer credit transactions [1] from $25,000 to $50,000, effective July 21, 2011.[2] In addition, the Dodd-Frank Act requires that this threshold be adjusted annually for inflation by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI–W), as published by the Bureau of Labor Statistics. In April 2011, the Board issued a final rule amending Regulation Z (which implements TILA) consistent with these provisions of the Dodd-Frank Act.[3]

Title X of the Dodd-Frank Act transferred rulemaking authority for a number of consumer financial protection laws from the Board to the Bureau, effective July 21, 2011. In connection with this transfer of rulemaking authority, the Bureau issued its own Regulation Z implementing TILA in an interim final rule, 12 CFR part 1026 (Bureau Interim Final Rule).[4] The Bureau Interim Final Rule substantially duplicated the Board's Regulation Z, including the revisions to the threshold for exempt transactions made by the Board in April 2011. Although the Bureau has the authority to issue rules to implement TILA for most entities, the Board retains authority to issue rules under TILA for certain motor vehicle dealers covered by section 1029(a) of the Dodd-Frank Act, and the Board's Regulation Z continues to apply to those entities.[5]

Section 226.3(b)(1)(ii) of the Board's Regulation Z and § 1026.3(b)(1)(ii) of the Bureau's Regulation Z, and their accompanying commentaries, provide that the exemption threshold will be adjusted annually effective January 1 of each year based on any annual percentage increase in the CPI–W that was in effect on the preceding June 1. Any increase in the threshold amount will be rounded to the nearest $100 increment. For example, if the annual percentage increase in the CPI–W would result in a $950 increase in the threshold amount, the threshold amount will be increased by $1,000. However, if the annual percentage increase in the CPI–W would result in a $949 increase in the threshold amount, the threshold amount will be increased by $900. *See* comments 3(b)–1 in Supplements I of 12 CFR part 226 and 12 CFR part 1026.

II. Adjustment and Commentary Revision

Effective January 1, 2014, the adjusted exemption threshold amount is $53,500. This adjustment is based on the CPI–W index in effect on June 1, 2013, which was reported on May 16, 2013. The Bureau of Labor Statistics publishes consumer-based indices monthly, but does not report a CPI change on June 1; adjustments are reported in the middle of the month. The CPI–W is a subset of the CPI–U index (based on all urban consumers) and represents approximately 28 percent of the U.S. population. The adjustment reflects a 0.9 percent increase in the CPI–W from April 2012 to April 2013 and is rounded to the nearest $100 increment. Accordingly, the Board and the Bureau are revising the commentaries to their respective regulations to add new comment 3(b)–1.v to state that, from January 1, 2014 through December 31, 2014, the threshold amount is $53,500. These revisions are effective January 1, 2014.

III. Administrative Law Matters

Administrative Procedure Act

Under the Administrative Procedure Act, notice and opportunity for public comment are not required if the Board and the Bureau find that notice and public comment are impracticable, unnecessary, or contrary to the public interest. 5 U.S.C. 553(b)(B). This annual adjustment is required by statute. The amendment in this notice is technical and non-discretionary, and it applies the method previously established in the agencies' regulations for determining adjustments to the exemption threshold. For these reasons, the Board and the Bureau have determined that publishing a notice of proposed rulemaking and providing opportunity for public comment are unnecessary. Therefore, the amendments are adopted in final form.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) does not apply to a rulemaking where a general notice of proposed rulemaking is not required. 5 U.S.C. 603 and 604. As noted previously, the agencies have determined that it is unnecessary to publish a general notice of proposed rulemaking for this joint final rule. Accordingly, the RFA's requirements relating to an initial and final regulatory flexibility analysis do not apply.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506; 5 CFR part 1320), the agencies reviewed

[1] Although consumer credit transactions above the threshold are generally exempt, loans secured by real property or by personal property used or expected to be used as the principal dwelling of a consumer and private education loans are covered by TILA regardless of the loan amount. *See* 12 CFR 226.3(b)(1)(i) and 12 CFR 1026.3(b)(1)(i).

[2] Public Law 111–203 § 1100E, 124 Stat. 1376 (2010).

[3] 76 FR 18354 (Apr. 4, 2011).

[4] 76 FR 79768 (Dec. 22, 2011).

[5] Section 1029(a) of the Dodd-Frank Act states: ''Except as permitted in subsection (b), the Bureau may not exercise any rulemaking, supervisory, enforcement, or any other authority * * * over a motor vehicle dealer that is predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both.'' 12 U.S.C. 5519(a). Section 1029(b) of the Dodd-Frank Act states: ''Subsection (a) shall not apply to any person, to the extent that such person (1) provides consumers with any services related to residential or commercial mortgages or self-financing transactions involving real property; (2) operates a line of business (A) that involves the extension of retail credit or retail leases involving motor vehicles; and (B) in which (i) the extension of retail credit or retail leases are provided directly to consumers; and (ii) the contract governing such extension of retail credit or retail leases is not routinely assigned to an unaffiliated third party finance or leasing source; or (3) offers or provides a consumer financial product or service not involving or related to the sale, financing, leasing, rental, repair, refurbishment, maintenance, or other servicing of motor vehicles, motor vehicle parts, or any related or ancillary product or service.'' 12 U.S.C. 5519(b).

this final rule. No collections of information pursuant to the Paperwork Reduction Act are contained in the final rule.

List of Subjects

12 CFR Part 226

Advertising, Consumer protection, Federal Reserve System, Reporting and recordkeeping requirements, Truth in lending.

12 CFR Part 1026

Advertising, Consumer protection, Credit, Credit unions, Mortgages, National banks, Reporting and recordkeeping requirements, Savings associations, Truth in lending.

Board of Governors of the Federal Reserve System

Text of Final Revisions

For the reasons set forth in the preamble, the Board amends Regulation Z, 12 CFR part 226, as set forth below:

PART 226—TRUTH IN LENDING (REGULATION Z)

■ 1. The authority citation for part 226 continues to read as follows:

Authority: 12 U.S.C. 3806; 15 U.S.C. 1604, 1637(c)(5), and 1639(l); Pub. L. 111–24 § 2, 123 Stat. 1734; Pub. L. No. 111–203, 124 Stat. 1376.

Subpart A—General

■ 2. In Supplement I to part 226, under *Section 226.3—Exempt Transactions,* under *3(b) Credit over applicable threshold amount,* paragraph 1.v is added to read as follows:

Supplement I to Part 226—Official Staff Interpretations

* * * * *

Subpart A—General

* * * * *

Section 226.3—Exempt Transactions

* * * * *

3(b) Credit over applicable threshold amount.

1. *Threshold amount.* * * *

* * * * *

v. From January 1, 2014 through December 31, 2014, the threshold amount is $53,500.

* * * * *

Bureau of Consumer Financial Protection

Authority and Issuance

For the reasons set forth in the preamble, the Bureau amends Regulation Z, 12 CFR part 1026, as set forth below:

PART 1026—TRUTH IN LENDING (REGULATION Z)

■ 1. The authority citation for part 1026 continues to read as follows:

Authority: 12 U.S.C. 2601, 2603–2605, 2607, 2609, 2617, 5511, 5512, 5532, 5581; 15 U.S.C. 1601 et seq.

■ 2. In Supplement I to part 1026, under *Section 1026.3—Exempt Transactions,* under *3(b)* Credit Over Applicable Threshold Amount, new paragraph 1.v is added to read as follows:

Supplement I to Part 1026—Official Interpretations

* * * * *

Subpart A—General

* * * * *

Section 1026.3—Exempt Transactions

* * * * *

3(b) Credit Over Applicable Threshold Amount

1. *Threshold amount.* * * *

* * * * *

v. From January 1, 2014 through December 31, 2014, the threshold amount is $53,500.

* * * * *

By order of the Board of Governors of the Federal Reserve System, November 19, 2013.

Robert deV. Frierson,

Secretary of the Board.

Dated: November 17, 2013.

Richard Cordray,

Director, Bureau of Consumer Financial Protection.

[FR Doc. 2013–28195 Filed 11–22–13; 8:45 am]

BILLING CODE 4810–AM–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0693; Directorate Identifier 2013–NM–059–AD; Amendment 39–17661; AD 2013–23–06]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain The Boeing Company Model 757–200 and –200PF series airplanes. This AD was prompted by reports indicating that a standard access door was located where an impact-resistant access door was required, and stencils were missing from some impact-resistant access doors. This AD requires an inspection of the left- and right-hand wing fuel tank access doors to determine that impact-resistant access doors are installed in the correct locations, and to replace any door with an impact-resistant access door if necessary. This AD also requires an inspection for stencils and index markers on impact-resistant access doors, and application of new stencils or index markers if necessary. This AD also requires revising the maintenance program to incorporate changes to the airworthiness limitations section. We are issuing this AD to prevent foreign object penetration of the fuel tank, which could cause a fuel leak near an ignition source (e.g., hot brakes or engine exhaust nozzle), consequently leading to a fuel-fed fire.

DATES: This AD is effective December 30, 2013.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of December 30, 2013.

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Suzanne Lucier, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6438; fax: 425–917–6590; email: *suzanne.lucier@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. The NPRM published in the **Federal Register** on August 14, 2013 (78 FR 49379). The NPRM proposed to require an inspection of the left- and right-hand wing fuel tank access doors to determine that impact-resistant access doors are installed in the correct locations, and to replace any door with an impact-resistant access door if necessary. The NPRM also proposed to require an inspection for stencils and index markers on impact-resistant access doors, and application of new stencils or index markers if necessary. The NPRM also proposed to require revising the maintenance program to incorporate changes to the airworthiness limitations section.

Comments

We gave the public the opportunity to participate in developing this AD. We have considered the comments received. The Boeing Company and Aviation Partners Boeing stated that they support the NPRM.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this AD as proposed except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (78 FR 49379, August 14, 2013) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (78 FR 49379, August 14, 2013).

Costs of Compliance

We estimate that this AD affects 86 airplanes of U.S. registry. We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection	8 work-hours × $85 per hour = $680	$0	$680	$58,480
Maintenance program revision	1 work-hour × $85 per hour = $85	0	85	7,310

We estimate the following costs to do any necessary replacements that would be required based on the results of the inspection. We have no way of determining the number of aircraft that might need these replacements.

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replacement per door	3 work-hours × $85 per hour = $255	$8,000	$8,255
Stencil and index marker	4 work-hours × $85 per hour = $340	0	340

According to the manufacturer, some of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all costs in our cost estimate.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify that this AD:

(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),

(3) Will not affect intrastate aviation in Alaska, and

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2013–23–06 The Boeing Company: Amendment 39–17661; Docket No. FAA–2013–0693; Directorate Identifier 2013–NM–059–AD.

(a) Effective Date

This AD is effective December 30, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 757–200 and –200PF series airplanes; certificated in any category; as identified in Boeing Service Bulletin 757–28–0118, dated January 12, 2012.

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 28, Fuel.

(e) Unsafe Condition

This AD was prompted by reports indicating that a standard access door was located where an impact-resistant access door was required, and stencils were missing from some impact-resistant access doors. We are issuing this AD to prevent foreign object penetration of the fuel tank, which could cause a fuel leak near an ignition source (e.g., hot brakes or engine exhaust nozzle), consequently leading to a fuel-fed fire.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Inspections

Within 72 months after the effective date of this AD, do the actions specified in paragraphs (g)(1) and (g)(2) of this AD, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 757–28–0118, dated January 12, 2012.

(1) Do a general visual inspection of the left- and right-hand wing fuel tank access doors to determine whether impact-resistant access doors are installed in the correct locations. If any standard access door is found, before further flight, replace with an impact-resistant access door, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 757–28–0118, dated January 12, 2012.

(2) Do a general visual inspection of the left- and right-hand wing fuel tank impact-resistant access doors to verify stencils and index markers are applied. If a stencil or index marker is missing, before further flight, apply stencil or index marker, as applicable, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 757–28–0118, dated January 12, 2012.

(h) Maintenance Program Revision

Within 60 days after the effective date of this AD, revise the maintenance program to incorporate critical design configuration control limitations (CDCCLs) Task 57–AWL–01, ''Impact-Resistant Fuel Tank Access Doors,'' of Section 9, Airworthiness Limitations (AWLs) and Certification Requirements (CMRs) of Boeing 757 Maintenance Planning Data Document D622N001–9, Revision August 2012.

(i) No Alternative Actions, Intervals, and/or CDCCLs

After accomplishing the revision required by paragraph (h) of this AD, no alternative actions (e.g., inspections), intervals, and/or CDCCLs may be used unless the actions, intervals, and/or CDCCLs are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (j) of this AD.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (k) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/ certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(k) Related Information

For more information about this AD, contact Suzanne Lucier, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6438; fax: 425–917–6590; email: *suzanne.lucier@faa.gov.*

(l) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Boeing Service Bulletin 757–28–0118, dated January 12, 2012.

(ii) Critical design configuration control limitation (CDCCL) Task 57–AWL–01, ''Impact-Resistant Fuel Tank Access Doors,'' of Section 9, Airworthiness Limitations (AWLs) and Certification Requirements (CMRs) of Boeing 757 Maintenance Planning Data Document D622N001–9, Revision August 2012.

(3) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.*

(4) You may view this service information at FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(5) You may view this service information that is incorporated by reference at 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/cfr/ibr-locations.html.*

Issued in Renton, Washington, on November 6, 2013.

Jeffrey E. Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–27231 Filed 11–22–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0397; Directorate Identifier 2013–NE–15–AD; Amendment 39–17656; AD 2013–23–01]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce Deutschland Ltd & Co KG Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Rolls-Royce Deutschland Ltd & Co KG (RRD) model Tay 620–15, 650–15, and 651–54 turbofan engines. This AD requires a one-time inspection of the high-pressure (HP) air bleed valve operating mechanism and, depending on findings, corrective action. This AD was prompted by excessive deterioration of the HP air bleed valve operating mechanism, which is influencing the aerodynamic fan flutter margin. This condition, if not corrected, could lead to multiple fan blade failure. We are issuing this AD to prevent multiple fan blade failure, which could result in uncontained engine failure and damage to the airplane.

DATES: This AD becomes effective December 30, 2013.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of December 30, 2013.

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Frederick Zink, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7779; fax: 781–238–7199; email: *frederick.zink@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. The NPRM was published in the **Federal Register** on June 13, 2013 (78 FR 35574). The NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

> A review of the service history of Tay engines discovered that the High Pressure (HP) air bleed valve operating mechanism is exposed to excessive deterioration, influencing the aerodynamics and stability of the Low Pressure (LP) compressor (fan) rotor.
>
> This condition, if not corrected, could reduce fan flutter margin and, in some cases, could lead to multiple fan blade failures, possibly resulting in an uncontained release of high energy debris with consequent damage to, and/or reduced control of, the aeroplane.

Comments

We gave the public the opportunity to participate in developing this AD. We considered the comments received.

Request To Change Unsafe Condition Statement Wording

RRD requested that we clarify the cause of fan blade flutter stated in the unsafe condition statement to include ''. . . affects the aerodynamic flutter margin causing subsequent multiple fan blade failure . . .''. Fan blade flutter does not occur automatically. Reduction of fan flutter margin increases the risk of fan flutter potentially leading to fan blade cracking.

We agree. We changed the unsafe condition statement to ''This AD was prompted by excessive deterioration of the HP air bleed valve operating mechanism, which is influencing the aerodynamic fan flutter margin. This condition, if not corrected, could lead to multiple fan blade failure''.

Request To Change Applicability

RRD requested that we change the scope of the AD to include Tay 650–15 and Tay 651–54 engine models. The justification for this request is supported by European Aviation Safety Agency AD 2013–0142, dated July 12, 2013 and RRD Alert Non-Modification Service Bulletin (NMSB) No. TAY–75–A1784, Revision 1, dated May 30, 2013.

We partially agree. We disagree with adding the Tay 650–15 engine model because it is already in the AD. We agree with adding the Tay 651–54 engine model to the applicability because it is included in RRD NMSB No. TAY–75–A1784, Revision 1, dated May 30, 2013. Additionally, we added the Tay 620–15 engine model to the applicability because the latest MCAI added it. We changed the applicability accordingly, which increased the costs of compliance. Further, we updated the paragraph number reference in Compliance paragraph (e)(2) of this AD to correspond to the revised NMSB.

Conclusion

We reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting the AD with the changes described previously. We determined that these changes will not significantly increase the economic burden on any operator or increase the scope of the AD.

Costs of Compliance

We estimate that this AD will affect about 78 engines of U.S. registry. We also estimate that it will take about 10 hours per engine to comply with this AD. The average labor rate is $85 per hour. Required parts will cost about $153 per engine. Based on these figures, we estimate the cost of the AD on U.S. operators to be $78,234.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2013–23–01 Rolls-Royce Deutschland Ltd & Co KG: Amendment 39–17656; Docket No. FAA–2013–0397; Directorate Identifier 2013–NE–15–AD.

(a) Effective Date

This AD becomes effective December 30, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Rolls-Royce Deutschland Ltd & Co KG (RRD) model Tay 620–15, 650–15, and 651–54 turbofan engines.

(d) Reason

This AD was prompted by excessive deterioration of the high-pressure (HP) air bleed valve operating mechanism which is influencing the aerodynamic fan flutter margin. This condition, if not corrected, could lead to multiple fan blade failure. We are issuing this AD to prevent multiple fan blade failure, which could result in uncontained engine failure and damage to the airplane.

(e) Actions and Compliance

Unless already done, do the following actions.

(1) Within 1,500 flight cycles after the effective date of this AD, perform a one-time inspection of the HP air bleed valve operating mechanism. Use paragraphs 3.D. and 3.E. of RRD Alert Non-Modification Service Bulletin (NMSB) No. TAY–75–A1784, Revision 1, dated May 30, 2013, to do your inspection.

(2) If the measured torque necessary to open and close the HP air bleed valve is higher than the torque values referenced in paragraph 3.D.(1)(a)[1] for the Tay 620–15 and 650–15 engines, or 3.D.(2)(a)[1] for the Tay 651–54 engine, of RRD Alert NMSB No. TAY–75–A1784, Revision 1, dated May 30, 2013, then before next flight, accomplish paragraph 3.D(1)(a)[1][a], for the Tay 620–15 and 650–15 engines, or 3.D.(2)(a)[1][a], for the Tay 651–54 engine, of RRD Alert NMSB No. TAY–75–A1784, Revision 1, dated May 30, 2013.

(f) Alternative Methods of Compliance (AMOCs)

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

(g) Related Information

(1) For more information about this AD, contact Frederick Zink, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7779; fax: 781–238–7199; email: *frederick.zink@faa.gov.*

(2) Refer to European Aviation Safety Agency AD 2013–0142, dated July 12, 2013, for more information. You may examine the AD on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2013-0397-0004.*

(h) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Rolls-Royce Deutschland Alert Non-Modification Service Bulletin No. TAY–75–A1784, Revision 1, dated May 30, 2013.

(ii) Reserved.

(3) For service information identified in this AD, contact Rolls-Royce Deutschland Ltd & Co KG, Eschenweg 11, Dahlewitz, 15827 Blankenfelde-Mahlow, Germany; phone: 49 0 33–7086–1200; fax: 49 0 33–7086–1212.

(4) You may view this service information at FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

(5) You may view this service information at 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/cfr/ibr-locations.html.*

Issued in Burlington, Massachusetts, on November 1, 2013.

Thomas A. Boudreau,

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

[FR Doc. 2013–27431 Filed 11–22–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0963; Directorate Identifier 2013–CE–034–AD; Amendment 39–17663; AD 2013–23–08]

RIN 2120–AA64

Airworthiness Directives; AQUILA—Aviation by Excellence AG Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments

SUMMARY: We are adopting a new airworthiness directive (AD) AQUILA—Aviation by Excellence AG Model AT01 airplanes. This AD results from mandatory continuing airworthiness information (MCAI) issued by the aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as a defective sealing of a tapped through bore hole at the inside of the fuel tank openings in combination with prolonged periods at maximum fuel level. We are issuing this AD to require actions to address the unsafe condition on these products.

DATES: This AD is effective December 30, 2013.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of December 30, 2013.

We must receive comments on this AD by January 9, 2014.

ADDRESSES: You may send comments by any of the following methods:

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

For service information identified in this AD, contact AQUILA Aviation GmbH, OT Schoenhagen, Flugplatz, D–14959 Trebbin, Germany; phone: +49–(0) 33731–707–0; fax: +49 (0) 33731–707–11; Internet: *http://www.aquila-aviation.de/*; email: *maintenance@aquila-aviation.de.* You may review this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090; email: *doug.rudolph@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued AD No. 2013–0236, dated September 25, 2013

(referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

During repair in the wing tank area it was discovered that, when the tank is filled to a maximum level, fuel can soak into the upper shell sandwich of the wings. This can be detected from damaged finishing of the upper wing shells or from yellow discoloured bonding wire insulation.

The root cause is a defective sealing of a tapped through bore hole at the inside of the fuel tank openings in combination with prolonged periods at maximum fuel level.

This condition, if not detected and corrected, could cause long-term structural degradation of the wing structure.

To address this potential unsafe condition, AQUILA issued Service Bulletin (SB)–AT01–027 providing instructions for the inspection and sealing of tapped bore holes inside both fuel tank openings.

For the reasons described above, this AD requires repetitive inspections of the wing tank area and, depending on findings, corrective actions.

You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2013–0963.

Relevant Service Information

AQUILA Aviation GmbH issued Vorgeschrieben Technische Mitteilung SB–AT01–027, dated August 15, 2013 (English translation: Mandatory Service Bulletin SB–AT01–027, Issue A.02, dated August 15, 2013). The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with this State of Design Authority, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are issuing this AD because we evaluated all information provided by the State of Design Authority and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because there are no airplanes currently on the U.S. registry and thus, does not have any impact upon the public. Therefore, we find that notice and opportunity for prior public comment are unnecessary.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2013–0963; Directorate Identifier 2013–CE–034–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this AD.

Costs of Compliance

We estimate that this AD will affect 0 products of U.S. registry. We also estimate that it will take about 2 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour.

Based on these figures, we estimate the cost of this AD on U.S. operators to be $0, or $0 per product.

In addition, we estimate that any necessary follow-on actions will take about 2 work-hours and require parts costing $100, for a cost of $270 per product. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify that this AD:

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

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

(3) Will not affect intrastate aviation in Alaska, and

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new AD:

2013–23–08 AQUILA—Aviation by Excellence AG: Amendment 39–17663; Docket No. FAA–2013–0963; Directorate Identifier 2013–CE–034–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective December 30, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Aquila—Aviation by Excellence AG Model AT01 airplanes, serial numbers AT01–100 through AT01–299, certificated in any category.

(d) Subject

Air Transport Association of America (ATA) Code 28: Fuel.

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as a defective sealing of a tapped through bore hole at the inside of the fuel tank openings in combination with prolonged periods at maximum fuel level. We are issuing this AD to detect and correct a defective sealing of a tapped through bore hole at the inside of the fuel tank openings, which if not detected and corrected, could cause long-term structural degradation of the wing structure.

(f) Actions and Compliance

Unless already done, do the following actions, as specified in paragraphs (f)(1) through (f)(6), including subparagraphs, of this AD:

Note 1 to paragraph (f) of this AD: The service information referenced in this AD contains German to English translation. The MCAI cites the English translation. The following is the English to German translation of the service information entitled: AQUILA Aviation GmbH Vorgeschrieben Technische Mitteilung SB–AT01–027, dated August 15, 2013 (English translation: AQUILA Aviation GmbH Mandatory Service Bulletin SB–AT01–027, Issue A.02, dated August 15, 2013). For paragraphs (f)(1) through (f)(6), the service information will be cited using the English translation.

(1) Within 100 hours time-in-service (TIS) after December 30, 2013 (the effective date of this AD) or 3 months after December 30, 2013 (the effective date of this AD), whichever occurs first, and repetitively thereafter at intervals not to exceed 12 months, visually inspect the left hand (LH) and right hand (RH) wing tank areas following paragraph (1) of the Actions section of AQUILA Aviation GmbH Mandatory Service Bulletin SB–AT01–027, Issue A.02, dated August 15, 2013.

(2) Concurrent with the initial inspection required in paragraph (f)(1) of this AD, seal the tapped through bore holes inside the LH and RH fuel tank openings following paragraph (2) of the Actions section of AQUILA Aviation GmbH Mandatory Service Bulletin SB–AT01–027, Issue A.02, dated August 15, 2013.

(3) If, during any subsequent inspection required in paragraph (f)(1) of this AD, a tapped through bore hole inside the LH or RH fuel tank opening is found to be improperly sealed, within the next 100 hours TIS after detecting the improper seal or 3 months after detecting the improper seal, whichever occurs first, renew the sealing of the affected bore hole following paragraph (2) of the Actions section of AQUILA Aviation GmbH Mandatory Service Bulletin SB–AT01–027, Issue A.02, dated August 15, 2013.

(4) If, during any inspection required in paragraph (f)(1) of this AD, the upper wing shells show damaged finishing in the tank areas, before further flight, contact AQUILA Aviation GmbH following paragraph (3) of the Actions section of AQUILA Aviation GmbH Mandatory Service Bulletin SB–AT01–027, Issue A.02, dated August 15, 2013, at the address identified in paragraph (i)(3) of this AD for an approved repair scheme and, accomplish the repair scheme before further flight.

(5) Accomplishment of corrective actions required in paragraph (f)(3) or (f)(4) of this AD does not constitute terminating action for the repetitive inspections required by paragraph (f)(1) of this AD.

(6) After accomplishment of the required initial inspection and sealing in paragraphs (f)(1) and (f)(2) of this AD, compliance with the requirements of this AD can be demonstrated by:

(i) Revising the approved Aircraft Maintenance Program (AMP) and standard practices (Instructions for Continued Airworthiness) on the basis of which the operator or the owner ensures the continuing airworthiness of each airplane: Incorporate the repetitive 12 calendar month visual inspection of the LH and RH wing tank areas required in paragraph (f)(1) of this AD, Actions section of AQUILA Aviation GmbH Mandatory Service Bulletin SB–AT01–027, Issue A.02, dated August 15, 2013; and

(ii) Complying with the approved AMP described in paragraph (f)(6)(i) of this AD.

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090; email: *doug.rudolph@faa.gov*. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) Airworthy Product: For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(h) Related Information

Refer to MCAI European Aviation Safety Agency (EASA) AD No. 2013–0236, dated September 25, 2013, for related information. You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2013–0963.

(i) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) AQUILA Aviation GmbH Vorgeschrieben Technische Mitteilung SB–AT01–027, dated August 15, 2013 (English translation: AQUILA Aviation GmbH Mandatory Service Bulletin SB–AT01–027, Issue A.02, dated August 15, 2013).

Note 2 to paragraph (i)(2)(i) of this AD: This service information contains German to English translation. EASA used the English translation in referencing the documents from AQUILA Aviation GmbH. For enforceability purposes, we will refer to the AQUILA Aviation GmbH service information as the titles appear on the documents.

(ii) Reserved.

(3) For AQUILA—Aviation by Excellence AG service information identified in this AD, contact AQUILA Aviation GmbH, OT Schoenhagen, Flugplatz, D–14959 Trebbin, Germany; phone: +49-(0) 33731–707–0; fax: +49 (0) 33731–707–11; Internet: *http://www.aquila-aviation.de/*; email: *maintenance@aquila-aviation.de*.

(4) You may view this service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

(5) You may view this service information that is incorporated by reference at 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/cfr/ibr-locations.html*.

Issued in Kansas City, Missouri, on November 5, 2013.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–27914 Filed 11–22–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0354; Directorate Identifier 2011–SW–072–AD; Amendment 39–17665; AD 2013–23–10]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2010–21–01 for Eurocopter France (Eurocopter) Model AS350B, BA, B1, B2, B3, D, AS355E, F, F1, F2, and N

helicopters. AD 2010–21–01 required an inspection to determine whether a cross-member is installed at station X 2165 and doublers at X 2325 and Y 269, and installing them if they are missing. This new AD retains the requirements of AD 2010–21–01 but clarifies the inspection procedures and limits the applicability to only those helicopters with collective-to-yaw control coupling. This AD is prompted by a crack discovered in the area of the center cross-member at station X 2325, at the attachment point of the yaw channel ball-type control sheath stop, of a Model AS355N helicopter fitted with the collective-to-yaw control coupling. The actions of this AD are intended to prevent reduced yaw control and subsequent loss of helicopter control.

DATES: This AD is effective December 30, 2013.

The Director of the Federal Register approved the incorporation by reference of certain documents listed in this AD as of December 30, 2013.

ADDRESSES: For service information identified in this AD, contact American Eurocopter Corporation, 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.eurocopter.com/techpub.* You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Gary Roach, Aviation Safety Engineer, Regulations and Policy Group, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone (817) 222–5110; email *gary.b.roach@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2010–21–01, Amendment 39–16461 (75 FR 63050, October 14, 2010), which applied to Eurocopter Model AS350B, BA, B1, B2, B3, D, AS355E, F, F1, F2, and N helicopters. The NPRM was published in the **Federal Register** on July 3, 2013 (78 FR 40045). AD No. 2010–21–01 required within 10 hours time-in-service (TIS) or 1 month, inspecting the helicopters to determine whether a cross-member is installed at station X 2165 and doublers at X 2325 and Y 269. If the cross-member and doublers are not installed, AD No. 2010–21–01 required inspecting for a crack in the center cross-member, and replacing the center cross-member if there is a crack before further flight. If a crack does not exist, AD No. 2010–21–01 required inspecting the tail rotor control rigging before further flight. Lastly, if needed, AD 2010–21–01 required installing a cross-member and two doublers within 55 hours TIS. AD 2010–21–01 was prompted by AD No. 2007–0139–E, dated May 15, 2007 (corrected May 23, 2007), issued by EASA, which is the Technical Agent for the Member States of the European Union. EASA advised that a crack was discovered in the area of the center cross-member at station X 2325, at the attachment point of the yaw channel ball-type control sheath stop, of a Model AS355N helicopter fitted with the collective-to-yaw control coupling.

Since we issued AD No. 2010–21–01, we discovered that we included all helicopters in the AD applicability rather than limiting it to only those helicopters with collective-to-yaw control coupling. Therefore, this new AD retains the requirements in AD No. 2010–21–01 with some revisions for the inspection of the tail rotor control rigging to clarify those procedures. This AD also reduces the applicability to only those Model AS350 and AS355 helicopters with collective-to-yaw control coupling installed.

Comments

We gave the public the opportunity to participate in developing this AD, but we received no comments on the NPRM (78 FR 40045, July 3, 2013).

FAA's Determination

These helicopters have been approved by the aviation authority of France and are approved for operation in the United States. Pursuant to our bilateral agreement with France, EASA, its technical representative, has notified us of the unsafe condition described in the EASA AD. We are issuing this AD because we evaluated all information provided by EASA and determined the unsafe condition exists and is likely to exist or develop on other helicopters of these same type designs and that air safety and the public interest require adopting the AD requirements as proposed.

Differences Between This AD and the EASA AD

This AD differs from the EASA AD as follows:

- We require the installation of the cross-member at station X 2165 and the two doublers at stations X 2325 and Y 269 within 55 hours time-in-service. The EASA AD requires that this action be accomplished within 12 months.
- We do not require repetitive inspections if no crack exists in the center cross-member, whereas the EASA AD does.
- We do not include military model helicopters in the applicability.

Related Service Information

We reviewed Eurocopter Emergency Alert Service Bulletin (EASB), Revision 0, dated April 11, 2007, that contains three different numbers (Nos. 53.00.37, 53.00.11, and 53.00.23) for Eurocopter Model 350, 355, 550, and 555 helicopters. EASB No. 53.00.37 relates to two Model 350 (350 BB and 350 L1) helicopters that are not type certificated in the United States. EASB No. 53.00.11 relates to four Model 550 and six Model 555 military helicopters that are not type-certificated in the United States. The EASB describes procedures for checking the conformity for the cross member at X 2325 under the cabin floor. The actions in the EASA AD are intended to correct the same unsafe condition as that identified in the service bulletin.

Costs of Compliance

We estimate that this AD affects 72 helicopters of U.S. Registry and that labor costs average $85 a work-hour. It takes about one work-hour to perform the inspections, and if needed, to install the cross-member, two doublers and an airworthy center-cross member. Required parts cost about $161 per helicopter. Based on these figures, we estimate the cost of the AD to be $246 per helicopter and $17,712 for the fleet if all repairs are needed.

Authority for This Rulemaking

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

Aviation Programs, describes in more detail the scope of the Agency's authority.

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

Regulatory Findings

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

For the reasons discussed above, I certify that this AD:

(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);

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

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

We prepared an economic evaluation of the estimated costs to comply with this AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2010–21–01, Amendment 39–16461 (75 FR 63050, October 14, 2010), and adding the following new AD:

2013–23–10 Eurocopter France: Amendment 39–17665; Docket No. FAA–2013–0354; Directorate Identifier 2011–SW–072–AD.

(a) Applicability

This AD applies to Eurocopter France Model AS350B, BA, B1, B2, B3, D, AS355E, F, F1, F2, and N helicopters with collective-to-yaw control coupling, part number 350A27–2178–04, 350A27–2178–06, or 350A27–2178–0601, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as reduced yaw control travel, which could result in loss of control of the helicopter.

(c) Affected ADs

This AD supersedes AD 2010–21–01, Amendment 39–16461 (75 FR 63050, October 14, 2010).

(d) Effective Date

This AD becomes effective December 30, 2013.

(e) Compliance

You are responsible for performing each action required by this AD within the specified compliance time unless it has already been accomplished prior to that time.

(f) Required Actions

(1) Within 10 hours time-in-service (TIS) or within one month, whichever occurs first, determine whether the cross-member (numbered ''1'') at station X 2165 and the two doublers (numbered ''2'' and ''3'') at stations X 2325 and Y 269 are installed as shown in Figure 1 of Eurocopter Emergency Alert Service Bulletin (EASB) No. 53.00.37, Revision 0, dated April 11, 2007 (EASB 53.00.37), for Model AS350 helicopters and EASB No. 53.00.23, Revision 0, dated April 11, 2007 (EASB 53.00.23), for Model AS355 helicopters.

(2) If the cross-member (numbered ''1'') and doublers (numbered ''2'' and ''3'') are not installed, before further flight, inspect for a crack in the center cross-member (numbered ''4'') in the area around the attachment point of the tail rotor directional ball-type control as shown in Figure 1 of EASB 53.00.37 for Model AS350 helicopters or EASB 53.00.23 for Model AS355 helicopters.

(i) If a crack exists, before further flight, replace the unairworthy center cross-member (Numbered ''4'') with an airworthy center cross-member as described in paragraph (f)(3) of this AD.

(ii) If a crack does not exist, before further flight, inspect the tail rotor control rigging to determine whether it meets conformity limits.

(A) If all items of the tail rotor control rigging are found within conformity limits, install the cross-member and doublers as described in paragraph (f)(3) of this AD.

(B) For any items of the tail rotor control rigging found outside of conformity limits, perform appropriate corrective action in accordance with FAA-accepted procedures, and install the cross-member and doublers as described in paragraph (f)(3) of this AD.

(3) Within 55 hours TIS, if the cross member (Numbered ''1'') is not installed, install the cross-member at station X 2165 and the 2 doublers (Numbered ''2'' and ''3'') at stations X 2325 and Y 269 by following the Appendix, the referenced figures 2 and 3 of EASB 53.00.37 for Model AS350 helicopters or EASB 53.00.23 for Model AS355 helicopters.

(g) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Group, FAA, may approve AMOCs for this AD. Send your proposal to: Gary Roach, Aviation Safety Engineer, Regulations and Policy Group, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone (817) 222–5110; email *gary.b.roach@faa.gov.*

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, we suggest that you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or certificate holding district office, before operating any aircraft complying with this AD through an AMOC.

(h) Additional Information

The subject of this AD is addressed in the European Aviation Safety Agency (EASA) AD No. 2007–0139–E, dated May 15, 2007 (corrected May 23, 2007). You may view the EASA AD at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2013–0354.

(i) Subject

Joint Aircraft Service Component (JASC) Code: 5320, Fuselage Miscellaneous Structure.

(j) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Eurocopter Emergency Alert Service Bulletin No. 53.00.37, Revision 0, dated April 11, 2007.

(ii) Eurocopter Emergency Alert Service Bulletin No. 53.00.23, Revision 0, dated April 11, 2007.

Note 1 to paragraph (j)(2): Eurocopter Emergency Alert Service Bulletin (EASB) No. 53.00.37, Revision 0, dated April 11, 2007, and Eurocopter EASB No. 53.00.23, Revision 0, dated April 11, 2007, are co-published as one document along with Eurocopter EASB No. 53.00.11, Revision 0, dated April 11, 2007, which is not incorporated by reference in this AD.

(3) For Eurocopter service information identified in this AD, contact American Eurocopter Corporation, 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972)

641–3775; or at *http://www.eurocopter.com/techpub.*

(4) You may view this service information at FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. For information on the availability of this material at the FAA, call (817) 222–5110.

(5) You may view this service information that is incorporated by reference at 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/cfr/ibr-locations.html.*

Issued in Fort Worth, Texas, on November 5, 2013.

Lance T. Gant,

Acting Directorate Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2013–27637 Filed 11–22–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0487; Directorate Identifier 2010–SW–056–AD; Amendment 39–17666; AD 2013–23–11]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for Eurocopter France (Eurocopter) Model AS332L2 and EC225LP helicopters. This AD requires inspecting the torque value of the bolts that secure the front and rear main gearbox (MGB) suspension bar attaching fittings, and re-torqueing the bolts to the proper value if the torque value is out of tolerance. This AD also requires, if the torque value is out of tolerance by more than 20 percent, inspecting the bolts, frames, and related equipment for a crack and repairing or replacing them if cracked. This AD was prompted by reports of cracks on Frame 5295 of Model AS332L2 helicopters. The actions of this AD are intended to detect the torque loss of the bolts that secure the MGB bar attaching fittings and to prevent cracks that could lead to failure of the MGB supporting structure, detachment of the MGB, and loss of helicopter control.

DATES: This AD is effective December 30, 2013.

The Director of the Federal Register approved the incorporation by reference of certain documents listed in this AD as of December 30, 2013.

ADDRESSES: For service information identified in this AD, contact American Eurocopter Corporation, 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.eurocopter.com/techpub.* You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Gary Roach, Aviation Safety Engineer, Regulations and Policy Group, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5110; email *gary.b.roach@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

On June 7, 2013, at 78 FR 34288, the **Federal Register** published our notice of proposed rulemaking (NPRM), which proposed to amend 14 CFR part 39 to include an AD that would apply to Eurocopter Model AS332L2 and EC225LP helicopters. The NPRM proposed to require inspecting the torque value of the bolts that secure the front and rear MGB suspension bar attaching fittings, and re-torqueing the bolts to the proper value if the torque value is out of tolerance. The NPRM also proposed to require that if the torque value is out of tolerance by more than 20 percent, inspecting the bolts, frames, and related equipment for a crack and repairing or replacing them if cracked. The proposed requirements were intended to detect the torque loss of the bolts that secure the MGB bar attaching fittings and to prevent cracks that could lead to failure of the MGB supporting structure, detachment of the MGB, and loss of helicopter control.

The NPRM was prompted by AD No. 2006–0163 R1, dated December 13, 2007 (AD No. 2006–0163R1), issued by the European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, to correct an unsafe condition in Model AS 332 L2 and Model EC 225 LP helicopters. According to EASA, analysis of tightening torques revealed some cases of tightening torque loss, which can lead to the formation of a crack at the MGB bar attaching fittings. As a result, EASA AD No. 2006–0163R1 requires checking the bolts securing the front and rear of the MGB bar attaching fittings for tightening torque loss and, if the loss is equal to or greater than 20 percent, readjusting the torque and checking the four bolts securing the MGB bar attaching fitting mounting plate, as well as the frame 3855, for a crack. If there is a crack in at least one of the bolts, AD No. 2006–0163R1 requires replacing all four bolts. If there is a crack in frame 3855, AD No. 2006–0163R1 requires suspending all flights and contacting the manufacturer for corrective action.

Comments

We gave the public the opportunity to participate in developing this AD, but we received no comments on the NPRM (78 FR 34288, June 7, 2013).

FAA's Determination

These helicopters have been approved by the aviation authority of France and are approved for operation in the United States. Pursuant to our bilateral agreement with France, EASA, its technical representative, has notified us of the unsafe condition described in the EASA AD. We are issuing this AD because we evaluated all information provided by EASA and determined the unsafe condition exists and is likely to exist or develop on other helicopters of these same type designs and that air safety and the public interest require adopting the AD requirements as proposed.

Differences Between This AD and the EASA AD

This AD differs from the EASA AD in that we use the word ''inspect'' to describe actions required by a mechanic versus the word ''check,'' which is how we describe actions allowed by a pilot. We also require that if you find a crack in a frame or fitting, you repair or replace the cracked part instead of contacting the manufacturer. Also, we have different compliance times for the initial inspection for the tightening

torque of the bolts that secure the MGB attaching fitting.

Related Service Information

We reviewed Eurocopter Alert Service Bulletin (ASB) No. 05.00.65, Revision 0, dated March 28, 2006, for Model AS332L2 helicopters, and ASB No. 05A002, Revision 1, dated December 6, 2007, for Model EC225LP helicopters. The ASBs specify inspecting the tightening torque of the bolts that secure the front and rear of the MGB bar attaching fittings. If more than a 20 percent tightening torque load loss is discovered, the ASBs require inspecting the frames 3855 and 5295 for a crack in the area of the MGB bar attaching fittings. EASA classified these ASBs as mandatory and issued EASA AD No. 2006–0163 R1 to ensure the continued airworthiness of these helicopters.

Costs of Compliance

We estimate that this AD affects 4 helicopters of U.S. Registry and that labor costs average $85 a work-hour. Based on these estimates, we expect the following costs:

- Inspecting the torque of each bolt that secures the front and rear MGB attaching fitting requires 1 work-hour and no parts for a total cost of $85 per helicopter, and $340 for the U.S. fleet.
- Readjusting the torque adds another 0.25 work-hour for a total cost of about $21 per helicopter.
- Replacing all four nuts and bolts of an attachment fitting requires 4 work-hours. Parts cost $1,000 for a total cost of $1,340 per helicopter.
- Replacing the attachment fitting or plate requires 16 work-hours respectively. Parts cost $2,000 respectively for a total cost of $3,360 to replace each part per helicopter.
- Replacing frames 3855 and 5295 require 40 work-hours respectively. Parts cost $5,000 to replace each frame for a total cost of $8,400 per frame per helicopter.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify that this AD:

(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);

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

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

We prepared an economic evaluation of the estimated costs to comply with this AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2013–23–11 Eurocopter France: Amendment 39–17666; Docket No. FAA–2013–0487; Directorate Identifier 2010–SW–056–AD.

(a) Applicability

This AD applies to Eurocopter France (Eurocopter) Model AS332L2 and EC225LP helicopters, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as loss of tightening torque of a bolt that secures the front and rear main gearbox (MGB) suspension bar attaching fittings, which can change the loads on the frames and cause cracking. This condition could lead to failure of the MGB supporting structure, detachment of the MGB, and subsequent loss of control of the helicopter.

(c) Effective Date

This AD becomes effective December 30, 2013.

(d) Compliance

You are responsible for performing each action required by this AD within the specified compliance time unless it has already been accomplished prior to that time.

(e) Required Actions

(1) Within 500 hours time-in-service (TIS), and thereafter at intervals not to exceed 825 hours TIS, inspect the tightening torque of each bolt that secures the front and rear MGB attaching fitting by using as reference Figure 1 of Eurocopter Alert Service Bulletin (ASB) No. 05.00.65, Revision 0, dated March 28, 2006, for the Model AS332L2 helicopters; and ASB No. 05A002, Revision 1, dated December 6, 2007, for the Model EC225LP helicopters.

(2) If the loss of tightening torque of a nut is less than or equal to 20 percent of the minimum tightening torque, before further flight, readjust the tightening torque.

(3) If the loss of tightening torque of any nut (front or rear) is greater than 20 percent of the minimum tightening torque, before further flight:

(i) Inspect each bolt and nut that secures the attachment fitting for a crack, and

(ii) Inspect for a crack in the attachment area of the attachment fitting, the attachment plate, and Frame 3855 for the front fitting and Frame 5295 for the rear fitting.

(A) If no crack exists, readjust the tightening torque.

(B) If there is a crack in any nut or bolt, before further flight, replace all four nuts and bolts of the affected attachment fitting.

(C) If there is a crack in the attachment area of the attachment fitting or the attachment plate, before further flight, replace the cracked attachment fitting or plate with an airworthy fitting or plate.

(D) If there is a crack in Frame 3855 for the front fitting or Frame 5295 for the rear fitting, before further flight, repair or replace the frame.

(f) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Group, FAA, may approve AMOCs for this AD. Send your proposal to: Gary Roach, Aviation Safety Engineer, Regulations and Policy Group, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5110; email *gary.b.roach@faa.gov.*

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, we suggest that you notify your principal inspector, or

lacking a principal inspector, the manager of the local flight standards district office or certificate holding district office, before operating any aircraft complying with this AD through an AMOC.

(g) Additional Information

The subject of this AD is addressed in the European Aviation Safety Agency (EASA) AD No. 2006–0163 R1, dated December 13, 2007. You may view the EASA AD at *http://www.regulations.gov* in Docket No. FAA–2013–0487.

(h) Subject

Joint Aircraft Service Component (JASC) Code: 6330, Main Rotor Transmission Mount.

(i) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Eurocopter Alert Service Bulletin No. 05.00.65, Revision 0, dated March 28, 2006.

(ii) Eurocopter Alert Service Bulletin No. 05A002, Revision 1, dated December 6, 2007.

(3) For Eurocopter service information identified in this AD, contact American Eurocopter Corporation, 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.eurocopter.com/techpub.*

(4) You may view this service information at FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. For information on the availability of this material at the FAA, call (817) 222–5110.

(5) You may view this service information that is incorporated by reference at 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/cfr/ibr-locations.html.*

Issued in Fort Worth, Texas, on November 5, 2013.

Lance T. Gant,

Acting Directorate Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2013–27638 Filed 11–22–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0418; Directorate Identifier 2012–NM–200–AD; Amendment 39–17668; AD 2013–23–13]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Airbus Model A300 series airplanes; Model A300 B4–600, B4–600R, and F4–600R series airplanes; and Model A300 C4–605R Variant F airplanes (collectively called Model A300–600 series airplanes). This AD was prompted by a report that cracking was found in area 2 of the frame base fittings between frame 41 and frame 46. This AD requires a check of maintenance records to determine if certain repairs were done in area 1 of the frame base fittings, and, for affected airplanes, a detailed inspection for cracking in area 2 of the frame base fittings between frame 41 and frame 46, and repair if necessary. We are issuing this AD to detect and correct cracking in area 2 of the frame base fittings between frame 41 and frame 46, which could adversely affect the structural integrity of the airplane.

DATES: This AD becomes effective December 30, 2013.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of December 30, 2013.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2013-0418* or in person at the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone: (425) 227–2125; fax: (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to the specified products. The NPRM was published in the **Federal Register** on May 14, 2013 (78 FR 28159). The NPRM proposed to correct an unsafe condition for the specified products. The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2012–0229, dated October 31, 2012 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> During accomplishment of Airbus SB [service bulletin] A300–53–6111, which addresses detailed visual inspections of the lower frame fittings between Frame (FR) 41 and FR 46, on one A300–600 aeroplane a crack was detected in the area 2 of the foot of frame FR 46 at junction radius level.
>
> This frame, that was previously repaired due to a crack finding in the area 1, was not due to be inspected before reaching the post-repair inspection threshold, i.e., 45,400 FC [flight cycles], from repair embodiment.
>
> It has been determined that the current repairs proposed in Airbus SB A300–53–6111 and Airbus [SB] A300–53–0337 are of limited effect to prevent cracking in the area 2 of the lower frame fittings.
>
> Consequently, as a temporary action and until an improvement of the existing repairs is made available, this [EASA] AD requires a one-time detailed visual inspection [for cracking] of [the] frame base fittings that were repaired in accordance with Airbus SB A300–53–0337, original issue or Rev. 1, or Airbus SB A300–53–6111 original issue up to Rev. 4 * * *.

The unsafe condition is cracking in the frame base fittings, which could adversely affect the structural integrity of the airplane. The required actions include repairing any cracking found. You may obtain further information by examining the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2013-0418-0002.*

Comments

We gave the public the opportunity to participate in developing this AD. We have considered the comment received.

Request To Correct Typographical Error in SUMMARY Section

UPS noted there is a typographical error in the **SUMMARY** section of the NPRM (78 FR 28159, May 14, 2013). UPS stated that the third line includes the phrase ''frame brace fittings,'' but throughout the rest of the document the terminology used is ''frame base fittings.'' UPS suggested that for

consistency throughout the document ''brace'' be changed to ''base.''

We agree that the word ''brace'' should be changed to ''base'' and have changed the **SUMMARY** section of this final rule accordingly. The error only appeared in the **SUMMARY** section so no additional changes were necessary.

Conclusion

We reviewed the available data, including the comment received, and determined that air safety and the public interest require adopting this AD as proposed except for minor editorial changes and the correction of the typographical error in the **SUMMARY** section of this final rule. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (78 FR 28159, May 14, 2013) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (78 FR 28159, May 14, 2013).

Costs of Compliance

We estimate that this AD affects 124 airplanes of U.S. registry.

We estimate it will take about 4 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this AD on U.S. operators to be $42,160, or $340 per product.

In addition, we estimate that any necessary follow-on actions will take up to 350 work-hours and require parts costing up to $56,469 for a cost of $86,219 per product. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify that this AD:

1. Is not a ''significant regulatory action'' under Executive Order 12866;
2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2013-0418;* or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the MCAI, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new AD:

2013–23–13 Airbus: Amendment 39–17668. Docket No. FAA–2013–0418; Directorate Identifier 2012–NM–200–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective December 30, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the airplanes identified in paragraphs (c)(1) and (c)(2) of this AD, certificated in any category.

(1) Airbus Model A300 B2–1A, B2–1C, B2K–3C, B2–203, B4–2C, B4–103, and B4–203 airplanes, on which any repair has been done as specified in Airbus Service Bulletin A300–53–0337, dated February 4, 1999; or Airbus Service Bulletin A300–53–0337, Revision 01, dated March 17, 2003.

(2) Airbus Model A300 B4–601, B4–603, B4–620, and B4–622 airplanes; Model A300 B4–605R and B4–622R airplanes; Model A300 F4–605R and F4–622R airplanes; and A300 C4–605R Variant F airplanes; on which any repair has been done as specified in any of the service information identified in paragraphs (c)(2)(i), (c)(2)(ii), (c)(2)(iii), (c)(2)(iv), (c)(2)(v), and (c)(2)(vi) of this AD.

(i) Airbus Service Bulletin A300–53–6111, dated February 4, 1999.

(ii) Airbus Service Bulletin A300–53–6111, Revision 01, dated March 17, 2003.

(iii) Airbus Service Bulletin A300–53–6111, Revision 02, dated September 13, 2004.

(iv) Airbus Service Bulletin A300–53–6111, Revision 03, dated September 30, 2009.

(v) Airbus Mandatory Service Bulletin A300–53–6111, Revision 04, dated August 25, 2011.

(vi) Airbus Mandatory Service Bulletin A300–53–6111, Revision 05, dated January 28, 2013.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Reason

This AD was prompted by a report that cracking was found in area 2 of the frame base fittings between frame 41 and frame 46. We are issuing this AD to detect and correct cracking in area 2 of the frame base fittings between frame 41 and frame 46, which could adversely affect the structural integrity of the airplane.

(f) Compliance

You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

(g) Maintenance Records Check and Frame Base Fitting Inspection

Within 1,000 flight hours after the effective date of this AD: Check the airplane maintenance records to determine if repairs were done in area 1 of the frame base fittings as defined in Appendix 1 of Airbus Alert Operators Transmission A53W001–12, dated July 4, 2012.

(h) Frame Base Fitting Inspection

If, during any records check required by paragraph (g) of this AD, it is determined that area 1 of the frame base fittings was repaired: Within 1,000 flight hours after the effective date of this AD, do a detailed inspection of the frame base fittings between frame 41 and frame 46 in area 2 as defined in Appendix 1 of Airbus Alert Operators Transmission A53W001–12, dated July 4, 2012.

(i) Corrective Action

If any cracking is found during any detailed inspection required by paragraph (h) of this AD: Before further flight, repair the cracking using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA) (or its delegated agent).

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–227–2125; fax: 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) Airworthy Product: For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(k) Related Information

Refer to Mandatory Continuing Airworthiness Information European Aviation Safety Agency Airworthiness Directive 2012–0229, dated October 31, 2012, for related information, which can be found in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2013-0418-0002.*

(l) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Airbus Alert Operators Transmission A53W001–12, dated July 4, 2012, including Appendix 1 and Appendix 2 and excluding Appendix 3.

(ii) Reserved.

(3) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.*

(4) You may review copies of the service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(5) You may view this service information that is incorporated by reference at 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/cfr/ibr-locations.html.*

Issued in Renton, Washington, on November 6, 2013.

Jeffrey E. Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–27832 Filed 11–22–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0998; Directorate Identifier 2013–CE–047–AD; Amendment 39–17674; AD 2013–23–19]

RIN 2120–AA64

Airworthiness Directives; XtremeAir GmbH Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for XtremeAir GmbH Model XA42 airplanes. This AD results from mandatory continuing airworthiness information (MCAI) issued by the aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as cracks in a weld seam between the lower left landing gear attachment bearing and the lower engine mount to the firewall attachment plate, which could reduce the structural integrity of the airplane and could result in engine separation. We are issuing this AD to require actions to address the unsafe condition on these products.

DATES: This AD is effective November 25, 2013.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of November 25, 2013.

We must receive comments on this AD by January 9, 2014.

ADDRESSES: You may send comments by any of the following methods:

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

For service information identified in this AD, contact XtremeAir GmbH, Harzstrasse 2, D–39444 Hecklingen, Germany; phone: +49 39267 60999 0; fax: +49 39267 60999 20; email: *airworthiness@xtremeair.de;* Internet: *http://www.xtremeair.de.* You may view this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2013–0998; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4123; fax: (816) 329–4090; email: *karl.schletzbaum@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent

for the Member States of the European Community, has issued AD No.: 2013–0264–E, dated October 29, 2013 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

A crack was reported by an operator in a weld seam between the lower left landing gear attachment bearing and the lower engine mount to firewall attachment plate. Further investigation showed that all engine mounts from a specific supplier may be affected.

This condition, if not detected and corrected, could lead to engine separation of the aeroplane and could severely affect the structural integrity of the aeroplane.

To address this unsafe condition, XtremeAir GmbH issued Service Bulletin SB–2013–008–A.03 to provide inspection and replacement instructions for the engine mount.

For the reason described above, this AD requires repetitive inspection of engine mounts and, in case of findings, replacement of the engine mount.

You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2013–0998.

Relevant Service Information

XtremeAir GmbH has issued Mandatory Service Bulletin SB–2013–008, Version A.03, dated October 25, 2013. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with this State of Design Authority, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are issuing this AD because we evaluated all information provided by the State of Design Authority and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because cracks in a weld seam between the lower left landing gear attachment bearing and the lower engine mount to the firewall attachment plate affects the structural integrity of the airplane and could lead to engine separation. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2013–0998; Directorate Identifier 2013–CE–047–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this AD.

Costs of Compliance

We estimate that this AD will affect 1 product of U.S. registry. We also estimate that it will take about 4 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour.

Based on these figures, we estimate the cost of the AD on U.S. operators to be $340.

In addition, we estimate that any necessary follow-on actions will take about 16 work-hours and require parts costing $4,057, for a cost of $5,417 per product.

According to the manufacturer, some of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all costs in our cost estimate.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify that this AD:

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

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

(3) Will not affect intrastate aviation in Alaska, and

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new AD:

2013–23–19 XtremeAir GmbH: Amendment 39–17674; Docket No. FAA–2013–0998; Directorate Identifier 2013–CE–047–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective November 25, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to XtremeAir GmbH Model XA42 airplanes, all serial numbers, that:

(1) Are certificated in any category; and

(2) have engine mount part number (P/N) XA42–7120–151 (manufactured by Szel-Tech), all serial numbers up to and including 036, installed.

(d) Subject

Air Transport Association of America (ATA) Code 71: Power Plant.

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) issued by the aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as cracks in a weld seam between the lower left landing gear attachment bearing and the lower engine mount to the firewall attachment plate. We are issuing this AD to prevent failure of the engine mounts, which could cause reduced structural integrity of the airplane and could result in engine separation.

(f) Actions and Compliance

Unless already done, do the following actions specified in paragraphs (f)(1) through (f)(3) of this AD.

(1) Before further flight after November 25, 2013 (the effective date of this AD) inspect the welds on the engine mount part number (P/N) XA42–7120–151 (manufactured by Szel-Tech) for cracks following the Accomplishment Instructions in XtremeAir GmbH Mandatory Service Bulletin SB–2013–008, Ausgabe (English translation: Version) A.03, dated October 25, 2013. The replacement required in paragraph (f)(2) or (f)(3) of this AD may be done instead of the inspection provided it is done before further flight.

(2) If, during the inspection required in paragraph (f)(1) of this AD, a crack is found, before further flight, replace the engine mount following the Accomplishment Instructions in XtremeAir GmbH Mandatory Service Bulletin SB–2013–008, Ausgabe (English translation: Version) A.03, dated October 25, 2013.

(3) Unless the engine mount P/N XA42–7120–151 is replaced with a serviceable part as specified in paragraph (f)(2) of this AD, within the next 10 hours TIS after November 25, 2013 (the effective date of this AD), replace the engine mount following the Accomplishment Instructions in XtremeAir GmbH Mandatory Service Bulletin SB–2013–008, Ausgabe (English translation: Version) A.03, dated October 25, 2013. Acrobatic flight is prohibited during these 10 hours.

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4123; fax: (816) 329–4090; email: *karl.schletzbaum@faa.gov*. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(h) Special Flight Permit

Special flight permits are prohibited for this AD.

(i) Related Information

Refer to MCAI European Aviation Safety Agency (EASA) AD No.: 2013–0264–E, dated October 29, 2013, for related information. You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2013–0998.

(j) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) XtremeAir GmbH Mandatory Service Bulletin SB–2013–008, Ausgabe (English translation: Version) A.03, dated October 25, 2013.

(ii) Reserved.

(3) For XtremeAir GmbH service information identified in this AD, contact XtremeAir GmbH, Harzstrasse 2, D–39444 Hecklingen, Germany; phone: +49 39267 60999 0; fax: +49 39267 60999 20; email: *airworthiness@xtremeair.de;* Internet: *http://www.xtremeair.de*.

(4) You may view this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

(5) You may view this service information that is incorporated by reference at 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/cfr/ibr-locations.html*.

Issued in Kansas City, Missouri, on November 15, 2013.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–27920 Filed 11–22–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0334; Directorate Identifier 2013–NM–027–AD; Amendment 39–17671; AD 2013–23–16]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all The Boeing Company Model 757 airplanes. This AD was prompted by a report of a broken forward support fitting at the inboard track of the inboard flap. This AD requires repetitive inspections of the forward support fitting assemblies of the inboard track of the left and right inboard flaps for cracking, and corrective actions if necessary. We are issuing this AD to detect and correct cracking of the forward support fitting assembly, which could result in loss of inboard flap control and subsequent loss of airplane control.

DATES: This AD is effective December 30, 2013.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of December 30, 2013.

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

Examining the AD Docket

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

Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Nancy Marsh, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: (425) 917–6440; fax: (425) 917–6590; email: *nancy.marsh@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to the specified products. The NPRM published in the **Federal Register** on April 22, 2013 (78 FR 23694). The NPRM proposed to require repetitive inspections of the forward support fitting assemblies of the inboard track of the left and right inboard flaps for cracking, and corrective actions if necessary.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the proposal (78 FR 23964, April 22, 2013) and the FAA's response to each comment.

Supportive Comment

Boeing stated that it concurs with the NPRM (78 FR 23964, April 22, 2013).

Request To Provide Justification for AD Action

FedEx requested further data and justification for this AD action. FedEx stated that it expected a single data point (i.e., the one failure of a forward support fitting assembly) would represent an anomaly. FedEx asked if a root cause analysis was done to determine whether the single failure was an anomaly induced during manufacture or operator maintenance before proceeding with service information and NPRM development.

We find that clarification is necessary. Boeing Special Attention Service Bulletin 757–57–0071, dated September 12, 2012, states that the cracking occurred at a compound radius in the part. This design detail, which occurs on each part having the part number identified in that service bulletin, has been identified as an area of high stress concentration and a likely location for fatigue cracking to initiate at a relatively low number of flight cycles. The airplane event, as detailed in that service bulletin, occurred at 22,328 flight cycles and both components of the forward support fitting assembly were found to be completely cracked through. Therefore, the occurrence of cracking in this part at this location is likely to occur on other airplanes, and cannot be considered an anomaly. Since these cracked fittings result in an unsafe condition and we determined that this unsafe condition is likely to exist or develop in other products of the same type design, we determined that this AD rulemaking is necessary. We have not changed this final rule in this regard.

Request for Procedures To Apply a Chemical Conversion Coating

American Airlines (AAL) recommended that a step be added between steps 10 and 11 in sheet 3 of 6 of the Forward Support Fitting Assembly Replacement figures of Boeing Special Attention Service Bulletin 757–57–0071, dated September 12, 2012. The additional step would specify applying a chemical conversion coating after match drilling holes as part of the fitting assembly replacement process. AAL noted that in the Material Information of Boeing Special Attention Service Bulletin 757–57–0071, dated September 12, 2012, chemical conversion coating is identified in the parts lists, but the Accomplishment Instructions section of that service bulletin omits the coating.

We agree that Boeing Special Attention Service Bulletin 757–57–0071, dated September 12, 2012, does not specify applying a chemical conversion coating after match drilling holes. Boeing specified that the installation of the fasteners with sealant, as specified in the instructions in the service information, provides corrosion protection at the fastener locations and that application of the chemical conversion coating is not required. Once we issue this AD, any person may request approval of an alternative method of compliance (AMOC) to apply alternative corrosion protection coatings under the provisions of paragraph (i) of this final rule. We have not changed this final rule in this regard.

Request To Delay AD To Address Parts Availability

AAL requested that the FAA ensure ample parts availability before releasing the AD. AAL stated that there is a lead time of 160 days for the fitting assembly and suggested that the NPRM (78 FR 23964, April 22, 2013) be revised to allow for manufacture of parts and provide material specifications and part dimensions. FedEx stated that about seven fitting assemblies are due to be in stock in July 2013.

We disagree to revise or delay this final rule. In developing this final rule, we coordinated with the manufacturer an appropriate compliance time to address the unsafe condition in a timely manner and take parts availability into consideration. We have not changed this final rule in this regard.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this AD as proposed except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (78 FR 23964, April 22, 2013) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (78 FR 23964, April 22, 2013).

Costs of Compliance

We estimate that this AD affects 690 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
High-frequency eddy current inspection.	11 work-hours × $85 per hour = $935, per inspection cycle.	None	$935, per inspection cycle	$645,150, per inspection cycle.

We estimate the following costs to do any necessary replacements that would be required based on the results of the inspection. We have no way of determining the number of aircraft that might need this replacement:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replacement	7 work-hours × $85 per hour = $595, per assembly	$10,000	$10,595, per assembly.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify that this AD:

(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),

(3) Will not affect intrastate aviation in Alaska, and

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2013–23–16 The Boeing Company: Amendment 39–17671; Docket No. FAA–2013–0334; Directorate Identifier 2013–NM–027–AD.

(a) Effective Date

This AD is effective December 30, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all The Boeing Company Model 757–200, –200PF, –200CB, and –300 series airplanes, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 5753, Trailing edge flaps.

(e) Unsafe Condition

This AD was prompted by a report of a broken forward support fitting at the inboard track of the inboard flap. We are issuing this AD to detect and correct cracking of the forward support fitting assembly, which could result in loss of inboard flap control and subsequent loss of airplane control.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Inspection and Corrective Action

Except as provided by paragraph (h) of this AD, at the applicable time specified in paragraph 1.E., ''Compliance,'' of Boeing Special Attention Service Bulletin 757–57–0071, dated September 12, 2012: Do a high frequency eddy current (HFEC) inspection for cracking in the forward support fitting assemblies of the inboard track of the left and right inboard flaps, and do all applicable corrective actions, in accordance with paragraph 3.B.2. of the Accomplishment Instructions of Boeing Special Attention Service Bulletin 757–57–0071, dated September 12, 2012. Do all applicable corrective actions before further flight. Thereafter, repeat the inspections at intervals not to exceed 6,000 flight cycles, except as required by paragraphs (g)(1) and (g)(2) of this AD.

(1) For Group 1 airplanes, as identified in Boeing Special Attention Service Bulletin 757–57–0071, dated September 12, 2012, on which any forward support fitting assembly is replaced: Do the next inspection before 15,000 flight cycles have accumulated on that assembly.

(2) For Group 2 airplanes, as identified in Boeing Special Attention Service Bulletin 757–57–0071, dated September 12, 2012, on which any forward support fitting assembly is replaced: Do the next inspection before 18,000 flight cycles have accumulated on that assembly.

(h) Exceptions to the Service Information

(1) Where Boeing Special Attention Service Bulletin 757–57–0071, dated September 12, 2012, specifies compliance times ''after the original issue date of this service bulletin,'' this AD requires compliance within the specified compliance times ''after the effective date of this AD.''

(2) Paragraphs 3.B.1. and 3.B.3. of the Accomplishment Instructions of Boeing Special Attention Service Bulletin 757–57–0071, dated September 12, 2012, are not required by this AD.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (j) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/ certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(j) Related Information

For more information about this AD, contact Nancy Marsh, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: (425) 917–6440; fax: (425) 917–6590; email: *nancy.marsh@faa.gov.*

(k) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Boeing Special Attention Service Bulletin 757–57–0071, dated September 12, 2012.

(ii) Reserved.

(3) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.*

(4) You may view this service information at FAA, Transport Airplane Directorate, 1601 Lind Ave SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(5) You may view this service information that is incorporated by reference at 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/cfr/ibr-locations.html.*

Issued in Renton, Washington, on November 6, 2013.

Jeffrey E. Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–27843 Filed 11–22–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0461; Directorate Identifier 2012–NM–169–AD; Amendment 39–17670; AD 2013–23–15]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2009–06–02, which applied to certain The Boeing Company Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747SR, and 747SP series airplanes. AD 2009–06–02 required repetitive inspections for skin cracks at the shear tie end fastener locations of the fuselage frames, and repair of cracks if necessary. This new AD also requires repetitive inspections for skin cracks next to the shear tie on airplanes with certain existing repair doublers, and corrective actions if necessary. This AD also revises the applicability to include additional airplanes. This AD was prompted by additional cracking found on an airplane not affected by AD 2009–06–02. We are issuing this AD to detect and correct fatigue cracks in the fuselage skin that can propagate and grow, and result in reduced structural integrity and sudden decompression of the airplane in flight.

DATES: This AD is effective December 30, 2013.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of December 30, 2013.

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Berhane Alazar, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: 425–917–6577; fax: 425–917–6590; email: *berhane.alazar@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2009–06–02, Amendment 39–15838 (74 FR 11013, March 16, 2009). AD 2009–06–02 applied to the specified products. The NPRM published in the **Federal Register** on June 3, 2013 (78 FR 33012). The NPRM proposed to continue to require repetitive inspections for skin cracks at the shear tie end fastener locations of the fuselage frames, and repair of cracks if necessary. The NPRM also proposed to require repetitive inspections for skin cracks next to the shear tie on airplanes with certain existing repair doublers, and corrective actions if necessary. The NPRM also proposed to revise the applicability to include additional airplanes.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the proposal (78 FR 33012, June 3, 2013) and the FAA's response to each comment.

Request To Revise Repetitive Inspection Type

Boeing requested that we revise paragraph (h) of the NPRM (78 FR 33012, June 3, 2013) to correct the required inspection method for the repetitive inspections. The NPRM specified repeating the ''external detailed inspection'' at the times specified in table 4 or table 5 of Boeing Alert Service Bulletin 747–53A2682, Revision 1, dated May 24, 2012. Boeing noted however that the compliance times in those tables are for internal high frequency eddy current (HFEC) inspection.

We agree with the request. Paragraph (h) of this AD requires an internal HFEC inspection; the inspections that must be repeated are also internal HFEC inspections. We have revised paragraph (h) in this final rule to specify that the inspection to be repeated is an internal HFEC inspection.

Request To Revise Description of Unsafe Condition

Boeing requested that we revise the description of the unsafe condition to clarify that the subject of the unsafe condition is the fuselage area—not the frame shear ties, as stated in the NPRM (78 FR 33012, June 3, 2013).

We agree with the request and rationale. We have revised paragraph (e) in this final rule to explain that the fuselage skin—not the ties themselves—is subject to widespread fatigue damage.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this AD with the changes described previously

and minor editorial changes. We have determined that these minor changes:

• Are consistent with the intent that was proposed in the NPRM (78 FR 33012, June 3, 2013) for correcting the unsafe condition; and

• Do not add any additional burden upon the public than was already proposed in the NPRM (78 FR 33012, June 3, 2013).

We also determined that these changes will not increase the economic burden on any operator or increase the scope of this AD.

Costs of Compliance

We estimate that this AD affects 234 airplanes of U.S. registry. We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection	30 or 49 work-hours (depending on inspection) × $85 per hour = $2,550 or $4,165 per inspection cycle.	$0	$2,550 or $4,165 per inspection cycle.	Up to $974,610 per inspection cycle.

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this AD.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify that this AD:

(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),

(3) Will not affect intrastate aviation in Alaska, and

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2009–06–02, Amendment 39–15838 (74 FR 11013, March 16, 2009), and adding the following new AD:

2013–23–15 The Boeing Company: Amendment 39–17670; Docket No. FAA–2013–0461; Directorate Identifier 2012–NM–169–AD.

(a) Effective Date

This AD is effective December 30, 2013.

(b) Affected ADs

This AD supersedes AD 2009–06–02, Amendment 39–15838 (74 FR 11013, March 16, 2009).

(c) Applicability

This AD applies to The Boeing Company Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, 747SR, and 747SP series airplanes, as identified in Boeing Alert Service Bulletin 747–53A2682, Revision 1, dated May 24, 2012.

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Unsafe Condition

This AD was prompted by an evaluation by the design approval holder indicating that certain fuselage frames are subject to widespread fatigue damage. The actions were developed to support the airplane's limit of validity of the engineering data that support the established structural maintenance program. We are issuing this AD to detect and correct fatigue cracks in the fuselage skin that can propagate and grow, and result in reduced structural integrity and sudden decompression of the airplane in flight.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Repetitive Inspections

At the applicable compliance time specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2682, Revision 1, dated May 24, 2012, except as provided by paragraphs (i)(1) and (i)(2) of this AD, do an external detailed or high frequency eddy current (HFEC) inspection for skin cracks at specified shear tie end fastener locations of the fuselage frames, and do all applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2682, Revision 1, dated May 24, 2012, except as required by paragraph (i)(3) of this AD. Do all applicable corrective actions before further flight. Repeat the external detailed or HFEC inspection thereafter at the applicable time specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2682, Revision 1, dated May 24, 2012.

(h) Post-Repair Inspections

For any external repair doubler in the inspection area specified in the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2682, Revision 1, dated May 24, 2012, that has an upper or lower fastener row that is common to a shear tie end fastener: At the applicable time specified in paragraph (h)(1) or (h)(2) of this AD, whichever occurs later, do an internal HFEC inspection for cracks in the skin next to the shear tie, and do all applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2682, Revision 1, dated May 24, 2012, except as required by

paragraph (i)(3) of this AD. Do all corrective actions before further flight. Repeat the internal HFEC inspection thereafter at the time specified in Table 4 or Table 5 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2682, Revision 1, dated May 24, 2012, as applicable.

(1) Before further flight after an inspection required by paragraph (g) of this AD.

(2) Within 2,000 flight cycles after the effective date of this AD.

(i) Service Information Clarifications and Exceptions

(1) Paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2682, Revision 1, dated May 24, 2012, specifies certain compliance times in terms of the effective date of AD 2009–06–02, Amendment 39–15838 (74 FR 11013, March 16, 2009). The effective date of AD 2009–06–02 is April 20, 2009.

(2) Where paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2682, Revision 1, dated May 24, 2012, specifies counting the compliance time ''after the revision 1 date of this service bulletin,'' this AD requires compliance within the applicable time after the effective date of this AD.

(3) Where Boeing Alert Service Bulletin 747–53A2682, Revision 1, dated May 24, 2012, specifies to contact Boeing for repair instructions, this AD requires repair before further flight using a method approved in accordance with the procedures specified in paragraph (l) of this AD.

(j) Credit for Previous Actions

This paragraph provides credit for the actions specified in paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Boeing Alert Service Bulletin 747–53A2682, dated May 8, 2008.

(k) Special Flight Permit

Special flight permits, as described in Section 21.197 and Section 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199), are not allowed.

(l) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (m)(1) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(m) Related Information

(1) For more information about this AD, contact Berhane Alazar, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: 425–917–6577; fax: 425–917–6590; email: *berhane.alazar@faa.gov.*

(2) Service information identified in this AD that is not incorporated by reference may be obtained at the addresses specified in paragraphs (n)(3) and (n)(4) of this AD.

(n) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Boeing Alert Service Bulletin 747–53A2682, Revision 1, dated May 24, 2012.

(ii) Reserved.

(3) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.*

(4) You may view this service information at FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

(5) You may view this service information that is incorporated by reference at 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/cfr/ibr-locations.html.*

Issued in Renton, Washington, on November 6, 2013.

Jeffrey E. Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–27845 Filed 11–22–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0561; Directorate Identifier 2013–NE–23–AD; Amendment 39–17680; AD 2013–24–06]

RIN 2120–AA64

Airworthiness Directives; Thielert Aircraft Engines GmbH Reciprocating Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Thielert Aircraft Engines GmbH TAE 125–01 reciprocating engines. This AD requires applying sealant to close the engine clutch housing (crankcase assembly) opening. This AD was prompted by a report of engine power loss due to engine coolant contaminating the engine clutch. The design of the engine allows the crankcase assembly opening to be susceptible to contamination from external sources. We are issuing this AD to prevent in-flight engine power loss, which could result in loss of control of, and damage to, the airplane.

DATES: This AD becomes effective December 30, 2013.

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

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Frederick Zink, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7779; fax: 781–238 7199; email: *frederick.zink@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to the specified products. The NPRM was published in the **Federal Register** on August 5, 2013 (78 FR 47228). The NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

A power loss event was reported on an aeroplane equipped with a TAE 125–01 engine. The investigation results showed that the probable cause was contamination of the engine clutch by coolant spillage during the last maintenance operation. The contamination penetrated the clutch housing through an opening located under the coolant tank that was only closed by a not fluid-tight plastic cover.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2013-0561-0002*.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (78 FR 47228, August 5, 2013).

Conclusion

We reviewed the available data and determined that air safety and the public interest require adopting this AD as proposed.

Costs of Compliance

We estimate that this AD will affect about 140 engines of U.S. registry. We also estimate that it will take about 2.5 hours per engine to comply with this AD. The average labor rate is $85 per hour. Required parts cost about $110 per engine. Based on these figures, we estimate the cost of this AD on U.S. operators to be $45,150.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2013–24–06 Thielert Aircraft Engines GmbH: Amendment 39–17680; Docket No. FAA–2013–0561; Directorate Identifier 2013–NE–23–AD.

(a) Effective Date

This AD becomes effective December 30, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Thielert Aircraft Engines GmbH TAE 125–01 reciprocating engines.

(d) Reason

This AD was prompted by a report of engine power loss due to engine coolant contaminating the engine clutch. The design of the engine allows the crankcase assembly opening to be susceptible to contamination from external sources. We are issuing this AD to prevent in-flight engine power loss, which could result in loss of control of, and damage to, the airplane.

(e) Actions and Compliance

Unless already done, do the following actions.

(1) After the effective date of this AD at the next annual or 100-hour inspection, whichever comes first, apply sealant to close the engine clutch housing (crankcase assembly) opening.

(2) Thereafter, reapply sealant to the engine clutch housing (crankcase assembly) opening, whenever the sealant is found to be not liquid-tight, or is removed.

(3) Guidance on the sealant and application can be found in Thielert Aircraft Engines GmbH Service Bulletin No.TM TAE 125–0022, dated August 8, 2012.

(f) Alternative Methods of Compliance (AMOCs)

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

(g) Related Information

(1) For more information about this AD, contact Frederick Zink, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7779; fax: 781–238–7199; email: *frederick.zink@faa.gov*.

(2) Refer to MCAI European Aviation Safety Agency AD 2013–0109, dated May 22, 2013, for related information. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2013-0561-0002*.

(3) Thielert Aircraft Engines GmbH Service Bulletin No. TM TAE 125–0022, dated August 8, 2012, which is not incorporated by reference in this AD, can be obtained from Thielert Aircraft Engines GmbH, using the contact information in paragraph (g)(4) of this AD.

(4) For service information identified in this AD, contact Thielert Aircraft Engines GmbH, Platanenstrasse 14 D–09350, Lichtenstein, Germany, phone: +49–37204–696–0; fax: +49–37204–696–55; email: *info@centurion-engines.com*.

(5) You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

(h) Material Incorporated by Reference

None.

Issued in Burlington, Massachusetts, on November 14, 2013.

Colleen M. D'Alessandro,

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

[FR Doc. 2013–28183 Filed 11–22–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2013–0639]

RIN 1625–AA09

Drawbridge Operation Regulation; Hackensack River, Kearney and Jersey City, NJ

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is temporarily modifying the operating schedule that governs the operation of the Route 1 & 9 (Lincoln Highway) Bridge across the Hackensack River, mile 2.0, between Kearny and Jersey City, New Jersey. The bridge owner, New Jersey Department of Transportation, submitted a request to restrict bridge openings during the morning and afternoon rush hour periods to alleviate traffic congestion resulting from area roadway closures. It is expected that this change to the regulations would provide relief to vehicular traffic while continuing to meet the reasonable needs of navigation.

DATES: This temporary final rule is effective from March 1, 2014 through March 1, 2016.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2013–0639. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type 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 Ground Floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary final rule, call or email Mr. Joe Arca, Project Officer, First Coast Guard District Bridge Branch, 212–668–7165, *joe.m.arca@uscg.mil.* If you have questions on viewing the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

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

A. Regulatory History and Information

On August 28, 2013, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulations Hackensack River in the **Federal Register** (78 FR 53104). We received no comments on the proposed rule. No public meeting was requested, and none was held.

B. Basis and Purpose

The Route 1 & 9 (Lincoln Highway) Bridge at mile 2.0, across the Hackensack River between Kearny and Jersey City, New Jersey, has a vertical clearance of 40 feet at mean high water and 45 feet at mean low water. The drawbridge operation regulations are listed at 33 CFR 117.723.

The waterway users are predominantly recreational vessels and commercial vessels.

The owner of the bridge, New Jersey Department of Transportation, submitted a request to the Coast Guard to temporarily change the drawbridge operating regulations.

The purpose of this temporary final rule is to help provide relief to help reduce vehicular traffic congestion during the morning and afternoon vehicular rush hour periods. Additional vehicular traffic will be detoured across the Route 1 & 9 (Lincoln Highway) Bridges for two years from the adjacent Pulaski Skyway Bridge which will be under construction to replace its deck commencing on March 1, 2014 and continuing through March 1, 2016.

The existing regulations presently require the bridge to open on signal at all times.

Under this temporary final rule the draw shall open on signal; except that, the draw need not open for the passage of vessel traffic between 6 a.m. and 10 a.m. and 2 p.m. and 6 p.m., Monday through Friday, except holidays.

Tide dependent deep draft vessels may request bridge openings during the two rush hour closure periods provided at least a twelve hour advance notice is given.

C. Discussion of Comments, Changes and the Final Rule

The Coast Guard received no comments in response to the notice of proposed rulemaking. As a result, no changes have been made to this final rule.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. We believe that this rule is not a significant regulatory action because the bridge provides adequate clearance for recreational vessels in the closed position and the commercial vessels will be able to get openings at any time provided the advance notice is given by calling the number posted at the bridge.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The Coast Guard received no comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule should not have a significant effect on small entities since the bridge provides 40 feet of vertical clearance at mean high water which should accommodate the recreational vessels that transit this waterway. Deep draft commercial vessels can transit at during the two rush hour closure periods provided they give the twelve hour advance notice for openings.

There is no permanent restriction or regulation being imposed by this rule; therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this temporary final rule will not have a significant economic impact on a substantial number of small entities.

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 temporary final 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 calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

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

14. Environment

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

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

List of Subjects in 33 CFR Part 117 Bridges

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

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

■ 2. Amend § 117.723 by adding paragraph (i) to read as follows:

§ 117.723 Hackensack River.

* * * * *

(i) The draw of the Route 1 & 9 (Lincoln Highway) Bridge, mile 2.0, between Kearny and Jersey City, shall open on signal; except that, the draw need not open for the passage of vessel traffic between 6 a.m. and 10 a.m. and between 2 p.m. and 6 p.m., Monday through Friday, except holidays. Tide dependent deep draft vessels may request bridge openings between 6 a.m. and 10 a.m. and between 2 p.m. and 6 p.m. provided at least a twelve hour advance notice is given by calling the number posted at the bridge.

Dated: November 5, 2013.

D.B. Abel,

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

[FR Doc. 2013–28042 Filed 11–22–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2013–0526]

RIN 1625–AA09

Drawbridge Operation Regulation; Umpqua River, Reedsport, OR

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is temporarily modifying the operating schedule that governs the U.S. 101 Umpqua river swing bridge, mile 11.1, at Reedsport, OR. The rule change is necessary to accommodate Oregon Department of Transportation's (ODOT) extensive bridge maintenance and restoration efforts. The bridge is currently scheduled to open on signal if at least two hours notice is given. The ODOT will only open the bridge with a minimum of six hours notice and will limit the openings to twice daily; once in the morning and once in the evening.

DATES: This temporary final rule is effective from 7 a.m. on December 1, 2013 to 11:59 p.m. on September 30, 2015.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2013–0526]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov*, type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary final rule, call or email call or email Steven M. Fischer, Thirteenth District Bridge Program Office, Coast Guard, telephone 206–220–7282; email *Steven.M.Fischer3@uscg.mil.* If you have questions on viewing the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

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

A. Regulatory History and Information

On August 5, 2013 the Coast Guard published a notice of proposed rulemaking (NPRM) entitled ''Drawbridge Operation Regulation; Umpqua River, Reedsport, OR in the **Federal Register** (77 FR 47242). We received 0 comments on the proposed rule. No public meeting was requested, and none was held.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective in less than 30 days after publication in the **Federal Register**. The NPRM produced 0 comments and all waterway users of the bridge have been contacted and agreed to the Oregon Department of Transportation renovation plan.

B. Basis and Purpose

The U.S. 101 Umpqua River Bridge is a swing span drawbridge, near Reedsport, OR, located at waterway mile 11.1. In the closed position, this drawbridge has a vertical clearance of 36 feet above mean high tide. The current operating regulations states that the U.S. 101 Umpqua River Bridge shall open on signal if at least two hours notice is given. The vessel traffic along this part of the Umpqua River consists of vessels ranging from occasional commercial tug and barge to small pleasure craft. The Oregon Department of Transportation (ODOT) has examined bridge opening logs and contacted all waterway users that have requested bridge openings throughout the last two years. The input ODOT received from waterway users indicated that the change will likely have a minimal impact on users, and ODOT has identified and mitigated concerns by offering to provide a location for a limited number of vessels up to 75′ in length to dock during non-opening hours down river from the U.S. 101 Umpqua River Bridge at Salmon Harbor Marina.

The ODOT, who owns and operates this bridge, has requested a temporary change to the existing operating regulations of the U.S. 101 Umpqua River Bridge, at Reedsport, OR to facilitate restoration of the bridge. The restoration project will entail painting, rust removal, and steel repairs which require full containment to keep paint and debris out of the Umpqua River. The bridge swing span requires a containment system that is balanced in order to allow the bridge to open properly.

The containment structure will extend ten feet below the bridge, reducing the existing clearance of the bridge from approximately 36 feet to approximately 26 feet at mean high tide.

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

The Coast Guard provided a 30 day comment period on the notice of proposed rulemaking and no comments were received.

The Temporary Final Rule modifies the operating regulation for the US 101 Umpqua River Bridge and requires that the bridge will only open twice daily, once at 7 a.m. and once at 6 p.m., and only if an opening is requested at least six hours in advance. This differs from the existing regulation in that the presently the bridge will open at all times (except during authorized closure periods) provided that two hours advanced notice is given. This amendment is necessary to increase efficiencies for the ODOT construction crews and accommodate both the needs of the waterway and highway users while exercise good stewardship of public funding during ODOT extensive bridge maintenance and restoration efforts from December 2013 through September 2015. This will be accomplished by eliminating the current open-on-demand regulation which would require the ODOT construction crews from repeatedly installing and uninstalling the containment system which needs to be cleaned out and disassembled on both sides of the swing span due to the need to maintain proper balance between the spans. The estimated time to clean and disassemble the containment system is approximately 2 hours.

We did make a change from what we proposed in the NPRM. We revised the amendatory instructions so that paragraph (a) of 33 CFR 117.893, which governs the current schedule for the draw of the US 101 Bridge, mile 11.1, at Reedsport, Oregon, is suspended for the duration of the rule, and a paragraph (d), reading the same as the revised paragraph we proposed in the NPRM, is added for the duration of the rule. This will achieve the intended result of the schedule reverting back to the current schedule after ODOT extensive bridge maintenance and restoration efforts are completed and this rule expires.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

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

The Coast Guard bases this finding on the facts that all impacted vessels will be granted with advance notification and that ODOT has agreed to docking location for a limited number of vessels up to 75' in length to dock during non-opening hours down river from the U.S. 101 Umpqua River Bridge at Salmon Harbor Marina.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities because all vessels asking for an opening will receive an opening. Additionally, because the bridge provides 36 feet of vertical clearance when it is in the closed position vessels which do not require and opening to pass beneath the bridge may do so at any time.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this 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 calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

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

The Coast Guard provided a 30-day comment period and no comments were received, therefore our determination that this rule does not have implications for federalism remains unchanged.

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. The Coast Guard provided a 30-day comment period and no comments were received, therefore our determination that this rule does not have implications for Unfunded Mandate Reform Act remains unchanged.

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

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

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

List of Subjects in 33 CFR Part 117

Bridges.

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

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

■ 2. Amend § 117.893 by suspending paragraph (a) and adding paragraph (d) to read as follows:

§ 117.893 Umpqua River.

* * * * *

(d) From 7 a.m. on December 1, 2013 to 11:59 p.m. on September 30, 2015, the draw of the US 101 Bridge, mile 11.1, at Reedsport, Oregon, shall open at 7 a.m. and 6 p.m. when at least 6 hours of advance notice is given.

Dated: November 6, 2013.

R.T. Gromlich,

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

[FR Doc. 2013–28040 Filed 11–22–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2013–0907]

RIN 1625–AA11

Regulated Navigation Area; Upper Mississippi River Between Mile 0.0 and 109.9; Cairo, IL to Chester, IL

AGENCY: Coast Guard, DHS.

ACTION: Temporary Final Rule.

SUMMARY: The Coast Guard is establishing a temporary regulated navigation area (RNA) for all waters of the Upper Mississippi River (UMR) between miles 0.0 and 109.9. This RNA is needed to protect persons, property, and infrastructure from potential damage and safety hazards associated with subsurface rock removal in the Upper Mississippi River. Any deviation from the conditions and requirements put into place are prohibited unless specifically authorized by the cognizant Captain of the Port (COTP) Ohio Valley or his designated representatives.

DATES: This rule is effective without actual notice from November 25, 2013 until April 12, 2014. For the purposes of enforcement, actual notice will be used from the date the rule was signed, November 4, 2013, until November 25, 2013.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2013–0907]. 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 LT Dan McQuate, U.S. Coast Guard; telephone 270–442–1621, email *daniel.j.mcquate@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

AIS Automated Information System
COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
MM Mile Marker
MSU Marine Safety Unit
M/V Motor Vessel
NPRM Notice of Proposed Rulemaking
RIAC River Industry Action Committee
UMR Upper Mississippi River
USACE United States Army Corps of Engineers

A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule. On July 18, 2013 the U.S. Army Corps of Engineers (USACE) St. Louis District contacted Coast Guard Marine Safety Unit (MSU) Paducah, KY with notification that a contract had been issued for subsurface rock removal in the Thebes, IL area. The rock removal project is required to assist navigation through the channel during certain low water and river conditions and can only be completed during certain environmental conditions. The environmental window for the rock removal project is November 1, 2013 to April 12, 2014, and the project was not expected to require additional vessel restrictions and requirements possibly leading to river closures as the work areas were on the far outer edge, or totally outside of the navigation channel. On August 27, 2013, MSU Paducah participated in a conference call with USACE St. Louis and River Industry Action Committee (RIAC) leadership concerning the rock removal project. RIAC is an association of companies and organizations who are stakeholders in the commercial industry on the inland rivers. During this call, based on low water, river conditions, industry use and concerns, the Coast Guard determined that implementing vessel restrictions and requirements and possible river closures may be necessary when the rock removal contractor is working in specific locations for safety purposes. The RIAC leadership participating on this call agreed that these safety measures are necessary. Similar safety measures were implemented by the Coast Guard for this area from December 1, 2012 through March 31, 2013 based on low water conditions (77 FR 15850).

On October 17, 2013, MSU Paducah personnel attended a meeting at the USACE Jackson, MO field office with USACE personnel, the contractor for this project, and numerous RIAC member companies. During this meeting the contractor for the project expressed their safety concerns and referred to a clause in their contract that they interpreted as allowing for river closures necessary for safety reasons. The Coast Guard determined that the best course of action is for the contractor to initiate work with normal vessel traffic transiting to determine if/when and what additional safety measures are required during the rock removal project. These safety measures may include closures and/or vessel restrictions and requirements, including one-way traffic, tow size, designated vessel reporting locations, etc. as necessary when the contractor is working in certain locations for safety purposes. In addition, use of the

Automated Information System (AIS) will be vital for the Coast Guard to maintain situational awareness while the restrictions and requirements are in place and to help facilitate the clearing of vessel queues following river closures. These vessel restrictions and requirements are vital to maintaining safe navigation on the Upper Mississippi River (UMR) during the rock removal project and to resuming safe navigation as quickly as possible following river closures. As a result, the Coast Guard is implementing the RNA to protect mariners and vessels. The timing of the actual notice of definitive need for vessel restrictions does not allow for the time required to complete the NPRM process. Immediate action establishing this RNA is needed to protect persons and property from the safety hazards associated with the subsurface rock removal on the Upper Mississippi River. Delaying the effective date for this RNA to complete the NPRM process would be contrary to the public interest and would unnecessarily delay the rock removal project. Broadcast Notices to Mariners (BNM) and information sharing with RIAC will update mariners of the restrictions, requirements, and enforcement periods throughout the entire RNA, or at specific areas within the RNA.

For the same reasons, 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**. Providing 30 days notice and delaying its effective date would be contrary to public interest because immediate action is needed to protect persons, property and infrastructure from the potential damage and safety hazards associated with subsurface rock removal operations on the UMR.

B. Basis and Purpose

The legal basis and authorities for this rule are found in 33 U.S.C. 1231, 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Public Law 107–295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to establish and define RNAs.

The purpose of this RNA is to protect persons and vessels while subsurface rock removal operations are ongoing on the UMR from mile 38.0 to mile 46.0. The removal operations pose significant safety hazards to vessels and mariners operating on the UMR. Establishing the RNA to extend from mile 0.0 to mile 109.9 is necessary for the Coast Guard to maintain situational awareness of vessels operating in the UMR, and, at the request of RIAC, assist in facilitating the clearing of vessel queues following closures or restrictions of the river from mile 38.0 to mile 46.0. For these reasons, the Coast Guard is establishing the RNA to implement various waterway operational controls, including specific restrictions and requirements, for vessels transiting between mile 0.0 and 109.9 on the UMR.

C. Discussion of the Temporary Final Rule

The Coast Guard is establishing a temporary RNA for all vessel traffic on the UMR between mile 0.0 and mile 109.9, extending the entire width of the river. Within this RNA various restrictions and requirements may be put into effect based on the actual or planned subsurface rock removal operations between mile 38.0 and mile 46.0. These restrictions and requirements will be the minimum necessary to protect persons, property, and infrastructure from the potential hazards associated with low water and subsurface rock removal and may include, but are not limited to, river closures, tow size, tow configuration, vessel/barge draft, assist vessels, speed, vessel traffic reporting, hours of transit, one way traffic, and the use of AIS if fitted onboard a vessel. Enforcement times and specific restrictions and requirements will be announced via Broadcast Notice to Mariners (BNM), through outreach with the RIAC, the Local Notice to Mariners (LNM) and through other public notice. Any deviation from the requirements put into place are prohibited unless specifically authorized by the COTP Ohio Valley, or a designated representative. Deviations for the specific restrictions and regulations will be considered and reviewed on a case-by-case basis. The COTP Ohio Valley may be contacted by telephone at 1–800–253–7465 or can be reached by VHF–FM channel 16.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. This rule establishes a temporary RNA for vessels on all waters of the UMR from mile 0.0 to mile 109.9. Notifications of enforcement times of control measures and requirements put into effect for the entire RNA, or specific areas within the RNA, will be communicated to the marine community via BNM, through outreach with RIAC, and through Local Notice to Mariners (LNM). The impacts on navigation will be limited to ensuring the safety of mariners and vessels associated with hazards presented by USACE contractor operations involving subsurface rock removal, and the safe and timely resumption of vessel traffic following any river closures or restrictions associated with subsurface rock removal operations. Operational controls under this RNA will be the minimum necessary to protect mariners, vessels, the public, and the environment from known or perceived risks.

2. Impact on Small Entities

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

This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit the UMR, from November 4, 2013 to April 12, 2014. This RNA will not have a significant economic impact on a substantial number of small entities because this rule allows for the intermittent passing of vessels. Traffic in this area is limited to almost entirely recreational vessels and commercial towing vessels subject to noticed restrictions and requirements. Notifications to the marine community will be made through BNM, LNM, and communications with RIAC. Notices of changes to the RNA and effective times will also be made. Deviation from the restrictions may be requested from the COTP or designated representative and will be considered on a case-by-case basis.

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 is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist and a categorical exclusion determination will be made available as indicated under the **ADDRESSES** section.

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. A new temporary § 165.T08–0907 is added to read as follows:

§ 165.T08–0907 Regulated Navigation Area; Upper Mississippi River between mile 0.0 and 109.9, Cairo, IL to Chester, IL.

(a) *Location.* The following area is a regulated navigation area (RNA): all waters of the Upper Mississippi River between mile 0.0 and mile 109.9, Cairo, IL to Chester, IL, extending the entire width of the river.

(b) *Effective dates.* This RNA is effective and enforceable with actual notice from November 4, 2013 through April 12, 2014.

(c) *Regulations.* (1) The Captain of the Port (COTP) Ohio Valley may prescribe, for all or specific portions of the RNA, periods of enforcement and minimum operational requirements necessary to preserve safe navigation on the Upper Mississippi River during subsurface rock removal operations, including, but not limited to, the required use of assist vessels, vessel traffic reporting, and Automatic Information Systems when fitted onboard a vessel; and restrictions on the following:

(i) Tow size;
(ii) Tow configuration;
(iii) Vessel/barge draft;
(iv) Speed;
(v) Under keel clearance;
(vi) Hours of transit; and
(vii) One way traffic.

(2) All persons and vessels must comply with any requirement

prescribed under paragraph (c)(1) of this section.

(3) Persons or vessels may request an exception from any requirement prescribed under paragraph (c)(1) of this section from the COTP Ohio Valley or a designated representative who may be a commissioned, warrant, or petty officer of the Coast Guard. The COTP Ohio Valley may be contacted by telephone at 1–800–253–7465 or on VHF–FM channel 16.

(d) *Enforcement.* The COTP Ohio Valley will notify the public of the specific requirements prescribed under paragraph (c)(1) of this section and of the times when those requirements will be enforced or when enforcement will be suspended, using means designed to ensure maximum effectual notice including, but not limited to, broadcast notices to mariners (BNM) and communications through the River Industry Action Committee.

Dated: November 4, 2013.

K.S. Cook,

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

[FR Doc. 2013–27560 Filed 11–22–13; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA–R03–RCRA–2013–0571; FRL–9903–08–Region 3]

West Virginia: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: West Virginia has applied to EPA for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has determined that these revisions satisfy all requirements needed to qualify for final authorization and is authorizing West Virginia's revisions through this immediate final action. EPA is publishing this rule to authorize the revisions without a prior proposal because we believe this action is not controversial and do not expect comments that oppose it. Unless we receive written comments that oppose this authorization during the comment period, the decision to authorize West Virginia's revisions to its hazardous waste program will take effect. If we receive comments that oppose this action we will publish a document in the **Federal Register** withdrawing the relevant portions of this rule, before they take effect, and a separate document in the proposed rules section of this **Federal Register** will serve as a proposal to authorize revisions to West Virginia's program that were the subject of adverse comments.

DATES: This final authorization will become effective on January 24, 2014, unless EPA receives adverse written comments by December 26, 2013. If EPA receives any such comment, it will publish a timely withdrawal of this immediate final rule in the **Federal Register** and inform the public that this authorization will not take effect as scheduled.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–RCRA–2013–0571, by one of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

2. *Email: pratt.stacie@epa.gov.*

3. *Mail:* Stacie Pratt, Mailcode 3LC50, Office of State Programs, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103–2029.

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

You may inspect and copy West Virginia's application from 8:00 a.m. to 4:30 p.m., Monday through Friday at the following locations: West Virginia Department of Environmental Protection, (WVDEP), Division of Water and Waste Management, 601 57th Street SE., Charleston, WV 25304, Phone number: (304) 926–0499, attn: Yogesh Patel; and EPA Region III Library, 2nd Floor, 1650 Arch Street, Philadelphia, PA 19103–2029, Phone number: (215) 814–5254.

Instructions: Direct your comments to Docket ID No. EPA–R03–RCRA–2013–0571. EPA's policy is that all comments received will be included in the public file without change and may be made available on line at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The Federal *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means that EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public file and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters and any form of encryption, and be free of any defects or viruses.

FOR FURTHER INFORMATION CONTACT: Stacie Pratt, Mailcode 3LC50, Office of State Programs, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103–2029, Phone number: (215) 814–5173; email address: *pratt.stacie@epa.gov*

SUPPLEMENTARY INFORMATION:

A. Why are revisions to state programs necessary?

States that have received final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program is revised to become more stringent or broader in scope, States must revise their programs and apply to EPA to authorize the revisions. Authorization of revisions to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other revisions occur. Most commonly, States must revise their programs because of revisions to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 268, 270, 273 and 279.

B. What decisions have we made in this rule?

EPA concludes that West Virginia's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant West Virginia final authorization to operate its hazardous waste program with the revisions described in its application for program revisions, subject to the procedures described in section E,

below. West Virginia has responsibility for permitting treatment, storage, and disposal facilities (TSDFs) within its borders and for carrying out the aspects of the RCRA program described in its application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, EPA will implement those HSWA requirements and prohibitions for which West Virginia has not been authorized, including issuing HSWA permits, until the State is granted authorization to do so.

C. What is the effect of this authorization decision?

This decision serves to authorize revisions to West Virginia's authorized hazardous waste program. This action does not impose additional requirements on the regulated community because the regulations for which West Virginia is being authorized by this action are already effective and are not changed by this action. West Virginia has enforcement responsibilities under its state hazardous waste program for violations of its program, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- Perform inspections, and require monitoring, tests, analyses or reports;
- Enforce RCRA requirements and suspend or revoke permits; and
- Take enforcement actions regardless of whether West Virginia has taken its own actions.

D. Why wasn't there a proposed rule before this rule?

EPA did not publish a proposal before this rule because we view this as a routine program change and do not expect comments that oppose this approval. We are providing an opportunity for public comment now. In addition to this rule, in the proposed rules section of today's **Federal Register** we are publishing a separate document that proposes to authorize West Virginia's program revisions. If EPA receives comments that oppose this authorization, that document will serve as a proposal to authorize the revisions to West Virginia's program that were the subject of adverse comment.

E. What happens if EPA receives comments that oppose this action?

If EPA receives comments that oppose this authorization, we will withdraw this rule by publishing a document in the **Federal Register** before the rule would become effective. EPA will base any further decision on the authorization of West Virginia's program revisions on the proposal mentioned in the previous section. We will then address all public comments in a later final rule. You may not have another opportunity to comment. If you want to comment on this authorization, you must do so at this time. If we receive comments that oppose the authorization of a particular revision to West Virginia's hazardous waste program, we will withdraw that part of this rule, but the authorization of the program revisions that the comments do not oppose will become effective on the date specified above. The **Federal Register** withdrawal document will specify which part of the authorization will become effective, and which part is being withdrawn.

F. What has West Virginia previously been authorized for?

Initially, West Virginia received final authorization to implement its hazardous waste management program effective May 29, 1986 (51 FR 17739). EPA granted authorization for revisions to West Virginia's regulatory program on May 10, 2000, effective July 10, 2000 (65 FR 29973) and October 16, 2003, effective December 15, 2003 (68 FR 59542).

G. What revisions are we authorizing with this action?

On May 1, 2013, West Virginia submitted a final complete program revision application, seeking authorization of additional revisions to its program in accordance with 40 CFR 271.21. West Virginia's revision application includes: (1) Various regulations that are equivalent to, and no less stringent than, revisions to the Federal hazardous waste program, as published in the Code of Federal Regulations as of June 16, 2010, and (2) a request for EPA's approval of the State's use of the cleanup standards in its Voluntary Remediation Program (VRP) at RCRA corrective action sites.

We now make an immediate final decision, subject to receipt of written comments that oppose this action, that West Virginia's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Therefore, EPA grants West Virginia's final authorization for the following program revisions:

1. Program Revision Changes for Federal Rules

West Virginia seeks authority to administer the Federal requirements that are listed in Table 1. This Table lists the West Virginia analogs that are being recognized as no less stringent than the analogous Federal requirements. West Virginia's regulatory references are to the West Virginia Code of State Regulations, Title 33, Series 20 ''Hazardous Waste Management System'' (33 CSR 20), effective June 16, 2011; and Title 45, Series 25 ''Control of Air Pollution from Hazardous Waste Treatment, Storage and Disposal Facilities'' (45 CSR 25), effective June 16, 2011. West Virginia's application also includes a revised Program Description and Memorandum of Agreement, which explain the reorganization of the State agencies responsible for implementing the hazardous waste program, as well as the procedures that will be followed when the VRP cleanup standards are used at RCRA corrective action sites.

West Virginia is also seeking authorization for certain State-initiated changes that are not directly related to any of the Revision Checklists listed in Table 1. These State-initiated changes are related to the adoption and renumbering of provisions intended to improve the clarity of the State's regulations and to provide for necessary conforming changes as a result of changes in State agencies or in Federal amendments that do not apply to West Virginia. State regulatory provisions that have been renumbered since the 2003 authorization are listed in Table 2.

The State's statutory authority for the hazardous waste program for which it is seeking authorization is based on the following provisions from the West Virginia Code, as amended through 2010: Chapter 22, Article 18, Hazardous Waste Management Act; Chapter 22, Article 1, Department of Environmental Protection, Sections 22–1–3a, 22–1–3(c), 22–1–6(c), and 22–1–6(d)(8); Chapter 22, Article 5, Air Pollution Control, Section 22–5–1 and Chapter 22, Article 12, Groundwater Protection Act, Section 22–12–4. West Virginia's authority to incorporate the Federal program is found at W. Va. Code, Section 22–1–3(c).

TABLE 1—WEST VIRGINIA'S ANALOGS TO THE FEDERAL REQUIREMENTS

Description of Federal requirement (revision checklists [1])	Federal Register	Analogous West Virginia authority
RCRA Cluster VIII		
Clarification of Standards for Hazardous Waste LDR Treatment Variances, Revision Checklist 162.	62 FR 64504, 12/5/97	33 CSR 20, section 33–20–10.2. (At 33–20–10.2, West Virginia excludes 40 CFR 268.44 from the incorporation by reference of its Federal regulations. See Section H.1.a for discussion about Federal non-delegable provisions.)
RCRA Cluster X		
Universal Waste Rule: Specific Provisions for Hazardous Waste Lamps, Revision Checklist 181.	64 FR 36466, July 6, 1999	33 CSR 20, sections 33–20–2.1, 33–20–2.5.d, 33–20–3.1, 33–20–7.2, 33–20–8.1, 33–20–10.1, 33–20–11.1, 33–20–13.1, 33–20–13.4.
Land Disposal Restrictions Phase IV—Technical Corrections, Revision Checklist 183.	64 FR 56469, 10/20/99	33 CSR 20, sections 33–20–3.1, 33–20–5.1, 33–20–10.1.
Organobromine Production Wastes Vacatur, Revision Checklist 185.	65 FR 14472, 3/17/00	33 CSR 20, sections 33–20–3.1, 33–20–10.1.
Petroleum Refining Process Wastes—Clarification, Revision Checklist 187.	65 FR 36365, 6/8/00	33 CSR 20, sections 33–20–3.1, 33–20–10.1.
RCRA Cluster XI		
NESHAPS: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors, Revision Checklist 188.	65 FR 42292, 07/10/00; as amended 66 FR 24270, 5/14/01; and 66 FR 35087, 7/03/01.	33 CSR 20, sections 33–20–3.1, 33–20–7.2, 33–20–11.1; 45 CSR 25, sections 45–25–1.1.a, 45–25–1.5.a/Table 25–A, Item 1, 2, 22.
Chlorinated Aliphatics Listing and LDRs for Newly Identified Wastes, Revision Checklist 189.	65 FR 67068, 11/8/00	33 CSR 20, sections 33–20–3.1, 33–20–10.1.
Land Disposal Restrictions Phase IV—Deferral for PCBs in Soil, Revision Checklist 190.	65 FR 81373, 12/26/00	33 CSR 20, section 33–20–10.1.
Storage, Treatment, Transportation and Disposal of Mixed Waste, Revision Checklist 191.	66 FR 27218, 5/16/01	33 CSR 20, section 33–20–9.1.
Mixture and Derived-From Rules Revisions, Revision Checklist 192A.	66 FR 27266, 5/16/01	33 CSR 20, sections 33–20–3.1, 33–20–3.1.a.
Land Disposal Restrictions Correction, Revision Checklist 192B.	66 FR 27266, 5/16/01	33 CSR 20, section 33–20–10.1.
Change of Official EPA Mailing Address, Revision Checklist 193.	66 FR 34374, 6/28/01	33 CSR 20, section 33–20–2.1.
RCRA Cluster XII		
Mixture and Derived-From Rules Revision II, Revision Checklist 194.	66 FR 50332, 10/3/01; as amended 66 FR 60153, 12/3/01.	33 CSR 20, sections 33–20–3.1, 33–20–3.1.a.
Inorganic Chemical Manufacturing, Revision Checklist 195.	66 FR 58258, 11/20/01; as amended, 67 FR 17119, 04/09/02.	33 CSR 20, sections 33–20–3.1, 33–20–10.1.
CAMU Amendments, Revision Checklist 196	67 FR 2962, 1/22/02;	33 CSR 20, sections 33–20–2.1, 33–20–7.2.
Hazardous Air Pollutant Standards for Combustors: Interim Standards, Revision Checklist 197.	67 FR 6792, 2/13/02	33 CSR 20, sections 33–20–7.2, 33–20–8.1, 33–20–9.1, 33–20–11.1; 45 CSR 25, sections 45–25–1.1.a 45–25–1.5.a/Table 25–A, Items 1, 2, 3, 15, 16, 17 and 27.
Hazardous Air Pollutant Standards for Combustors: Corrections, Revision Checklist 198.	67 FR 6968, 2/14/02	33 CSR 20, sections 33–20–9.1, 33–20–11.1; 45 CSR 25, sections 45–25–1.1.a, 45–25–1.5.a/Table 25–A, Items 2 and 15.
Vacatur of Mineral Processing Spent Materials Being Reclaimed as Solid Wastes and TCLP Use with MGP Waste, Revision Checklist 199.	67 FR 11251, 3/13/02	33 CSR 20, section 33–20–3.1.
RCRA Cluster XIII		
Zinc Fertilizers Made from Recycled Hazardous Secondary Materials, Revision Checklist 200.	67 FR 48393, 7/24/02	33 CSR 20, sections 33–20–3.1, 33–20–9.1, 33–20–10.1
National Treatment Variance for Radioactively Contaminated Batteries, Revision Checklist 201.	67 FR 62618, 10/07/02	33 CSR 20, section 33–20–10.1.
NESHAP: Standards for Hazardous Air Pollutants for Hazardous Waste Combustors-Corrections, Revision Checklist 202.	67 FR 77687, 12/19/02	33 CSR 20, sections 33–20–11.1; 45 CSR 25, sections 45–25–1.1.a, 45–25–1.5.a/Table 25–A, Items 2, 3, 16 and 17.

TABLE 1—WEST VIRGINIA'S ANALOGS TO THE FEDERAL REQUIREMENTS—Continued

Description of Federal requirement (revision checklists [1])	Federal Register	Analogous West Virginia authority
RCRA Cluster XIV		
Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Recycled Used Oil Management Standards, Revision Checklist 203.	68 FR 44659, 7/30/03	33 CSR 20, sections 33–20–3.1, 33–20–14.1.
NESHAP: Surface Coating of Automobiles and Light-Duty Trucks, Revision Checklist 205.	69 FR 22601, 4/26/04	45 CSR 25, sections 45–25–1.1.a, 45–25–1.5.a/Table 25–A, Item 9.
RCRA Cluster XV		
Nonwastewaters from Productions of Dyes, Pigments, and Food, Drug, and Cosmetic Colorants, Revision Checklist 206.	70 FR 9138, 2/24/05; as amended 70 FR 35032, 6/16/05.	33 CSR 20, sections 33–20–3.1, 33–20–10.1.
Testing and Monitoring Activities: Methods Innovation Rule and SW–846 Update IIIB, Revision Checklist 208.	70 FR 34538, 6/14/05; as amended 70 FR 44150, 8/01/05.	33 CSR 20, sections 33–20–2.1, 33–20–2.3, 33–20–3.1, 33–20–7.2, 33–20–8.1, 33–20–9.1, 33–20–10.1, 33–20–11.1, 33–20–14.1; 45 CSR 25, sections 45–25–1.1.a, 45–25–1.5.a/Table 25–A, Items 2, 3, 7, 9, 11, 15, 16, 17 and 19.
RCRA Cluster XVI		
Mercury-Containing Equipment, Revision Checklist 209	70 FR 45508, 8/05/05	33 CSR 20, sections 33–20–2.1, 33–20–3.1, 33–20–7.2, 33–20–8.1, 33–20–10.1, 33–20–11.1, 33–20–13.1.
Revision of Wastewater Treatment Exemptions for Hazardous Waste Mixtures, Revision Checklist 211.	70 FR 57769, 10/04/05	33 CSR 20, sections 33–20–3.1, 33–20–3.1.a.
National Emission Standards for Hazardous Air Pollutants: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors, Revision Checklist 212.	70 FR 59401, 10/12/05	33 CSR 20, sections 33–20–2.1, 33–20–7.2, 33–20–8.1, 33–20–9.1, 33–20–11.1; 45 CSR 25, sections 45–25–1.1.a, 45–25–1.5.a/Table 25–A, Items 1, 2, 3, 8, 10, 15, 16, 17, 24 and 27.
Burden Reduction Initiative, Revision Checklist 213	71 FR 16862, 4/04/06	33 CSR 20, sections 33–20–2.1*, 33–20–3.1, 33–20–7.2, 33–20–7.4.c , 33–20–8.1, 33–20–9.1, 33–20–10.1, 33–20–11.1; 45 CSR 25, sections 45–25–1.1.a, 45–25–1.5.a/Table 25–A, Items 1, 9 and 15. * West Virginia incorporates by reference 40 CFR part 260 at 33–20–2.1, however, the state is not being authorized for the definition of "Performance Track member facility", see section H.1.d for discussion.
RCRA Cluster XVII		
Corrections to Errors in the Code of Federal Regulations, Revision Checklist 214.	71 FR 40254, 7/14/06	33 CSR 20, sections 33–20–2.1, 33–20–3.1, 33–20–5.1, 33–20–5.4, 33–20–5.5, 33–20–7.2, 33–20–7.4, 33–20–7.5, 33–20–7.6, 33–20–7.7, 33–20–8.1, 33–20–8.2, 33–20–8.5, 33–20–9.1, 33–20–10.1, 33–20–10.2, 33–20–11.1, 33–20–13.1, 33–20–14.1; 45 CSR 25, sections 45–25–1.1.a, 45–25–1.5.a/Table 25–A, Items 1, 5, 7, 9, 11, 15 and 19.
Cathode Ray Tubes Rule, Revision Checklist 215	71 FR 42928, 7/28/06	33 CSR 20, sections 33–20–1.5.a, 33–20–2.1, 33–20–3.1; 45 CSR 25, sections 45–25–1.1.a, 45–25–1.5.a/Table 25–A, Item 22.
RCRA Cluster XVIII		
Exclusion of Oil-Bearing Secondary Materials Processed in a Gasification System to Produce Synthesis Gas, Revision Checklist 216.	73 FR 57, 1/02/08	33 CSR 20, sections 33–20–2.1, 33–20–3.1.
NESHAP: Final Standards for Hazardous Waste Combustors (Phase I Final Replacement Standards and Phase II) Amendments, Revision Checklist 217.	73 FR 18970, 4/08/08	33 CSR 20, sections 33–20–7.2, 33–20–9.1; 45 CSR 25, sections 45–25–1.1.a, 45–25–1.5.a/Table 25–A, Items 1 and 15.
F019 Exemption for Wastewater Treatment Sludges from Auto Manufacturing Zinc Phosphating Processes, Revision Checklist 218.	73 FR 31756, 6/04/08	33 CSR 20, sections 33–20–3.1.

TABLE 1—WEST VIRGINIA'S ANALOGS TO THE FEDERAL REQUIREMENTS—Continued

Description of Federal requirement (revision checklists [1])	Federal Register	Analogous West Virginia authority
RCRA Cluster XIX		
Academic Laboratories Generator Standards, Revision Checklist 220.	73 FR 72912, 12/1/08	33 CSR 20, sections 33–20–3.1, 33–20–5.1.
Expansion of RCRA Comparable Fuel Exclusion, Revision Checklist 221.	73 FR 77954, 12/19/08	33 CSR 20, sections 33–20–3.1; 45 CSR 25, sections 45–25–1.1.a, 45–25–1.5.a/Table 25–A, Items 21 and 22.
RCRA Cluster XX		
OECD Requirements; Export Shipments of Spent Lead-Acid Batteries, Revision Checklist 222.	75 FR 1236, 1/08/10	33 CSR 20, sections 33–20–1.5.a, 33–20–5.1, 33–20–5.4, 33–20–5.5, 33–20–6.1, 33–20–6.2, 33–20–7.2, 33–20–7.3, 33–20–8.1, 33–20–8.2, 33–20–9.1.
Hazardous Waste Technical Corrections and Clarifications, Revision Checklist 223.	75 FR 12989, 3/18/10	33 CSR 20, sections 33–20–2.1, 33–20–3.1, 33–20–5.1, 33–20–5.3, 33–20–6.1, 33–20–6.2, 33–20–7.2, 33–20–8.1, 33–20–9.1, 33–20–10.1, 33–20–11.1; 45 CSR 25, sections 45–25–1.1.a, 45–25–1.5.a/Table 25–A, Items 15, 20, 21 and 23.
Withdrawal of the Emission Comparable Fuel Exclusion under RCRA, Revision Checklist 224.	75 FR 33712, 6/15/10	33 CSR 20, sections 33–20–3.1; 45 CSR 25, sections 45–25–1.1.a, 45–25–1.5.a/Table 25–A, Items 20 and 22.

[1] A Revision Checklist is a document that addresses the specific revisions made to the Federal regulations by one or more related final rules published in the **Federal Register**. EPA develops these checklists as tools to assist States in developing their authorization applications and in documenting specific State analogs to the Federal Regulations. For more information see EPA's RCRA State Authorization Web page at *http://www.epa.gov/osw/laws-regs/state/index.htm*.

2. State-Initiated Changes

West Virginia has amended its regulations by adopting and renumbering provisions intended to improve the clarity of the State's regulations and to provide for necessary conforming changes as a result of changes in State terms and agencies, or Federal amendments that do not apply to West Virginia. In addition, 33–20–5.5 as found in the July 1, 2001 regulations was removed. This provision specifically incorporated by reference the March 8, 2000 federal final rule addressed by Revision Checklist 184 and was necessary because at the time, West Virginia incorporated by reference 40 CFR as of July 1, 1999. The provision is no longer necessary because West Virginia now incorporates by reference 40 CFR as of June 16, 2010. EPA has evaluated the changes and has determined that the State's regulations remain consistent with, and are no less stringent than, the corresponding Federal regulations. Table 2 lists those State regulatory provisions that have been renumbered since the 2003 authorization.

TABLE 2—REDESIGNATED PROVISIONS IN WEST VIRGINIA'S HAZARDOUS WASTE REGULATIONS

State citation as found in 33CSR20, effective July 1, 2001	State citation as found in 33CSR20, effective June 16, 2011
33–20–5.3	33–20–5.4.
33–20–5.4	33–20–5.5.
33–20–7.4 through 33–20.7.8	33–20–7.3 through 33–20.7.7.
33–20–8.3 through 33–20.8.6	33–20–8.2 through 33–20.8.5.
33–20–10.3	33–20–10.2.
33–20–10.5	33–20–10.3.
33–20–11.3 through 11.22	33–20–11.2 through 11.21.
33–20–13.4 through 13.6	33–20–13.2 through 13.4.

3. The West Virginia Voluntary Remediation Program as It Relates to the State's RCRA Corrective Action Program

On December 15, 2003, EPA approved the State's application for revision of the State authorized Hazardous Waste Program. The 2003 approval included, among other things, the authority for the State to implement corrective action at hazardous waste sites. EPA's authorization of the State's Corrective Action Program related to corrective action permitting responsibilities under RCRA sections 3004(u) and (v). West Virginia is now seeking approval to utilize, at RCRA corrective action sites, the cleanup standards in its Voluntary Remediation Program (VRP), as set forth in its Voluntary Remediation and Redevelopment Act (Chapter 22, Article 22 of the West Virginia Code) and its implementing regulations in Title 60, Series 3 of the Code of State Regulations (60 CSR 3), ''Voluntary Remediation And Redevelopment Rule,'' effective May 1, 2012.

EPA has reviewed the Voluntary Remediation Program that was in effect in 2008, and in a letter to WVDEP dated August 21, 2008, EPA identified areas where the VRP standards are potentially inconsistent with EPA corrective action requirements and guidance documents. However, EPA agrees to allow the use of the VRP standards to the extent that the requirements of the VRP are consistent with and no less stringent than the federal corrective action requirements, and that completed cleanups are consistent with EPA goals. For those

sites where EPA has determined that the application of VRP standards will not result in cleanups that are protective of the environment, West Virginia will use the appropriate EPA requirement to assure that the cleanup will protect the environment.

This approval to allow the use of the cleanup standards of the VRP at RCRA corrective action sites and the Memorandum of Agreement (MOA) between the State and EPA do not alter the corrective action authorities granted to the State in 2003. The MOA sets forth more specific detail regarding how the State will implement corrective action at hazardous waste sites and clarifies the role of the VRP cleanup standards within the Corrective Action Program. However, no provision of the Voluntary Remediation and Redevelopment Act or regulations promulgated pursuant thereto relieves any person of the responsibility to comply with any otherwise applicable portion of the authorized hazardous waste program or prevents the State from exercising the full extent of its authority corresponding to the state program approval requirements found in 40 CFR 271.16 (''Requirements for enforcement authority''), in any matter.

H. Where are the revised West Virginia rules different from the Federal rules?

1. Rules for Which West Virginia Is Not Seeking Authorization

West Virginia is not seeking authorization for the following RCRA revisions that are found in 40 CFR as of June 16, 2010:

(a) West Virginia is not seeking authorization for, and has appropriately left authority with EPA, for non-delegable federal rules. Non-delegable federal rules address certain functions for which EPA must retain authority, including treatment standards variances at 40 CFR 268.44(a)-(g). At section 33–20–1.5.a, West Virginia excludes from its substitution of state terms, federal rules that cannot be delegated to the state. In some cases, West Virginia also excludes non-delegable rules from its incorporation by reference. For example, at section 33–20–10.2, West Virginia excludes 40 CFR 268.44 from its incorporation by reference of 40 CFR part 268. EPA will continue to implement these requirements as appropriate.

(b) In its hazardous waste management rules at 33 CSR 20 effective June 16, 2011, West Virginia has incorporated by reference the Uniform Hazardous Waste Manifest final rules (70 FR 10776; 3/04/05 as amended June 16, 2005 at 70 FR 35034; Revision Checklist 207). However, the West Virginia Public Service Commission rules at 150 CSR 11, effective December 24, 2002, and the WV Department of Transportation regulations at 157 CSR 7, effective April 17, 2012, do not contain analogs to some of the 40 CFR part 263 requirements for transporters that were revised by the March 4, 2005 and June 16, 2005 final rules.

(c) At § 33–20–11.1, West Virginia has incorporated by reference 40 CFR part 267, as introduced by the September 8, 2005 final rule addressing Standardized Permits for RCRA Hazardous Waste Management Facilities (70 FR 53420–53478, Revision Checklist 210). However, West Virginia is not being authorized for this final rule because after reviewing the state's regulations, EPA found that West Virginia has not correctly adopted all of the revisions introduced by the Standardized Permit rule.

(d) West Virginia is not seeking authorization for the National Environmental Performance Track Program (4/22/04, 69 FR21737; as amended 10/25/04, 69 FR 62217; Revision Checklist 204). On March 16, 2009, EPA announced its intention to halt and review the National Performance Track Program.

2. More Stringent West Virginia Rules

The West Virginia hazardous waste program contains some provisions that are more stringent than is required by the RCRA program as codified in the June 16, 2010 edition of title 40 of the Code of Federal Regulations (CFR). These more stringent provisions are being recognized as a part of the Federally-authorized program. The specific more stringent provisions are also noted in West Virginia's authorization application. They include, but are not limited to, the following:

(a) At § 33–20–3.1.a, West Virginia requires the owner and operator to comply with additional requirements beyond the Federal requirements in order for a mixture of waste and one or more hazardous wastes identified in 40 CFR 261.3(a)(2)(iv) to be exempt from the definition of hazardous waste. This makes the State more stringent.

(b) At § 33–20–5.4 and 33–20–5.5, West Virginia is more stringent because the state requires copies of all documents sent to EPA in compliance with 40 CFR parts 262 Subparts E and H, to also be sent to the state.

(c) At § 33–20–7.3 and 33–20–8.2, West Virginia is more stringent in that the State requires that the notification sent to EPA in compliance with 40 CFR 264.12(a) and 265.12(a), also be sent to the state.

I. Who handles permits after this authorization takes effect?

After this authorization revision, West Virginia will issue permits for all the provisions for which it is authorized and will administer the permits it issues. EPA will continue to administer any RCRA hazardous waste permits or portions of permits that we issued prior to the effective date of this authorization. Until such time as formal transfer of EPA permit responsibility to West Virginia occurs and EPA terminates its permit, EPA and West Virginia agree to coordinate the administration of permits in order to maintain consistency. We will not issue any more new permits or new portions of permits for the provisions listed in Section G after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which West Virginia is not yet authorized.

J. How does this action affect Indian Country (18 U.S.C. 115) in West Virginia?

West Virginia is not seeking authorization to operate the program on Indian lands, since there are no Federally-recognized Indian lands in West Virginia.

K. What is codification and is EPA codifying West Virginia's hazardous waste program as authorized in this rule?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. We do this by referencing the authorized State rules in 40 CFR part 272. We reserve the amendment of 40 CFR part 272, subpart XX, for this authorization of West Virginia's program revisions until a later date.

L. Administrative Requirements

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This action authorizes State requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Because this action authorizes pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required

by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). For the same reason, this action would not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). In any case, Executive Order 13175 does not apply to this rule since there are no Federally recognized tribes in the State of West Virginia.

This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks that may disproportionately affect children. This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

Under RCRA 3006(b), EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 3701, et seq.) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 18, 1988) by examining the takings implications of the rule in accordance with the Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2); this action will be effective January 24, 2014.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: November 1, 2013.

Shawn M. Garvin,

Regional Administrator, EPA Region III.

[FR Doc. 2013–28151 Filed 11–22–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–1986–0005; FRL–9903–02–Region 5]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Deletion of the Columbus Old Municipal Landfill #1 Superfund Site

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

ACTION: Direct final rule.

SUMMARY: The U.S. Environmental Protection Agency Region 5 is publishing a direct final Notice of Deletion of the Columbus Old Municipal Landfill #1 Superfund Site (Site) located in Bartholomew County, Indiana from the National Priorities List (NPL). The NPL, promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final deletion is being published by EPA with the concurrence of the State of Indiana, through the Indiana Department of Environmental Management (IDEM), because EPA has determined that all appropriate response actions under CERCLA, other than operation, maintenance, and five-year reviews, have been completed. However, this deletion does not preclude future actions under Superfund.

DATES: This direct final deletion is effective January 24, 2014 unless EPA receives adverse comments by December 26, 2013. If adverse comments are received, EPA will publish a timely withdrawal of the direct final deletion in the **Federal Register** informing the public that the deletion will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–SFUND–1986–0005, by one of the following methods:

- *http://www.regulations.gov:* Follow online instructions for submitting comments.
- *Email:* Bernard Schorle, Remedial Project Manager, at *schorle.bernard@epa.gov* or Janet Pope, Community Involvement Coordinator, at *pope.janet@epa.gov*.
- *Fax:* Gladys Beard, NPL Deletion Process Manager, at (312) 697–2077.
- *Mail:* Bernard Schorle, Remedial Project Manager, U.S. Environmental Protection Agency (SR–6J), 77 West Jackson Boulevard, Chicago, IL 60604, (312) 886–4746 or Janet Pope, Community Involvement Coordinator, U.S. Environmental Protection Agency (SI–7J), 77 West Jackson Boulevard, Chicago, IL 60604, (312) 353–0628 or toll free at 1 (800) 621–8431.
- *Hand delivery:* Janet Pope, Community Involvement Coordinator, U.S. Environmental Protection Agency (SI–7J), 77 West Jackson Boulevard, Chicago, IL 60604. Such deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information. The normal hours are Monday through

Friday, 8:30 a.m. to 4:30 p.m. CST, excluding federal holidays.

Instructions: Direct your comments to Docket ID no. EPA–HQ–SFUND–1986–0005. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *http://www.regulations.gov*, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in the hard copy. Publicly available docket materials are available either electronically at *http://www.regulations.gov* or in hard copy at:

- U.S. Environmental Protection Agency Region 5, 77 West Jackson Boulevard, Chicago, IL 60604, Phone: (312) 353–1063, Hours: Monday through Friday, 8:30 a.m. to 4:30 p.m. CST, excluding federal holidays.
- Bartholomew County Public Library, 536 Fifth Street, Columbus, IN 47201, Phone: (812) 379–1255, Hours: Monday through Thursday, 8:30 a.m. to 9:00 p.m. EST; Friday and Saturday, 8:30 a.m. to 6:00 p.m. EST; and Sunday, 1:00 p.m. to 4:00 p.m. EST.

FOR FURTHER INFORMATION CONTACT: Bernard Schorle, Remedial Project Manager, U.S. Environmental Protection Agency (SR–6J), 77 West Jackson Boulevard, Chicago, IL 60604, (312) 886–4746, *schorle.bernard@epa.gov*.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Site Deletion
V. Deletion Action

I. Introduction

EPA Region 5 is publishing this direct final Notice of Deletion of the Columbus Old Municipal Landfill #1 Superfund Site (Site) from the National Priorities List (NPL) and requests public comments on this proposed action. The NPL constitutes Appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, as amended. EPA maintains the NPL as the list of sites that appear to present a significant risk to public health, welfare, or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund (Fund). This deletion of the Columbus Old Municipal Landfill #1 Superfund Site is proposed in accordance with 40 CFR 300.425(e) and is consistent with the Notice of Policy Change: Deletion of Sites Listed on the National Priorities List, (51 FR 21054) on June 10, 1986. As described in 40 CFR 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for Fund-financed remedial actions if future conditions warrant such actions.

Because EPA considers this action to be noncontroversial and routine, this action will be effective January 24, 2014 unless EPA receives adverse comments by December 26, 2013. Along with this direct final Notice of Deletion, EPA is co-publishing a Notice of Intent to Delete in the *''Proposed Rules''* section of the **Federal Register**. If adverse comments are received within the 30-day public comment period on this deletion action, EPA will publish a timely withdrawal of this direct final Notice of Deletion before the effective date of the deletion, and the deletion will not take effect. EPA will, as appropriate, prepare a response to comments and continue with the deletion process on the basis of the Notice of Intent to Delete and the comments already received. There will be no additional opportunity to comment.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Columbus Old Municipal Landfill #1 Superfund Site and demonstrates how it meets the deletion criteria. Section V discusses EPA's action to delete the site from the NPL unless adverse comments are received during the public comment period.

II. NPL Deletion Criteria

The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making such a determination pursuant to 40 CFR 300.425(e), EPA will consider, in consultation with the State, whether any of the following criteria have been met:

i. Responsible parties or other persons have implemented all appropriate response actions required;

ii. All appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

iii. The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

Pursuant to CERCLA Section 121(c) and the NCP, EPA conducts five-year reviews to ensure the continued protectiveness of remedial actions where hazardous substances, pollutants, or contaminants remain at a site above levels that allow for unlimited use and unrestricted exposure. EPA conducts such five-year reviews even if a site is deleted from the NPL. EPA may initiate further action to ensure continued protectiveness at a deleted site if new information becomes available that indicates it is appropriate. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system.

III. Deletion Procedures

The following procedures apply to deletion of the Old Municipal Landfill #1 Superfund Site:

(1) EPA consulted with the State of Indiana prior to developing this direct final Notice of Deletion and the Notice of Intent to Delete co-published today in

the *''Proposed Rules''* section of the **Federal Register**.

(2) EPA has provided the State 30 working days for review of this direct final Notice of Deletion and the parallel Notice of Intent to Delete prior to their publication today, and the State, through the Indiana Department of Environmental Management (IDEM), has concurred on the deletion of the Site from the NPL.

(3) Concurrently with the publication of this direct final Notice of Deletion, a notice of the availability of the parallel Notice of Intent to Delete is being published in a major local newspaper, *The Republic.* The newspaper notice announces the 30-day public comment period concerning the Notice of Intent to Delete the Site from the NPL.

(4) EPA placed copies of documents supporting the proposed deletion in the deletion docket and made these items available for public inspection and copying at the Site information repositories identified above.

(5) If adverse comments are received within the 30-day public comment period on this deletion action, EPA will publish a timely notice of withdrawal of this direct final Notice of Deletion before its effective date and will prepare a response to comments. EPA may continue with the deletion process on the basis of the Notice of Intent to Delete and the comments already received.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions.

IV. Basis for Site Deletion

The following information provides EPA's rationale for deleting the Columbus Old Municipal Landfill #1 Superfund Site from the NPL.

Site Background and History

The Columbus Old Municipal Landfill #1 Superfund Site (CERCLIS ID IND980607626) is located in Bartholomew County, Indiana, approximately one-quarter mile southwest of Columbus, Indiana. The Site is bounded to the west by farmland, with a small portion abutting State Road 11; to the east by the East Fork of the White River; to the north by 3rd Street Bridge; and to the south by a gravel quarry pond. The closest residence to the Site is less than one-half mile away. Approximately 33,000 people live within a three-mile radius of the Site. Private wells are located within one-half mile of the Site, and public wells for water supply are located within three miles.

The City of Columbus operated the Site from 1938 until 1966 and accepted household solid waste, along with commercial and industrial solid wastes, at the landfill. Municipal and industrial wastes may have included solvents, acids, bases, paints, and heavy metals. The wastes were deposited in the unlined landfill. Cover material, consisting of river sediment dredged from the adjacent East Fork of the White River, was placed over the fill material in the late 1960s.

In August 1981, the Cummins Engine Company (now Cummins Inc.) notified EPA under the provisions of Section 103(c) of CERCLA that the Site had received potentially hazardous industrial wastes. The Site was proposed to the NPL on September 18, 1985 (FR 50 37950) and finalized on June 10, 1986 (FR 51 21054). EPA, IDEM, and the three potentially responsible parties (PRPs) for the Site, Cummins Engine Company, City of Columbus, and Arvin Industries (now operating as ArvinMeritor), entered into an Administrative Order on Consent (AOC) in 1987. The AOC required the PRPs to conduct a remedial investigation/feasibility study (RI/FS) at the Site. EPA assumed the role of the lead enforcement agency and conducted oversight during the RI/FS.

Remedial Investigation and Feasibility Study

The remedial investigation (RI) commenced in October 1988. The RI report, which focused on surface soil, subsurface soil, groundwater, surface water, sediments, landfill waste, and possible leachate seeps, was finalized and approved by EPA in August 1990. Based on the results of the investigation, the baseline risk assessment indicated that the landfill posed no threat to human health or the environment in its condition at the time. EPA, therefore, concluded that no further action was needed at the Site, except for the installation of two additional monitoring wells and periodic monitoring of groundwater.

During the drafting of the feasibility study (FS), the PRPs requested that the remedial alternatives developed for the Site incorporate the potential placement of a road and bridge across the Site. This was to be considered because plans developed by the Indiana Department of Transportation, in cooperation with the City of Columbus, called for having a section of State Highway 46 re-routed over the northwest portion of the Site. EPA and IDEM agreed to the request and evaluated the potential environmental impacts of placing the road and bridge across the landfill in a separate report entitled ''Technical Supplement to the Feasibility Study,'' dated November 7, 1991. The FS report was finalized and approved in December 1991.

While the RI demonstrated that no unacceptable levels of contamination were present at the Site in its condition at the time, the FS and Technical Supplement concluded that placement of the road and bridge across the landfill could potentially result in future releases of contaminants into the environment as a result of the load induced by the roadway fill material.

Record of Decision Findings

The Record of Decision (ROD) for the Site was signed on March 31, 1992. The ROD selected the following remedy:

1. Installation of two groundwater monitoring wells to augment the existing well network;
2. Implementation of a groundwater monitoring program;
3. Implementation of a landfill cover inspection and maintenance program, including a provision for periodic leachate seep inspections;
4. Development of a groundwater recovery system implementation plan;
5. Implementation of deed restrictions on land and water use on the landfill; and
6. Installation of a fence with appropriate warning signs around the landfill.

Response Actions

A remedial design/remedial action work plan, approved in October 1993, was developed to guide implementation of the elements required in the ROD. Installation of the two additional monitoring wells was completed in November 1993, and the PRPs began bi-monthly monitoring and inspection of the Site in December 1993. EPA's pre-final inspection was conducted in August 1994, at which point the construction of the remedy was considered complete. The Site achieved construction completion with the signing of the Preliminary Close-Out Report on September 15, 1994. The PRPs continued bi-monthly monitoring and inspections until the construction of the new bridge and approach road over the landfill was completed in May 1999. The fence around the landfill was installed immediately following the completion of construction and prior to

the opening of the bridge in April 1999. The warning signs along the fence were posted as specified. After the road and bridge construction was completed, the PRPs continued groundwater monitoring and inspection bi-monthly from May through October 1999 and then semi-annually through April 2003.

A Declaration of Restrictions and Covenants Upon Real Estate was signed by the land owners and filed in the Bartholomew County Office of Registrar of Deeds in June 1993, restricting land and water use on-site during and after the construction of the road and bridge. It was determined during the 2005 Five-Year Review (FYR), however, that this deed restriction encompassed only the southern portion of the landfill. As a result, an Environmental Protection Easement and Environmental Restrictive Covenant was drafted to restrict land and groundwater use on the northern portion of the landfill, now owned by the City of Columbus. This Covenant was executed by all necessary parties and filed in December 2010. With the filing of the Covenant and a final site inspection conducted in November 2009, the remedial action (RA) was considered complete. The final RA report was approved in January 2011.

Although the ROD stated that EPA would request the local municipality to enact a zoning ordinance to forbid use of the site and restrict drilling of groundwater wells, this was not necessary because the City of Columbus and the other owners of the Site agreed to restrict use and prohibit installation of groundwater wells at the Site by recording real estate restrictions. This achieved the remedial action objective by providing binding restrictions on current and future landowners.

Cleanup Goals

IDEM identified thirteen wells, eleven existing and two new wells, for bi-monthly monitoring in order to evaluate the potential impact on the landfill from the road and bridge construction activities. Groundwater monitoring data was collected from the thirteen wells between December 1993 and October 1999, which was before, during, and after the road and bridge construction activities at the Site. Based on the review of groundwater data before and after construction, there is no evidence that the construction activities had an effect on the groundwater quality or physical condition of the landfill Site.

In December 1999, the PRPs submitted a summary and review of groundwater data collected bi-monthly over the 1993–1999 time period. IDEM approved the report in January 2000. With the approval of the report, the monitoring program was changed to semi-annual sampling. Semi-annual sampling was conducted over the remainder of a five-year cycle, which commenced with the first bi-monthly sampling event during road and bridge construction in April 1998. The cycle was completed in April 2003 with the final groundwater-monitoring event.

IDEM approved the Final Remedial Action Completion Report submitted by the PRPs on January 31, 2011. The report summarized the groundwater monitoring and sampling work performed at the Site over the 11-year period. The report found no evidence that construction activities had an effect on the concentration and distribution of target compounds in groundwater at the Site. Since groundwater monitoring concentrations were consistently below the maximum contaminant levels and no additional actions were necessary, approval was granted by IDEM and EPA to permanently abandon the groundwater wells. This action was completed in November 2010, and the well abandonment activities were approved by IDEM in February 2011.

Operation and Maintenance

Landfill inspections will continue to be done annually in accordance with the October 2012 Operation and Maintenance Plan. The landfill cover and fence are inspected annually and following any major flooding event to verify cover integrity and look for signs of excessive trespassing or dumping of wastes. In addition, the annual inspections serve to determine compliance with the provisions of the Declaration of Restrictions and Covenants Upon Real Estate and the Environmental Protection Easement and Environmental Restrictive Covenant. These inspections also verify that the Site is not being used for prohibited activities and that the documents specifying the property use restrictions are still on record with the Bartholomew County Recorder.

Five-Year Review

The Site requires ongoing statutory FYRs because hazardous substances, pollutants, or contaminants remain onsite. FYRs were completed in August 2000, September 2005 and May 2010. The most recent FYR concluded that the selected remedy was protective of human health and the environment in the short term. However, an environmental restrictive covenant for the northern part of the landfill was needed for long-term protectiveness, which requires compliance with effective institutional controls (ICs). The environmental restrictive covenant was recorded in December 2010, and the October 2012 Operation and Maintenance Plan provides the procedures to be used for long-term stewardship.

Community Involvement

Public participation activities have been satisfied as required in CERCLA Section 113(k), 42 U.S.C. 9613(k), and CERCLA section 117, 42 U.S.C. 9617. Documents in the deletion docket which EPA relied on for recommendation of the deletion of this Site from the NPL are available to the public in the information repositories and at *www.regulations.gov.*

Determination That the Site Meets the Criteria for Deletion in the NCP

The implemented remedy achieves the degree of cleanup specified in the ROD for all pathways of exposure. All selected remedial action objectives and clean-up goals are consistent with Agency policy and guidance. No further Superfund response actions are needed to protect human health and the environment at the Site.

The NCP (40 CFR 300.425(e)) states that a site may be deleted from the NPL when no further response action is appropriate. EPA, in consultation with the State of Indiana, has determined that all required response actions have been implemented and no further action is appropriate.

V. Deletion Action

EPA with the concurrence of the State of Indiana, through IDEM, has determined that all appropriate response actions under CERCLA, other than operation, maintenance, and five-year reviews, have been completed. Therefore, EPA is deleting the Columbus Oil Municipal Landfill #1 Superfund Site from the NPL.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication. This action will be effective January 24, 2014 unless EPA receives adverse comments by December 26, 2013. If adverse comments are received within the 30-day public comment period, EPA will publish a timely withdrawal of this direct final Notice of Deletion before the effective date of the deletion, and it will not take effect. EPA will prepare a response to comments and continue with the deletion process on the basis of the Notice of Intent to Delete and the comments already received. There will be no additional opportunity to comment.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: September 16, 2013.

Susan Hedman,

Regional Administrator, Region 5.

For the reasons set out in this document, 40 CFR part 300 is amended as follows:

PART 300—[NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN]

■ 1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Appendix B—[National Priorities List]

■ 2. Table 1 of Appendix B to part 300 is amended by removing ''Columbus Old Municipal Landfill #1'', ''Columbus''.

[FR Doc. 2013–28142 Filed 11–22–13; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA–2013–0002: Internal Agency Docket No. FEMA–8311]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: This rule identifies communities where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP) that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date. Also, information identifying the current participation status of a community can be obtained from FEMA's Community Status Book (CSB). The CSB is available at *http://www.fema.gov/fema/csb.shtm.*

DATES: *Effective Dates:* The effective date of each community's scheduled suspension is the third date (''Susp.'') listed in the third column of the following tables.

FOR FURTHER INFORMATION CONTACT: If you want to determine whether a particular community was suspended on the suspension date or for further information, contact David Stearrett, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2953.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase Federal flood insurance that is not otherwise generally available from private insurers. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits the sale of NFIP flood insurance unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR Part 59. Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. We recognize that some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue to be eligible for the sale of NFIP flood insurance. A notice withdrawing the suspension of such communities will be published in the **Federal Register**.

In addition, FEMA publishes a Flood Insurance Rate Map (FIRM) that identifies the Special Flood Hazard Areas (SFHAs) in these communities. The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year on FEMA's initial FIRM for the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment procedures under 5 U.S.C. 553(b), are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, Section 1315, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless remedial action takes place.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This rule meets the applicable standards of Executive Order 12988.

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the

Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR Part 64 is amended as follows:

PART 64—[AMENDED]

■ 1. The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp.; p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp.; p. 376.

§ 64.6 [Amended]

■ 2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Region II				
New York:				
Black River, Village of, Jefferson County.	361525	July 8, 1976, Emerg; December 19, 1984, Reg; January 8, 2014, Susp.	January 8, 2014	January 8, 2014
Delanson, Village of, Schenectady County.	360737	May 20, 1975, Emerg; May 25, 1984, Reg; January 8, 2014, Susp.	.....do*	Do.
Duanesburg, Town of, Schenectady County.	361191	September 15, 1975, Emerg; February 17, 1989, Reg; January 8, 2014, Susp.	.....do	Do.
Glenville, Town of, Schenectady County	360738	August 2, 1974, Emerg; June 1, 1984, Reg; January 8, 2014, Susp.	.....do	Do.
LeRay, Town of, Jefferson County	360341	June 12, 1975, Emerg; July 3, 1985, Reg; January 8, 2014, Susp.	.....do	Do.
Niskayuna, Town of, Schenectady County.	360739	November 7, 1973, Emerg; March 1, 1978, Reg; January 8, 2014, Susp.	.....do	Do.
Princetown, Town of, Schenectady County.	361192	March 16, 1976, Emerg; July 1, 1988, Reg; January 8, 2014, Susp.	.....do	Do.
Rotterdam, Town of, Schenectady County.	360740	May 22, 1974, Emerg; June 15, 1984, Reg; January 8, 2014, Susp.	.....do	Do.
Schenectady, City of, Schenectady County.	360741	April 30, 1974, Emerg; September 30, 1983, Reg; January 8, 2014, Susp.	.....do	Do.
Scotia, Village of, Schenectady County	360742	November 7, 1974, Emerg; June 1, 1984, Reg; January 8, 2014, Susp.	.....do	Do.
Region IV				
Alabama:				
Phenix City, City of, Lee and Russell Counties.	010184	May 24, 1976, Emerg; September 16, 1981, Reg; January 8, 2014, Susp.	.....do	Do.
Russell County, Unincorporated Areas	010287	February 25, 1976, Emerg; September 16, 1981, Reg; January 8, 2014, Susp.	.....do	Do.
Kentucky: Butler County, Unincorporated Areas.	210029	January 29, 1975, Emerg; July 17, 1986, Reg; January 8, 2014, Susp.	.....do	Do.
Georgetown, City of, Scott County	210208	June 25, 1975, Emerg; February 4, 1981, Reg; January 8, 2014, Susp.	.....do	Do.
Morgantown, City of, Butler County	210242	February 10, 2006, Emerg; May 22, 2009, Reg; January 8, 2014, Susp.	.....do	Do.
Sadieville, City of, Scott County	210260	N/A, Emerg; January 16, 2009, Reg; January 8, 2014, Susp.	.....do	Do.
Scott County, Unincorporated Areas.	210207	August 14, 1975, Emerg; September 30, 1981, Reg; January 8, 2014, Susp.	.....do	Do.
Stamping Ground, City of, Scott County	210261	April 28, 1976, Emerg; March 2, 1981, Reg; January 8, 2014, Susp.	.....do	Do.
Region V				
Illinois:				
Joliet, City of, Kendall and Will Counties.	170702	April 13, 1973, Emerg; February 4, 1981, Reg; January 8, 2014, Susp.	.....do	Do.
Kendall County, Unincorporated Areas.	170341	July 5, 1973, Emerg; July 19, 1982, Reg; January 8, 2014, Susp.	.....do	Do.
Minooka, Village of, Grundy, Kendall and Will Counties.	171019	N/A, Emerg; March 12, 1992, Reg; January 8, 2014, Susp.	.....do	Do.
Montgomery, Village of, Kane and Kendall Counties.	170328	April 19, 1973, Emerg; August 15, 1979, Reg; January 8, 2014, Susp.	.....do	Do.
Oswego, Village of, Kendall County	170345	April 16, 1975, Emerg; June 1, 1982, Reg; January 8, 2014, Susp.	.....do	Do.
Plainfield, Village of, Kendall and Will Counties.	170771	May 21, 1975, Emerg; November 17, 1982, Reg; January 8, 2014, Susp.	.....do	Do.
Yorkville, City of, Kendall County	170347	April 3, 1975, Emerg; June 1, 1982, Reg; January 8, 2014, Susp.	.....do	Do.
Indiana: Brookston, Town of, White County.	180512	September 7, 1995, Emerg; N/A, Reg; January 8, 2014, Susp.	.....do	Do.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Monon, Town of, White County	180295	June 9, 1975, Emerg; May 25, 1978, Reg; January 8, 2014, Susp.	.....do	Do.
Monticello, City of, White County	180294	March 25, 1975, Emerg; May 25, 1978, Reg; January 8, 2014, Susp.	.....do	Do.
White County, Unincorporated Areas.	180447	August 3, 1979, Emerg; September 1, 1988, Reg; January 8, 2014, Susp.	.....do	Do.

*-do- =Ditto.
Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp—Suspension.

Dated: November 14, 2013.

David L. Miller,

Associate Administrator, Federal Insurance and Mitigation Administration, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2013–28095 Filed 11–22–13; 8:45 am]

BILLING CODE 9110–12–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 27

[WT Docket No. 07–293; IB Docket No. 95–91; GEN Docket No. 90–357; RM–8610; FCC 12–130]

Operation of Wireless Communications Services in the 2.3 GHz Band; Establishment of Rules and Policies for the Digital Audio Radio Satellite Service in the 2310–2360 MHz Frequency Band

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Commission announces that certain rules revised in the Amendment of part 27 of its rules to Govern the Operation of Wireless Communications Services in the 2.3 GHz Band, WT Docket No. 07–293; establishment of rules and policies for the Digital Audio Radio Satellite Service in the 2310–2360 MHz Frequency Band (WCS and SDARS) proceeding in IB Docket No. 95–91, GEN Docket No. 90–357, RM–8610; FCC 12–130, to the extent it contained information collection requirements that required approval by the Office of Management and Budget (OMB) was approved on October 31, 2013. This notice is consistent with the Order on Reconsideration, which stated that the Commission would publish a document in the **Federal Register** announcing the effective date of those rules.

DATES: 47 CFR 27.72(b) and 47 CFR 27.73(a), published at 78 FR 9605, February 11, 2013, are effective November 25, 2013.

FOR FURTHER INFORMATION CONTACT: Linda Chang, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th St. SW., Washington, DC 20554 at (202) 418–1339.

SUPPLEMENTARY INFORMATION: This document announces that, on October 31, 2013, OMB approved, for a period of three years, the revised information collection requirements relating to the access stimulation rules contained in the Commission's Order on Reconsideration, FCC 12–130, published at 78 FR 9605, February 11, 2013. The OMB Control Number is 3060–1159. The Commission publishes this notice as an announcement of the effective date of the rules.

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

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received final OMB approval on October 31, 2013, for the information collection requirements contained in the modifications to the Commission's rules in 47 CFR part 27.

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

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Number is 3060–1159.

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

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

OMB Control Number: 3060–1159.

OMB Approval Date: October 31, 2013.

OMB Expiration Date: October 31, 2016.

Title: Part 25—Satellite Communications; and part 27—Miscellaneous Wireless Communications Services in the 2.3 GHz Band.

Form Number: N/A.

Respondents: Business or other for-profit entities.

Number of Respondents: 158 respondents; 5,605 responses.

Estimated Time per Response: .5 hours to 40 hours.

Frequency of Response: On occasion and quarterly reporting requirements, recordkeeping requirement and third party disclosure requirements.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 154, 302(a), 303, 309, 332, 336 and 337 of the Communications Act of 1934, as amended.

Total Annual Burden: 24,572 hours.

Total Annual Cost: $661,950.

Privacy Impact Assessment: No impact(s).

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

Needs and Uses: On October 17, 2012, the Commission adopted an Order on Reconsideration in WT Docket No. 07–293, IB Docket No. 95–91, GEN Docket No. 90–357, FCC 12–130, which affirmed, modified and clarified the 1st and 2nd Report and Orders.

Among the actions taken in the Order on Reconsideration:

- Revised the technical rules to enhance the ability of WSC licensees to

deploy mobile broadband networks while establishing additional safeguards to protect neighboring SDARS, AMT and DSN networks from harmful interference.

• Prohibited WCS mobile and portable devices' transmissions in WCS Blocks C and D to further protect SDARS operations.

• Relaxed the WCS licensee notification requirements regarding low-power WCS stations and minor WCS station modifications, and clarified WCS notification and coordination procedures.

• Restarted and provided a limited extension of the WCS performance period to enable licensees to respond to revisions of technical rules.

The information filed by WCS licensees in support of their construction notifications will be used to determine whether licensees have complied with the Commission's performance benchmarks. Further, the information collected by licensees in support of their coordination obligations will help avoid harmful interference to SDARS, AMT and DSN operations in other spectrum bands.

Federal Communications Commission.

Gloria J. Miles,

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

[FR Doc. 2013–28118 Filed 11–22–13; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket Nos. 10–90; DA 13–598]

Survey of Urban Rates

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Federal Communications Commission (Commission) announces that the Office of Management and Budget (OMB) has approved, until October 31, 2016, the information collection associated with the Commission's Connect America Fund, Order, (*Order*), released on April 3, 2013. The Commission submitted a request for approval of a new collection under control number 3060–1192 to the OMB for review and approval, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520). This notice is consistent with the *Order,* which stated that the Commission would publish a document in the **Federal Register** announcing the effective date of those rules once it receives OMB approval.

DATES: The Commission received approval for the information collection requirements contained in 3060–1192 on October 22, 2013. Therefore, the Commission announces that these requirements become effective November 25, 2013.

FOR FURTHER INFORMATION CONTACT: Suzanne Yelen, Assistant Division Chief, Wireline Competition Bureau, at (202) 418–0626.

SUPPLEMENTARY INFORMATION: This document announces that, on October 22, 2013, OMB approved, for a period of three years, the information collection requirements contained in the Commission's *Order,* DA 13–598, published at 78 FR 29063, May 17, 2013. The OMB Control Number is 3060–1192. The Commission publishes this notice as an announcement of the effective date of paragraphs 6, 26 and Appendix A of document DA 13–598. If you have any comments on the burden estimates listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Leslie F. Smith, Federal Communications Commission, Room 1–C216, 445 12th Street SW., Washington, DC 20554, or via email at: *Leslie.Smith@fcc.gov.* Please include the OMB Control Number, 3060–1192, in your correspondence. The Commission also will accept comments via email. Please send them to *PRA@fcc.gov.*

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

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received OMB approval on October 22, 2013, for the information collection requirements contained in paragraph 6 and 26 and Appendix A of document DA 13–598.

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

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Number is 3060–1192.

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

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

OMB Control Number: 3060–1192.

OMB Approval Date: October 22, 2013.

OMB Expiration Date: October 31, 2016.

Title: Survey of Urban Rates, DA 13–598.

Form Number: N/A.

Respondents: Providers of fixed voice and fixed broadband residential services.

Number of Respondents and Responses: 1,000 respondents; 1,000 responses.

Estimated Time per Response: 3.5 hours.

Frequency of Response: Annually.

Obligation to Respond: Required. Statutory authority for this information collection is contained in 47 U.S.C. 254(b).

Total Annual Burden: 3,500 hours.

Total Annual Cost: $0.

Nature and Extent of Confidentiality: The Commission is not requesting that respondents submit confidential information to the Commission. Also, respondents may request materials or information submitted to the Commission be withheld from public inspection under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: In April 2013, the Wireline Competition Bureau of the Federal Communications Commission adopted an *Order* (*Order*), in WC Docket No. 10–90; DA 13–598, 78 FR 29063, Connect America Fund. The *Order* adopts the form and content for a survey of urban rates for fixed voice and fixed broadband residential services for purposes of implementing various reforms adopted as part of the *USF/ICC Transformation Order,* 76 FR 73830, November 29, 2011. The information collected in this survey will be used to establish a rate floor that eligible telecommunications carriers (ETCs) receiving high-cost loop support (HCLS) or frozen high-cost support must meet to receive their full support amounts and to help ensure that universal service support recipients offering fixed voice and broadband services do so at reasonably comparable rates to those in urban areas.

The rate floor and comparability requirements are important components of the Commission's overall effort to improve accountability for the use of universal service funding. The rate floor will prevent the use of universal service

subsidizes to support artificially low local rates in rural areas. The comparability requirements will ensure that rates are reasonably comparable for voice as well as broadband service, between urban and rural, insular, and high cost areas. Rates must be reasonably comparable so that consumers in rural, insular, and high cost areas have meaningful access to these services.

This *Order* requires a statistically valid sample of urban providers to complete a survey with information regarding the types and prices of their offerings. The Commission intends to implement this survey through an online reporting form accessible to those urban providers of fixed voice and broadband services that are chosen to participate. The Administrator, the Universal Service Administrative Company, may assist in administering the survey.

In the near future, the Bureau will issue a public notice providing detailed instructions and announcing the deadline for the submission of data and providing further filing information.

Federal Communications Commission.

Rodger Woock,

Chief, Industry Analysis and Technology Division, Wireline Competition Bureau.

[FR Doc. 2013–28106 Filed 11–22–13; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register

Vol. 78, No. 227

Monday, November 25, 2013

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–0218; Directorate Identifier 92–ANE–56–AD]

RIN 2120–AA64

Airworthiness Directives; Lycoming Engines, Fuel Injected Reciprocating Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede airworthiness directive (AD) 2011–26–04 that applies to certain Lycoming Engines fuel injected reciprocating engines. AD 2011–26–04 requires inspection, replacement if necessary, and proper clamping of externally mounted fuel injector fuel lines. Since we issued AD 2011–26–04, we received revised service information which adds engine models to the applicability. This proposed AD would expand the scope of affected engine models, require inspection, replacement if necessary, and proper clamping of externally mounted fuel injector fuel lines. We are proposing this AD to prevent failure of the fuel injector fuel lines, which could lead to uncontrolled engine fire, engine damage, and damage to the airplane.

DATES: We must receive comments on this proposed AD by January 9, 2014.

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

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

For service information identified in this AD, contact Lycoming Engines, 652 Oliver Street, Williamsport, PA 17701; phone 800–258–3279; fax: 570–327–7101; Internet: *www.lycoming.com/Lycoming/SUPPORT/TechnicalPublications/ServiceBulletins.aspx*. You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call (781) 238–7125.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Norm Perenson, Aerospace Engineer, New York Aircraft Certification Office, FAA, Engine & Propeller Directorate, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7337; fax: 516–794–5531; email: *norman.perenson@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2007–0218; Directorate Identifier 92–ANE–56'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

On December 5, 2011, we issued AD 2011–26–04, Amendment 39–16894 (76 FR 79051, December 21, 2011), (''AD 2011–26–04''), for certain Lycoming Engines fuel injected reciprocating engines with externally mounted fuel injector fuel lines installed. AD 2011–26–04 requires inspection, replacement if necessary, and proper clamping of externally mounted fuel injector fuel lines. AD 2011–26–04 also states that the AD does not affect engines that have a Maintenance and Overhaul Manual with an Airworthiness Limitations Section that requires inspection and replacement, if necessary, of externally mounted fuel injector fuel lines. AD 2011–26–04 resulted from Lycoming Engines revising a mandatory service bulletin (MSB) to add engine models requiring inspections. We issued AD 2011–26–04 to prevent failure of the fuel injector fuel lines, which could lead to uncontrolled engine fire, engine damage, and damage to the airplane.

Actions Since AD 2011–26–04 Was Issued

Since we issued AD 2011–26–04, Lycoming Engines issued MSB No. 342G, dated July 16, 2013, and MSB No. 342G, Supplement 1, dated August 29, 2013 to identify previously omitted engine models.

FAA's Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would add three engine models to the applicability list of affected engines in AD 2011–26–04. All other requirements of AD–2011–26–04 are retained in this proposed AD.

Costs of Compliance

We estimate that this proposed AD would affect about 17,740 engines installed on airplanes of U.S. registry. We also estimate that it will take about 4.5 hours per engine to inspect

externally mounted fuel injector fuel lines. The average labor rate is $85 per hour. Prorated parts life will cost about $2,178 per engine. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $11,160,935.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify that the proposed regulation:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2011–26–04, Amendment 39–16894 (76 FR 79051, December 21, 2011), and adding the following new AD:

Lycoming Engines (formerly Textron Lycoming Division, AVCO Corporation): Docket No. FAA–2007–0218; Directorate Identifier 92–ANE–56–AD.

(a) Comments Due Date

The FAA must receive comments on this AD action by January 9, 2014.

(b) Affected ADs

This AD supersedes AD 2011–26–04, Amendment 39–16894 (76 FR 79051, December 21, 2011).

(c) Applicability

This AD applies to Lycoming Engines fuel injected reciprocating engine models identified in Table 1 to paragraph (c) of this AD, with externally mounted fuel injector fuel lines (stainless steel tube assembly), installed.

TABLE 1 TO PARAGRAPH (C)—ENGINE MODELS AFFECTED

Engine	Model
AEIO–320	–D1B, –D2B, –E1B, –E2B.
AIO–320	–A1B, –BIB, –C1B.
IO–320	–B1A, –B1C, –C1A, –D1A, –D1B, –E1A, –E1B, –E2A, –E2B.
LIO–320	–B1A, –C1A.
AEIO–360	–A1A, –A1B, –A1B6, –A1D, –A1E, –A1E6, –B1F, –B2F, –B1G6, –B1H, –B4A, –H1A, –H1B.
AIO–360	–A1A, –A1B, –B1B.
HIO–360	–A1A, –A1B, –B1A, –C1A, –C1B, –D1A, –E1AD, –E1BD, –F1AD, –G1A.
IO–360	–A1A, –A1B, –A1B6, –A1B6D, –A1C, –A1D, –A1D6, –A2A, –A2B, –A3B6, –A3B6D, –B1B, –B1D, –B1E, –B1F, –B1G6, –B2F, –B2F6, –B4A, –C1A, –C1B, –C1C, –C1C6, –C1D6, –C1E6, –C1F, –C1G6, –F1A, –J1A6D, –M1B, –L2A, –M1A.
IVO–360	–A1A.
LIO–360	–C1E6.
TIO–360	–A1B, –C1A6D.
IGO–480	–A1B6.
AEIO–540	–D4A5, –D4B5, –D4D5, –L1B5, –L1B5D, –L1D5.
IGO–540	–B1A, –B1C.
IO–540	–A1A5, –AA1A5, –AA1B5, –AB1A5, –AC1A5, –AE1A5, –B1A5, –B1C5, –C1B5, –C1C5, –C4B5, –C4D5D, –D4A5, –D4B5, –E1A5, –E1B5, –G1A5, –G1B5, –G1C5, –G1D5, –G1E5, –G1F5, –J4A5, –V4A5D, –K1A5, –K1A5D, –K1B5, –K1C5, –K1D5, –K1E5, –K1E5D, –K1F5, K1H5, –K1J5, –K1F5D, –K1G5, –K1G5D, –K1H5, –K1J5D, –K1K5, –K1E5, –K1E5D, –K1F5, –K1J5, –L1C5, –M1A5, –M1B5D, –M1C5, –N1A5, –P1A5, –R1A5, –S1A5, –T4A5D, –T4B5, –T4B5D, –T4C5D, –V4A5, –V4A5D, –W1A5, –W1A5D, –W3A5D.
IVO–540	–A1A.
LTIO–540	–F2BD, –J2B, –J2BD, –N2BD, –R2AD, –U2A, –V2AD, –W2A.
TIO–540	–A1A, –A1B, –A2A, –A2B, –A2C, –AE2A, –AH1A, –AA1AD, –AF1A, –AF1B, –AG1A, –AB1AD, –AB1BD, –AH1A, –AJ1A, –AK1A, –C1A, –E1A, –G1A, –F2BD, –J2B, –J2BD, –N2BD, –R2AD, –S1AD, –U2A, –V2AD, –W2A.
TIVO–540	–A2A.
IO–720	–A1A, –A1B, –D1B, –D1BD, –D1C, –D1CD, –B1B, –B1BD, –C1B.

(d) Unsafe Condition

This AD was prompted by Lycoming Engines issuing Mandatory Service Bulletin (MSB) No. 342G, dated July 16, 2013 and MSB No. 342G, Supplement 1, dated August 29, 2013 which add engine models requiring inspection. We are issuing this AD to prevent failure of the fuel injector fuel lines, which could lead to uncontrolled engine fire, engine damage, and damage to the airplane.

(e) Compliance

Comply with this AD within the compliance times specified, unless already done.

(1) Initial Inspections

(i) Within 10 hours time-in-service (TIS) after the effective date of this AD, inspect the fuel injector fuel lines and clamps between the fuel manifold and the fuel injector nozzles. Use Lycoming Engines MSB No. 342G, dated July 16, 2013 and Supplement No. 1 to MSB 342G, dated August 29, 2013, to determine what must be inspected. Replace any fuel injector fuel line or clamp that fails the inspection required by the Fuel Line Inspection and Installation Checklist in MSB No. 342G.

(ii) Thereafter, re-inspect after any maintenance is done on the engine, where any clamp on a fuel injector fuel line was disconnected, moved, or loosened, and within every 110 hours TIS and after each engine overhaul. Use Lycoming Engines MSB No. 342G, dated July 16, 2013 and Supplement No. 1 to MSB 342G, dated August 29, 2013, to determine what must be inspected and the Fuel Line Inspection and Installation Checklist in MSB No. 342G to perform the re-inspection.

(2) Credit for Previous Actions

(i) If you inspected your fuel injector fuel lines and clamps using Lycoming Engines MSB 342F, dated June 4, 2010, or earlier version, you met the initial inspection requirements of this AD. However, you must still comply with the repetitive inspection requirements of paragraph (e)(1)(ii) of this AD.

(ii) Reserved.

(f) Alternative Methods of Compliance (AMOCs)

The Manager, New York Aircraft Certification Office, FAA, may approve AMOCs to this AD. Use the procedures found in 14 CFR 39.19 to make your request.

(g) Related Information

(1) For more information about this AD, contact Norm Perenson, Aerospace Engineer, New York Aircraft Certification Office, FAA, Engine & Propeller Directorate, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7337; fax: 516–794–5531; email: *norman.perenson@faa.gov*.

(2) Lycoming Engines MSB No. 342G, dated July 16, 2013, and MSB No. 342G, Supplement 1, dated August 29, 2013, pertain to the subject of this AD and can be obtained from Lycoming Engines using the contact information in paragraph (g)(3) of this AD.

(3) For service information identified in this AD, contact Lycoming Engines, 652 Oliver Street, Williamsport, PA 17701; phone: 800–258–3279; fax: 570–327–7101; Internet: *http://www.lycoming.com/Lycoming/SUPPORT/TechnicalPublications/ServiceBulletins.aspx*.

(4) You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

Issued in Burlington, Massachusetts, on November 8, 2013.

Colleen M. D'Alessandro,

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

[FR Doc. 2013–28174 Filed 11–22–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0984; Directorate Identifier 2013–SW–022–AD]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for Eurocopter (Eurocopter) France Model EC225LP helicopters. This proposed AD would require measuring the operating load of the cockpit fuel shut-off controls and replacing the tangential gearbox if the operating load threshold is exceeded. This proposed AD is prompted by the jamming of the left-hand (LH) side of the fuel shut-off and general cut-off controls (controls). The proposed actions are intended to prevent the jamming of the controls so that a pilot can shut down an engine during an engine fire or during an emergency landing.

DATES: We must receive comments on this proposed AD by January 24, 2014.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Docket:* Go to *http://www.regulations.gov*. Follow the online instructions for sending your comments electronically.
- *Fax:* 202–493–2251.
- *Mail:* Send comments to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to the ''Mail'' address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

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

For service information identified in this proposed AD, contact American Eurocopter Corporation, 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.eurocopter.com/techpub*. You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

FOR FURTHER INFORMATION CONTACT: James Blyn, Aviation Safety Engineer, Regulations and Policy Group, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5110; email *james.blyn@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, 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.

We will file in the docket all comments that we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments.

We will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

Discussion

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD No. 2013–0098–E, dated April 24, 2013, to correct an unsafe condition for Eurocopter Model EC225LP helicopters with tangential gearboxes, part number (P/N) 200181 or Eurocopter P/N 704A34112012. EASA advises that during maintenance on a helicopter, the LH side of the cockpit's emergency shutdown controls were reported jammed, making it impossible to operate the LH fuel shut-off and the general cut-out handles. ''This condition, if not detected and corrected, could lead to failure to manually operate the helicopter emergency shutdown controls during emergency landing or fire condition,'' EASA states. To address this unsafe condition, EASA AD No. 2013–0098–E requires an operating load check of the two cockpit fuel shut-off handles and, depending on findings, lubrication and/or replacement of the two tangential gearboxes.

FAA's Determination

These helicopters have been approved by the aviation authority of France and are approved for operation in the United States. Pursuant to our bilateral agreement with France, EASA, its technical representative, has notified us of the unsafe condition described in the EASA AD. We are proposing this AD because we evaluated all information provided by EASA and determined the unsafe condition exists and is likely to exist or develop on other helicopters of these same type designs.

Related Service Information

Eurocopter issued Emergency Alert Service Bulletin (ASB) No. 76A001, Revision 0, dated April 22, 2013, for the Model EC225LP civil helicopter and the Model EC725 military helicopter to notify its operators that during a scheduled inspection of the fuel shut-off controls, a mechanic noticed that one of the shut-off controls jammed. This jamming made maneuvering the fuel shut-off and the general cut-out controls impossible. After an investigation, Eurocopter determined that the jamming originated in the tangential gearbox installed on this control. Traces of corrosion were observed on the internal bearings of the LH tangential gearbox, Eurocopter reported. The jamming of the fuel cut-off control prevents the engine input fuel valve and the engine compartment ventilation flap from closing and prevents the activation of the general cut-out control.

Eurocopter consequently called for a mandatory ''check'' of the fuel shut-off valve maneuvering loads, lubricating the tangential gearbox bearings, and depending on the load measurement, replacing the tangential gearbox.

Proposed AD Requirements

This proposed AD would require:

- Within 15 hours time-in-service (TIS) or 7 days, whichever occurs first, measuring the operating load of each cockpit fuel shut-off control.
- If the operating load is more than 3 daN (6.74 ft-lb), before further flight, lubricating each tangential gearbox and measuring the operating load of each cockpit fuel shut-off control.
- If the operating load is less than or equal to 3 daN (6.74 ft-lb), within 6 months, lubricating the tangential gearbox.
- If the operating load is more than 3 daN (6.74 ft-lb) after lubricating the tangential gearbox, replacing the affected tangential gearbox before the next flight.

Differences Between This Proposed AD and the EASA AD

The EASA AD requires differing compliance times based on when the helicopter's original Certificate of Airworthiness or Export Certificate of Airworthiness was issued. This proposed AD makes no distinction regarding compliance times because there are only 4 affected aircraft on the U.S. registry.

Costs of Compliance

We estimate that this proposed AD would affect 4 helicopters of U.S. Registry and that labor costs would average $85 a work-hour. Based on these estimates, we expect the following costs:

- Measuring the operating load of the two cockpit fuel shut-off controls would require .25 work-hours for a labor cost of about $21, or $84 for the U.S. fleet. No parts would be needed.
- Lubricating the tangential gearbox would require 4 work-hours. The cost of consumable materials would be minimal for a total cost of $340 per helicopter.
- Replacing the tangential gearbox would require 4 work-hours for a labor cost of $340. Parts would cost $4,943 for a total cost of $5,283 per helicopter.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed, I certify this proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;
2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

EUROCOPTER FRANCE HELICOPTERS: Docket No. FAA–2013–0984; Directorate Identifier 2013–SW–022–AD.

(a) Applicability

This AD applies to Eurocopter France (Eurocopter) Model EC225LP helicopters with a tangential gearbox, part number (P/N) 200181 or 704A34112012, installed, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as the jamming of the fuel shut-off and the general cut-off controls. This condition could prevent a pilot from shutting down an engine during an engine fire or emergency landing.

(c) Comments Due Date

We must receive comments by January 24, 2014.

(d) Compliance

You are responsible for performing each action required by this AD within the specified compliance time unless it has already been accomplished prior to that time.

(e) Required Actions

(1) Within 15 hours time-in-service (TIS) or 7 days, whichever occurs first, measure the operating load of each cockpit fuel shut-off control.

(i) If the operating load is more than 3 daN (6.74 ft-lb), before further flight, lubricate each tangential gearbox and measure the operating load of each cockpit fuel shut-off control.

(ii) If the operating load is less than or equal to 3 daN (6.74 ft-lb), within 6 months, lubricate each tangential gearbox and measure the operating load of each cockpit fuel shut-off control.

(iii) If the operating load is more than 3 daN (6.74 ft-lb) after lubricating the tangential gearbox, replace the affected tangential gearbox before the next flight.

(2) Before installing a tangential gearbox, P/N 200181 or 704A34112012, lubricate the upper and lower bearings.

(f) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Group, FAA, may approve AMOCs for this AD. Send your proposal to: James Blyn, Aviation Safety Engineer, Regulations and Policy Group, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5110; email *james.blyn@faa.gov.*

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, we suggest that you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or certificate holding district office before operating any aircraft complying with this AD through an AMOC.

(g) Additional Information

(1) Eurocopter Emergency Alert Service Bulletin No. 76A001, Revision 0, dated April 22, 2013, which is not incorporated by reference, contains additional information about the subject of this AD. For service information, contact American Eurocopter Corporation, 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at http://www.eurocopter.com/techpub. You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

(2) The subject of this AD is addressed in European Aviation Safety Agency (EASA) AD No. 2013–0098–E, dated April 24, 2013. You may view the EASA AD in the AD Docket on the Internet at *http://www.regulations.gov.*

(h) Subject

Joint Aircraft Service Component (JASC) Code: Engine Controls, 7600.

Issued in Fort Worth, Texas, on October 7, 2013.

Kim Smith,

Directorate Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2013–28188 Filed 11–22–13; 8:45 am]

BILLING CODE 4910–13–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 416

[Docket No. SSA–2011–0104]

RIN 0960–AH45

Electronic Interim Assistance Reimbursement Program

AGENCY: Social Security Administration.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We reimburse States that provide interim assistance to Supplemental Security Income (SSI) claimants under our interim assistance reimbursement (IAR) program. We provide this reimbursement from the SSI recipient's initial retroactive SSI payment. On November 20, 2010, we began using an electronic Interim Assistance Reimbursement system (eIAR) to streamline the way we process reimbursements to the States. The eIAR process replaced our prior paper-based process with an electronic one, and greatly reduced our and the State's involvement in manually processing IAR cases. This electronic system did not change the amount of payments we make to States and SSI recipients. We propose to revise our rules about how we administer the IAR process to reflect the electronic process. We also made minor language changes and reorganized the sections for clarity.

DATES: To ensure that your comments are considered, we must receive them no later than January 24, 2014.

ADDRESSES: You may submit comments by any one of three methods—Internet, fax, or mail. Do not submit the same comments multiple times or by more than one method. Regardless of which method you choose, please state that your comments refer to Docket No. SSA–2011–0104 so that we may associate your comments with the correct regulation.

Caution: You should be careful to include in your comments only information that you wish to make publicly available. We strongly urge you not to include in your comments any personal information, such as Social Security numbers or medical information.

1. *Internet:* We strongly recommend this method for submitting your comments. Visit the Federal eRulemaking portal at *http://www.regulations.gov.* Use the *Search* function of the Web page to find docket number SSA–2011–0104 and then submit your comment. Once you submit your comment, the system will issue you a tracking number to confirm your submission. You will not be able to view your comment immediately as we must manually post each comment. It may take up to a week for your comment to be viewable.

2. *Fax:* Fax comments to (410) 966–2830.

3. *Mail:* Address your comments to the Office of Regulations and Reports Clearance, Social Security Administration, 107 Altmeyer Building, 6401 Security Boulevard, Baltimore, Maryland 21235–6401.

Comments are available for public viewing on the Federal eRulemaking portal at *http://www.regulations.gov* or in person, during regular business hours, by arranging with the contact person identified below.

FOR FURTHER INFORMATION CONTACT: Tema Friedman, Office of Retirement and Disability Policy, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235–6401, (410) 965–8979. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213, or TTY 1–800–325–0778, or visit our Internet site, Social Security Online, at *http://www.socialsecurity.gov.*

SUPPLEMENTARY INFORMATION:

Background

To be eligible for benefits from the SSI program, a person must be age 65 or older, blind, or disabled; have low

income; and have limited resources.[1] We determine who is eligible to receive SSI benefit payments, and we pay SSI recipients.[2] If we determine that a claimant is eligible to receive SSI benefits, we pay him or her based on the effective date of the application.[3]

Some States have programs that provide interim assistance payments to their residents while we review their SSI applications.[4] The payments provide immediate financial help to residents with low income and limited resources to help pay for basic needs, such as food, clothing, and shelter. Each State that runs an assistance program has its own requirements that its residents must meet to be eligible to receive interim assistance.

We reimburse a State for its interim assistance payments to an eligible claimant if the State has both an IAR agreement with us and a written authorization from the claimant.[5] We base the calculation of the reimbursement amount to the State on IAR rules discussed in these regulations. For this reason, we do not always repay the State for all of the interim assistance paid to each claimant. We consider the facts for each SSI claim and calculate the reimbursement amount based on those facts. For example, we do not reimburse a State for the interim assistance it pays to a claimant if we deny the SSI claim, or if the claimant does not receive both interim assistance and SSI benefit payments for the same month. We can reimburse the State only up to the amount of the claimant's initial retroactive SSI benefit payment available for reimbursement.[6] In addition, we do not reimburse a State if the source of the interim assistance is a type of payment that the Act prohibits us from reimbursing.[7]

Our IAR agreement with a State must include certain provisions to be valid.[8] The IAR agreement affirms that we agree to repay the State for some or all of the interim assistance the State provides. It specifies the length of time that the IAR agreement is in effect and the procedure for how we reimburse the State. This agreement also includes information that the State must include in the notice that it sends to recipients of interim assistance within 10 working days of receiving our reimbursement.

A claimant's written authorization allows us to withhold his or her retroactive SSI benefit payment and reimburse the State for the interim assistance it paid the claimant. The authorization becomes effective when we receive it or when we receive an electronic notice from the State that it received the authorization.[9] The authorization remains in effect until we make the first recurring monthly SSI benefit payment; the State and the claimant both agree to end it or it expires; or we make a determination or decision about the claim and the claimant does not file a timely appeal.[10] If a claimant files a timely appeal of our determination or decision, the authorization remains in effect until we make a final determination or decision on the claim.

The IAR provisions also apply to individuals who receive SSI benefit payments but are suspended or terminated from the program. Participating States may provide interim assistance to these individuals while we review their claims. If we reinstate the suspended or terminated SSI benefit payments, we will reimburse the State in the same manner described above. The same requirements for the IAR agreements and authorizations apply as well.

Prior Reimbursement Method

Prior to November 20, 2010, we had two methods of reimbursing the State and paying the recipient, both of which required manual action. In most cases, we would send a recipient's entire first SSI retroactive payment to the State that provided the interim assistance if there was an IAR agreement and authorization in effect. The State would determine how much of the first SSI benefit payment it would keep as reimbursement for its interim assistance payments. The State would then send the remaining amount of the payment to the SSI recipient.[11] In the remaining cases, the State calculated how much we should reimburse it. After reimbursing the State, we paid any outstanding amount to the SSI recipient using regular SSI payment rules.[12] This manual process was labor-intensive, required many paper forms, and was increasingly difficult to administer as staff resources diminished.

Prior to November 20, 2010, if a recipient wanted to appeal the amount of reimbursement sent to the State, the recipient requested a hearing before the State regarding the amount the State claimed for reimbursement or the amount the State paid him or her. A recipient could also appeal to us and receive a hearing regarding the total amount of retroactive SSI benefit payments we withheld.

Current Reimbursement Method

On November 20, 2010, we began using eIAR to manage the IAR process more efficiently. Based on input from the State, eIAR automatically calculates the months a State is due reimbursement from the recipient's first retroactive SSI payment and the reimbursement amount. eIAR provides the information we need to make the payments to the State and the recipient. As part of eIAR, we changed how we reimburse the State from the SSI recipient's first retroactive payment and how the claimant receives the remaining SSI benefit payments. We now reimburse the State directly based on the amount of the recipient's SSI benefits available for reimbursement. We reimburse the State up to the amount of interim assistance it paid to the recipient, and we pay the SSI recipient the rest using regular SSI payment rules. Because eIAR is an automated process, it significantly reduces the amount of manual work for States and our employees. We are able to reimburse States and pay SSI recipients more quickly. However, eIAR did not change the reimbursement amounts we make to States and SSI claimants.

The eIAR process also changed how we administer the IAR program in other ways. It changed certain provisions we need in the IAR agreements we have with States. For example, our IAR agreements now provide that we will

[1] Sections 1601 and 1611(a) of the Social Security Act (Act).

[2] Section 1602 of the Act.

[3] Section 1611(c) of the Act.

[4] As of December 1, 2012, 34 States and the District of Columbia participate in the IAR program.

[5] Section 1631(g) of the Act.

[6] An initial retroactive SSI benefit payment includes all retroactive SSI money due the claimant after we compute the first payments based on an approved SSI claim. Once we have sent an IAR payment to a State, we cannot send the State any additional reimbursement from any subsequent retroactive SSI benefit payment that we may make to the claimant based on a recomputation we might do for the months in the IAR period. We will send that subsequent retroactive SSI benefit payment, if any, to the claimant.

[7] See section 1631(g)(3) of the Act.

[8] See section 1631(g)(4) of the Act.

[9] We may consider the date that the authorization is effective to be the protective filing date if the claimant applies for SSI benefits within 60 days of the date the State received the authorization or the date you signed the authorization if later than the State signed. 20 CFR 416.340.

[10] The first recurring monthly SSI benefit payment is the regular monthly payment due to the claimant on a continuing basis. Usually we send the first recurring monthly SSI benefit payment at the same time that we send the IAR to a State.

[11] If the State could not pay an SSI beneficiary, such as when a beneficiary died or could not be located, the State would refund the excess amount to us. See 20 CFR part 416 subpart E.

[12] For IAR cases, SSI payment rules may include paying fees to the beneficiary's attorney, paying some of the beneficiary's retroactive SSI payments in installments instead of in one lump sum, or depositing some of an eligible child's retroactive SSI benefit payments into a dedicated account.

send reimbursement for the interim assistance paid in a claim to the State's designated financial institution.

Proposed Changes

We propose to revise our current rules about the IAR process in 20 CFR part 416 subparts E and S to reflect how we reimburse States and pay SSI recipients using eIAR. We propose to revise for clarity, § 416.525, which discusses IAR. We propose to reorganize subpart S and revise the regulatory text for clarity and plain language. We propose to revise § 416.1902 and add definitions for ''interim assistance reimbursement agreement,'' ''interim assistance reimbursement payment,'' and ''interim assistance reimbursement period.'' Under the definition of ''SSI benefit payment'' we also propose to clarify the definition of an interim benefit and that we cannot reimburse a state for interim assistance from provisional benefits as explained in current 20 CFR 416.999(c). We propose to revise § 416.1904 and change the name of § 416.1904. We propose to revise § 416.1906. These changes clarify the regulations based on our experience dealing with the States. We propose to revise § 416.1910 and change the name of § 416.1910. We propose to add § 416.1912.

We propose to revise and rename § 416.1920, while removing and reserving § 416.1922.

Clarity of These Proposed Rules

Executive Order 12866, as supplemented by Executive Order 13563, requires each agency to write all rules in plain language. In addition to your substantive comments on these proposed rules, we invite your comments on how to make them easier to understand.

For example:

- Would more, but shorter, sections be better?
- Are the requirements in the rules clearly stated?
- Have we organized the material to suit your needs?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rules easier to understand?
- Do the rules contain technical language or jargon that is not clear?
- Would a different format make the rules easier to understand, such as grouping and order of sections, use of headings, or paragraphing?

Regulatory Procedures

Executive Order 12866, as Supplemented by Executive Order 13563

We consulted with the Office of Management and Budget (OMB) and determined that this NPRM does not meet the criteria for a significant regulatory action under Executive Order 12866, as supplemented by Executive Order 13563. Therefore, OMB did not review it.

Regulatory Flexibility Act

We certify that this NPRM would not have a significant economic impact on a substantial number of small entities because it would affect only individuals and those States that voluntarily enter into a contractual agreement with us. Therefore, the Regulatory Flexibility Act, as amended, does not require us to prepare a regulatory flexibility analysis.

Paperwork Reduction Act

This NPRM does not create any new or affect any existing collections and, therefore, does not require OMB approval under the Paperwork Reduction Act.

(Catalog of Federal Domestic Assistance Program No. 96.006, Supplemental Security Income)

List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Reporting and recordkeeping requirements, Supplemental Security Income (SSI).

Dated: November 15, 2013.

Carolyn W. Colvin,

Acting Commissioner of Social Security.

For the reasons set out in the preamble, we propose to amend title 20 of the Code of Federal Regulations, part 416, subparts E and S as set forth below:

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart E—[Amended]

■ 1. The authority citation for subpart E of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1147, 1601, 1602, 1611(c) and (e), and 1631(a)–(d) and (g) of the Social Security Act (42 U.S.C. 902(a)(5), 1320b–17, 1381, 1381a, 1382(c) and (e), and 1383(a)–(d) and (g)); 31 U.S.C. 3716; 31 U.S.C. 3720A.

■ 2. Revise § 416.525 to read as follows:

§ 416.525 Reimbursement to States for interim assistance payments.

Notwithstanding § 416.542, and in accordance with subpart S of this part, we may withhold SSI benefits from an individual and reimburse a State (or its political subdivision) from the withheld benefits for the State's interim assistance paid to the individual.

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart S—[Amended]

■ 3. The authority citation for subpart S of part 416 continues to read as follows:

Authority: Secs. 702(a)(5) and 1631 of the Social Security Act (42 U.S.C. 902(a)(5) and 1383).

■ 4. Revise § 416.1901 to read as follows:

§ 416.1901 Scope of subpart S.

This subpart explains how we administer the interim assistance reimbursement program. We may pay interim assistance reimbursement to the State if the State enters into an interim assistance reimbursement agreement with us and if you authorize us, in writing, to repay the State. If your State pays you interim assistance, we may withhold your retroactive SSI benefits, including any Federally administered state supplementary payments, to reimburse the State. The State must inform us about the amounts of interim assistance it paid to you. We will identify the months for which we may reimburse the State, determine how much of your retroactive SSI benefits to pay the State, and reimburse the State for that amount. After we reimburse the State, we will pay you any remaining sum from your retroactive SSI benefits using SSI payment rules.

■ 5. Revise § 416.1902 to read as follows:

§ 416.1902 Definitions.

For purposes of this subpart—

Authorization means your written permission, in a form legally acceptable to us and to the State from which you receive interim assistance, for us to withhold your retroactive SSI benefit payments and reimburse the State the amount of interim assistance due the State.

Interim assistance means the assistance a State gives you, including payments made on your behalf to providers of goods or services, to meet your basic needs. It does not include assistance the State gives to or for another person. *Interim assistance* does not include assistance payments financed wholly or partly with Federal funds.

Interim assistance reimbursement agreement means our agreement with a State to reimburse the State for the

interim assistance it pays to SSI recipients.

Interim assistance reimbursement payment means the amount of money we pay the State, which we determine based on the amount of interim assistance the State paid to you or on your behalf and the amount of SSI retroactive payments available for the reimbursement. If your available initial retroactive SSI benefit payment is less than the total interim assistance the State paid to you or on your behalf, we will pay the State only a partial amount of the interim assistance the State paid. Reimbursement to the State takes priority over the retroactive SSI benefit payments that may be due you.

Interim assistance reimbursement period means the period for which we may reimburse the State for interim assistance payments the State made to you or on your behalf.

SSI benefit payment means your Federal SSI benefit and any state supplementary benefit we make to you on behalf of a State (see subpart T of this part) under title XVI of the Social Security Act. For purposes of this subpart, *SSI benefit payment* does not include an emergency advance payment (see § 416.520), a payment based upon presumptive disability or presumptive blindness (see § 416.931), a provisional benefit (see § 416.999(c)), an interim benefit (see § 416.1469(d)), or a payment made under the administrative immediate payment procedure.

State for purposes of an interim assistance agreement, means a State of the United States, the District of Columbia, and the Northern Mariana Islands. For all other purposes (e.g., payment, appeals, notices), State also means a political subdivision of any of these.

We, Us, or *Our* means the Social Security Administration.

You or *Your* means someone who has applied for or is already receiving an SSI benefit payment(s).

■ 6. Revise § 416.1904 to read as follows:

§ 416.1904 Authorization to withhold SSI benefit payment.

We will withhold your retroactive SSI benefit payment to repay the State the amount of interim assistance the State paid to you or on your behalf if:

(a) We have an interim assistance reimbursement agreement with the State when your authorization goes into effect; and

(b) Your authorization is in effect when we make your first recurring monthly SSI benefit payment.

■ 7. Revise § 416.1906 to read as follows:

§ 416.1906 When your authorization is in effect.

(a) *When your authorization begins.* Your authorization becomes effective when the earliest of the following events occurs—

(1) We receive the authorization; or

(2) We receive notice from the State that it has received your authorization.

(b) *When your authorization ends.* Your authorization remains in effect until the earliest of the following events occurs—

(1) We make your first recurring monthly SSI benefit payment for your initial claim or, in the case of an authorization effective for a period of suspense or termination, when we make your first recurring monthly SSI payment following the suspension or termination, and subsequent reinstatement of your SSI benefits;

(2) You and the State agree to end the authorization;

(3) We make a determination or decision on your claim and you do not timely file an appeal, as described in subpart N of this part; or

(4) You do not file an application for SSI or timely file an appeal of our determination to suspend or terminate your benefits within 12 months from the authorization begin date described in paragraph (a) of this section.

(c) *When we need a new authorization.* If your authorization is no longer effective because an event in paragraph (b) of this section occurred, the State must obtain a new authorization from you before we may reimburse the State for interim assistance it gives you. If you timely file an appeal of our determination or decision on your claim as described in subpart N of this part, we do not need a new authorization from you because your authorization remains in effect until we make a final determination or decision on your claim.

■ 8. Revise § 416.1910 to read as follows:

§ 416.1910 Requirements for an interim assistance reimbursement agreement.

(a) The interim assistance reimbursement agreement defines our obligations and a State's obligations. The agreement says we must repay the State for the interim assistance the State paid to you based on the interim assistance amount claimed by the State and the amount of your retroactive SSI money available to pay the State.

(b) The interim assistance reimbursement agreement must include the following provisions—

(1) You must have received interim assistance from the State and be eligible for a SSI payment for the same month as the interim assistance period as defined in § 416.1905.

(2) We will reimburse the State only from your initial retroactive payment for your initial claim (see § 416.1930(a)) or posteligibility claim (see § 416.1930(b)).

(3) When, how much, and under which conditions we will reimburse the State for the interim assistance it paid you.

(4) We will send any reimbursement for interim assistance to a State's designated financial institution.

(5) If a State has prepared and cannot stop delivery of its last interim assistance payment to you, we will include the amount of the State's last interim assistance payment in the reimbursement payment.

(6) We will specify the beginning date of the agreement and will automatically renew the agreement for successive periods of one year beginning October 1 of each year. Either we or the State may terminate this agreement at any time upon 30 days written notice to the other party.

(7) When the State must notify us that it has a signed authorization.

(8) The State will send you a notice within 10 working days of receiving the reimbursement from us. The notice will provide—

(i) How much interim assistance the State paid to you;

(ii) That we will notify you about how we will pay the remaining SSI benefit payments, if any, to you; and

(iii) That you have the right to appeal any of the State's actions about interim assistance reimbursement if you disagree with them.

(9) The State must agree to comply with any other regulations that we find necessary to administer the interim assistance reimbursement provisions.

■ 9. Add § 416.1912 under the undesignated heading ''Interim Assistance Agreements'' to read as follows:

§ 416.1912 When the interim assistance reimbursement period is in effect.

(a) *Initial claims.* For initial claims, the interim assistance reimbursement period begins with the first month for which you are eligible for SSI benefit payments, and it ends with and includes the month your recurring monthly SSI benefit payment begins.

(b) *Posteligibility claims.* If we determine that you were eligible for SSI benefit payments during a period when we suspended or terminated your benefits, the interim assistance reimbursement period begins on the day that you are eligible for reinstatement of SSI benefits. The interim assistance reimbursement period ends with and

includes the month we make the first recurring monthly SSI benefit payment to you following your period of suspension or termination and subsequent reinstatement of those benefits.

■ 10. Revise § 416.1920 to read as follows:

§ 416.1920 Your appeal rights under this subpart.

(a) *Your appeal rights to the State.* You have the right to appeal to the State if you disagree with any of the State's actions regarding reimbursement of the interim assistance. You are not entitled to a Federal hearing to appeal the State's actions regarding reimbursement for interim assistance.

(b) *Your appeal rights to us.* You have the right to appeal to us, in accordance with subpart N of this part—

(1) The amount of your retroactive SSI benefit payments we withheld from you;

(2) The amount of your retroactive SSI benefit payments we sent to the State to reimburse the State for interim assistance it paid to you; and

(3) The amount of your retroactive SSI benefit payments due to you after we reimbursed the State for interim assistance it paid to you.

§ 416.1922 [Removed and Reserved]

■ 11. § 416.1922 is removed and reserved.

[FR Doc. 2013–28034 Filed 11–22–13; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Chapter I

[Docket No. FDA–2013–N–0001]

Medical Gas Regulation Review; Announcement of Public Meeting; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meeting; correction.

SUMMARY: The Food and Drug Administration is correcting a document that appeared in the **Federal Register** of November 1, 2013 (78 FR 65588). The document announced a public meeting entitled ''Medical Gas Regulation Review.'' The document was published with an incorrect Web site. This document corrects that error.

DATES: Effective November 25, 2013.

FOR FURTHER INFORMATION CONTACT: Mary Gross, Office of Executive Programs, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 301–796–3519, FAX: 301–847–8753, email: *Mary.Gross@fda.hhs.gov;* or Christine Kirk, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 301–796–2465, FAX: 301–847–8440, email: *Christine.Kirk@fda.hhs.gov*; or Urvi Desai, Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, email: *Urvi.Desai@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In the **Federal Register** of Friday, November 1, 2013, in FR Doc. 2013–26056, on page 65588 the following corrections are made:

1. In the third column, in the last sentence of the second paragraph under *Registration and Requests for Oral Presentations,* ''*http://www.fda.gov/Drugs/NewEvents/ucm370351.htm*'' is corrected to read ''*http://www.fda.gov/Drugs/NewsEvents/ucm370351.htm*''.

2. In the third column, in the first sentence of the third paragraph under *Registration and Requests for Oral Presentations,* ''*http://www.fda.gov/Drugs/NewEvents/ucm370351.htm*'' is corrected to read ''*http://www.fda.gov/Drugs/NewsEvents/ucm370351.htm*''.

Dated: November 19, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–28083 Filed 11–22–13; 8:45 am]

BILLING CODE 4160–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 69

[EPA–R09–OAR–2013–0697; FRL–9902–75–Region 9]

Approval and Promulgation of Implementation Plans; Commonwealth of the Northern Mariana Islands; Prevention of Significant Deterioration; Special Exemptions From Requirements of the Clean Air Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Under the Clean Air Act, EPA is proposing to disapprove the state implementation plan (SIP) for the Commonwealth of the Northern Mariana Islands (CNMI) with respect to prevention of significant deterioration (PSD), and to incorporate by reference the Federal PSD regulations into the applicable CNMI plan. EPA is also proposing to approve a petition by CNMI for an exemption of the applicable PSD major source baseline date and trigger date under Federal PSD regulations, and to establish an alternate date, January 13, 1997, as the major source baseline date and trigger date in CNMI. EPA is also proposing to make certain corrections that were made in previous rulemakings. This action would establish the Federal PSD regulations as a basic element of the CNMI implementation plan and, through the exemption, would establish January 13, 1997 as the major source baseline date (and trigger date) under the PSD program in CNMI for sulfur dioxide, PM_{10} and nitrogen dioxide.

DATES: Comments must be received on or before December 26, 2013. Request for a public hearing must be received by December 10, 2013. If we receive a request for a public hearing, we will publish information related to the timing and location of the hearing and the timing of a new deadline for public comments.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2013–0697, by one of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the on-line instructions.
- *E-Mail: rios.gerardo@epa.gov.*
- *Mail or Deliver:* Gerardo Rios (AIR–3), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

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

Docket: The index to the docket for this action is available electronically at

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

FOR FURTHER INFORMATION CONTACT: La Weeda Ward, (213) 244–1812 or *ward.laweeda@epa.gov.*

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

Table of Contents

I. Prevention of Significant Deterioration
A. Background
B. EPA's Evaluation of the CNMI SIP and Proposed Action
II. Major Source Baseline Date
A. Background
B. CNMI's Petition for Change of Major Source Baseline Date
C. EPA's Evaluation of CNMI's Petition and Proposed Action
III. Corrections
A. Background
B. Proposed Action
IV. Proposed Action and Request for Public Comment
V. Statutory and Executive Order Reviews

I. Prevention of Significant Deterioration

A. Background

Under the Clean Air Act (CAA or ''Act''), as amended in 1970, EPA established the first national ambient air quality standards (NAAQS or ''standard''), which represent standards EPA has determined are requisite to protect the public health and welfare. Once EPA has established a NAAQS, under CAA section 110(a), each state is required within a prescribed period of time to adopt and submit a plan, referred to as the State Implementation Plan (SIP), which provides for implementation, maintenance, and enforcement of such NAAQS. Under the Clean Air Amendments of 1970, the term ''state'' was defined in section 302(d) as meaning one of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa. The Commonwealth of the Northern Mariana Islands (CNMI) was not included within the meaning of ''state'' under the 1970 Amended Act.[1] At the time of the 1970 Act Amendments, CNMI was part of the post-World War II United Nations' Trust Territory of the Pacific Islands (TPPI). In 1976, Congress approved the mutually negotiated Covenant to Establish a Commonwealth of the Northern Mariana Islands (CNMI) in Political Union with the United States.

Generally speaking, SIPs must include a number of substantive elements including, but not limited to, rules establishing emission limitations, permit programs for new or modified major stationary sources (''New Source Review,'' or NSR), programs for monitoring ambient air concentrations, and necessary assurances that the State has adequate legal authority and resources to implement the SIP.

Once a SIP is submitted, EPA must take action to approve or disapprove it, in whole or in part. If, however, a state fails to submit a SIP or a portion of the SIP, or if EPA disapproves a SIP or portion of the SIP, then generally speaking, EPA must promulgate a Federal Implementation Plan (FIP) to address the plan deficiency. Together, the approved portions of the SIP and EPA's FIP for a given state constitute that state's applicable plan for the purposes of the CAA. *See* 40 CFR 52.02(b). Each state's applicable plan is listed in separate subparts of 40 CFR part 52. For example, the applicable CNMI plan is found in subpart FFF of 40 CFR part 52.

One of the SIP content requirements under section 110 is the requirement to prevent significant deterioration of air quality (PSD) in areas that are meeting the NAAQS through review and permitting of new major stationary sources and major modifications. As such, PSD is a specific type of NSR program. The federal PSD program began in the early 1970's during which EPA reviewed each SIP, determined that the SIPs generally did not contain regulations or procedures specifically addressing PSD, and thus disapproved all of the SIPs to the extent they lacked procedures and regulations for preventing significant deterioration of air quality in portions of the state where air quality is better than one or more the NAAQS. 37 FR 23836 (November 9, 1972).

In 1974, EPA promulgated a PSD FIP (then, and now, codified in 40 CFR 52.21) to apply in all states for which EPA had disapproved the SIP with respect to PSD. 39 FR 42510 (December 5, 1974). In our 1974 final rule, we retained (as 40 CFR 52.21(a)) our 1972 general disapproval statement for all SIPs with respect to PSD. In June 1975, EPA modified part 52 by incorporating specific PSD disapprovals into the applicable subpart for each state in part 52, and EPA modified the general disapproval statement of section 52.21(a) accordingly. EPA indicated that these changes to each subpart had no substantive effect but were rather made so that all regulations applicable to a particular implementation plan would be located in one place. 40 FR 25004 (June 12, 1975).

On August 7, 1977, the CAA Amendments of 1977 became law. The 1977 Amendments changed the 1970 CAA and EPA's regulations in many respects, particularly with regard to PSD. In addition to mandating certain immediately effective changes to EPA's PSD regulations, the 1977 Amendments, in sections 160–169 (i.e., subpart I of part C (''Prevention of Significant Deterioration of Air Quality'') of title I), contained comprehensive new PSD requirements. These new requirements were to be incorporated by States into their respective SIPs (under section 110 of the CAA). The 1977 Amendments also revised the definition of the term, ''state,'' in CAA section 302(d), to include CNMI, in recognition of the change during the 1970s in the relationship between CNMI and United States. CNMI did not become subject to the CAA, however, until January 9, 1978.[2] On March 3, 1978 (43 FR 8962), EPA established the first area designations under CAA section 107 and thereby divided the states into areas designated as nonattainment, attainment

[1] CNMI consists of 15 islands of volcanic origin which are located approximately 145° to 146° east and from 14° to 20° north of the equator. The islands extend in a general north-south direction for approximately 420 nautical miles from the Island of Farallon de Pajaros in the north to the island of Rota in the south. CNMI lies in the western part of the Pacific Ocean and is located approximately 1,250 miles south of Tokyo, 1,440 miles east of Manila, and 110 miles north of Guam. Based on Bureau of Census 2010 population counts, the total population of CNMI is approximately 54,000 with the majority of the population residing on Saipan.

[2] CNMI is an insular territory of the United States. The relations between CNMI and the United States are governed by the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (''Covenant''). *See* 48 U.S.C. 1801 notes. Section 502 of the Covenant lists laws which are in existence on the effective date of section 502 and states that these laws and the subsequent amendments to such laws will apply to CNMI, unless otherwise specified in the Covenant. Paragraph (1) of section 502 lists federal banking laws, provisions of the Social Security Act and the Public Health Service Act. Paragraph (2) states ''those laws not described in paragraph (1) which are applicable to Guam and which are of general application to the several States as they are applicable to the several States.'' Proclamation No. 4534, signed by President Carter in 1977, states in section 2 that section 502 of the Covenant came into effect on January 9, 1978. See 42 FR 56593. As noted above, Guam has been included in the term ''state'' for CAA purposes since the 1970 Amended Act.

or unclassifiable with respect to each of the various NAAQS. In so doing, EPA designated CNMI as attainment or unclassifiable/attainment for each of the NAAQS, and CNMI continues to be so designated. *See* 40 CFR 81.354.

In June 1978, in response to the CAA Amendments of 1977, and again in August 1980, in response to litigation, EPA revised the PSD requirements for SIPs in 40 CFR 51.24 (renumbered later as 40 CFR 51.166) and the Federal PSD regulations in 40 CFR 52.21. *See* 43 FR 26380 and 26388 (June 19, 1978), and 45 FR 52676 (August 7, 1980). At the time these revisions were promulgated, CNMI had not submitted a SIP, and there was no subpart within part 52 addressing the approval status of CNMI. When EPA specified the states which did not meet the new PSD requirements, CNMI was not listed. *See* 43 FR 26388, at 26410, and 45 FR 52676, at 52741.

Thus, while the CAA, including the PSD requirements in subpart I to part C of title I, has applied to sources on CNMI since January 9, 1978, EPA's PSD regulations in 40 CFR 52.21 that implement the statutory PSD program have not been incorporated into the applicable plan for CNMI. This has lead to uncertainty as to the proper application of PSD to new major sources or major modifications on CNMI.

On February 19, 1986, CNMI submitted their air pollution control regulations, including rules governing NSR. Later that year, CNMI revised the regulations and re-submitted them on February 19, 1987. On November 13, 1987 (52 FR 43574), EPA approved the NSR-related rules as part of the CNMI SIP. In taking this action, EPA noted that approval of the CNMI rules was not to be construed as indicating satisfaction of the specific requirements for PSD. *See* 52 FR 43574.

Since the most recent approval of the CNMI SIP in 1987, under CAA sections 108 and 109, EPA has conducted periodic reviews of the NAAQS and has, in recent years, established certain new or revised NAAQS. As noted above, under section 110(a), States must submit a plan that provides for implementation, maintenance, and enforcement of such NAAQS. The CAA directs EPA to make findings of failure to submit (such a plan or portion of a plan) if a plan or portion of a plan is not forthcoming from the State. EPA has made such findings for certain new or revised NAAQS with respect to CNMI.

In March 2008, EPA published a finding of failure to submit with respect to the 1997 8-hour ozone NAAQS for a number of states, including CNMI. 73 FR 16205 (March 27, 2008). EPA's March 2008 finding relates to the SIP elements listed in CAA section 110(a)(2), including failure to submit a SIP addressing section 110(a)(2)(C) (the Part C PSD permit program) for the 1997 8-hour ozone NAAQS. Later that year, we made a similar finding with respect to CNMI and the 1997 $PM_{2.5}$ NAAQS. 73 FR 62902 (October 22, 2008). In 2010, we found that CNMI had failed to submit a SIP revision addressing interstate transport requirements with respect to the 2006 $PM_{2.5}$ NAAQS. 75 FR 32673 (June 9, 2010). Under section 110(a)(2)(D), the SIP submittal requirements related to interstate transport also implicate PSD. These findings of failure to submit created two-year deadlines for EPA to promulgate FIPs unless, prior to that deadline, CNMI makes submissions to meet the requirements and EPA approves such submissions. See section 110(c)(1). No submittals have been forthcoming from CNMI, and the two-year FIP deadlines have expired.

B. EPA's Evaluation of the CNMI SIP and Proposed Action

The basic purpose of the PSD program is to prevent significant deterioration by protecting the NAAQS and ''increments'' over the baseline concentration in areas designated as attainment or unclassifiable, through a permit program for new major sources and major modifications to major sources. Requirements for SIPs with respect to PSD are found primarily in 40 CFR 51.166.

Under 40 CFR 51.166, each state must adopt and submit rules that: Establish certain ambient air increments and ambient air ceilings (40 CFR 51.166(c) and (d)); establish certain area classifications (i.e., class I, II, or III) and restrict certain types of area reclassifications (40 CFR 51.166(e) and (g)); limit the reliance on stack height in determining the degree of emission limitation (40 CFR 51.166(h)); provide for certain control technology review, including the application of best available control technology (BACT) for each regulated NSR pollutant that a new major source or major modification would have the potential to emit in significant amounts (40 CFR 51.166(j)); provide for certain source impact analyses (40 CFR 51.166(k)); require use of EPA-approved air quality models (40 CFR 51.166(l)); provide for certain preapplication and post-construction air quality analyses and monitoring (40 CFR 51.166(m)); establish certain permit application requirements (40 CFR 51.166(n)); provide for certain additional impact analyses (e.g., visibility impact analyses) (40 CFR 51.166(o)); establish certain additional requirements for sources impacting Federal Class I area (40 CFR 51.166(p)); provide for public participation (40 CFR 51.166(q)); impose certain source obligations (40 CFR 51.166(r)); and establish provision for plantwide applicability limitations (PALs) (40 CFR 51.166(w)). The PSD SIP requirements listed above rely on certain terms, including ''major stationary source,'' ''major modification,'' ''net emissions increase,'' and many others, that are defined specifically for use in the PSD program. See 40 CFR 51.166(b).

We reviewed the NSR portion of the CNMI SIP, which includes Parts V and X of the ''CNMI Air Pollution Control Regulations'' that EPA approved on November 13, 1987 (52 FR 43574). Under Part V of CNMI's rules, permits are required for the construction and operation of all new sources or modifications of major sources of emissions. The NSR rules also provide for certain exemptions from the permit requirement; provide for certain application requirements; establish a process for review by the CNMI Division of Environmental Quality (DEQ) of permit applications; authorize DEQ to impose certain types of permit conditions and to require applicants to conduct certain additional analyses (e.g., performance testing); disallow the use of dispersion techniques as a form of controlling air pollution absent EPA exemption; and address administrative matters such as permit suspension, permit transfer, and permit posting, among other such matters. Part X of CNMI's rules provide for public participation prior to approval of an application for an NSR permit for a major source. Under CNMI's NSR rules, DEQ will approve an NSR permit application if the applicant can show to DEQ's satisfaction that: (1) The new source is designed, built and equipped with reasonably available control technology (RACT); (2) the new source is designed and will be constructed or modified to operate without causing a violation of the applicable rules and regulations; and (3) the new source will not endanger the maintenance or attainment of the NAAQS or ambient air increments as set forth as Maximum Allowable Increases for Class II areas for sulfur dioxide and particulate matter in 40 CFR 52.21(c) and (d).

Our review of the CNMI SIP NSR rules reveals that some aspects of the PSD program required under 40 CFR 51.166 are met, such as the establishment of certain ambient air increments (i.e., increments for sulfur dioxide) and ambient air ceilings (i.e., the NAAQS) that concentrations of pollutants resulting from construction of

new major sources and major modifications may not exceed; provisions limiting use of stack height and other dispersion techniques; and certain provisions for public participation (e.g., notice in newspaper of general circulation, and 30-day comment period). However, CNMI's NSR rules do not meet many other PSD requirements, including, e.g., establishment of ambient air increments for nitrogen dioxide, PM_{10} and $PM_{2.5}$; provisions requiring application of BACT; provisions requiring use of EPA-approved air quality models; and provisions allowing establishment of PALs. Moreover, many of the definitions of NSR-related terms in CNMI's rules, e.g., ''major stationary source'' and ''major modification,'' differ from the corresponding definitions in 40 CFR 51.166(b). Under 40 CFR 51.166(b), deviations in the wording relative to the definition set forth in the Federal PSD regulations will be approved only if the State specifically demonstrates that the submitted definition is more stringent, or at least as stringent, in all respects as the corresponding EPA definition. Therefore, we propose to disapprove the CNMI SIP as not meeting the requirements for PSD under part C of title I of the CAA and 40 CFR 51.166.

Based on our determination that the current CNMI SIP does not meet the requirements for PSD, EPA is also proposing to apply the Federal PSD program at 40 CFR 52.21 to CNMI, but to grant the petition of CNMI for exemption from the original major source baseline date, as described in the following section of this document. EPA would administer the PSD program for CNMI and would make PSD determinations and issue PSD permits directly from the EPA Region IX office. In the future, if requested, EPA would consider delegation of implementation authority to CNMI under 40 CFR 52.21(u).

Applying the Federal PSD program to CNMI would address long-standing uncertainties concerning the application of PSD to sources on CNMI and would fulfill EPA's more recent obligations to promulgate a FIP in the wake of our finding of failure by CNMI to submit SIPs for new or revised NAAQS in more recent years, including the 1997 eight-hour ozone standard, the 1997 $PM_{2.5}$ standard, and the 2006 $PM_{2.5}$ standard, to the extent that the required SIP submittals relate to PSD.

II. Major Source Baseline Date

A. Background

Section 325(a)(1) of the CAA authorizes EPA, upon petition by the Governor of Guam, American Samoa, the Virgin Islands, or CNMI, to exempt any person or source or class of persons in such territory from any requirement of the Act other than section 112 (''Hazardous air pollutants'') or any requirement under section 110 (''[SIPs] for [NAAQS]'') or part D (''[SIP] Requirements for Nonattainment Areas'') necessary to attain or maintain a NAAQS. An exemption may be granted if EPA finds that compliance with such requirement is not feasible or is unreasonable due to unique geographical, meteorological, or economic factors of such territory, or such other local factors as EPA deems significant.

B. CNMI's Petition for Change of Major Source Baseline Date

On October 6, 1998, the Honorable Pedro P. Tenorio, Governor of CNMI, petitioned EPA to establish the effective date of EPA's final conditional exemption from title V requirements as the major source baseline date.[3] See letter from Pedro P. Tenorio, Governor, to Felicia Marcus, Region IX Regional Administrator, October 6, 1998. EPA's final conditional exemption was published on November 13, 1996 and became effective on January 13, 1997.[4]

Under the PSD program, the ''major source baseline date'' is the date after which actual emissions changes associated with modifications (i.e., physical changes or changes in the method of operation) at a major stationary source affect the available PSD increment. Other changes in actual emissions occurring at any source after the major source baseline date do not affect the increment, but instead (until after the minor source baseline date is established) contribute to the baseline concentration. The ''trigger date'' is the date after which the minor source baseline date may be established.

Both the major source baseline date and the trigger date are fixed dates, although the specific dates vary among the pollutants for which PSD increments have been established: Sulfur dioxide and respirable particulate matter (PM_{10}), fine particulate matter ($PM_{2.5}$) and nitrogen dioxide. Under 40 CFR 52.21(b)(14), the major source baseline date for sulfur dioxide and PM_{10} is January 6, 1975, and the trigger date for those pollutants is August 7, 1977. For nitrogen dioxide, both the major source baseline date and the trigger date are February 8, 1988. For $PM_{2.5}$, the major source baseline date is October 20, 2010, and the trigger date for those pollutants is October 20, 2011. The ''minor source baseline date'' is the earliest date after the trigger date on which a complete PSD application is received by the permit reviewing agency, and thus is not a fixed date.

In concept, the ''major source baseline date'' establishes a marker in time to track consumption (or expansion) of PSD increments due to modifications at major sources that occur prior to the ''minor source baseline date,'' after which all types of emissions increases and decreases (including mobile sources), i.e., not just those related to modifications at major stationary sources, consume (or expand) the available increment. Moreover, the trigger date is the marker in time after which the ''minor source baseline date'' can be established, and thus, there is no purpose in establishing a ''major source baseline date'' after a ''trigger date.''

The Governor's request refers only to the ''major source baseline date'' and does not refer to the ''trigger date,'' but because, as explained above, granting a change to the ''major source baseline date'' without a corresponding change to the ''trigger date'' would be pointless given the connection between the two terms, we interpret the Governor's request as applying to both terms. Also, the Governor's request was not pollutant-specific, but we interpret it to refer to all pollutants for which the major source baseline date and trigger date were established under EPA's PSD regulations at the time of the Governor's 1998 petition (i.e., sulfur dioxide, PM_{10}, and nitrogen dioxide, but not $PM_{2.5}$).[5]

[3] The Governor of CNMI also requested that EPA allow merging of the power plant stacks at a source, as a dispersion technique, in order for power plants operated by the Commonwealth Utilities Corporation (CUC) to meet the NAAQS and PSD increments. EPA is not taking action on this additional request in this action.

[4] The Governor's October 6, 1998 request states: ''In 1994, [CNMI] petitioned the [EPA], under Section 325(a) of the [CAA] for an exemption from Title V which pertains to establishment of an operating permit program. A conditional waiver was granted on November 13, 1996, ... Insofar as the CNMI was not covered by the CAA in 1975, we believe that the appropriate baseline PSD date for major sources should be the effective date of the Title V waiver, January 13, 1996. Accordingly, we request an amendment to our original 1996 Title V waiver clarifying that the major source PSD baseline date is the effective date of the waiver.'' We interpret the Governor's reference to ''January 13, 1996'' to be mistaken and that ''January 13, 1997'' was the intended date, since the latter represents the effective date of EPA's final conditional exemption published on November 13, 1996. *See* 61 FR 58284 (November 13, 1996).

[5] CNMI's 1998 request did not apply to the $PM_{2.5}$ NAAQS because the increments, major source baseline date, and trigger date for $PM_{2.5}$ were not established until 2010. *See* 75 FR 64864 (October 20, 2010). If this proposed action is finalized as proposed, the major source baseline date and trigger date for $PM_{2.5}$ in CNMI would be October 20, 2010 and October 20, 2011, respectively, as set forth at

Continued

C. EPA's Evaluation of CNMI's Petition and Proposed Action

CNMI has petitioned EPA to exempt CNMI from the original PSD major source baseline date and to establish January 13, 1997 as the PSD major source baseline date for CNMI. As explained above, changing the major source baseline date would also require changing the trigger date. Changing the major source PSD baseline date (and trigger date) will allow existing and future sources on CNMI to use more increment than would have been the case if the original major source baseline date applied, but sources will still be required to comply with NAAQS limits, and with the increment limits calculated from the new 1997 PSD major source baseline date.

Leaving the major source PSD baseline date unchanged would create a unique burden on sources in CNMI. Other States and territories were clearly included in the scope of the original PSD regulations and thus have been aware since the late 1970's of the need to quantify major source baseline emissions as of the original major source baseline date and to track emissions changes due to modifications at such major sources in order to calculate available increment when the minor source baseline date is established by the first complete PSD application in a given area. Because the Federal PSD regulations were not previously incorporated into the applicable plan for CNMI, neither CNMI nor sources on CNMI determined the respective baseline of source emissions on the original PSD major source baseline date, or changes to that baseline over time. It would create a unique burden if CNMI must attempt to reconstruct a complete baseline inventory working from the original major source baseline dates, including sources which may have existed in the 1970's but no longer exist today. Applying PSD regulations to CNMI with the original major source baseline dates would thus create a significant burden on new sources and regulators attempting to analyze PSD increment changes. This constitutes a ''local factor'' that is ''significant'' in EPA's judgment for the purposes of CAA section 325(a) because of the complications it creates for implementation of the PSD program in CNMI.

Moreover, the specific date of January 13, 1997 as an alternate major source baseline date is appropriate given that it represents the effective date of EPA's approval of CNMI's request for a conditional exemption from the requirement to develop, submit for approval, and implement a title V operating permit program, given that one of the applicable conditions for granting the exemption was a continuing obligation on CNMI to implement its NSR program in such a way as to protect the NAAQS and the PSD increments. *See* 40 CFR 69.32(c)(1). Prior to this date, EPA had not provided clear instructions to CNMI with respect to the applicability of the PSD program, and correspondingly the need to quantify major source baseline emissions as of the original major source baseline date and to track emissions changes due to modifications at such major sources in order to calculate available increment.

Lastly, we note that approval of the alternate major source baseline date and trigger date for CNMI would not be expected to have any effect on the PSD programs of any other state or territory given prevailing easterly winds and the location of the nearest state or territory, i.e., Guam, which is approximately 110 miles south of CNMI.

Therefore, pursuant to section 325(a)(1) of the CAA, EPA is proposing to grant the CNMI Governor's 1998 request to establish the effective date of EPA's final conditional exemption from title V requirements as the major source baseline date. Specifically, in granting this request, EPA is proposing to establish January 13, 1997 as the PSD major source baseline date and trigger date (with respect to sulfur dioxide, PM_{10}, and nitrogen dioxide) for sources in CNMI.[6]

III. Corrections

A. Background

Section 110(k)(6) of the CAA provides: ''Whenever [EPA] determines that [EPA's] action approving, disapproving, or promulgating any plan or plan revision (or part thereof), area designation, redesignation, classification, or reclassification was in error, [EPA] may in the same manner as the approval, disapproval, or promulgation revise such action as appropriate without requiring any further submission from the State. Such determination and the basis thereof shall be provided to the State and public.'' We interpret this provision to authorize the Agency to make corrections to a promulgated regulation when it is shown to our satisfaction that (1) we clearly erred in failing to consider or inappropriately considering information made available to EPA at the time of the promulgation, or the information made available at the time of promulgation is subsequently demonstrated to have been clearly inadequate, and (2) other information persuasively supports a change in the regulation. See 57 FR 56762, at 56763 (November 30, 1992).

B. Proposed Action

First, under section 110(k)(6), EPA is proposing to amend 40 CFR 52.02 and 52.16 to include references to CNMI or subpart FFF (which lists the applicable CNMI plan). EPA should have added these references in 1986 when the Agency took its first action on the CNMI SIP and thereby added subpart FFF to part 52, but failed to do so. See 51 40798, at 40799 (November 10, 1986). We propose to add the appropriate references through this action.

Second, under section 110(k)(6), EPA is proposing to correct the inadvertent listing of the ''Part VIII'' rules in table 52.2920 in 40 CFR 52.2920 (''Identification of plan''), which sets forth EPA-approved regulations in the CNMI SIP. Part VIII of CNMI's air pollution control regulations consists of general prohibitory rules (that establish controls on open and agricultural burning, visible emissions, fugitive dust, incineration, process industries, and sulfur oxides from fuel combustion) and variance provisions. EPA has not taken action on any of the Part VIII rules and, thus, Part VIII should not have been listed in table 52.2920 in 40 CFR 52.2920. The Part VIII rules were inadvertently listed when EPA revised the format for the CNMI SIP. See 70 FR 44478, at 44481 (August 3, 2005). EPA proposes to correct this error in this action.

Third, pursuant to section 110(k)(6), EPA is proposing to remove the words (''of lead'') in 40 CFR 52.2921(c)(1)(i), which presents the original ''Identification of plan'' prior to EPA's revision of the format for the CNMI SIP in 2005. In 1987, in the original ''Identification of plan'' section, EPA mistakenly included the phrase ''of lead'' in the description of the rules that we approved in November 1987. 52 FR at 43574, at 43575 (November 13, 1987). Both CNMI and EPA have understood the 1987 approval to cover the general NSR regulations as they apply to all criteria air pollutants regulated therein,

40 CFR 52.21(b)(14)(i)(c) and 40 CFR 52.21(b)(14)(ii)(c).

[6] As noted in footnote 5 of this document, neither the request nor our approval relates to the $PM_{2.5}$ NAAQS. If this action is finalized as proposed, the $PM_{2.5}$ major source baseline date and trigger date would be the dates as provided in 40 CFR 52.21(b)(14)(i)(c) and (ii)(c). Moreover, any baseline dates or trigger dates that EPA establishes for new or modified NAAQS in future revisions to the Federal PSD regulations would be established in those revisions and would not be subject to the January 13, 1997 baseline date and trigger date proposed for approval herein.

and not just to lead, which was the subject of a previous action. *See* 51 FR 40798 (November 10, 1986). This revision would correct the wording in 40 CFR 52.2921(c)(1)(i) to match the intent of CNMI and EPA that the approval was of the generic NSR regulations. In addition, the presence of the reference to ''of lead'' in connection with EPA's 1987 SIP approval is potentially confusing, and thus, harmful to the regulated community, CNMI, and EPA.

IV. Proposed Action and Request for Public Comment

Under section 110(k) of the CAA, EPA is proposing to disapprove the CNMI SIP with respect to PSD, and incorporate by reference the Federal PSD regulations into the applicable CNMI plan.[7] EPA is also proposing to approve a petition by CNMI for an exemption of the PSD major source baseline dates and trigger dates for sulfur dioxide, PM_{10}, and nitrogen dioxide under Federal PSD regulations, and to establish an alternate date, January 13, 1997, as the major source baseline date and trigger date for those pollutants in CNMI. Lastly, in addition to proposing conforming amendments to 40 CFR part 52, subparts A and FFF and to 40 CFR part 69, subpart C, EPA is also proposing to make certain corrections to 40 CFR part 52 that were made in previous rulemakings.

If finalized as proposed, this action would establish EPA's PSD regulations as a basic element of the applicable implementation plan for CNMI and, through the exemption, would establish a major source baseline date and trigger date for sulfur dioxide, PM_{10}, and nitrogen dioxide on CNMI of January 13, 1997.

EPA is soliciting public comments on the issues discussed in this document or on other relevant matters. We will accept comments from the public on this proposal for the next 30 days. Request for a public hearing must be received within the next 15 days. If we receive a request for a public hearing, we will publish information related to the timing and location of the hearing and the timing of a new deadline for public comment.

[7] While EPA is proposing to disapprove the CNMI with respect to PSD, such disapproval would not affect the validity of any previously approved rules in the CNMI SIP. If finalized as proposed, such SIP rules would continue to be part of the applicable CNMI plan unless and until EPA approves their revocation or revision.

V. Statutory and Executive Order Reviews

A. Executive Order 12866, Regulatory Planning and Review

This proposed action is not a ''significant regulatory action'' under the terms of Executive Order (EO) 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review by the Office of Management and Budget (OMB).

B. Paperwork Reduction Act

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

C. Regulatory Reduction Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This proposed rule will not have a significant impact on a substantial number of small entities because, while the disapproval of the CNMI SIP with respect to PSD would lead to the application of the Federal PSD regulations to CNMI, the basic PSD statutory requirements for major emitting facilities to obtain a PSD permit already apply within CNMI, and the incremental impact associated with application of the specific requirements under the Federal PSD regulations would be offset by EPA's grant of CNMI's petition for a waiver of the original PSD major source baseline dates. Therefore, I certify that this proposed action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.,* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

D. Unfunded Mandates Reform Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the proposed disapproval of the CNMI SIP with respect to PSD, considered together with the proposed incorporation of the Federal PSD regulations, and grant of an exemption request with respect to the PSD major source baseline date, does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. While the disapproval of the CNMI SIP with respect to PSD would lead to the application of the Federal PSD regulations to CNMI, the basic PSD statutory requirements for major emitting facilities to obtain a PSD permit already apply within CNMI, and the incremental impact associated with application of the specific requirements under the Federal PSD regulations would be offset by EPA's grant of CNMI's petition for a waiver of the original PSD major source baseline dates. Accordingly, the additional costs to State, local, or tribal governments, or to the private sector, would not be significant for the purposes of section 202 of the Unfunded Mandates Act.

E. Executive Order 13132, Federalism

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial

direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This proposed rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely proposes to disapprove the CNMI SIP with respect to PSD, to incorporate the Federal PSD regulations, and to grant an exemption request with respect to the PSD major source baseline date, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

F. Executive Order 13175, Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This proposed rule does not have tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes. Thus, Executive Order 13175 does not apply to this rule.

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

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045, because it proposes to disapprove the CNMI SIP with respect to PSD, to incorporate the Federal PSD regulations, and to grant an exemption request with respect to the PSD major source baseline date.

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

This proposed rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

EPA believes that VCS are inapplicable to this proposed action. Today's action does not require the public to perform activities conducive to the use of VCS.

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

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

This proposed rulemaking includes a review of the CNMI SIP relative to PSD requirements, incorporation of EPA's PSD regulation into the applicable CNMI plan, and a grant of an exemption to CNMI to the original PSD major source baseline dates. With respect to EPA's review of the CNMI SIP, EPA's role is to approve or disapprove state choices, based on the criteria of the Clean Air Act, and incorporation of EPA's PSD regulation is the established remedy for disapproval of the CNMI SIP with respect to PSD. Thus, the EPA lacks the discretionary authority to address environmental justice in those two aspects of this proposed rulemaking.

EPA does have discretionary authority to address environment justice with respect to EPA's consideration of the exemption request from CNMI and has determined that this proposed action will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations. This is because, due to the lack of documentation of major source emissions changes from the original PSD baseline dates, application of the original major source baseline dates could lead to speculative and uncertain estimates of PSD increment consumption and correspondingly speculative and uncertain levels of environmental protection. In contrast, EPA's grant of CNMI's exemption request sets the stage for consistent and uniform PSD increment tracking and protection within CNMI.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

40 CFR Part 69

Environmental protection, Air pollution control.

Dated: October 30, 2013.

Jared Blumenfeld,

Regional Administrator, Region IX.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart A—General Provisions

§ 52.02 [Amended]

■ *2. Section* 52.02 is amended by:

■ a. Revising paragraph (d) introductory text by adding ''and FFF'' after ''DDD''; and

■ b. Revising paragraph (d)(2)(ix) by adding ''Commonwealth of the Northern Mariana Islands,'' after ''American Samoa,''.

§ 52.16 [Amended]

■ 3. Amend § 52.16 in paragraph (b)(9) by adding ''Commonwealth of the Northern Mariana Islands,'' after ''American Samoa,''.

§ 52.21 [Amended]

■ 4. Amend § 52.21 in paragraph (a)(1) by adding ''and FFF'' after ''DDD'' two times.

Subpart FFF—Commonwealth of the Northern Mariana Islands

§ 52.2920 [Amended]

■ 5. In § 52.2920, amend the table in paragraph (c), under ''Part VIII,'' by removing the entries for ''Paragraph A,'' ''Paragraph B,'' ''Paragraph C,'' ''Paragraph D,'' ''Paragraph E,'' ''Paragraph F,'' ''Table VIII–1,'' ''Paragraph G,'' and ''Paragraph H.''

§ 52.2921 [Amended]

■ 6. Amend § 52.2921 in paragraph (c)(1)(i)(A) by removing ''of lead'' after ''major sources''.

■ 7. Section 52.2922 is added to read as follows:

§ 52.2922 Significant deterioration of air quality.

(a) The requirements of sections 160 through 165 of the Clean Air Act are not met, since the plan does not include approvable procedures for preventing the significant deterioration of air quality.

(b) Regulations for preventing significant deterioration of air quality. The provisions of § 52.21 except paragraphs (a)(1), (b)(14)(i)(a) and (b), (b)(14)(ii)(a) and (b), (i)(5)(i)(c), and (k)(2) are hereby incorporated and made a part of the applicable plan for the Commonwealth of the Northern Mariana Islands.

(c) For the purposes of applying the requirements of § 52.21 within the Commonwealth of the Northern Mariana Islands, the term ''major source baseline date'' and ''trigger date'' means January 13, 1997 in the case of sulfur dioxide, PM_{10}, and nitrogen dioxide.

PART 69—SPECIAL EXEMPTIONS FROM REQUIREMENTS OF THE CLEAN AIR ACT

■ 8. The authority citation for part 69 continues to read as follows:

Authority: Sec. 325, Clean Air Act, as amended (42 U.S.C. 7625–1).

Subpart C—Commonwealth of the Northern Mariana Islands

■ 9 Section 69.31 is added to read as follows:

§ 69.31 New Exemptions.

(a) Change to Major Source Baseline Date and Trigger Date. Pursuant to section 325(a) of the Clean Air Act and a petition submitted by the Governor of the Commonwealth of the Northern Mariana Islands, EPA grants an exemption to the major source baseline dates and trigger dates for sulfur dioxide, PM_{10}, and nitrogen dioxide under 40 CFR 52.21, and establishes January 13, 1997 as the major source baseline date and trigger date for these pollutants in the Commonwealth of the Northern Mariana Islands. This exemption applies solely to the PSD major source baseline date and trigger date in the Commonwealth of the Northern Mariana Islands. Owners and operators of air pollutant sources are required to comply with all other applicable requirements of the Clean Air Act. For purposes of complying with any applicable requirement that is triggered by, implemented or calculated from the PSD major source baseline date, such requirement, increment, or calculation shall, for sources located within the Commonwealth of the Northern Mariana Islands, use January 13, 1997 as the PSD major source baseline date and trigger date for sulfur dioxide, PM_{10}, and nitrogen dioxide.

(b) Reserved.

[FR Doc. 2013–27155 Filed 11–22–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA–R03–RCRA–2013–0571; FRL–9903–07–Region 3]

West Virginia: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: West Virginia has applied to EPA for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA proposes to grant final authorization to West Virginia. In the ''Rules and Regulations'' section of this **Federal Register**, EPA is authorizing the revisions by an immediate final rule. EPA did not make a proposal prior to the immediate final rule because we believe this action is not controversial and do not expect comments that oppose it. We have explained the reasons for this authorization in the preamble to the immediate final rule. Unless we receive written comments that oppose this authorization during the comment period, the immediate final rule will become effective on the date it establishes, and we will not take further action on this proposal. However, if we receive comments that oppose this action, or portions thereof, we will withdraw the relevant portions of the immediate final rule, and they will not take effect. We will then respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment. If you want to comment on this action, you must do so at this time.

DATES: Send your written comments by December 26, 2013.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–RCRA–2013–0571, by one of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

2. *Email: pratt.stacie@epa.gov.*

3. *Mail:* Stacie Pratt, Mailcode 3LC50, Office of State Programs, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103–2029.

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

For further information on how to submit comments, please see today's immediate final rule published in the ''Rules and Regulations'' section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Stacie Pratt, Mailcode 3LC50, Office of State Programs, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103–2029, Phone Number: (215) 814–5173; email address: *pratt.stacie@epa.gov.*

SUPPLEMENTARY INFORMATION: For additional information, please see the immediate final rule published in the ''Rules and Regulations'' section of this **Federal Register**.

Dated: November 1, 2013.

Shawn M. Garvin,

Regional Administrator, EPA Region III.

[FR Doc. 2013–28150 Filed 11–22–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–1986–0005; FRL–9903–01–Region 5]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Deletion of the Columbus Old Municipal Landfill #1 Superfund Site

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

ACTION: Proposed rule; notice of intent.

SUMMARY: The U.S. Environmental Protection Agency Region 5 is issuing a Notice of Intent to Delete the Columbus Old Municipal Landfill #1 Superfund Site (Site) located in Bartholomew County, Indiana from the National Priorities List (NPL) and requests public comments on this proposed action. The NPL, promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). EPA with the concurrence of the State of Indiana, through the Indiana Department of Environmental Management (IDEM), has determined that all appropriate response actions under CERCLA, other than operation, maintenance, and five-year reviews have been completed. However, this deletion does not preclude future actions under Superfund.

DATES: Comments must be received by December 26, 2013.

ADDRESSES: Submit your comments, identified by Docket ID no. EPA–HQ–SFUND–1986–0005, by one of the following methods:

- *http://www.regulations.gov:* Follow online instructions for submitting comments.
- *Email:* Bernard Schorle, Remedial Project Manager, at *schorle.bernard@epa.gov* or Janet Pope, Community Involvement Coordinator, at *pope.janet@epa.gov.*
- *Fax:* Gladys Beard, NPL Deletion Process Manager, at (312) 697–2077.
- *Mail:* Bernard Schorle, Remedial Project Manager, U.S. Environmental Protection Agency (SR–6J), 77 West Jackson Boulevard, Chicago, IL 60604, (312) 886–4746 or Janet Pope, Community Involvement Coordinator, U.S. Environmental Protection Agency (SI–7J), 77 West Jackson Boulevard, Chicago, IL 60604, (312) 353–0628 or toll free at 1 (800) 621–8431.
- *Hand delivery:* Janet Pope, Community Involvement Coordinator, U.S. Environmental Protection Agency (SI–7J), 77 West Jackson Boulevard, Chicago, IL 60604. Such deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information. The normal hours are Monday through Friday, 8:30 a.m. to 4:30 p.m. CST, excluding federal holidays.

Instructions: Direct your comments to Docket ID no. EPA–HQ–SFUND–1986–0005. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *http://www.regulations.gov*, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the http://www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in the hard copy. Publicly available docket materials are available either electronically at *http://www.regulations.gov* or in hard copy at:

- U.S. Environmental Protection Agency Region 5, 77 West Jackson Boulevard, Chicago, IL 60604, Phone: (312) 353–1063, Hours: Monday through Friday, 8:30 a.m. to 4:30 p.m. CST, excluding federal holidays.
- Bartholomew County Public Library, 536 Fifth Street, Columbus, IN 47201, Phone: (812) 379–1255, Hours: Monday through Thursday, 8:30 a.m. to 9:00 p.m. EST; Friday and Saturday, 8:30 a.m. to 6:00 p.m. EST; and Sunday, 1:00 p.m. to 4:00 p.m. EST.

FOR FURTHER INFORMATION CONTACT: Bernard Schorle, Remedial Project Manager, U.S. Environmental Protection Agency (SR–6J), 77 West Jackson Boulevard, Chicago, IL 60604, (312) 886–4746, *schorle.bernard@epa.gov.*

SUPPLEMENTARY INFORMATION: In the ''Rules and Regulations'' section of today's **Federal Register**, we are publishing a direct final Notice of Deletion of the Columbus Old Municipal Landfill #1 Superfund Site without prior Notice of Intent to Delete because we view this as a noncontroversial revision and anticipate no adverse comment. We have explained our reasons for this deletion in the preamble to the direct final Notice of Deletion, and those reasons are incorporated herein. If we receive no adverse comment(s) on this deletion action, we will not take further action on this Notice of Intent to Delete. If we receive adverse comment(s), we will withdraw the direct final Notice of Deletion, and it will not take effect. We will, as appropriate, address all public comments in a subsequent final Notice of Deletion based on this Notice of Intent to Delete. We will not institute a second comment period on this Notice of Intent to Delete. Any parties interested in commenting must do so at this time.

For additional information, see the direct final Notice of Deletion which is located in the ''Rules and Regulations'' section of this **Federal Register**.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Dated: September 16, 2013.

Susan Hedman,

Regional Administrator, Region 5.

[FR Doc. 2013–28141 Filed 11–22–13; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register

Vol. 78, No. 227

Monday, November 25, 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

November 20, 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 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. Comments regarding these information collections are best assured of having their full effect if received by December 26, 2013. 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 Housing Service

Title: Direct Single Family Housing Loan and Grant Program, 7 CFR 3550, HB–1–3550, HB–2–3550.

OMB Control Number: 0575–0172.

Summary of Collection: The Rural Housing Service (RHS) is a credit agency for rural housing and community development within the Rural Development mission area of the Department of Agriculture. Section 501 of Title V of the Housing Act of 1949, as amended, authorizes the Secretary of Agriculture to administer such programs and to prescribe regulations to ensure that these loans and grants provided with Federal Funds are made to eligible applicants for authorized purposes, and that subsequent servicing and benefits provided to borrowers are consistent with the authorizing statute. RHS offers a supervised credit program to extend financial assistance to construct, improve, alter, repair, replace or rehabilitate dwellings, which will provide modest, decent, safe, and sanitary housing to eligible individuals living in rural areas. To assist individuals in obtaining affordable housing, a borrower's house payment may be subsidized to an interest rate as low as 1%. The information requested by RHS is vital to be able to process applications for RHS assistance and make prudent credit and program decisions. RHS will collect information using several forms.

Need and Use of the Information: RHS will collect information to verify program eligibility requirements; continued eligibility requirements for borrower assistance; servicing of loans; eligibility for special servicing assistance such as: Payment subsidies, moratorium (stop) on payments, delinquency workout agreements; liquidation of loans; and, debt settlement. The information is used to ensure that the direct Single Family Housing Programs are administered in a manner consistent with legislative and administrative requirements. Without the information RHS would be unable to determine if a borrower would qualify for services or if assistance has been granted to which the customer would not be eligible under current regulations and statutes.

Description of Respondents: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Number of Respondents: 289,000.

Frequency of Responses: Reporting: On occasion; Annually.

Total Burden Hours: 366,931.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2013–28246 Filed 11–22–13; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

November 20, 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 December 26, 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 and Plant Health Inspection Service

Title: Federal Recognized State Managed Phytosanitary Program (formerly Official Control Program).

OMB Control Number: 0579–0365.

Summary of Collection: Under the Plant Protection Act (7 U.S.C. 7701–7772), the Secretary of Agriculture is authorized to prohibit or restrict the importation, entry, or movement of plants and plant pests to prevent the introduction of plant pests into the United States or their dissemination within the United States. The Animal and Plant Health Inspection Service (APHIS), Plant Protection and Quarantine (PPQ) program has established the following procedures for State (through the National Plant Board (NPB)) to petition the Agency to recognize State-level plant pest regulations and associated action taken as meeting the international criteria for official control and accepted measures to protect an area that would be economically or environmentally endangered by the introduction of a pest. The International Plant Protection Convention (IPPC) defines ''official control'' as the active enforcement of mandatory phytosanitary regulations and the application of mandatory phytosanitary procedures with the objective of eradication or containment of quarantine pests or for the management of regulated non-quarantine pests.

Need and Use of the Information: To obtain a program's designation as a Federally Recognized State managed Phytosanitary Program, States (through the NPB) must petition APHIS–PPQ to recognize their established or proposed programs to exclude, eradicate or contain a regulated plant pest. The State should provide the following supporting information and documentation: (1) Evidence the pest does not exist in the State; (2) Evidence that the pest could become established or widespread in the State; (3) Evidence that the pest could cause economic and/or environmental harm in the State; (4) A description of the State actions used to maintain and monitor for pest freedom; and (5) A copy of the State or local quarantine regulations that provide enforcement of the appropriate programs. The State should provide the following supporting information and documentation for Regulated Non-Quarantine Pests: (1) Evidence that a particular pest could cause significant harm to plant for planting if the pest was not managed through a certification program; (2) Evidence the State has regulatory authority and a program established to manage the levels of the pest in plants for planting that are the hosts for the pest; and (3) A description of State actions to manage the level and or producers' management of pests in the plants for planting where the pest is maintained below a level that can affect production, health, or marketability of plants for planting. Without the information, APHIS would be less effective in establishing procedures that are used to contain regulated plant pests within the United States.

Description of Respondents: State, Local or Tribal Government.

Number of Respondents: 53.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 1,399.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2013–28248 Filed 11–22–13; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

November 20, 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 should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *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) 720–8958.

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.

Food Safety and Inspection Service

Title: Industry Response to Noncompliance Records.

OMB Control Number: 0583–0146.

Summary of Collection: The Food Safety and Inspection Service (FSIS) has been delegated the authority to exercise the functions of the Secretary as provided in the Federal Meat Inspection Act (FMIA) (21 U. S.C. 601 et. seq.), the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451, et. seq.), and the Egg Products Inspection Act (EPIA) (21 U.S.C. 1031). These statues mandate that FSIS protect the public by verifying that meat and, poultry products are safe, wholesome, not adulterated, and properly labeled and packaged. If FSIS in-plant personnel discover noncompliance with regulatory requirements they issue Noncompliance Records (NRs). The Noncompliance Record, FSIS Form 5400–4, serves as FSIS' official record of noncompliance with one or more regulatory requirements.

Need and Use of the Information: FSIS will use the form 5400–4 to document their findings and provided written notification of the establishment's failure to comply with regulatory requirement(s). The establishment management receives a copy of the form and has the opportunity to respond in writing using the Noncompliance Record form.

Description of Respondents: Business or other for-profit.

Number of Respondents: 6,800.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 136,000.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2013–28251 Filed 11–22–13; 8:45 am]

BILLING CODE 3410–P

DEPARTMENT OF AGRICULTURE

Council for Native American Farming and Ranching

AGENCY: Office of Tribal Relations, USDA.

ACTION: Notice of public meeting.

SUMMARY: This notice announces a forthcoming meeting of The Council for Native American Farming and Ranching (CNAFR) a public advisory committee of the Office of Tribal Relations (OTR). Notice of the meetings are provided in accordance with section 10(a)(2) of the Federal Advisory Committee Act, as amended, (5 U.S.C. Appendix 2). This will be the fifth meeting of the CNAFR and will consist of, but not limited to: Hearing public comments; update on USDA programs and activities; and discussion of committee priorities. This meeting will be open to the public.

DATES: The meeting will be held on December 12th, 2013 from 8: 30 a.m. to 5 p.m. and December 13th, 2013 from 8:30 a.m. to 12:00 p.m. The meeting will be open to the public. Note that a period for public comment will be held on December 11th, 2013 from 1:30 p.m. to 4:30 p.m.

ADDRESSES: The meeting and public comment period will be held at the Flamingo Las Vegas, 3555 Las Vegas Blvd. South, Las Vegas, Nevada 89109.

WRITTEN COMMENTS: Written comments may be submitted to: John Lowery, Designated Federal Officer, Office of Tribal Relations (OTR), 1400 Independence Ave. SW., Whitten Bldg., 500–A, Washington, DC 20250; by Fax: (202) 720–1058; or by email: *John.Lowery@osec.usda.gov*.

FOR FURTHER INFORMATION CONTACT: Questions should be directed to John Lowery, Designated Federal Officer, Office of Tribal (OTR), 1400 Independence Ave. SW., Whitten Bldg., 500–A, Washington, DC 20250; by Fax: (202) 720–1058 or email: *John.Lowery@osec.usda.gov*.

SUPPLEMENTARY INFORMATION: In accordance with the provisions of the Federal Advisory Committee Act (FACA) as amended (5 U.S.C. App. 2), USDA established an advisory council for Native American farmers and ranchers. The CNAFR is a discretionary advisory committee established under the authority of the Secretary of Agriculture, in furtherance of the settlement agreement in *Keepseagle* v. *Vilsack* that was granted final approval by the District Court for the District of Columbia on April 28, 2011.

The CNAFR will operate under the provisions of the FACA and report to the Secretary of Agriculture. The purpose of the CNAFR is (1) to advise the Secretary of Agriculture on issues related to the participation of Native American farmers and ranchers in USDA farm loan programs; (2) to transmit recommendations concerning any changes to FSA regulations or internal guidance or other measures that would eliminate barriers to program participation for Native American farmers and ranchers; (3) to examine methods of maximizing the number of new farming and ranching opportunities created through the farm loan program through enhanced extension and financial literacy services; (4) to examine methods of encouraging intergovernmental cooperation to mitigate the effects of land tenure and probate issues on the delivery of USDA farm loan programs; (5) to evaluate other methods of creating new farming or ranching opportunities for Native American producers; and (6) to address other related issues as deemed appropriate.

The Secretary of Agriculture selected a diverse group of members representing a broad spectrum of persons interested in providing solutions to the challenges of the aforementioned purposes. Equal opportunity practices were considered in all appointments to the CNAFR in accordance with USDA policies. The Secretary selected the members in May 2012. Interested persons may present views, orally or in writing, on issues relating to agenda topics before the CNAFR.

Written submissions may be submitted to the contact person on or before December 6, 2013. Oral presentations from the public will be scheduled between approximately 1:30 p.m. to 4:30 p.m. on December 11th. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the issue they wish to present and the names and addresses of proposed participants by December 6, 2013. All oral presentations will be given three (3) to five (5) minutes depending on the number of participants.

OTR will also make meeting room and all agenda topics available to the public via the OTR Web site: *http://www.usda.gov/tribalrelations* no later than 10 business days before the meeting and at the meeting. In addition, the minutes from the meeting will be posted on the OTR Web site. OTR welcomes the attendance of the public at the CNAFR 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 John Lowery, at least 10 business days in advance of the meeting.

Dated: November 15, 2013.

Leslie Wheelock,

Director, Office of Tribal Relations.

[FR Doc. 2013–28176 Filed 11–22–13; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS–FV–13–0075]

2013–2015 Fruit and Vegetable Industry Advisory Committee

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice; call for nominations.

SUMMARY: Pursuant to the Federal Advisory Committee Act, the Agricultural Marketing Service (AMS) is announcing a call for nominations to the Fruit and Vegetable Industry Advisory Committee. The charter for the Committee was re-established for the 2013–2015 two-year term.

DATES: Written nominations must be received on or before December 26, 2013.

ADDRESSES: Nominations should be sent to Charles W. Parrott, Deputy Administrator, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., Room 2077–S, Stop 0235, Washington, DC 20250–0235; Facsimile: (202) 720–0016. Email: *Charles.parrott@ams.usda.gov*.

FOR FURTHER INFORMATION CONTACT: Pamela Stanziani, Designated Federal Official; Phone: (202) 690–0182; Email: *Pamela.stanziani@ams.usda.gov*.

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act (FACA) (5 U.S.C. App.), notice is hereby given that the Secretary of Agriculture has reestablished the Fruit and Vegetable Industry Advisory Committee for two years. The purpose of the Committee is to examine the full spectrum of issues faced by the fruit and vegetable industry and provide suggestions and ideas to the Secretary on how USDA can tailor its programs to better meet the fruit and vegetable

industry's needs. The Deputy Administrator of the Agricultural Marketing Service's Fruit and Vegetable Programs will serve as the Committee's Executive Secretary. Representatives from USDA mission areas and agencies affecting the fruit and vegetable industry will be called upon to participate in the Committee's meetings as determined by the Committee Chairperson.

Industry members will be appointed by the Secretary of Agriculture and serve two or three year terms. These staggered terms include a concurrent two year term for members of the most recent, previously chartered committee, and three year terms for members new to the advisory committee, a measure implemented to initiate required staggered member terms for continual committee operation. Membership will consist of up to twenty-five (25) members who represent the fruit and vegetable industry and will include individuals representing fruit and vegetable growers/shippers, wholesalers, brokers, retailers, processors, fresh cut processors, foodservice suppliers, state agencies involved in organic and non-organic fresh fruits and vegetables at local, regional and national levels, state departments of agriculture, and trade associations. The members of the re-established Committee will elect the Chairperson and Vice Chairperson of the Committee. In absence of the Chairperson, the Vice-Chairperson will act in the Chairperson's stead.

The Secretary of Agriculture invites those individuals, organizations, and groups affiliated with the categories listed above to nominate individuals for membership on the reestablished Committee. Nominations should describe and document the proposed member's qualifications for membership to the Committee, and list their name, title, address, telephone, and fax number. The Secretary of Agriculture seeks a diverse group of members representing a broad spectrum of persons interested in providing suggestions and ideas on how USDA can tailor its programs to meet the fruit and vegetable industry's needs.

Individuals who are nominated will receive necessary forms from USDA for membership. The biographical information and clearance forms must be completed and returned to USDA within 10 working days of notification, to expedite the clearance process that is required before selection of Committee members by the Secretary of Agriculture.

Equal opportunity practices will be followed in all appointments to the Committee in accordance with USDA policies. To ensure that the recommendations of the Committee have taken into account the needs of the diverse groups served by USDA, membership shall include, to the extent practicable, individuals with demonstrated ability to represent minorities, women, persons with disabilities, and limited resource agriculture producers.

Dated: November 19, 2013.

Rex A. Barnes,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2013–28245 Filed 11–22–13; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Inviting Applications for Value-Added Producer Grants

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice of Funding Availability (NOFA).

SUMMARY: USDA announces the availability of competitive grant funding through the Value-Added Producer Grant (VAPG) program. Approximately $10.5 million in carry over funding from fiscal year (FY) 2013 is available to help agricultural producers enter into value-added activities. This NOFA is being published prior to the Congressional enactment of a full-year appropriation for FY 2014. Should additional funding be made available during FY 2014 for this program RBS will continue to fund applications received under this announcement based upon the applications score. At this time, the exact amount of funding that will be made available to this program for FY 2014 is unknown. Anyone interested in submitting an application for funding under this program should consult the Rural Development Value Added Producer Grant Program Web site at *http://www.rurdev.usda.gov/BCP_VAPG.html* periodically for updated information regarding any FY 2014 funding for the program.

The program purpose is to help U.S. agricultural producers enter into value-added activities. Awards may be made for either economic planning or working capital activities related to the processing and/or marketing of valued-added agricultural products. The maximum grant amount for a planning grant is $75,000 and the maximum grant amount for a working capital grant is $200,000.

There is a matching funds requirement of at least $1 for every $1 in grant funds provided by the Agency (matching funds plus grant funds must equal proposed total project costs). Matching funds may be in the form of cash or eligible in-kind contributions and may be used only for eligible project purposes. Matching funds must be available at time of application and must be certified and verified as described in 7 CFR 4284.931(b)(3) and (4).

7 CFR 4284.925 and 7 U.S.C. 1632(a) provide for the reservation of ten percent of available funds for applications submitted by Beginning and Socially Disadvantaged Farmers or Ranchers, and an additional ten percent of available funds for applications from farmers or ranchers proposing development of Mid-Tier Value Chains. For this announcement, Reserved Funds were not obligated prior to June 30, 2013 as required by 7 CFR 4284.925 and 7 U.S.C. 1632(a). Therefore, no reserves are available to fund these categories from FY 2013 carry over monies. However, 7 CFR 4284.925 and 7 U.S.C. 1632(a) allow the Secretary to repurpose and reuse these funds for the general VAPG competition. Beginning and Socially-Disadvantaged Farmers or Ranchers and applicants proposing Mid-Tier Value Chains can still compete and benefit by receiving priority through the award of Priority Points. Should FY 2014 funds become available, 20 percent of those funds will be reserved for these categories.

DATES: You must submit your application by February 24, 2014 or it will not be considered for funding that may be announced in a subsequent Notice. Paper applications must be postmarked and mailed, shipped or sent overnight by this date. You may also hand carry your application to one of our field offices, but it must be received by close of business on the deadline date. Electronic applications are permitted via *http://www.grants.gov* only, and must be received before midnight Eastern Time on this date. Late applications are not eligible for grant funding under this Notice.

ADDRESSES: You should contact your USDA Rural Development State Office if you have questions about eligibility or submission requirements. You are encouraged to contact your State Office well in advance of the application deadline to discuss your project and to ask any questions about the application process. You may request technical assistance from your State Office up to 14 days prior to the application deadline. Application materials are

available at *http://www.rurdev.usda.gov/BCP_VAPG.html.*

If you want to submit an electronic application, follow the instructions for the VAPG funding announcement on *http://www.grants.gov.* Please review the Grants.gov Web site at *http://grants.gov/applicants/organization_registration.jsp* for instructions on the process of registering your organization as soon as possible to ensure you are able to meet the electronic application deadline. If you want to submit a paper application, send it to the State Office located in the State where your project will primarily take place. You can find State Office Contact information at *http://www.rurdev.usda.gov/StateOfficeAddresses.html.*

FOR FURTHER INFORMATION CONTACT: Grants Division, Cooperative Programs, Rural Business-Cooperative Service, United States Department of Agriculture, 1400 Independence Avenue SW., MS–3250, Room 4016-South, Washington, DC 20250–3250, or call 202–720–8460.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act, the paperwork burden associated with this Notice has been approved by the Office of Management and Budget (OMB) under OMB Control Number 0570–0039.

I. Funding Opportunity Description

A. Authority

The VAPG Program is authorized under section 231 of the Agriculture Risk Protection Act of 2000 (Pub. L. 106–224), as amended by section 6202 of the Food, Conservation, and Energy Act of 2008 (Pub. L. 110–246) (see 7 U.S.C. 1632a). Applicants must adhere to the program requirements contained in the program regulation, 7 CFR 4284, subpart J, which is incorporated by reference in this Notice.

B. Purpose of the Program

The primary objective of this grant program is to assist Independent Producers of agricultural commodities, Agricultural Producer Groups, Farmer and Rancher Cooperatives, and Majority-Controlled Producer-Based Businesses in starting or expanding value-added activities related to the processing and/or marketing of bio-based value-added agricultural products. Grants will be awarded competitively for either planning or working capital projects directly related to the processing and/or marketing of value-added products. Generating new products, creating and expanding marketing opportunities, and increasing producer income are the end goals. All proposals must demonstrate economic viability and sustainability in order to compete for funding.

Funding priority will be available to Beginning Farmers and Ranchers, Socially-Disadvantaged Farmers and Ranchers, Operators of Small and Medium-Sized Farms and Ranches structured as Family Farms, Farmer or Rancher Cooperatives, and projects proposing to develop a Mid-Tier Value Chain. See See 7 CFR 4284.922(c) for Reserved Funding (for available FY 2014 funds only) and 7 CFR 4284.922(d) for Priority Point categories and requirements.

C. Definition of Terms

The terms you need to understand are defined in 7 CFR 4284.902.

II. Award Information

Type of Instrument: Grant.

Minimum Award Amount: Not restricted for planning or working capital. In FY 2012, 40 percent of awards were $50,000 or less.

Maximum Award Amount: Planning—$75,000; Working Capital—$200,000.

Anticipated Award Date: April 15, 2014.

Grant Period Length: The maximum grant period is 3 years from date of award. Proposed grant periods should be scaled to the complexity of the objectives of the project, as described in the budget and work plan.

III. Eligibility Information

A. Eligible Applicants

1. Type of Applicant

You must demonstrate that you meet all definition requirements at 7 CFR 4284.902 for one of the following applicant types: Independent producer, agricultural producer group, farmer or rancher cooperative, or majority-controlled producer-based business venture.

- **Note:** If you are an unincorporated Steering Committee in the process of organizing one of the four applicant types that will operate a proposed value-added venture, it is the Agency's position that you may only apply as an Independent Producer applicant type and must be 100 percent comprised of Independent Producers at time of application submission. If selected for funding, the Steering Committee members must form a legally authorized organization that meets requirements for one of the four eligible applicant types and provide the necessary documentation before the grant agreement will be approved by the Agency.
- If you are a Harvester, it is the Agency's position that you may only apply as an Independent Producer applicant type because harvester operations do not meet Agency definition requirements for a Farm or Ranch. In addition, harvester applicants are not eligible to receive Reserved Funds or Priority Points for a Beginning Farmer or Rancher, a Socially Disadvantaged Farmer or Rancher, Operator of a Small or Medium-sized Farm or Ranch structured as a Family Farm, or a Farmer or Rancher Cooperative. However, Harvesters may request Reserved Funds and/or Priority Points for a qualifying Mid-Tier Value Chain project if eligibility is documented in the application. A Harvester is an individual or entity that can demonstrate a legal right to access and harvest a primary agricultural commodity. Individuals or entities that merely glean, gather or collect residual commodities that result from an initial harvesting or production of a primary agricultural commodity are not considered Harvesters and are not eligible for this program. Examples of Harvesters include, but are not limited to, a logger who has a legal right to access and harvest logs from the forest that are then converted into boards; a fisherman that has the legal right to access and harvest fish from the ocean or river that are then processed.
- Businesses that contract out the production of an agricultural commodity are not considered Independent Producers, and businesses that produce the agricultural commodity under contract for another business and do not own the raw commodity or value-added product produced are not considered Independent Producers.
- If the applicant is a federally-recognized Tribe or tribal entity, it must demonstrate that it meets the requirements for one of the four eligible applicant types. See the application toolkit and contact your Rural Development State Office for guidance via *http://www.rurdev.usda.gov/StateOfficeAddresses.html.*

2. Other Applicant Eligibility Requirements

You must obtain a Dun and Bradstreet Data Universal Numbering System (DUNS) number (see Section IV.B.) and register in the System for Awards Management (SAM) prior to submitting an application. (See 2 CFR 25.200(b).) In addition, you must maintain your registration in SAM during the time your application is active.

You must also meet all related applicant eligibility requirements for Citizenship, Legal Authority and Responsibility, Multiple Grants and Active Grants. Regarding multiple grants, applicants may not request additional planning or working capital grants for a project that has already received a planning or working capital grant. It is the position of the Agency that the program is intended to provide seed money to help producers launch value-added processing and marketing efforts and is not intended as a continuous source of capital.

In addition, regarding restrictions related to separate entities with common ownership or affiliation in 7 CFR 4284.920(e), it is the Agency's position that an applicant submit only one application in response to a solicitation, and that the following types of ownership, management and affiliation scenarios constitute multiple applications that are not allowed: (1) Applications from separate entities with greater than 75 percent common ownership; (2) more than one application from a parent, subsidiary or affiliated organization (with ''affiliation'' defined by Small Business Administration regulation 13 CFR 121.103, or subsequent regulation). In cases where the Agency receives multiple grant requests as described above, ALL such applications will be deemed ineligible to compete for Federal funds.

You must also meet Departmental requirements related to debarment, suspension and exclusion from participation in Federal assistance programs, as well as requirements related to outstanding Federal income taxes, judgments and delinquencies. See 7 CFR 4284.920 and 7 CFR 4284.921 for all applicant eligibility requirements.

3. Special Emphasis

(a) Food Hubs. Rural Development is encouraging applications that will support eligible activities related to the aggregation, storage, processing, distribution, and/or marketing of locally/regionally produced food products through regional food hubs. All program requirements are applicable and must be properly and completely executed to be considered for funding.

(b) Tribal Entities. Rural Development encourages applications from Federally Recognized Tribal Groups and corporations and subdivisions of Tribal Groups undertaking or planning to undertake eligible value-added projects. All program application requirements are applicable and must be properly and completely executed to be considered for funding. Tribal eligibility and documentation questions may be directed to your local Rural Development State Office via *http://www.rurdev.usda.gov/StateOfficeAddresses.html.*

(c) Bio-based Products. Applications from eligible entities supporting value-added activities related to bio-based products are also encouraged. Bio-based products are defined as commercial or industrial products composed of biological products or renewable domestic agricultural materials or forestry materials, including construction materials, fibers, papers, compost, fertilizer, lubricants, plastics and paint (see *http://www.biopreferred.gov/Biobased_Products.aspx* for more information)

B. Project Eligibility

1. Product Eligibility

You must meet requirements found at 7 CFR 4284.922(a), including:

(a) The value-added product results from one of the five methodologies identified in the definition of value-added agricultural product at 7 CFR 4284.902.

(b) Demonstrate that, as a result of the project, the customer base for the agricultural commodity or value-added product is expanded by including a baseline of current customers for the commodity, and an estimated target number of customers that will result from the project; and

(c) Demonstrate that, as a result of the project, a greater portion of the revenue derived from the marketing or processing of the value-added product is available to the applicant producer of the agricultural commodity by including a baseline of current revenues from the sale of the agricultural commodity and an estimated target number of increased revenues that will result from the project.

2. Purpose Eligibility

Applicants for both planning and working capital grants must meet all requirements at 7 CFR 4284.22(b) regarding maximum grant amounts, certification and verification of matching funds, eligible and ineligible uses of grant and matching funds, a substantive work plan and budget, and identification of the number of jobs expected to be created or saved as a result of the project.

(a) Planning Grants. A planning grant is used to fund development of a defined program of economic planning activities to determine the viability of a potential value-added venture, and specifically for the purpose of paying for a qualified consultant to conduct and develop a feasibility study, business plan, and/or marketing plan associated with the processing and/or marketing of a value-added agricultural product. Planning grant funds may not be used to fund working capital activities.

(b) Working Capital Grants. This type of grant provides funds to operate a value-added project, specifically to pay the eligible project expenses related to the processing and/or marketing of the value-added product that are eligible uses of grant funds. Working capital funds may not be used for planning purposes.

Applicants for working capital funds must document the quantity of the agricultural commodity that will be used for the value-added product, expressed in an appropriate unit of measure (acres, pounds, bushels, etc.) to demonstrate the scale of the applicant's project. This quantification must include an estimated total quantity of the agricultural commodity needed for the project, the quantity that will be provided (produced and owned) by the agricultural producers of the applicant organization, and the quantity that will be purchased or donated from third-party sources.

- Working capital requests of $50,000 or more require submission of an independent, third party feasibility study and a business plan. You must submit these documents with your application. You must also summarize relevant results of the feasibility study and business plan in response to the scoring criteria, as applicable, because reviewers will not receive copies of your feasibility study or business plan when scoring your application. Based on the information presented in the application, you must demonstrate that the project is financially feasible and can achieve the income, credit and cash flows to sustain the venture over the long term. Applications with inadequate information or projects deemed not financially feasible by the Agency will not be eligible to compete for grant funding. See 7 CFR 4284.922(b)(6).
- Simplified Applications. If you are requesting less than $50,000 in working capital grant funds, you may submit a simplified application. See 7 CFR 4284.932. You are not required to provide an independent feasibility study or business plan. You are required to provide information to show the increases in customer base and revenues expected to be derived from the project that will benefit the producer applicants supplying the majority of the agricultural commodity for the project. Also see 7 CFR 4284.922(b)(6)(ii).
- Market Expansion Proposals. If you are an Independent Producer applicant

type applying for a working capital grant of $50,000 or more, and your project is for market expansion of an existing value-added product(s) that you have successfully produced and marketed for at least 2 years prior to the submission of the application, you must submit a business or marketing plan for the project, but are not required to submit a feasibility study. Your application must contain adequate information to demonstrate the increases in customer base and revenues expected to be derived from the project that will benefit the applicant producers supplying the majority of the agricultural commodity for the project. See 7 CFR 4284.922(b)(6)(i).

3. Reserved Funds Eligibility

Reserved Funds will be available only if Congress enacts a full year appropriation for FY 2014. To qualify for Reserved Funds as a Beginning Farmer or Rancher, a Socially Disadvantaged Farmer or Rancher, or if you propose to develop a Mid-Tier Value Chain, you must meet the requirements found at 7 CFR 4284.922(c). If your application is eligible, but does not receive Reserve Funding, it will automatically be considered for general funds in that same fiscal year, as funding levels permit and in accordance with project ranking.

4. Priority Points

To qualify for priority points for projects that contribute to increasing opportunities for Beginning Farmers or Ranchers, Socially Disadvantaged Farmers or Ranchers, or if you are an Operator of a Small or Medium-sized farm or ranch structured as a Family Farm, propose a Mid-Tier Value Chain project, or are a Farmer or Rancher Cooperative, you must meet the eligibility requirements at 7 CFR 4284.922(d), 7 CFR 4284.923 and 7 CFR 4284.924.

5. Other Eligibility Requirements

(a) Grant Period Eligibility. Your project timeframe or grant period can be a maximum of 36 months in length from the date of award. Your proposed grant period should begin no earlier than the anticipated award announcement date herein, April 15, 2014, and should end no later than 36 months following that date. If you receive an award, your grant period will be revised to begin on the actual date of award—the date the grant agreement is executed by the Agency—and your grant period end date will be adjusted accordingly. Your project activities must begin within 90 days of that date of award. If you request funds for a time period beginning before April 15, 2014, and/or ending later than 36 months from that date, your application will be ineligible. The length of your grant period should be based on your project's complexity, as indicated in your application work plan. For example, it is expected that most planning grants can be completed within 12 months. If you cannot finish your project during the approved timeframe, you may request an extension of up to 1 year from your local Rural Development office. Extensions will be considered only if unavoidable or unforeseen circumstances prevent you from finishing your project. Extensions beyond 3 years from the actual date of award will not be considered.

(b) Ineligible Expenses. Applications with ineligible expenses of more than 10 percent of total project costs will be ineligible to compete for funds. Eligible applications that are selected for award but contain ineligible expenses of 10 percent or less of total project costs must remove those ineligible expenses from the final project budget that is subject to approval by the Agency. See 7 CFR 4284.923 for examples of eligible planning and working capital use of funds, and see 7 CFR 4284.924 for examples of ineligible use of funds.

(c) Completeness. If your application is incomplete, it is ineligible to compete for funds. Information submitted after the application deadline will not be accepted.

IV. Application and Submission Information

A. Address To Request Applications

The application toolkit, regulation, and official program notifications for this funding opportunity can be obtained online at *http://www.rurdev.usda.gov/BCP_VAPG.html.* Or, you can contact your USDA Rural Development State Office by visiting *http://www.rurdev.usda.gov/recd_map.html.* The toolkit contains an application checklist, templates, required grant forms, and instructions. Although the Agency highly recommends their use, use of the templates is not mandatory.

B. Form of Submission

You may submit your application in paper form or electronically through Grants.gov. Your application must contain all required information.

To submit an application electronically, you must follow the instructions for this funding announcement at *http://www.grants.gov.* Please note that we cannot accept emailed or faxed applications. You can locate the Grants.gov downloadable application package for this program by using a keyword, the program name, or the Catalog of Federal Domestic Assistance Number for this program. When you enter the Grants.gov Web site, you will find information about submitting an application electronically through the site, as well as the hours of operation. To use Grants.gov, you must have a Dun and Bradstreet Data Universal Numbering System (DUNS) number, which can be obtained at no cost via a toll-free request line at (866) 705–5711. Before submitting an application, you must also be registered and maintain registration in SAM (formerly the CCR database). (See 2 CFR part 25.) You may register in SAM at *https://www.sam.gov/portal/public/SAM/.* We strongly recommend that you do not wait until the application deadline date to begin the application process through Grants.gov. You must submit all of your application documents electronically through Grants.gov. After electronically submitting an application through Grants.gov, you will receive an automatic acknowledgement from Grants.gov that contains a Grants.gov tracking number.

If you want to submit a paper application, send it to the State Office located in the State where your project will primarily take place. You can find State Office Contact information at: *http://www.rurdev.usda.gov/StateOfficeAddresses.html.* An optional-use Agency application template is available online at *http://www.rurdev.usda.gov/BCP_VAPG.html.*

C. Application Contents

Your application must contain all of the required forms and proposal elements described in 7 CFR 4284.931, unless otherwise clarified in this notice. You are encouraged, but not required to utilize the Application Toolkits found at *https://www.rurdev.usda.gov/BCP_VAPG.html.* Basic application contents are outlined below:

1. Required Forms

(a) Standard Form (SF) 424, ''Application for Federal Assistance, '' to include your DUNS number and SAM (CAGE) code and expiration date. Because there are no specific fields for a CAGE code and expiration date, you may identify them anywhere you want to on the form. If you do not include the CAGE code and expiration date and the DUNS number in your application, it will not be considered for funding.

(b) Form AD–3030, ''Representations Regarding Felony Conviction and Tax

Delinquent Status for Corporate Applicants,'' if you are a corporation. A corporation is any entity that has filed articles of incorporation in one of the 50 States, the District of Columbia, or the various territories of the United States including American Samoa, Federated States of Micronesia, Guam, Midway Islands, Northern Mariana Islands, Puerto Rico, Republic of Palau, Republic of the Marshall Islands, or the U.S. Virgin Islands. Corporations include both for profit and non-profit entities.

2. Executive Summary and Abstract

A one-page Executive Summary containing the following information: legal name of applicant entity, application type (planning or working capital), applicant type, amount of grant request, a summary of your project, and whether you are submitting a simplified application, and whether you are requesting Reserved Funds. Also include an abstract of up to 100 words briefly describing your project.

3. Certification of Judgments

You must certify that there are no current outstanding Federal judgments against your property and that you will not use grant funds to pay for any judgment obtained by the United States. To satisfy this certification requirement, you should include this statement in your application: ''[INSERT NAME OF APPLICANT] certifies that the United States has not obtained an unsatisfied judgment against its property and will not use grant funds to pay any judgments obtained by the United States.'' A separate signature is not required.

4. Project Proposal

a. Eligibility Discussion
b. Budget and work plan
c. Evaluation Criteria
- Performance evaluation criteria
- Proposal evaluation criteria

5. Certification and Verification of Matching Funds

6. Reserved Fund and Priority Point Documentation (as Applicable)

7. Appendices

D. Funding Limitations

Funding limitations and reservations found in the program regulation will apply. See 7 CFR 4284.925.

1. Use of Funds. Grant funds may be used to pay up to 50 percent of the total eligible project costs, subject to the limitations established for maximum total grant amount. Grant and matching funds may only be used for eligible purposes. (see examples of eligible and ineligible uses in 7 CFR 4284 sections 923 and 924, respectively).

Note that applicant-supplied inventory of the raw agricultural commodity that will be transformed into the value-added product must be verified as an applicant in-kind matching contribution, and not as an applicant cash matching contribution, regardless of applicant transfer arrangements with related parties (cooperatives, subsidiaries, etc.). Proposed applicant cash match for ''purchase or buy-back'' of their own raw agricultural commodity from related parties (cooperatives, subsidiaries, etc.) is not eligible.

2. If Program Income is earned during the grant period as a result of the project activities, it is subject to the requirements in 7 CFR 3019.24, and must be managed and reported accordingly.

3. Majority Controlled Producer-Based Business. The aggregate amount of awards to Majority Controlled Producer-Based Businesses in response to this announcement shall not exceed 10 percent of the total funds obligated for the program during the fiscal year.

4. Reserved Funds. Should FY 2014 funds become available, ten percent of total FY 2014 funding available will be used to fund projects that benefit Beginning Farmers or Ranchers, or Socially-Disadvantaged Farmers or Ranchers. In addition, 10 percent of total funding available will be used to fund projects that propose development of Mid-Tier Value Chains as part of a Local or Regional Supply Chain Network. See related definitions in 7 CFR 4284.902.

5. Disposition of Reserved Funds Not Obligated. For this announcement, any Reserved FY 2014 Funds that have not been obligated by June 30, 2014, will be available to the Secretary to make VAPG grants from the fund categories addressed at 7 CFR 4284.922 (c).

E. Intergovernmental Review

Executive Order (EO) 12372, ''Intergovernmental Review of Federal Programs,'' applies to this program. This EO requires that Federal agencies provide opportunities for consultation on proposed assistance with State and local governments that have chosen to participate in that process. Those states have established a Single Point of Contact (SPOC) to facilitate this consultation. For a list of states that maintain an SPOC, please see the White House Web site: *http://www.whitehouse.gov/omb/grants_spoc.* If your state has an SPOC, you must submit a copy of the application directly for review. Any comments obtained through the SPOC must be provided to your State Office for consideration as part of your application.

V. Application Review Information

Applications will be reviewed and processed as described at 7 CFR 4284.940.

A. Application Eligibility and Notifications

The Agency will review your application to determine if it is complete and eligible. If at any time, the Agency determines that your application is ineligible, you will be notified in writing as to the reasons it was determined ineligible and you will be informed of appeal rights.

If, at any time after you have submitted your application, you decide that you no longer want to request grant funding, you must notify the Agency in writing. Upon receipt of your notification, the Agency will rescind the award or withdraw the application, as applicable.

B. Application Scoring

The Agency will only score applications in which the applicant and project are eligible, which are complete and sufficiently responsive to program requirements, and in which the Agency agrees on the likelihood of financial feasibility for working capital requests. We will score your application according to the procedures and criteria specified in 7 CFR 4284.942, and with tiered scoring thresholds as specified below.

For each criterion, you must show how the project has merit and why it is likely to be successful. If you do not address all parts of the criterion, or do not sufficiently communicate relevant project information, you will receive lower scores. VAPG is a competitive program, so you will receive scores based on the quality of your responses. Simply addressing the criteria will not guarantee higher scores. The maximum number of points that can be awarded to your application is 100. For this announcement, the minimum score requirement for funding is 50 points.

The Agency application toolkit provides additional instruction to help you to respond to the criteria below.

1. Nature of the Proposed Venture (Graduated Score 0–30 Points)

For both planning and working capital grants, you should discuss the technological feasibility of the project, as well as the operational efficiency, profitability, and overall economic sustainability resulting from the project. In addition, demonstrate the potential

for expanding the customer base for the agricultural commodity or value-added product, and the expected increase in revenue returns to the producer-owners providing the majority of the raw agricultural commodity to the project. You should reference third-party information that specifically supports your value-added project; discuss the value-added process you are proposing; potential markets and distribution channels; the value to be added to the raw commodity through the value-added process; cost and availability of inputs, your experience in marketing the proposed or similar product; business financial statements; and any other relevant information that supports the viability of your project. Working capital applicants should demonstrate these concepts that will result from the project. Planning grant applicants should describe the *expected results,* and the reasons supporting those expectations.

Points will be awarded as follows:

(i) 0 points will be awarded if you do not substantively address the criterion.

(ii) 1–5 points will be awarded if you do not address each of the following: Technological feasibility, operational efficiency, profitability, and overall economic sustainability.

(iii) 6–13 points will be awarded if you address technological feasibility, operational efficiency, profitability, and overall economic sustainability, but do not reference third-party information that supports the success of your project.

(iv) 14–22 points will be awarded if you address technological feasibility, operational efficiency, profitability, and overall economic sustainability, supported by third party information demonstrating a reasonable likelihood of success.

(v) 23–30 points will be awarded if all criterion components are well addressed, supported by third-party information, and demonstrate a high likelihood of success.

2. Qualifications of Project Personnel (Graduated Score 0–20 Points)

You must identify all individuals who will be responsible for completing the proposed tasks in the work plan, including the roles and activities that owners, staff, contractors, consultants or new hires may perform; and show that these individuals have the necessary qualifications and expertise, including those hired to do market or feasibility analyses, or to develop a business operations plan for the value-added venture. You must include the qualifications of those individuals responsible to lead or manage the total project (applicant owners or project managers), as well as those individuals responsible for actually conducting the various individual tasks in the work plan (such as consultants, contractors, staff or new hires). You must discuss the commitment and the availability of any consultants or other professionals to be hired for the project. If staff or consultants have not been selected at the time of application, you must provide specific descriptions of the qualifications required for the positions to be filled. Applications that demonstrate the strong credentials, education, capabilities, experience and availability of project personnel that will contribute to a high likelihood of project success will receive more points than those that demonstrate less potential for success in these areas.

(i) 0 points will be awarded if you do not substantively address the criterion.

(ii) 1–4 points will be awarded if qualifications and experience of all staff is not addressed and/or if necessary qualifications of unfilled positions are not provided.

(iii) 5–9 points will be awarded if all project personnel are identified but do not demonstrate qualifications or experience relevant to the project.

(iv) 10–14 will be awarded if most key personnel demonstrate strong credentials and/or experience, and availability indicating a reasonable likelihood of success.

(v) 15–20 points will be awarded if all personnel demonstrate strong, relevant credentials or experience, and availability indicating a high likelihood of project success.

3. Commitments and Support (Graduated Score 0–10 Points)

Producer commitments to the project will be evaluated based on the number of independent producers currently involved in the project; and the nature, level and quality of their contributions. End-user commitments will be evaluated on the basis of potential or identified markets and the potential amount of output to be purchased, as indicated by letters of intent or contracts from potential buyers referenced within the application. Other Third-Party commitments to the project will be evaluated based on the critical and tangible nature of their contribution to the project, such as technical assistance, storage, processing, marketing, or distribution arrangements that are necessary for the project to proceed; and the level and quality of these contributions. All cash or in-kind contributions from producers, end users, or other contributors should be discussed. End-user commitments may include contracts or letters of intent or interest in purchasing the value-added product. Letters of commitment by producers, end-users, and third-parties should be summarized as part of your response to this criterion, and the letters should be included in Appendix B. Applications that demonstrate the project has strong direct financial, technical and logistical support to successfully complete the project will receive more points than those that demonstrate less potential for success in these areas. Points will be awarded as follows:

(i) 0 points will be awarded if you do not substantively address the criterion.

(ii) 1–3 points will be awarded if you show real, direct support from at least one producer, end-user, or other third-party contributor.

(iii) 4–6 points will be awarded if you show real, high-quality, direct support or participation from at least one additional producer; AND measurable commitment or interest in purchasing the value-added product from at least one end-user; AND commitment or tangible support from at least one other third-party contributor.

(iv) 7–10 points will be awarded if you show real, high quality direct support or participation from multiple producers, AND measurable commitment or interest from multiple end-users, AND commitment or tangible support from multiple third-party contributors.

4. Work Plan and Budget (Graduated Score 0–20 Points)

You must submit a comprehensive work plan and budget (for full details, see 7 CFR 4284.922(b)(5)). Your work plan must provide specific and detailed descriptions of the tasks and the key project personnel that will accomplish the project's goals. The budget must present a detailed breakdown of all estimated costs of project activities and allocate those costs among the listed tasks. You must show the source and use of both grant and matching funds for all tasks. Matching funds must be spent at a rate equal to, or in advance of, grant funds. An eligible start and end date for the project and for individual project tasks must be clearly shown and may not exceed Agency specified timeframes for the grant period. Working Capital applications must include an estimate of Program Income expected to be earned during the grant period (see 7 CFR 3019.24).

(i) 0 points will be awarded if you do not substantively address the criterion.

(ii) 1–7 points will be awarded if the work plan and budget do not account

for all project goals, tasks, costs, timelines, and responsible personnel.

(iii) 8–14 points will be awarded if you provide a clear, comprehensive work plan detailing all project goals, tasks, timelines, costs, and responsible personnel in a logical and realistic manner that demonstrates a reasonable likelihood of success.

(v) 15–20 points will be awarded if you provide a clear, comprehensive work plan detailing all project goals, tasks, timelines, costs, and responsible personnel in a logical and realistic manner that demonstrates a high likelihood of success.

5. Priority Points (Lump Sum Score 0 or 10 Points)

Priority Points may be awarded in both the general funds and Reserved funds competition. You may request priority points if you meet the requirements for one of the following categories and provide the documentation described in 7 CFR 4284.922(d), as applicable: Beginning Farmer or Rancher, or Socially-Disadvantaged Farmer or Rancher, or Operator of a Small or Medium-sized farm or ranch that is structured as a Family Farm, or Farmer or Rancher Cooperative, or Mid-Tier Value Chain project.

It is recommended that you use the Agency application package when applying for priority points and refer to the documentation requirements specified in 7 CFR 4284.922(d). Harvester operations are not considered a Farm or Ranch and are not eligible for priority points for a Beginning Farmer or Rancher, a Socially Disadvantaged Farmer or Rancher, an Operator of a Small or Medium-sized farm or ranch that is structured as a Family Farm, or a Farmer or Rancher Cooperative; however, Harvester operations may request priority points for a qualifying Mid-Tier Value Chain project, as applicable. All qualifying applicants will receive 10 points. If you do not provide sufficient documentation you will receive 0 points.

6. Administrator Priority Categories (Graduated Score 0–10 Points)

The Administrator of USDA Rural Development Business-Cooperative Service (RBS) may choose to award up to 10 points to an application to improve the geographic diversity of awardees in a fiscal year.

C. Selection of Applications

The Agency will select applications for award under this Notice in accordance with the provisions specified in 7 CFR 4284.950(a).

If your application is eligible and complete, it will be qualitatively scored by at least two reviewers based on criteria specified in section V.B. of this Notice. One of these reviewers will be a Rural Development employee from your servicing State Office and at least one additional reviewer will be a non-Federal, independent reviewer. The State Office may enlist the support of technical experts, qualified as described below and approved by the State Director, to assist the State Office scoring process. All reviewers must meet the following qualifications. All reviewers must have at least bachelor's degree in one or more of the following fields: Agri-business, agricultural economics, agriculture, animal science, business, marketing, economics or finance. All reviewers must also have a minimum of 8 years of experience in an agriculture-related field (e.g. farming, marketing, consulting, or research; or as university faculty, trade association official or non-Federal government official in an agriculturally-related field). Each reviewer will score evaluation criteria 1 through 4 and the totals for each reviewer will be added together and averaged. The Rural Development State Office reviewer will also assign priority points based on criterion 5 in section V.B. of this Notice. These will be added to the average score. The sum of these scores will be ranked high to low and this will comprise the initial ranking.

The Administrator of RBS may choose to award up to 10 Administrator priority points based on criterion 6 in section V.B. of this Notice. These points will be added to the cumulative score for a total possible score of 100.

A final ranking will be obtained based solely on the scores received for criteria 1 through 6. Applications for reserved funding will be funded in rank order until funds are depleted. Unfunded reserve category applications will be returned to the general funds category where applications will be funded in rank order until the funds are expended. Funding for Majority Controlled Producer-Based Business Ventures (MAJ) is limited to 10 percent of total grant funds expected to be obligated as a result of this Notice. MAJ applications will be funded in rank order until the funding limitation has been reached. Grants to MAJ applicants from reserved funds will count against this funding limitation. In the event of tied scores, the Administrator shall have discretion in breaking ties.

If your application is ranked, but not funded, it will not be carried forward into the next competition. We will notify you in writing if your application is not selected for funding and inform you of any appeal rights. You may submit an updated application for consideration during the next round of funding.

VI. Award Administrative Information

A. Award Notices

If your application is successful, you will receive notification regarding funding from the State Office where your application is submitted or where the project will primarily take place if you submit your application via Grants.gov. You must comply with all applicable statutes, regulations, and notice requirements before the grant award will be approved. See 7 CFR 4284.951. If your application is not successful, you will receive notification, including appeal rights, by mail. See 7 CFR part 11.

B. Administrative and National Policy Requirements

1. Review or appeal rights. A person may seek a review of an Agency decision or appeal to the National Appeals Division in accordance with 7 CFR part 11.

2. Transparency Act Requirements. All recipients of Federal financial assistance are required to report information about first-tier sub-awards and executive compensation (see 2 CFR part 170). You will be required to have the necessary processes and systems in place to comply with the Transparency Act reporting requirements (see 2 CFR 170.200(b), unless you are exempt under 2 CFR 170.110(b)).

3. Corporate applicants who receive an award under this Notice must sign Form AD-3031, ''Assurance Regarding Felony Conviction or Tax Delinquent Status for Corporate Applicants;''

4. Compliance with other laws and regulations. The provisions of 7 CFR 4284.905 applies to this Notice, which includes requiring applicants to be in compliance with other applicable Federal laws.

5. Monitoring and reporting program performance. The provisions of 7 CFR 4284.960 applies to this Notice.

6. Grant servicing. All grants awarded under this Notice shall be serviced in accordance with 7 CFR part 1951, subparts E and O as applicable, and the Departmental Regulations (7 CFR parts 3000–3099), with the exception that delegation of the post-award servicing of the program does not require the prior approval of the Administrator.

7. Transfer of obligations. Any transfer of funds obligated under this Notice from an applicant to a different applicant must comply with the

requirements specified in 7 CFR 4284.962.

8. Grant close-out and related activities. The provisions of 7 CFR 4284.963 applies to this Notice.

9. Exception authority. The provisions of 7 CFR 4284.904 apply to this Notice.

10. Departmental regulations. Unless specifically stated otherwise in this Notice or in 7 CFR part 4284, subpart J, this Notice incorporates by reference the regulations of the Department of Agriculture's Office of Chief Financial Officer (or successor office) as codified in 7 CFR parts 3000 through 3099, including, but not necessarily limited to, 7 CFR parts 3015 through 3019, 7 CFR part 3021, 7 CFR part 3052, and 2 CFR parts 25, 170 and 417; and successor regulations to these parts.

11. Cost principles. This Notice incorporates by reference the cost principles found in 2 CFR part 230 and in 48 CFR part 31.2.

C. Environmental Review

All recipients under this Notice are subject to the requirements of 7 CFR part 1940, subpart G and any successor regulations. However, 7 CFR 1940.333, 7 CFR 1940.310(c)(1) and 7 CFR 1940.317(g)(2) generally exclude applications for both planning and working capital grants.

VII. Agency Contacts

If you have questions about this Notice, please contact the State Office as identified in the **ADDRESSES** section of this Notice. You are also encouraged to visit the application Web site for application tools, including an application guide and templates. The web address is: *http://www.rurdev.usda.gov/BCP_VAPG.html.*

VIII. Nondiscrimination Statement

The U.S. Department of Agriculture (USDA) prohibits discrimination against its customers, employees, and applicants for employment on the bases of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited bases will apply to all programs and/or employment activities.) 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 TDD).

To file a complaint of discrimination write to USDA, Director, Office of Adjudication and Compliance, 1400 Independence Avenue SW., Washington, DC 20250–9410 or call (800) 795–3272 (voice) or (202) 720–6382 (TDD). USDA is an equal opportunity provider, employer, and lender.

Dated: November 19, 2013.

Lillian Salerno,

Administrator, Rural Business—Cooperative Service.

[FR Doc. 2013–28175 Filed 11–22–13; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Social and Economic Impacts of Hurricane Sandy on the Commercial and Recreational Fisheries of New York and New Jersey.

OMB Control Number: None.

Form Number(s): NA.

Type of Request: Regular submission (request for a new information collection).

Number of Respondents: 921.

Average Hours per Response: 25 minutes.

Burden Hours: 384.

Needs and Uses: This request is for a new information collection.

The Northeast Fisheries Science Center's Social Sciences Branch seeks to conduct a one year assessment of the social and economic impacts from Hurricane Sandy to the commercial and recreational fishing industries in New York and New Jersey. It seeks to collect data on the long term disruption and impediments to recovery of normal business practices to the commercial and recreational fishing industries. It seeks to collect data from commercial and for-hire fishermen, marinas, fish dealers, bait and tackle stores, and other businesses dependent on the fishing industry for livelihood. The data will improve research and analysis of potential fishery management actions by understanding the long-term compounding effects of this natural disaster on communities most dependent on fishing. It is consistent with the Magnuson-Stevens Fishery Conservation and Management Act.

Affected Public: Business or other for-profit organizations.

Frequency: One time.

Respondent's Obligation: Voluntary.

OMB Desk Officer: OIRA_Submission@omb.eop.gov.

Copies of the above information collection proposal can be obtained by calling or writing Jennifer Jessup, Departmental Paperwork Clearance Officer, (202) 482–0336, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov.*

Dated: November 19, 2013.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2013–28164 Filed 11–22–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–970]

Multilayered Wood Flooring From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011–2012

AGENCY: Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (''the Department'') is conducting an administrative review of the antidumping duty order on multilayered wood flooring (''MLWF'') from the People's Republic of China (''PRC''). The period of review (''POR'') is May 26, 2011, through November 30, 2012. We have preliminarily found that three respondents, Armstrong Wood Products (Kunshan) Co., Ltd. (''Armstrong''), Fine Furniture (Shanghai) Limited (''Fine Furniture'') and Zhejiang Layo Wood Industry Co., Ltd. (''Layo Wood''), have made sales of subject merchandise at less than normal value (''NV''), while another respondent, Nanjing Minglin Wooden Industry Co. Ltd. (''Minglin'') has not made sales of subject merchandise at less than normal value (''NV'').

DATES: *Effective Date:* November 25, 2013.

FOR FURTHER INFORMATION CONTACT: James Martinelli, Lilit Astvatsatrian or Magd Zalok, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–2923, (202) 482–6412 or (202) 482–4162, respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The merchandise covered by the order includes MLWF, subject to certain exceptions.[1] Imports of the subject merchandise are provided for under the following subheadings of the HTSUS: 4412.31.0520; 4412.31.0540; 4412.31.0560; 4412.31.2510; 4412.31.2520; 4412.31.4040; 4412.31.4050; 4412.31.4060; 4412.31.4070; 4412.31.5125; 4412.31.5135; 4412.31.5155; 4412.31.5165; 4412.31.6000; 4412.31.9100; 4412.32.0520; 4412.32.0540; 4412.32.0560; 4412.32.2510; 4412.32.2520; 4412.32.3125; 4412.32.3135; 4412.32.3155; 4412.32.3165; 4412.32.3175; 4412.32.3185; 4412.32.5600; 4412.39.1000; 4412.39.3000; 4412.39.4011; 4412.39.4012; 4412.39.4019; 4412.39.4031; 4412.39.4032; 4412.39.4039; 4412.39.4051; 4412.39.4052; 4412.39.4059; 4412.39.4061; 4412.39.4062; 4412.39.4069; 4412.39.5010; 4412.39.5030; 4412.39.5050; 4412.94.1030; 4412.94.1050; 4412.94.3105; 4412.94.3111; 4412.94.3121; 4412.94.3131; 4412.94.3141; 4412.94.3160; 4412.94.3171; 4412.94.4100; 4412.94.5100; 4412.94.6000; 4412.94.7000; 4412.94.8000; 4412.94.9000; 4412.94.9500; 4412.99.0600; 4412.99.1020; 4412.99.1030; 4412.99.1040; 4412.99.3110; 4412.99.3120; 4412.99.3130; 4412.99.3140; 4412.99.3150; 4412.99.3160; 4412.99.3170; 4412.99.4100; 4412.99.5100; 4412.99.5710; 4412.99.6000; 4412.99.7000; 4412.99.8000; 4412.99.9000; 4412.99.9500; 4418.71.2000; 4418.71.9000; 4418.72.2000; 4418.72.9500; and 9801.00.2500.[2]

While HTSUS subheadings are provided for convenience and customs purposes, the written description of the subject merchandise is dispositive.

Tolling of Deadlines for Preliminary Results

As explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 1, through October 16, 2013.[3] Therefore, all deadlines in this segment of the proceeding have been extended by 16 days. If the new deadline falls on a non-business day, in accordance with the Department's practice, the deadline will become the next business day. The revised deadline for the preliminary results of this review is now November 18, 2013.

Methodology

The Department has conducted this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (''the Act''). Export prices and constructed export prices have been calculated in accordance with section 772 of the Act. Because the PRC is a non-market 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, please see the Preliminary Decision Memorandum, hereby adopted by this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''IA ACCESS''). IA ACCESS is available to registered users at *http://iaaccess.trade.gov.* The Preliminary Decision Memorandum is also available 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 at *http://enforcement.trade.gov/frn.* 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:[4]

Exporter	Weighted-average dumping margin (percent)
Minglin	0.00 (*de minimis*)
Fine Furniture	0.67
Layo Wood	8.85
Armstrong	8.87
Anhui Longhua Bamboo Product Co., Ltd	4.77
A&W (Shanghai) Woods Co., Ltd	4.77
Baishan Huafeng Wood Product Co., Ltd	4.77
Benxi Wood Company	4.77
Changbai Mountain Development and Protection Zone Hongtu Wood Industry Co., Ltd	4.77

[1] *See* Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations to Paul Piquado, Assistant Secretary for Enforcement & Compliance, dated concurrently with this notice, regarding ''Decision Memorandum for Preliminary Results of 2011–2012 Antidumping Duty Administrative Review: Multilayered Wood Flooring from the People's Republic of China,'' issued concurrently with this notice for a complete description of the Scope of the Order.

[2] On August 28, 2013, in consultation with CBP, the Department added the following HTSUS classification to the AD/CVD module for wood flooring: 9801.00.2500. *See* Letter to the File from Lilit Astvatsatrian, Case Analyst, Enforcement and Compliance, Office IV, regarding ''Multilayered Wood Flooring from the PRC, Modification of the Case Reference File in ACE,'' (November 18, 2013).

[3] *See* Memorandum for the Record from Paul Piquado, Assistant Secretary for Enforcement and Compliance, ''Deadlines Affected by the Shutdown of the Federal Government'' (October 18, 2013).

[4] In addition to the companies listed in the table, the following companies submitted information on the record demonstrating that they did not ship subject merchandise to the United States during the POR. The Department confirmed their certification of no shipment with CBP; therefore, the following companies will maintain their rate from the investigation: Changzhou Hawd Flooring Co., Ltd.; Dalian Jiuyuan Wood Industry Co., Ltd.; Jiaxing Brilliant Import & Export Co. Ltd..; Polywell Global Limited; and Vicwood Industry (Suzhou) Co., Ltd.

[5] The following companies are collectively known as The Fusong Jinlong Group (''Fusong Jinlong Group''): Dalian Qianqiu Wooden Product Co., Ltd.; Fusong Jinlong Wooden Group Co., Ltd.; Fusong Jinqiu Wooden Product Co., Ltd.; and Fusong Qianqiu Wooden Products Co., Ltd.

Exporter	Weighted-average dumping margin (percent)
Chinafloors Timber (China) Co., Ltd	4.77
Dalian Dajen Wood Co., Ltd	4.77
Dalian Huilong Wooden Products Co., Ltd	4.77
Dalian Kemian Wood Industry Co., Ltd	4.77
Dalian Penghong Floor Products Co., Ltd	4.77
Dasso Industrial Group Co., Ltd	4.77
Dontai Fuan Universal Dynamics, LLC	4.77
Dunhua City Hongyuan Wood Industry Co., Ltd	4.77
Dunhua City Jisen Wood Industry Co., Ltd	4.77
Dunhua City Wanrong Wood Industry Co., Ltd	4.77
Dunhua Dexin Wood Industry Co., Ltd	4.77
Dun Hua Sen Tai Wood Co., Ltd	4.77
Fujian Wuyishan Werner Green Industry Co., Ltd	4.77
Fusong Jinlong Wooden Group [5]	4.77
GTP International	4.77
Guangdong Fu Lin Timber Technology Limited	4.77
Guangdong Yihua Timber Industry Co., Ltd	4.77
Guangzhou Panyu Kangda Board Co., Ltd	4.77
Guangzhou Panyu Southern Star Co., Ltd	4.77
HaiLin LinJing Wooden Products, Ltd	4.77
Hangzhou Hanje Tec Co., Ltd	4.77
Hunchun Forest Wolf Wooden Industry Co., Ltd	4.77
Huzhou Chenghang Wood Co., Ltd	4.77
Huzhou Fulinmen Imp & Emp. Co., Ltd	4.77
Huzhou Jensonwood Co., Ltd	4.77
Huzhou Sunergy World Trade Co., Ltd	4.77
Jianfeng Wood (Suzhou) Co., Ltd	4.77
Jiangsu Senmao Bamboo and Wood Industry Co., Ltd	4.77
Jiangsu Simba Flooring Co., Ltd	4.77
JiaShan FengYun Timber Company Ltd	4.77
Jiashan HuiJiaLe Decoration Material Co., Ltd	4.77
Jiaxing Hengtong Wood Co., Ltd	4.77
Jilin Forest Industry Jinqiao Flooring Group Co., Ltd	4.77
Jilin Xinyuan Wooden Industry Co., Ltd	4.77
Karly Wood Product Limited	4.77
Kemian Wood Industry (Kunshan) Co., Ltd	4.77
Kunming Alston (AST) Wood Products Co., Ltd	4.77
Kunshan Yingyi-Nature Wood Industry Co., Ltd	4.77
Metropolitan Hardwood Floors, Inc	4.77
Mudanjiang Bosen Wood Industry Co., Ltd	4.77
Nakahiro Jyou Sei Furniture (Dalian) Co., Ltd	4.77
Pinge Timber Manufacturing (Zhejiang) Co., Ltd	4.77
Puli Trading Limited	4.77
Samling Group [6]	4.77
Scholar Home (Shanghai) New Material Co. Ltd	4.77
Shanghai Eswell Timber Co., Ltd	4.77
Shanghai Lairunde Wood Co., Ltd	4.77
Shanghai Lizhong Wood Products Co., Ltd/The Lizhong Wood Industry Limited Company of Shanghai	4.77
Shanghai New Sihi Wood Co., Ltd	4.77
Shanghai Shenlin Corp	4.77
Shenyang Senwang Wooden Industry Co., Ltd	4.77
Shenzhenshi Huanwei Woods Co., Ltd	4.77
Suzhou Dongda Wood Co., Ltd	4.77
Xiamen Yung De Ornament Co., Ltd	4.77
Xuzhou Shenghe Wood Co., Ltd	4.77
Yixing Lion-King Timber Industry Co., Ltd	4.77
Zhejiang Biyork Wood Co., Ltd	4.77
Zhejiang Dadongwu Greenhome Wood Co., Ltd	4.77
Zhejiang Desheng Wood Industry Co., Ltd	4.77
Zhejiang Fudeli Timber Industry Co., Ltd	4.77
Zhejiang Fuma Warm Technology Co., Ltd	4.77
Zhejiang Longsen Lumbering Co., Ltd	4.77
Zhejiang Shiyou Timber Co., Ltd	4.77
Zhejiang Tianzhen Bamboo & Wood Development Co., Ltd	4.77
Zhejiang Yongyu Bamboo Joint-Stock Co., Ltd	4.77
PRC-Wide Entity [7]	58.84

Disclosure and Public Comment

The Department intends to disclose calculations performed for these preliminary results to the parties within five days of the date of publication of this notice.[8] Interested parties may submit a case brief no later than 30 days after the date of publication of these preliminary results of review.[9] Rebuttal briefs may be filed no later than five days after case briefs are filed and may respond only to arguments raised in the case briefs.[10] A table of contents, list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. This summary should be limited to five pages total, including footnotes. Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice.[11] Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, at a time to be determined.[12] Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

All submissions, with limited exceptions, must be filed electronically using IA ACCESS. An electronically filed document must be received successfully in its entirety by 5 p.m. Eastern Time (''ET'') on the due date. Documents excepted from the electronic submission requirements must be filed manually (*i.e.,* in paper form) with the APO/Dockets Unit in Room 1870 and stamped with the date and time of receipt by 5 p.m. ET on the due date.[13]

The Department intends to issue the final results of this administrative review, which will include the results of its analysis of issues raised in any briefs, within 120 days of publication of these preliminary results, 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 factors of production under 19 CFR 351.408(c) is 20 days after the date of publication of the preliminary results.[14] In accordance with 19 CFR 351.301(c)(1), if an interested party submits factual information less than ten days before, on, or after (if the Department has extended the deadline), 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 information not previously on the record, if the deadline for submission of surrogate value information has passed.[15] Furthermore, the Department generally will not accept business proprietary information in either the surrogate value submissions or the rebuttals thereto, as the regulation regarding the submission of surrogate values allows only for the submission of publicly available information.[16]

Assessment Rates

Upon issuance of the final results, the Department will determine, and U.S. Customs and Border Protection (''CBP'') shall assess, antidumping duties on all appropriate entries covered by this review.[17] The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review. 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 an importer-specific assessment rate on the basis of the ratio of the total amount of antidumping duties calculated for the importer's examined sales and the total entered value of sales, in accordance with 19 CFR 351.212(b)(1). In these preliminary results, the Department applied the assessment rate calculation method adopted in the *Final Modification for Reviews.*[18] Where either the respondent's weighted-average dumping margin is zero or *de minimis,* or an importer- (or customer-) specific assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties. We intend to instruct CBP to liquidate entries containing subject merchandise exported by the PRC-wide entity at the PRC-wide rate we determine in the final results of this review.

The Department announced a refinement to its assessment practice in NME antidumping duty cases.[19] Pursuant to this refinement in practice, for merchandise that was not reported

[6] The following companies are collectively known as The Samling Group (''Samling Group''): Baroque Timber Industries (Zhongshan) Co., Ltd.; Riverside Plywood Corporation; Samling Elegant Living Trading (Labuan) Limited; Samling Global USA, Inc.; and Samling Riverside Co., Ltd. Additionally, Power Dekor Group Co., Ltd. (''Power Dekor'') did not have any qualifying shipments for the Department to review, due to their one shipment undergoing review during Power Dekor's New Shipper Review. Power Dekor will therefore maintain the dumping margin that was assessed as a result of the New Shipper Review.

[7] The following companies were named in the *Initiation Notice* but did not submit a certification of no shipment, separate rate application or separate rate certification; therefore they constitute the PRC-wide entity: Baiying Furniture Manufacturer Co., Ltd.; Dazhuang Floor Co. (dba Dasso Industrial Group Co., Ltd.); Fu Lik Timber (HK) Co., Ltd.; Furnco International (HK) Company Limited; Fusong Qianqiu Wooden Group Co., Ltd.; Guangdong Jiasheng Timber Industry Co., Ltd.; Guanghzhou Panyu Shatou Trading Co., Ltd.; Huzhou Fuma Wood Bus. Co., Ltd.; Jiazing Brilliant Import & Export Co., Ltd.; Puli Trading Co., Ltd.; Sennorwell International Group (Hong Kong) Limited; Shanghai Demeijia Wooden Co., Ltd.; Shenyang Haobainian Wood Co .; Shenyang Sende Wood Co., Ltd.; Suzhou Anxin Weiguang Timber Co., Ltd.; Xinyuan Wooden Industry Co., Ltd.; Yekalon Industry, Inc.; Zhejiang AnJi XinFeng Bamboo & Wood Co., Ltd.; Zhejiang Haoyun Wood Co., Ltd.; Zhejiang Jeson Wood Co., Ltd.; and Zhejiang Jiechen Wood Industry Co., Ltd. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 78 FR 6291 (January 30, 2013); *see also Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 78 FR 13633 (February 28, 2013) (''*Initiation Notice*'').

[8] *See* 19 CFR 351.224(b).

[9] *See* 19 CFR 351.309(c).

[10] *See* 19 CFR 351.309(d).

[11] *See* 19 CFR 351.310(c).

[12] *See* 19 CFR 351.310(d).

[13] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

[14] The Department recently announced a change in the deadline to submit publicly available information to value factors of production under 19 CFR 351.301(c)(3)(ii). To all segments initiated on or after May 10, 2013, the deadline to submit publicly available information to value factors of production in an administrative review is 30 days prior to the scheduled preliminary results of review. This change will not apply to the first administrative review of wood flooring due to the effective date. *See Definition of Factual Information and Time Limits for Submission of Factual Information,* 78 FR 21246 (April 10, 2013).

[15] *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.

[16] *See* 19 CFR 351.301(c)(3).

[17] *See* 19 CFR 351.212(b)(1).

[18] *See Antidumping Proceeding Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101 (February 14, 2012) (''*Final Modification for Reviews.*'').

[19] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011), for a full discussion of this practice.

in the U.S. sales databases submitted by an exporter individually examined during this review, but that entered under the case number of that exporter (*i.e.,* at the individually-examined exporter's cash deposit rate), the Department will instruct CBP to liquidate such entries at the PRC-wide rate. Additionally, pursuant to this refinement, 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 will be liquidated at the PRC-wide rate.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review 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 the cash deposit rate will be their respective rate established in the final results of this review, except if the rate is zero or *de minimis* (*i.e.,* less than 0.5 percent) no cash deposit will be required; (2) for previously investigated 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; (3) 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 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 this review period. 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. We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213.

Dated: November 18, 2013.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Preliminary Decision Memorandum

1. Background
2. Scope of the Order
3. Selection of Respondents
4. Non-Market Economy Country
5. Separate Rate
6. Surrogate Country and Surrogate Value Data
7. Fair Value Comparisons
8. U.S. Price
9. Normal Value
10. Currency Conversion

[FR Doc. 2013–28100 Filed 11–22–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–918]

Steel Wire Garment Hangers From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and New Shipper Review; 2011–2012

AGENCY: Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the ''Department'') is conducting the fourth administrative review and the first new shipper review (''NSR'') of the antidumping duty order on steel wire garment hangers from the People's Republic of China (''PRC'').[1] There is one participating mandatory respondent in this review, the Shanghai Wells Group.[2] We selected seven additional companies as mandatory respondents but, they did not participate.[3] Also under review is the new shipper company Hangzhou Yingqing Material Co. Ltd. (''Yingqing''). The Department has preliminarily determined that Yingqing and Shanghai Wells sold subject merchandise in the United States at prices below normal value during the period of review (''POR''), October 1, 2011, through September 30, 2012. Additionally, seven companies were selected for review, but did not fully cooperate and have been determined to be part of the PRC-wide entity.[4] If these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection (''CBP'') to assess antidumping duties on all appropriate entries of subject merchandise during the POR. We invite interested parties to comment on these preliminary results.

As explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 1, through October 16, 2013.[5] Therefore, all deadlines in this segment of the proceeding have been extended by 16 days. If the new deadline falls on a non-business day, in accordance with the Department's practice, the deadline will become the next business day. The revised deadline for the preliminary results of this review is now November 18, 2013.[6]

DATES: *Effective:* November 25, 2013.

FOR FURTHER INFORMATION CONTACT: Frances Veith or Josh Startup, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4295 or (202) 482–5260, respectively.

SUPPLEMENTARY INFORMATION:

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[1] *See Notice of Antidumping Duty Order: Steel Wire Garment Hangers from the People's Republic of China,* 73 FR 58111 (October 6, 2008) (''*Order*'').

[2] The Department previously found that Shanghai Wells Hanger Co., Ltd. (''Shanghai Wells''), Hong Kong Wells Ltd. (''HK Wells'') and Hong Kong Wells Ltd. (USA) (''Wells USA'') are affiliated and that Shanghai Wells and HK Wells comprise a single entity (collectively, ''Shanghai Wells Group''). Because there were no changes in this review to the facts that supported that decision, we continue to find Shanghai Wells, HK Wells, and USA Wells are affiliated and that Shanghai Wells and HK Wells comprise a single entity. *See Steel Wire Garment Hangers From the People's Republic of China: Preliminary Results and Preliminary Rescission, in Part, of the First Antidumping Duty Administrative Review,* 75 FR 68758, 68761 (November 9, 2010), unchanged in *First Administrative Review of Steel Wire Garment Hangers From the People's Republic of China: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review,* 76 FR 27994, 27996 (May 13, 2011) (''*Hangers 1st AR*'').

[3] *See* the Department's memorandum titled ''Steel Wire Garment Hangers from the People's Republic of China: Decision Memorandum for the Preliminary Results of the 2011–2012 Antidumping Duty Administrative Review and New Shipper Review,'' (''Preliminary Decision Memorandum''), dated concurrently with these results and hereby adopted by this notice.

[4] *See PRC-Wide Entity* section infra.

[5] *See* Memorandum for the Record from Paul Piquado, Assistant Secretary for Enforcement and Compliance, ''Deadlines Affected by the Shutdown of the Federal Government'' (October 18, 2013).

[6] November 16, 2013, is a Saturday. Department practice dictates that where a deadline falls on a weekend or federal holiday, the appropriate deadline is the next business day. *See Notice of Clarification: Application of ''Next Business Day'' Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended,* 70 FR 24533, 24533 (May 10, 2005).

Scope of the Order

The product covered by the order is steel wire garment hangers. This product is classified under the Harmonized Tariff Schedule of the United States (''HTSUS'') subheadings: 7326.20.0020, 7323.99.9060, and 7323.99.9080. Although the HTSUS subheadings are provided for convenience and customs purposes, the written product description remains dispositive.[7]

PRC-Wide Entity

Seven of the companies the Department selected as mandatory respondents in the administrative review failed to respond to the Department's requests for information and/or declined to participate in this review.[8] These companies, therefore, are not eligible for separate rate status.[9] Accordingly, the Department preliminarily finds that the PRC-wide entity includes these seven companies. Furthermore, because these companies all withheld requested information, failed to provide information in a timely manner and in the form requested, and significantly impeded this proceeding, the Department relied on facts available.[10] Additionally, the Department finds that these companies failed to cooperate by not acting to the best of their ability to comply with a request for information.[11] Therefore, pursuant to section 776(b) of the Act, the Department used an inference that is adverse to the interests of these companies when it selected from among the facts otherwise available.[12] Thus, the Department relied on adverse facts available (''AFA'') in order to determine a margin for the PRC-wide entity, pursuant to sections 776(a)(2)(A), (B), (C) and 776(b) of the Act.[13]

Petitioner submitted a timely request for withdrawal of review[14] for ten of the 22 companies named in the *Initiation Notice.*[15] No other party had requested a review of these ten companies. However, while the Department timely received the withdrawal request, we are not rescinding the review for these ten companies at this time because they currently do not have a separate rate and, therefore, remain as part of the PRC-wide entity. As noted above, the PRC-wide entity is under review for these preliminary results. Therefore, we are not rescinding the review with respect to the ten companies listed at Attachment II of this publication at this time.

During the review, two companies, Shanghai Jianhai International Trade Co., Ltd. (''Jianhai'') and Hangzhou Qingqing Mechanical Co. Ltd. (''Qingqing''), did not file a separate rate application or certification, nor did they file a no shipments certification. Accordingly, because Jianhai and Qingqing did not demonstrate their eligibility for a separate rate, the Department preliminarily determines that Jianhai and Qingqing are also part of the PRC-wide entity.

Methodology

The Department has conducted these reviews in accordance with sections 751(a)(1)(B) and 751(a)(2)(A)–(B) of the Act. We calculated constructed export prices and export prices in accordance with section 772 of the Act. Because the PRC is a nonmarket economy within the meaning of section 771(18) of the Act, we calculated normal value in accordance with section 773(c) of the Act.

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum, dated concurrently with these results and hereby adopted by this notice.[16] The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''IA ACCESS''). IA ACCESS is available to registered users at *http://iaaccess.trade.gov* and in the Central Records Unit (''CRU''), Room 7046 of the main Department of Commerce building. In addition, parties can obtain a complete version of the Preliminary Decision Memorandum on the Internet at *http://trade.gov/enforcement/.* The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Verification

As provided in sections 782(i)(3)(A)–(B) of the Act, we intend to verify the information upon which we will rely in determining our final results of review with respect to the Shanghai Wells Group.

Preliminary Results of Review

Regarding the administrative review, the Department preliminarily determines that the following weighted-average dumping margins exist for the period October 1, 2011, through September 30, 2012:

Exporter	Weighted-average dumping margin (percent)
Shanghai Wells Group	6.76
PRC-Wide Entity[17]	187.25

Regarding the NSR, the Department preliminarily determines that the following weighted-average dumping margin exists for the period October 1, 2011, through September 30, 2012:

[7] *See* the Preliminary Decision Memorandum for a complete description of the scope of the Order.

[8] These seven companies are: (1) Shaoxing Dingli Metal Clotheshorse Co., Ltd., (2) Shaoxing Tongzhou Metal Manufactured Co., Ltd., (3) Shaoxing Andrew Metal Manufactured Co., Ltd., (4) Shaoxing Gangyuan Metal Manufacture, (5) Shaoxing Shunji Metal Clotheshorse Co., Ltd., (6) Shaoxing Guochao Metallic Products Co., Ltd., and (7) Ningbo Dasheng Hanger Ind. Co., Ltd.

[9] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 77 FR 71575 (December 3, 2012) (''*Initiation Notice*'').

[10] *See* sections 776(a)(2)(A)–(C) of the Tariff Act of 1930, as amended (the ''Act'').

[11] *See* section 776(b) of the Act.

[12] *See also* Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 103–316, Vol. 1, at 870 (1994) (''*SAA*'').

[13] *See* the Preliminary Decision Memorandum at the sections pertaining to ''PRC-Wide Entity'' and ''Selection of Adverse Facts Available (''AFA'') Rate'' for a discussion of the AFA rate.

[14] *See* Letter from Petitioners to the Acting Secretary of Commerce ''Fourth Administrative Review of Steel Wire Garment Hangers from China—Petitioner's Withdrawal of Review Requests for Specific Companies'' (February 21, 2013).

[15] *See Initiation Notice; see also* Attachment II of this **Federal Register** notice.

[16] *See* Preliminary Decision Memorandum.

[17] The PRC-wide entity includes (1) Shaoxing Dingli Metal Clotheshorse Co., Ltd., (2) Shaoxing Tongzhou Metal Manufactured Co., Ltd., (3) Shaoxing Andrew Metal Manufactured Co., Ltd., (4) Shaoxing Gangyuan Metal Manufacture, (5) Shaoxing Shunji Metal Clotheshorse Co., Ltd., (6) Shaoxing Guochao Metallic Products Co., Ltd., (7) Shanghai Jianhai International Trade Co., Ltd., (8) Ningbo Dasheng Hanger Ind. Co., Ltd., (9) Liaoning Metals & Mineral Imp/Exp Corp., (10) Shanghai Guoxing Metal Products Co. Ltd., (11) Shanghai Lian Development Co. Ltd., (12) Shanghai Shuang Qiang Embroidery Factory, (13) Shangyu Baoxiang Metal Manufactured Co. Ltd., (14) Shang Zhou Leather Shoes Plant, (15) Shaoxing Shuren Tie Co., Ltd., (16) Shaoxing Zhongbao Metal Manufactured Co., Ltd., (17) Shaoxing Zhongdi Foreign Trade Co., Ltd., (18) Zhejiang Lucky Cloud Hanger Co., Ltd., and (19) Hangzhou Qingqing Mechanical Co. Ltd.

Exporter	Producer	Weighted-average dumping margin (percent)
Hangzhou Yingqing Material Co. Ltd	Hangzhou Qingqing Mechanical Co. Ltd	42.52

Disclosure, Public Comment & Opportunity To Request a Hearing

The Department will disclose the calculations used in our analysis to parties in these reviews within five days of the date of publication of this notice.[18]

Because, as noted above, the Department intends to verify Shanghai Wells Group's information, we will establish the briefing schedule at a later time, and will notify parties of the schedule in accordance with 19 CFR 351.309(c)(1)(ii) and (d). We request interested parties who file case or rebuttal briefs in this proceeding to submit with each argument: (1) A statement of the issue (2) a brief summary of the argument, not to exceed five pages, and (3) a table of authorities.[19]

Any interested party may request a hearing within 30 days of publication of this notice.[20] 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 case and rebuttal briefs.[21] If a party requests a hearing, the Department will inform parties of the scheduled date for the hearing which will be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, at a time and location to be determined. Parties should confirm by telephone the date, time, and location of the hearing.

The Department intends to issue the final results of these reviews, including the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of this notice, 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 factors of production under 19 CFR 351.408(c) is 20 days after the date of publication of these 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 10 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 information not previously on the record, if the deadline for submission of surrogate value information has passed.[22] Furthermore, the Department generally will not accept business proprietary information in either the surrogate value submissions or the rebuttals thereto, as the regulation regarding the submission of surrogate values allows only for the submission of publicly available information.[23] Finally, for each piece of factual information submitted with surrogate value 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.[24] The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of reviews.

In these preliminary results, the Department applied the assessment rate calculation method adopted in *Final Modification for Reviews, i.e.,* on the basis of monthly average-to-average comparisons using only the transactions associated with that importer with offsets being provided for non-dumped comparisons.[25]

Where the respondent has reported reliable entered values, we calculated importer (or customer)-specific *ad valorem* rates by aggregating the dumping margins calculated for all U.S. sales to each importer (or customer) and dividing this amount by the total entered value of the sales to each importer (or customer).[26] Where the Department calculated a weighted-average dumping margin by dividing the total amount of dumping for reviewed sales to that party by the total sales quantity associated with those transactions, the Department will direct CBP to assess importer-specific assessment rates based on the resulting per-unit rates.[27] Where an importer- (or customer-) specific *ad valorem* or per-unit rate is greater than *de minimis,* the Department will instruct CBP to collect the appropriate duties at the time of liquidation.[28] Where an importer- (or customer-) specific *ad valorem* or per-unit rate is zero or *de minimis,* the Department will instruct CBP to liquidate appropriate entries without regard to antidumping duties.[29]

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 section 751(a)(2)(C) of the Act: (1) For the companies listed above, the cash deposit rate will be 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 exporter-specific rate published for the most recent period; (3)

[18] *See* 19 CFR 351.224(b).

[19] *See* 19 CFR 351.309(c) and (d). We note that a revised version of this regulation published on April 1, 2013, however it is not applicable. See *http://www.gpo.gov/fdsys/pkg/CFR-2013-title19-vol3/html/CFR-2013-title19-vol3.htm.*

[20] *See* 19 CFR 351.310(c).

[21] *Id.*

[22] *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.

[23] *See* 19 CFR 351.301(c)(3).

[24] *See* 19 CFR 351.212(b).

[25] *See Antidumping Proceeding: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings; Final Modification,* 77 FR 8101, 8103 (February 14, 2012) (''Final Modification for Reviews'').

[26] *See* 19 CFR 351.212(b)(1).

[27] *Id.*

[28] *Id.*

[29] *See* 19 CFR 351.106(c)(2).

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 the PRC-wide rate of 187.25 percent; 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.

With respect to Yingqing, the NSR respondent, the Department has established a combination cash deposit rate for this company consistent with its practice as follows: (1) For subject merchandise produced by Qingqing and exported by Yingqing, the cash deposit rate will be the rate established for Yingqing in the final results of the NSR; (2) for subject merchandise exported by Yingqing, but not produced by Qingqing, the cash deposit rate will be the rate for the PRC-wide entity; and (3) for subject merchandise produced by Qingqing but not exported by Yingqing, the cash deposit rate will be the rate applicable to the 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 this review period. 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.

These determinations are issued and published in accordance with sections 751(a)(1), 751(a)(2)(B), and 777(i)(1) of the Act.

Dated: November 18, 2013.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Attachment I

List of Topics Discussed in the Preliminary Decision Memorandum:

1. Background
2. Respondent Selection
3. Scope of the Order
4. PRC-Wide Entity
5. Affiliations
6. Bona Fides Analysis
7. Non-Market Economy Status
8. Separate Rates
9. Separate Rates Recipients
10. Use of Facts Available and AFA
11. Application of Total AFA to the PRC-Wide Entity
12. Selection of AFA Rate
13. Corroboration of Information
14. Surrogate Country and Surrogate Value Data
15. Surrogate Country
16. Date of Sale
17. Determination of Comparison Method
18. Results of Differential Pricing Analysis
19. Comparison to Normal Value
20. U.S. Price
21. Normal Value
22. Factor Valuations
23. Company Specific Issues
24. Currency Conversion
25. Conclusion

Attachment II

List of companies for which Petitioner timely withdrew its request for review.

1. Liaoning Metals & Mineral Imp/Exp Corp.,
2. Shanghai Guoxing Metal Products Co. Ltd.,
3. Shanghai Lian Development Co. Ltd.,
4. Shanghai Shuang Qiang Embroidery Factory,
5. Shangyu Baoxiang Metal Manufactured Co. Ltd.,
6. Shang Zhou Leather Shoes Plant,
7. Shaoxing Shuren Tie Co., Ltd.,
8. Shaoxing Zhongbao Metal Manufactured Co., Ltd.,
9. Shaoxing Zhongdi Foreign Trade Co., Ltd., and
10. Zhejiang Lucky Cloud Hanger Co., Ltd.

[FR Doc. 2013–28089 Filed 11–22–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

United States Travel and Tourism Advisory Board: Meeting of the United States Travel and Tourism Advisory Board

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of an Open Meeting.

SUMMARY: This notice sets forth the schedule and agenda for an open meeting of the United States Travel and Tourism Advisory Board (Board). This will be the last meeting of the current members of the Board prior to the end of their appointment terms. During this meeting, the Board will discuss and deliberate on proposed recommendations addressing infrastructure, sustainability, expanded travel facilitation efforts, communications, business inputs to federal programs and policies, public-private partnerships, workforce, small business and data. The Board will also provide final observations on the work of the Board over the course of the Board members' appointment terms, hear updates from representatives of the U.S. government on the status of the Board's past recommendations, the implementation of the National Travel and Tourism Strategy and the progress on implementing the President's Executive Order 13597 on establishing visa and foreign visitor processing goals and the Task Force on Travel and Competitiveness. The agenda may change to accommodate Board business. The final agenda will be posted on the Department of Commerce Web site for the Board at *http://tinet.ita.doc.gov/TTAB/TTAB_Home.html,* at least one week in advance of the meeting.

DATES: December 12, 2013, 9:00 a.m.–12:00 p.m. Eastern Standard Time (EST).

ADDRESSES: U.S. Department of Commerce, Room 4830, 1401 Constitution Avenue NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Jennifer Pilat, the United States Travel and Tourism Advisory Board, Room 4043, 1401 Constitution Avenue NW., Washington, DC 20230, telephone: 202–482–4501, email: *jennifer.pilat@trade.gov.*

SUPPLEMENTARY INFORMATION:

Agenda: At the meeting, the Board will discuss and deliberate on proposed recommendations addressing infrastructure, sustainability, expanded travel facilitation efforts, communications, business inputs to federal programs and policies, public-private partnerships, workforce, small business and data. The Board will also provide final observations on the work of the Board over the course of the Board members' appointment terms.

Background: The Board advises the Secretary of Commerce on matters relating to the U.S. travel and tourism industry.

Public Participation: The meeting will be open to the public and will be physically accessible to people with disabilities. All guests are required to register in advance. Seating is limited and will be on a first come, first served basis. Requests for sign language interpretation, other auxiliary aids, or pre-registration, should be submitted no later than 5 p.m. EST on December 5, 2013 to Jennifer Pilat, the U.S. Travel and Tourism Advisory Board, Room 4043, 1401 Constitution Avenue NW., Washington, DC 20230, telephone 202–482–4501, *OACIE@trade.gov.* Last minute requests will be accepted, but may be impossible to fill.

No time will be available for oral comments from members of the public attending the meeting. Any member of the public may submit pertinent written comments concerning the Board's affairs at any time before or after the meeting.

Comments may be submitted to Jennifer Pilat at the contact information indicated above. To be considered during the meeting, comments must be received no later than 5:00 p.m. EST on December 5, 2013, to ensure transmission to the Board prior to the meeting.

Comments received after that date will be distributed to the members but may not be considered at the meeting.

Copies of Board meeting minutes will be available within 90 days of the meeting.

Dated: November 19, 2013.

Jennifer Pilat,

Executive Secretary, United States Travel and Tourism Advisory Board.

[FR Doc. 2013–28209 Filed 11–22–13; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

United States Travel and Tourism Advisory Board

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of an opportunity to apply for membership on the United States Travel and Tourism Advisory Board.

SUMMARY: The Department of Commerce is currently seeking applications for membership on the United States Travel and Tourism Advisory Board (Board). The purpose of the Board is to advise the Secretary of Commerce on matters relating to the travel and tourism industry.

DATES: All applications must be received by the Office of Advisory Committees and Industry Outreach by 5:00 p.m. Eastern Standard Time (EST) on Wednesday, December 18, 2013.

ADDRESSES: Please submit application information by email to *oacie@trade.gov,* attention: Jennifer Pilat, Office of Advisory Committees and Industry Outreach, United States Travel and Tourism Advisory Board Executive Secretariat or by mail to Jennifer Pilat, Office of Advisory Committees and Industry Outreach, United States Travel and Tourism Advisory Board Executive Secretariat, 1401 Constitution Avenue NW., Suite 4043, Washington, DC 20230. Mailed applications must be postmarked by December 18, 2013.

FOR FURTHER INFORMATION CONTACT: Jennifer Pilat, United States Travel and Tourism Advisory Board Executive Secretariat, U.S. Department of Commerce, Room 4043, 1401 Constitution Avenue NW., Washington, DC 20230, *telephone:* 202–482–4501, *email: jennifer.pilat@trade.gov*.

SUPPLEMENTARY INFORMATION: The Department of Commerce, International Trade Administration, Office of Advisory Committees and Industry Outreach, is accepting applications for United States Travel and Tourism Advisory Board (Board) members. The Board was established pursuant to the Department of Commerce's authority under 15 U.S.C. 1512 and under the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (FACA), to advise the Secretary of Commerce (Secretary) on matters relating to the U.S. travel and tourism industry. The Board provides a means of ensuring regular contact between the U.S. Government and the travel and tourism industry. The Board advises the Secretary on government policies and programs that affect United States travel and tourism, including the implementation of the National Travel and Tourism Strategy, and the Board serves as a forum for discussing and proposing solutions to industry-related problems. The Board acts as a liaison among the stakeholders represented by the membership and provides a forum for those stakeholders on current and emerging issues in the travel and tourism sector. The Board recommends ways to ensure that the United States remains the preeminent destination for international visitation and tourism throughout the world.

Members shall represent companies and organizations in the travel and tourism sector from a broad range of products and services, company sizes, and geographic locations and shall be drawn from large, medium, and small travel and tourism companies, private-sector organizations involved in the export of travel and tourism-related products and services, and other tourism-related entities.

Each Board member shall serve as the representative of a U.S. company in the travel and tourism industry, a private sector U.S. organization involved in the export of travel and tourism-related products and services, or a tourism-related U.S. entity. For eligibility purposes, a ''U.S. company'' is a for-profit firm that is incorporated in the United States (or an unincorporated U.S. firm with its principal place of business in the United States) that is controlled by U.S. citizens or by other U.S. companies. A company is not a U.S. company if 50 percent plus one share of its stock (if a corporation, or a similar ownership interest of an unincorporated entity) is known to be controlled, directly or indirectly, by non-U.S. citizens or non-U.S. companies. For eligibility purposes, a ''U.S. organization'' is an organization, including trade associations and nongovernmental organizations (NGOs), established under the laws of the United States, that is controlled by U.S. citizens, by another U.S. organization (or organizations), or by a U.S. company (or companies), as determined based on its board of directors (or comparable governing body), membership, and funding sources, as applicable. For eligibility purposes, a U.S. entity is a tourism-related entity that can demonstrate U.S. ownership or control, including but not limited to state and local tourism marketing entities, state government tourism offices, state and/or local government-supported tourism marketing entities, and multi-state tourism marketing entities.

Members of the Board will be selected, in accordance with applicable Department of Commerce guidelines, based on their ability to carry out the objectives of the Board as set forth above. Members of the Board shall be selected in a manner that ensures that the Board is balanced in terms of points of view, industry subsector, range of products and services, demographics, geography, and company size.

Additional factors which will be considered in the selection of Board members include candidates' proven experience in the strategic development and management of travel and tourism-related or other service-related organizations; or the candidate's proven experience in promoting, developing, and implementing advertising and marketing programs for travel-related or tourism-related industries.

Priority may be given to a Chief Executive Officer, Executive Director, or President (or comparable level of responsibility) of a U.S. company, U.S. organization, or U.S. entity in the travel and tourism sector.

Members shall serve a term of two years from the date of appointment, at the pleasure of the Secretary of Commerce. Although the Board's current charter terminates in September 2015, it is anticipated that it will be rechartered.

Members shall serve in a representative capacity, representing the views and interests of their particular industry subsector. Board members are not special government employees, and will receive no compensation for their participation in Board activities. Members participating in Board meetings and events will be responsible for their travel, living and other

personal expenses. Meetings will be held regularly and, to the extent practical, not less than twice annually, usually in Washington, DC.

To be considered for membership, please provide the following information by 5 p.m. EST on December 18 to the email address listed in the **ADDRESSES** section:

1. Name and title of the individual requesting consideration.

2. A sponsor letter from the applicant on his or her company/organization/entity letterhead or, if the applicant is to represent a company/organization/entity other than his or her employer, a letter from the company/organization/entity to be represented, containing a brief statement of why the applicant should be considered for membership on the Board. This sponsor letter should also address the applicant's travel and tourism-related experience.

3. The applicant's personal resume.

4. An affirmative statement that the applicant is not required to register as a foreign agent under the Foreign Agents Registration Act of 1938, as amended.

5. An affirmative statement by the applicant that he or she is not a federally registered lobbyist, and that the applicant understands that he or she, if appointed, will not be allowed to continue to serve as a Board member if the applicant becomes a federally registered lobbyist.

6. If the applicant is to represent a company, information regarding the control of the company, including the stock holdings as appropriate, signifying compliance with the criteria set forth above.

7. If the applicant is to represent an organization, information regarding the control of the organization, including the governing structure, members, and revenue sources as appropriate, signifying compliance with the criteria set forth above.

8. If the applicant is to represent a tourism-related entity, the functions and responsibilities of the entity, and information regarding the entity's U.S. ownership or control, signifying compliance with the criteria set forth above.

9. The company's, organization's, or entity's size and ownership, product or service line and major markets in which the company, organization, or entity operates.

10. Brief statement describing how the applicant will contribute to the work of the Board based on his or her unique experience and perspective (not to exceed 100 words).

Dated: November 19, 2013.

Jennifer Pilat,

Executive Secretary, United States Travel and Tourism Advisory Board.

[FR Doc. 2013–28207 Filed 11–22–13; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

Trade Mission to Colombia, Peru, Chile, Panama, and Ecuador in Conjunction With Trade Winds—The Americas, May 15–23, 2014

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

Mission Description

The United States Department of Commerce, International Trade Administration is organizing a trade mission to Colombia, Peru, Chile, Panama and Ecuador that will include the Trade Winds—The Americas business forum in Bogotá, Colombia, May 19–21, 2014. U.S. trade mission members will participate in the Trade Winds—The Americas business forum in Bogotá, Colombia (which is also open to U.S. companies not participating in the trade mission). Trade mission participants may also choose to participate in their choice of trade mission stops based on recommendations from the USFCS, including in Colombia, Peru, Chile, Panama and Ecuador. Each trade mission stop will include one-on-one business appointments with pre-screened potential buyers, agents, distributors and joint-venture partners. Trade mission participants participating in the Trade Winds—The Americas business forum may attend regional and industry-specific sessions and consultations with USFCS Senior Commercial Officers from the Western Hemisphere during the business forum.

This mission is open to U.S. companies and trade associations from a cross-section of industries with growth potential in Colombia, Peru, Chile, Panama and Ecuador, including but not limited to mining and construction equipment, information technology and telecommunications equipment, building products, medical equipment, healthcare products and services, consumer products and safety and security industries.

Commercial Setting

The United States has implemented bilateral or multilateral reciprocal trade agreements with 12 countries in the Western Hemisphere, including the North American Free Trade Agreement (NAFTA), the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA–DR), and bilateral FTAs with Chile, Peru, Colombia and Panama. In 2012, U.S. exports to South and Central America plus the Caribbean totaled $205 billion.

Market Overview and Top Prospects for U.S. Goods and Service Exports

Colombia

Colombia houses the 3rd largest market in Latin America, with 47 million inhabitants. Five cities in Colombia boast a consumer base of more than a million people. Colombia is the fastest growing market in Latin America for oil and gas production. Best prospects include oil and gas machinery and services, transportation and infrastructure, mining and construction equipment, information technology and communications, military equipment, auto parts and accessories, electrical power systems, travel and tourism, food beverage processing and packaging equipment and medical equipment.

Peru

Peru's long-term economic stability and very low inflation rate help to make it one of the highest ranked countries in Latin America for U.S. companies to conduct business. GDP growth in 2012 was around 6.2%, and has been at this high level for the last 10 years, with only a brief break in 2009. Growth is driven by a growing middle class, and supported by continued growth in the mining and gas industries. Lima, the commercial center and capital, is home to nearly 8 million people, and is the largest city in this country of almost 30 million.

Best prospects include mining industry equipment, plastic materials and resins, construction equipment, industrial chemicals, telecommunications equipment, oil and gas field machinery, pumps, valves, and compressors.

Chile

Chile is the third largest export market in Latin America for the United States. Driven by mining, forestry, agriculture, and fishing, Chile imported nearly $20 billion in U.S. products in 2012. Known for its political and economic stability, Chile has posted average GDP growth of 5 percent per year for more than 20 years running. Doing business in Chile has never been easier as the World Banks's ''Ease of Doing Business'' index ranks Chile #1

among Latin American and Caribbean economies. With limited domestic production, and free trade agreements with 60 countries, including the United States, Chile imports most all needed equipment, supplies, and inputs for key industries including, agriculture, construction, energy and electric power, food processing and packaging, healthcare, mining (open pit and underground), safety and security equipment, and telecommunications.

Panama

Panama sits as the crossroads of the world, connecting Central and South America and home to a population of 3.5 million people. The many advantages of Panama include its position as the logistics hub for Americas, canal operations, direct air routes, dollarized economy, sophisticated banking sector, finance and credit availability, stable economic and political environment, affinity for U.S. goods and services and a high level of personal security. Opportunities for U.S companies include projects related to the construction of the Panama Canal, ports, the Colon Free Trade Zone, infrastructure improvement projects, energy industry growth, mining and consumer retail.

Ecuador

The United States is Ecuador's largest trading partner by all measures. The dollarized economy eliminates currency risk, and Ecuador offers many industry sectors potential for sales, including infrastructure development, mining and construction equipment, medical equipment, and healthcare products and services.

Mission Goals

The goal of the trade mission is to help participating firms gain market insights, make industry contacts, solidify business strategies, and advance specific projects, with the goal of increasing U.S. exports to Colombia, Peru, Chile, Panama, Ecuador and the region. The delegation will have access to USFCS Senior Commercial Officers and Commercial Specialists during the mission, learn about the many business opportunities in the Americas, and gain first-hand market exposure. U.S. trade mission participants already doing business in the Americas will have opportunities to further advance business relationships and projects in those markets.

Scenario and Timetable

May 14, 2014 Arrive in Panama or Ecuador (if electing to participate in one of these mission stops)

May 15–16, 2014 Panama City, Panama or Quito, Ecuador: (choice of one mission stop)

Market Briefings, Business to Business meetings and networking with government and business officials

May 17–18, 2014 Travel to Bogota, Colombia

May 19–21, 2014 Bogota, Colombia: Trade Winds Business Forum and SCO Consultations

Market Briefings, Business to Business meetings, Consultations with U.S. government trade representatives and networking with U.S. and foreign government and business officials

May 22–23, 2014 Lima, Peru or Santiago, Chile: (choice of one mission stop)

Market Briefings, Business to Business meetings and networking with government and business officials

Participation Requirements

All parties interested in participating in the trade mission to Colombia, Peru, Chile, Panama and Ecuador must complete and submit an application package for consideration by the Department of Commerce. All applicants will be evaluated on their ability to meet certain conditions and best satisfy the selection criteria as outlined below.

A minimum of 35 companies and/or trade associations will be selected to participate in the mission from the applicant pool on a first-come, first-served basis. Additional delegates will be accepted based on available space. U.S. companies and/or trade associations already doing business in or seeking business in Colombia, Peru, Chile, Panama and Ecuador for the first time may apply.

Fees and Expenses

After a company has been selected to participate in the mission, a payment to the Department of Commerce in the form of a participation fee is required.

- For one mission stop, the participation fee will be $1,900 for a small or medium-sized enterprise (SME)/trade associations and $2,900 for large firms.
- For two mission stops, the participation fee will be $2,900 for a small or medium-sized enterprise (SME) trade associations/and $3,900 for large firms.
- For three mission stops, the participation fee will be $3,900 for a small or medium-sized enterprise (SME)/trade associations and $4,900 for large firms.

The above trade mission fees include the $400 participation fee for the Trade Winds business forum to be held in Bogota, Colombia on May 19–21, 2014.

An additional representative for both SMEs, trade associations and large firms will require an additional fee of $400 for one mission stop, $800 for two mission stops, or $1200 for three mission stops.

Expenses for travel, lodging, meals, and incidentals such as local transportation and interpreters will be the responsibility of each mission participant.

Conditions for Participation

- An applicant must submit a completed and signed mission application and supplemental application materials, including adequate information on the company's products and/or services, primary market objectives, and goals for participation. Applicant should specify in their application and supplemental materials which trade mission stops they are interested in participating in. If the Department of Commerce receives an incomplete application, the Department may reject the application, request additional information, or take the lack of information into account when evaluating the applications.
- Each applicant must also certify that the products and services it seeks to export through the mission are either produced in the U.S., or, if not, marketed under the name of a U.S. firm and have at least 51% U.S. content of the value of the finished product or service. In the case of a trade association or trade organization, the applicant must certify that, for each company to be represented by the trade association or trade organization, the products and services the represented company seeks to export are either produced in the United States, or, if not, marketed under the name of a U.S. firm and have at least 51% U.S. content.

Selection Criteria for Participation

Selection will be based on the following criteria:

- Suitability of the company's (or, in the case of a trade association or trade organization, represented companies') products or services to each of the markets the company or trade association/organization has expressed an interest in visiting as part of this trade mission.
- Company's (or, in the case of a trade association or trade organization, represented companies') potential for business in each of the markets the company or trade association/organization has expressed an interest in visiting as part of this trade mission.

• Consistency of the applicant's goals and objectives with the stated scope of the mission.

Diversity of company size, sector or subsector, and location may also be considered during the review process.

Referrals from political organizations and any documents containing references to partisan political activities (including political contributions) will be removed from an applicant's submission and not considered during the selection process.

Timeframe for Recruitment and Applications

Mission recruitment will be conducted in an open and public manner, including publication in the **Federal Register**, posting on the Commerce Department trade mission calendar, and other Internet Web sites, press releases to the general and trade media, direct mail and broadcast fax, notices by industry trade associations and other multiplier groups and announcements at industry meetings, symposia, conferences, and trade shows.

Recruitment for the mission will begin immediately and conclude no later than April 15, 2014. The U.S. Department of Commerce will review applications and make selection decisions on a rolling basis beginning 14 days after publication of the **Federal Register** notice, until the minimum of 35 participants is selected. After April 15, 2014, applications will be considered only if space and scheduling constraints permit.

U.S. Contact Information

Bill Burwell, Director, U.S. Export Assistance Center—Baltimore, *Bill.Burwell@trade.gov*, Tel: 410–962–4539.

Leslie Drake, Director, U.S. Export Assistance Center—Charleston, WV, *Leslie.Drake@trade.gov*, Tel: 304–347–5123.

William Fanjoy, Director, U.S. Export Assistance Center—Arlington, VA, *William.Fanjoy@trade.gov*, Tel: 703–235–0327.

International Contact Information

Cameron Werker, Senior Commercial Officer, U.S. Embassy Bogota, Colombia, *Cameron.Werker@trade.gov*.

Nicole A. DeSilvis, Commercial Attaché, U.S. Embassy Bogota, Colombia, *Nicole.DeSilvis@trade.gov*.

Elnora Moye,

Trade Program Assistant.

[FR Doc. 2013–28169 Filed 11–22–13; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

Automotive Trade Mission to New Delhi, Pune and Chennai, India

April 24–April 30, 2014.

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

Mission Description

The United States Department of Commerce, International Trade Administration, is organizing an automotive trade mission to India (New Delhi, Pune and Chennai), April 24–30, 2014. The purpose of the mission is to introduce U.S. firms to India's rapidly expanding automotive market. Many global automotive manufacturing companies such as Ford, GM, BMW, AUDI, Volvo, Renault, Hyundai, Daimler, and Nissan, among others, have established operations in India. The mission will assist U.S. companies to explore and pursue export opportunities in the Indian automotive sector. The mission to India will include representatives from leading U.S. companies that provide aftermarket, auto components, vehicle performance enhancement, automotive care, maintenance, service parts, accessories, testing and garage equipment product and services, and U.S. trade associations representing companies in these sectors. The mission will visit three cities, New Delhi, Pune and Chennai, where participants will receive market briefings and participate in customized meetings with key officials, trade and chamber associations, and prospective partners.

Commercial Setting

The automotive industry is one of the most significant and growing sectors of the Indian economy. In 2012, India produced 20 million vehicles, making its passenger car and commercial vehicle manufacturing industry the sixth largest in the world. India's growth is driven by a young population and an expanding middle class with an extremely low rate of motor vehicle ownership. India is ranked 157th in the world in terms of vehicles per capita. Therefore, opportunities in automotive industries will continue to grow, and it is estimated that by 2016 the automotive market will reach the $145 billion mark. To support and sustain the anticipated growth in the automotive industry, the Government of India (GOI) launched the ''Automotive Mission Plan (AMP), 2006–2016.'' In the plan, the GOI has accorded the highest priority for the automobile and components industry sector.

The AMP envisions that India will emerge as the worldwide destination of choice for the design and manufacture of automobiles and auto components by 2016. The plan also projects the sales revenue of the automotive sector reaching $122–159 billion by 2016 from $34 billion in 2006. The GOI allows 100% foreign investment in the automobile and parts industry. The AMP is also a clear sign that the GOI considers the automotive sector to be very significant. U.S. companies could benefit from the unprecedented growth of this industry.

U.S. firms successfully compete in the maturing Indian automotive industry. Main domestic competitors are Tata Motors, Maruti-Suzuki, Mahindra and Mahindra, Eicher Motors, Force, Hindustan Motors, Premier, and Asia Motor Works. Competing non-U.S. brands in the Indian automotive manufacturing market include Hyundai, Suzuki, Mitsubishi, Toyota, BMW, Nissan, Volkswagen, Skoda, Mercedes Benz, Fiat, Renault, and Volvo. As the automotive manufacturing market matures, it is expected that the areas of opportunities for U.S. companies will be in the automotive aftermarket, green technologies and automotive components and accessories. The Indian auto components industry sector has been recording an average annual growth of over 20% in the past few years. According to a McKinsey study, the auto components industry sector has the potential to reach $40 billion by 2016. Technology-focused products for the original equipment manufacturer segment offer best prospects in the Indian auto components sector. These include gears and components, clutch components, brakes and components, valves, axles, shafts, engine parts, electrical components, suspension, and body building parts. Indian agents and distributors actively seek opportunities to market U.S. technologies in the domestic market.

New Delhi

New Delhi is the capital of India, and the seat of the executive, legislative, and judiciary branches of the Government of India. It also serves as the center of the Government of the National Capital Territory of Delhi. New Delhi is situated within the metropolis of Delhi and is one of the eleven districts of Delhi National Capital Territory. The majority of India's car manufacturing industry is based around three clusters to the north, west, and south of New Delhi. Gurgaon and Manesar in Haryana form the

northern automotive cluster. The northern automotive cluster located in the National Capital region contributes around 32% of the country's automotive growth. The Society of Indian Automobile Manufacturers and Automotive Component Manufacturers Associations are headquartered in New Delhi.

Pune, Maharashtra

Pune, the State of Maharashtra's second largest city after Mumbai, has been a hub for the engineering industry in India for over five decades. Also known as the Detroit of India, Pune today is one of India's largest auto manufacturing hubs with about 7,000 auto ancillary units in and around Pune. It is home to Tata Motors (developer of the $2000 car Nano); the world's second largest two-wheeler manufacturer Bajaj Auto; the world's largest forging company, Bharat Forge; and many other leading auto manufacturers, such as Daimler Chrysler, General Motors, John Deere, FIAT, etc. Pune is also home to the Automotive Research Association of India (ARAI), Central Institute of Road Transport (CIRT) and the Vehicle Research and Development Establishment (VRDE). The Pune region has a buzzing auto components industry ranging from innumerable micro to small and medium scale units. The Pune automobile industry landscape includes the 'who's who' of Indian and, increasingly, the leading international automobile industry producers. In 2013, investment inflows of an estimated $ 6.5 billion were made in Pune in this sector. Simultaneously, approximately $1.6 billion of investment in the auto ancillary and component manufacturing industry is also expected. While Pune's proximity to Mumbai, accessibility to ports for the entry and exit of raw materials and finished goods, and ease of setting up business have been key drivers of the growth of the auto industry, the large number of institutions of higher learning which support several Industrial Training Institutes have boosted the growth of the auto industry.

Chennai, Tamil Nadu

Chennai, formerly known as Madras, is the capital city of the Indian state of Tamil Nadu. Located on the Coromandel Coast off the Bay of Bengal, it is a major commercial, cultural, economic and educational center in South India. The city is base to around 30 percent of India's automobile industry and 40 percent of India's auto components industry. A large number of automotive companies including Hyundai, Renault, Robert Bosch, Nissan Motors, Ashok Leyland, Daimler AG, Caterpillar Inc., Komatsu Limited, Ford, BMW and Mitsubishi have manufacturing plants in Chennai. Chennai accounts for 60% of the country's automotive exports. According to Forbes magazine, Chennai is one of the fastest growing cities in the world and the only Indian city to be rated in the ''Forbes-Top 10 Fastest Growing Cities in the World''. It is ranked 4th in India for hosting Fortune 500 companies, next only to Mumbai, Delhi and Kolkata.

Mission Goals

The goals of the Automotive Trade Mission to India are to provide participants with first-hand market information and one-on-one meetings with business contacts, including potential end users and partners, so that they can position themselves to enter or expand their presence in the automotive cluster cities in India. The mission will focus on helping participants to obtain market information, to establish business and government contacts, to solidify business strategies, and/or to advance specific projects.

The mission also will facilitate first-hand market exposure and access to government decision makers and key private-sector industry contacts, including potential partners. It will provide opportunities for participants to have policy and regulatory framework discussions with government officials and private sector representatives in order to advance participants' interests in India.

Mission Scenario

The first stop on the mission itinerary is New Delhi, where participants will arrive on Thursday April 24, 2014. The next day, Friday April 25th, the participants will participate in industry briefings, meetings with Government decision makers, one-on-one business meetings, and networking lunch meetings with chamber/associations. A welcome reception for the delegates is scheduled for the evening of April 25, 2014.

On Saturday, April 26th, a half-day site visit to an automobile OEM manufacturing facility is scheduled. Following the site visit, the delegates will start departing Delhi for Pune on the evening of Saturday or early on Sunday April 27th. On Monday morning, April 28th, the delegates' program in Pune will start with a local industry briefing, followed by one-on-one meetings. At noon, there will be a networking luncheon with local businesses and multipliers. After lunch, the one-on-one meetings will continue. A networking reception is scheduled on the evening of April 28, 2014.

On Tuesday morning, April 29th, a half-day site visit to an automobile OEM manufacturing facility in Pune is scheduled. Following the site visit, the delegates will start departing Pune for Chennai. Time permitting, an afternoon site visit in Chennai is proposed, to be followed by a welcome dinner or a networking reception. On Wednesday morning, April 30th, the delegates' program will start with a market briefing, followed by one-on-one meetings. At noon, there will be a networking luncheon with local businesses and multipliers. After lunch, the one-on-one meetings will continue. The mission concludes after the one-on-one meetings.

PROPOSED TIMETABLE

NEW DELHI	
Thursday April 24, 2014	• Arrive in New Delhi.
Friday, April 25, 2014	• Breakfast briefing by U.S. Embassy Officials. • Meeting with Government decision makers. • One-on-one business meetings. • Networking lunch hosted by a Chamber—TBC. • One-on-one business meetings continue. • Welcome reception for Delegates in the evening.
Saturday, April 26, 2014	Half a day site visit—TBC.

PROPOSED TIMETABLE—Continued

Delhi—Pune	
Saturday, April 26, 2014 or Sunday, April 27, 2014.	Following the site visit, delegates plan to depart Delhi for Pune on Saturday or Sunday evening.
PUNE	
Monday, April 28, 2014	Breakfast briefing by Consulate/Industry Association. One-on-one business meetings. Networking lunch hosted by Chamber with local industry representatives—TBC. One-on-one business meetings continues. Networking reception with Industry contacts. Overnight stay in Pune.
Tuesday, April 29, 2014	Half a day site visit—TBC.
Pune—Chennai	
Tuesday, April 29, 2014	Following the site visit, delegates depart Pune for Chennai. Site visit—TBC. Welcome dinner for Delegates or Networking reception with Industry contacts.
Chennai	
Wednesday, April 30, 2014	Breakfast briefing by the Consulate/Industry Association. One-on-one business meetings. Networking lunch hosted by Chamber of Commerce and Industry. —TBC. One-on-one business meetings continues. Mission concludes and delegates depart Chennai for U.S. as per individual itinerary.

Participation Requirements

All parties interested in participating in the trade mission must complete and submit an application package for consideration by the U.S. Department of Commerce. All applicants will be evaluated on their ability to meet certain conditions and best satisfy the selection criteria as outlined below. A minimum of 15 and maximum of 20 companies and/or trade associations will be selected from the applicant pool to participate in the mission. U.S. companies and/or trade associations already doing business in or seeking business in India for the first time may apply.

Fees and Expenses

After a company has been selected to participate on the mission, a payment to the U.S. Department of Commerce in the form of a participation fee is required. The participation fee is $5500 for large firms and $5300 for small or medium-sized enterprises (SME) [1] and trade associations. The fee for each additional representative is $750.

Exclusions

The mission fee does not include any personal travel expenses such as lodging, most meals, local ground transportation between cities in India, except for ground transportation for official site visits or as otherwise stated in the proposed timetable, and air transportation from the U.S. to India and return to the U.S. Trade mission participants will, however, be able to take advantage of U.S. Government rates for hotel rooms. Business visas may be required. Government fees and processing expenses to obtain such visas are not included in the mission costs. However, the U.S. Department of Commerce will provide instructions to each participant on the procedures required to obtain necessary business visas.

Conditions for Participation

Applicants must submit a completed and signed mission application and supplemental application materials, including adequate information on the company's products and/or services, primary market objectives, and goals for participation. If the Department of Commerce receives an incomplete application, the Department may either: reject the application, request additional information/clarification, or take the lack of information into account when evaluating the applications.

Each applicant must also certify that the products and services it seeks to export through the mission are either produced in the United States, or, if not, are marketed under the name of a U.S. firm and have at least fifty-one percent U.S. content. In the case of a trade association or trade organization, the applicant must certify that, for each company to be represented by the trade association or trade organization, the products and services the represented company seeks to export are either produced in the United States, or, if not, marketed under the name of a U.S. firm and have at least 51% U.S. content.

Selection Criteria for Participation

The following criteria will be evaluated in selecting participants:

- Suitability of a company's products or services (or, in the case of a trade association or trade organization, represented companies') to the Indian markets.
- Company's (or, in the case of a trade association or trade organization, represented companies') potential for business in India, including likelihood of exports resulting from the mission.
- Consistency of the applicant's goals and objectives with the stated scope of the mission.

Additional factors, such as diversity of company size, type, location, and

[1] An SME is defined as a firm with 500 or fewer employees or that otherwise qualifies as a small business under SBA regulations (see *http://www.sba.gov/services/contracting opportunities/sizestandardstopics/index.html*). Parent companies, affiliates, and subsidiaries will be considered when determining business size. The dual pricing reflects the Commercial Service's user fee schedule that became effective May 1, 2008 (see *http://www.export.gov/newsletter/march2008/initiatives.html* for additional information).

demographics, may also be considered during the review process.

Referrals from political organizations and any documents, including the application, containing references to partisan political activities (including political contributions) will be removed from an applicant's submission and not considered during the selection process.

Timeframe for Recruitment and Application

Mission recruitment will be conducted in an open and public manner, including publication in the **Federal Register**, posting on the Commerce Department trade mission calendar (*http://www.export.gov/trademissions/*) and other Internet Web sites, press releases to general and trade media, direct mail, broadcast fax, notices by industry trade associations and other multiplier groups, and publicity at industry meetings, symposia, conferences, and trade shows.

Recruitment for this mission will begin immediately and conclude no later than January 31, 2014. The U.S. Department of Commerce will review applications and make selection decisions beginning February 2014. Applications received after January 31, 2014 will be considered only if space and scheduling constraints permit.

How To Apply

Applications can be completed on-line at the Trade Mission Web site or can be obtained by contacting Kellie Holloway Jarman at the U.S. Department of Commerce (see contact details below). Completed applications should be submitted to Kellie Holloway Jarman.

Contacts

U.S. Commercial Service, Export Assistance Center, Portland

Kellie Holloway Jarman, Senior International Trade Specialist, One World Trade Center, 121 SW Salmon St., Suite 242, Portland, OR 97204, Tel: +1–503–326–3002, Mobile: +1–503–314–2035, Email: *kellie.holloway@trade.gov.*

U.S. Commercial Service India

James P. Golsen, Principal Commercial Officer for South India, U.S. Commercial Service, c/o U.S. Consulate General, 220 Anna Salai, Chennai, India 600006, Tel: +91–44–2857–4209, Email: *james.golsen@trade.gov.*

Elnora Moye,

Trade Program Assistant.

[FR Doc. 2013–28167 Filed 11–22–13; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

United States-Mexico High Level Economic Dialogue

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: This notice announces a request for public stakeholder input to the **Federal Register** notice on the United States-Mexico High Level Economic Dialogue.

DATES: The agency must receive comments on or before January 9, 2014.

ADDRESSES: Please direct written submissions to Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW, Washington, DC 20230. *The public is strongly encouraged to file submissions electronically rather than by mail.* Submit electronic comments to www.trade.gov/hled.

FOR FURTHER INFORMATION CONTACT: Kyle Wells, 202–482–1547.

SUPPLEMENTARY INFORMATION: Mexico represents a critical strategic ally and partner of the United States. Apart from being neighbors that share a 2,000-mile border, we also share deeply integrated economies that, in 2012, generated more than $500 billion in two-way trade. Mexico remains our second largest export market and third largest overall trading partner. The United States, in turn, is Mexico's largest trading partner. Together with Canada, Mexico and the United States are partners in the North American Free Trade Agreement, one of the most competitive and successful economic platforms in the world. The sustained competitiveness and continued growth of the North American region is dependent upon continued and deepened economic and commercial cooperation, regulatory consensus, and policy alignment.

To advance strategic economic and commercial priorities central to promoting mutual economic growth, job creation, and global competitiveness, President Barack Obama and President of Mexico Enrique Peña Nieto announced in May 2013 the formation of the U.S.-Mexico High Level Economic Dialogue (HLED). The HLED will meet annually at the Cabinet level and will bring together leaders from the public and private sectors to build upon and promote sustained progress on a range of existing successful bilateral dialogues and working groups. On September 20, 2013, Vice President Joseph Biden led a delegation of U.S. Cabinet officials that met in Mexico City with members of the Mexican Cabinet in the inaugural meeting of the HLED.

At the September meeting, government officials from Mexico and the United States approved an initial work plan with three broad pillars, which contain specific topics for cooperation:

I. Promoting Competitiveness and Connectivity

(1) Telecommunications; and (2) Transportation, including Intelligent Transportation Systems; Logistics Corridors and Freight Planning; Modernized and Expanded Bilateral Air Transport Relationship; Customs; and Border Master Plans.

II. Fostering Economic Growth, Productivity, Entrepreneurship, and Innovation

(1) Workforce Development; (2) Joint Investment Promotion; (3) Travel and Tourism; (4) Economic Development along the Border as well as a Comprehensive Economic Development Strategy; (5) Effective use of the North American Development Bank; (6) Partnership on Advanced Manufacturing; (7) Economic Empowerment of Women;(8) Entrepreneurship; (9) Food and Agricultural Trade; (10) Diaspora Engagement; (11) Remittances Dialogue; and (12) Regulatory Cooperation.

III. Partnering for Regional and Global Leadership

(1) Partnering to promote development in Central America; (2) Regional trade priorities; and (3) Transparency and anti-corruption.

The United States Government recognizes stakeholder input as instrumental in providing practical recommendations for shaping the direction of this dialogue, clarifying priorities, and assisting in possible pilot projects.

Please provide your comments on the three pillars listed above, as well as on the suggested topics for cooperation within each pillar, key areas where stakeholder insights can help contribute to the success of this crucial bilateral economic relationship. We welcome input on possible additional topics for the HLED to address, beyond the items listed above. We will ensure that stakeholders from the private sector and civil society can provide input into the HLED process on an ongoing basis.

Please provide your responses by January 9, 2014.

Your detailed comments will help the U.S. Government strengthen the work of the HLED and ensure that it remains

relevant to the private sector and to civil society.

Walter Bastian,

Deputy Assistant Secretary for the Western Hemisphere, Global Markets, International Trade Administration, U.S. Department of Commerce.

[FR Doc. 2013–28006 Filed 11–22–13; 8:45 am]

BILLING CODE 3510–HE–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Cost-Earnings Surveys of Hawaii and American Samoa Small Boat-Based Fisheries

AGENCY: National Oceanic and Atmospheric Administration (NOAA), 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 January 24, 2014.

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 Minling Pan, (808) 944–2190 or *Minling.Pan@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for a new information collection.

The National Marine Fisheries Service (NMFS) proposes to collect information about fishing expenses and catch distribution (such as for sale, home consumption, and give-away, etc.) in the Hawaii and American Samoa small boat-based reef fish, bottomfish, and pelagics fisheries with which to conduct economic analyses that will improve fishery management in those fisheries; satisfy NMFS' legal mandates under Executive Order 12866, the Magnuson-Steven Fishery Conservation and Management Act (U.S.C. 1801 *et seq.*), the Regulatory Flexibility Act, the Endangered Species Act, and the National Environmental Policy Act; and quantify achievement of the performances measures in the NMFS Strategic Operating Plans. Respondents will include small boat fishers in Hawaii and American Samoa and their participation in the economic data collection will be voluntary. These data will be used to assess how fishermen will be impacted by and respond to regulations likely to be considered by fishery managers.

II. Method of Collection

Respondents submit paper forms by mailing.

III. Data

OMB Control Number: None.

Form Number: None.

Type of Review: Regular submission (request for a new information collection).

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 1,013.

Estimated Time per Response: 30 minutes.

Estimated Total Annual Burden Hours: 507.

Estimated Total Annual Cost to Public: $0 in recordkeeping/reporting costs.

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: November 19, 2013.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2013–28163 Filed 11–22–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC993

New England Fishery Management Council; Public Meetings

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

ACTION: Notice; public meetings.

SUMMARY: The New England Fishery Management Council's (Council) Groundfish Oversight Committee and Electronic Monitoring Working Group (EMWG) will meet to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

DATES: These meetings will be held December 9, 2013 and December 10, 2013. For specific dates and times, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES:

Meeting address: These meetings will be held at the Omni Providence Hotel, 1 West Exchange Street, Providence, RI 02048; telephone: (401) 598–8000; fax: (401) 598–8200.

Council address: New England Fishery Management Council, 50 Water Street, Mill #2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Monday, December 9, 2013 Beginning at 9 a.m.—Groundfish Oversight Committee Agenda

The Committee will review Plan Development Team (PDT) work related to the impacts of the alternatives under consideration in Framework 51 and potentially select preferred alternatives. The Committee may receive a brief update from the PDT on the development of alternatives for Amendment 18. The Committee will also address other business as necessary.

Tuesday, December 10, 2013 Beginning at 9:30 a.m.—Electronic Monitoring Working Group Agenda

The EMWG will continue its work on identifying barriers and possible solutions to implementing electronic monitoring in groundfish fishery sectors.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those

issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies (see **ADDRESSES**), at least 5 working days prior to the meeting date.

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

Dated: November 20, 2013.

Tracey L. Thompson,

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

[FR Doc. 2013–28180 Filed 11–22–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC991

Pacific Fishery Management Council; Online Webinar

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

ACTION: Notice of online webinar.

SUMMARY: The Pacific Fishery Management Council's (Pacific Council's) Scientific and Statistical Committee (SSC) Groundfish Subcommittee will hold an online webinar to review a final draft of the 2013 cowcod rebuilding analysis, data-poor overfishing limit (OFL) estimates for kelp greenling and the Washington stock of cabezon, and other business in preparation for the SSC's March 2014 meeting. The online SSC Groundfish Subcommittee webinar is open to the public.

DATES: The SSC Groundfish Subcommittee webinar will commence at 1 p.m. PST, Wednesday, December 11, 2013 and continue until 4 p.m. or as necessary to complete business for the day.

ADDRESSES: To attend the SSC Groundfish Subcommittee webinar, please join online at *https://www4.gotomeeting.com/ojoin/* and enter the webinar ID: 661–616–231. Once you have joined the webinar, choose either your computer's audio or select ''Use Telephone.'' To join the audio teleconference using a telephone, call the toll number +1 (646) 307–1720 (note: Long distance charges may apply) and enter 754–659–346 when prompted for the audio code. An audio personal identification number (PIN) will be shown after joining the meeting. If you do not select ''Use Telephone'', you will be connected to audio using your computer's microphone and speakers (VolP). A headset is recommended. If you experience technical difficulties and would like assistance, please contact Mr. Kris Kleinschmidt at 503–820–2280. Public comments during the webinar will be received from attendees at the discretion of the SSC Groundfish Subcommittee chair.

FOR FURTHER INFORMATION CONTACT: Mr. John DeVore, Pacific Council; telephone: (503) 820–2280.

SUPPLEMENTARY INFORMATION: The specific objectives of the SSC Groundfish Subcommittee webinar are to: (1) Review a final draft of the 2013 cowcod rebuilding analysis; (2) review new data-poor OFL estimates for kelp greenling and the Washington stock of cabezon; and (3) review or discuss other items necessary to prepare for the March 2014 SSC meeting in Sacramento, CA. No management actions will be decided in this webinar. Although non-emergency issues not identified in the webinar agenda may come before the webinar participants for discussion, those issues may not be the subject of formal action during this webinar. Formal action at the webinar will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the webinar participants' intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for auxiliary aids should be directed to Mr. Kris Kleinschmidt at (503) 820–2280 at least 5 days prior to the webinar date.

Dated: November 20, 2013.

Tracey L. Thompson,

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

[FR Doc. 2013–28179 Filed 11–22–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2013–OS–0179]

Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by December 26, 2013.

FOR FURTHER INFORMATION CONTACT: Fred Licari, 571–372–0493.

SUPPLEMENTARY INFORMATION:

Title, Associated Form and OMB Number: Application for Identification Card/DEERS Enrollment; DD Form 1172–2; OMB Control Number 0704–0415.

Type of Request: Revision of a Currently Approved Collection.

Number of Respondents: 2,700,000.

Responses per Respondent: 1.

Annual Responses: 2,700,000.

Average Burden per Response: 3 minutes.

Annual Burden Hours: 135,000 hours.

Needs and Uses: This information collection requirement is necessary to validate eligibility for all individuals applying for DoD benefits and privileges including but are not limited to, medical coverage, DoD identification cards, access to DoD installations, buildings or facilities, and access to DoD installations, buildings or facilities, and access to DoD computer systems and networks. This information collection is required to obtain the necessary data elements to determine eligible individual's benefits and privileges, to provide a proper identification card reflecting those benefits and privileges, and to maintain a centralized database of the eligible population.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Required to Obtain or Retain Benefits.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Jasmeet Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

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

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD Information Management Division, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Dated: November 20, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–28204 Filed 11–22–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Revised Non-Foreign Overseas Per Diem Rates

AGENCY: Travel and Transportation Allowance Committee, Per Diem, DoD.

ACTION: Notice of Revised Non-Foreign Overseas Per Diem Rates.

SUMMARY: The Per Diem, Travel and Transportation Allowance Committee is publishing Civilian Personnel Per Diem Bulletin Number 290. This bulletin lists revisions in the per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico, the Northern Mariana Islands and Possessions of the United States when applicable. AEA changes announced in Bulletin Number 194 remain in effect. Bulletin Number 290 is being published in the **Federal Register** to assure that travelers are paid per diem at the most current rates.

DATES: *Effective Date:* December 1, 2013.

FOR FURTHER INFORMATION CONTACT: Mrs. Sonia Malik, 571–372–1276.

SUPPLEMENTARY INFORMATION: This document gives notice of revisions in per diem rates prescribed by the Per Diem Travel and Transportation Allowance Committee for non-foreign areas outside the continental United States. It supersedes Civilian Personnel Per Diem Bulletin Number 289. Distribution of Civilian Personnel Per Diem Bulletins by mail was discontinued. Per Diem Bulletins published periodically in the **Federal Register** now constitute the only notification of revisions in per diem rates to agencies and establishments outside the Department of Defense. For more information or questions about per diem rates, please contact your local travel office. The text of the Bulletin follows: The changes in Civilian Bulletin 290 are updated rates for Alaska, Guam, and the Northern Mariana Islands.

Dated: November 20, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–P

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
ALASKA						
[OTHER]						
01/01 - 12/31	110		118		228	01/01/2013
ADAK						
01/01 - 12/31	120		79		199	07/01/2003
ANCHORAGE [INCL NAV RES]						
05/16 - 09/30	190		102		292	12/01/2013
10/01 - 05/15	99		93		192	12/01/2013
BARROW						
05/15 - 09/14	177		94		271	04/01/2013
09/15 - 05/14	159		93		252	04/01/2013
BETHEL						
01/01 - 12/31	179		109		288	12/01/2013
BETTLES						
01/01 - 12/31	135		62		197	10/01/2004
CLEAR AB						
01/01 - 12/31	90		82		172	10/01/2006
COLDFOOT						
01/01 - 12/31	165		70		235	10/01/2006
COPPER CENTER						
05/15 - 09/15	149		85		234	01/01/2013
09/16 - 05/14	99		80		179	01/01/2013
CORDOVA						
01/01 - 12/31	95		102		197	12/01/2013
CRAIG						
04/01 - 09/30	129		77		206	01/01/2013
10/01 - 03/31	80		72		152	01/01/2013
DEADHORSE						
01/01 - 12/31	170		68		238	08/01/2012
DELTA JUNCTION						
01/01 - 12/31	128		54		182	12/01/2013

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
DENALI NATIONAL PARK						
05/01 - 09/30	159		94		253	12/01/2013
10/01 - 04/30	89		87		176	12/01/2013
DILLINGHAM						
05/15 - 10/15	185		111		296	01/01/2011
10/16 - 05/14	169		109		278	01/01/2011
DUTCH HARBOR-UNALASKA						
01/01 - 12/31	121		102		223	02/01/2012
EARECKSON AIR STATION						
01/01 - 12/31	90		77		167	06/01/2007
EIELSON AFB						
05/15 - 09/15	154		96		250	01/01/2013
09/16 - 05/14	75		88		163	01/01/2013
ELFIN COVE						
05/15 - 09/10	175		46		221	01/01/2013
09/11 - 05/14	150		44		194	01/01/2013
ELMENDORF AFB						
05/16 - 09/30	190		102		292	12/01/2013
10/01 - 05/15	99		93		192	12/01/2013
FAIRBANKS						
05/15 - 09/15	154		96		250	01/01/2013
09/16 - 05/14	75		88		163	01/01/2013
FOOTLOOSE						
01/01 - 12/31	175		18		193	10/01/2002
FT. GREELY						
01/01 - 12/31	128		54		182	12/01/2013
FT. RICHARDSON						
05/16 - 09/30	190		102		292	12/01/2013
10/01 - 05/15	99		93		192	12/01/2013
FT. WAINWRIGHT						
05/15 - 09/15	154		96		250	01/01/2013
09/16 - 05/14	75		88		163	01/01/2013
GAMBELL						
01/01 - 12/31	137		42		179	04/01/2013

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
GLENNALLEN						
05/15 - 09/15	149		85		234	01/01/2013
09/16 - 05/14	99		80		179	01/01/2013
HAINES						
01/01 - 12/31	107		101		208	01/01/2011
HEALY						
05/01 - 09/30	159		94		253	12/01/2013
10/01 - 04/30	89		87		176	12/01/2013
HOMER						
05/05 - 09/16	159		99		258	12/01/2013
09/17 - 05/04	89		92		181	12/01/2013
JUNEAU						
05/16 - 09/15	159		104		263	12/01/2013
09/16 - 05/15	135		102		237	12/01/2013
KAKTOVIK						
01/01 - 12/31	165		86		251	10/01/2002
KAVIK CAMP						
01/01 - 12/31	150		69		219	10/01/2002
KENAI-SOLDOTNA						
05/01 - 10/31	99		110		209	01/01/2013
11/01 - 04/30	79		108		187	01/01/2013
KENNICOTT						
01/01 - 12/31	275		109		384	01/01/2013
KETCHIKAN						
05/01 - 09/30	135		88		223	01/01/2013
10/01 - 04/30	99		85		184	01/01/2013
KING SALMON						
05/01 - 10/01	225		91		316	10/01/2002
10/02 - 04/30	125		81		206	10/01/2002
KLAWOCK						
10/01 - 03/31	80		72		152	01/01/2013
04/01 - 09/30	129		77		206	01/01/2013
KODIAK						
10/01 - 04/30	100		88		188	02/01/2012

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
05/01 - 09/30	152		93		245	02/01/2012
KOTZEBUE						
01/01 - 12/31	219		115		334	02/01/2012
KULIS AGS						
05/16 - 09/30	190		102		292	12/01/2013
10/01 - 05/15	99		93		192	12/01/2013
MCCARTHY						
01/01 - 12/31	275		109		384	01/01/2013
MCGRATH						
01/01 - 12/31	165		69		234	10/01/2006
MURPHY DOME						
09/16 - 05/14	75		88		163	01/01/2013
05/15 - 09/15	154		96		250	01/01/2013
NOME						
01/01 - 12/31	150		132		282	01/01/2013
NUIQSUT						
01/01 - 12/31	180		53		233	10/01/2002
PETERSBURG						
01/01 - 12/31	110		118		228	01/01/2013
POINT HOPE						
01/01 - 12/31	200		49		249	01/01/2011
POINT LAY						
01/01 - 12/31	225		51		276	08/01/2011
PORT ALEXANDER						
01/01 - 12/31	150		43		193	08/01/2010
PORT ALSWORTH						
01/01 - 12/31	135		88		223	10/01/2002
PRUDHOE BAY						
01/01 - 12/31	170		68		238	01/01/2011
SELDOVIA						
09/17 - 05/04	89		92		181	12/01/2013
05/05 - 09/16	159		99		258	12/01/2013
SEWARD						
10/16 - 04/30	84		85		169	01/01/2013

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
05/01 - 10/15	174		94		268	01/01/2013
SITKA-MT. EDGECUMBE						
05/01 - 09/30	209		117		326	01/01/2013
10/01 - 04/30	169		113		282	01/01/2013
SKAGWAY						
05/01 - 09/30	135		88		223	01/01/2013
10/01 - 04/30	99		85		184	01/01/2013
SLANA						
05/01 - 09/30	139		55		194	02/01/2005
10/01 - 04/30	99		55		154	02/01/2005
SPRUCE CAPE						
05/01 - 09/30	152		93		245	02/01/2012
10/01 - 04/30	100		88		188	02/01/2012
ST. GEORGE						
01/01 - 12/31	129		55		184	06/01/2004
TALKEETNA						
01/01 - 12/31	100		89		189	10/01/2002
TANANA						
01/01 - 12/31	150		132		282	01/01/2013
TOK						
05/15 - 09/30	95		85		180	01/01/2013
10/01 - 05/14	85		84		169	01/01/2013
UMIAT						
01/01 - 12/31	350		64		414	02/01/2012
VALDEZ						
05/16 - 09/14	219		121		340	01/01/2013
09/15 - 05/15	139		113		252	01/01/2013
WAINWRIGHT						
01/01 - 12/31	175		83		258	01/01/2011
WASILLA						
05/01 - 09/30	164		103		267	01/01/2013
10/01 - 04/30	96		96		192	01/01/2013
WRANGELL						
05/01 - 09/30	135		88		223	01/01/2013

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
10/01 - 04/30	99		85		184	01/01/2013
YAKUTAT						
01/01 - 12/31	105		94		199	01/01/2011
AMERICAN SAMOA						
AMERICAN SAMOA						
01/01 - 12/31	139		96		235	09/01/2012
GUAM						
GUAM (INCL ALL MIL INSTAL)						
01/01 - 12/31	159		84		243	12/01/2013
HAWAII						
[OTHER]						
01/01 - 12/31	114		95		209	07/01/2013
CAMP H M SMITH						
01/01 - 12/31	177		114		291	07/01/2013
EASTPAC NAVAL COMP TELE AREA						
01/01 - 12/31	177		114		291	07/01/2013
FT. DERUSSEY						
01/01 - 12/31	177		114		291	07/01/2013
FT. SHAFTER						
01/01 - 12/31	177		114		291	07/01/2013
HICKAM AFB						
01/01 - 12/31	177		114		291	07/01/2013
HONOLULU						
01/01 - 12/31	177		114		291	07/01/2013
ISLE OF HAWAII: HILO						
01/01 - 12/31	114		95		209	07/01/2013
ISLE OF HAWAII: OTHER						
01/01 - 12/31	180		137		317	07/01/2013
ISLE OF KAUAI						
01/01 - 12/31	243		131		374	05/01/2012
ISLE OF MAUI						
01/01 - 12/31	259		133		392	07/01/2013
ISLE OF OAHU						
01/01 - 12/31	177		114		291	07/01/2013

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
KEKAHA PACIFIC MISSILE RANGE FAC						
01/01 - 12/31	243		131		374	05/01/2012
KILAUEA MILITARY CAMP						
01/01 - 12/31	114		95		209	07/01/2013
LANAI						
01/01 - 12/31	249		155		404	05/01/2012
LUALUALEI NAVAL MAGAZINE						
01/01 - 12/31	177		114		291	07/01/2013
MCB HAWAII						
01/01 - 12/31	177		114		291	07/01/2013
MOLOKAI						
01/01 - 12/31	131		72		203	07/01/2013
NAS BARBERS POINT						
01/01 - 12/31	177		114		291	07/01/2013
PEARL HARBOR						
01/01 - 12/31	177		114		291	07/01/2013
SCHOFIELD BARRACKS						
01/01 - 12/31	177		114		291	07/01/2013
WHEELER ARMY AIRFIELD						
01/01 - 12/31	177		114		291	07/01/2013
MIDWAY ISLANDS						
MIDWAY ISLANDS						
01/01 - 12/31	125		72		197	07/01/2013
NORTHERN MARIANA ISLANDS						
[OTHER]						
01/01 - 12/31	85		76		161	07/01/2012
ROTA						
01/01 - 12/31	140		106		246	12/01/2013
SAIPAN						
01/01 - 12/31	140		96		236	12/01/2013
TINIAN						
01/01 - 12/31	85		76		161	07/01/2012
PUERTO RICO						

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
[OTHER]						
01/01 - 12/31	109		112		221	06/01/2012
AGUADILLA						
01/01 - 12/31	124		76		200	10/01/2012
BAYAMON						
01/01 - 12/31	195		128		323	09/01/2010
CAROLINA						
01/01 - 12/31	195		128		323	09/01/2010
CEIBA						
01/01 - 12/31	139		92		231	10/01/2012
CULEBRA						
01/01 - 12/31	150		98		248	03/01/2012
FAJARDO [INCL ROOSEVELT RDS NAVSTAT]						
01/01 - 12/31	139		92		231	10/01/2012
FT. BUCHANAN [INCL GSA SVC CTR, GUAYNABO]						
01/01 - 12/31	195		128		323	09/01/2010
HUMACAO						
01/01 - 12/31	139		92		231	10/01/2012
LUIS MUNOZ MARIN IAP AGS						
01/01 - 12/31	195		128		323	09/01/2010
LUQUILLO						
01/01 - 12/31	139		92		231	10/01/2012
MAYAGUEZ						
01/01 - 12/31	109		112		221	09/01/2010
PONCE						
01/01 - 12/31	149		89		238	09/01/2012
RIO GRANDE						
01/01 - 12/31	169		123		292	06/01/2012
SABANA SECA [INCL ALL MILITARY]						
01/01 - 12/31	195		128		323	09/01/2010
SAN JUAN & NAV RES STA						
01/01 - 12/31	195		128		323	09/01/2010
VIEQUES						
01/01 - 12/31	175		95		270	03/01/2012

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
VIRGIN ISLANDS (U.S.)						
ST. CROIX						
04/15 - 12/14	135		92		227	05/01/2006
12/15 - 04/14	187		97		284	05/01/2006
ST. JOHN						
04/15 - 12/14	163		98		261	05/01/2006
12/15 - 04/14	220		104		324	05/01/2006
ST. THOMAS						
04/15 - 12/14	240		105		345	05/01/2006
12/15 - 04/14	299		111		410	05/01/2006
WAKE ISLAND						
WAKE ISLAND						
01/01 - 12/31	173		55		228	07/01/2013

[FR Doc. 2013–28199 Filed 11–22–13; 8:45 am]
BILLING CODE 5001–06–C

DEPARTMENT OF DEFENSE

Department of the Air Force

Intent To Grant an Exclusive Patent License

Pursuant to the provisions of Part 404 of Title 37, Code of Federal Regulations, which implements Public Law 96–517, as amended; the Department of the Air Force announces its intention to grant the University of Michigan, a land-grant educational institution duly organized, validly existing, and in good standing in the State of Michigan, having a place of business at 503 S. State St., Ann Arbor, MI 48109, an exclusive, with respect to future sublicensees, license to practice the invention in any right, title and interest the Air Force has in:

U.S. Provisional Patent Application No. 61/354,522, filed on June 14, 2010, entitled ''SUPERHYDROPHILIC AND OLEOPHOBIC POROUS MATERIALS AND METHODS FOR MAKING AND USING THE SAME,'' by Anish Tuteja et al.;

U.S. Non-provisional Patent Application No. 13/159,950, filed on June 14, 2011, entitled ''SUPERHYDROPHILIC AND OLEOPHOBIC POROUS MATERIALS AND METHODS FOR MAKING AND USING THE SAME,'' by Anish Tuteja et al.; and

International Patent Application No. PCT/US11/40353, filed on June 14, 2011, ''SUPERHYDROPHILIC AND OLEOPHOBIC POROUS MATERIALS AND METHODS FOR MAKING AND USING THE SAME,'' by Anish Tuteja et al.

The Air Force intends to grant a license for the patent and pending applications unless a written objection is received within fifteen (15) calendar days from the date of publication of this Notice. Written objection should be sent to: Air Force Materiel Command Law Office, AFMCLO/JAZ, 2240 B Street, Rm D–14, Wright-Patterson AFB, OH 45433–7109; Facsimile: (937) 255–3733.

Henry Williams,

DAF, Acting Air Force Federal Register Liaison Officer.

[FR Doc. 2013–28202 Filed 11–22–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2013–0031]

Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by December 26, 2013.

FOR FURTHER INFORMATION CONTACT: Fred Licari, 571–372–0493.

SUPPLEMENTARY INFORMATION:

Title, Associated Form and OMB Number: Automated Installation Entry (AIE) System; OMB Control Number 0702–TBD.

Type of Request: New Collection.

Number of Respondents: 29,385.

Responses per Respondent: 1.

Annual Responses: 29,385.

Average Burden per Response: 3 minutes.

Annual Burden Hours: 1,469 hours.

Needs and Uses: The information collection requirement is necessary to verify the identity of an individual and determine the fitness of an individual requesting and/or requiring access to installations, and issuance of local access credentials. The information collection methodology involves the employment of technological collection of data via an electronic physical access control system (PACS) which provides the capability to rapidly and electronically authenticate credentials and validate the individual's authorization to enter an installation.

Affected Public: Business or other for-profit; individuals or households.

Frequency: On occasion.

Respondent's Obligation: Required to Obtain or Retain Benefits.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Jasmeet Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

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

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD Information Management Division, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Dated: November 19, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–28077 Filed 11–22–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number DARS 2013–0046]

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement; Administrative Matters

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Notice and request for comments regarding a proposed extension of an approved information collection requirement.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), DoD announces the proposed extension of a public information collection requirement and seeks public comment on the provisions thereof. DoD invites comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; (b) the accuracy of the estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. The Office of Management and Budget (OMB) has approved this information collection under Control Number 0704–0225 for use through January 31, 2014. DoD is proposing that OMB extend its approval for use for three additional years.

DATES: DoD will consider all comments received by January 24, 2014.

ADDRESSES: You may submit comments, identified by OMB Control Number 0704–0225, using any of the following methods:

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

○ *E-Mail: dfars@mail.mil.* Include OMB Control Number 0704–0225 in the subject line of the message.

○ *Fax:* (571) 372–6094.

○ *Mail:* Defense Acquisition Regulations System, Attn: Ms. Lesa Scott, OUSD(AT&L)DPAP/DARS, Rm. 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060.

Comments received generally will be posted without change to *http://www.regulations.gov*, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Lesa Scott, at (571) 372–6104. The information collection requirements addressed in this notice are available on the World Wide Web at: *http://www.acq.osd.mil/dpap/dars/dfarspgi/current/index.html.* Paper copies are available from Ms. Lesa Scott, OUSD(AT&L)DPAP(DARS), Room 3B855, 3062 Defense Pentagon, Washington, DC 20301–3062.

SUPPLEMENTARY INFORMATION:

Title, Associated Form, and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Part 204, Administrative Matters, and related clauses at DFARS 252.204; DD Form 2051, Request for Assignment of a Commercial and Government Entity (CAGE) Code, and DD Form 2051–1, Request for Information/Verification of Commercial and Government Entity (CAGE) Code; OMB Control Number 0704–0225.

Needs and Uses: DoD uses this information to control unclassified contract data that is sensitive and inappropriate for release to the public; and to facilitate data exchange among automated systems for contract award, contract administration, and contract payment by assigning a unique code to each DoD contractor.

Affected Public: Businesses and other for-profit entities and not-for-profit institutions.

Number of Respondents: 12,895.

Responses per Respondent: 1.

Annual Responses: 12,895.

Average Burden per Response: Approximately 1.0 hour.

Annual Response Burden Hours: 13,418.

Reporting Frequency: On occasion.

Summary of Information Collection

DFARS 204.404–70(a) prescribes use of DFARS Clause 252.204–7000, Disclosure of information, in contracts that require the contractor to access or generate unclassified information that may be sensitive and inappropriate for release to the public. The clause requires the contractor to obtain approval of the contracting officer before release of any unclassified contract-related information outside the contractor's organization, unless the information is already in the public domain. In requesting this approval, the contractor must identify the specific information to be released, the medium to be used, and the purpose for the release.

DFARS 204.7207 prescribes use of the DFARS provision 252.204–7001, Commercial and Government Entity (CAGE) Code Reporting, in solicitations when CAGE codes for potential offerors are not available to the contracting officer. The provision requires an offeror to enter its CAGE code on its offer. If an offeror does not have a CAGE code, the offeror may request one from the contracting officer, who will ask the offeror to complete section B of DD Form 2051, Request for Assignment of a Commercial and Government Entity (CAGE) Code.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

[FR Doc. 2013–28233 Filed 11–22–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Intent to Prepare an Environmental Impact Statement for the Dam Safety Modification Report, Bluestone Dam, Hinton, Summers County, WV

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of Intent.

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA), the U.S. Army Corps of Engineers (Corps), Huntington District will prepare a supplemental Environmental Impact Statement (EIS) to disclose potential impacts to the natural, physical, and human environment resulting from modifications to Bluestone Dam. The original EIS was published in 1998 and a Record of Decision (ROD) was signed in 1999 concluding the NEPA process allowing the Corps to initiate implementation of the Bluestone Dam Safety Assurance (DSA) Project. When completed, the current modifications under construction will strengthen the dam's stability and allow for increased discharge capacity through the use of hydropower penstocks substantially reducing risk. However, physical modeling and expert analysis conducted during project construction has indicated the downstream bedrock is vulnerable to an unacceptable degree of erosion during high flow events. The Corps has also recognized potential for unacceptable erosion associated with overtopping of areas of the dam not designed to be overtopped. After a full consideration of alternatives, this supplemental EIS will recommend additional modifications to address such risks and to achieve acceptable risk levels.

DATES: A public scoping meeting will be held on December 5, 2013.

ADDRESSES: Send written comments and suggestions concerning this proposed project to Jonathan J. Aya-ay, Planning Branch, U.S. Army Corps of Engineers, Huntington District, 502 Eighth Street, Huntington, WV 25701–2070. Telephone: 304–399–5276. Electronic mail: *BluestoneDamPublicComments@.usace.army.mil.* Requests to be placed on the mailing list should also be sent to this address.

FOR FURTHER INFORMATION CONTACT: Andrew N. Johnson, Environmental Analysis Section, U.S. Army Corps of Engineers, Huntington District, 502 Eighth Street, Huntington, WV 25701–2070. Telephone: 304–399–5189. Electronic mail: *andrew.n.johnson@usace.army.mil.*

SUPPLEMENTARY INFORMATION:

1. *Authority:* Investigation and justification for dam safety modifications at completed Corps of Engineers projects is authorized under Section 2033 of the Water Resources Development Act of 2007 (Pub. L. 110–114).

2. *Background:* a. Guidance for this study is provided in USACE Engineer Regulation (ER) 1110–2–1156 (October 2011). This guidance details agency policy and procedures for the study and implementation process addressing dam safety issues.

b. Bluestone Lake is a multipurpose component of the Kanawha River basin system which provides for flood control, recreation, power development, low flow augmentation, and fish and wildlife enhancement. The project began operation in 1949 and helps control a 4,565 square mile drainage area.

c. The ROD, signed in 1999, completed the NEPA process for the DSA project permitting the Huntington District to begin detailed design and

subsequent construction of the recommended alternative which included a 13 foot cantilever wall on top of the dam, an additional concrete monolith on the east abutment, a floodgate closure across WV Rt. 20, removable closures at each end of the spillway, high strength anchors placed into the dam itself, massive concrete blocks placed against the downstream face of the dam, and a pavement for scour protection downstream of the hydropower penstocks. Ongoing construction on these measures will likely continue through the year 2020.

d. Physical modeling and expert analysis conducted during project construction has shown that the downstream bedrock is vulnerable to erosion during high flow events as a result of deficiencies with the current stilling basin configuration. This potential erosion creates an unacceptable level of risk according to guidelines established in Chapter 5 of ER 1110–2–1156, under which this study is being conducted.

e. The supplemental EIS and Dam Safety Modification report (DSMR) will consider the structural integrity of the dam, its ability to accommodate flood waters as well as transportation, noise, terrestrial, aquatic, economic, environmental justice and cultural resource issues associated with the performance of the dam. The supplemental EIS and DSMR will recommend any modifications necessary to ensure the long-term safe performance of the structure as originally intended.

f. Modifications to meet current acceptable risk guidelines per ER 1110–2–1156 may include, modification of the existing stilling basin, modification of other dam components, construction of an alternative/auxiliary stilling basin, construction of an alternative/auxiliary spillway and non-structural measures or other actions to prevent overtopping. The No Action alternative will also be considered. As required by NEPA and Corps of Engineers planning guidance, the No Action alternative will form a benchmark from which alternatives are evaluated and compared.

3. *Public Participation:* a. The Corps of Engineers will conduct a public scoping meeting on December 5, 2013 to gain input from interested agencies, organizations, and the general public concerning the content of the supplemental EIS, issues and impacts to be addressed in the supplemental EIS, and alternatives that should be analyzed. The meeting will be held from 6:00 p.m. to 9:00 p.m. at the Summers County Memorial Building, 97 Park Avenue, Hinton, WV 25951.

b. The Corps invites full public participation to promote open communication and better decision-making. All persons and organizations that have an interest in the Bluestone Dam Project are urged to participate in this NEPA evaluation process. Assistance will be provided upon request to anyone having difficulty with learning how to participate.

c. Public comments are welcomed anytime throughout the NEPA process. Formal opportunities for public participation include: (1) Public meeting/s to be held near the community of Hinton; (2) Anytime during the NEPA process via mail, telephone or email; (3) During Review and Comment on the Draft EIS; and (4) Review of the Final EIS. Schedules and locations will be announced in local news media. Interested parties should submit contact information to be included on the mailing list for public distribution of meeting announcements and documents (See **ADDRESSES**).

4. *Schedule:* The Draft Supplemental Environmental Impact Statement is tentatively scheduled to be released for public review and comment in June 2015. The Final Report and Final EIS are tentatively scheduled to be completed in October 2015.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2013–28031 Filed 11–22–13; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the U.S. Naval Academy Board of Visitors

AGENCY: Department of the Navy, DoD.

ACTION: Notice of Partially Closed Meeting.

SUMMARY: The U.S. Naval Academy Board of Visitors will meet to make such inquiry, as the Board shall deem necessary, into the state of morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, and academic methods of the Naval Academy. The executive session of this meeting from 11:00 a.m. to 12:00 p.m. on December 9, 2013, will include discussions of disciplinary matters, law enforcement investigations into allegations of criminal activity, and personnel issues at the Naval Academy, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. For this reason, the executive session of this meeting will be closed to the public.

DATES: The open session of the meeting will be held on December 9, 2013, from 8:30 a.m. to 11:00 a.m. The closed session of this meeting will be the executive session held from 11:00 a.m. to 12:00 p.m.

ADDRESSES: The meeting will be held in Alumni Hall at the United States Naval Academy in Annapolis Maryland. The meeting will be handicap accessible.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Matt Cady, USN, Executive Secretary to the Board of Visitors, Office of the Superintendent, U.S. Naval Academy, Annapolis, MD 21402–5000, 410–293–1503.

SUPPLEMENTARY INFORMATION: This notice of meeting is provided per the Federal Advisory Committee Act, as amended (5 U.S.C. App.). The executive session of the meeting from 11:00 a.m. to 12:00 p.m. on December 9, 2013, will consist of discussions of law enforcement investigations into allegations of criminal activity, new and pending administrative/minor disciplinary infractions and nonjudicial punishments involving the Midshipmen attending the Naval Academy to include but not limited to individual honor/conduct violations within the Brigade, and personnel issues. The discussion of such information cannot be adequately segregated from other topics, which precludes opening the executive session of this meeting to the public. Accordingly, the Secretary of the Navy has determined in writing that the meeting shall be partially closed to the public because the discussions during the executive session from 11:00 a.m. to 12:00 p.m. will be concerned with matters coming under sections 552b(c)(5), (6), and (7) of title 5, United States Code.

Dated: November 19, 2013.

N.A. Hagerty-Ford,

Commander, Office of the Judge Advocate General, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2013–28085 Filed 11–22–13; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2013–ICCD–0123]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; 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 December 26, 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: Extension without change of an existing collection of information.

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. 2013–28076 Filed 11–22–13; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC14–28–000.

Applicants: Black Bear Hydro Partners, LLC, Black Bear Development Holdings, LLC, Black Bear SO, LLC, Black Bear Holding LLC.

Description: Joint Application for Authorization Under Section 203 of Black Bear Hydro Partners, LLC, et al.

Filed Date: 11/14/13.

Accession Number: 20131114–5188.

Comments Due: 5 p.m. ET 1/13/14.

Docket Numbers: EC14–29–000.

Applicants: Condon Wind Power, LLC, Lake Benton Power Partners LLC, Storm Lake Power Partners II, LLC, ALLETE Clean Energy, Inc.

Description: Application of Condon Wind Power, LLC, et al. for Authorization Under Section 203 of the Federal Power Act and Request for Expedited Action.

Filed Date: 11/15/13.

Accession Number: 20131115–5148.

Comments Due: 5 p.m. ET 12/6/13.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1246–005; ER10–1982–006; ER10–1253–005; ER10–1252–005; ER13–764–005; ER12–2498–005; ER12–2499–005.

Applicants: Consolidated Edison Energy, Inc., Consolidated Edison Company of New York, Inc., Consolidated Edison Solutions Inc, Orange and Rockland Utilities, Inc., CED White River Solar, LLC, Alpaugh 50, LLC, Alpaugh North, LLC.

Description: Notice of non-material change status of Consolidated Edison Energy, Inc., et al.

Filed Date: 11/15/13.

Accession Number: 20131115–5127.

Comments Due: 5 p.m. ET 12/6/13.

Docket Numbers: ER13–193–003.

Applicants: ISO New England Inc., New England Power Pool Participants Committee.

Description: Amend to ISO Tariff and TOA in Compliance with Order to be effective 12/31/2050.

Filed Date: 11/15/13.

Accession Number: 20131115–5075.

Comments Due: 5 p.m. ET 12/16/13.

Docket Numbers: ER13–196–002.

Applicants: ISO New England Inc., Bangor Hydro Electric Company, Central Maine Power Company, Vermont Electric Power Company, Inc., Vermont Transco, LLC.

Description: Amendments to ISO–NE TOA in Compliance with Order to be effective 12/31/2050.

Filed Date: 11/15/13.

Accession Number: 20131115–5093.

Comments Due: 5 p.m. ET 12/16/13.

Docket Numbers: ER13–232–001.

Applicants: AEP Generation Resources Inc.

Description: Ohio Power Supply Agreement Amendment to be effective 1/1/2014.

Filed Date: 11/15/13.

Accession Number: 20131115–5118.

Comments Due: 5 p.m. ET 12/6/13.

Docket Numbers: ER13–1210–002.

Applicants: Westar Generating, Inc.

Description: Response to Deficiency Filing, Purchase Power Agreement to be effective 7/1/2013.

Filed Date: 11/15/13.

Accession Number: 20131115–5000.

Comments Due: 5 p.m. ET 12/6/13.

Docket Numbers: ER13–2229–001.

Applicants: Arizona Public Service Company.

Description: OATT Order No. 764 Compliance Filing to be effective 11/1/2013.

Filed Date: 11/15/13.

Accession Number: 20131115–5063.

Comments Due: 5 p.m. ET 12/6/13.

Docket Numbers: ER14–120–001.

Applicants: BTG Pactual Commodities (US) LLC.

Description: BTG Pactual Commodities (US) LLC Supplement to MBR Application to be effective 11/18/2013.

Filed Date: 11/14/13.

Accession Number: 20131114–5147.

Comments Due: 5 p.m. ET 11/21/13.

Docket Numbers: ER14–406–000.

Applicants: California Independent System Operator Corporation.

Description: 2013–11–14_CDWRAmendedPLA to be effective 11/15/2013.

Filed Date: 11/14/13.

Accession Number: 20131114–5164.

Comments Due: 5 p.m. ET 12/5/13.

Docket Numbers: ER14–407–000.

Applicants: Capacity Markets Partners, LLC.

Description: Application for Market-Based Rate Tariff, Blanket Authority and Waivers to be effective 12/1/2013.

Filed Date: 11/15/13.

Accession Number: 20131115–5042.

Comments Due: 5 p.m. ET 12/6/13.

Docket Numbers: ER14–408–000.

Applicants: Tampa Electric Company.

Description: OATT Order No. 784 Compliance Filing to be effective 12/27/2013.

Filed Date: 11/15/13.

Accession Number: 20131115–5090.

Comments Due: 5 p.m. ET 12/6/13.

Docket Numbers: ER14–409–000.

Applicants: Grain Belt Express Clean Line LLC.

Description: Application for Authorization to Sell Transmission Service Rights at Negotiated Rates, Request for Approval of Capacity Allocation Process, and Request for Waivers of Grain Belt Express Clean Line LLC.

Filed Date: 11/15/13.

Accession Number: 20131115–5096.

Comments Due: 5 p.m. ET 12/6/13.

Docket Numbers: ER14–410–000.

Applicants: Tampa Electric Company.

Description: Revision of Agreement for Interchange Service (Schedule J under RS 21) to be effective 11/1/2013.

Filed Date: 11/15/13.

Accession Number: 20131115–5099.

Comments Due: 5 p.m. ET 12/6/13.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 15, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–28079 Filed 11–22–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: CP14–16–000.

Applicants: Atmos Energy Corporation.

Description: Abbreviated Application for Approval of Abandonment of Section 284.224 Blanket Certificate.

Filed Date: 11/1/13.

Accession Number: 20131101–5081.

Comments Due: 5 p.m. ET 11/22/13.

Docket Numbers: RP13–1230–000.

Applicants: El Paso Natural Gas Company, L.L.C.

Description: Refund Report in Docket Nos. RP13–1230, RP08–426, RP10–1398.

Filed Date: 11/7/13.

Accession Number: 20131107–5042.

Comments Due: 5 p.m. ET 11/19/13.

Docket Numbers: RP13–1231–000.

Applicants: El Paso Natural Gas Company, L.L.C.

Description: Refund Report in Docket Nos. RP13–1231, RP08–426, RP10–1398.

Filed Date: 11/7/13.

Accession Number: 20131107–5044.

Comments Due: 5 p.m. ET 11/19/13.

Docket Numbers: RP14–157–000.

Applicants: Northern Natural Gas Company.

Description: Northern Natural Gas files a Petition for a Limited Waiver of Northern's FERC Gas Tariff to allow resolution of an imbalance with the imbalance-to-storage mechanism for Marabou Midstream Services, LP.

Filed Date: 11/7/13.

Accession Number: 20131107–5040.

Comments Due: 5 p.m. ET 11/19/13.

Docket Numbers: RP14–159–000.

Applicants: Southern Natural Gas Company, L.L.C.

Description: Clean-up Filing—2013 to be effective 12/9/2013.

Filed Date: 11/8/13.

Accession Number: 20131108–5014.

Comments Due: 5 p.m. ET 11/20/13.

Docket Numbers: RP14–160–000.

Applicants: Gulf Crossing Pipeline Company LLC.

Description: Gulf Crossing Pipeline Company LLC submits tariff filing per 154.204: Amendment to Neg Rate Agmt (Devon 10–12) to be effective 11/11/2013.

Filed Date: 11/12/13.

Accession Number: 20131112–5001.

Comments Due: 5 p.m. ET 11/25/13.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR § 385.211 and § 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP12–820–003.

Applicants: Texas Gas Transmission, LLC.

Description: Second Compliance Filing in Docket No. RP12–820, et al. to be effective 7/24/2013.

Filed Date: 11/8/13.

Accession Number: 20131108–5015.

Comments Due: 5 p.m. ET 11/20/13.

Docket Numbers: RP13–1105–005.

Applicants: Energy West Development, Inc.

Description: Energy West Development, Inc. submits tariff filing per 154.203: Compliance GT & C sec 35 Filing to 154 to be effective 12/1/2012.

Filed Date: 11/12/13.

Accession Number: 20131112–5005.

Comments Due: 5 p.m. ET 11/25/13.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For

other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 12, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–28080 Filed 11–22–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER14–407–000]

Capacity Markets Partners, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Capacity Markets Partners, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is December 9, 2013.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 18, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–28131 Filed 11–22–13; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communication Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. 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 OMB 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 OMB control number.

DATES: Written comments should be submitted on or before December 26, 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 contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via fax 202–395–5167, or via email *Nicholas_A._Fraser@omb.eop.gov*; and to Cathy Williams, FCC, via email *PRA@fcc.gov* <*mailto:PRA@fcc.gov*> and to *Cathy.Williams@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** section below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page <*http://www.reginfo.gov/public/do/PRAMain*>, (2) look for the section of the Web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

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, 301–609.

Total Annual Burden: 561,188 hours.

Annual Cost Burden: None.

Privacy Act Impact Assessment: No impact(s).

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. 2013–28218 Filed 11–22–13; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice that interested parties may submit comments on the following agreement filed under the Shipping Act of 1984 to *Secretary@fmc.gov* or Secretary, Federal Maritime Commission, 800 North Capitol Street NW., Room 1046, Washington, DC 20573, by November 29, 2013. Copies of the agreement are available through the Commission's Web site (*www2.fmc.gov/agreements/*) or by contacting the Office of Agreements at (202) 523–5793 or *trade analysis@fmc.gov.*

Agreement No.: 012230.

Title: P3 Network Vessel Sharing Agreement.

Parties: A.P. Moller-Maersk A/S trading under the name Maersk Line; CMA CGM S.A.; and MSC Mediterranean Shipping Company, S.A.

Filing Party: Wayne R. Rohde, Esq.; Cozen O'Connor; 1627 I Street NW., Suite 1100; Washington, DC 20006.

Synopsis: The agreement authorizes the parties to share vessels and engage in related cooperative activities in the trades between each of Asia, North Europe, and the Mediterranean on the one hand and the U.S. on the other hand.

By Order of the Federal Maritime Commission.

Dated: November 20, 2013.

Karen V. Gregory,

Secretary.

[FR Doc. 2013–28191 Filed 11–22–13; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than December 10, 2013.

A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *The Jan Elaine Townsend 2012 Trust, The Hilary Irene Townsend 2012 Trust, The Lara Townsend Gradt 2012 Trust, and the Jennifer Townsend Earls 2012 Trust, Barbara Newman Townsend, trustee,* all of Grove, Oklahoma; to acquire voting shares of Townsend Holding Company, and thereby indirectly acquire voting shares of Bank of Grove, both in Grove, Oklahoma.

Board of Governors of the Federal Reserve System, November 20, 2013.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2013–28220 Filed 11–22–13; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–14–14CP]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–7570 or send comments to CDC LeRoy Richardson, 1600 Clifton Road, MS D–74, Atlanta, GA 30333 or send an email to *omb@cdc.gov.*

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (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. Written comments should

be received within 60 days of this notice.

Proposed Project

Performance Monitoring and Budget Tracking Tool for the National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP)—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Centers for Disease Control and Prevention (CDC) provides funding and technical assistance to states, Territories, the District of Columbia, and other entities to improve public health and reduce the economic toll of chronic diseases. In June 2013, the National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP) initiated a new set of cooperative agreements under Funding Opportunity Announcement (FOA) DP13–1305, ''State Public Health Actions to Prevent and Control Diabetes, Heart Disease, Obesity and Associated Risk Factors and Promote School Health.'' The new program is designed to support an integrated approach to preventing and managing chronic conditions that share common risk factors. All 50 states and the District of Columbia were initially funded for up to five years. Two types of awards were issued. Nineteen awardees received funding at the Basic level and 32 awardees received additional funding for Enhanced activities. All DP13–1305 awardees are required to prepare performance work plans, collect program-specific performance measures, and submit annual progress reports that serve as continuation applications. In addition, the new FOA requires awardees to organize program activities and strategies according to four essential domains: (1) Epidemiology and surveillance; (2) Environmental approaches that promote health and support and reinforce healthful behaviors; (3) Health system interventions to improve the effective delivery and use of clinical and other preventive services; and (4) Community-clinical linkages to support cardiovascular disease (CVD) and diabetes prevention and control efforts and the management of chronic diseases. Awardees funded at the Basic level will focus on Domain 1. Awardees funded at the Enhanced level will add activities in Domains 2, 3, and 4.

The four domains framework promotes simultaneous work to address multiple chronic diseases and risk factors. Domain 1 encompasses both epidemiologic and surveillance methods to support gathering, analyzing, and disseminating population health data and evaluation methods to inform, prioritize, and monitor the delivery of the interventions in Domains 2–4. Domain 2 includes interventions that address the underlying causes of chronic disease. Domains 3 and 4 include interventions that strengthen systems and resources for early detection and better management of chronic diseases. Collectively, the work to be conducted through this framework can result in a healthier society that delivers healthier students to our schools and early care and education centers, healthier workers to our businesses and employers, and a healthier population to the health care system.

CDC plans to request Office of Management and Budget (OMB) approval for an Internet-based performance monitoring and budget tracking tool for awardees under FOA DP13–1305. CDC will collect performance monitoring information to assure compliance with cooperative agreement requirements, evaluate progress made in achieving program-specific performance measures, and obtain information needed to respond to inquiries about program activities and effectiveness from Congress and other sources. Budget information will be collected and tracked to assure proper disbursement of, and accounting for, funds awarded.

Additionally, the tool will identify training and technical assistance needs, and support program evaluation. CDC is considering adding evaluation and success story components to the tool. A final decision will be made once work plans and budgets are finalized.

Awardees will enter information into the electronic tool and submit reports to CDC once per year. Separate reports will be required for activities conducted under Basic awards and Enhanced awards. CDC anticipates that burden to respondents will be greatest during the initial population (data entry) of the work plan and budget. Thereafter, the estimated burden for ongoing data entry, system maintenance, and annual progress reporting will be reduced.

OMB approval is requested for three years. There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
FOA 1305 Program Awardees Basic Level	Initial Work Plan and Budget.	6	1	9.5	57
	Annual Progress Report	19	1	75/60	24
FOA 1305 Program Awardees Enhanced Level	Initial Work Plan and Budget.	11	1	21	231
	Annual Progress Report	32	1	3.5	112
Total					424

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2013–28217 Filed 11–22–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–14–0729]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–7570 or send comments to Leroy Richardson, at 1600 Clifton Road, MS D74, Atlanta, GA 30333 or send an email to *omb@cdc.gov*.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (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. Written comments should be received within 60 days of this notice.

Proposed Project

Customer Surveys Generic Clearance for the National Center for Health Statistics (0920–0729, Expiration 04/30/2014)—Revision—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Section 306 of the Public Health Service (PHS) Act (42 U.S.C. 242k), as amended, authorizes that the Secretary of Health and Human Services (DHHS), acting through NCHS, shall collect statistics on ''the extent and nature of illness and disability of the population of the United States.'' This is a revision request for a generic approval from OMB to conduct customer surveys over the next three years.

As part of a comprehensive program, the National Center for Health Statistics (NCHS) plans to continue to assess its customers' satisfaction with the content, quality and relevance of the information it produces. NCHS will conduct voluntary customer surveys to assess strengths in agency products and services and to evaluate how well it addresses the emerging needs of its data users. Results of these surveys will be used in future planning initiatives.

The data will be collected using a combination of methodologies appropriate to each survey. These may include: Evaluation forms, mail surveys, focus groups, automated and electronic technology (e.g., email, Web-based surveys), and telephone surveys. Systematic surveys of several groups will be folded into the program. Among these are Federal customers and policy makers, state and local officials who rely on NCHS data, the broader educational, research, and public health community, and other data users. Respondents may include data users who register for and/or attend NCHS sponsored conferences; persons who access the NCHS Web site and the detailed data available through it; consultants; and others. Respondent data items may include (in broad categories) information regarding respondent's gender, age, occupation, affiliation, location, etc., to be used to characterize responses only. Other questions will attempt to obtain information that will characterize the respondents' familiarity with and use of NCHS data, their assessment of data content and usefulness, general satisfaction with available services and products, and suggestions for improvement of surveys, services and products.

The resulting information will be for NCHS internal use. There is no cost to respondents other than their time to participate in the survey.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of survey	Respondents	Number of respondents	No. of responses per respondent	Average burden per response (in hrs.)	Total burden (in hrs.)
Questionnaire for conference registrants/attendees.	Public/private researchers, Consultants, and others.	4,500	1	10/60	750
Focus groups	Public/private researchers, Consultants, and others.	240	1	1	240
Web-based	Public/private researchers, Consultants, and others.	4,500	1	10/60	750
Other customer surveys	Public/private researchers, Consultants, and others.	1,200	1	15/60	300
Total		10,440			2,040

LeRoy Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2013–28166 Filed 11–22–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Announcement of Requirements and Registration for the Predict the Influenza Season Challenge

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

Award Approving Official: Thomas R. Frieden, MD, MPH, Director, Centers for Disease Control and Prevention, and Administrator, Agency for Toxic Substances and Disease Registry.

ACTION: Notice.

SUMMARY: The Centers for Disease Control and Prevention (CDC) located within the Department of Health and Human Services (HHS) announces the launch of the Predict the Influenza Season Challenge.

Each year annual epidemics of influenza occur in the United States. However, variations in the timing and intensity of the season occur each year. Early insights into the timing of the beginning, the peak, and the intensity of the influenza season would be very useful in planning vaccination campaigns, targeting resources and therefore reducing costs associated with influenza prevention and control, and communicating prevention messages to the public. Mathematical and statistical models can be useful in predicting the timing and impact of the influenza season, but no models published to date have successfully predicted key influenza season milestones with sufficient accuracy.

The Influenza Division, National Center for Immunization and Respiratory Diseases, CDC would like to invest in innovation through the research and development of mathematical and statistical models that use digital surveillance data (e.g. Twitter, internet search data, web surveys, etc.) to predict the timing, peak, and intensity of the upcoming influenza season. By hosting this challenge, the Influenza Division is able to garner the technical innovation required to accurately forecast the influenza season for less resources than would be required through more traditional mechanisms. Furthermore, this challenge will allow the Influenza Division to foster competition and receive and evaluate multiple influenza season forecasts from a number of scientists using a variety of different methodologies, which would not be possible if a single entity were funded. Accurate influenza forecasts have the potential to reduce long-term costs by more efficiently utilizing resources that are available to track influenza and implement control measures during the influenza season.

The challenge could be solved by applying any mathematical, statistical, or other approach to predictive modeling. This challenge will provide the Influenza Division with methods that advance the science of prediction modeling, enhance the understanding of influenza modeling and the use of digital data for influenza surveillance, and improve the implementation of prevention and control measures for seasonal influenza.

The historical national surveillance data that could be used to enable training and correlation model development by competitors are available at *http://gis.cdc.gov/grasp/fluview/fluportaldashboard.html* and are updated every Friday at noon. The competitors' predictions and methodology describing their models will comprise their initial challenge entry. Eight subsequent bi-weekly submissions of predictions based on the submitted methodology are also required. Predictions must be national in scope but may also include HHS region predictions; all predictions must be scaled to ILINet. Competitors' models will be evaluated based on the methodology and how well the predictions match the 2013–14 influenza season as measured by the U.S. Outpatient Influenza-like Illness Surveillance Network (ILINet: *http://www.cdc.gov/flu/weekly/overview.htm#Outpatient*).

The competition will award a $75,000 prize and singular recognition to the person or team that most closely predicts the influenza season.

DATES: Registration opens on November 23 and closes December 2, 2013. Register by sending email to *flucontest@cdc.gov* and include your first and last name, your address, and your phone number. Please see ''Registration Process for Participants'' below for additional details.

The Competition Submission Period is from December 1, 2013–March 27, 2014. The first submission of the prediction must be received by December 2, 2013. Subsequent submissions will be required biweekly until the close of the submission period and must be received by 11:59 p.m. Eastern on December 19, 2013; January 2, 2014; January 16, 2014; January 30, 2014; February 13, 2014; February 27, 2014; March 13, 2014; and March 27, 2014.

Judging will take place between March 28, 2014 and May 30, 2014. Winners will be announced by June 20, 2014.

FOR FURTHER INFORMATION CONTACT: Matthew Biggerstaff, MPH, Centers for Disease Control and Prevention, 1600 Clifton Rd NE MS A32; Atlanta, GA 30333, Phone: 404–639–3747, Email: *flucontest@cdc.gov*.

SUPPLEMENTARY INFORMATION:

Subject of Challenge Competition: Entrants of the Predict the Influenza Season Challenge are asked to predict the beginning, the peak, and the intensity of the 2013–2014 influenza season at the national level and at each or any Health and Human Services (HHS) region level(s) in the United States by developing mathematical and statistical models that utilize digital surveillance data (e.g. Twitter data, mining internet search term data, internet-based surveys). If there are questions about the eligibility of different data sources, please contact Matthew Biggerstaff at 404–639–3747 or *flucontest@cdc.gov.*

Eligibility Rules for Participating in the Competition:

To be eligible to win a prize under this challenge, an individual or entity—

(1) Must be at least 18 years old;

(2) Shall have registered to participate in the competition under the rules promulgated by HHS/CDC;

(3) Shall have complied with all the requirements under this section;

(4) In the case of a private entity, shall be incorporated in and maintain a primary place of business in the United States, and in the case of an individual, whether participating singly or in a group, shall be a citizen or permanent resident of the United States; and

(5) May not be a Federal entity or Federal employee acting within the scope of their employment.

(6) Shall not be an HHS employee working on their applications or submissions during assigned duty hours.

(7) Shall not be an employee of or contractor at HHS/CDC.

(8) Federal grantees may not use Federal funds to develop COMPETES Act challenge applications unless consistent with the purpose of their grant award.

(9) Federal contractors may not use Federal funds from a contract to develop COMPETES Act challenge applications or to fund efforts in support of a COMPETES Act challenge submission.

An individual or entity shall not be deemed ineligible because the individual or entity used Federal facilities or consulted with Federal

employees during a competition if the facilities and employees are made available to all individuals and entities participating in the competition on an equal basis.

By participating in this challenge, an individual or organization agrees to assume any and all risks related to participating in the challenge. Individuals or organizations also agree to waive claims against the Federal Government and its related entities, except in the case of willful misconduct, when participating in the challenge, including claims for injury; death; damage; or loss of property, money, or profits, and including those risks caused by negligence or other causes.

By participating in this challenge, individuals or organizations agree to protect the Federal Government against third party claims for damages arising from or related to challenge activities.

Individuals or organizations are not required to hold liability insurance related to participation in this challenge.

Registration Process for Participants: To register, please send an email to *flucontest@cdc.gov* and include your first and last name, your address, and your phone number. The subject line of the email submission must be labeled ''Predict the Flu Challenge [Competitors Name] [Date of Submission]''. Additionally, this email should include the following statements: ''By participating in this competition, I agree to assume any and all risks and waive claims against the Federal Government and its related entities, except in the case of willful misconduct, for any injury, death, damage, or loss of property, revenue, or profits, whether direct, indirect, or consequential, arising from my participation in this prize contest, whether the injury, death, damage, or loss arises through negligence or otherwise. Additionally, I agree to indemnify the Federal Government against third party claims for damages arising from or related to competition activities.'' Registration opens on November 23, 2013, and closes 11:59 p.m. EST on December 2, 2013.

The Competition Submission Period is from December 1, 2013–March 27, 2014. The first submission of the prediction must be received by December 2, 2013 and include a narrative describing the methodology of the prediction model and the results of that model (figures, tables, or narratives) using digital surveillance data (e.g. Twitter data, mining internet search term data, internet-based surveys) that predicts the beginning, the peak, and the intensity of the 2013–2014 influenza season at the national level in the United States. The methodology and data source(s) submitted to CDC must match the actual methods utilized by the competitors when making their influenza season predictions. In addition to the national-level predictions, competitors may also submit predictions of the beginning, the peak, and the intensity of the 2013–2014 influenza seasons for any of the 10 HHS regions.

Subsequent submissions will be required biweekly until the close of the submission period and must include the updated results of the prediction model (figures, tables, or narratives) at the national level in the United States using digital surveillance data; predictions for any of the 10 HHS regions will also be accepted, and submitting predictions for the 10 regions can potentially add to the final scores competitors. Subsequent submissions that include the updated predictions of the beginning, peak, and the intensity of the 2013–2014 influenza season must be received by 11:59 p.m. Eastern on December 19, 2013; January 2, 2014; January 16, 2014; January 30, 2014; February 13, 2014; February 27, 2014; March 13, 2014; and March 27, 2014. A total of 9 submissions must be received over the course of the contest to be eligible for the contest prize; late submissions will not be considered.

Contest Prize: For the contest, one $75,000 prize will be awarded. The winning competitor will be recognized on the CDC influenza Web page.

Payment of the Prize: Prizes awarded under this competition will be paid by electronic funds transfer and may be subject to Federal income taxes. HHS will comply with the Internal Revenue Service withholding and reporting requirements, where applicable.

Basis Upon Which Winner Will Be Selected: A total of 9 submissions must be received over the course of the contest to be eligible for judging; late submissions will not be considered. The Competitors' model methodology and nine biweekly predictions will comprise their challenge entry. The selection of the winner for this challenge will be based on an evaluation of the methodology used to make the prediction and the accuracy of the prediction compared to the U.S. Outpatient Influenza-like Illness Surveillance Network (ILINet: *http://www.cdc.gov/flu/weekly/*) at the national level and any of the included 10 HHS regions. National and HHS-level predictions must be scaled to ILINet.

Submissions will be judged by a panel of reviewers that may include CDC staff, public health officials, and/or academics from noncompeting colleges or universities. Judges will score submissions on a scale of 0 to 150 using the six criteria identified below. Based on the average score for each submission, the top submissions will be recommended to a Lead Judge in CDC's Influenza Division. The Lead Judge will assess the top submissions using the criteria below and select the first place entry. Judging will take place between March 28, 2014 and May 30, 2014.

i. Methodology (25)

- Are key materials to support the correct interpretation of the predictions by the judges, such as concepts, sources, and methods, provided as part of the submission?
- Are the predictions scaled to ILINet? Are the data and results presented clearly, allowing the judges who may not be experts in mathematical modeling to evaluate the model and its outputs?
- What are the data sources used to make the prediction? Is the data source representative? If not, which groups are underrepresented in the data? Are there any impacts caused by these exclusions?
- Is there a clear description of how the search terms were selected (if relevant)?
- Are there any serious accuracy or methodological problems with the prediction approach?
- Are measures provided that give an indication of how certain contestants are about their predictions? (e.g. confidence intervals, probability of the prediction occurring)?

ii. Predicting the Start of the Influenza Season (10)

- Does the model accurately predict the start of the influenza season at the national level and any of the included 10 HHS regions? The start of the season will be defined as the week when the percentage of visits reported through ILINet crosses the baseline value for three consecutive weeks. ILINet baseline values for the United States and the 10 HHS regions for the 2013–2014 influenza season are available at *http://www.cdc.gov/flu/weekly/overview.htm#Outpatient.*

iii. Predicting the Peak Week of the Influenza Season (10)

- Does the model accurately predict the peak week of ILINet at the national level and any of the included 10 HHS regions? The peak week will be defined as the surveillance week that the ILINet percentage is the highest for the 2013–14 influenza season in the United States and the 10 separate HHS regions.

iv. Predicting the Intensity of the Influenza Season (25)

• Does the model predict the intensity of the influenza season at the national and any of the included HHS regional levels? The intensity will be defined as the number of weeks that ILINet remains above baseline and the highest numeric value that the ILINet percentage reaches in the United States and the 10 separate HHS regions.

v. Timeliness and Reliability of the Predictions (20)

• How many weeks before each prediction milestone (the start and the peak week) was the most accurate prediction made?

• Did the prediction of each milestone vary widely between the Competitors' submissions?

vi. Geography (10)

• How comprehensively are the geographic regions of the United States represented in the source data?

vii. Optional HHS Regional Predictions (Up to 50 Bonus Points)

• HHS regional predictions will be evaluated separately using the six criteria identified above. Each submitted regional prediction will add between 0 and 5 points to the competitor's final score, depending on the evaluation of the accuracy, timeliness, and reliability of the prediction.

Additional Information: The historical national surveillance data that could be used to enable training and correlation model development by competitors are available at *http://gis.cdc.gov/grasp/fluview/fluportaldashboard.html* and are updated every Friday at noon.

The Competitors will not have to transfer their exclusive intellectual property rights to the CDC. Instead, the Competitors will grant to CDC non-exclusive license to practice their solutions.

Compliance With Rules and Contacting Contest Winners: Finalists and the contest winners must comply with all terms and conditions of these official rules, and winning is contingent upon fulfilling all requirements herein. The initial finalists will be notified by email, telephone, or mail after the date of the judging. Awards may be subject to Federal income taxes, and the Department of Health and Human Services will comply with the Internal Revenue Service withholding and reporting requirements, where applicable.

Privacy: If contestants choose to provide the CDC with personal information by registering or filling out the submission form through the Challenge.gov Web site, that information is used to respond to contestants in matters regarding their submission, announcements of entrants, finalists, and winners of the contest. Information is not collected for commercial marketing. Registering through the Challenge.gov Web site is not required, however. Registrants may submit an email to *flucontest@cdc.gov* as noted in ''Registration Process for Participants.'' Winners are permitted to cite that they won this contest.

General Conditions: The CDC reserves the right to cancel, suspend, and/or modify the contest, or any part of it, for any reason, at CDC's sole discretion.

Participation in this contest constitutes a contestants' full and unconditional agreement to abide by the contest's official rules found at *www.Challenge.gov.*

Authority: 15 U.S.C. 3719.

Dated: November 19, 2013.

Stacey Hoffman,

Acting Director, Division of Executive Secretariat, Centers for Disease Control and Prevention.

[FR Doc. 2013–28198 Filed 11–22–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB; Comment Request

Title: Required Data Elements for Paternity Establishment Affidavits.

OMB No.: 0970–0171.

Description: Section 466(a)(5)(C)(iv) of the Social Security Act (the Act) requires States to develop and use an affidavit for the voluntary acknowledgment of paternity. The affidavit for the voluntary acknowledgment of paternity must include the minimum requirements specified by the Secretary under section 452(a)(7) of the Act. The affidavits will be used by hospitals, birth record agencies, and other entities participating in the voluntary paternity establishment program.

Respondents: State and Tribal IV–D agencies, hospitals, birth record agencies, and other entities participating in the voluntary paternity establishment program.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
None	1,113,719	1	0.17	189,332.23

Estimated Total Annual Burden Hours: 189,332.23.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Email: *OIRA_SUBMISSION@OMB.EOP.GOV,* Attn: Desk Officer for the Administration for Children and Families.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2013–28081 Filed 11–22–13; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–D–0305]

Distribution of In Vitro Diagnostic Products Labeled for Research Use Only or Investigational Use Only: Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the guidance entitled ''Distribution of In Vitro Diagnostic Products Labeled for Research Use Only or Investigational Use Only.'' This guidance document is intended for manufacturers and distributors of ''for research use only'' (RUO) and ''for investigational use only'' (IUO) in vitro diagnostic (IVD) products and any other entities who label IVD products, as well as FDA staff.

DATES: Submit either electronic or written comments on this guidance at any time. General comments on Agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of the guidance document entitled ''Distribution of In Vitro Diagnostic Products Labeled for Research Use Only or Investigational Use Only'' to the Division of Small Manufacturers, International and Consumer Assistance, Center for Devices and Radiological Health (CDRH) Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 4613, Silver Spring, MD 20993–0002; or the Office of Communication, Outreach and Development (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, Suite 200N, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist that office in processing your request, or fax your request to 301–847–8149. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

Submit electronic comments to *http://www.regulations.gov.* Submit written comments concerning this guidance to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. Identify comments with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Elizabeth Mansfield, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5676, Silver Spring, MD 20993–0002, 301–796–4664.

For questions relating to devices regulated by CBER, contact: Stephen Ripley, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, Suite 200N, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

This guidance document is intended for manufacturers, and any other entities legally responsible for the labeling of IVD products that are distributing such products they have labeled RUO or IUO (subsequently referred to collectively as ''manufacturers''). This guidance is intended to provide the current thinking of CDRH and CBER on when IVD products are properly labeled RUO and IUO.

This guidance is being issued because FDA is concerned that the distribution of unapproved and uncleared IVD products labeled RUO or IUO, but intended for purposes other than research or investigation (for example, for clinical diagnostic use [1]), has led, in some cases, to the diagnostic use of products with unproven performance characteristics, and with manufacturing controls that are inadequate to ensure consistent manufacturing of the finished product. Use of such tests for clinical diagnostic purposes may mislead healthcare providers and cause serious adverse health consequences to patients who are not aware that they are being diagnosed with or treated based on the results of tests with research or investigational products. This guidance is thus intended to remind manufacturers that RUO and IUO labeling must be consistent with the manufacturer's intended use of the device.

In the **Federal Register** of June 1, 2011 (76 FR 31615), FDA announced the availability of the draft guidance document under the title ''Draft Guidance for Industry and Food and Drug Administration Staff: Commercially Distributed In Vitro Diagnostic Products Labeled for Research Use Only or Investigational Use Only: Frequently Asked Questions.'' Interested persons were invited to comment by August 30, 2011. The FDA received 55 sets of comments regarding the guidance. As a result of these comments, FDA revised the guidance and changed its format. Due to these revisions, FDA also changed the name of the guidance document.

II. Significance of Guidance

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the Agency's current thinking on ''Distribution of In Vitro Diagnostic Products Labeled for Research Use Only or Investigational Use Only.'' It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute and regulations.

III. Electronic Access

Persons interested in obtaining a copy of the guidance may do so by using the Internet. A search capability for all CDRH guidance documents is available at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm.* Guidance documents are also available at *http://www.regulations.gov* or from CBER at *http://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/default.htm.* To receive ''Distribution of In Vitro Diagnostic Products Labeled for Research Use Only or Investigational Use Only'' you may either send an email request to *dsmica@fda.hhs.gov* to receive an electronic copy of the document or send a fax request to 301–847–8149 to receive a hard copy. Please use the document number 1723 to identify the guidance you are requesting.

IV. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 809.10 and part 812 have been approved under OMB control numbers 0910–0485 and 0910–0078, respectively.

V. Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It

[1] Throughout this guidance document, references to ''clinical diagnostic use'' and ''use in clinical diagnosis'' include use in making medical treatment decisions.

is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

Dated: November 19, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–28084 Filed 11–22–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–D–1038]

Guidance for Industry: Preclinical Assessment of Investigational Cellular and Gene Therapy Products; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a document entitled ''Guidance for Industry: Preclinical Assessment of Investigational Cellular and Gene Therapy Products'' dated November 2013. The guidance document provides sponsors and individuals that design and implement preclinical studies with recommendations on the substance and scope of preclinical information needed to support clinical trials for investigational products reviewed by the Office of Cellular, Tissue and Gene Therapies (OCTGT). The product areas covered by this guidance are cellular therapy, gene therapy, therapeutic vaccination, xenotransplantation, and certain biologic-device combination products, which OCTGT reviews. The guidance clarifies current expectations regarding the preclinical information that would support an investigational new drug application (IND) and a biologics license application (BLA) for these products. The guidance announced in this notice finalizes the draft guidance of the same title dated November 2012, and supersedes the recommendations in Section VIII in the guidance entitled ''Guidance for Industry: Guidance for Human Somatic Cell Therapy and Gene Therapy'' dated March 1998.

DATES: Submit either electronic or written comments on Agency guidances at any time.

ADDRESSES: Submit written requests for single copies of the guidance to the Office of Communication, Outreach and Development (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, Suite 200N, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist the office in processing your requests. The guidance may also be obtained by mail by calling CBER at 1–800–835–4709 or 301–827–1800. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

Submit electronic comments on the guidance to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Tami Belouin, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, Suite 200N, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a document entitled ''Guidance for Industry: Preclinical Assessment of Investigational Cellular and Gene Therapy Products'' dated November 2013. The guidance document provides sponsors and individuals that design and implement preclinical studies with recommendations on the substance and scope of preclinical information needed to support clinical trials for investigational products reviewed by OCTGT. The product areas covered by this guidance include cellular therapy, gene therapy, therapeutic vaccination, xenotransplantation, and certain biologic-device combination products. The guidance is intended to clarify current expectations regarding the preclinical information that supports an IND and a BLA for these products.

In the **Federal Register** of November 29, 2012 (77 FR 71194), FDA announced the availability of the draft guidance of the same title dated November 2012. FDA received numerous comments on the draft guidance and those comments were considered as the guidance was finalized. In response to these comments, several sections were reorganized and editorial changes throughout the document were made to improve clarity. The guidance announced in this notice finalizes the draft guidance dated November 2012.

The guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents FDA's current thinking on this topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirement of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

This guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 312 have been approved under OMB control number 0910–0014; the collections of information in 21 CFR part 601 have been approved under OMB control number 0910–0338; the collections of information in 21 CFR part 58 have been approved under OMB control number 0910–0119.

III. Comments

Interested persons may submit electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

IV. Electronic Access

Persons with access to the Internet may obtain the guidance at either *http://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *http://www.regulations.gov.*

Dated: November 19, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–28173 Filed 11–22–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Health Resources and Services Administration (HRSA) has submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period.

DATES: Comments on this ICR should be received within 30 days of this notice.

ADDRESSES: Submit your comments, including the Information Collection Request Title, to the desk officer for HRSA, either by email to *OIRA_submission@omb.eop.gov* or by fax to 202–395–5806.

FOR FURTHER INFORMATION CONTACT: To request a copy of the clearance requests submitted to OMB for review, email the HRSA Information Collection Clearance Officer at *paperwork@hrsa.gov* or call (301) 443–1984.

SUPPLEMENTARY INFORMATION:

Information Collection Request Title: HRSA Telehealth Outcome Measures.

OMB No. 0915–0311—Revision.

Abstract: In order to help carry out its mission, the Office for the Advancement of Telehealth (OAT) created a set of performance measures that grantees can use to evaluate the effectiveness of their services programs and monitor their progress through the use of performance reporting data.

Need and Proposed Use of the Information: As required by the Government Performance and Results Act of 1993 (GPRA), all federal agencies must develop strategic plans describing their overall goal and objectives. The Office of Rural Health Policy, Office for the Advancement of Telehealth (OAT), has worked with its grantees to develop performance measures to be used to evaluate and monitor the progress of the grantees. Grantee goals are to: Improve access to needed services; reduce rural practitioner isolation; improve health system productivity and efficiency; and improve patient outcomes. In each of these categories, specific indicators were designed to be reported through a performance monitoring Web site.

Likely Respondents: Telehealth Network Grantees.

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	Total responses	Average Burden per Response (in hours)	Total burden hours
Performance improvement measurement system (PIMS) ..	700	2	1400	7	9,800

Dated: November 18, 2013.

Bahar Niakan,

Director, Division of Policy and Information Coordination.

[FR Doc. 2013–28203 Filed 11–22–13; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: Development of Chitosan/IL–12 Conjugate as Immunotherapeutic Products for Human Cancers

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209 and 37 CFR Part 404, that the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an exclusive patent license to practice the inventions embodied in the following U.S. Patents and Patent Applications to Scion Cardio-vascular (''Scion'') located in Miami, FL, USA.

Intellectual Property

1. U.S. Provisional Patent Application No. 60/846,481; filed September 22, 2006 entitled ''Methods and Compositions for the Treatment of Cancer'' [HHS Ref. No. E–311–2006/0–US–01];
2. International Patent Application No. PCT/US2007/020540 filed September 21, 2007 entitled ''Compositions And Methods For Chitosan Enhanced Immune Response'' [HHS Ref. No. E–311–2006/1–PCT–01];
3. European Patent Application No. 07838692.7 filed September 21, 2007 entitled ''Compositions And Methods For Chitosan Enhanced Immune Response'' [HHS Ref. No. E–311–2006/1–EP–02]; and
4. U.S. Patent Application No. 12/442,483 filed March 23, 2009 entitled ''Compositions And Methods For Chitosan Enhanced Immune Response'' [HHS Ref. No. E–311–2006/1–US–03].

The patent rights in these inventions have been assigned to the government of the United States of America.

The prospective exclusive license territory may be worldwide and the field of use will be limited to the use of Licensed Patent Rights for development of Chitosan/IL–12 conjugates as immunotherapeutic products for human cancers. Please note that the Field of Use is limited to the use of Chitosan with IL–12 only and does not include the use of the Chitosan with any other antigen. Additionally, the Field of Use may be limited to certain cancer indications.

DATES: Only written comments and/or applications for a license which are received by the NIH Office of Technology Transfer on or before December 26, 2013 will be considered.

ADDRESSES: Requests for copies of the patent application, inquiries, and

comments relating to the contemplated exclusive license should be directed to: Sabarni K. Chatterjee, Ph.D., M.B.A. Licensing and Patenting Manager, Cancer Branch, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; Telephone: (301) 435–5587; Facsimile: (301) 435–4013; Email: *chatterjeesa@od.nih.gov.*

SUPPLEMENTARY INFORMATION: The technology describes the use of chitosan depots with appropriate antigens and/or cytokines for generating an immune response in a subject. Such depots are made by mixing one or more antigens and/or cytokines with chitosan or a chitosan derivative. Similar compositions are described wherein chitosan or a derivative forms a micro- or nanoparticle, which have resulted in a more immunogenic presentation of antigen compared to antigen in solution. Using a representative antigen, the inventors showed that mice vaccinated with the subject depots had increased humoral and cellular immune responses compared to mice vaccinated with antigen alone. Furthermore, comparative mouse studies showed the antigen-specific immune response generated with chitosan depots of this invention to be equipotent to incomplete Freund's adjuvant (IFA) and superior to aluminum hydroxide, a widely used adjuvant for licensed and routinely administered vaccines. Thus, this technology improves upon commonly used adjuvant technology and is widely applicable.

This technology is the first to show that subcutaneous administrations of chitosan and an appropriate antigen, with no other component, can be used for enhancing immune responses. In additional studies, the inventors showed that chitosan is able to maintain a depot of recombinant cytokine. A single subcutaneous injection of chitosan-cytokine outperforms daily injections of recombinant cytokine in both the expansion of draining lymph nodes and in the antigen presenting ability of lymph node cells. This technology is the first to show that chitosan can maintain a depot of cytokine which results in a significant enhancement of the functional effects of a cytokine. This technology can be used for vaccines and immunotherapies against various infectious agents and cancer.

The prospective exclusive license will be royalty bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless within thirty (30) days from the date of this published notice, the NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Applications for a license in the field of use filed in response to this notice will be treated as objections to the grant of the contemplated exclusive license. Comments and objections submitted to this notice will not be made available for public inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: November 18, 2013.

Richard U. Rodriguez,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 2013–28119 Filed 11–22–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel.

Date: December 2, 2013.

Time: 1:30 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Peter Zelazowski, Ph.D., Scientific Review Officer, Division of Scientific Review, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, 301–435–6902, *peter.zelazowski@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; MicroRNAs and Trophoblasts.

Date: December 2, 2013.

Time: 4:00 p.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Sherry L. Dupere, Ph.D., Chief, Scientific Review Branch, Scientific Review Branch, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, 301–451–3415, *duperes@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; Assessing Placental Development and Function SBIR.

Date: December 3, 2013.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: David Weinberg, Ph.D., Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Boulevard, Room 5B01, Bethesda, MD 20892–7510, 301–435–6973, *David.Weinberg@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; Pediatric Orthotics SBIR.

Date: December 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: David Weinberg, Ph.D., Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Boulevard, Room 5B01, Bethesda, MD 20892–7510, 301–435–6973, *David.Weinberg@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel.

Date: December 4, 2013.

Time: 10:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Marita R. Hopmann, Ph.D., Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, 301–435–6911, *hopmannm@mail.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel.

Date: December 4, 2013.

Time: 1:30 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Peter Zelazowski, Ph.D., Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892 301–435–6902, *peter.zelazowski@nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel.

Date: December 5, 2013.

Time: 12:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Marita R. Hopmann, Ph.D., Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, 301–435–6911, *hopmannm@mail.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; Fragile X Syndrome.

Date: December 9, 2013.

Time: 2:00 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Sherry L. Dupere, Ph.D., Chief, Scientific Review Branch, Scientific Review Branch, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5b01, Bethesda, MD 20892, 301–451–3415, *duperes@mail.nih.gov*.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group; Biobehavioral and Behavioral Sciences Subcommittee.

Date: December 12–13, 2013.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Washington, 1515 Rhode Island Avenue NW., Washington, DC 20005.

Contact Person: Marita R. Hopmann, Ph.D., Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5b01, Bethesda, MD 20892, 301–435–6911, *hopmannm@mail.nih.gov*.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; Strategies To Prevent Mother/Child Transmission of HIV–RFA.

Date: December 18–19, 2013

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: DoubleTree by Hilton Hotel, 1515 Rhode Island Avenue NW., Washington, DC 20005.

Contact Person: Carla T. Walls, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5b01, Bethesda, MD 20892, 301–435–6898, *wallsc@mail.nih.gov*.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; T32 Institutional Training Grant Award.

Date: January 9–10, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: DoubleTree Hotel Bethesda, (Formerly Holiday Inn Select), 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Sherry L. Dupere, Ph.D., Chief, Scientific Review Branch, Scientific Review Branch, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, 301–451–3415, *duperes@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: November 19, 2013.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–28113 Filed 11–22–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; 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 Aging Special Emphasis Panel; Exercise and AD.

Date: December 23, 2013.

Time: 3:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, Suite 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Rebecca J. Ferrell, Ph.D., Scientific Review Officer, National Institute on Aging, Gateway Building, Rm. 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–402–7703, *ferrellrj@mail.nih.gov*.

Name of Committee: National Institute on Aging Special Emphasis Panel; MDD and CVD.

Date: January 3, 2014.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, Suite 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Rebecca J. Ferrell, Ph.D., Scientific Review Officer, National Institute on Aging, Gateway Building, Rm. 2c212, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–402–7703, *ferrellrj@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS).

Dated: November 19, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–28116 Filed 11–22–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; NINDS T32 Review.

Date: December 12–13, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Monaco Alexandria, 480 King Street, Alexandria, VA 22314.

Contact Person: Birgit Neuhuber, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, NINDS, NIH, NSC, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, *neuhuber@ninds.nih.gov*.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; Neuroscience Research Education (R25).

Date: December 16, 2013.

Time: 2:00 p.m. to 5:00 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: JoAnn McConnell, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, NINDS, NIH, NSC, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–5324, *mcconnej@ninds.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS).

Dated: November 19, 2013.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–28108 Filed 11–22–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; 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 General Medical Sciences Special Emphasis Panel; Review of R–13 Conference Grant Applications.

Date: December 3, 2013.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Room 3An.18, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Nina Sidorova, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3An.22, Bethesda, MD 20892, 301–594–3663, *sidorova@nigms.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel; COBRE III Meeting 2.

Date: December 10, 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: Lisa A. Newman, SCD, Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3As.19K, Bethesda, MD 20892, 301–594–2704, *newmanla2@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS).

Dated: November 19, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–28117 Filed 11–22–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The cooperative agreement applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the cooperative agreement applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; Male Contraceptive Development.

Date: December 2. 2013.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate cooperative agreement applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.

Contact Person: David H. Weinberg, Ph.D., Scientific Review Officer, Division of Scientific Review, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5b01, Rockville, MD 20852, 301–435–6973, *David.Weinberg@nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS).

Dated: November 19, 2013.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–28114 Filed 11–22–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; 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 Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel; Small Business Innovation Research on Rare Musculoskeletal, Rheumatic and Skin Diseases.

Date: December 16, 2013.

Time: 9:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Arthritis, Musculoskeletal and Skin Diseases, NIH, 6701 Democracy Boulevard, Suite 816, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Charles H Washabaugh, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of Arthritis, Musculoskeletal and Skin Diseases, NIH, 6701 Democracy Boulevard, Suite 800, Bethesda, MD 20892, (301) 496–9568, *washabac@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS).

Dated: November 19, 2013.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–28109 Filed 11–22–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; 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 Mental Health Special Emphasis Panel National Cooperative Drug Discovery Groups (NCDDG).

Date: December 16, 2013.

Time: 2:00 p.m. to 3:00 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: Vinod Charles, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6151, MSC 9606, Bethesda, MD 20892–9606, 301–443–1606, *charlesvi@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS).

Dated: November 19, 2013.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–28110 Filed 11–22–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Cancer Advisory Board, December 09, 2013, 06:00 p.m. to December 10, 2013, 05:00 p.m., National Institutes of Health, Building 31, 31 Center Drive, Bethesda, MD, 20892 which was published in the **Federal Register** on November 04, 2013, 78 FR 66034.

The meeting notice is amended to include the Subcommittee meeting on Planning & Budget to meet on December 09, 2013, Hyatt Regency, 7400 Wisconsin Avenue, Bethesda, MD 20814 from 4:00 p.m. to 5:30 p.m. The subcommittee meeting is open to the public. Additionally, the ad Hoc Subcommittee on Communications that was originally scheduled for December 09, 2013 from 07:45 p.m. to 09:15 p.m. will no longer be held.

Dated: November 19, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–28115 Filed 11–22–13; 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 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: Center for Scientific Review Special Emphasis Panel; Fellowships: AIDS and AIDS Related Applications.

Date: December 6, 2013.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Mary Clare Walker, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5208, MSC 7852, Bethesda, MD 20892, (301) 435–1165, *walkermc@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, 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: November 19, 2013.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–28112 Filed 11–22–13; 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; RFA Panel: Methodologies and Formative Work for Combination HIV Prevention Approaches.

Date: December 16, 2013.

Time: 8:00 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.

Contact Person: Jose H Guerrier, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, MSC 7852, Bethesda, MD 20892, 301–435–1137, *guerriej@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Endocrinology, Metabolism, Nutrition and Reproductive Sciences.

Date: December 19, 2013.

Time: 10:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Avenue Hotel Chicago, 160 E. Huron Street, Chicago, IL 60611.

Contact Person: Dianne Camp, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6164, MSC 7892, Bethesda, MD 20892, 301–257–8778, *campdm@mail.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: November 19, 2013.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–28111 Filed 11–22–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS–2013–0076]

Privacy Act of 1974; Department of Homeland Security U.S. Citizenship and Immigration Services—008 Refugee Access Verification Unit System of Records

AGENCY: Department of Homeland Security, Privacy Office.

ACTION: Notice of Privacy Act System of Records Update.

SUMMARY: In accordance with the Privacy Act of 1974, the Department of Homeland Security proposes to update and reissue a current Department of Homeland Security system of records titled, ''Department of Homeland Security/United States Citizenship and Immigration Services—008 Refugee Access Verification Unit System of Records.'' This system of records allows the Department of Homeland Security/U.S. Citizenship and Immigration Services to collect information to verify claimed relationships between anchor relatives in the United States and their overseas family members seeking access to the U.S. Refugee Admissions Program under the Priority 3 Family Reunification Program. Eligible anchor relatives who were admitted to the United States as refugees or granted asylum in the United states may file an Affidavit of Relationship for qualifying overseas family members (spouses, unmarried children under age 21, and/or parents) to seek access to the U.S. Refugee Admission Program for their family members under Priority 3. USCIS is updating this system of records to include: (1) An updated system location; (2) updated categories of records; (3) updated routine uses; (4) a proposed retention schedule; (5) updated data elements used to retrieve records; and (6) updated sources of records. Additionally, this notice includes non-substantive changes to simplify the formatting and text of the previously published notice. This updated system will continue to be included in the Department of Homeland Security's inventory of record systems.

DATES: Submit comments on or before December 26, 2013. This updated system will be effective December 26, 2013.

ADDRESSES: You may submit comments, identified by docket number DHS–2013–0076 by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–343–4010.
- *Mail:* Karen L. Neuman, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, please visit *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For general questions, please contact: Donald K. Hawkins, (202) 272–8000, Privacy Officer, U.S. Citizenship and Immigration Services, 20 Massachusetts Avenue NW., Washington, DC 20529. For privacy questions, please contact Karen L. Neuman, (202) 343–1717, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, the Department of Homeland Security (DHS) U.S. Citizenship and Immigration Services (USCIS) proposes to update and reissue a current DHS system of records titled, ''DHS/USCIS—008 Refugee Access Verification Unit System of Records'' (last published December 19, 2008, 73 FR 77795). This system of records notice (SORN) includes an updated system location, clarified categories of records, an updated retention schedule, and additional sources of records.

USCIS and the Department of State (DOS) Bureau of Population, Refugees, and Migration (PRM) work cooperatively to administer the overseas component of the U.S. Refugee Admissions Program (USRAP). The mission of the USRAP is to resettle eligible refugees in the United States. DOS PRM has overall management responsibility for the USRAP and leads in proposing admissions ceilings and defining processing priorities, under which individuals may obtain access to the USRAP. The USCIS Refugee, Asylum, and International Operations Directorate (RAIO), Refugee Affairs Division (RAD) is responsible for interviewing refugee applicants and adjudicating applications for refugee status.

Two separate IT systems maintain the information necessary to process

applications for refugee resettlement under the Priority 3 Family Reunification Program (P–3): (1) The DOS Worldwide Refugee Admissions Processing System (WRAPS) and (2) The Refugee Access Verification Unit (RAVU) database. WRAPS maintains information related to all individuals referred to the USRAP for resettlement. USCIS has read-only access to WRAPS. RAVU officers conduct preliminary paper reviews of all Affidavits of Relationship (AOR) (Form DS–7656) *filed for P–3 cases prior to interview by a USCIS officer overseas.*

All AORs are subject to RAVU officer review. Only those family members on AORs cleared by USCIS proceed to a refugee interview with a USCIS officer overseas. To support this function, USCIS developed the RAVU database using the existing SharePoint Enterprise Collaboration Network (ECN) to track and manage the review of AORs, as well as generate reports, forms, and letters. ECN is a virtual work environment that allows users to collaborate, share information, and enhance productivity. RAVU allows users to enter data into a site through manual typing and attaching documents in a virtual space. Data from AORs and corresponding documents from the A-file are uploaded from individual computers to a secured centralized site in ECN.

USCIS is republishing this SORN to provide public notice of the following. The location of the system has been updated to note that RAVU records are only electronically maintained. The categories of records have been updated to clarify that DNA results and other information may be collected on anchor relatives, qualifying family members, derivatives, and Type C add-on relatives. DHS has updated Routine Use H to clarify that records will be shared with DOS and ''their contractors, agents, grantees, experts, consultants, or others performing or working on a contract, service, grant, cooperative agreement, or other assignment for DOS, when necessary to accomplish an agency function related to this system of records.'' The retention and disposal section has been updated to reflect a proposed retention schedule that would reduce the retention of master file records from 20 years to 15 years. Retrievability has been updated to note that records may be retrieved by the anchor relative's A-Number or the Pre-Case ID assigned to the AOR. Sources of records have been updated to include A-files and other DHS systems. Additionally, this notice includes non-substantive changes to simplify the formatting and text of the previously published notice.

Information contained in DHS/USCIS—008 Refugee Access Verification Unit is afforded the confidentiality protections contained in 8 CFR 208.6, which strictly limits the disclosure of information to third parties. 8 CFR 208.6 specifically covers the confidentiality of asylum applicants who are in the United States. By DHS policy, the confidentiality provisions for asylum seekers and asylees have been extended to refugee applicants. Information may not be disclosed without the written consent of the applicant, except as permitted by 8 CFR 208.6 or at the discretion of the Secretary of Homeland Security or the Attorney General of the United States. This updated system will continue to be included in DHS' inventory of record systems.

II. Privacy Act

The Privacy Act embodies fair information practice principles in a statutory framework governing the means by which federal government agencies collect, maintain, use, and disseminate individuals' records. The Privacy Act applies to information that is maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency for which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass U.S. citizens and lawful permanent residents. As a matter of policy, DHS extends administrative Privacy Act protections to all individuals where systems of records maintain information on U.S. citizens, lawful permanent residents, and visitors.

Below is the description of the DHS/USCIS—008 Refugee Access Verification Unit System of Records.

In accordance with 5 U.S.C. 552a(r), DHS has provided a report of this system of records to the Office of Management and Budget and to Congress.

System of Records

Department of Homeland Security (DHS)/U.S. Citizenship and Immigration Services (USCIS)—008.

SYSTEM NAME:

DHS/USCIS—008 Refugee Access Verification Unit.

SECURITY CLASSIFICATION:

Unclassified, sensitive.

SYSTEM LOCATION:

USCIS electronically maintains records on the Refugee Access Verification Unit (RAVU) SharePoint Enterprise Collaboration Network (ECN) site, which is accessible at the Refugee Affairs Division Headquarters in Washington, DC and field locations overseas.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Categories of individuals covered by this system include: (1) Anchor relatives who have filed an Affidavit of Relationship (AOR) for qualified family members overseas to gain access to the U.S. Refugee Admissions Program (USRAP) under Priority 3; (2) qualifying family members (parents, spouses, and unmarried children under age 21) of the anchor relative who are listed in Section II of the AOR; (3) derivatives (spouse and unmarried children under age 21) of the qualifying family member listed in Section II of the AOR; (4) individuals who qualify as Type C add-ons and are listed in Section II of the AOR; and (5) AOR preparers who work for domestic resettlement agencies and complete the AOR based on information provided by the anchor relative.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information about the anchor relative gathered from documents in the A-file may include:

- Full Name;
- Physical and Mailing Address;
- Telephone and Fax Numbers;
- Date of Birth;
- Gender;
- A-Number;
- Social Security number;
- Immigration Status;
- Date of Arrival in the U.S.;
- Date Asylum/Refugee status was granted;
- Mother's Maiden Name;
- Documents establishing identity and claimed relationship (i.e., marriage record, civil or criminal history, medical records, education records);
- Biometric identifiers (i.e., weight, color of eyes and hair, and facial marks);
- Photographic Facial Image;
- Civil or criminal history information;
- Reports of investigations or derogatory information obtained from DHS and other federal systems;
- Refugee and asylum interview notes and assessments; and
- Other unique identifiers, including information found in the A-File used to facilitate a determination.

Information about the anchor relative collected in the AOR and through the RAVU review may include:

- Full Name;
- Date of Birth;
- Gender;

- Marital status
- City/Country of Birth;
- A-Number
- Immigration Status;
- Date of Arrival in the U.S.;
- Date Asylum/Refugee status was granted;
- Names, dates of birth, and locations of immediate relatives; and
- DNA Results—confirmed or not confirmed.

Information about overseas family members may include:

- Full Name;
- Gender;
- Date of Birth;
- City/Country of Birth;
- Nationality;
- Marital Status;
- A-Number (if applicable);
- Relationship to Anchor Relative;
- DNA Results—confirmed or not confirmed;
- Photographic facial image;
- Relationship to qualifying family member;
- Civil or criminal history information (if available); and
- Reports of investigations or derogatory information obtained from DHS or other federal systems (if available).

Information about preparer may include:

- Preparer's name;
- Domestic resettlement agency's name.

Information about the case determination may include:

- RAVU Checklists
- Decision Letters
- Summary of Findings, including inconsistencies found between claimed relationships in the AOR and available USCIS records
- Pre-Case ID Numbers

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for maintaining this system is contained in Sections 1157 and 1522(b) of the INA, as amended (8 U.S.C. 1157, 1522(b)).

PURPOSE(S):

The purpose of this system is to track and manage the review of AORs submitted by anchor relatives in the United States on behalf of certain qualifying family members overseas who are seeking consideration for refugee resettlement under the Priority Three Family Reunification Program.

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) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DHS as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows: Note: Even when a valid routine use permits disclosure of information from this system of records to a third party, in some cases such disclosure may not be permissible because of confidentiality laws and policies that limit the sharing of information regarding individuals applying for certain immigration benefits. Information in this system of records contains information relating to persons who have pending or approved applications for asylum or refugee status and should not be disclosed pursuant to a routine use unless disclosure is otherwise permissible under the confidentiality statutes, regulations, or policies applicable to that information. These confidentiality provisions do not prevent DHS from disclosing information to the U.S. Department of Justice (DOJ) and U.S. Attorneys' Offices as part of an ongoing criminal or civil investigation.

A. To the Department of Justice (DOJ), including U.S. Attorney Offices, or other federal agency conducting litigation or in proceedings before any court, adjudicative or administrative body, when it is relevant or necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. DHS or any component thereof;
2. Any employee or former employee of DHS in his/her official capacity;
3. Any employee or former employee of DHS in his/her individual capacity where DOJ or DHS has agreed to represent the employee; or
4. The United States or any agency thereof.

B. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual to whom the record pertains.

C. To the National Archives and Records Administration (NARA) or General Services Administration pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

D. To an agency or organization for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

E. To appropriate agencies, entities, and persons when:

1. DHS suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised;
2. DHS has determined that as a result of the suspected or confirmed compromise, there is a risk of identity theft or fraud, harm to economic or property interests, harm to an individual, or harm to the security or integrity of this system or other systems or programs (whether maintained by DHS 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 DHS' efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm as limited by 8 CFR 208.6.

F. To contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for DHS, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations under 8 CFR 208.6 on disclosure as are applicable to DHS officers and employees.

G. To an appropriate federal, state, tribal, local, international, or foreign law enforcement agency or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, where a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations and such disclosure is proper and consistent with the official duties of the person making the disclosure.

H. To DOS, their contractors, agents, grantees, experts, consultants, or others performing or working on a contract, service, grant, cooperative agreement, or other assignment for DOS, when necessary to accomplish an agency function related to this system of records.

I. To an attorney or representative who is acting on behalf of an individual covered by this system of records (as defined in 8 CFR 1.1(j)) in conjunction with any proceeding before DHS/USCIS or the Executive Office for Immigration Review.

J. 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.

K. To Federal and foreign government intelligence or counterterrorism agencies or components where DHS becomes aware of an indication of a threat or potential threat to national or international security, or where such use is to assist in anti-terrorism efforts and disclosure is appropriate to the proper performance of the official duties of the person making the disclosure.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are stored electronically in secure facilities in a locked drawer behind a locked door. The records may be stored on CD, DVD, or other digital media.

RETRIEVABILITY:

Records may be retrieved by the anchor relative's A-Number or the Pre-Case ID assigned to the AOR.

SAFEGUARDS:

Records in this system are safeguarded in accordance with applicable rules and policies, including all applicable DHS automated systems security and access policies. Strict controls have been imposed to minimize the risk of compromising the information that is being stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

RETENTION AND DISPOSAL:

NARA approved the RAVU Records [N1–563–04–05] Retention Schedule. USCIS is working with NARA to supersede/revise the RAVU Retention Schedule to reflect a 15-year retention of the Master File instead of the current 20 years.

SYSTEM MANAGER AND ADDRESS:

Chief, Refugee Affairs Division, Refugee, Asylum, and International Operations Directorate, 111 Massachusetts Avenue NW., Washington, DC 20529.

NOTIFICATION PROCEDURE:

Individuals seeking notification of and access to any record contained in this system of records, or seeking to contest its content, may submit a request in writing to the National Records Center (NRC) FOIA/PA Office, P.O. Box 648010, Lee's Summit, MO, 64064–8010. The NRC's contact information can be found at *http://www.dhs.gov/foia* under ''Contacts.'' If an individual believes more than one component maintains Privacy Act records concerning him or her, the individual may submit the request to the Chief Privacy Officer and Chief Freedom of Information Act Officer, Department of Homeland Security, 245 Murray Lane SW., Building 410, STOP–0655, Washington, DC 20528.

When seeking records about yourself from this system of records or any other Departmental system of records, your request must conform with the Privacy Act regulations set forth in 6 CFR Part 5. You must first verify your identity, meaning that you must provide your full name, current address, and date and place of birth. You must sign your request, and your signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. While no specific form is required, you may obtain forms for this purpose from the Chief Privacy Officer and Chief Freedom of Information Act Officer, *http://www.dhs.gov/foia* or 1–866–431–0486. In addition, you should:

- Explain why you believe the Department would have information on you;
- Identify which component(s) of the Department you believe may have the information about you;
- Specify when you believe the records would have been created; and
- Provide any other information that will help the FOIA staff determine which DHS component agency may have responsive records; and

If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying his/her agreement for you to access his/her records.

Without the above information, the component(s) may not be able to conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with applicable regulations.

RECORD ACCESS PROCEDURES:

See ''Notification procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification procedure'' above.

RECORD SOURCE CATEGORIES:

Information contained in this system of records is obtained from the individual who is the subject of these records. Other information sources include family members, petitions, A-File, information collected from federal databases for security screening checks, Resettlement Support Centers, the Refugee Processing Center, resettlement agencies, international organizations, and local sources at overseas sites.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Dated: November 15, 2013.

Karen L. Neuman,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2013–28247 Filed 11–22–13; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2007–0008]

National Advisory Council

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Committee Management; Notice of Federal Advisory Committee Conference Call.

SUMMARY: The Federal Emergency Management Agency (FEMA) National Advisory Council (NAC) will meet via conference call on December 3, 2013 at 4:00 p.m. EST. The meeting will be open to the public.

DATES: The NAC will meet on Tuesday, December 3, 2013, from 4:00 p.m. EST to 5:00 p.m. EST. Please note that the call may conclude early if the council has completed its business. Any written comments must be received on or before December 2, 2013.

ADDRESSES: The meeting will be held via conference call; dialing information is as follows:

Toll Free: 888–430–8694.

Conference Passcode: 6199206.

It is recommended that participants dial in 5–10 minutes prior to the start time using the toll free phone number and Conference Passcode.

For information on services for individuals with disabilities or to request special assistance for this call, contact the person listed in **FOR FURTHER INFORMATION CONTACT** below as soon as possible.

To facilitate public participation, members of the public are invited to

provide written comments on the issues to be considered by the NAC (see ''Agenda''). Written comments must be submitted through one of the following methods and received by December 2, 2013, identified by Docket ID FEMA–2007–0008:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: FEMA–NAC@fema.dhs.gov.* Include the docket number in the subject line of the message.
- *Fax:* (540) 504–2331.
- *Mail:* Regulatory Affairs Division, Office of Chief Counsel, FEMA, 500 C Street SW., 8NE, Washington, DC 20472–3100.

Instructions: All submissions received must include the words ''Federal Emergency Management Agency'' and the docket number for this action. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided. A public comment period will be held during the meeting from 4:45 p.m. to 5:00 p.m., and speakers are requested to limit their comments to 3 minutes. Contact the individual listed below to register as a speaker by December 2, 2013.

Docket: For access to the docket to read background documents or comments received, go to the Federal eRulemaking Portal at *http://www.regulations.gov,* click on ''Advanced Search,'' then enter ''FEMA–2010–0008'' in the ''By Docket ID'' box, then select ''FEMA'' under ''By Agency,'' and then click ''Search.'' Submitted comments may also be inspected at the Office of Chief Counsel, Federal Emergency Management Agency, 500 C Street SW., 8NE, Washington, DC 20472–3100.

FOR FURTHER INFORMATION CONTACT: Alexandra Woodruff, Alternate Designated Federal Officer, Office of the National Advisory Council, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472–3100, telephone (202) 646–2700, fax (540) 504–2331, and email *FEMA–NAC@fema.dhs.gov.* The NAC Web site is: *http://www.fema.gov/national-advisory-council.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. (Pub. L. 92–463). The Federal Advisory Committee Act requires that notices for advisory committee meetings be published in the **Federal Register** 15 days prior to the meeting date. This notice is published less than 15 days prior to the meeting date due to rescheduling of the October 16, 2013 meeting as a result of the recent lapse in Federal appropriations. Because the NAC meeting is being conducted via teleconference, there will not be an undue burden on the public to arrange travel to attend this meeting. Notice of this meeting is also provided on the NAC's Web site at: *http://www.fema.gov/national-advisory-council.*

The NAC advises the FEMA Administrator on all aspects of emergency management. The NAC incorporates State, local, and tribal governments, nonprofit, and private sector input in the development and revision of FEMA plans and strategies.

Agenda: The NAC will receive reports from its subcommittees on the following topics: Review and update of the National Incident Management System (NIMS) and the Biggert-Waters Flood Insurance Reform Act of 2012. The NAC will review the information presented on each topic, deliberate on any recommendations presented in the subcommittees' reports, and formulate recommendations for FEMA's consideration.

Dated: November 18, 2013.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2013–28096 Filed 11–22–13; 8:45 am]

BILLING CODE 9111–48–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Invasive Species Advisory Committee

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of Public Meeting (via Teleconference) of the Invasive Species Advisory Committee.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of meetings of the Invasive Species Advisory Committee. The purpose of the Advisory Committee is to provide advice to the National Invasive Species Council, as authorized by Executive Order 13112, on a broad array of issues related to preventing the introduction of invasive species and providing for their control and minimizing the economic, ecological, and human health impacts that invasive species cause. The Council is co-chaired by the Secretary of the Interior, the Secretary of Agriculture, and the Secretary of Commerce. The duty of the Council is to provide national leadership regarding invasive species issues. The purpose of a meeting via teleconference, in lieu of physical travel, on Thursday, December 12, 2013 is to convene the full Advisory Committee to discuss consideration, modification and adoption of an ISAC position paper on utilizing harvest incentives to control invasive species. Members of the public are welcome to participate by accessing the teleconference. Those in the Washington, DC Metropolitan area may visit the NISC headquarters, where the teleconference will be accessed in the conference room (see address below.) Call-in number and access code will be provided upon request by calling 202–208–5978.

DATES: Teleconference Meeting of the Invasive Species Advisory Committee: Thursday, December 12, 2013; 1:00–5:00 p.m.

ADDRESSES: NISC Conference Room, 1201 Eye Street, NW., Room 5–73; Washington, DC 20005. All visiting members of the public must be cleared through building security prior to being escorted to the meeting location.

FOR FURTHER INFORMATION CONTACT: Kelsey Brantley, National Invasive Species Council Program Analyst and ISAC Coordinator, (202) 513–7243; Fax: (202) 371–1751,

Dated: November 20, 2013.

Lori Williams,

Executive Director, National Invasive Species Council.

[FR Doc. 2013–28215 Filed 11–22–13; 8:45 am]

BILLING CODE 4310–RK–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[DR.5A311.IA000514]

Secretarial Commission on Indian Trust Administration and Reform

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of meeting.

SUMMARY: The Secretarial Commission on Indian Trust Administration and Reform (the Commission) will hold a public webinar meeting on December 10, 2013. Because of delays from the Federal government shutdown, the Commission report and recommendations will be discussed and voted on during the December 10 public webinar, and time will be allowed to take public comments.

DATES: The Commission's public webinar meeting will begin at 11 a.m. and end at 1 p.m. Eastern Time on December 10, 2013. Members of the public who wish to participate should register by December 9, 2013 (see

SUPPLEMENTARY INFORMATION for registration instructions).

FOR FURTHER INFORMATION CONTACT: The Designated Federal Official, Sarah Harris, Chief of Staff to the Assistant Secretary—Indian Affairs, Department of the Interior, 1849 C Street NW., Room 3071, Washington, DC 20240; or email to *trustcommission@ios.doi.gov*

SUPPLEMENTARY INFORMATION: The Secretarial Commission on Indian Trust Administration and Reform was established under Secretarial Order No. 3292, dated December 8, 2009. The Commission plays a key role in the Department's ongoing efforts to empower Indian nations and strengthen nation-to-nation relationships.

The Commission is completing a comprehensive evaluation of the Department's management and administration of the trust assets within a two-year period and will offer recommendations to the Secretary of the Interior on how to improve in the future. During the past two-year period, the Commission has been working to:

(1) Conduct a comprehensive evaluation of the Department's management and administration of the trust administration system;

(2) Review the Department's provision of services to trust beneficiaries;

(3) Review input from the public, interested parties, and trust beneficiaries and to conduct a number of regional listening sessions;

(4) Consider the nature and scope of necessary audits of the Department's trust administration system;

(5) Recommend options to the Secretary for improving the Department's management and administration of the trust administration system based on information obtained from these Commission activities, including whether any legislative or regulatory changes are necessary to permanently implement improvements; and

(6) Consider the provisions of the American Indian Trust Fund Management Reform Act of 1994 providing for termination of the Office of the Special Trustee for American Indians, and make recommendations to the Secretary regarding termination.

The Commission will hold its last public meeting by webinar on Tuesday, December 10, 2013. The following items will be on the agenda:

- Welcome, introductions, and agenda review;
- Review and approve Commission recommendations;
- Public comments; and
- Adjourn.

Members of the public who wish to participate in the December 10, 2013, public webinar meeting should register at the following Web site by December 9, 2013: *https://www1.gotomeeting.com/register/704255144*. Upon your registration, instructions on how to join the meeting will be sent to your email address.

Written comments may be sent to the Designated Federal Official listed in the **FOR FURTHER INFORMATION CONTACT** section above. To review all related material on the Commission's work, please refer to *http://www.doi.gov/cobell/commission/index.cfm*. All meetings are open to the public.

Dated: November 20, 2013.

Kevin K. Washburn,

Assistant Secretary—Indian Affairs.

[FR Doc. 2013–28236 Filed 11–22–13; 8:45 am]

BILLING CODE 4310–W7–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R4–R–2013–N235; FXRS12650400000S3–123–FF04R02000]

Cat Island National Wildlife Refuge; West Feliciana Parish, Louisiana; Notice of Intent To Prepare a Comprehensive Conservation Plan and Environmental Assessment; Correction

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent; request for comments; correction.

SUMMARY: On October 22, 2013, we, the U.S. Fish and Wildlife Service (Service), published a notice of intent to prepare a comprehensive conservation plan (CCP) and associated National Environmental Policy Act (NEPA) documents for Cat Island National Wildlife Refuge (NWR). We provided this notice in compliance with our CCP policy to advise other Federal and State agencies, Native American Tribes, and the public of our intentions, and to obtain suggestions and information on the scope of issues to consider in the planning process. However, we made an error in the end date we gave for public comments. This notice corrects that date error.

DATES: To ensure consideration, we must receive your written comments by December 21, 2013.

ADDRESSES: You may send comments, questions, and requests for information to: Robert Strader, Project Leader, USFWS, Lower Mississippi River Refuge Complex, P.O. Box 217, Sibley, MS, 39165.

FOR FURTHER INFORMATION CONTACT: Michelle Paduani, Project Planner, by telephone at 662–323–5548, or by email at *michelle_paduani@fws.gov,* or Robert Strader, Project Leader, by telephone at 601–442–6696, or by email at *bob_strader@fws.gov*.

SUPPLEMENTARY INFORMATION: Pursuant to the National Wildlife Refuge System Improvement Act of 1997 (16 U.S.C. 668dd et seq.), Service comprehensive conservation plan policy, and NEPA regulations (40 CFR 1506.6), we initiated our intent to prepare a comprehensive conservation plan (CCP) and NEPA documents for Cat Island National Wildlife Refuge NWR, West Feliciana Parish, Louisiana, in a October 22, 2013, **Federal Register** notice (78 FR 62648). That notice complied with our CCP policy to: (1) Advise other Federal and State agencies, Native American Tribes, and the public of our intentions and to obtain suggestions and information on the scope of issues to consider in the planning process. The original notice had an incorrect end date for the comment period. Please see the **DATES** section for our corrected comment-period end date.

For background information and public comments information, see our earlier notice.

Authority

This notice is published under the authority of the National Wildlife Refuge System Improvement Act of 1997 (16 U.S.C. 668dd et seq.).

Mike Oetker,

Acting Regional Director.

[FR Doc. 2013–28187 Filed 11–22–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCAD01000 L12200000.AL 0000]

Meeting of the California Desert District Advisory Council

SUMMARY: Notice is hereby given, in accordance with Public Laws 92–463 and 94–579, that the California Desert District Advisory Council (DAC) to the Bureau of Land Management (BLM), U.S. Department of the Interior, will meet in formal session on Saturday, December 7, from 8 a.m. to 4 p.m. at the Hyatt Place, 3500 Market St., Riverside, CA 92501. The Council will conduct an open work planning meeting on Friday, December 6, 2013 from 9 a.m. to 4 p.m. No field trip is scheduled for this meeting agenda. Meeting details will be posted on the DAC Web page, *http://*

www.blm.gov/ca/st/en/info/rac/dac.html, when finalized.

Agenda topics for the Saturday meeting will include updates by council members, the BLM California Desert District manager, five field office managers, and council subgroups. Final agenda items will be posted on the DAC Web page listed above.

SUPPLEMENTARY INFORMATION: All DAC meetings are open to the public. Public comment for items not on the agenda will be scheduled at the beginning of the meeting Saturday morning. Time for public comment may be made available by the council chairman during the presentation of various agenda items, and is scheduled at the end of the meeting for topics not on the agenda.

While the Saturday meeting is tentatively scheduled from 8 a.m. to 4 p.m., the meeting could conclude prior to 4 p.m. should the council conclude its presentations and discussions. Therefore, members of the public interested in a particular agenda item or discussion should schedule their arrival accordingly.

Written comments may be filed in advance of the meeting for the California Desert District Advisory Council, c/o Bureau of Land Management, External Affairs, 22835 Calle San Juan de Los Lagos, Moreno Valley, CA 92553. Written comments also are accepted at the time of the meeting and, if copies are provided to the recorder, will be incorporated into the minutes.

FOR FURTHER INFORMATION CONTACT: Stephen Razo, BLM California Desert District External Affairs, (951) 697–5217.

Dated: November 5, 2013.

Teresa A. Raml,

California Desert District Manager.

[FR Doc. 2013–28201 Filed 11–22–13; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–14445; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before November 2, 2013. Pursuant to section 60.13 of 36 CFR Part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation. Comments may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., MS 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service,1201 Eye St. NW., 8th Floor, Washington, DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by December 10, 2013. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: November 8, 2013.

J. Paul Loether,

Chief, National Register of Historic Places/National Historic Landmarks Program.

AMERICAN SAMOA

Rose Island District

Rose Island Concrete Monument, Rose Atoll, Pago Pago, 13000920

IOWA

Black Hawk County

Waterloo Masonic Temple, 325 E. Park Ave., Waterloo, 13000921

Bremer County

Old Fourth Ward Southeast Historic District, Roughly bounded by Cedar R., 2nd & 3rd Aves., SE., 4th St., SE., Waverly, 13000922

Waverly Municipal Hydroelectric Powerhouse, 121 1st St., NE., Waverly, 13000923

Guthrie County

Sexton Hotel, 203 E. Front St., Stuart, 13000924

Linn County

Bethel African Methodist Episcopal Church, 512 6th St., SE., Cedar Rapids, 13000927

MAINE

Cumberland County

Clifford, Nathan, School, 180 Falmouth St., Portland, 13000925

Knox County

Grant, Gooden, House, 1 Head Harbor, Isle Au Haut, 13000926

MASSACHUSETTS

Suffolk County

Davidson, Sarah, Apartment Block, 3 Gaylord St., Boston, 13000928

Pilgrim Congregational Church, 540–544 Columbia Rd., Boston, 13000929

Walton and Roslin Halls, 702–708 & 710–726 Washington St., 3–5 Walton St., Boston, 13000930

MINNESOTA

Carver County

Harms, J. Carsten and Magaretha, House, (Chaska Brick Resources in the Vicinity of Carver County, 1857–1961 MPS), 1110 Cty. Rd. 152 (Benton Township), Cologne, 13000931

NEW JERSEY

Burlington County

West Hill, 1114 Oxmead Rd., Burlington, 13000944

Cape May County

Naval Air Station Wildwood Historic District, Roughly bounded by Forrestal & Monterre Rds., runways & taxiways to N. & E., Wildwood, 13000945

Somerset County

Dunster—Squibb House, 189 Mine Brook Rd., Bernardsville, 13000946

NEW YORK

Orange County

Adams-Chadeayne-Taft Estate, 1–2 Riverbank Ln., Cornwall-on-Hudson, 13000932

NORTH CAROLINA

Alamance County

Old South Mebane Historic District (Boundary Increase), 400 blks. of W. Lee & W. McKinley Sts., 507 S. 4th St., 600–800 blks. of S. 5th St., Mebane, 13000933

Lincoln County

Eureka Manufacturing Company Cotton Mill, 414 E. Water St., Lincolnton, 13000934

New Hanover County

Sprunt, James D. and Frances, House, 207 N. Lumina Ave., Wrightsville Beach, 13000935

OHIO

Franklin County

Julian and Kokenge Company, 280 S. Front St., Columbus, 13000936

Hamilton County

Kinsey, The, (Apartment Buildings in Ohio Urban Centers, 1870–1970 MPS), 2415 Maplewood Ave., Cincinnati, 13000937

OKLAHOMA

Garfield County

Cherokee Terrace Apartments, 619 E. Maine St., Enid, 13000939

Kay County

Larkin Hotel, 201 N. Main, Blackwell, 13000940

Marshall County

Bounds, James H., Barn, Williams Rd. & OK 70, Kingston, 13000941

Muskogee County

Muskogee Municipal Building, 229–231 W. Okmulgee Ave., Muskogee, 13000942

St. Philip's Episcopal Church, 502 N. 9th St., Muskogee, 13000943

TENNESSEE

Fentress County

Beaty, James, General Merchandise Store, 5004 Alvin York Hwy., Grimsely, 13000947

Hamblen County

Crockett Tavern Museum, 2002 Morningside Dr., Morristown, 13000948

Knox County

Westmoreland Water Wheel and Gatepost, Jct. of Sherwood Dr. & Westland Ave., Knoxville, 13000949

Loudon County

Greenback Depot, 6736 Morganton Rd., Greenback, 13000950

McMinn County

Helm, M.A., House, 149 Ralph Layman Rd., Riceville, 13000951

Morgan County

Wartburg Presbyterian Church, 205 S. Kingston St., Wartburg, 13000952

Sevier County

Rocky Springs Presbyterian Church, 2656 Boyds Creek Hwy., Sevierville, 13000953

Shelby County

Sears, Roebuck and Company Catalog Distribution Center and Retail Store, 495 N. Watkins St., Memphis, 13000954

WEST VIRGINIA

Boone County

Whitesville School, 37949 Coal River Rd., Whitesville, 13000955

WISCONSIN

Milwaukee County

Milwaukee Paper Box Company, 1560 W. Pierce St., Milwaukee, 13000956

A request for removal has been made for the following resources:

MAINE

Aroostook County

Corriveau Mill, U.S. 1, S side, 0.3 mi. SW. of jct. with Paridis Rd., Upper Frenchville, 94001246

Elmbrook Farm Barn, Parson's Rd., Presque Isle, 86000072

Smith Bridge, Lowery Rd. at jct. with Foxcroft Rd., across the Meduxnekeag R., Houlton, 93000202

Violette House, 464 Main St., Van Buren, 76000088

Hancock County

Waldo-Hancock Bridge, US 1, Verona, 85001267

NEW YORK

Broome County

New York State Inebriate Asylum, 425 Robinson St., Binghamton, 96000814

TENNESSEE

Montgomery County

Ringgold Mill Complex, NW. of Clarksville on Mill Rd., Clarksville, 80003851

[FR Doc. 2013–28172 Filed 11–22–13; 8:45 am]

BILLING CODE 4310–70–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–864]

Certain Mobile Handset Devices and Related Touch Keyboard Software; Commission Determination Not To Review an Initial Determination Terminating the Investigation; Termination of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the administrative law judge's (''ALJ'') initial determination (''ID'') (Order No. 22) granting a joint motion to terminate the investigation based on settlement.

FOR FURTHER INFORMATION CONTACT: Amanda Pitcher Fisherow, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2737. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–4737.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on January 31, 2013, based on a complaint filed by Nuance Communications, Inc. (''Nuance'') of Burlington, Massachusetts; Swype, Inc. (''Swype''); Tegic Communications, Inc. (''Tegic''); and ZI Corporation of Canada, Inc., all of Burlington, Massachusetts, alleging violations of section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) by reason of infringement of certain claims of U.S. Patent Nos. 7,750,891; 7,453,439; 7,098,896; 7,075,520; and 6,286,064. The notice of investigation named Shanghai HanXiang (CooTek) Information Technology Co., Ltd. of Shanghai, China and Personal Communications Devices, LLC (''PCD'') of Hauppauge, New York as respondents. PCD has been terminated from the investigation.

On October 21, 2013, complainants Nuance, Swype, and Tegic and respondent CooTek filed a joint motion to terminate the investigation based on settlement. On October 22, 2013, the Office of Unfair Import Investigations filed a response supporting the motion.

On October 23, 2013, the ALJ issued an ID granting the motion. The ALJ noted that complainants represented that there were no agreements, written or oral, express or implied between the parties concerning the subject matter of the investigation. The motion also included both confidential and non-confidential versions of the settlement agreement. The ALJ further found that termination of the investigation is in the public interest. No petitions for review were filed.

The Commission has determined not to review the subject ID. The investigation is terminated.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), and in section 210.42 of the Commission's Rules of Practice and Procedure (19 CFR § 210.42).

By order of the Commission.

Issued: November 20, 2013.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2013–28206 Filed 11–22–13; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–13–032]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: December 2, 2013 at 11:30 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agendas for future meetings: None
2. Minutes

3. Ratification List
4. Vote in Inv. Nos. 701–TA–506–508 and 731–TA–1238–1243 (Preliminary)(Non-Oriented Electrical Steel from China, Germany, Japan, Korea, Sweden, and Taiwan). The Commission is currently scheduled to complete and file its determinations on or before December 2, 2013; Commissioners' opinions will be issued on December 9, 2013.
5. Outstanding action jackets: none

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission:

Issued: November 21, 2013.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2013–28299 Filed 11–21–13; 11:15 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Air Act

On November 19, 2013, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the District of Arizona in the lawsuit entitled *United States of America* v. *Fisher Sand and Gravel Company,* Civil Action No. CV–13–02363–PHX–SRB.

The United States filed this lawsuit under the Clean Air Act. The United States' complaint seeks injunctive relief and civil penalties for violations of the regulations that govern dust control at the defendant's sand and gravel facilities in Buckeye, Phoenix, and Sun City, Arizona. The consent decree requires the defendant to perform injunctive relief and pay a $150,000 civil penalty.

The publication of this notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States of America* v. *Fisher Sand and Gravel Company,* D.J. Ref. No. 90–5–2–1–10138. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A paper copy of the Consent Decree will be provided upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $4.50 (25 cents per page reproduction cost) payable to the United States Treasury.

Henry Friedman,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2013–28208 Filed 11–22–13; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

On November 18, 2013, the Department of Justice lodged a proposed consent decree with the United States District Court for the District of New Jersey in the lawsuit entitled *United States* v. *Perry Videx, LLC,* Civil Action No. 3:13-cv-07026–PGS–DEA.

The United States filed this lawsuit under Section 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA''). The United States' complaint seeks recovery of costs incurred in connection with the Environmental Protection Agency's cleanup of hazardous substances at the Curtis Specialty Papers Superfund Site, in Milford, New Jersey. The Consent Decree requires the defendant to pay a total of $110,000, plus interest.

The publication of this notice opens a period for public comment on the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Perry Videx, LLC,* D.J. Ref. No. 90–11–3–09445/5. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the consent decree may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will provide a paper copy of the consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $25.50 (25 cents per page reproduction cost) payable to the United States Treasury. For a paper copy without the exhibits and signature pages, the cost is $3.00.

Robert E. Maher, Jr.,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2013–28223 Filed 11–22–13; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and 30 CFR Part 44 govern the application, processing, and disposition of petitions for modification. This notice is a summary of petitions for modification submitted to the Mine Safety and Health Administration (MSHA) by the parties listed below to modify the application of existing mandatory safety standards codified in Title 30 of the Code of Federal Regulations.

DATES: All comments on the petitions must be received by the Office of Standards, Regulations and Variances on or before December 26, 2013.

ADDRESSES: You may submit your comments, identified by ''docket number'' on the subject line, by any of the following methods:

1. *Electronic Mail: zzMSHA-comments@dol.gov*. Include the docket number of the petition in the subject line of the message.
2. *Facsimile:* 202–693–9441.
3. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209–3939, Attention: George F. Triebsch, Director, Office of Standards, Regulations and Variances. Persons delivering documents are required to check in at the receptionist's desk on the 21st floor. Individuals may inspect copies of the petitions and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

FOR FURTHER INFORMATION CONTACT: Barbara Barron, Office of Standards, Regulations and Variances at 202–693–9447 (Voice), *barron.barbara@dol.gov* (Email), or 202–693–9441 (Facsimile). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION:

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or
2. That the application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modification.

II. Petitions for Modification

Docket Number: M–2013–050–C.

Petitioner: Speed Mining, LLC, 1144 Market Street, P.O. Box 871, Wheeling, West Virginia 26003.

Mine: American Eagle Mine, MSHA I.D. No. 46–05437, Kanawha County, West Virginia.

Regulation Affected: 30 CFR 75.1700 (Oil and gas wells).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance with respect to oil and gas wells.

1. The petitioner proposes, prior to mining through any oil or gas well at its American Eagle Mine, to provide the District Manager (DM) a declaration stating that all mandatory procedures for cleaning out, preparing, and plugging each gas or oil well have been completed. The declaration will be accompanied by down-hole logs.

2. The techniques and procedures in this petition are limited to oil and gas wells that have a maximum depth of 5,000 feet or less.

a. The petitioner proposes to use the following procedures when cleaning out and preparing oil and gas wells prior to plugging or replugging:

(1) Clean out the well from the surface to at least 200 feet below the base of the lowest mineable coal seam. Remove material from the entire diameter of the well, wall to wall, to the extent feasible and practicable.

(2) Remove all of the casing in the well or, if it is not possible to remove all of the casing, fill the annulus between the casings and between the casings and the well walls with expanding cement (minimum 0.5 percent expansion on setting) and ensure that these areas contain no voids. If the casing cannot be removed, cut or mill it, at all mineable coal seam levels, and perforate or rip it at least every 50 feet from at least 200 feet below the base of the lowest mineable coal seam up to 100 feet above the uppermost mineable coal seam. When multiple casing and tubing strings are present in the coal horizon(s), perforate or rip any casing that remains and fill with expanding cement. Keep an acceptable casing bond log for each casing and tubing string used in lieu of ripping or perforating multiple strings.

(3) Place a mechanical bridge plug in the well if a cleaned-out well emits excessive amounts of gas. Place the mechanical bridge plug in a competent stratum at least 200 feet below the base of the lowest mineable coal seam, but above the top of the uppermost hydrocarbon-producing stratum.

(4) Prepare down-hole logs for each well. The logs will consist of a caliper survey and be suitable for determining the top, bottom, and thickness of all coal seams and potential hydrocarbon-producing strata and the location for a bridge plug. In addition, maintain a journal describing the length and type of each material used to plug the well; the length of casings removed, perforated or ripped, or left in place; any sections where casing was cut or milled; and other pertinent information concerning cleaning and sealing the well.

(5) Properly place mechanical bridge plugs to isolate the hydrocarbon-producing stratum from the expanding cement plug, if the upper-most hydrocarbon-producing stratum is within 300 feet of the base of the lowest mineable coal seam. Nevertheless, place a minimum of 200 feet of expanding cement below the lowest mineable coal seam.

b. The petitioner proposes to use the following procedures for plugging or replugging oil or gas wells to the surface:

(1) Pump expanding cement slurry down the well to form a plug that runs from at least 200 feet below the base of the lowest mineable coal seam to the surface. Place the expanding cement in the well under a pressure of at least 200 pounds per square inch. Portland cement or a lightweight cement mixture may be used to fill the area from 100 feet above the top of the uppermost mineable coal seam. A gel that supports the wall of the borehole and increases the density of the expanding cement may be used to provide the placement pressure.

(2) Embed steel turnings or other small magnetic particles in the top of the cement near the surface to serve as a permanent magnetic monument of the well. In the alternative, extend a 4½-inch or larger casing, set in cement, at least 36 inches above the ground level with the American Petroleum Institute (API) well number either engraved or welded on the casing. When the hole cannot be marked with a physical monument (e.g., prime farmland), use high-resolution GPS coordinates (one-half meter resolution) to locate the hole.

c. The petitioner proposes to use the following procedures for plugging or replugging oil and gas wells for subsequent use as degasification boreholes:

(1) Set a cement plug in the well by pumping expanding cement slurry down the tubing to provide at least 200 feet of expanding cement below the lowest mineable coal seam. Place the expanding cement in the well under a pressure of at least 200 pounds per square inch. Extend the top of the expanding cement at least 30 feet above the top of the coal seam being mined.

(2) Securely grout a suitable casing into the bedrock of the upper portion of the degasification well to protect it. The remainder of this well may be cased or uncased.

(3) Cement the annulus between the degasification casing and the borehole wall from a point immediately above the

slots or perforations in the pipe to the surface.

(4) Clean out the degasification casing for its total length.

(5) Fit the top of the degasification casing with a wellhead, equipped as required by the DM in the approved ventilation plan. Such equipment may include check valves, shut-in valves, sampling ports, flame arrestor equipment, and security fencing.

(6) After the area of the coal mine that is degassed by a well is sealed or the coal mine is abandoned, seal the degas holes using the following procedures:

(i) Insert a tube to the bottom of the drill hole or, if not possible, to at least 100 feet above the coal seam. Remove any blockage to ensure that the tube is inserted to this depth.

(ii) Set a cement plug in the well by pumping Portland cement or a lightweight cement mixture down the tubing until the well is filled to the surface.

(iii) Embed steel turnings or other small magnetic particles in the top of the cement near the surface to serve as a permanent magnetic monument of the well. In the alternative, extend a 4½-inch or larger casing, set in cement, at least 36 inches above the ground level with the API well number engraved or welded on the casing.

d. The petitioner proposes to use the following procedures for preparing and plugging or replugging oil or gas wells that cannot be completely cleaned out:

(1) Drill a hole adjacent and parallel to the well to a depth of at least 200 feet below the lowest mineable coal seam.

(2) Locate any casing that may remain in the well using a geophysical sensing device.

(3) If the well contains casings, drill into the well from the parallel hole and perforate or rip all casings at intervals of at least 5 feet from 10 feet below the coal seam to 10 feet above the coal seam. Beyond that distance, perforate or rip all casings at least every 50 feet from at least 200 feet below the base of the lowest mineable coal seam up to 100 feet above the seam being mined. Fill the annulus between the casings and between the casings and the well wall with expanding cement (minimum of 0.5% expansion on setting), and ensure that these areas contain no voids. When multiple casing and tubing strings are present in the coal horizons, rip or perforate any casing that remains and fill with expanding cement. Provide an acceptable casing bond log for each casing and tubing used in lieu of ripping or perforating multiple strings.

(4) Use a horizontal hydraulic fracturing technique to intercept the original well where there is sufficient casing in the well to allow use of the method outlined in subparagraph (3) above. Fracture the original well in at least six places from at least 200 feet below the base of the lowest mineable coal seam to a point at least 50 feet above the seam being mined at intervals to be agreed on by the petitioner and the DM after considering the geological strata and the pressure within the well. Pump expanding cement into the fractured well in sufficient quantities and in a manner that fills all intercepted voids.

(5) Prepare down-hole logs for each well. The logs will consist of a caliper survey and log(s) suitable for determining the top, bottom, and thickness of all coal seams and potential hydrocarbon-producing strata and the location for the bridge plug. Maintain a journal describing the length and type of each material used to plug the well; length of casing(s) removed, perforated, ripped, or left in place; and other pertinent information concerning sealing the well.

(6) After plugging the well, plug the open portions of both holes from the bottom to the surface with Portland cement or a lightweight cement mixture.

(7) Embed steel turnings or other small magnetic particles in the top of the cement near the surface to serve as a permanent magnetic monument of the well. In the alternative, extend a 4½-inch or larger casing, set in cement, at least 36 inches above the ground level.

e. The petitioner proposes to use the following procedures after approval has been granted by the DM to mine through a plugged or replugged well:

(1) Prior to cutting through a plugged well, notify the DM or designee, representative of the miners, and the appropriate State agency in sufficient time for them to have a representative present.

(2) Install drivage spads at the last open crosscut near the place to be mined to ensure intersection of the well when mining through wells using continuous mining equipment. The drivage spads will not be more than 50 feet from the well. Install distance markers along the headgate on 5-feet centers for 20 feet in advance of the well when using longwall-mining methods.

(3) Firefighting equipment, including fire extinguishers, rock dust, and sufficient fire hose to reach the working face area of the mine-through (when either the conventional or continuous mining method is used), will be available and operable during each well mine-through. Locate the fire hose in the last open crosscut of the entry or room. Maintain the water line to the belt conveyor tailpiece along with a sufficient amount of fire hose to reach the farthest point of penetration on the section.

(4) Keep available at the last open crosscut a supply of roof support and ventilation materials sufficient to ventilate and support around the well on cut-through. In addition, keep emergency plugs available in the immediate area of the cut-through.

(5) Maintain the quantity of air required by the approved mine ventilation plan for both continuous and longwall mining.

(6) Check equipment for permissibility if it will be inby the last open crosscut during mine-through and service it on the shift prior to mining through the well.

(7) Calibrate the methane monitors on the longwall, continuous mining machine, or cutting machine and loading machine on the shift prior to mining through the well.

(8) When mining is in progress, test methane levels with a hand-held methane detector at least every 10 minutes from the time that mining with the continuous mining machine is within 20 feet of the well until the well is intersected and immediately prior to mining through it or from the time that mining with longwall mining equipment is within 10 feet of the well. No individual is allowed on the return side during the actual cutting process until the mine-through has been completed and the area examined and declared safe.

(9) Keep the working place free from accumulations of coal dust and coal spillages, and place rock dust on the roof, rib, and floor to within 20 feet of the face when mining through the well when using continuous or conventional mining methods. Conduct rock dusting on longwall sections on the roof, rib, and floor up to both the headgate and tailgate gob.

(10) Deenergize all equipment when the wellbore is intersected and thoroughly examine the place and determine it safe before resuming mining. No open flame is permitted in the area until adequate ventilation has been established around the wellbore.

(11) In rare instances, torches may be used for inadequately or inaccurately cut or milled casings at the coal seam level. No open flame is permitted in the area until adequate ventilation has been established around the wellbore and methane levels are less than 1.0 percent in all areas that will be exposed to flames and sparks from the torch. Apply a thick layer of rock dust to the roof, face, floor, ribs, and any exposed coal within 20 feet of the casing prior to any use of torches.

(12) After a well has been intersected and the working place determined safe, continue mining inby the well at a distance sufficient to permit adequate ventilation around the area of the wellbore.

(13) No person will be permitted in the area of the cut-through operation except those actually engaged in the mining operation, mine management, representative of the miners, personnel from MSHA, and personnel from the appropriate State agency.

(14) A certified official will directly supervise the cut-through operation and only the certified official in charge will issue instructions concerning the cut-through operation.

(15) Locate non-sparking (brass) tools on the working section in the event they are needed to expose and examine cased wells.

(16) Alert all personnel in the mine to the planned intersection of the well prior to their going underground if the planned intersection is to occur during their shift. Repeat this warning for all shifts until the well has been mined through. Mining may be conducted in other working sections during the intersection of the well.

(17) The responsible person required in 30 CFR 75.1501 will be responsible for well intersection emergencies. The responsible person will review the well intersection procedures prior to any planned intersection.

Within 60 days after this petition becomes final, the petitioner will submit proposed revisions for its approved part 48 training plan to the DM.

Within 30 days after this petition becomes final, the petitioner will submit proposed revisions for its approved mine emergency evacuation and firefighting plan required in 30 CFR 75.1501. The petitioner will revise the plans to include the hazards and evacuation procedures to be used for well intersections. All underground miners will be trained in this revised plan within 30 days of the DM's approval of the revised evacuation plan. Such training may be done in a weekly safety meeting or other type of appropriate setting.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure or protection afforded by the existing standard.

Docket Number: M–2013–051–C.

Petitioner: Jim Walter Resources, Inc., 3000 Riverchase Galleria, Suite 1700, Birmingham, Alabama 35244.

Mines: No. 4 Mine, MSHA I.D. No. 01–01247 and No. 7 Mine, MSHA I.D. No. 01–01401, located in Tuscaloosa County, Alabama.

Regulation Affected: 30 CFR 75.1506(a)(3) (Refuge alternatives).

Modification Request: The petitioner requests a modification of the existing standard to permit the continued use of its currently deployed refuge alternatives chambers in the No. 4 and No. 7 Mines past December 31, 2013, provided that they are refurbished or replaced as soon as practicable thereafter.

The petitioner asserts that: (1) Compliance with the standard's current December 31, 2013, deadline (to the possible) will result in a diminution of safety to miners; and (2) allowing the use of its currently deployed units will at all times in the foreseeable future guarantee no less than the same measure of protection afforded the miners by the standard. The petitioner states that:

(1) MineARC refuge chambers are currently in use at the No. 4 and No. 7 Mines.

(2) The MineARC refuge chamber is the only commercially available refuge model to incorporate both a powerless carbon dioxide/carbon monoxide (CO_2/CO) scrubber as well as an intrinsically safe air conditioning system (refrigerant R744) housed within the same constructed unit.

(3) The use of MineARC refuge chambers at No. 4 and No. 7 Mines has been continuously approved in the Mines' Emergency Response Plans (ERPs) since February 2009.

(4) The MineARC refuge chambers are currently undergoing 30 CFR Part 7 approval.

(5) MineARC's efforts to obtain Part 7 approval have been in good faith and delays in receiving Part 7 approval are common throughout the industry as reflected by the current absence of approved chambers.

(6) In addition to the pending 30 CFR Part 7 approval process, the MineARC refuge chambers in use at the No. 4 and No. 7 Mines must be refurbished to comply with the directives of MSHA's Program Policy Letter No. P11–V–17.

(7) On April 4, 2013, MineARC informed the petitioner that MineARC will be unable to refurbish or replace all of the petitioners units prior to December 31, 2013, for the petitioner to comply with 30 CFR 75.1506(a)(3) and/or the requirements of MSHA's Program Policy Letter No. P11–V–17.

(8) Replacing the currently deployed MineARC refuge chambers by December 31, 2013, with non-air conditioned, MSHA-approved refuge chambers is not feasible and/or would place the miners at significant and greater risk in any emergency.

(9) The only way to guarantee no less than the same measure of safety to the miners as afforded by the standard prior to December 31, 2013, is for MSHA to approve continued deployment of its MineARC refuge chambers until their replacement with like units and/or refurbishment of current units as soon as practicable.

(10) Without instant granting of this petition, it will be impossible to submit the currently deployed MineARC chambers for approval by the District Manager in its ERPs under 30 CFR 75.1507 for January 2014 and later use.

(11) Granting of this petition will in no way limit the authority of the District Manager to require appropriate measures in Jim Walter Resources' ERPs to assure timely replacement of its current MineARC chambers with fully-compliant refurbished units.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded by the existing standard.

Dated: November 19, 2013.

George F. Triebsch,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 2013–28121 Filed 11–22–13; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2010–0025]

Thy Hydrostatic Testing Provision of the Portable Fire Extinguishers Standard; Extension of the Office of Management and Budget's (OMB) Approval of the Information Collection (Paperwork) Requirements

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

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning its proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirements contained in the Hydrostatic Testing provision of the Portable Fire Extinguishers Standard for General Industry (29 CFR 1910.157(f)(16)).

DATES: Comments must be submitted (postmarked, sent, or received) by January 24, 2014.

ADDRESSES: *Electronically:* You may submit comments and attachments electronically at *http://www.regulations.gov*, which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit a copy of your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2010–0025, U.S. Department of Labor, Occupational Safety and Health Administration, Room N–2625, 200 Constitution Avenue NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m. to 4:45 p.m., e.t.

Instructions: All submissions must include the Agency name and the OSHA docket number for the Information Collection Request (ICR) (OSHA–2010–0025). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov*. For further information on submitting comments see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION**.

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (e.g., copyrighted material) is not publicly available to read or download through the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may also contact Theda Kenney at the address below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Todd Owen or Theda Kenney, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accord with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

The collections of information contained in the Hydrostatic Testing Provision of the Portable Fire Extinguishers Standard are necessary to reduce workers' risk of death or serious injury by ensuring that portable fire extinguishers are in safe operating condition. The following paragraphs describe who uses the information in the testing certification record, as well as how they use it.

Test Records (§ 1910.157(f)(16))

Paragraph (f)(16) requires employers to develop and maintain a certification record of hydrostatic testing of portable fire extinguishers. The certification record must include the date of inspection, the signature of the person who performed the test, and the serial number (or other identifier) of the fire extinguisher that was tested.

Disclosure of Test Certification Records

The certification record must be available to the Assistant Secretary or his/her representative upon request. The certification record provides assurance to employers, workers, and OSHA compliance officers that the fire extinguishers have been hydrostatically tested in accord with and at the intervals specified in § 1910.157(f)(16), thereby ensuring that they will operate properly in the event workers need to use them. Additionally, these records provide the most efficient means for the compliance officers to determine that an employer is complying with the hydrostatic testing provision.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and cost) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting that OMB extend its approval of the information collection requirements contained in the Hydrostatic Testing Provision of the Portable Fire Extinguishers Standard for General Industry (29 CFR 1910.157(f)(16)). OSHA is proposing to increase the burden hours in its currently approved information collection request from 124,084 burden hours to 125,986 burden hours (a total increase of 1,902 hours). This increase is due to updated data showing an increase in the number of firms affected by the Standard. The Agency will summarize the comments submitted in response to this notice and will include this summary in the request to OMB.

Type of Review: Extension of a currently approved collection.

Title: The Hydrostatic Testing Provision of the Portable Fire Extinguishers Standard (29 CFR 1910.157(f)(16)).

OMB Control Number: 1218–0218.

Affected Public: Business or other for-profits.

Number of Responses: 9,205,000.

Frequency of Responses: On occasion.

Average Time per Response: Ranges from one minute (.02 hour) to maintain the certification records to 33 minutes (.55 hour) to test an extinguisher, and generate and maintain the certification record.

Estimated Total Burden Hours: 125,986 hours.

Estimated Cost (Operation and Maintenance): $16,952,542.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regualtions.gov,* which is the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. All comments, attachments, and other

material must identify the Agency name and the OSHA docket number for the ICR (Docket No. OSHA–2010–0025). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (*see* the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and date of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publically available to read or download through this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* Web site to submit comments and access the docket is available at the Web site's ''User Tips'' link.

Contact the OSHA Docket Office for information about materials not available through the Web site, and for assistance in using the Internet to locate docket submissions.

V. Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on November 19, 2013.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2013–28074 Filed 11–22–13; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2010–0038]

Rigging Equipment for Material Handling; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

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

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning its proposal to extend the OMB approval of the information collection requirements contained in paragraphs (b)(1), (b)(6)(i), (b)(6)(ii), (c)(15)(ii), (e)(1)(i), (ii), and (iii) and (f)(2) of the Standard on Rigging Equipment for Material Handling (29 CFR 1926.251). These paragraphs require affixing identification tags or markings on rigging equipment, developing and maintaining inspection records, and retaining proof-testing certificates.

DATES: Comments must be submitted (postmarked, sent, or received) by January 24, 2014.

ADDRESSES: *Electronically:* You may submit comments and attachments electronically at *http://www.regulations.gov*, which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit a copy of your comments and attachments to the OSHA Docket Office, OSHA Docket No. OSHA–2010–0038, U.S. Department of Labor, Occupational Safety and Health Administration, Room N–2625, 200 Constitution Avenue NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m. to 4:45 p.m., e.t.

Instructions: All submissions must include the Agency name and OSHA docket number for the Information Collection Request (ICR) (Docket No. OSHA 2010–0038). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov*. For further information on submitting comments see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION.**

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (e.g., copyrighted material) is not publicly available to read or download through the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may also contact Theda Kenney at the address below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Theda Kenney or Todd Owen, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (i.e., employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accord with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 et seq.) (authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act, or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires OSHA to obtain such information with minimum burden upon employers, especially those operating small businesses and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

Paragraph (b)(1) requires that alloy steel chains have permanently affixed durable identification tags stating size, grade, rated capacity and sling

manufacturer. Paragraph (b)(6)(i) requires the employer to make a thorough periodic inspection of alloy steel chain slings in use on a regular basis, but at least once a year. Paragraph (b)(6)(ii) requires the employer to make and maintain a record of the most recent month in which each alloy steel chain was inspected and make the record available for examination.

Paragraph (c)(15)(ii) requires that all welded end attachments of wire rope slings be proof tested by the manufacturer at twice their rated capacity prior to initial use, and that the employer retain a certificate of the proof test and make it available for examination.

Paragraphs (e)(1)(i), (ii), and (iii) require that synthetic web slings be marked or coded to show the manufacturer's name or trademark, the rated capacity for the type of hitch and the type of synthetic webbing material.

Paragraph (f)(2) requires that all hooks for which no applicable manufacturer's recommendations are available be tested twice before they are put into use. The employer shall maintain a record of the dates and results of the tests.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting that OMB extend its approval of the information collection requirements contained in the Standard on Rigging Equipment for Material Handling (29 CFR 1926.251). The Agency is requesting an increase in the burden hours from 51,815 burden hours to 52,428 hours. This increase is due to the additional marking requirements for wire rope slings.

Type of Review: Extension of a currently approved collection.

Title: Rigging Equipment for Material Handling (29 CFR 1926.251).

OMB Control Number: 1218–0233.

Affected Public: Business or other for-profits.

Number of Respondents: 1,220,910.

Total Responses: 227,428.

Frequency of Responses: On occasion.

Average Time per Response: Average of 3 minutes (.05 hour) for an employer to maintain and disclose a certificate to 30 minutes (.50 hour) for an employer to acquire information and make a tag for a sling.

Estimated Total Burden Hours: 52,428.

Estimated Cost (Operation and Maintenance): $0.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov*, which is the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number for the ICR (OSHA Docket No. 2010–0038). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information, such as social security numbers and date of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (e.g., copyrighted material) is not publicly available to read or download through this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* Web site to submit comments and access the docket is available at the Web site's ''User Tips'' link. Contact the OSHA Docket Office for information about materials not available through the Web site, and for assistance in using the Internet to locate docket submissions.

V. Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on November 19, 2013.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2013–28075 Filed 11–22–13; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2005–0022]

TÜV SÜD Product Services GmbH: Request for Renewal of Recognition

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

ACTION: Notice.

SUMMARY: This notice announces TÜV SÜD Product Services GmbH's application containing a request for renewal of recognition as a Nationally Recognized Testing Laboratory (NRTL) under 29 CFR 1910.7.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before December 10, 2013.

ADDRESSES: Submit comments by any of the following methods:

1. *Electronically:* Submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for making electronic submissions.

2. *Facsimile:* If submissions, including attachments, are not longer than 10 pages, commenters may fax them to the OSHA Docket Office at (202) 693–1648.

3. *Regular or express mail, hand delivery, or messenger (courier) service:* Submit a copy of comments and any attachments to the OSHA Docket Office, Docket No. OSHA–2005–0022, Technical Data Center, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–2625, Washington, DC 20210;

telephone: (202) 693–2350 (TDY number: (877) 889–5627). Note that security procedures may result in significant delays in receiving comments and other written materials by regular mail. Contact the OSHA Docket Office for information about security procedures concerning delivery of materials by express delivery, hand delivery, or messenger service. The hours of operation for the OSHA Docket Office are 8:15 a.m.–4:45 p.m., e.t.

4. *Instructions:* All submissions must include the Agency name and the OSHA docket number (OSHA–2005–0022). OSHA will place all submissions, including any personal information provided, in the public docket without revision, and these submissions will be available online at *http://www.regulations.gov.*

5. *Docket:* To read or download submissions or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket are listed in the *http://www.regulations.gov* index; however, some information (e.g., copyrighted material) is not publicly available to read or download through the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions.

6. *Extension of comment period:* Submit requests for an extension of the comment period on or before December 10, 2013 to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210, or by fax to (202) 693–1644.

FOR FURTHER INFORMATION CONTACT: David W. Johnson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210, phone (202) 693–2110, or email at *johnson.david.w@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

OSHA recognition of an NRTL signifies that the organization meets the requirements in Section 1910.7 of Title 29, Code of Federal Regulations (29 CFR 1910.7). Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition and is not a delegation or grant of government authority. As a result of recognition, employers may use products properly approved by the NRTL to meet OSHA standards that require testing and certification. OSHA maintains an informational Web site for each NRTL that details its scope of recognition available at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

The Agency processes applications by an NRTL for renewal of recognition following requirements in Appendix A to 29 CFR 1910.7. OSHA conducts renewals in accordance with the procedures in 29 CFR 1910.7, App. II.C. In accordance with these procedures, NRTLs would submit a renewal request to OSHA, not less than nine months or no more than one year, before the expiration date of its current recognition. A renewal request would include a request for renewal and any additional information the NRTL wishes to submit to demonstrate its continued compliance with the terms of its recognition and 29 CFR 1910.7. If OSHA has not conducted an on-site assessment of the NRTL headquarters and any key sites within the past 18 months, it will schedule the necessary on-site assessments prior to the expiration date of the NRTL's recognition. Upon review of the submitted material and, as necessary, the successful completion of the on-site assessment, OSHA announces its preliminary decision to grant or deny renewal in the **Federal Register** and solicit comments from the public. OSHA then publishes a final **Federal Register** notice responding to any comments and renewing the NRTL's recognition for a period of five years, or denying the renewal of recognition.

TÜV SÜD Product Services GmbH (TUVPSG) initially received OSHA recognition as a Nationally Recognized Testing Laboratory on July 20, 2001 (66 FR 38032), for a five-year period ending on July 20, 2006. TUVPSG submitted a timely request for renewal, dated October 10, 2005 (see Exhibit 1), and retained its recognition pending OSHA's final decision in this renewal process. The current address of the TUVPSG facility recognized by OSHA and included as part of the renewal request is TÜV SÜD Product Services GmbH, Ridlerstrasse 65, D–80339, Munich, Germany.

II. Notice of Preliminary Findings

OSHA is providing notice that TUVPSG is applying for renewal of its current recognition as a NRTL. This renewal covers TUVPSG's existing NRTL scope of recognition. TUVPSG submitted an acceptable application for renewal of its recognition as an NRTL on October 10, 2005. OSHA evaluated TUVPSG's application for renewal and preliminarily determined that TUVPSG can continue to meet the requirements prescribed by 29 CFR 1910.7 for recognition. Accordingly, OSHA is making a determination that it does not need to conduct an on-site review of TUVPSG's facilities based on its evaluations of TUVPSG's application and all other available information, including its most recent audit of TUVPSG's facility conducted on April 26, 2013, in which the auditors found TUVPSG to be in conformance with all applicable NRTL requirements. This preliminary finding does not constitute an interim or temporary approval of the application.

OSHA welcomes public comment as to whether TUVPSG meets the requirements of 29 CFR 1910.7 for renewal of their recognition as an NRTL. Comments should consist of pertinent written documents and exhibits. Commenters needing more time to comment must submit a request in writing, stating the reasons for the request. OSHA must receive the written request for an extension by the due date for comments. OSHA will limit any extension to 30 days unless the requester justifies a longer period. OSHA may deny a request for an extension if it is not adequately justified. To obtain or review copies of the publicly available information in TUVPSG's application and other pertinent documents (including exhibits), as well as all submitted comments, contact the Docket Office, Room N–2625, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address; these materials also are available online at *http://www.regulations.gov* under Docket No. OSHA–2005–0022.

The NRTL Program staff will review all comments to the docket submitted in a timely manner and, after addressing the issues raised by these comments, will recommend whether to grant TUVPSG's application for renewal. The Assistant Secretary will make the final decision on granting the application and, in making this decision, may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7. OSHA will publish a public notice of this final decision in the **Federal Register.**

III. Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for

Occupational Safety and Health, 200 Constitution Avenue NW., Washington, DC 20210, authorized the preparation of this notice. Accordingly, the Agency is issuing this notice pursuant to Section 8(g)(2) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 657(g)(2)), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on November 19, 2013.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2013–28092 FILED 11–22–13; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2013–0012]

Modification to the Scopes of Recognition of Several NRTLs; Final Determination

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

ACTION: Notice.

SUMMARY: In this notice, OSHA is making a final determination to delete specific test standards from the scopes of recognition of several Nationally Recognized Testing Laboratories (NRTLs), and to incorporate replacement test standards into the scopes of recognition of several NRTLs.

DATES: The actions contained in this notice will become effective on November 25, 2013.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693–1999; email: *meilinger.francis2@dol.gov*.

General and technical information: Contact Mr. David Johnson, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, Room N–3655, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–2110; email: *johnson.david.w@dol.gov*.

Copies of this ***Federal Register*** *notice:* Electronic copies of this **Federal Register** notice are available at *http://www.regulations.gov.* This Federal Register notice, as well as other relevant information, is also available on OSHA's Web page at *http://www.osha.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

In a notice published in the **Federal Register** on June 26, 2013 (78 FR 38389), OSHA proposed to delete specific test standards from the scopes of recognition of several NRTLs, and incorporate replacement test standards into the scopes of recognition of several NRTLs. OSHA now is issuing its final determination with respect to that proposal.

The NRTL Program recognizes organizations that provide product-safety testing and certification services to manufacturers. For the purposes of OSHA's NRTL Program, these organizations test and certify specific products used in the workplace to U.S. consensus-based product-safety test standards. OSHA does not develop or issue these test standards, but generally relies on U.S. standards-development organizations (SDOs) accredited by the American National Standards Institute (ANSI). The products covered by the NRTL Program consist of those items for which OSHA safety standards require certification by an NRTL. The requirements affect electrical products and 38 other types of products.

OSHA recognition of an organization as an NRTL signifies that the organization meets the legal requirements in the NRTL Program regulations at 29 CFR 1910.7 and the NRTL Program policies in CPL 1–0.3 NRTL Program Policies, Procedures, and Guidelines, December 2, 1999 (''Directive''). Recognition is an acknowledgement by OSHA that the NRTL has the capabilities to perform independent safety testing and certification of the specific products covered within the NRTL's scope of recognition. Recognition of an NRTL by OSHA also allows employers to use products certified by that NRTL to meet those OSHA standards that require product testing and certification (29 CFR 1910.7(a)).

An NRTL's scope of recognition consists, in part, of specific test standard(s) approved by OSHA for use by the NRTL. Pursuant to the NRTL Program regulations, the NRTL must first request to have a test standard included in its scope of recognition. OSHA will grant the NRTL's request only if the NRTL has the capability to test and examine equipment [1] and materials for workplace safety purposes and to determine conformance with the test standard for each relevant item of equipment or material that it lists, labels, or accepts (29 CFR 1910.7(b)(1)). Capability includes proper testing equipment and facilities, trained staff, written testing procedures, calibration programs, and quality-control programs. An organization's recognition as an NRTL is, therefore, not for products, but for appropriate test standards covering a type of product(s) (29 CFR 1910.7(b)(1)).

Additionally, for OSHA to consider a test standard appropriate, the test standard must be current, and it must specify the safety requirements for a specific type of product(s) (29 CFR 1910.7(c)). OSHA policy provides that a document specifies safety requirements for a specific type product(s) if the document includes ''features, parts, capabilities, usage limitations, or installation requirements which if they did not exist would create a potential hazard in using the equipment'' (Directive, App. D.IV.B). However, OSHA policy also provides that the document not ''focus primarily on usage, installation, or maintenance requirements'' (Directive, App. D.IV.B). Finally, as OSHA requires the testing and certification of certain products only (29 CFR 1910.7(a)), an NRTL's scope of recognition should not include test standards that do not specify safety requirements for products for which OSHA does not require testing and certification (Directive, App. D.IV.A).

II. OSHA's Rationale for Deleting Specific Test Standards From, and Incorporating Replacement Test Standards Into, NRTLs' Scopes of Recognition

In its June 26, 2013, **Federal Register** notice, OSHA provided several reasons for proposing to delete specific test standards from the scopes of recognition of several NRTLs, and incorporate replacement test standards into the scopes of recognition of several NRTLs. OSHA restates these reasons below.

A. Deleting Withdrawn Test Standards From, and Incorporating Replacement Test Standards Into, NRTLs' Scopes of Recognition

In the June 26, 2013, **Federal Register** notice, OSHA proposed to delete test standards withdrawn by SDOs from the scopes of recognition of several NRTLs. OSHA also proposed to replace some of the withdrawn (and deleted) test

[1] In this notice, OSHA uses the terms ''equipment'' and ''product'' or ''products'' interchangeably.

standards with comparable test standards.

The NRTL Program regulations require that appropriate test standards be current (29 CFR 1910.7(c)). A test standard withdrawn by an SDO is no longer considered an appropriate test standard (Directive, App. C.XIV.B). It is OSHA's policy to remove recognition of withdrawn test standards by issuing a correction notice in the **Federal Register** for all NRTLs recognized for the withdrawn test standards. However, OSHA will recognize an NRTL for an appropriate replacement test standard if the NRTL has the requisite testing and evaluation capability to perform the replacement test standard.

One method OSHA may use to determine such capability involves an analysis as to whether any testing and evaluation requirements of existing test standards in an NRTL's scope are comparable (i.e., are completely or substantially identical) to the requirements in the replacement test standard. If OSHA's analysis shows the replacement test standard does not require additional or different technical capability than an existing test standard(s), the replacement test standard is comparable to the existing test standard(s), and OSHA can add the replacement test standard to affected NRTLs' scopes of recognition.

If OSHA's analysis shows the replacement test standard requires an additional or different technical capability, the replacement test standard is not comparable to any existing test standards. In such cases (i.e., when a test standard is not comparable), each affected NRTL that seeks to have OSHA add the replacement test standard to the NRTL's scope of recognition must provide information to OSHA that demonstrates its technical capability to perform that replacement test standard.

B. Deleting Inappropriate Test Standards From NRTLs' Scopes of Recognition

In the June 26, 2013, **Federal Register** notice, OSHA proposed to delete specific test standards from the scopes of recognition of several NRTLs based on a recent internal review in which the NRTL Program staff determined that several test standards currently in the NRTLs' scopes of recognition did not conform to the definition of appropriate test standard outlined in NRTL Program regulations and policy. OSHA added these test standards to the affected NRTLs' scopes of recognition before it issued the NRTL Program Directive; the Directive clarified the meaning of ''appropriate test standard.'' After issuing the Directive, OSHA deleted some test standards from NRTLs' scopes of recognition because those test standards were not appropriate test standards (see 70 FR 11273, March 8, 2005). After further review of the entire list of test standards included under the NRTL Program, OSHA determined that it should delete additional test standards from NRTLs' scopes of recognition. In all cases, these deletions are programmatic corrections only, and do not reflect OSHA's view of the technical merits of the test standards. In addition, deleting these documents from the NRTLs' scopes of recognition does not prevent testing organizations (including NRTLs) from using the deleted documents for their testing activities.

The NRTL Program staff identified four issues that would disqualify a test standard from being appropriate for the NRTL Program. First, the test standard provides the methodology for a test, and not the standards for testing. In such cases, the documentation for the test standard describes a test method rather than an appropriate test standard (29 CFR 1910.7(c)). As stated above, a test standard must specify the safety requirements for a specific type of product(s). A test method is a ''specified technical procedure for performing a test'' (Directive, App. B). As such, a test method is not an appropriate test standard. While an NRTL may use a test method to determine if a specific product meets certain safety requirements, a test method is not itself a safety requirement for that product.

Second, several of the documents focus primarily on usage, installation, or maintenance requirements. As stated above, such documents are not appropriate test standards (Directive, App. D.IV.B).

Third, some of the test standards are not appropriate because they cover products for which OSHA does not require testing and certification (Directive, App. D.IV.A). While OSHA initially recognized these test standards for use in the NRTL Program and many of these test standards specifically address safety testing, they do not address safety testing relevant to any OSHA standard that requires testing and certification under the NRTL Program. As such, OSHA proposed to remove these test standards from the NRTL Program's list of appropriate test standards.

Finally, several of the test standards cover electrical-product components, such as transformers, resistors, and capacitors used in television-type appliances. These test standards apply to types of components that have limitation(s) or condition(s) on their use in that they are not appropriate for use as end-use products. These documents also specify that these types of components are for use only as part of an end-use product. NRTLs, however, evaluate such components only in the context of evaluating whether end-use products requiring NRTL approval are safe for use in the workplace. Testing such components alone would not indicate that the end-use products containing the components are safe for use. Accordingly, as a matter of policy, OSHA considers test standards covering such components are not appropriate test standards under the NRTL Program. OSHA notes, however, that it did not propose to delete from NRTLs' scopes of recognition any test standards covering end-use products that contain such components.[2]

In addition, OSHA notes that, to conform to a test standard covering an end-use product, an NRTL must still determine that the components in the product comply with these components' specific test standards, some of which OSHA proposed to delete in the June 26, 2013, **Federal Register** notice. In making this determination, NRTLs may test the components themselves, or accept the testing of a qualified testing organization that a given component conforms to its particular test standard. OSHA reviews each NRTL's procedures to determine which approach the NRTL will use to address components, and reviews the end-use product testing to verify that the NRTL appropriately addresses the product's components.

III. Summary and Analysis of Comments

OSHA provided 30 days for the public to submit comments on the proposed scope modification, and the comment period ended on July 26, 2013 (78 FR 38389, June 26, 2013). OSHA sought the following input on whether the actions OSHA proposed in the tables were appropriate:

1. OSHA sought comment on whether its proposed deletions and incorporations were appropriate, and whether it omitted any appropriate replacement test standard that is comparable to a withdrawn test standard.

2. In addition, the test standards OSHA proposed to delete included only

[2] OSHA notes also that some types of devices covered by these documents, such as capacitors and transformers, may be end-use products themselves, and tested under other test standards applicable to such products. For example, the following test standard covers transformers that are end-use products: UL 1562 Standard for Transformers, Distribution, Dry-Type—Over 600 Volts. OSHA did not propose to delete such test standards from NRTLs' scopes of recognition.

withdrawn or otherwise inappropriate standards of which OSHA became aware on or before May 1, 2013. OSHA sought input on whether individual NRTLs' scopes of recognition contain any additional withdrawn or otherwise inappropriate test standards.

OSHA received two comments—one from the Canadian Standards Association (CSA), a currently recognized NRTL, and one from the National Electrical Manufacturers Association (NEMA), a trade association. Both comments are available for viewing at *www.regulations.gov* under docket number OSHA–2013–0012. The remainder of this section discusses, and responds to, these comments.

A. Component Test Standards

Both CSA and NEMA voiced concern about the effect of OSHA's proposed deletion of component test standards from NRTLs' scopes of recognition. CSA agreed that ''[t]he withdrawal of component standards does not affect our certification or testing,'' but asked how OSHA planned on ''addressing component acceptance issues'' if ''clients or external bodies ask for [proof] of accreditation.'' Similarly, NEMA wanted assurance that ''NRTLs [will] continue to support [client data acceptance programs] even if the test standard is not appropriate under the NRTL Program.'' These concerns do not address OSHA's preliminary determination that test standards that apply only to components and not to end-use products are not appropriate test standards under the NRTL Program. Whether NRTLs choose to continue to support client data-acceptance programs that are outside the scope of the NRTL Program is a matter for NRTLs and their clients to negotiate. However, OSHA reiterates that, to conform to a test standard covering an end-use product, an NRTL must still determine that the components in the product comply with these components' specific test standards, some of which OSHA proposed to delete in June 26, 2013, Federal Register notice. In making this determination, NRTLs may test the components themselves, or accept the testing and certification of a qualified testing organization that a given component conforms to its particular test standard. OSHA will continue to review each NRTL's procedures to determine which approach the NRTL will use to address components, and will review the end-use product testing to verify that the NRTL appropriately addressed that product's components.

CSA also raised specific concern with the removal of UL 207, the Standard for Nonelectrical Refrigerant Containing Components and Accessories. CSA stated that while they agree that UL 207 ''covers refrigerant containing components that are used as components within end use products,'' the test standard also covers ''components that are added by themselves in an installation (adding a filter-drier into an air-conditioning installation, for example).'' After reviewing UL 207, OSHA now concludes that UL 207 does not cover components that are not appropriate for use as end-use products. OSHA agrees with CSA that products tested to UL 207 may be added by themselves in an installation. However, OSHA points out that UL 207 covers products for which OSHA does not require testing and certification. As outlined in Section II. B. above, test standards are not appropriate when they cover products for which OSHA does not require testing and certification (Directive, App. D.IV.A).

B. Inclusion of Additional Test Standards

CSA commented that UL 60601–1, one of the replacement test standards proposed by OSHA, ''by itself is insufficient to cover X-rays,'' and asked whether OSHA would incorporate into its list of appropriate test standards the third edition of ANSI/AAMI ES60601–1, which adopted some of the standards necessary to sufficiently cover X-rays. NEMA had a similar comment, but noted that the third edition of the ANSI/AAMI standard was not a comparable replacement test standard; NEMA asked OSHA to publish a separate **Federal Register** notice addressing the issue of incorporating the third edition of the ANSI/AAMI standard.

UL, the SDO responsible for UL 187, withdrew the test standard and determined that UL 60601–1 is the appropriate replacement test standard. While OSHA believes ANSI/AAMI ES60601–1 may also be an appropriate test standard, OSHA finds that ANSI/AAMI ES60601–1 differs significantly from UL 187 and UL 60601–1, the standard designated to replace UL 187. Accordingly, in this **Federal Register** notice, OSHA only incorporates comparable replacement test standards into its list of appropriate test standards and into NRTLs' scopes of recognition. Pursuant to OSHA's existing policy, it incorporates new test standards into its list of appropriate test standards and into NRTLs' scopes of recognition only when it (1) processes an NRTL's application for recognition (either initial or expansion), or (2) incorporates into the scope of recognition of an NRTL a comparable replacement test standard for a withdrawn test standard (Directive, Ch. 2 and App. C.XIV.B), as it is doing through this **Federal Register** notice. OSHA may publish later a separate Federal Register notice proposing to incorporate ANSI/AAMI ES60601–1 into its list of appropriate test standards and into affected NRTLs' scopes of recognition.

CSA also asked OSHA to consider the following test standards, specific to x-ray equipment, as replacement test standards: ISO/IEC 60601–1–3, 60601–2–8, 60601–2–28, 60601–32, 60601–2–43, 60601–2–44, 60601–2–45, and 60601–2–54. Pursuant to 29 CFR 1910.7(c)(1), an appropriate test standard must be ''[r]ecognized in the United States as a safety standard providing an adequate level of safety.'' None of these test standards have been so recognized in the United States. Should any or all these test standards become so recognized in the United States, OSHA may publish a **Federal Register** notice proposing to incorporate one or more of the test standards into its list of appropriate test standards and into NRTLs' scopes of recognition (as appropriate).

NEMA also asked OSHA to publish a separate **Federal Register** notice addressing the issue of incorporating the IEC 60079, 61241, and 61779 series of safety standards. OSHA may publish a **Federal Register** notice proposing to incorporate the IEC 60079 and 61241 series of standards into its list of appropriate test standards. OSHA also will act on the pending applications for expansion referenced by NEMA. OSHA notes, however, that it will not consider incorporating the 61779 series of safety standards into NRTLs' scopes of recognition because this series of standards include performance requirements only, and not safety requirements for specific equipment. While the 61779 series of test standards may address some safety concerns, they do not focus on product-specific safety requirements. Instead, they focus on the performance and accuracy that relate specifically to the operations of the product. As such, these performance standards are not appropriate test standards under the requirements of the NRTL Program found in 29 CFR 1910.7.

IV. Deleting Specific Test Standards From, and Incorporating Replacement Test Standards Into, NRTLs' Scopes of Recognition—Final Decision

Table 1 lists the test standards that OSHA is deleting from the NRTL Program's list of appropriate test standards. Table 1 also provides an abbreviated rationale for OSHA's

actions, and lists the corresponding replacement test standards that OSHA incorporates into the NRTLs' scopes of recognition (when applicable). In most cases, OSHA already incorporated the replacement test standards into the affected NRTLs' scopes of recognition. OSHA takes one of the following actions with respect to the remaining cases:

1. OSHA incorporates, for all affected NRTLs, comparable test standards that SDOs adopted to replace the withdrawn (and deleted) test standards; or

2. OSHA incorporates, for all affected NRTLs, appropriate test standards that OSHA concludes are comparable to the withdrawn (and deleted) test standards.

Table 1 lists the subject test standards and the action OSHA is taking with regard to each of these test standards, but does not indicate how these actions affect individual NRTLs' scopes of recognition. Section V of this notice lists the modifications OSHA is making to each individual NRTL's scope of recognition as a result of these actions.

TABLE 1—LIST OF TEST STANDARDS OSHA IS DELETING FROM OR INCORPORATING INTO NRTLS' SCOPES OF RECOGNITION

Deleted test standard	Reason for deletion	Replacement test standard(s) (if applicable)
ANSI A90.1 Safety Standard for Belt Manlifts	29 CFR 1910.68 does not require testing and certification for covered product(s); also not an appropriate test standard because it covers primarily the manufacture, installation, maintenance, inspection, and operation of manlifts, not safety testing.	Not applicable (NA).
ASTM E2074 Standard Test Method for Fire Tests of Door Assemblies, Including Positive Pressure Testing of Side-Hinged and Pivoted Swinging Door Assemblies.	Withdrawn	No replacement.
ANSI/NFPA 11A Medium- and High-Expansion Foam Systems.	Withdrawn; moreover, OSHA standards do not require testing and certification for covered systems.	NA. Although replaced by ANSI/NFPA 11, ANSI/NFPA 11 is not an appropriate test standard (see 75 FR 77002, 77004–77005, Dec. 10, 2010, for discussion of why ANSI/NFPA 11 is not appropriate).
ANSI/NFPA 20 Installation of Stationary Fire Pumps for Fire Protection.	Not an appropriate test standard because it covers primarily the selection and installation of these pumps, not safety testing.	NA.
UL 94 Tests for Flammability of Plastic Materials for Parts in Devices and Appliances.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 187 X Ray Equipment	Withdrawn	UL 60601–1 Medical Electrical Equipment, Part 1: General Requirements for Safety (see Note 1 below).
UL 207 Refrigerant-Containing Components and Accessories, Nonelectrical.	No requirement for NRTL approval because the standard covers products for which OSHA does not require testing and certification.	NA.
UL 343 Pumps for Oil-Burning Appliances	No requirement for NRTL approval of this type of pump.	NA.
UL 512 Fuseholders	Withdrawn	UL 4248–1 Fuseholders—Part 1: General Requirements; UL 4248–4 Fuseholders—Part 4: Class CC; UL 4248–5 Fuseholders—Part 5: Class G; UL 4248–6 Fuseholders—Part 6: Class H; UL 4248–8 Fuseholders—Part 8: Class J; UL 4248–9 Fuseholders—Part 9: Class K; UL 4248–11 Fuseholders—Part 11: Type C (Edison Base) and Type S Plug Fuse; UL 4248–12—Fuseholders—Part 12: Class R; UL 4248–15 Fuseholders—Part 15: Class T (for all replacement standards, see Note 1 below).
UL 544 Medical and Dental Equipment	Withdrawn	UL 60601–1 Medical Electrical Equipment, Part 1: General Requirements for Safety (see Note 1 below).
UL 632 Electrically-Actuated Transmitters	Withdrawn	No replacement.
UL 651B Continuous Length HDPE Conduit	Withdrawn	UL 651A Schedule 40 and 80 High Density Polyethylene (HDPE) Conduit (see Note 1 below).
UL 698 Industrial Control Equipment for Use in Hazardous (Classified) Locations.	Withdrawn	UL 1203 Explosion Proof and Dust Ignition Proof Electrical Equipment for Use in Hazardous (Classified) Locations (see Note 1 below).
UL 745–2–2 Particular Requirements for Screwdrivers and Impact Wrenches.	Withdrawn	UL 60745–2–2 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–2: Particular Requirements for Screwdrivers and Impact Wrenches (see Note 1 below).

TABLE 1—LIST OF TEST STANDARDS OSHA IS DELETING FROM OR INCORPORATING INTO NRTLS' SCOPES OF RECOGNITION—Continued

Deleted test standard	Reason for deletion	Replacement test standard(s) (if applicable)
UL 745–2–4 Particular Requirements for Sanders.	Withdrawn	UL 60745–2–4 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–4: Particular Requirements for Sanders and Polishers Other Than Disk Type (see Note 1 below).
UL 745–2–6 Particular Requirements for Hammers.	Withdrawn	UL 60745–2–6 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–6: Particular Requirements for Hammers (see Note 1 below).
UL 745–2–8 Particular Requirements for Shears and Nibblers.	Withdrawn	UL 60745–2–8 Hand-Held Motor-Operated Electric Tools Safety—Part 2–8: Particular Requirements for Shears and Nibblers (see Note 1 below).
UL 745–2–9 Particular Requirements for Tappers.	Withdrawn	UL 60745–2–9 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–9: Particular Requirements for Tappers (see Note 1 below).
UL 745–2–11 Particular Requirements for Reciprocating Saws.	Withdrawn	UL 60745–2–11 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–11: Particular Requirements for Reciprocating Saws (see Note 1 below).
UL 745–2–12 Particular Requirements for Concrete Vibrators.	Withdrawn	UL 60745–2–12 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–12: Particular Requirements For Concrete Vibrators (see Note 1 below).
UL 745–2–30 Particular Requirements for Staplers.	Withdrawn	UL 60745–2–16 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–16: Particular Requirements for Tackers (see Note 1 below).
UL 745–2–33 Particular Requirements for Portable Bandsaw.	Withdrawn	UL 60745–2–20 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–20: Particular Requirements For Band Saws (see Note 1 below).
UL 745–2–34 Particular Requirements for Strapping Tools.	Withdrawn	UL 60745–2–18 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–18: Particular Requirements For Strapping Tools (see Note 1 below).
UL 746A Polymeric Materials Short Term Property Evaluations.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 746B Polymeric Materials Long Term Property Evaluations.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 746C Polymeric Materials—Use in Electrical Equipment Evaluations.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 746E Polymeric Materials—Industrial Laminates, Filament Wound Tubing, Vulcanized Fibre, and Materials Used in Printed-Wiring Boards.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 781 Portable Electric Lighting Units for Use in Hazardous (Classified) Locations.	Withdrawn	UL 844 Electric Lighting Fixtures for Use in Hazardous (Classified) Locations (see Note 1 below).
UL 796 Printed-Wiring Boards	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 877 Circuit Breakers and Circuit Breaker Enclosures for Use in Hazardous (Classified) Locations (UL 1203).	Withdrawn	UL 1203 Explosion Proof and Dust Ignition Proof Electrical Equipment for Use in Hazardous (Classified) Locations (see Note 1 below).
UL 886 Outlet Boxes and Fittings for Use in Hazardous (Classified) Locations.	Withdrawn	UL 1203 Explosion Proof and Dust Ignition Proof Electrical Equipment for Use in Hazardous (Classified) Locations (see Note 1 below).
UL 894 Switches for Use in Hazardous (Classified) Locations.	Withdrawn	UL 1203 Explosion Proof and Dust Ignition Proof Electrical Equipment for Use in Hazardous (Classified) Locations (see Note 1 below).
UL 983 Surveillance Camera Units	Withdrawn	No replacement.

TABLE 1—LIST OF TEST STANDARDS OSHA IS DELETING FROM OR INCORPORATING INTO NRTLS' SCOPES OF RECOGNITION—Continued

Deleted test standard	Reason for deletion	Replacement test standard(s) (if applicable)
UL 1002 Electrically Operated Valves for Use in Hazardous (Classified) Locations.	Withdrawn	UL 1203 Explosion Proof and Dust Ignition Proof Electrical Equipment for Use in Hazardous (Classified) Locations (see Note 1 below).
UL 1005 Electric Flatirons	Withdrawn	UL 60335–2–3 Household and Similar Electrical Appliances, Part 2: Particular Requirements for Electric Irons (see Note 1 below).
UL 1010 Receptacle Plug Combinations for Use in Hazardous (Classified) Locations.	Withdrawn	UL 1203 Explosion Proof and Dust Ignition Proof Electrical Equipment for Use in Hazardous (Classified) Locations (see Note 1 below).
UL 1075 Gas-Fired Cooking Appliances for Recreational Vehicles.	Withdrawn	No replacement.
UL 1097 Double Insulation Systems for Use in Electrical Equipment.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 1411 Transformers and Motor Transformers for Use In Audio-, Radio-, and Television-Type Appliances.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 1412 Fusing Resistors and Temperature-Limited Resistors for Radio-, and Television-Type Appliances.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 1413 High Voltage Components for Television Type Appliances.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 1414 Across-the-Line, Antenna-Coupling, and Line- by-Pass Capacitors for Radio- and Television-Type Appliances.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 1416 Overcurrent and Overtemperature Protectors for Radio- and Television-Type Appliances.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 1417 Special Fuses for Radio- and Television-Type Appliances.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 1433 Control Centers for Changing Message Type Electric Signs.	Withdrawn	No replacement.
UL 1445 Electric Water Bed Heaters	Withdrawn	No replacement.
UL 1604 Electrical Equipment for Use in Class I and II, Division 2 and Class III Hazardous (Classified) Locations.	Withdrawn	ANSI/ISA–12.12.01 Nonincendive Electrical Equipment for Use in Class I and II, Division 2 and Class III, Divisions 1 and 2 Hazardous (Classified) Locations (see Note 1 below).
UL 1664 Immersion Detection Circuit Interrupters.	Withdrawn	No replacement.
UL 1666 Test for Flame Propagation Height of Electrical and Optical Fiber Cables Installed Vertically in Shafts.	Test method; therefore, not an appropriate test standard.	NA.
UL 1684 Reinforced Thermosetting Resin Conduit (RTRC) and Fittings.	Withdrawn	UL 2420 Belowground Reinforced Thermosetting Resin Conduit (RTRC) and Fittings and UL 2515 Aboveground Reinforced Thermosetting Resin Conduit (RTRC) and Fittings (for both replacement standards, see Note 1 below).
UL 1686 Pin and Sleeve Configurations	Not an appropriate test standard; does not specify safety requirements for covered devices; provides the physical dimensions for covered devices only.	NA.
UL 1692 Polymeric Materials Coil Forms	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 1694 Tests for Flammability of Small Polymeric Component Materials.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 2106 Field Erected Boiler Assemblies	No requirement for NRTL approval in OSHA requirements; test standard applies to boilers burning fuel.	NA.
UL 60691 Thermal Links Requirements and Application Guide.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.

Note 1: OSHA believes the replacement test standard is comparable to the withdrawn test standard. Therefore, OSHA is incorporating the replacement test standard into affected NRTLs' scopes of recognition without requiring affected NRTLs to further demonstrate capability, as specified by 29 CFR 1910.7(b)(1). OSHA notes that such action is not necessary for those NRTLs with scopes of recognition that already include the replacement test standard.

V. Modification to NRTLs' Scopes of Recognition—Final Determination

The tables in this section (Table 2 thru Table 13) list, for each affected NRTL, the test standard(s) that OSHA is deleting from the scope of recognition of the NRTL and, when applicable, the comparable replacement test standard(s) that OSHA incorporates into the scope of recognition of that NRTL to replace withdrawn (and deleted) test standards.

OSHA will incorporate into its informational Web pages the modifications OSHA is making to each NRTL's scope of recognition. These Web pages detail the scope of recognition for each NRTL, including the test standards the NRTL may use to test and certify products under OSHA's NRTL Program. OSHA also will add, to its ''Composite List of Standards Recognized Under the NRTL Program'' Web page, those test standards it is incorporating into affected NRTLs' scopes of recognition, and add, to its ''Composite List of Test Standards No Longer Recognized'' Web page, those test standards that OSHA no longer recognizes or permits under the NRTL Program. Access to these Web pages is available at *http://www.osha.gov/dts/otpca/nrtl/index.html*.

OSHA is making the following revisions to the scopes of recognition of individual NRTLs:

TABLE 2—TEST STANDARDS OSHA IS DELETING FROM OR INCORPORATING INTO THE SCOPE OF RECOGNITION OF THE CANADIAN STANDARDS ASSOCIATION (CSA)

Deleted test standard	Reason for deletion	Replacement test standard(s) (if applicable)
UL 94 Tests for Flammability of Plastic Materials for Parts in Devices and Appliances.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 187 X Ray Equipment	Withdrawn	UL 60601–1 Medical Electrical Equipment, Part 1: General Requirements for Safety (see Note 2 below).
UL 207 Refrigerant-Containing Components and Accessories, Nonelectrical.	No requirement for NRTL approval because the standard covers products for which OSHA does not require testing and certification.	NA.
UL 343 Pumps for Oil-Burning Appliances	No requirement for NRTL approval of this type of pump.	NA.
UL 512 Fuseholders	Withdrawn	UL 4248–1 Fuseholders—Part 1: General Requirements UL 4248–4 Fuseholders—Part 4: Class CC UL 4248–5 Fuseholders—Part 5: Class G UL 4248–6 Fuseholders—Part 6: Class H UL 4248–8 Fuseholders—Part 8: Class J UL 4248–9 Fuseholders—Part 9: Class K UL 4248–11 Fuseholders—Part 11: Type C (Edison Base) and Type S Plug Fuse UL 4248–12 Fuseholders—Part 12: Class R UL 4248–15 Fuseholders—Part 15: Class T (for all replacement standards, see Note 3 below).
UL 544 Medical and Dental Equipment	Withdrawn	UL 60601–1 Medical Electrical Equipment, Part 1: General Requirements for Safety (see Note 2 below).
UL 632 Electrically-Actuated Transmitters	Withdrawn	No replacement.
UL 651B Continuous Length HDPE Conduit	Withdrawn	UL 651A Schedule 40 and 80 High Density Polyethylene (HDPE) Conduit (see Note 2 below).
UL 698 Industrial Control Equipment for Use in Hazardous (Classified) Locations.	Withdrawn	UL 1203 Explosion Proof and Dust Ignition Proof Electrical Equipment for Use in Hazardous (Classified) Locations (see Note 2 below).
UL 745–2–2 Particular Requirements for Screwdrivers and Impact Wrenches.	Withdrawn	UL 60745–2–2 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–2: Particular Requirements for Screwdrivers and Impact Wrenches (see Note 3 below).
UL 745–2–4 Particular Requirements for Sanders.	Withdrawn	UL 60745–2–4 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–4: Particular Requirements for Sanders and Polishers Other Than Disk Type (see Note 3 below).
UL 745–2–6 Particular Requirements for Hammers.	Withdrawn	UL 60745–2–6 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–6: Particular Requirements for Hammers (see Note 3 below).

TABLE 2—TEST STANDARDS OSHA IS DELETING FROM OR INCORPORATING INTO THE SCOPE OF RECOGNITION OF THE CANADIAN STANDARDS ASSOCIATION (CSA)—Continued

Deleted test standard	Reason for deletion	Replacement test standard(s) (if applicable)
UL 745–2–8 Particular Requirements for Shears and Nibblers.	Withdrawn	UL 60745–2–8 Hand-Held Motor-Operated Electric Tools Safety—Part 2–8: Particular Requirements for Shears and Nibblers (see Note 3 below).
UL 745–2–9 Particular Requirements for Tappers.	Withdrawn	UL 60745–2–9C Motor-Operated Electric Tools—Safety—Part 2–9: Particular Requirements for Tappers (see Note 3 below).
UL 745–2–11 Particular Requirements for Reciprocating Saws.	Withdrawn	UL 60745–2–11 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–11: Particular Requirements for Reciprocating Saws (see Note 3 below).
UL 745–2–12 Particular Requirements for Concrete Vibrators.	Withdrawn	UL 60745–2–12 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–12: Particular Requirements For Concrete Vibrators (see Note 3 below).
UL 745–2–30 Particular Requirements for Staplers.	Withdrawn	UL 60745–2–16 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–16: Particular Requirements for Tackers (see Note 3 below).
UL 745–2–33 Particular Requirements for Portable Bandsaw.	Withdrawn	UL 60745–2–20 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–20: Particular Requirements For Band Saws (see Note 3 below).
UL 745–2–34 Particular Requirements for Strapping Tools.	Withdrawn	UL 60745–2–18 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–18: Particular Requirements For Strapping Tools (see Note 3 below).
UL 746A Polymeric Materials Short Term Property Evaluations.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 746B Polymeric Materials Long Term Property Evaluations.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 746C Polymeric Materials—Use in Electrical Equipment Evaluations.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 746E Polymeric Materials—Industrial Laminates, Filament Wound Tubing, Vulcanized Fibre, and Materials Used in Printed-Wiring Boards.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 781 Portable Electric Lighting Units for Use in Hazardous (Classified) Locations.	Withdrawn	UL 844 Electric Lighting Fixtures for Use in Hazardous (Classified) Locations (see Note 2 below).
UL 796 Printed-Wiring Boards	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 877 Circuit Breakers and Circuit Breaker Enclosures for Use in Hazardous (Classified) Locations (UL 1203).	Withdrawn	UL 1203 Explosion Proof and Dust Ignition Proof Electrical Equipment for Use in Hazardous (Classified) Locations (see Note 2 below).
UL 886 Outlet Boxes and Fittings for Use in Hazardous (Classified) Locations.	Withdrawn	UL 1203 Explosion Proof and Dust Ignition Proof Electrical Equipment for Use in Hazardous (Classified) Locations (see Note 2 below).
UL 894 Switches for Use in Hazardous (Classified) Locations.	Withdrawn	UL 1203 Explosion Proof and Dust Ignition Proof Electrical Equipment for Use in Hazardous (Classified) Locations (see Note 2 below).
UL 983 Surveillance Camera Units	Withdrawn	No replacement.
UL 1002 Electrically Operated Valves for Use in Hazardous (Classified) Locations.	Withdrawn	UL 1203 Explosion Proof and Dust Ignition Proof Electrical Equipment for Use in Hazardous (Classified) Locations (see Note 2 below).
UL 1005 Electric Flatirons	Withdrawn	UL 60335–2–3 Household and Similar Electrical Appliances, Part 2: Particular Requirements for Electric Irons (see Note 3 below).

TABLE 2—TEST STANDARDS OSHA IS DELETING FROM OR INCORPORATING INTO THE SCOPE OF RECOGNITION OF THE CANADIAN STANDARDS ASSOCIATION (CSA)—Continued

Deleted test standard	Reason for deletion	Replacement test standard(s) (if applicable)
UL 1010 Receptacle Plug Combinations for Use in Hazardous (Classified) Locations.	Withdrawn	UL 1203 Explosion Proof and Dust Ignition Proof Electrical Equipment for Use in Hazardous (Classified) Locations (see Note 2 below).
UL 1097 Double Insulation Systems for Use in Electrical Equipment.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 1411 Transformers and Motor Transformers for Use In Audio-, Radio-, and Television-Type Appliances.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 1412 Fusing Resistors and Temperature-Limited Resistors for Radio-, and Television-Type Appliances.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 1413 High Voltage Components for Television Type Appliances.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 1414 Across-the-Line, Antenna-Coupling, and Line- by-Pass Capacitors for Radio- and Television-Type Appliances.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 1416 Overcurrent and Overtemperature Protectors for Radio- and Television-Type Appliances.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 1417 Special Fuses for Radio- and Television-Type Appliances.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 1433 Control Centers for Changing Message Type Electric Signs.	Withdrawn	No replacement.
UL 1604 Electrical Equipment for Use in Class I and II, Division 2 and Class III Hazardous (Classified) Locations.	Withdrawn	ANSI/ISA—12.12.01–2012 Nonincendive Electrical Equipment for Use in Class I and II, Division 2 and Class III, Divisions 1 and 2 Hazardous (Classified) Locations (see Note 3 below).
UL 1664 Immersion Detection Circuit Interrupters.	Withdrawn	No replacement.
UL 1666 Test for Flame Propagation Height of Electrical and Optical Fiber Cables Installed Vertically in Shafts.	Test method; therefore, not an appropriate test standard.	NA.
UL 1684 Reinforced Thermosetting Resin Conduit (RTRC) and Fittings.	Withdrawn	UL 2420 Belowground Reinforced Thermosetting Resin Conduit (RTRC) and Fittings and UL 2515 Aboveground Reinforced Thermosetting Resin Conduit (RTRC) and Fittings (for both replacement standards, see Note 3 below).
UL 60691 Thermal-Links Requirements and Application Guide.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.

Note 2: OSHA believes the replacement test standard is comparable to the withdrawn test standard. Moreover, OSHA already includes the replacement test standard in the NRTL's scope of recognition. Therefore, no further demonstration of capability is necessary at this time.

Note 3: OSHA believes the replacement test standard is comparable to the withdrawn test standard. Therefore, OSHA is incorporating the replacement test standard into the NRTLs' scopes of recognition without requiring the NRTL to further demonstrate capability, as specified by 29 CFR 1910.7(b)(1).

TABLE 3—TEST STANDARDS OSHA IS DELETING FROM OR INCORPORATING INTO THE SCOPE OF RECOGNITION OF CURTIS-STRAUS LLC

Deleted test standard	Reason for deletion	Replacement test standard(s) (if applicable)
UL 544 Medical and Dental Equipment	Withdrawn	UL 60601–1 Medical Electrical Equipment, Part 1: General Requirements for Safety (see Note 2 below).

Note 2: OSHA believes the replacement test standard is comparable to the withdrawn test standard. Moreover, OSHA already includes the replacement test standard in the NRTL's scope of recognition. Therefore, no

further demonstration of capability is necessary at this time.

TABLE 4—TEST STANDARDS OSHA IS DELETING FROM OR INCORPORATING INTO THE SCOPE OF RECOGNITION OF FM APPROVALS LLC

Deleted test standard	Reason for deletion	Replacement test standard(s) (if applicable)
UL 698 Industrial Control Equipment for Use in Hazardous (Classified) Locations.	Withdrawn	UL 1203 Explosion Proof and Dust Ignition Proof Electrical Equipment for Use in Hazardous (Classified) Locations (see Note 2 below).
UL 781 Portable Electric Lighting Units for Use in Hazardous (Classified) Locations.	Withdrawn	UL 844 Electric Lighting Fixtures for Use in Hazardous (Classified) Locations (see Note 2 below).
UL 877 Circuit Breakers and Circuit Breaker Enclosures for Use in Hazardous (Classified) Locations (UL 1203).	Withdrawn	UL 1203 Explosion Proof and Dust Ignition Proof Electrical Equipment for Use in Hazardous (Classified) Locations (see Note 2 below).
UL 886 Outlet Boxes and Fittings for Use in Hazardous (Classified) Locations.	Withdrawn	UL 1203 Explosion Proof and Dust Ignition Proof Electrical Equipment for Use in Hazardous (Classified) Locations (see Note 2 below).
UL 894 Switches for Use in Hazardous (Classified) Locations.	Withdrawn	UL 1203 Explosion Proof and Dust Ignition Proof Electrical Equipment for Use in Hazardous (Classified) Locations (see Note 2 below).
UL 1002 Electrically Operated Valves for Use in Hazardous (Classified) Locations.	Withdrawn	UL 1203 Explosion Proof and Dust Ignition Proof Electrical Equipment for Use in Hazardous (Classified) Locations (see Note 2 below).

Note 2: OSHA believes the replacement test standard is comparable to the withdrawn test standard. Moreover, OSHA already includes the replacement test standard in the NRTL's scope of recognition. Therefore, no further demonstration of capability is necessary at this time.

TABLE 5—TEST STANDARDS OSHA IS DELETING FROM OR INCORPORATING INTO THE SCOPE OF RECOGNITION OF INTERTEK TESTING SERVICES NA, INC.

Deleted test standard	Reason for deletion	Replacement test standard(s) (if applicable)
ANSI A90.1 Safety Standard for Belt Manlifts	29 CFR 1910.68 does not require testing and certification for covered product(s); also not an appropriate test standard because it covers primarily the manufacture, installation, maintenance, inspection, and operation of manlifts, not safety testing.	NA.
ASTM E2074 Standard Test Method for Fire Tests of Door Assemblies, Including Positive Pressure Testing of Side-Hinged and Pivoted Swinging Door Assemblies.	Withdrawn	No replacement.
ANSI/NFPA 11A Medium- and High-Expansion Foam Systems.	Withdrawn; moreover, OSHA standards do not require testing and certification for covered systems.	NA. Although replaced by ANSI/NFPA 11, ANSI/NFPA 11 is not an appropriate test standard (see 75 FR 77002, 77004–77005, Dec. 10, 2010, for discussion of why ANSI/NFPA 11 is not appropriate).
ANSI/NFPA 20 Installation of Stationary Fire Pumps for Fire Protection.	Not an appropriate test standard because it covers primarily the selection and installation of these pumps, not safety testing.	NA.
UL 94 Tests for Flammability of Plastic Materials for Parts in Devices and Appliances.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 187 X Ray Equipment	Withdrawn	UL 60601–1 Medical Electrical Equipment, Part 1: General Requirements for Safety (see Note 2 below).
UL 207 Refrigerant-Containing Components and Accessories, Nonelectrical.	No requirement for NRTL approval because the standard covers products for which OSHA does not require testing and certification.	NA.
UL 343 Pumps for Oil-Burning Appliances	No requirement for NRTL approval of this type of pump.	NA.

TABLE 5—TEST STANDARDS OSHA IS DELETING FROM OR INCORPORATING INTO THE SCOPE OF RECOGNITION OF INTERTEK TESTING SERVICES NA, INC.—Continued

Deleted test standard	Reason for deletion	Replacement test standard(s) (if applicable)
UL 512 Fuseholders	Withdrawn	UL 4248–1 Fuseholders—Part 1: General Requirements. UL 4248–4 Fuseholders—Part 4: Class CC. UL 4248–5 Fuseholders—Part 5: Class G. UL 4248–6 Fuseholders—Part 6: Class H. UL 4248–8 Fuseholders—Part 8: Class J. UL 4248–9 Fuseholders—Part 9: Class K. UL 4248–11 Fuseholders—Part 11: Type C (Edison Base) and Type S Plug Fuse. UL 4248–12 Fuseholders—Part 12: Class R. UL 4248–15 Fuseholders—Part 15: Class T (for all replacement standards, see Note 3 below).
UL 544 Medical and Dental Equipment	Withdrawn	UL 60601–1 Medical Electrical Equipment, Part 1: General Requirements for Safety (see Note 2 below).
UL 632 Electrically-Actuated Transmitters	Withdrawn	No replacement.
UL 651B Continuous Length HDPE Conduit	Withdrawn	UL 651A Schedule 40 and 80 High Density Polyethylene (HDPE) Conduit (see Note 2 below).
UL 698 Industrial Control Equipment for Use in Hazardous (Classified) Locations.	Withdrawn	UL 1203 Explosion Proof and Dust Ignition Proof Electrical Equipment for Use in Hazardous (Classified) Locations (see Note 2 below).
UL 745–2–2 Particular Requirements for Screwdrivers and Impact Wrenches.	Withdrawn	UL 60745–2–2 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–2: Particular Requirements for Screwdrivers and Impact Wrenches (see Note 3 below).
UL 745–2–4 Particular Requirements for Sanders.	Withdrawn	UL 60745–2–4 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–4: Particular Requirements for Sanders and Polishers Other Than Disk Type (see Note 3 below).
UL 745–2–6 Particular Requirements for Hammers.	Withdrawn	UL 60745–2–6 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–6: Particular Requirements for Hammers (see Note 3 below).
UL 745–2–8 Particular Requirements for Shears and Nibblers.	Withdrawn	UL 60745–2–8 Hand-Held Motor-Operated Electric Tools Safety—Part 2–8: Particular Requirements for Shears and Nibblers (see Note 3 below).
UL 745–2–9 Particular Requirements for Tappers.	Withdrawn	UL 60745–2–9 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–9: Particular Requirements for Tappers (see Note 3 below).
UL 745–2–11 Particular Requirements for Reciprocating Saws.	Withdrawn	UL 60745–2–11 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–11: Particular Requirements for Reciprocating Saws (see Note 3 below).
UL 745–2–12 Particular Requirements for Concrete Vibrators.	Withdrawn	UL 60745–2–12 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–12: Particular Requirements For Concrete Vibrators (see Note 3 below).
UL 745–2–30 Particular Requirements for Staplers.	Withdrawn	UL 60745–2–16 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–16: Particular Requirements for Tackers (see Note 3 below).
UL 745–2–33 Particular Requirements for Portable Bandsaw.	Withdrawn	UL 60745–2–20 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–20: Particular Requirements For Band Saws (see Note 3 below).
UL 745–2–34 Particular Requirements for Strapping Tools.	Withdrawn	UL 60745–2–18 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–18: Particular Requirements For Strapping Tools (see Note 3 below).
UL 746A Polymeric Materials Short Term Property Evaluations.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.

TABLE 5—TEST STANDARDS OSHA IS DELETING FROM OR INCORPORATING INTO THE SCOPE OF RECOGNITION OF INTERTEK TESTING SERVICES NA, INC.—Continued

Deleted test standard	Reason for deletion	Replacement test standard(s) (if applicable)
UL 746B Polymeric Materials Long Term Property Evaluations.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 746C Polymeric Materials—Use in Electrical Equipment Evaluations.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 746E Polymeric Materials—Industrial Laminates, Filament Wound Tubing, Vulcanized Fibre, and Materials Used in Printed-Wiring Boards.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 781 Portable Electric Lighting Units for Use in Hazardous (Classified) Locations.	Withdrawn	UL 844 Electric Lighting Fixtures for Use in Hazardous (Classified) Locations (see Note 2 below).
UL 796 Printed-Wiring Boards	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 877 Circuit Breakers and Circuit Breaker Enclosures for Use in Hazardous (Classified) Locations (UL 1203).	Withdrawn	UL 1203 Explosion Proof and Dust Ignition Proof Electrical Equipment for Use in Hazardous (Classified) Locations (see Note 2 below).
UL 886 Outlet Boxes and Fittings for Use in Hazardous (Classified) Locations.	Withdrawn	UL 1203 Explosion Proof and Dust Ignition Proof Electrical Equipment for Use in Hazardous (Classified) Locations (see Note 2 below).
UL 894 Switches for Use in Hazardous (Classified) Locations.	Withdrawn	UL 1203 Explosion Proof and Dust Ignition Proof Electrical Equipment for Use in Hazardous (Classified) Locations (see Note 2 below).
UL 983 Surveillance Camera Units	Withdrawn	No replacement.
UL 1002 Electrically Operated Valves for Use in Hazardous (Classified) Locations.	Withdrawn	UL 1203 Explosion Proof and Dust Ignition Proof Electrical Equipment for Use in Hazardous (Classified) Locations (see Note 2 below).
UL 1005 Electric Flatirons	Withdrawn	UL 60335–2–3 Household and Similar Electrical Appliances, Part 2: Particular Requirements for Electric Irons (see Note 3 below).
UL 1010 Receptacle Plug Combinations for Use in Hazardous (Classified) Locations.	Withdrawn	UL 1203 Explosion Proof and Dust Ignition Proof Electrical Equipment for Use in Hazardous (Classified) Locations (see Note 2 below).
UL 1075 Gas-Fired Cooking Appliances for Recreational Vehicles.	Withdrawn	No replacement.
UL 1097 Double Insulation Systems for Use in Electrical Equipment.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 1411 Transformers and Motor Transformers for Use In Audio-, Radio-, and Television-Type Appliances.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 1412 Fusing Resistors and Temperature-Limited Resistors for Radio-, and Television-Type Appliances.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 1413 High Voltage Components for Television Type Appliances.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 1414 Across-the-Line, Antenna-Coupling, and Line- by-Pass Capacitors for Radio- and Television-Type Appliances.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 1416 Overcurrent and Overtemperature Protectors for Radio- and Television-Type Appliances.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 1417 Special Fuses for Radio- and Television-Type Appliances.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 1433 Control Centers for Changing Message Type Electric Signs.	Withdrawn	No replacement.
UL 1445 Electric Water Bed Heaters	Withdrawn	No replacement.

TABLE 5—TEST STANDARDS OSHA IS DELETING FROM OR INCORPORATING INTO THE SCOPE OF RECOGNITION OF INTERTEK TESTING SERVICES NA, INC.—Continued

Deleted test standard	Reason for deletion	Replacement test standard(s) (if applicable)
UL 1604 Electrical Equipment for Use in Class I and II, Division 2 and Class III Hazardous (Classified) Locations.	Withdrawn	ANSI/ISA—12.12.01–2012 Nonincendive Electrical Equipment for Use in Class I and II, Division 2 and Class III, Divisions 1 and 2 Hazardous (Classified) Locations (see Note 2 below).
UL 1664 Immersion Detection Circuit Interrupters.	Withdrawn	No replacement.
UL 1666 Test for Flame Propagation Height of Electrical and Optical Fiber Cables Installed Vertically in Shafts.	Test method; therefore, not an appropriate test standard.	NA.
UL 1694 Tests for Flammability of Small Polymeric Component Materials.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 2106 Field Erected Boiler Assemblies	No requirement for NRTL approval in OSHA requirements; test standard applies to boilers burning fuel.	NA.
UL 60691 Thermal-Links-Requirements and Application Guide.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.

Note 2: OSHA believes the replacement test standard is comparable to the withdrawn test standard. Moreover, OSHA already includes the replacement test standard in the NRTL's scope of recognition. Therefore, no further demonstration of capability is necessary at this time.

Note 3: OSHA believes the replacement test standard is comparable to the withdrawn test standard. Therefore, OSHA is incorporating the replacement test standard into the NRTLs' scopes of recognition without requiring the NRTL to further demonstrate capability, as specified by 29 CFR 1910.7(b)(1).

TABLE 6—TEST STANDARDS OSHA IS DELETING FROM OR INCORPORATING INTO THE SCOPE OF RECOGNITION OF MET LABORATORIES, INC.

Deleted test standard	Reason for deletion	Replacement test standard(s) (if applicable)
UL 187 X Ray Equipment	Withdrawn	UL 60601–1 Medical Electrical Equipment, Part 1: General Requirements for Safety (see Note 2 below).
UL 544 Medical and Dental Equipment	Withdrawn	UL 60601–1 Medical Electrical Equipment, Part 1: General Requirements for Safety (see Note 2 below).
UL 698 Industrial Control Equipment for Use in Hazardous (Classified) Locations.	Withdrawn	UL 1203 Explosion Proof and Dust Ignition Proof Electrical Equipment for Use in Hazardous (Classified) Locations (see Note 2 below).
UL 745–2–2 Particular Requirements for Screwdrivers and Impact Wrenches.	Withdrawn	UL 60745–2–2 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–2: Particular Requirements for Screwdrivers and Impact Wrenches (see Note 3 below).
UL 745–2–4 Particular Requirements for Sanders.	Withdrawn	UL 60745–2–4 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–4: Particular Requirements for Sanders and Polishers Other Than Disk Type (see Note 3 below).
UL 745–2–6 Particular Requirements for Hammers.	Withdrawn	UL 60745–2–6 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–6: Particular Requirements for Hammers (see Note 3 below).
UL 745–2–8 Particular Requirements for Shears and Nibblers.	Withdrawn	UL 60745–2–8 Hand-Held Motor-Operated Electric Tools Safety—Part 2–8: Particular Requirements for Shears and Nibblers (see Note 3 below).
UL 745–2–9 Particular Requirements for Tappers.	Withdrawn	UL 60745–2–9 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–9: Particular Requirements for Tappers (see Note 3 below).
UL 745–2–11 Particular Requirements for Reciprocating Saws.	Withdrawn	UL 60745–2–11 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–11: Particular Requirements for Reciprocating Saws (see Note 3 below).

TABLE 6—TEST STANDARDS OSHA IS DELETING FROM OR INCORPORATING INTO THE SCOPE OF RECOGNITION OF MET LABORATORIES, INC.—Continued

Deleted test standard	Reason for deletion	Replacement test standard(s) (if applicable)
UL 745–2–12 Particular Requirements for Concrete Vibrators.	Withdrawn	UL 60745–2–12 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–12: Particular Requirements For Concrete Vibrators (see Note 3 below).
UL 745–2–30 Particular Requirements for Staplers.	Withdrawn	UL 60745–2–16 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–16: Particular Requirements for Tackers (see Note 3 below).
UL 745–2–33 Particular Requirements for Portable Bandsaw.	Withdrawn	UL 60745–2–20 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–20: Particular Requirements For Band Saws (see Note 3 below).
UL 745–2–34 Particular Requirements for Strapping Tools.	Withdrawn	UL 60745–2–18 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–18: Particular Requirements For Strapping Tools (see Note 3 below).
UL 886 Outlet Boxes and Fittings for Use in Hazardous (Classified) Locations.	Withdrawn	UL 1203 Explosion Proof and Dust Ignition Proof Electrical Equipment for Use in Hazardous (Classified) Locations (see Note 2 below).
UL 983 Surveillance Camera Units	Withdrawn	No replacement.
UL 1005 Electric Flatirons	Withdrawn	UL 60335–2–3 Household and Similar Electrical Appliances, Part 2: Particular Requirements for Electric Irons (see Note 3 below).
UL 1411 Transformers and Motor Transformers for Use In Audio-, Radio-, and Television-Type Appliances.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 1433 Control Centers for Changing Message Type Electric Signs.	Withdrawn	No replacement.
UL 1604 Electrical Equipment for Use in Class I and II, Division 2 and Class III Hazardous (Classified) Locations.	Withdrawn	ANSI/ISA—12.12.01–2012 Nonincendive Electrical Equipment for Use in Class I and II, Division 2 and Class III, Divisions 1 and 2 Hazardous (Classified) Locations (see Note 3 below).

Note 2: OSHA believes the replacement test standard is comparable to the withdrawn test standard. Moreover, OSHA already includes the replacement test standard in the NRTL's scope of recognition. Therefore, no further demonstration of capability is necessary at this time.

Note 3: OSHA believes the replacement test standard is comparable to the withdrawn test standard. Therefore, OSHA is incorporating the replacement test standard into the NRTLs' scopes of recognition without requiring the NRTL to further demonstrate capability, as specified by 29 CFR 1910.7(b)(1).

TABLE 7—TEST STANDARDS OSHA IS DELETING FROM OR INCORPORATING INTO THE SCOPE OF RECOGNITION OF NSF INTERNATIONAL

Deleted test standard	Reason for deletion	Replacement test standard(s) (if applicable)
UL 651B Continuous Length HDPE Conduit	Withdrawn	UL 651A Schedule 40 and 80 High Density Polyethylene (HDPE) Conduit (see Note 2 below).

Note 2: OSHA believes the replacement test standard is comparable to the withdrawn test standard. Moreover, OSHA already includes the replacement test standard in the NRTL's scope of recognition. Therefore, no further demonstration of capability is necessary at this time.

TABLE 8—TEST STANDARDS OSHA IS DELETING FROM OR INCORPORATING INTO THE SCOPE OF RECOGNITION OF SGS U.S. TESTING COMPANY, INC.

Deleted test standard	Reason for deletion	Replacement test standard(s) (if applicable)
UL 544 Medical and Dental Equipment	Withdrawn	UL 60601–1 Medical Electrical Equipment, Part 1: General Requirements for Safety (see Note 2 below).
UL 632 Electrically-Actuated Transmitters	Withdrawn	No replacement.

TABLE 8—TEST STANDARDS OSHA IS DELETING FROM OR INCORPORATING INTO THE SCOPE OF RECOGNITION OF SGS U.S. TESTING COMPANY, INC.—Continued

Deleted test standard	Reason for deletion	Replacement test standard(s) (if applicable)
UL 1604 Electrical Equipment for Use in Class I and II, Division 2 and Class III Hazardous (Classified) Locations.	Withdrawn	ANSI/ISA—12.12.01–2012 Nonincendive Electrical Equipment for Use in Class I and II, Division 2 and Class III, Divisions 1 and 2 Hazardous (Classified) Locations (see Note 3 below).

Note 2: OSHA believes the replacement test standard is comparable to the withdrawn test standard. Moreover, OSHA already includes the replacement test standard in the NRTL's scope of recognition. Therefore, no further demonstration of capability is necessary at this time.

Note 3: OSHA believes the replacement test standard is comparable to the withdrawn test standard. Therefore, OSHA is incorporating the replacement test standard into the NRTLs' scopes of recognition without requiring the NRTL to further demonstrate capability, as specified by 29 CFR 1910.7(b)(1).

TABLE 9—TEST STANDARD OSHA IS DELETING FROM THE SCOPE OF RECOGNITION OF SOUTHWEST RESEARCH INSTITUTE

Deleted test standard	Reason for deletion	Replacement test standard(s) (if applicable)
ASTM E2074 Standard Test Method for Fire Tests of Door Assemblies, Including Positive Pressure Testing of Side-Hinged and Pivoted Swinging Door Assemblies.	Withdrawn	No replacement.

TABLE 10—TEST STANDARDS OSHA IS DELETING FROM OR INCORPORATING INTO THE SCOPE OF RECOGNITION OF TUV AMERICA, INC.

Deleted test standard	Reason for deletion	Replacement test standard(s) (if applicable)
UL 745–2–2 Particular Requirements for Screwdrivers and Impact Wrenches.	Withdrawn	UL 60745–2–2 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–2: Particular Requirements for Screwdrivers and Impact Wrenches (see Note 3 below).
UL 745–2–4 Particular Requirements for Sanders.	Withdrawn	UL 60745–2–4 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–4: Particular Requirements for Sanders and Polishers Other Than Disk Type (see Note 3 below).
UL 745–2–6 Particular Requirements for Hammers.	Withdrawn	UL 60745–2–6 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–6: Particular Requirements for Hammers (see Note 3 below).
UL 745–2–8 Particular Requirements for Shears and Nibblers.	Withdrawn	UL 60745–2–8 Hand-Held Motor-Operated Electric Tools Safety—Part 2–8: Particular Requirements for Shears and Nibblers (see Note 3 below).
UL 745–2–9 Particular Requirements for Tappers.	Withdrawn	UL 60745–2–9 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–9: Particular Requirements for Tappers (see Note 3 below).
UL 745–2–11 Particular Requirements for Reciprocating Saws.	Withdrawn	UL 60745–2–11 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–11: Particular Requirements for Reciprocating Saws (see Note 3 below).
UL 745–2–12 Particular Requirements for Concrete Vibrators.	Withdrawn	UL 60745–2–12 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–12: Particular Requirements For Concrete Vibrators (see Note 3 below).
UL 745–2–30 Particular Requirements for Staplers.	Withdrawn	UL 60745–2–16 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–16: Particular Requirements for Tackers (see Note 3 below).
UL 745–2–33 Particular Requirements for Portable Bandsaw.	Withdrawn	UL 60745–2–20 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–20: Particular Requirements For Band Saws (see Note 3 below).

TABLE 10—TEST STANDARDS OSHA IS DELETING FROM OR INCORPORATING INTO THE SCOPE OF RECOGNITION OF TUV AMERICA, INC.—Continued

Deleted test standard	Reason for deletion	Replacement test standard(s) (if applicable)
UL 745–2–34 Particular Requirements for Strapping Tools.	Withdrawn	UL 60745–2–18 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–18: Particular Requirements For Strapping Tools (see Note 3 below).
UL 1005 Electric Flatirons	Withdrawn	UL 60335–2–3 Household and Similar Electrical Appliances, Part 2: Particular Requirements for Electric Irons (see Note 2 below).
UL 1097 Double Insulation Systems for Use in Electrical Equipment.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 1411 Transformers and Motor Transformers for Use In Audio-, Radio-, and Television-Type Appliances.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.

Note 2: OSHA believes the replacement test standard is comparable to the withdrawn test standard. Moreover, OSHA already includes the replacement test standard in the NRTL's scope of recognition. Therefore, no further demonstration of capability is necessary at this time.

Note 3: OSHA believes the replacement test standard is comparable to the withdrawn test standard. Therefore, OSHA is incorporating the replacement test standard into the NRTLs' scopes of recognition without requiring the NRTL to further demonstrate capability, as specified by 29 CFR 1910.7(b)(1).

TABLE 11—TEST STANDARDS OSHA IS DELETING FROM OR INCORPORATING INTO THE SCOPE OF RECOGNITION OF TUV PRODUCT SERVICES GMBH

Deleted test standard	Reason for deletion	Replacement test standard(s) (if applicable)
UL 745–2–2 Particular Requirements for Screwdrivers and Impact Wrenches.	Withdrawn	UL 60745–2–2 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–2: Particular Requirements for Screwdrivers and Impact Wrenches (see Note 3 below).
UL 745–2–4 Particular Requirements for Sanders.	Withdrawn	UL 60745–2–4 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–4: Particular Requirements for Sanders and Polishers Other Than Disk Type (see Note 3 below).
UL 745–2–6 Particular Requirements for Hammers.	Withdrawn	UL 60745–2–6 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–6: Particular Requirements for Hammers (see Note 3 below).
UL 745–2–8 Particular Requirements for Shears and Nibblers.	Withdrawn	UL 60745–2–8 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–8: Particular Requirements for Shears and Nibblers (see Note 3 below).
UL 745–2–9 Particular Requirements for Tappers.	Withdrawn	UL 60745–2–9 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–9: Particular Requirements for Tappers (see Note 3 below).
UL 745–2–11 Particular Requirements for Reciprocating Saws.	Withdrawn	UL 60745–2–11 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–11: Particular Requirements for Reciprocating Saws (see Note 3 below).
UL 745–2–12 Particular Requirements for Concrete Vibrators.	Withdrawn	UL 60745–2–12 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–12: Particular Requirements For Concrete Vibrators (see Note 3 below).
UL 745–2–30 Particular Requirements for Staplers.	Withdrawn	UL 60745–2–16 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–16: Particular Requirements for Tackers (see Note 3 below).
UL 745–2–33 Particular Requirements for Portable Bandsaw.	Withdrawn	UL 60745–2–20 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–20: Particular Requirements For Band Saws (see Note 3 below).
UL 745–2–34 Particular Requirements for Strapping Tools.	Withdrawn	UL 60745–2–18 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–18: Particular Requirements For Strapping Tools (see Note 3 below).

TABLE 11—TEST STANDARDS OSHA IS DELETING FROM OR INCORPORATING INTO THE SCOPE OF RECOGNITION OF TUV PRODUCT SERVICES GMBH—Continued

Deleted test standard	Reason for deletion	Replacement test standard(s) (if applicable)
UL 1005 Electric Flatirons	Withdrawn	UL 60335–2–3 Household and Similar Electrical Appliances, Part 2: Particular Requirements for Electric Irons (see Note 3 below).
UL 1411 Transformers and Motor Transformers for Use In Audio-, Radio-, and Television-Type Appliances.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.

Note 3: OSHA believes the replacement test standard is comparable to the withdrawn test standard. Therefore, OSHA is incorporating the replacement test standard into the NRTLs' scopes of recognition without requiring the NRTL to further demonstrate capability, as specified by 29 CFR 1910.7(b)(1).

TABLE 12—TEST STANDARDS OSHA IS DELETING FROM OR INCORPORATING INTO THE SCOPE OF RECOGNITION OF TUV RHEINLAND OF NORTH AMERICA, INC.

Deleted test standard	Reason for deletion	Replacement test standard(s) (if applicable)
ANSI A90.1 Safety Standard for Belt Manlifts	29 CFR 1910.68 does not require testing and certification for covered product(s); also not an appropriate test standard because it covers primarily the manufacture, installation, maintenance, inspection, and operation of manlifts, not safety testing.	NA.
UL 745–2–2 Particular Requirements for Screwdrivers and Impact Wrenches.	Withdrawn	UL 60745–2–2 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–2: Particular Requirements for Screwdrivers and Impact Wrenches (see Note 3 below).
UL 745–2–4 Particular Requirements for Sanders.	Withdrawn	UL 60745–2–4 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–4: Particular Requirements for Sanders and Polishers Other Than Disk Type (see Note 3 below).
UL 745–2–6 Particular Requirements for Hammers.	Withdrawn	UL 60745–2–6 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–6: Particular Requirements for Hammers (see Note 3 below).
UL 745–2–8 Particular Requirements for Shears and Nibblers.	Withdrawn	UL 60745–2–8 Hand-Held Motor-Operated Electric Tools Safety—Part 2–8: Particular Requirements for Shears and Nibblers (see Note 3 below).
UL 745–2–9 Particular Requirements for Tappers.	Withdrawn	UL 60745–2–9 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–9: Particular Requirements for Tappers (see Note 3 below).
UL 745–2–11 Particular Requirements for Reciprocating Saws.	Withdrawn	UL 60745–2–11 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–11: Particular Requirements for Reciprocating Saws (see Note 3 below).
UL 745–2–12 Particular Requirements for Concrete Vibrators.	Withdrawn	UL 60745–2–12 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–12: Particular Requirements For Concrete Vibrators (see Note 3 below)
UL 745–2–30 Particular Requirements for Staplers.	Withdrawn	UL 60745–2–16 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–16: Particular Requirements for Tackers (see Note 3 below).
UL 745–2–33 Particular Requirements for Portable Bandsaw.	Withdrawn	UL 60745–2–20 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–20: Particular Requirements For Band Saws (see Note 3 below).
UL 745–2–34 Particular Requirements for Strapping Tools.	Withdrawn	UL 60745–2–18 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–18: Particular Requirements For Strapping Tools (see Note 3 below).
UL 983 Surveillance Camera Units	Withdrawn	No replacement.
UL 1005 Electric Flatirons	Withdrawn	UL 60335–2–3 Household and Similar Electrical Appliances, Part 2: Particular Requirements for Electric Irons (see Note 3 below).

TABLE 12—TEST STANDARDS OSHA IS DELETING FROM OR INCORPORATING INTO THE SCOPE OF RECOGNITION OF TUV RHEINLAND OF NORTH AMERICA, INC.—Continued

Deleted test standard	Reason for deletion	Replacement test standard(s) (if applicable)
UL 1097 Double Insulation Systems for Use in Electrical Equipment.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 1411 Transformers and Motor Transformers for Use In Audio-, Radio-, and Television-Type Appliances.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 1414 Across-the-Line, Antenna-Coupling, and Line- by-Pass Capacitors for Radio- and Television-Type Appliances.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 2106 Field Erected Boiler Assemblies	No requirement for NRTL approval in OSHA requirements; test standard applies to boilers burning fuel.	NA.

Note 3: OSHA believes the replacement test standard is comparable to the withdrawn test standard. Therefore, OSHA is incorporating the replacement test standard into the NRTLs' scopes of recognition without requiring the NRTL to further demonstrate capability, as specified by 29 CFR 1910.7(b)(1).

TABLE 13—TEST STANDARDS OSHA IS DELETING FROM OR INCORPORATING INTO THE SCOPE OF RECOGNITION OF UNDERWRITERS LABORATORIES INC.

Deleted test standard	Reason for deletion	Replacement test standard(s) (if applicable)
ANSI/NFPA 20 Installation of Stationary Fire Pumps for Fire Protection.	Not an appropriate test standard because it covers primarily the selection and installation of these pumps, not safety testing.	NA.
UL 94 Tests for Flammability of Plastic Materials for Parts in Devices and Appliances.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 187 X Ray Equipment	Withdrawn	UL 60601–1 Medical Electrical Equipment, Part 1: General Requirements for Safety (see Note 2 below).
UL 207 Refrigerant-Containing Components and Accessories, Nonelectrical.	No requirement for NRTL approval because the standard covers products for which OSHA does not require testing and certification.	NA.
UL 343 Pumps for Oil-Burning Appliances	No requirement for NRTL approval of this type of pump.	NA.
UL 512 Fuseholders	Withdrawn	UL 4248–1 Fuseholders—Part 1: General Requirements; UL 4248–4 Fuseholders—Part 4: Class CC; UL 4248–5 Fuseholders—Part 5: Class G; UL 4248–6 Fuseholders—Part 6: Class H; UL 4248–8 Fuseholders—Part 8: Class J; UL 4248–9 Fuseholders—Part 9: Class K; UL 4248–11 Fuseholders—Part 11: Type C (Edison Base) and Type S Plug Fuse; UL 4248–12 Fuseholders—Part 12: Class R; UL 4248–15 Fuseholders—Part 15: Class T (for all replacement standards, see Note 3 below).
UL 544 Medical and Dental Equipment	Withdrawn	UL 60601–1 Medical Electrical Equipment, Part 1: General Requirements for Safety (see Note 2 below).
UL 651B Continuous Length HDPE Conduit ..	Withdrawn	UL 651A Schedule 40 and 80 High Density Polyethylene (HDPE) Conduit (see Note 2 below).
UL 698 Industrial Control Equipment for Use in Hazardous (Classified) Locations.	Withdrawn	UL 1203 Explosion Proof and Dust Ignition Proof Electrical Equipment for Use in Hazardous (Classified) Locations (see Note 2 below).
UL 745–2–2 Particular Requirements for Screwdrivers and Impact Wrenches.	Withdrawn	UL 60745–2–2 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–2: Particular Requirements for Screwdrivers and Impact Wrenches (see Note 2 below).
UL 745–2–4 Particular Requirements for Sanders.	Withdrawn	UL 60745–2–4 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–4: Particular Requirements for Sanders and Polishers Other Than Disk Type (see Note 2 below).

TABLE 13—TEST STANDARDS OSHA IS DELETING FROM OR INCORPORATING INTO THE SCOPE OF RECOGNITION OF UNDERWRITERS LABORATORIES INC.—Continued

Deleted test standard	Reason for deletion	Replacement test standard(s) (if applicable)
UL 745–2–6 Particular Requirements for Hammers.	Withdrawn	UL 60745–2–6 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–6: Particular Requirements for Hammers (see Note 2 below).
UL 745–2–8 Particular Requirements for Shears and Nibblers.	Withdrawn	UL 60745–2–8 Hand-Held Motor-Operated Electric Tools Safety—Part 2–8: Particular Requirements for Shears and Nibblers (see Note 2 below).
UL 745–2–9 Particular Requirements for Tappers.	Withdrawn	UL 60745–2–9 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–9: Particular Requirements for Tappers (see Note 2 below).
UL 745–2–11 Particular Requirements for Reciprocating Saws.	Withdrawn	UL 60745–2–11 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–11: Particular Requirements for Reciprocating Saws (see Note 2 below).
UL 745–2–12 Particular Requirements for Concrete Vibrators.	Withdrawn	UL 60745–2–12 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–12: Particular Requirements For Concrete Vibrators (see Note 2 below).
UL 745–2–30 Particular Requirements for Staplers.	Withdrawn	UL 60745–2–16 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–16: Particular Requirements for Tackers (see Note 3 below).
UL 745–2–33 Particular Requirements for Portable Bandsaw.	Withdrawn	UL 60745–2–20 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–20: Particular Requirements For Band Saws (see Note 2 below).
UL 745–2–34 Particular Requirements for Strapping Tools.	Withdrawn	UL 60745–2–18 Hand-Held Motor-Operated Electric Tools—Safety—Part 2–18: Particular Requirements For Strapping Tools (see Note 2 below).
UL 746A Polymeric Materials Short Term Property Evaluations.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 746B Polymeric Materials Long Term Property Evaluations.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 746C Polymeric Materials—Use in Electrical Equipment Evaluations.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 746E Polymeric Materials—Industrial Laminates, Filament Wound Tubing, Vulcanized Fibre, and Materials Used in Printed-Wiring Boards.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 781 Portable Electric Lighting Units for Use in Hazardous (Classified) Locations.	Withdrawn	UL 844 Electric Lighting Fixtures for Use in Hazardous (Classified) Locations (see Note 2 below).
UL 796 Printed-Wiring Boards	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 877 Circuit Breakers and Circuit Breaker Enclosures for Use in Hazardous (Classified) Locations (UL 1203).	Withdrawn	UL 1203 Explosion Proof and Dust Ignition Proof Electrical Equipment for Use in Hazardous (Classified) Locations (see Note 2 below).
UL 886 Outlet Boxes and Fittings for Use in Hazardous (Classified) Locations.	Withdrawn	UL 1203 Explosion Proof and Dust Ignition Proof Electrical Equipment for Use in Hazardous (Classified) Locations (see Note 2 below).
UL 894 Switches for Use in Hazardous (Classified) Locations.	Withdrawn	UL 1203 Explosion Proof and Dust Ignition Proof Electrical Equipment for Use in Hazardous (Classified) Locations (see Note 2 below).
UL 983 Surveillance Camera Units	Withdrawn	No replacement.
UL 1002 Electrically Operated Valves for Use in Hazardous (Classified) Locations.	Withdrawn	UL 1203 Explosion Proof and Dust Ignition Proof Electrical Equipment for Use in Hazardous (Classified) Locations (see Note 2 below).

TABLE 13—TEST STANDARDS OSHA IS DELETING FROM OR INCORPORATING INTO THE SCOPE OF RECOGNITION OF UNDERWRITERS LABORATORIES INC.—Continued

Deleted test standard	Reason for deletion	Replacement test standard(s) (if applicable)
UL 1005 Electric Flatirons	Withdrawn	UL 60335–2–3 Household and Similar Electrical Appliances, Part 2: Particular Requirements for Electric Irons (see Note 3 below).
UL 1010 Receptacle Plug Combinations for Use in Hazardous (Classified) Locations.	Withdrawn	UL 1203 Explosion Proof and Dust Ignition Proof Electrical Equipment for Use in Hazardous (Classified) Locations (see Note 2 below).
UL 1075 Gas-Fired Cooking Appliances for Recreational Vehicles.	Withdrawn	No replacement.
UL 1097 Double Insulation Systems for Use in Electrical Equipment.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 1411 Transformers and Motor Transformers for Use In Audio-, Radio-, and Television-Type Appliances.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 1412 Fusing Resistors and Temperature-Limited Resistors for Radio-, and Television-Type Appliances.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 1413 High Voltage Components for Television Type Appliances.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 1414 Across-the-Line, Antenna-Coupling, and Line- by-Pass Capacitors for Radio- and Television-Type Appliances.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 1416 Overcurrent and Overtemperature Protectors for Radio- and Television-Type Appliances.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 1417 Special Fuses for Radio- and Television-Type Appliances.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 1433 Control Centers for Changing Message Type Electric Signs.	Withdrawn	No replacement.
UL 1445 Electric Water Bed Heaters	Withdrawn	No replacement.
UL 1604 Electrical Equipment for Use in Class I and II, Division 2 and Class III Hazardous (Classified) Locations.	Withdrawn	ANSI/ISA—12.12.01–2012 Nonincendive Electrical Equipment for Use in Class I and II, Division 2 and Class III, Divisions 1 and 2 Hazardous (Classified) Locations (see Note 2 below).
UL 1664 Immersion Detection Circuit Interrupters.	Withdrawn	No replacement.
UL 1666 Test for Flame Propagation Height of Electrical and Optical Fiber Cables Installed Vertically in Shafts.	Test method; therefore, not an appropriate test standard.	NA.
UL 1684 Reinforced Thermosetting Resin Conduit (RTRC) and Fittings.	Withdrawn	UL 2420 Belowground Reinforced Thermosetting Resin Conduit (RTRC) and Fittings and UL 2515 Aboveground Reinforced Thermosetting Resin Conduit (RTRC) and Fittings (for both replacement standards, see Note 3 below).
UL 1686 Pin and Sleeve Configurations	Not an appropriate test standard; does not specify safety requirements for covered devices; provides the physical dimensions for covered devices only.	NA.
UL 1692 Polymeric Materials Coil Forms	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 1694 Tests for Flammability of Small Polymeric Component Materials.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.
UL 2106 Field Erected Boiler Assemblies	No requirement for NRTL approval in OSHA requirements; test standard applies to boilers burning fuel.	NA.
UL 60691 Thermal-Links-Requirements and Application Guide.	No requirement for NRTL approval because the standard covers components that are not appropriate for use as end-use products.	NA.

Note 2: OSHA believes the replacement test standard is comparable to the withdrawn test standard. Moreover, OSHA already includes the replacement test standard in the NRTL's scope of recognition. Therefore, no further demonstration of capability is necessary at this time.

Note 3: OSHA believes the replacement test standard is comparable to the withdrawn test standard. Therefore, OSHA is incorporating the replacement test standard into the NRTLs' scopes of recognition without requiring the NRTL to further demonstrate capability, as specified by 29 CFR 1910.7(b)(1).

VI. Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW., Washington, DC 20210, authorized the preparation of this notice. Accordingly, the Agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on November 19, 2013.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2013–28091 Filed 11–22–13; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2013–0012]

Proposed Revision of Policy for Incorporating New Test Standards Into the List of Appropriate NRTL Program Test Standards

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

ACTION: Notice.

SUMMARY: In this notice, OSHA proposes to: (1) Revise its existing policies regarding the incorporation of new test standards into the Nationally Recognized Testing Laboratory (NRTL) Program's list of appropriate test standards and into NRTLs' scopes of recognition; and (2) incorporate new test standards into the NRTL Program's list of appropriate test standards.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before December 26, 2013. All submissions must bear a postmark or provide other evidence of the submission date.

ADDRESSES:

Electronically: Tender submissions electronically to the Federal eRulemaking Portal at *http://www.regulations.gov.* Follow the instructions online for making electronic submissions.

Facsimile: If submissions, including attachments, are not longer than 10 pages, commenters may fax them to the OSHA Docket Office at (202) 693–1648.

Regular or express mail, hand delivery, or messenger (courier) service: Tender submissions to the OSHA Docket Office, Docket No. OSHA–2013–0012, Technical Data Center, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–2625, Washington, DC 20210; telephone: (202) 693–2350 (TTY number: (877) 889–5627). Note that security procedures may result in significant delays in receiving submissions sent by regular mail. Contact the OSHA Docket Office for information about security procedures concerning delivery of materials by regular or express mail, hand delivery, or messenger (courier) service. The hours of operation for the OSHA Docket Office are 8:15 a.m.–4:45 p.m., e.t.

Instructions: All submissions must include the Agency name and the docket number for this notice (OSHA–2013–0012). OSHA places comments and other materials, including any personal information, in the public docket without revision, and these materials may be available online at *http://www.regulations.gov.* Therefore, the Agency cautions commenters about submitting statements they do not want made available to the public, or submitting comments that contain personal information (either about themselves or others) such as Social Security numbers, birth dates, and medical data.

Docket: To read or download submissions or other material in the docket, go to *http://www.regulations.gov* or to the OSHA Docket Office at the address above. All documents in the docket are listed in the *http://www.regulations.gov* index; however, some information (e.g., copyrighted material) is not publicly available to read or download through this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3647, Washington, DC 20210; telephone: (202) 693–1999; email: *Meilinger.francis2@dol.gov.*

General and technical information: Contact David Johnson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210; telephone: (202) 693–2110; email: *johnson.david.w@dol.gov.* OSHA's Web page includes information about the NRTL Program (see *http://www.osha.gov/otpca/nrtl/index.html*).

*Copies of the **Federal Register** notice:* Electronic copies of this **Federal Register** notice are available at *http://www.regulations.gov.* This **Federal Register** notice, as well as other relevant information, is also available on OSHA's Web page at *http://www.osha.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The NRTL Program recognizes organizations that provide product-safety testing and certification services to manufacturers. These organizations perform testing and certification, for purposes of the Program, to U.S. consensus-based product-safety test standards. OSHA does not develop or issue these test standards, but generally relies on U.S. standards-development organizations (SDOs) accredited by the American National Standards Institute (ANSI). The products covered by the NRTL Program consist of those items for which OSHA safety standards require ''certification'' by an NRTL. The requirements affect electrical products and 38 other types of products.

OSHA recognition of an organization as an NRTL signifies that the organization meets the legal requirements in the NRTL Program regulations at 29 CFR 1910.7 and the NRTL Program policies in CPL 1–0.3, ''NRTL Program Policies, Procedures, and Guidelines,'' December 2, 1999 (''Directive''). Recognition is an acknowledgement by OSHA that the NRTL has the capabilities to perform independent safety testing and certification of the specific products covered within the NRTL's scope of recognition. Recognition of an NRTL by OSHA also allows employers to use products certified by that NRTL to meet those OSHA standards that require product testing and certification (29 CFR 1910.7(a)).

An NRTL's scope of recognition consists, in part, of specific test standard(s) approved by OSHA for use by the NRTL. Pursuant to the NRTL Program regulations, the NRTL must

first request to have a test standard included in its scope of recognition. OSHA will grant the NRTL's request only if the NRTL has the capability to test and examine equipment [1] and materials for workplace safety purposes and to determine conformance with the test standard for each relevant item of equipment or material that it lists, labels, or accepts (29 CFR 1910.7(b)(1)). Capability includes proper testing equipment and facilities, trained staff, written testing procedures, calibration programs, and quality-control programs. An organization's recognition as an NRTL is, therefore, not for products, but for appropriate test standards covering a type of product(s) (29 CFR 1910.7(b)(1)).

For OSHA to consider a test standard appropriate, the test standard must be current and specify the safety requirements for a specific type of product(s) (29 CFR 1910.7(c)). A test standard withdrawn by an SDO is no longer considered an appropriate test standard (Directive, App. C.XIV.B). It is OSHA's policy to remove recognition of withdrawn test standards by issuing a correction notice in the **Federal Register** for all NRTLs recognized for the withdrawn test standards. However, OSHA will recognize an NRTL for an appropriate replacement test standard if the NRTL has the requisite testing and evaluation capability for implementing the replacement test standard.

One method that NRTLs may use to show such capability involves an analysis to determine whether any testing and evaluation requirements of existing test standards in an NRTL's scope are comparable (i.e., are completely or substantially identical) to the requirements in the replacement test standard. If OSHA's analysis shows the replacement test standard does not require additional or different technical capability than an existing test standard, the replacement test standard is comparable to the existing test standard, and OSHA can add the replacement test standard to affected NRTLs' scopes of recognition.

If OSHA's analysis shows the replacement test standard requires an additional or different technical capability than any existing test standard, then the replacement test standard is not comparable to any existing test standard. In such cases (i.e., when test standards are not comparable), each affected NRTL that seeks to have OSHA add the replacement test standard to the NRTL's scope of recognition must provide information to OSHA that demonstrates its testing and evaluation capability to implement that standard.

II. Proposed Revisions to Existing OSHA Policy

A. Proposed Revision to Existing Policy for Incorporating New Test Standards Into the NRTL Program's List of Appropriate Test Standards

OSHA proposes to revise its existing policy regarding the incorporation of new test standards into the NRTL Program's list of appropriate test standards. Pursuant to OSHA's existing policy, OSHA incorporates test standards into the list of appropriate test standards only when OSHA processes an NRTL's application for recognition (either initial or expansion), or when OSHA incorporates into an NRTL's scope of recognition a comparable replacement test standard for a withdrawn test standard (Directive, Chapter 2; App. C.XIV.B). OSHA believes that the existing policy delays the acceptance process for valid test standards. OSHA believes the proposed revisions to the existing policy will expedite incorporation of new test standards into the NRTL Program's list of appropriate test standards and into NRTLs' scopes of recognition, and is seeking public comment on the proposed revisions.

OSHA becomes aware of new test standards through various avenues. For example, OSHA becomes aware of new test standards by: (1) Monitoring notifications issued by certain SDOs; (2) reviewing applications by NRTLs or applicants seeking recognition to include a new test standard in their scopes of recognition; and (3) obtaining notification from manufacturers, manufacturing organizations, other government agencies, or other parties that a new test standard may be appropriate to add to its list of appropriate standards. Accordingly, OSHA is proposing to expand the existing process whereby it incorporates new test standards into the NRTL Program's list of appropriate test standards. Under the proposed policy, OSHA would not only include new test standards in its list of appropriate test standards under the conditions described by its existing policy, but would include new test standards in the list when OSHA determines that such test standards are appropriate to add to the list. OSHA may determine to include a new test standard in the list, for example, if the test standard is for a particular type of product that another test standard also covers, covers a type of product that no standard previously covered, or be otherwise new to the NRTL Program.

Under the proposed policy, OSHA first would make a preliminary determination that the new test standard is appropriate under the NRTL Program regulations (29 CFR 1910.7(c)). The Agency then would periodically issue a **Federal Register** notice proposing to include new test standards that it identifies as appropriate in its list of appropriate test standards. When test standards are withdrawn by an SDO, OSHA also may propose in a **Federal Register** notice that new test standards replace withdrawn test standards in NRTLs' scopes of recognition. After OSHA publishes the preliminary determination in a **Federal Register** notice, it would give the public an opportunity to comment and, after reviewing these comments and other record evidence, would issue, in the **Federal Register**, a final determination.

B. Proposed Revision to Policy for Expanding NRTLs' Scopes of Recognition

Under existing OSHA policy, an NRTL must apply for an expansion of recognition, pursuant to the procedures in 29 CFR 1910.7, App. A, if the NRTL wants OSHA to incorporate into its scope of recognition a replacement test standard that is not comparable to a test standard that OSHA is removing from that NRTL's scope of recognition because, for example, an SDO withdrew the test standard. OSHA is proposing to modify this policy to provide for an abbreviated recognition process that allows NRTLs currently recognized for the standard being replaced to submit to OSHA, in lieu of an application for expansion, only information that demonstrates that the NRTL has the capability to perform the testing and evaluation required in the areas of the replacement test standard that are not equivalent or comparable to the standard being replaced. OSHA notes that this new policy would apply only when OSHA is removing a withdrawn test standard from an NRTL's scope of recognition. If OSHA does not currently recognize an NRTL for the standard being replaced, that NRTL could only obtain recognition for the replacement test standard by filing an application to expand the NRTL's scope of recognition as provided for by 29 CFR 1910.7, App. A.

Therefore, under the new policy, when OSHA becomes aware of a replacement test standard that is not comparable to a test standard that OSHA is removing from an NRTL's scope of recognition, OSHA would invite that NRTL, via email or letter, to

[1] In this notice, OSHA uses the terms ''equipment'' and ''product'' or ''products'' interchangeably.

submit specified information that OSHA believes demonstrates the requisite testing and evaluation capability. OSHA would include, in the letter or email, a comparability table for the replacement test standard that details proposed substantive differences between the existing and replacement test standards that OSHA believes the NRTL must address for OSHA to recognize the NRTL for the replacement standard. OSHA would follow the procedures specified by 29 CFR 1910.7, App. A, in determining whether it should incorporate the replacement test standard into the affected NRTL's scope of recognition. Thus, OSHA would issue a preliminary determination in the **Federal Register**, provide the public an opportunity to comment on the preliminary determination, and, after reviewing the comments and other record evidence, issue a final determination in the **Federal Register** on whether it will incorporate the replacement test standard into the affected NRTL's scope of recognition. In making a preliminary or final determination, OSHA also would follow other applicable procedures specified by 29 CFR 1910.7, App. A, such as requesting additional information, conducting appropriate on-site reviews, or initiating special reviews. OSHA believes the proposed policy would expedite the recognition process of replacement test standards issued by SDOs. OSHA seeks comment on this proposed policy.

III. Proposal To Add Test Standards to the NRTL Program's List of Appropriate Test Standards

Table 1, below, lists test standards that are new to the NRTL Program. OSHA preliminarily determined that these test standards are appropriate test standards and, pursuant to its proposed policy discussed above in this **Federal Register** notice, proposes to include these test standards in the NRTL Program's list of appropriate test standards. OSHA seeks public comment on this preliminary determination.

TABLE 1—TEST STANDARDS OSHA IS PROPOSING TO ADD TO THE NRTL PROGRAM'S LIST OF APPROPRIATE TEST STANDARDS

Test standard	Test standard title
AAMI ES 60601–1	Medical Electrical Equipment—Part 1–2: General requirements for Basic Safety and Essential Performance—Collateral Standard: Electromagnetic Compatibility (third edition).
ISA 60079–0	Explosive Atmospheres—Part 0: Equipment—General Requirements.
ISA 60079–1	Explosive Atmospheres—Part 1: Equipment Protection by Flameproof Enclosures "d".
ISA 60079–2	Explosive Atmospheres—Part 2: Equipment Protection by Pressurized Enclosures "p".
ISA 60079–5	Explosive Atmospheres—Part 5: Equipment Protection by Powder Filling "q".
ISA 60079–6	Explosive Atmospheres—Part 6: Equipment Protection by Oil Immersion "o".
ISA 60079–7	Explosive Atmospheres—Part 7: Equipment Protection by Increased Safety "e".
ISA 60079–11	Explosive Atmospheres—Part 11: Equipment Protection by Intrinsic Safety "i".
ISA 60079–15	Explosive Atmospheres—Part 15: Equipment Protection by Type of Protection "n".
ISA 60079–18	Explosive Atmospheres—Part 18: Equipment Protection by Encapsulation "m".
ISA 60079–26	Explosive Atmospheres—Part 26: Equipment for Use in Class I, Zone 0 Hazardous (Classified) Locations.
ISA 60079–28	Explosive Atmospheres—Part 28: Protection of Equipment and Transmission Systems Using Optical Radiation.
ISA 60079–31	Explosive Atmospheres—Part 31: Equipment Dust Ignition Protection by Enclosure "t".
ISA 61241–0	Electrical Apparatus for Use in Zone 20, Zone 21 and Zone 22 Hazardous (Classified) Locations—General Requirements.
ISA 61241–1	Electrical Apparatus for Use in Zone 21 and Zone 22 Hazardous (Classified) Locations—Protection by Enclosures "tD".
ISA 61241–2	Electrical Apparatus for Use in Zone 21 and Zone 22 Hazardous (Classified) Locations—Protection by Pressurization "pD".
ISA 61241–11	Electrical Apparatus for Use in Zone 20, Zone 21 and Zone 22 Hazardous (Classified) Locations—Protection by Intrinsic Safety "iD".
ISA 61241–18	Electrical Apparatus for Use in Zone 20, Zone 21 and Zone 22 Hazardous (Classified) Locations—Protection by Encapsulation "mD".
UL 50E	Enclosures for Electrical Equipment, Environmental Considerations.
UL 448B	Residential Fire Pumps Intended for One- and Two-Family Dwellings and Manufactured Homes.
UL 448C	Stationary, Rotary-Type, Positive-Displacement Pumps for Fire Protection Service.
UL 962A	Furniture Power Distribution Units.
UL 1004–1	Rotating Electrical Machines—General Requirements.
UL 1008A	Medium-Voltage Transfer Switches.
UL 1691	Single Pole Locking-Type Separable Connectors.
UL 1990	Nonmetallic Underground Conduit with Conductors.
UL 2108	February 27, 2004 Low Voltage Lighting Systems.
UL 2208	Solvent Distillation Units.
UL 2238	Cable Assemblies and Fittings for Industrial Control and Signal Distribution.
UL 2239	Hardware for the Support of Conduit, Tubing, and Cable.
UL 2438	Outdoor Seasonal-Use Cord-Connected Wiring Devices.
UL 2560	Emergency Call Systems for Assisted Living and Independent Living Facilities.
UL 2572	Mass Notification Systems.
UL 2577	Suspended Ceiling Grid Low Voltage Systems and Equipment.
UL 2586	Hose Nozzle Valves.
UL 2738	Induction Power Transmitters and Receivers for Use with Low Energy Products.
UL 6142	Small Wind Turbine Systems.
UL 6420	Equipment Used for System Isolation and Rated as a Single Unit.
UL 60079–0	Explosive Atmospheres—Part 0: Equipment—General requirements.
UL 60079–1	Explosive Atmospheres—Part 1: Equipment Protection by Flameproof Enclosures 'd'.
UL 60079–11	Explosive Atmospheres—Part 11: Equipment Protection by Intrinsic Safety 'i'.
UL 60079–15	Explosive Atmospheres—Part 15: Equipment Protection by Type of Protection 'n'.
UL 60079–18	Explosive Atmospheres—Part 18: Equipment Protection by Encapsulation "m".
UL 60079–5	Explosive Atmospheres—Part 5: Equipment Protection by Powder Filling 'q'.
UL 60079–6	Explosive Atmospheres—Part 6: Equipment Protection by Oil Immersion 'o'.

TABLE 1—TEST STANDARDS OSHA IS PROPOSING TO ADD TO THE NRTL PROGRAM'S LIST OF APPROPRIATE TEST STANDARDS—Continued

Test standard	Test standard title
UL 60079–7	Explosive Atmospheres—Part 7: Equipment Protection by Increased Safety 'e'.
UL 60335–2–40	Household and Similar Electrical Appliances, Part 2: Particular Requirements for Electrical Heat Pumps, Air-Conditioners and Dehumidifiers.
UL 60730–2–2	Automatic Electrical Controls for Household and Similar Use; Part 2 Particular Requirements for Thermal Motor Protectors.
UL 60745–1	Hand-Held Motor-Operated Electric Tools—Safety—Part 1: General Requirements.
UL 60745–2–1	Hand-Held Motor-Operated Electric Tools—Safety—Part 2–1: Particular Requirements for Drills and Impact Drills.
UL 60745–2–13	Hand-Held Motor-Operated Electric Tools—Safety—Part 2–13: Particular Requirements For Chain Saws.
UL 60745–2–14	Hand-Held Motor-Operated Electric Tools—Safety—Part 2–14: Particular Requirements for Planers.
UL 60745–2–15	Hand-Held Motor-Operated Electric Tools—Safety—Part 2–15: Particular Requirements for Hedge Trimmers.
UL 60745–2–17	Hand-Held Motor-Operated Electric Tools—Safety—Part 2–17: Particular Requirements for Routers and Trimmers.
UL 60745–2–19	Hand-Held Motor-Operated Electric Tools—Safety—Part 2–19: Particular Requirements For Jointers.
UL 60745–2–21	Hand-Held Motor-Operated Electric Tools—Safety—Part 2–21: Particular Requirements For Drain Cleaners.
UL 60745–2–22	Hand-Held Motor-Operated Electric Tools—Safety—Part 2–22: Particular Requirements For Cut-Off Machines.
UL 60745–2–3	Hand-Held Motor-Operated Electric Tools—Safety—Part 2–3: Particular Requirements for Grinders, Polishers and Disk-Type Sanders.
UL 60745–2–5	Hand-Held Motor-Operated Electric Tools—Safety—Part 2–5: Particular Requirements for Circular Saws.
UL 60947–4–1A	Low Voltage Switchgear and Controlgear—Part 4–1: Contactors and Motor-starters-Electromechanical Contractors and Motor-starters.
UL 60947–5–2	Low-voltage Switchgear and Controlgear—Part 5–2: Control Circuit Devices and Switching Elements—Proximity Switches.
UL 60950–1	Information Technology Equipment Safety—Part 1: General Requirements.
UL 60950–21	Information Technology Equipment—Safety—Part 21: Remote Power Feeding.
UL 60950–22	Information Technology Equipment Safety—Part 22: Equipment to be Installed Outdoors.
UL 60950–23	Information Technology Equipment Safety—Part 23: Large Data Storage Equipment.
UL 61010–031	Electrical Equipment for Measurement, Control, and Laboratory Use; Part 031: Safety Requirements for Hand-Held Probe Assemblies for Electrical Measurement and Test.
UL 61010–1	Electrical Equipment for Measurement, Control, and Laboratory Use; Part 1: General Requirements.
UL 61010–2–030	Safety Requirements for Electrical Equipment for Measurement, Control, and Laboratory Use—Part 2–030: Particular Requirements for Testing and Measuring Circuits.
UL 61058–1	Switches for Appliances—Part 1: General Requirements.
UL 61800–5–1	Adjustable Speed Electrical Power Drive Systems—Part 5–1: Safety Requirements—Electrical, Thermal and Energy.
UL 62275	Cable Management Systems—Cable Ties for Electrical Installations.
UL 62368–1	Audio/Video, Information and Communication Technology Equipment—Part 1: Safety Requirements.

V. Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW., Washington, DC 20210, authorized the preparation of this notice. Accordingly, the Agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on November 19, 2013.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2013–28093 Filed 11–22–13; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL LABOR RELATIONS BOARD

Notice of Appointments of Individuals to Serve as Members of Performance Review Boards

AGENCY: National Labor Relations Board.

ACTION: The National Labor Relations Board is issuing this notice that the individuals whose names and position titles appear below have been appointed to serve as members of performance review boards in the National Labor Relations Board for the rating year beginning October 1, 2012 and ending September 30, 2013.

Authority: 5 U.S.C. 4314(c)(4).

Name and Title

Kathleen A. Nixon—Deputy Chief Counsel to the Chairman
Gary W. Shinners—Executive Secretary
William B. Cowen—Solicitor
Robert Schiff—Executive Assistant to the Chairman
Anne G. Purcell—Associate General Counsel, Division of Operations Management
Linda Dreeben—Deputy Associate General Counsel, Division of Enforcement Litigation
John H. Ferguson—Associate General Counsel, Division of Enforcement Litigation
Barry J. Kearney—Associate General Counsel, Division of Advice

FOR FURTHER INFORMATION CONTACT: Gary Shinners, Executive Secretary, National Labor Relations Board, 1099 14th Street NW., Washington, DC 20570, (202) 273–3737 (this is not a toll-free number), 1–866–315–6572 (TTY/TDD).

By Direction of the Board.

William B. Cowen,

Solicitor.

[FR Doc. 2013–28153 Filed 11–22–13; 8:45 am]

BILLING CODE 7545–01–P

NEIGHBORHOOD REINVESTMENT CORPORATION

Notice of Government in the Sunshine Regular Board of Directors Meeting

TIME AND DATE: 3:30 p.m., Monday, December 2, 2013.

PLACE: NeighborWorks America—Gramlich Boardroom, 999 North Capitol Street NE., Washington DC 20002.

STATUS: Open.

CONTACT PERSON: Jeffrey Bryson, General Counsel/Secretary, (202) 760–4101; *jbryson@nw.org*.

AGENDA:

I. CALL TO ORDER
II. Approval of Minutes
III. Management Internal Operations Review
IV. Non-Network Grant Policy
V. MHA Extension
VI. Update on Budget Outlook & Financial Report
VII. Financial Capability
VIII. NeighborhoodLIFT & CityLift
IX. UrbanLIFT
X. FY '13 Milestone Report & Dashboard
XI. MHA, NFMC & EHLP
XII. CEO Update to Board
XIII. Adjournment

Jeffrey T. Bryson,

General Counsel/Secretary.

[FR Doc. 2013–28325 Filed 11–21–13; 4:15 pm]

BILLING CODE 7570–02–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2013–0248]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of pending NRC action to submit an information collection request to the Office of Management and Budget (OMB) and solicitation of public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment about our intention to request the OMB's approval for renewal of an existing information collection that is summarized below. We are required to publish this notice in the **Federal Register** under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* 10 CFR Part 39—Licenses and Radiation Safety Requirements for Well Logging.

2. *Current OMB approval number:* 3150–0130.

3. *How often the collection is required:* Applications for new licenses and amendments may be submitted at any time. Applications for renewals are submitted every 10 years. Reports are submitted as events occur.

4. *Who is required or asked to report:* Applicants for and holders of specific licenses authorizing the use of licensed radioactive materials for well logging.

5. *The number of annual respondents:* 747 (103 NRC Licensees + 644 Agreement States Licensees).

6. *The number of hours needed annually to complete the requirement or request:* 50,980 hours (6,943 NRC licensees' hours + 44,037 Agreement States Licensee's hours). The NRC licensees' total burden is 6,943 hours (103 reporting and 6,840 recordkeeping hours). The Agreement States licensees' total burden is 44,037 hours (644 reporting + 43,393 recordkeeping hours).

7. *Abstract:* Part 39 of Title 10 of the *Code of Federal Regulations* (10 CFR), establishes radiation safety requirements for the use of radioactive materials in well logging operations. Information in the applications, reports and records is used by the NRC staff to ensure that the health and safety of the public is protected and that the licensees' possession and use of the radioactive sources and byproduct materials is in compliance with the license and the regulatory requirements.

Submit, by January 24, 2014, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

The public may examine and have copied for a fee publicly-available documents, including the draft supporting statement, at the NRC's Public Document Room, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. The OMB clearance requests are available at the NRC's Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/*. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments submitted in writing or in electronic form will be made available for public inspection. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed. Comments submitted should reference Docket No. NRC–2013–0248. You may submit your comments by any of the following methods: Electronic comments: Go to *http://www.regulations.gov* and search for Docket No. NRC–2013–0248. Mail comments to the NRC Clearance Officer, Tremaine Donnell (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Questions about the information collection requirements may be directed to the NRC Clearance Officer, Tremaine Donnell (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–6258, or by email to *INFOCOLLECTS.Resource@NRC.GOV*.

Dated at Rockville, Maryland, this 19th day of November, 2013.

For the Nuclear Regulatory Commission.

Tremaine Donnell,

NRC Clearance Officer, Office of Information Services.

[FR Doc. 2013–28182 Filed 11–22–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2013–0157]

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on August 2, 2013 (78 FR 47009).

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:* NRC Form 327, ''Special Nuclear Material (SNM) and Source Material Physical Inventory Summary Report'' and NUREG/BR–0096, ''Instructions and Guidance for Completing Physical Inventory Summary Reports.''

3. *Current OMB approval number:* 3150–0139.

4. *The form number if applicable:* NRC Form 327.

5. *How often the collection is required:* Certain licensees possessing

strategic SNM are required to report inventories every 6 months. Licensees possessing SNM of moderate strategic significance must report every 9 months. Licensees possessing SNM of low strategic significance must report annually, except two licensees must report their dynamic inventories every 2 months and a static inventory on an annual basis.

6. *Who will be required or asked to report:* Fuel facility licensees possessing special nuclear material, i.e., enriched uranium, plutonium or U–233.

7. *An estimate of the number of annual responses:* 35.

8. *The estimated number of annual respondents:* 7.

9. *An estimate of the total number of hours needed annually to complete the requirement or request:* 140 hours (4 hours per response × 35 responses).

10. *Abstract:* NRC Form 327 is submitted by fuel facility licensees to account for special nuclear material. The data is used by NRC to assess licensee material control and accounting programs and to confirm the absence of (or detect the occurrence of) SNM theft or diversion. NUREG/BR–0096 provides specific guidance and instructions for completing the form in accordance with the requirements appropriate for a particular licensee.

The public may examine and have copied for fee publicly available documents, including the final supporting statement, at the NRC's Public Document Room, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. The OMB clearance requests are available at the NRC's Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/*. The document will be available on the NRC's home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by December 26, 2013. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Chad Whiteman, Desk Officer, Office of Information and Regulatory Affairs (3150–0139), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be emailed to *Chad_S_Whiteman@omb.eop.gov* or submitted by telephone at 202–395–4718.

The NRC Clearance Officer is Tremaine Donnell, telephone: 301–415–6258.

Dated at Rockville, Maryland, this 19th day of November, 2013.

For the Nuclear Regulatory Commission.

Tremaine Donnell,

NRC Clearance Officer, Office of Information Services.

[FR Doc. 2013–28181 Filed 11–22–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2013–0254]

Conceptual Example of a Proposed Risk Management Regulatory Framework Policy Statement

AGENCY: Nuclear Regulatory Commission.

ACTION: Conceptual example of a proposed policy statement; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing a document entitled: ''White Paper on a Conceptual Example of a Proposed Risk Management Regulatory Framework Policy Statement'' (ADAMS Accession No. ML13273A517) and requesting public comment. The conceptual statement would set forth a possible Commission policy regarding the use of a structured decision-making model that results in risk-informed and performance-based defense-in-depth protections to: Ensure appropriate personnel, barriers, and controls to prevent, contain, and mitigate possible inadvertent exposure to radioactive material according to the hazard present, the relevant scenarios, and the associated uncertainties; and ensure that the risks resulting from the failure of some or all of the established barriers and controls, including human errors, are maintained acceptably low. The white paper is an illustration of the staff's work in progress and is expected to be modified as both internal and external review is solicited and considered.

DATES: Please submit comments by January 10, 2014. Comments received after this date will be considered if it is practical to do so, but the NRC staff is able to ensure consideration only for comments received on or before this date.

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

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2013–0254. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov*. For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: 3WFN–06–44M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on accessing information and submitting comments, see ''Accessing Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Mary Drouin, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–251–7574; email: *Mary.Drouin@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Accessing Information and Submitting Comments

A. Accessing Information

Please refer to Docket ID NRC–2013–0254 when contacting the NRC about the availability of information regarding this document. You may access publicly-available information related to this document by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2013–0254.
- *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.

B. Submitting Comments

Please include Docket ID NRC–2013–0254 in the subject line of your comment submission, in order to ensure that the NRC is able to make your

comment submission available to the public in this docket.

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

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

II. Discussion

As part of the NRC strategic plan's goal of ''openness,'' a white paper on a Conceptual Example of a Proposed Risk Management Regulatory Framework (RMRF) Policy Statement (ML13273A517) is being issued to both inform public stakeholders of the work and to start soliciting stakeholder feedback with regard to an NRC working group's early draft. An NRC inter-office working group has been chartered to develop a conceptual draft of a RMRF Policy Statement for Commission consideration. The document is a work in progress and has been developed to illustrate a potential organization, structure, and content of a conceptual policy statement. It is expected that as the Conceptual Example of a Proposed RMRF Policy Statement is modified that additional notices, requesting public comment will be published in the **Federal Register**. In early 2011, at the request of Chairman Gregory B. Jaczko, Commissioner George Apostolakis lead a Risk Management Task Force (RMTF) to evaluate how the agency should be regulating 10 to 15 years in the future. More specifically, the RMTF was chartered ''to develop a strategic vision and options for adopting a more comprehensive and holistic risk-informed, performance-based regulatory approach for reactors, materials, waste, fuel cycle, and transportation that would continue to ensure the safe and secure use of nuclear material.'' The NUREG–2150, ''A Proposed Risk Management Regulatory Framework,'' was published in April 2012 (ML12109A277). This report describes the findings and recommendations of this evaluation. The report provides findings and recommendations which are compiled into two groups. The first group addresses agency-wide, more strategic issues, recommending that ''The NRC should formally adopt the proposed Risk Management Regulatory Framework through a Commission Policy Statement.'' The second group addresses what changes would be needed in specific program areas (e.g., power reactors and materials) in the next several years to ensure that the framework is implemented.

The agency-wide findings of the RMTF are:

- *Finding:* Whether used explicitly, as for power reactors, or implicitly, as for materials programs, the concept of defense-in-depth has served the NRC and the regulated industries well and continues to be valuable today. However, it is not used consistently, and there is no guidance on how much defense-in-depth is sufficient.
- *Finding:* Risk assessments provide valuable and realistic insights into potential exposure scenarios. In combination with other technical analyses, risk assessments can inform decisions about appropriate defense-in-depth measures.

Considering these findings, the RMTF proposes that ''The NRC should formally adopt the proposed Risk Management Regulatory Framework through a Commission Policy Statement.''

The RMTF notes that the proposed framework includes several important benefits:

- Updated knowledge from contemporary studies, such as risk assessments, would be incorporated into the regulations and guidance, thereby improving their realism and technical basis.
- Implementation of a systematic approach would foster a consistent regulatory decision-making process throughout the agency and improve resource allocation.
- Consistency in language and communication would be improved across the agency and externally.
- Support of issue resolution would be achieved in a systematic, consistent, and efficient manner.

The RMTF also notes that implementation of the proposed framework would also pose challenges:

- A change would be required within the agency and externally to increase understanding of the value and use of risk concepts and risk management language.
- The proposed risk-informed and performance-based concept of defense-in-depth may require the development of additional decision metrics and numerical guidelines.
- The approach would likely require developing new or revised risk-assessment consensus codes and standards.
- A long-term commitment from the Commission and senior agency management would be required for implementation.

To assist in the review and comment process, the NRC is requesting the public address the specific questions listed below.

Overall Questions:

(1) Is there a need for such a policy statement? If so, why? If not, why not?

(2) Do you see any benefits in such a policy statement? If so, what are they? If not, why not?

(3) How could the proposed RMRF policy statement be made more useful to licensees and/or certificate holders, applicants and other stakeholders?

(4) Is the policy statement sufficiently flexible to address the specific program area activities (e.g., reactor versus transportation) with regard, for example, to the type of risk analyses, to the defense-in-depth principles?

(5) What implementation challenges do you foresee?

(6) A policy statement generally states the Commission's expectation regarding a particular subject. How to meet the Commission's expectation is not included in the policy statement. If approved by the Commission, the staff plans to develop associated implementation guidance. What should be the scope and extent of this guidance to be helpful? For example,

a. For program area of interest, what would be the appropriate decision criteria for determining adequate defense-in-depth?

b. What specific issues or actions should the guidance address in order to implement the policy statement for a particular program area (of interest)?

(7) Does the proposed policy statement appropriately integrate security considerations into the RMRF? If not, why not?''

Sections I and II

(8) Are these two sections (Background and Development of Risk Management Regulatory Framework Policy Statement) informative? Do they provide useful information in helping to clarify the need, purpose, goals, etc. of the policy statement in Section III? What information is not necessary and what type of information should be added, if any?

Section III

(9) Is the purpose and goal of the proposed conceptual policy statement clear? If not, where is clarification needed?

(10) Is the proposed conceptual RMRF policy statement useful in clarifying the Commission's intent to use a risk-informed and performance-based defense-in-depth approach in performing its regulatory function? If not, what needs to be clarified?

Section II

(11) Should the current PRA policy statement (60 FR 42622, August 16, 1995) be replaced or subsumed/incorporated into this policy statement?

(12) What would be the benefit? What would be the detriment?

Section III.B

(13) If subsumed, is the proposed manner of incorporating the PRA statement reasonable? If not, why not?

(14) Should the policy statement establish a Commission expectation that for all program areas, licensees and/or certificate holders are expected to have a risk analysis that is commensurate with the activity and technology?

Section III.A

(15) Do the proposed key elements in the RMRF process represent a complete and reasonable set?

a. If not, what modifications should be made?

b. Are other elements needed to cover the full spectrum of regulated activities?

c. Are the elements sufficient to develop a consistent decisionmaking approach across all regulated activities?

Section III.C

(16) Should defense-in-depth be a key aspect of a RMRF? If not, why not?

(17) Will such proposed draft policy statement be useful in determining the extent of defense-in-depth needed in each program area?

(18) Is the approach proposed for characterizing defense-in-depth clear? If not, where is clarification needed? Is the strategy reasonable? If not, why not?

(19) Is the definition provided for defense-in-depth clear? If not, why not?

(20) Are the key attributes identified reasonable and complete? If not, why not?

(21) Are the basic levels of prevention and mitigation reasonable? If not, why not?

(22) Are the definitions of prevention and mitigation clear and reasonable? If not, why not?

a. Are they sufficiently flexible to support all program areas? If not, where not?

b. Should and can these levels be further detailed (i.e., more specific) and still be sufficiently flexible to support all program areas?

(23) Is it reasonable to expect the levels of defense to be independent such that failure of one level does not lead to failure of subsequent levels? If not, why not?

a. Should the NRC accept different levels of rigor, or different levels of confidence, in demonstrating that there is independence between levels? Could the level of rigor vary depending upon the nature of the activity and the risks associate with loss of independence?

b. Are there any other considerations that should be taken into account in determining the acceptable level of rigor or confidence in demonstrating independence between layers?

(24) Is it reasonable to expect the following with regards to defense-in-depth:

a. Ensure appropriate barriers, controls, and personnel are available to prevent and mitigate exposure to radioactive material according to the hazard present, the credible scenarios, and the associated uncertainties; and

b. Ensure that the risks resulting from the failure of some or all of the established barriers and controls, including human errors, are maintained acceptably low consistent with the applicable acceptance guidelines.

c. Overall, ensure that each regulated activity has appropriate defense-in-depth measures for prevention and mitigation of adverse events and accidents.

d. If the expectations of a, b, or c are not reasonable, why not?

(25) Are the proposed defense-in-depth principles and decision criteria complete? Are they useful in deciding the extent of defense-in-depth needed in a program area? If not, how should they be improved?

Section III.D

(26) Are the proposed program area specific policy considerations clear and complete? If not, what modifications should be made? Are others needed to cover the full spectrum of regulated activities?

Dated at Rockville, Maryland, this 4th day of November, 2013.

For the Nuclear Regulatory Commission.

Richard P. Correia,

Director, Division of Risk Analysis, Office of Nuclear Regulatory Research.

[FR Doc. 2013–28065 Filed 11–22–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2013–0215]

Compliance With Order EA–13–109, Order Modifying Licenses With Regard to Reliable Hardened Containment Vents Capable of Operation Under Severe Accident Conditions

AGENCY: Nuclear Regulatory Commission.

ACTION: Interim Staff Guidance; Issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing Japan Lessons-Learned Project Directorate Interim Staff Guidance (JLD–ISG), JLD–ISG–2013–02, ''Compliance with Order EA–13–109, Order Modifying Licenses with Regard to Reliable Hardened Containment Vents Capable of Operation under Severe Accident Conditions.'' Agencywide Documents and Management System (ADAMS) Accession No. ML13130A067). This ISG provides guidance and clarifies the requirements in the order to assist the licensees that have Boiling Water Reactors with Mark I and Mark II Containments in the design and implementation of a containment venting system that is capable of a operation under severe accident conditions. This ISG also endorses, with clarifications, the industry guidance contained in Nuclear Energy Institute (NEI) 13–02, ''Industry Guidance for Compliance with Order EA–13–109,'' Revision 0 (ADAMS Accession No. ML13316A853).

ADDRESSES: Please refer to Docket ID NRC–2013–0215 when contacting the NRC about the availability of information regarding this document. You may access publicly-available information related to this action by the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2013–0215. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov*. For technical questions, contact the individual(s) 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 notice (if that document is available in ADAMS) is provided the first time that a document is referenced. The JLD–ISG–2013–02 is available in ADAMS under Accession No. ML13304B836.

- *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.
- *NRC's Interim Staff Guidance Web site:* JLD–ISG documents are also available online under the ''Japan Lessons Learned'' heading at *http://www.nrc.gov/reading-rm/doc-collections/#int.*

FOR FURTHER INFORMATION CONTACT: Dr. Rajender Auluck, Japan Lessons-Learned Project Directorate, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–1025; email: *Rajender.Auluck@nrc.gov.*

SUPPLEMENTARY INFORMATION:

Background Information

The NRC staff developed JLD–ISG–2013–02 to provide guidance and clarification to assist nuclear power reactor applicants and licensees with the identification of methods needed to comply with requirements to mitigate challenges to key safety functions. These requirements are contained in Order EA–13–109, ''Order Modifying Licenses with Regard to Reliable Hardened Containment Vents Capable of Operation under Severe Accident Conditions'' (ADAMS Accession No. ML13130A067). This ISG is not a substitute for the requirements in Order EA–13–109, and compliance with the ISG is not a requirement.

On September 18, 2013 (78 FR 57418), the NRC staff issued a **Federal Register** notice (to request public comments on draft JLD–ISG–2013–02 (ADAMS Accession No. ML13247A417)). In response, the NRC received comments from the Pilgrim Watch by letter dated October 18, 2013 (ADAMS Accession No. ML13294A461), Beyond Nuclear by letter dated October 18, 2013 (ADAMS Accession No. ML13295A225), and Nuclear Energy Institute by letter dated October 18, 2013 (ADAMS Accession No. ML13295A494). Several of these comments have been previously submitted to the NRC for staff's consideration. The resolution of these comments is documented and publicly available (ADAMS Accession No. ML13310B299).

The events at the Fukushima Dai-ichi nuclear power plant following the March 2011, earthquake and tsunami highlight the possibility that events such as rare natural phenomena could challenge the traditional defense-in-depth protections related to preventing accidents, mitigating accidents to prevent the release of radioactive materials, and taking actions to protect the public should a release occur. At Fukushima Dai-ichi, limitations in time and unpredictable conditions associated with the accident significantly hindered attempts by the operators to prevent core damage and containment failure. In particular, the operators were unable to successfully operate the containment venting system. These problems, along with venting the containments under challenging conditions following the tsunami, contributed to the progression of the accident from inadequate cooling of the core leading to core damage, to compromising containment functions from overpressure and over-temperature conditions, and to the hydrogen explosions that destroyed the reactor buildings (secondary containments) of three of the Fukushima Dai-ichi units. The loss of the various barriers led to the release of radioactive materials, which further hampered operator efforts to arrest the accidents and ultimately led to the contamination of large areas surrounding the plant. Fortunately, the evacuation of local populations minimized the immediate danger to public health and safety from the loss of control of the large amount of radioactive materials within the reactor cores.

The events at Fukushima reinforced the importance of reliable operation of hardened containment vents during emergency conditions, particularly, for small containments such as the Mark I and Mark II designs. On March 12, 2012, the NRC issued Order EA–12–050 [1] requiring the Licensees identified in Attachment 1 to this order to implement requirements for a reliable hardened containment venting system (HCVS) for Mark I and Mark II containments. Order EA–12–050 required licensees of BWR facilities with Mark I and Mark II containments to install a reliable HCVS to support strategies for controlling containment pressure and preventing core damage following an event that causes a loss of heat removal systems (e.g., an extended loss of electrical power). The NRC determined that the issuance of Order EA–12–050 and implementation of the requirements of that order were necessary to provide reasonable assurance of adequate protection of the public health and safety.

While developing the requirements for a reliable HCVS in Order EA–12–050, the NRC acknowledged that questions remained about maintaining containment integrity and limiting the release of radioactive materials if the venting systems were used during severe accident conditions. The NRC staff presented options to address these issues, including the possible use of engineered filters to control releases, for Commission consideration in SECY–12–0157, ''Consideration of Additional Requirements for Containment Venting Systems for Boiling Water Reactors with Mark I and Mark II Containments'' (issued November 26, 2012). Option 2 in SECY–12–0157 was to modify EA–12–050 to require severe accident capable vents (i.e., a reliable HCVS capable of operating under severe accident conditions). Other options discussed in SECY–12–0157 included the installation of engineered filtered containment venting systems (Option 3) and the development of a severe accident confinement strategy (Option 4). In the Staff Requirements Memorandum (SRM) for SECY–12–0157, dated March 19, 2013, the Commission approved Option 2 and directed the staff to issue a modification to Order EA–12–050 requiring licensees subject to that order to ''upgrade or replace the reliable hardened vents required by Order EA–12–050 with a containment venting system designed and installed to remain functional during severe accident conditions.''

The requirements in this order, in addition to providing a reliable HCVS to assist in preventing core damage when heat removal capability is lost (the purpose of EA–12–050), will ensure that venting functions are also available during severe accident conditions. Severe accident conditions include the elevated temperatures, pressures, radiation levels, and combustible gas concentrations, such as hydrogen and carbon monoxide, associated with accidents involving extensive core damage, including accidents involving a breach of the reactor vessel by molten core debris. This order requires installation of reliable hardened vents that will not only assist in preventing core damage when heat removal capability is lost, but will also function in severe accident conditions (i.e., when core damage has occurred). The safety improvements to Mark I and Mark II

[1] ''Order Modifying Licenses With Regard To Reliable Hardened Containment Vents (Effective Immediately),'' EA–12–050 (March 12, 2012) (ADAMS Accession No. ML12056A043).

containment venting systems required by this order are intended to increase confidence in maintaining the containment function following core damage events. Although venting the containment during severe accident conditions could result in the release of radioactive materials, venting could also prevent containment structural and gross penetration leakage failures due to over pressurization that would hamper accident management (e.g., continuing efforts to cool core debris) and ultimately result in larger, uncontrolled releases of radioactive material.

On November 7, 2013, NEI submitted NEI 13–02, ''Industry Guidance for Compliance with Order EA–13–109,'' Revision 0 (ADAMS Accession No. ML13316A853) to provide specification for the development, implementation, and maintenance of guidance in response to the order regarding reliable hardened containment vents capable of operation under severe accident conditions. This ISG endorses, with clarifications, the methodologies described in the industry guidance document NEI 13–02.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 14th day of November 2013.

David L. Skeen,

Director, Japan Lessons-Learned Project Directorate, Office of Nuclear Reactor Regulation.

[FR Doc. 2013–28226 Filed 11–22–13; 8:45 am]

BILLING CODE 7590–01–P

OVERSEAS PRIVATE INVESTMENT CORPORATION

Sunshine Act Meeting Notice—December 12, 2013 Board of Directors Meeting

TIME AND DATE: Thursday, December 12, 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—Francisco J. Sánchez
3. Tribute—Lael Brainard
4. Minutes of the Open Session of the September 19, 2013 Board of Directors Meeting

FURTHER MATTERS TO BE CONSIDERED: (Closed to the Public 2:15 p.m.):

1. Office of Accountability
2. Enterprise Risk Management
3. Minutes of the Closed Session of the September 19, 2013 Board of Directors Meeting
4. Reports
5. Pending Projects

CONTACT PERSON FOR INFORMATION: Information on the meeting may be obtained from Connie M. Downs at (202) 336–8438.

Dated: November 22, 2013.

Connie M. Downs,

Corporate Secretary, Overseas Private Investment Corporation.

[FR Doc. 2013–28305 Filed 11–21–13; 11:15 am]

BILLING CODE 3210–01–P

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

Summary: In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

1. Title and purpose of information collection: Certification Regarding Rights to Unemployment Benefits; OMB 3220–0079.

Under Section 4 of the Railroad Unemployment Insurance Act (RUIA), an employee who leaves work voluntarily is disqualified for unemployment benefits unless the employee left work for good cause and is not qualified for unemployment benefits under any other law. RRB Form UI–45, Claimant's Statement—Voluntary Leaving of Work, is used by the RRB to obtain the claimant's statement when the claimant, the claimant's employer, or another source indicates that the claimant has voluntarily left work.

Completion of Form UI–45 is required to obtain or retain benefits. One response is received from each respondent. The RRB proposes no changes to Form UI–45.

ESTIMATE OF ANNUAL RESPONDENT BURDEN

[The estimated annual respondent burden is as follows]

Form No.	Annual responses	Time (minutes)	Burden (hours)
UI–45	200	15	50
Total	200		50

2. Title and purpose of information collection: Railroad Separation Allowance or Severance Pay Report; OMB 3220–0173.

Section 6 of the Railroad Retirement Act provides for a lump-sum payment to an employee or the employee's survivors equal to the Tier II taxes paid by the employee on a separation allowance or severance payment for which the employee did not receive credits toward retirement. The lump-sum is not payable until retirement benefits begin to accrue or the employee dies. Also, Section 4(a–1)(iii) of the Railroad Unemployment Insurance Act provides that a railroad employee who is paid a separation allowance is disqualified for unemployment and sickness benefits for the period of time the employee would have to work to

earn the amount of the allowance. The reporting requirements are specified in 20 CFR 209.14.

In order to calculate and provide payments, the Railroad Retirement Board (RRB) must collect and maintain records of separation allowances and severance payments which were subject to Tier II taxation from railroad employers. The RRB uses Form BA–9, Report of Separation Allowance or Severance Pay, to obtain information from railroad employers concerning the separation allowances and severance payments made to railroad employees and/or the survivors of railroad employees. Employers currently have the option of submitting their reports on paper Form BA–9, (or in like format) on a CD–ROM disk, or by File Transfer Protocol (FTP), or secure Email.

Completion is mandatory. One response is requested of each respondent. The RRB proposes no changes to Form BA–9.

ESTIMATE OF ANNUAL RESPONDENT BURDEN

[The estimated annual respondent burden is as follows]

Form No.	Annual responses	Time (minutes)	Burden (hours)
BA–9 (paper)	265	76	336
BA–9 (CD–ROM)	60	76	76
BA–9 (secure Email)	25	76	32
BA–9 (FTP)	10	76	13
Total	360		457

3. Title and purpose of information collection: OMB 3220–0184; RRB Form G–19–F.

Under Section 2 of the Railroad Retirement Act, an annuity is not payable, or is reduced for any month(s) in which the beneficiary works for a railroad or earns more than prescribed amounts. The provisions relating to the reduction or non-payment of annuities by reason of work are prescribed in 20 CFR 230.

The RRB utilizes Form G–19–F, Earnings Information Request, to obtain earnings information that either had not been previously reported or erroneously reported by a beneficiary. Currently the claimant is asked to enter the date they stopped working, if applicable. The RRB proposes to revise the G–19–F to allow the claimant who has not stopped working to indicate if they will stop working within 90 days.

If a respondent fails to complete the form, the RRB may be unable to pay them benefits. One response is requested of each respondent.

ESTIMATE OF ANNUAL RESPONDENT BURDEN

[The estimated annual respondent burden is as follows]

Form No.	Annual responses	Time (minutes)	Burden (hours)
G–19–F	900	8	120
Total	900		120

Additional Information or Comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, contact Dana Hickman at (312) 751–4981 or *Dana.Hickman@RRB.GOV*. Comments regarding the information collection should be addressed to Charles Mierzwa, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 or emailed to *Charles.Mierzwa@RRB.GOV*. Written comments should be received within 60 days of this notice.

Charles Mierzwa,

Chief of Information Resources Management.

[FR Doc. 2013–28197 Filed 11–22–13; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 30790; File No. 812–14238]

WisdomTree Trust, et al.; Notice of Application

November 20, 2013.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c-1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and (a)(2) of the Act, and under section 12(d)(1)(J) for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act.

SUMMARY OF APPLICATION: Applicants request an order that would permit (a) certain open-end management investment companies or series thereof to issue shares (''Shares'') redeemable in large aggregations only (''Creation Units''); (b) secondary market transactions in Shares to occur at negotiated market prices; (c) certain series to pay redemption proceeds, under certain circumstances, more than seven days after the tender of Shares for redemption; (d) certain affiliated persons of the series to deposit securities into, and receive securities from, the series in connection with the purchase and redemption of Creation Units; (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the series to acquire Shares; and (f) certain series to perform creations and

redemptions of Shares in-kind in a master-feeder structure.

APPLICANTS: WisdomTree Trust (the ''Trust''), WisdomTree Asset Management, Inc. (the ''Adviser'') and WisdomTree Investments, Inc. (''WTI'').

FILING DATES: The application was filed on November 15, 2013 and amended on November 20, 2013.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on December 10, 2013, and should be accompanied by proof of service on applicants, in the form of an affidavit, or for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549; Applicants, 380 Madison Avenue, 21st Floor, New York, New York 10017.

FOR FURTHER INFORMATION CONTACT: Mark N. Zaruba, Senior Counsel at (202) 551–6878, or Mary Kay Frech, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Trust is registered under the Act as an open-end management investment company and is organized as a Delaware statutory trust. In reliance on the requested order, the Trust will offer one or more series (each a ''Fund,'' and, collectively, the ''Funds''),[1] each of which will seek to provide investment returns that correspond, before fees and expenses, generally to the performance of a specified equity and/or a fixed income securities index that either: (i) Includes both long and short positions in securities (''Long/Short Index''); or (ii) uses a 130/30 investment strategy (''130/30 Index'' and, collectively with the Long/Short Indexes, ''Underlying Indexes'').

2. Applicants represent that the Trust intends initially to offer the Fund identified in the application (''Initial Fund''), whose investment objective will be to seek to replicate as closely as possible, before fees and expenses, the price and yield performance of the WisdomTree Government/Corporate Bond Negative Duration Index, a Long/Short Index currently intended to be developed by WTI, of which the Adviser is a wholly owned subsidiary. The Initial Fund's Underlying Index is described in Appendix A to the application.

3. Applicants request that the order apply to the Initial Fund and any additional series of the Trust[2] and any other open-end management investment company or series thereof that may be created in the future (''Future Funds'') and that tracks an Underlying Index.[3] Any Future Fund will (a) be advised by the Adviser, or an entity controlling, controlled by, or common control with the Adviser (included in the term ''Adviser'') and (b) comply with the terms and conditions of the application. For purposes of this notice, references to ''Funds'' include the Initial Fund, as well as any Future Funds.

4. Certain of the Funds will be based on Underlying Indexes which will be comprised of equity and/or fixed income securities issued by domestic issuers or non-domestic issuers meeting the requirements for trading in U.S. markets. Other Funds will be based on Underlying Indexes which will be comprised of foreign and domestic or solely foreign equity and/or fixed income securities (''Foreign Funds'').

5. An Adviser registered as an investment adviser under the Investment Advisers Act of 1940 (the ''Advisers Act'') will serve as investment adviser to the Funds. The Adviser may enter into sub-advisory agreements with one or more investment advisers to act as a sub-adviser to a Fund (each, a ''Sub-Adviser''). Each Sub-Adviser will be registered or not subject to registration under the Advisers Act. ALPS Distributors, Inc. (the ''Distributor'') is a broker-dealer registered under the Securities Exchange Act of 1934 (the ''Exchange Act'') and will act as the principal underwriter and distributor for the Funds.[4]

6. A Fund may operate as a feeder fund in a master-feeder structure (''Feeder Fund''). Applicants request that the order permit the Feeder Funds to acquire securities of another registered investment company managed by the Adviser having substantially the same investment objectives as the Feeder Fund (''Master Fund'') beyond the limitation in section 12(d)(1)(A) and permit the Master Funds, and any principal underwriter for the Master Fund, to sell shares of the Master Funds to the Feeder Funds beyond the limitations in section 12(d)(1)(B) (''Master-Feeder Relief''). Applicants may structure certain Feeder Funds to generate economies of scale and incur lower overhead costs.[5] There would be no ability by Fund shareholders to exchange Shares of Feeder Funds for shares of another feeder series of the Master Fund.

7. Each Fund will hold certain securities and other instruments (''Portfolio Securities'') selected to correspond to the performance of its Underlying Index.[6] Except with respect to Affiliated Index Funds (defined below), no entity that creates, compiles, sponsors or maintains an Underlying Index (''Index Provider'') will be an affiliated person, as defined in section 2(a)(3) of the Act, or an affiliated person of an affiliated person, of the Trust, a Fund, the Adviser, any Sub-Adviser, or

[1] In addition to the Initial Fund (defined below), the Trust includes series that rely on prior ETF (defined below) exemptive relief granted by the Commission. The Funds will not rely on this prior exemptive relief, and ETFs relying on this prior relief will not rely on the relief requested in the current application.

[2] This includes any existing ETF of the Trust currently relying on the prior ETF exemptive relief that becomes a Fund. As discussed in footnote 1, any such ETF will be subject to the terms and conditions of the requested order and will no longer be permitted to rely on the prior relief.

[3] All entities that currently intend to rely on the order have been named as applicants. Any other existing or future entity that subsequently relies on the order will comply with the terms and conditions of the application. A Fund of Funds (defined below) may rely on the order only to invest in Funds and not in any other registered investment company.

[4] Applicants request that the order also apply to future distributors that comply with the terms and conditions of the application.

[5] Operating in a master-feeder structure could also impose costs on a Feeder Fund and reduce its tax efficiency. The Feeder Fund's board of directors will weigh the potential disadvantages against the benefits of economies of scale and other benefits of operating within a master-feeder structure. In a master-feeder structure, the Master Fund—rather than the Feeder Fund—would generally invest the portfolio in compliance with the order.

[6] Applicants represent that each Fund will invest at least 80% of its total assets in the component securities that comprise its Underlying Index (''Component Securities'') or, as applicable, depositary receipts or TBA Transactions (defined below) representing Component Securities. Each Fund also may invest up to 20% of its total assets (the ''20% Asset Basket'') in a broad variety of other instruments, including securities not included in its Underlying Index, which the Adviser believes will help the Fund track its Underlying Index.

promoter of a Fund, or of the Distributor.

8. A Fund will utilize either a replication or representative sampling strategy to track its Underlying Index. A Fund using a replication strategy will invest in substantially all of the Component Securities in its Underlying Index in the same approximate proportions as in the Underlying Index. A Fund using a representative sampling strategy will hold some, but may not hold all, of the Component Securities of its Underlying Index. Applicants state that use of the representative sampling strategy may prevent a Fund from tracking the performance of its Underlying Index with the same degree of accuracy as would a Fund that invests in every Component Security of the Underlying Index. Applicants expect that each Fund will have an annual tracking error relative to the performance of its Underlying Index of less than 5 percent.

9. Each Fund will issue, on a continuous basis, Creation Units, which will typically consist of at least 25,000 Shares and have an initial price per Share of $25 to $100. All orders to purchase Creation Units must be placed with the Distributor by or through a party that has entered into an agreement with the Distributor (''Authorized Participant''). The Distributor will be responsible for delivering the Fund's prospectus to those persons acquiring Creation Units and for maintaining records of both the orders placed with it and the confirmations of acceptance furnished by it. In addition, the Distributor will maintain a record of the instructions given to the applicable Fund to implement the delivery of its Shares. An Authorized Participant must be either (a) a ''Participating Party,'' (*i.e.,* a broker-dealer or other participant in the Continuous Net Settlement System of the National Securities Clearing Corporation (''NSCC''), a clearing house registered with the Commission, or (b) a participant in the Depository Trust Company (''DTC,'' and such participant, ''DTC Participant''), which, in either case, has signed a ''Participant Agreement'' with the Distributor.

10. The Shares will be purchased and redeemed in Creation Units and generally on an in-kind basis. Except where the purchase or redemption will include cash under the limited circumstances specified below, purchasers will be required to purchase Creation Units by making an in-kind deposit of specified instruments (''Deposit Instruments''), and shareholders redeeming their Shares will receive an in-kind transfer of specified instruments (''Redemption Instruments'').[7] On any given Business Day the names and quantities of the instruments that constitute the Deposit Instruments and the names and quantities of the instruments that constitute the Redemption Instruments will be identical, unless the Fund is Rebalancing (defined below). In addition, the Deposit Instruments and the Redemption Instruments will each correspond pro rata to the positions in a Fund's portfolio (including cash positions),[8] except: (a) In the case of bonds, for minor differences when it is impossible to break up bonds beyond certain minimum sizes needed for transfer and settlement; (b) for minor differences when rounding is necessary to eliminate fractional shares or lots that are not tradeable round lots;[9] (c) ''to be announced'' transactions (''TBA Transactions''),[10] short positions, derivatives and other positions that cannot be transferred in kind[11] will be excluded from the Deposit Instruments and the Redemption Instruments;[12] (d) to the extent the Fund determines, on a given Business Day, to use a representative sampling of the Fund's portfolio;[13] or (e) for temporary periods, to effect changes in the Fund's portfolio as a result of the rebalancing of its Underlying Index (any such change, a ''Rebalancing''). If there is a difference between the net asset value (''NAV'') attributable to a Creation Unit and the aggregate market value of the Deposit Instruments or Redemption Instruments exchanged for the Creation Unit, the party conveying instruments with the lower value will also pay to the other an amount in cash equal to that difference (the ''Balancing Amount'').

11. Purchases and redemptions of Creation Units may be made in whole or in part on a cash basis, rather than in kind, solely under the following circumstances: (a) To the extent there is a Balancing Amount, as described above; (b) if, on a given Business Day, a Fund announces before the open of trading that all purchases, all redemptions or all purchases and redemptions on that day will be made entirely in cash; (c) if, upon receiving a purchase or redemption order from an Authorized Participant, a Fund determines to require the purchase or redemption, as applicable, to be made entirely in cash;[14] (d) if, on a given Business Day, a Fund requires all Authorized Participants purchasing or redeeming Shares on that day to deposit or receive (as applicable) cash in lieu of some or all of the Deposit Instruments or Redemption Instruments, respectively, solely because: (i) Such instruments are not eligible for transfer through either the NSCC or DTC; or (ii) in the case of Foreign Funds, such instruments are not eligible for trading due to local trading restrictions, local restrictions on securities transfers or other similar circumstances; or (e) if a Fund permits an Authorized Participant to deposit or receive (as applicable) cash in lieu of some or all of the Deposit Instruments or Redemption Instruments, respectively, solely because: (i) Such instruments are, in the case of the purchase of a Creation Unit, not available in sufficient quantity; (ii) such instruments are not eligible for trading by an Authorized Participant or the investor on whose behalf the

[7] The Funds must comply with the federal securities laws in accepting Deposit Instruments and satisfying redemptions with Redemption Instruments, including that the Deposit Instruments and Redemption Instruments are sold in transactions that would be exempt from registration under the Securities Act of 1933 (''Securities Act''). In accepting Deposit Instruments and satisfying redemptions with Redemption Instruments that are restricted securities eligible for resale pursuant to rule 144A under the Securities Act, the Funds will comply with the conditions of rule 144A.

[8] The portfolio used for this purpose will be the same portfolio used to calculate the Fund's NAV for that Business Day.

[9] A tradeable round lot for a security will be the standard unit of trading in that particular type of security in its primary market.

[10] A TBA Transaction is a method of trading mortgage-backed securities. In a TBA Transaction, the buyer and seller agree on general trade parameters such as agency, settlement date, par amount and price. The actual pools delivered generally are determined two days prior to the settlement date.

[11] This includes instruments that can be transferred in kind only with the consent of the original counterparty to the extent the Fund does not intend to seek such consents.

[12] Because these instruments will be excluded from the Deposit Instruments and the Redemption Instruments, their value will be reflected in the determination of the Balancing Amount (defined below).

[13] A Fund may only use sampling for this purpose if the sample: (a) Is designed to generate performance that is highly correlated to the performance of the Fund's portfolio; (b) consists entirely of instruments that are already included in the Fund's portfolio; and (c) is the same for all Authorized Participants on a given Business Day.

[14] In determining whether a particular Fund will sell or redeem Creation Units entirely on a cash or in-kind basis (whether for a given day or a given order), the key consideration will be the benefit that would accrue to the Fund and its investors. For instance, in bond transactions, the Adviser may be able to obtain better execution than Share purchasers because of the Adviser's or Sub-Adviser's size, experience and potentially stronger relationships in the fixed income markets. Purchases of Creation Units either on an all cash basis or in-kind are expected to be neutral to the Funds from a tax perspective. In contrast, cash redemptions typically require selling portfolio holdings, which may result in adverse tax consequences for the remaining Fund shareholders that would not occur with an in-kind redemption. As a result, tax considerations may warrant in-kind redemptions.

Authorized Participant is acting; or (iii) a holder of Shares of a Foreign Fund would be subject to unfavorable income tax treatment if the holder receives redemption proceeds in kind.[15]

12. Each Business Day, before the open of trading on a national securities exchange, as defined in section 2(a)(26) of the Act (''Exchange'') on which Shares are listed (''Listing Exchange''), each Fund will cause to be published through the NSCC the names and quantities of the instruments comprising the Deposit Instruments and the Redemption Instruments, as well as the estimated Balancing Amount (if any), for that day. The list of Deposit Instruments and the list of Redemption Instruments will apply until new lists are announced on the following Business Day, and there will be no intra-day changes to the lists except to correct errors in the published lists.

13. The Adviser will provide full portfolio holdings disclosure on a daily basis on the Funds' publicly available Web site (''Web site'') and will develop an ''IIV File,'' which it will use to disclose the Funds' full portfolio holdings, including short positions. Before the opening of business on each Business Day, the Trust, Adviser or other third party, will make the IIV File available by email upon request. Applicants state that given either the IIV File or the Web site disclosure,[16] anyone will be able to know in real time the intraday value of the Funds.[17] The investment characteristics of any financial instruments and short positions used to achieve short and long exposures will be described in sufficient detail for market participants to understand the principal investment strategies of the Funds and to permit informed trading of their Shares.

14. Shares of each Fund will be listed and traded individually on an Exchange. It is expected that one or more member firms of an Exchange will be designated to act as a market maker (''Market Maker'') and maintain a market in Shares trading on the Exchange. Prices of Shares trading on an Exchange will be based on the current bid/ask market. Shares sold in the secondary market will be subject to customary brokerage commissions and charges.

15. Applicants expect that purchasers of Creation Units will include institutional investors and arbitrageurs. Market Makers also may purchase Creation Units for use in market-making activities. Applicants expect that secondary market purchasers of Shares will include both institutional investors and retail investors.[18] Applicants expect that the price at which Shares trade will be disciplined by arbitrage opportunities created by the option to continually purchase or redeem Creation Units at their NAV, which should ensure that Shares will not trade at a material discount or premium in relation to their NAV.

16. Shares will not be individually redeemable. To redeem, an investor must accumulate enough Shares to constitute a Creation Unit. Redemption orders must be placed by or through an Authorized Participant.

17. An investor purchasing or redeeming a Creation Unit from a Fund may be charged a fee (''Transaction Fee'') to protect existing shareholders of the Funds from the dilutive costs associated with the purchase and redemption of Creation Units.[19] With respect to Feeder Funds, the Transaction Fee would be paid indirectly to the Master Fund.[20]

18. Neither the Trust nor any Fund will be advertised, marketed or otherwise held out as a traditional open-end investment company or a mutual fund. Instead, each Fund will be marketed as an ''exchange traded fund (''ETF''). All marketing materials that describe the features or method of obtaining, buying or selling Creation Units, or Shares traded on an Exchange, or refer to redeemability, will prominently disclose that Shares are not individually redeemable and that the owners of Shares may purchase or redeem Shares from the Fund in Creation Units. The same approach will be followed in the shareholder reports issued or circulated in connection with the Shares. The Funds will provide copies of their annual and semi-annual shareholder reports to DTC Participants for distribution to shareholders.

19. Applicants also request that the order allow them to offer Funds for which an affiliated person of the Adviser will serve as the Index Provider (''Affiliated Index Fund''). The Index Provider to an Affiliated Index Fund (''Affiliated Index Provider'') will create a proprietary, rules based methodology (''Rules-Based Process'') to create Underlying Indexes for use by the Affiliated Index Funds and other investors (an ''Affiliated Index'').[21] The Affiliated Index Provider, as owner of the Underlying Indexes and all related intellectual property related thereto, will license the use of the Affiliated Indexes, their names and other related intellectual property to the Adviser for use in connection with the Affiliated Index Funds, or their respective Master Funds. The licenses for the Affiliated Index Funds, or their respective Master Funds will state that the Adviser must provide the use of the Affiliated Indexes and related intellectual property at no cost to the Trust and the Affiliated Index Funds, or their respective Master Funds.

20. Applicants contend that the potential conflicts of interest arising from the fact that the Affiliated Index Provider will be an ''affiliated person'' of the Adviser will not have any impact on the operation of the Affiliated Index Funds because the Affiliated Indexes will maintain transparency, the Affiliated Index Funds' portfolios will

[15] A ''custom order'' is any purchase or redemption of Shares made in whole or in part on a cash basis in reliance on clause (e)(i) or (e)(ii).

[16] The information on the Web site will be the same as that disclosed to Authorized Participants in the IIV File, except that (a) the information provided on the Web site will be formatted to be reader-friendly and (b) the portfolio holdings data on the Web site will be calculated and displayed on a per Fund basis, while the information in the IIV File will be calculated and displayed on a per Creation Unit basis.

[17] Each Listing Exchange or other major market data provider will disseminate, every 15 seconds during regular Exchange trading hours, through the facilities of the Consolidated Tape Association, an amount for each Fund representing the sum of (a) the estimated Balancing Amount and (b) the current value of the Deposit Instruments and any short positions, on a per individual Share basis.

[18] Shares will be registered in book-entry form only. DTC or its nominee will be the registered owner of all outstanding Shares. DTC or DTC Participants will maintain records reflecting beneficial owners of Shares.

[19] Where a Fund permits an in-kind purchaser to substitute cash in lieu of depositing one or more Deposit Instruments, the Transaction Fee imposed on a purchaser or redeemer may be higher.

[20] Applicants are not requesting relief from section 18 of the Act. Accordingly, a Master Fund may require a Transaction Fee payment to cover expenses related to purchases or redemptions of the Master Fund's shares by a Feeder Fund only if it requires the same payment for equivalent purchases or redemptions by any other feeder fund. Thus, for example, a Master Fund may require payment of a Transaction Fee by a Feeder Fund for transactions for 20,000 or more shares so long as it requires payment of the same Transaction Fee by all feeder funds for transactions involving 20,000 or more shares.

[21] The Underlying Indexes may be made available to registered investment companies, as well as separately managed accounts of institutional investors and privately offered funds that are not deemed to be ''investment companies'' in reliance on section 3(c)(1) or 3(c)(7) of the Act and other pooled investment vehicles for which the Adviser acts as adviser or sub-adviser (''Affiliated Accounts'') as well as other such registered investment companies, separately managed accounts, privately offered funds and other pooled investment vehicles for which it does not act either as adviser or sub-adviser (''Unaffiliated Accounts''). The Affiliated Accounts and the Unaffiliated Accounts (collectively, ''Accounts''), like the Funds, would seek to track the performance of one or more Underlying Index(es) by investing in the constituents of such Underlying Index(es) or a representative sample of such constituents of the index. Consistent with the relief requested from section 17(a), the Affiliated Accounts will not engage in Creation Unit transactions with a Fund.

be transparent, and the Affiliated Index Provider, the Adviser, any Sub-Adviser and the Affiliated Index Funds each will adopt policies and procedures to address any potential conflicts of interest (''Policies and Procedures''). The Affiliated Index Provider will publish in the public domain, including on its Web site and/or the Affiliated Index Funds' Web site, all of the rules that govern the construction and maintenance of each of its Affiliated Indexes. Applicants believe that this public disclosure will prevent the Adviser from possessing any advantage over other market participants by virtue of its affiliation with the Affiliated Index Provider, the owner of the Affiliated Indexes. Applicants note that the identity and weightings of the securities of any Affiliated Index will be readily ascertainable by any third party because the Rules-Based Process will be publicly available.

21. Like other index providers, the Affiliated Index Provider may modify the Rules-Based Process in the future. The Rules-Based Process could be modified, for example, to reflect changes in the underlying market tracked by an Affiliated Index, the way in which the Rules-Based Process takes into account market events or to change the way a corporate action, such as a stock split, is handled. Such changes would not take effect until the Index Personnel (defined below) has given (a) the Calculation Agent (defined below) reasonable prior written notice of such rule changes, and (b) the investing public at least sixty (60) days published notice that such changes will be implemented. Affiliated Indexes may have reconstitution dates and rebalance dates that occur on a periodic basis more frequently than once yearly, but no more frequently than monthly.

22. As owner of the Affiliated Indexes, the Affiliated Index Provider will hire a calculation agent (''Calculation Agent''). The Calculation Agent will determine the number, type, and weight of securities that will comprise each Affiliated Index, will perform all other calculations necessary to determine the proper make-up of the Affiliated Index, including the reconstitutions for such Affiliated Index, and will be solely responsible for all such Affiliated Index maintenance, calculation, dissemination and reconstitution activities. The Calculation Agent will not be an affiliated person, as such term is defined in the Act, or an affiliated person of an affiliated person, of the Funds, or their respective Master Funds, the Adviser, any Sub-Adviser, any promoter of a Fund or the Distributor.

23. The Adviser and the Affiliated Index Provider will adopt and implement Policies and Procedures to address any potential conflicts of interest. Among other things, the Policies and Procedures will be designed to limit or prohibit communication between employees of the Affiliated Index Provider and its affiliates who have responsibility for the Affiliated Indexes and the Rules-Based Process, as well as those employees of the Affiliated Index Provider and its affiliates appointed to assist such employees in the performance of his/her duties (''Index Personnel'') and other employees of the Affiliated Index Provider. The Index Personnel (a) will not have any responsibility for the management of the Affiliated Index Funds, or their respective Master Funds, or the Affiliated Accounts, (b) will be expressly prohibited from sharing this information with any employees of the Adviser or those of any Sub-Adviser, that have responsibility for the management of the Affiliated Index Funds, or their respective Master Funds, or any Affiliated Account until such information is publicly announced, and (c) will be expressly prohibited from sharing or using this non-public information in any way except in connection with the performance of their respective duties. In addition, the Adviser and any Sub-Adviser will adopt and implement, pursuant to rule 206(4)–7 under the Advisers Act, written policies and procedures designed to prevent violations of the Advisers Act and the rules thereunder. Also, the Adviser has adopted a code of ethics pursuant to rule 17j–1 under the Act and rule 204A–1 under the Advisers Act (''Code of Ethics''). Any Sub-Adviser will be required to adopt a Code of Ethics and provide the Trust with the certification required by rule 17j–1 under the Act. In conclusion, applicants submit that the Affiliated Index Funds will operate in a manner very similar to the other index-based ETFs which are currently traded.

Applicants' Legal Analysis

1. Applicants request an order under section 6(c) of the Act for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act.

2. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction, or any class of persons, securities or transactions, from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policies of the registered investment company and the general provisions of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provisions of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors.

Sections 5(a)(1) and 2(a)(32) of the Act

3. Section 5(a)(1) of the Act defines an ''open-end company'' as a management investment company that is offering for sale or has outstanding any redeemable security of which it is the issuer. Section 2(a)(32) of the Act defines a redeemable security as any security, other than short-term paper, under the terms of which the owner, upon its presentation to the issuer, is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent. Because Shares will not be individually redeemable, applicants request an order that would permit the Funds to register as open-end management investment companies and issue Shares that are redeemable in Creation Units only.[22] Applicants state that investors may purchase Shares in Creation Units and redeem Creation Units from each Fund. Applicants further state that because the market price of Shares will be disciplined by arbitrage opportunities, investors should be able to buy and sell Shares in the secondary market at prices that do not vary materially from their NAV.

Section 22(d) of the Act and Rule 22c–1 Under the Act

4. Section 22(d) of the Act, among other things, prohibits a dealer from selling a redeemable security that is currently being offered to the public by

[22] The Master Funds will not require relief from sections 2(a)(32) and 5(a)(1) because the Master Funds will operate as traditional mutual funds and issue individually redeemable securities.

or through a principal underwriter, except at a current public offering price described in the prospectus. Rule 22c–1 under the Act generally requires that a dealer selling, redeeming or repurchasing a redeemable security do so only at a price based on its NAV. Applicants state that secondary market trading in Shares will take place at negotiated prices, not at a current offering price described in a Fund's prospectus, and not at a price based on NAV. Thus, purchases and sales of Shares in the secondary market will not comply with section 22(d) of the Act and rule 22c–1 under the Act. Applicants request an exemption under section 6(c) from these provisions.

5. Applicants assert that the concerns sought to be addressed by section 22(d) of the Act and rule 22c–1 under the Act with respect to pricing are equally satisfied by the proposed method of pricing Shares. Applicants maintain that while there is little legislative history regarding section 22(d), its provisions, as well as those of rule 22c–1, appear to have been designed to (a) prevent dilution caused by certain riskless trading schemes by principal underwriters and contract dealers, (b) prevent unjust discrimination or preferential treatment among buyers, and (c) ensure an orderly distribution system of investment company shares by eliminating price competition from non-contract dealers offering shares at less than the published sales price and repurchasing shares at more than the published redemption price.

6. Applicants believe that none of these purposes will be thwarted by permitting Shares to trade in the secondary market at negotiated prices. Applicants state that (a) secondary market trading in Shares does not involve Trust assets and will not result in dilution of an investment in Shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in Shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants contend that the proposed distribution system will be orderly because competitive forces will ensure that the difference between the market price of Shares and their NAV remains narrow.

Section 22(e)

7. Section 22(e) of the Act generally prohibits a registered investment company from suspending the right of redemption or postponing the date of payment of redemption proceeds for more than seven days after the tender of a security for redemption. Applicants observe that the settlement of redemptions for the Foreign Funds will be contingent not only on the settlement cycle of the U.S. securities markets, but also on the delivery cycles in local markets for the underlying foreign securities held by the Foreign Funds. Applicants believe that under certain circumstances, the delivery cycles for transferring Portfolio Securities to redeeming investors, coupled with local market holiday schedules, will require a delivery process of up to 15 calendar days.[23] Applicants therefore request relief from section 22(e) in order to provide for payment or satisfaction of redemptions within the maximum number of calendar days required for such payment or satisfaction in the principal local markets where transactions in the Portfolio Securities of each Foreign Fund customarily clear and settle, but in all cases no later than 15 calendar days following the tender of a Creation Unit.[24] With respect to Future Funds that are Foreign Funds, applicants seek the same relief from section 22(e) only to the extent that circumstances exist similar to those described in the application.

8. Applicants submit that section 22(e) was designed to prevent unreasonable, undisclosed and unforeseen delays in the actual payment of redemption proceeds. Applicants state that allowing redemption payments for Creation Units of a Foreign Fund to be made within a maximum of 15 calendar days would not be inconsistent with the spirit and intent of section 22(e). Applicants state the SAI will identify those instances in a given year where, due to local holidays, more than seven days will be needed to deliver redemption proceeds and will list such holidays and the maximum number of days, but in no case more than 15 calendar days. Applicants are only seeking relief from section 22(e) to the extent that the Foreign Funds effect creations and redemptions of Creation Units in-kind.[25]

9. With respect to Feeder Funds, only in-kind redemptions may proceed on a delayed basis pursuant to the relief requested from section 22(e). In the event of such an in-kind redemption, the Feeder Fund would make a corresponding redemption from the Master Fund. Applicants do not believe the master-feeder structure would have any impact on the delivery cycle.

Section 12(d)(1)

10. Section 12(d)(1)(A) of the Act, in relevant part, prohibits a registered investment company from acquiring securities of an investment company if such securities represent more than 3% of the total outstanding voting stock of the acquired company, more than 5% of the total assets of the acquiring company, or, together with the securities of any other investment companies, more than 10% of the total assets of the acquiring company. Section 12(d)(1)(B) of the Act prohibits a registered open-end investment company, its principal underwriter or any other broker or dealer from selling the investment company's shares to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies generally.

11. Applicants request an exemption to permit management investment companies (''Investing Management Companies'') and unit investment trusts (''Investing Trusts'') registered under the Act that are not sponsored or advised by the Adviser and are not part of the same ''group of investment companies,'' as defined in section 12(d)(1)(G)(ii) of the Act, as the Funds (collectively, ''Fund of Funds'') to acquire Shares beyond the limits of section 12(d)(1)(A). In addition, applicants seek relief to permit the Funds, the Distributor, and any broker-dealer that is registered under the Exchange Act to sell Shares to Fund of Funds in excess of the limits of section 12(d)(1)(B).

12. Each Investing Management Company will be advised by an investment adviser within the meaning of section 2(a)(20)(A) of the Act (the ''Fund of Funds Adviser'') and may be sub-advised by one or more investment advisers within the meaning of section 2(a)(20)(B) of the Act (each a ''Fund of Funds Sub-Adviser''). Any Fund of Funds Adviser or Fund of Funds Sub-Adviser will be registered or not subject to registration under the Advisers Act. Each Investing Trust will have a sponsor (''Sponsor'').

13. Applicants submit that the proposed conditions to the requested relief adequately address the concerns underlying the limits in section

[23] In the past, settlement in certain countries, including Russia, has extended to 15 calendar days.

[24] Applicants acknowledge that relief obtained from the requirements of section 22(e) will not affect any obligations applicants may have under rule 15c6–1 under the Exchange Act. Rule 15c6–1 requires that most securities transactions be settled within three business days of the trade date.

[25] The requested exemption from section 22(e) would only apply to in-kind redemptions by the Feeder Funds and would not apply to in-kind redemptions by other feeder funds.

12(d)(1)(A) and (B), which include concerns about undue influence by a fund of funds over underlying funds, excessive layering of fees and overly complex fund structures. Applicants believe that the requested exemption is consistent with the public interest and the protection of investors.

14. Applicants believe that neither the Fund of Funds nor any Fund of Funds Affiliate would be able to exert undue influence over the Funds or any Fund Affiliates.[26] To limit the control that a Fund of Funds may have over a Fund, applicants propose a condition prohibiting a Fund of Funds Adviser or a Sponsor, any person controlling, controlled by, or under common control with the Fund of Funds Adviser or Sponsor, and any investment company or issuer that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act that is advised or sponsored by the Fund of Funds Adviser or Sponsor, or any person controlling, controlled by, or under common control with the Fund of Funds Adviser or Sponsor (''Fund of Funds' Advisory Group'') from controlling (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. The same prohibition would apply to any Fund of Funds Sub-Adviser, any person controlling, controlled by or under common control with the Fund of Funds Sub-Adviser, and any investment company or issuer that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act (or portion of such investment company or issuer) advised or sponsored by the Fund of Funds Sub-Adviser or any person controlling, controlled by or under common control with the Fund of Funds Sub-Adviser (''Fund of Funds Sub-Advisory Group''). Applicants propose other conditions to limit the potential for undue influence over the Funds, including that no Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to a Fund) will cause a Fund to purchase a security in an offering of securities during the existence of an underwriting or selling syndicate of which a principal underwriter is an Underwriting Affiliate (''Affiliated Underwriting''). An ''Underwriting Affiliate'' is a principal underwriter in any underwriting or selling syndicate that is an officer, director, member of an advisory board, Fund of Funds Adviser, Fund of Funds Sub-Adviser, employee or Sponsor of the Fund of Funds, or a person of which any such officer, director, member of an advisory board, Fund of Funds Adviser, Fund of Funds Sub-Adviser, employee or Sponsor is an affiliated person (except that any person whose relationship to the Fund is covered by section 10(f) of the Act is not an Underwriting Affiliate).

15. Applicants do not believe that the proposed arrangement involves excessive layering of fees. The board of directors or trustees of any Investing Management Company, including a majority of the disinterested directors or trustees, will find that the advisory fees charged under the contract are based on services provided that will be in addition to, rather than duplicative of, services provided under the advisory contract of any Fund (or its respective Master Fund) in which the Acquiring Management Company may invest. In addition, under condition B.5, a Fund of Funds Adviser or a Fund of Funds' trustee or Sponsor, as applicable, will waive fees otherwise payable to it by the Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by a Fund under rule 12b–1 under the Act) received from a Fund by the Fund of Funds Adviser, trustee or Sponsor or an affiliated person of the Fund of Funds Adviser, trustee or Sponsor, other than any advisory fees paid to Fund of Funds Adviser, trustee or Sponsor or its affiliated person by a Fund, in connection with the investment by the Fund of Funds in the Fund. Applicants state that any sales charges or service fees on shares of a Fund of Funds will not exceed the limits applicable to a fund of funds set forth in NASD Conduct Rule 2830.[27]

16. Applicants submit that the requested section 12(d)(1) relief addresses concerns over overly complex structures. Applicants note that a Fund (or its respective Master Fund) will be prohibited from acquiring securities of any investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent permitted by exemptive relief from the Commission permitting the Fund (or its respective Master Fund) to purchase shares of other investment companies for short-term cash management purposes or pursuant to the Master-Feeder Relief.

17. To ensure that a Fund of Funds is aware of the terms and conditions of the requested order, the Fund of Funds must enter into an agreement with the respective Fund (''FOF Participation Agreement''). The FOF Participation Agreement will include an acknowledgment from the Fund of Funds that it may rely on the order only to invest in the Funds and not in any other investment company.

18. Applicants also note that a Fund may choose to reject a direct purchase of Shares by a Fund of Funds. To the extent that a Fund of Funds purchases Shares in the secondary market, a Fund would still retain its ability to reject initial purchases of Shares made in reliance on the requested order by declining to enter into the FOF Participation Agreement prior to any investment by a Fund of Funds in excess of the limits of section 12(d)(1)(A).

19. Applicants also are seeking the Master-Feeder Relief to permit the Feeder Funds to perform creations and redemptions of Shares in-kind in a master-feeder structure. Applicants assert that this structure is substantially identical to traditional master-feeder structures permitted pursuant to the exception provided in section 12(d)(1)(E) of the Act. Section 12(d)(1)(E) provides that the percentage limitations of sections 12(d)(1)(A) and (B) will not apply to a security issued by an investment company (in this case, the shares of the applicable Master Fund) if, among other things, that security is the only investment security held in the investing fund's portfolio (in this case, the Feeder Fund's portfolio). Applicants believe the proposed master-feeder structure complies with section 12(d)(1)(E) because each Feeder Fund will hold only investment securities issued by its corresponding Master Fund; however, the Feeder Funds may receive securities other than securities of its corresponding Master Fund if a Feeder Fund accepts an in-kind creation. To the extent that a Feeder Fund may be deemed to be holding both shares of the Master Fund and other securities, applicants request relief from sections 12(d)(1)(A) and (B). The Feeder Funds would operate in compliance with all other provisions of section 12(d)(1)(E).

Sections 17(a)(1) and (2) of the Act

20. Section 17(a) of the Act generally prohibits an affiliated person of a registered investment company, or an

[26] A ''Fund of Funds Affiliate'' is the Fund of Funds Adviser, Fund of Funds Sub-Adviser, Sponsor, promoter, and principal underwriter of a Fund of Funds, and any person controlling, controlled by, or under common control with any of those entities. A ''Fund Affiliate'' is the investment adviser, promoter, or principal underwriter of a Fund and any person controlling, controlled by or under common control with any of those entities.

[27] Any references to NASD Conduct Rule 2830 include any successor or replacement rule to NASD Conduct Rule 2830 that may be adopted by the Financial Industry Regulatory Authority.

affiliated person of such a person (''second-tier affiliate''), from selling any security or other property to or acquiring any security or other property from the company. Section 2(a)(3) of the Act defines ''affiliated person'' of another person to include (a) any person directly or indirectly owning, controlling or holding with power to vote 5% or more of the outstanding voting securities of the other person, and (c) any person directly or indirectly controlling, controlled by or under common control with the other person. Section 2(a)(9) of the Act defines control as the power to exercise a controlling influence over the management of policies of a company. It also provides that a control relationship will be presumed where one person owns more than 25% of a company's voting securities. The Funds may be deemed to be controlled by the Adviser and hence affiliated persons of each other. In addition, the Funds may be deemed to be under common control with any other registered investment company (or series thereof) advised by the Adviser (an ''Affiliated Fund'').

21. Applicants request an exemption from section 17(a) of the Act pursuant to sections 17(b) and 6(c) of the Act to permit persons to effectuate in-kind purchases and redemptions with a Fund when they are affiliated persons or second-tier affiliates of the Fund solely by virtue of one or more of the following: (a) holding 5% or more, or more than 25%, of the outstanding Shares of one or more Funds; (b) having an affiliation with a person with an ownership interest described in (a); or (c) holding 5% or more, or more than 25%, of the shares of one or more Affiliated Funds.

22. Applicants assert that no useful purpose would be served by prohibiting these types of affiliated persons from acquiring or redeeming Creation Units through in-kind transactions. Except as described in Section II.K.2 of the application, the Deposit Instruments and Redemption Instruments will be the same for all purchasers and redeemers regardless of the their identity. The deposit procedures for both in-kind purchases and in-kind redemptions of Creation Units will be the same for all purchases and redemptions, regardless of size or number. Deposit Instruments and Redemption Instruments will be valued in the same manner as Portfolio Securities are valued for purposes of calculating NAV. Applicants submit that, by using the same standards for valuing Portfolio Securities as are used for calculating in-kind redemptions or purchases, the Fund will ensure that its NAV will not be adversely affected by such transactions. Applicants also believe that in-kind purchases and redemptions will not result in self-dealing or overreaching of the Fund.

23. Applicants also seek relief from section 17(a) to permit a Fund that is an affiliated person or second-tier affiliate of a Fund of Funds to sell its Shares to and redeem its Shares from a Fund of Funds, and to engage in the accompanying in-kind transactions with the Fund of Funds.[28] Applicants state that the terms of the proposed transactions will be fair and reasonable and will not involve overreaching. Applicants note that any consideration paid by a Fund of Funds for the purchase or redemption of Shares directly from a Fund will be based on the NAV of the Fund in accordance with policies and procedures set forth in the Fund's registration statement.[29] Further, as described in Section II.K.2 of the application, the Deposit Instruments and Redemption Instruments available for a Fund will be the same for all purchasers and redeemers, respectively and will correspond pro rata to the Fund's Portfolio Securities, except as described above. Applicants also state that the proposed transactions are consistent with the general purposes of the Act and appropriate in the public interest.

24. To the extent that a Fund operates in a master-feeder structure, applicants also request relief permitting the Feeder Funds to engage in in-kind creations and redemptions with the applicable Master Fund. Applicants state that the customary section 17(a)(1) and 17(a)(2) relief would not be sufficient to permit such transactions because the Feeder Funds and the applicable Master Fund could also be affiliated by virtue of having the same investment adviser. However, applicants believe that in-kind creations and redemptions between a Feeder Fund and a Master Fund advised by the same investment adviser do not involve ''overreaching'' by an affiliated person. Such transactions will occur only at the Feeder Fund's proportionate share of the Master Fund's net assets, and the distributed securities will be valued in the same manner as they are valued for the purposes of calculating the applicable Master Fund's NAV. Further, all such transactions will be effected with respect to pre-determined securities and on the same terms with respect to all investors. Finally, such transactions would only occur as a result of, and to effectuate, a creation or redemption transaction between the Feeder Fund and a third-party investor. Applicants believe that the terms of the proposed transactions are reasonable and fair and do not involve overreaching on the part of any person concerned and that the transactions are consistent with the general purposes of the Act.

Applicants' Conditions

Applicants agree that any order of the Commission granting the requested ETF relief will be subject to the following conditions:

A. ETF Relief

1. The requested relief, other than the section 12(d)(1) relief and the section 17 relief related to a master-feeder structure, will expire on the effective date of any Commission rule under the Act that provides relief permitting the operation of index-based ETFs.

2. As long as a Fund operates in reliance on the order, the Shares of such Fund will be listed on an Exchange.

3. No Fund will be advertised or marketed as an open-end investment company or mutual fund. Any advertising material that describes the purchase or sale of Creation Units or refers to redeemability will prominently disclose that Shares are not individually redeemable and that owners of Shares may acquire those Shares from the Fund and tender those Shares for redemption to a Fund in Creation Units only.

4. The Web site for the Funds, which is and will be publicly accessible at no charge, will contain, on a per Share basis for each Fund, the prior Business Day's NAV and the market closing price or the Bid/Ask Price, and a calculation of the premium or discount of the market closing price or Bid/Ask Price against such NAV.

B. Section 12(d)(1) Relief

Applicants agree that any order of the Commission granting the requested

[28] To the extent that purchases and sales of Shares occur in the secondary market and not through principal transactions directly between a Fund of Funds and a Fund, relief from section 17(a) would not be necessary. However, the requested relief would apply to direct sales of Shares in Creation Units by a Fund to a Fund of Funds and redemptions of those Shares. The requested relief also is intended to cover the in-kind transactions that may accompany such sales and redemptions. Applicants are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where a Fund could be deemed an affiliated person or second-tier affiliate of a Fund of Funds because the Adviser provides investment advisory services to the Fund of Funds.

[29] Applicants acknowledge that receipt of compensation by (a) an affiliated person of a Fund of Funds, or an affiliated person of such person, for the purchase by the Fund of Funds of Shares or (b) an affiliated person of a Fund, or an affiliated person of such person, for the sale by the Fund of its Shares to a Fund of Funds may be prohibited by section 17(e)(1) of the Act. The FOF Participation Agreement also will include this acknowledgment.

12(d)(1) relief will be subject to the following conditions:

1. The members of a Fund of Funds' Advisory Group will not control (individually or in the aggregate) a Fund (or its respective Master Fund) within the meaning of section 2(a)(9) of the Act. The members of a Fund of Funds' Sub-Advisory Group will not control (individually or in the aggregate) a Fund (or its respective Master Fund) within the meaning of section 2(a)(9) of the Act. If, as a result of a decrease in the outstanding voting securities of a Fund, the Fund of Funds' Advisory Group or the Fund of Funds' Sub-Advisory Group, each in the aggregate, becomes a holder of more than 25 percent of the outstanding voting securities of a Fund, it will vote its Shares of the Fund in the same proportion as the vote of all other holders of the Fund's Shares. This condition does not apply to the Fund of Funds' Sub-Advisory Group with respect to a Fund (or its respective Master Fund) for which the Fund of Funds' Sub-Adviser or a person controlling, controlled by or under common control with the Fund of Funds' Sub-Adviser acts as the investment adviser within the meaning of section 2(a)(20)(A) of the Act.

2. No Fund of Funds or Fund of Funds Affiliate will cause any existing or potential investment by the Fund of Funds in a Fund to influence the terms of any services or transactions between the Fund of Funds or Fund of Funds Affiliate and the Fund (or its respective Master Fund) or a Fund Affiliate.

3. The board of directors or trustees of an Investing Management Company, including a majority of the non-interested directors or trustees, will adopt procedures reasonably designed to ensure that the Fund of Funds Adviser and Fund of Funds Sub-Adviser are conducting the investment program of the Investing Management Company without taking into account any consideration received by the Investing Management Company or a Fund of Funds Affiliate from a Fund (or its respective Master Fund) or Fund Affiliate in connection with any services or transactions.

4. Once an investment by a Fund of Funds in the securities of a Fund exceeds the limit in section 12(d)(1)(A)(i) of the Act, the board of directors (''Board'') of the Fund (or its respective Master Fund), including a majority of the non-interested directors or trustees, will determine that any consideration paid by the Fund (or its respective Master Fund) to the Fund of Funds or a Fund of Funds Affiliate in connection with any services or transactions: (i) Is fair and reasonable in relation to the nature and quality of the services and benefits received by the Fund (or its respective Master Fund); (ii) is within the range of consideration that the Fund (or its respective Master Fund) would be required to pay to another unaffiliated entity in connection with the same services or transactions; and (iii) does not involve overreaching on the part of any person concerned. This condition does not apply with respect to any services or transactions between a Fund (or its respective Master Fund) and its investment adviser(s), or any person controlling, controlled by or under common control with such investment adviser(s).

5. The Fund of Funds Adviser, or trustee or Sponsor of an Investing Trust, as applicable, will waive fees otherwise payable to it by the Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by a Fund (or its respective Master Fund) under rule 12b–l under the Act) received from a Fund (or its respective Master Fund) by the Fund of Funds Adviser, or trustee or Sponsor of the Investing Trust, or an affiliated person of the Fund of Funds Adviser, or trustee or Sponsor of the Investing Trust, other than any advisory fees paid to the Fund of Funds Adviser, Trustee or Sponsor of an Investing Trust, or its affiliated person by the Fund (or its respective Master Fund), in connection with the investment by the Fund of Funds in the Fund. Any Fund of Funds Sub-Adviser will waive fees otherwise payable to the Fund of Funds Sub-Adviser, directly or indirectly, by the Investing Management Company in an amount at least equal to any compensation received from a Fund (or its respective Master Fund) by the Fund of Funds Sub-Adviser, or an affiliated person of the Fund of Funds Sub-Adviser, other than any advisory fees paid to the Fund of Funds Sub-Adviser or its affiliated person by the Fund (or its respective Master Fund), in connection with the investment by the Investing Management Company in the Fund made at the direction of the Fund of Funds Sub-Adviser. In the event that the Fund of Funds Sub-Adviser waives fees, the benefit of the waiver will be passed through to the Investing Management Company.

6. No Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to a Fund (or its respective Master Fund)) will cause a Fund (or its respective Master Fund) to purchase a security in any Affiliated Underwriting.

7. The Board of a Fund (or its respective Master Fund), including a majority of the non-interested Board members, will adopt procedures reasonably designed to monitor any purchases of securities by the Fund (or its respective Master Fund) in an Affiliated Underwriting, once an investment by a Fund of Funds in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, including any purchases made directly from an Underwriting Affiliate. The Board will review these purchases periodically, but no less frequently than annually, to determine whether the purchases were influenced by the investment by the Fund of Funds in the Fund. The Board will consider, among other things: (i) Whether the purchases were consistent with the investment objectives and policies of the Fund (or its respective Master Fund); (ii) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index; and (iii) whether the amount of securities purchased by the Fund (or its respective Master Fund) in Affiliated Underwritings and the amount purchased directly from an Underwriting Affiliate have changed significantly from prior years. The Board will take any appropriate actions based on its review, including, if appropriate, the institution of procedures designed to ensure that purchases of securities in Affiliated Underwritings are in the best interest of shareholders of the Fund.

8. Each Fund (or its respective Master Fund) will maintain and preserve permanently in an easily accessible place a written copy of the procedures described in the preceding condition, and any modifications to such procedures, and will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any purchase in an Affiliated Underwriting occurred, the first two years in an easily accessible place, a written record of each purchase of securities in Affiliated Underwritings once an investment by a Fund of Funds in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, setting forth from whom the securities were acquired, the identity of the underwriting syndicate's members, the terms of the purchase, and the information or materials upon which the Board's determinations were made.

9. Before investing in a Fund in excess of the limits in section 12(d)(1)(A), a Fund of Funds and the Trust will execute a FOF Participation

Agreement stating without limitation that their respective boards of directors or trustees and their investment advisers, or trustee and Sponsor, as applicable, understand the terms and conditions of the Order, and agree to fulfill their responsibilities under the Order. At the time of its investment in Shares of a Fund in excess of the limit in section 12(d)(1)(A)(i), a Fund of Funds will notify the Fund of the investment. At such time, the Fund of Funds will also transmit to the Fund a list of the names of each Fund of Funds Affiliate and Underwriting Affiliate. The Fund of Funds will notify the Fund of any changes to the list of the names as soon as reasonably practicable after a change occurs. The Fund and the Fund of Funds will maintain and preserve a copy of the Order, the FOF Participation Agreement, and the list with any updated information for the duration of the investment and for a period of not less than six years thereafter, the first two years in an easily accessible place.

10. Before approving any advisory contract under section 15 of the Act, the board of directors or trustees of each Investing Management Company, including a majority of the non-interested directors or trustees, will find that the advisory fees charged under such contract are based on services provided that will be in addition to, rather than duplicative of, the services provided under the advisory contract(s) of any Fund (or its respective Master Fund) in which the Investing Management Company may invest. These findings and their basis will be fully recorded in the minute books of the appropriate Investing Management Company.

11. Any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.

12. No Fund (or its respective Master Fund) will acquire securities of an investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent (i) the Fund (or its respective Master Fund) acquires securities of another investment company pursuant to exemptive relief from the Commission permitting the Fund (or its respective Master Fund) to acquire securities of one or more investment companies for short-term cash management purposes or (ii) the Fund acquires securities of the Master Fund pursuant to the Master-Feeder Relief.

For the Commission, by the Division of Investment Management, under delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–28219 Filed 11–22–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a roundtable about proxy advisory firms on December 5, 2013 from 9:30 a.m. to 1:30 p.m.

The roundtable panel will be asked to discuss topics including the current state of proxy advisory firm use by investment advisers and institutional investors and potential changes that have been suggested by market participants. Panelists will also be invited to discuss any new ideas.

The roundtable discussion will be held at SEC headquarters at 100 F Street NE in Washington, DC The roundtable will be webcast on the Commission's Web site at *www.sec.gov* and will be archived for later viewing. Seating for the public will be available.

For further information, please contact the Office of the Secretary at (202) 551–5400.

Dated: November 21, 2013.

Elizabeth M. Murphym

Secretary.

[FR Doc. 2013–28310 Filed 11–21–13; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a Closed Meeting on Tuesday, November 26, 2013 at 2:00 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or her designee, has certified that, in her opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matter at the Closed Meeting.

Commissioner Gallagher, as duty officer, voted to consider the items listed for the Closed Meeting in a closed session and determined that no earlier notice thereof was possible.

The subject matter of the Closed Meeting will be:

institution and settlement of injunctive actions;

institution and settlement of administrative proceedings; and

other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 551–5400.

Dated: November 20, 2013.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–28275 Filed 11–21–13; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70901; File No. SR–CME–2013–30]

Self-Regulatory Organizations; Chicago Mercantile Exchange Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Corrections to Chicago Mercantile Exchange Inc. Rule 274H.02.A. Regarding Timing of Determination of the Spot Exchange Rate of Chilean Peso per United States Dollar for Use in Settlement of Cleared Spot, Forward and Swap Contracts

November 19, 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 November 12, 2013, Chicago Mercantile Exchange Inc. (''CME'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change described in Items I, II and III below, which Items have been prepared primarily by CME. CME filed the proposal pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(4)(ii)[4] thereunder so that the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(4)(ii).

proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CME is filing a proposed rule change that is limited to its business as a derivatives clearing organization. More specifically, the proposed rule change would make amendments to its rules to correct an error in the current rule text of CME Rule 274H.02.A. regarding cash settlement of Cleared OTC USD/CLP Spot, Forwards and Swaps Contracts.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CME included statements concerning the purpose 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. CME has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

CME is registered as a derivatives clearing organization with the Commodity Futures Trading Commission and currently offers clearing services for many different futures and swaps products. With this filing, CME proposes to make amendments to its rules regarding its OTC foreign currency (''FX'') swap clearing offering. Although this change will be effective on filing, CME plans to operationalize the proposed change on November 17, 2013 for trade date November 18, 2013.

The proposed rule change is intended to correct an error in the current rule text of CME Rule 274H.02.A. regarding Cash Settlement of Cleared OTC USD/CLP Spot, Forwards and Swaps Contracts. Specifically, the proposed rule change would amend the time of the underlying benchmark fixing for the spot exchange rate of the Chilean peso per U.S. dollar that is calculated by the Central Bank of Chile and is used by CME for the final cash settlement of Cleared OTC USD/CLP from 8:00 p.m. Santiago time to 10:30 a.m. Santiago time.

The change that is described in this filing is limited to CME's business as a derivatives clearing organization clearing products under the exclusive jurisdiction of the Commodity Futures Trading Commission (''CFTC'') and does not materially impact CME's security-based swap clearing business in any way. CME notes that it has already submitted the proposed rule change that is the subject of this filing to its primary regulator, the CFTC, in CME Submission 13–507R.

CME believes the proposed rule change is consistent with the requirements of the Act including Section 17A of the Act.[5] The proposed rule change would correct an error in the current rule text of CME Rule 274H.02.A. regarding cash settlement of Cleared OTC USD/CLP Spot, Forwards and Swaps Contracts to reflect the actual time that the spot exchange rate of the Chilean peso per U.S. dollar is calculated by the Central Bank of Chile (and therefore the timing used by CME for the final cash settlement of Cleared OTC USD/CLP). Because the change will ensure CME rules accurately reflect this timing, the change should be seen to be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivatives agreements, contracts, and transactions, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, and, in general, to protect investors and the public interest consistent with Section 17A(b)(3)(F) of the Act.[6]

Furthermore, the proposed change is limited in its effect to swaps products offered under CME's authority to act as a derivatives clearing organization. These products are under the exclusive jurisdiction of the CFTC. As such, the proposed change is limited to CME's activities as a derivatives clearing organization clearing swaps that are not security-based swaps; CME notes that the policies of the CFTC with respect to administering the Commodity Exchange Act are comparable to a number of the policies underlying the Act, such as promoting market transparency for over-the-counter derivatives markets, promoting the prompt and accurate clearance of transactions and protecting investors and the public interest.

Because the proposed change is limited in its effect to swaps products offered under CME's authority to act as a derivatives clearing organization, the proposed change is properly classified as effecting a change in an existing service of CME that:

(a) Primarily affects the clearing operations of CME with respect to products that are not securities, including futures that are not security futures, and swaps that are not security-based swaps or mixed swaps; and

(b) does not significantly affect any securities clearing operations of CME or any rights or obligations of CME with respect to securities clearing or persons using such securities-clearing service.

As such, the change is therefore consistent with the requirements of Section 17A of the Act[7] and are properly filed under Section 19(b)(3)(A)[8] and Rule 19b–4(f)(4)(ii)[9] thereunder.

B. Self-Regulatory Organization's Statement on Burden on Competition

CME does not believe that the proposed rule change will have any impact, or impose any burden, on competition. The rule change makes changes to accurately reflect the timing of the pricing mechanism for settlement of swaps contracts and should therefore not be seen to have any competitive concerns.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

CME has not solicited, and does not intend to solicit, comments regarding this proposed rule change. CME has not received any unsolicited written comments from 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)[10] of the Act and Rule 19b–4(f)(4)(ii)[11] 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.[12]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and

[5] 15 U.S.C. 78q–1.

[6] 15 U.S.C. 78q–1(b)(3)(F).

[7] 15 U.S.C. 78q–1.

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(4)(ii).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(4)(ii).

[12] 15 U.S.C. 78s(b)(3)(C).

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 No. SR–CME–2013–30 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–CME–2013–30. 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 or 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of CME and on CME's Web site at *http://www.cmegroup.com/market-regulation/rule-filings.html.*

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–CME–2013–30 and should be submitted on or before December 16, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–28161 Filed 11–22–13; 8:45 am]

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[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70902; File No. SR–NYSEArca–2013–121]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change Relating to the Listing and Trading of Shares of AdvisorShares Sage Core Reserves ETF Under NYSE Arca Equities Rule 8.600

November 19, 2013.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on November 5, 2013, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II 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 list and trade the shares of the following under NYSE Arca Equities Rule 8.600 (''Managed Fund Shares''): AdvisorShares Sage Core Reserves 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: [4] AdvisorShares Sage Core Reserves ETF(''Fund''). The Shares will be offered by AdvisorShares Trust (the ''Trust''),[5] a statutory trust organized under the laws of the State of Delaware and registered with the Commission as an open-end management investment company.[6] The investment adviser to the Fund will be AdvisorShares Investments, LLC (the ''Adviser''). Sage Advisory Services Ltd. Co. (''Sub-Adviser'') will be the Fund's sub-adviser and will provide day-to-day portfolio management of the Fund.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] 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 objectives 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.

[5] The Trust is registered under the 1940 Act. On August 13, 2013, the Trust filed with the Commission an amendment to its registration statement on Form N–1A under the Securities Act of 1933 (15 U.S.C. 77a) (''Securities Act''), and under the 1940 Act relating to the Fund (File Nos. 333–157876 and 811–22110) (''Registration Statement''). The description of the operation of the Trust and the Fund herein is based, in part, on the Registration Statement. In addition, the Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. *See* Investment Company Act Release No. 29291 (May 28, 2010) (File No. 812–13677) (''Exemptive Order'').

[6] The Commission has 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. 63076 (October 12, 2010), 75 FR 63874 (October 18, 2010) (SR–NYSEArca–2010–79) (order approving Exchange listing and trading of Cambria Global Tactical ETF); 63802 (January 31, 2011), 76 FR 6503 (February 4, 2011) (SR–NYSEArca–2010–118) (order approving Exchange listing and trading of the SiM Dynamic Allocation Diversified Income ETF and SiM Dynamic Allocation Growth Income ETF); and 65468 (October 3, 2011), 76 FR 62873 (October 11, 2011) (SR–NYSEArca–2011–51) (order approving Exchange listing and trading of TrimTabs Float Shrink ETF).

Foreside Fund Services, LLC (the ''Distributor'') will be the principal underwriter and distributor of the Fund's Shares. The Bank of New York Mellon (the ''Administrator'') will serve as the administrator, custodian, transfer agent, and accounting agent for the Fund.

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 and/or changes to such investment company portfolio. In addition, 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 non-public information regarding the open-end fund's portfolio.[7] 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. Neither the Adviser nor the Sub-Adviser is registered as a broker-dealer or is affiliated with a broker-dealer. In the event (a) the Adviser or the Sub-Adviser becomes a registered broker-dealer or 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, it will implement a fire wall with respect to its relevant personnel or its 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.

Principal Investments

According to the Registration Statement, the Fund will seek to preserve capital while maximizing income. Under normal market conditions,[8] the Sub-Adviser will seek to achieve the Fund's investment objective by investing at least 80% of the Fund's net assets in a variety of fixed income securities issued by U.S. and foreign issuers. Such fixed income securities will be U.S. dollar-denominated investment grade debt securities rated Baa or higher by Moody's Investors Service, Inc. (''Moody's''), or equivalently rated by Standard & Poor's Ratings Services (''S&P'') or Fitch, Inc. (''Fitch''), or, if unrated, determined by the Sub-Adviser to be of comparable quality. The Fund may retain a security if its rating falls below investment grade and the Sub-Adviser determines that retention of the security is in the Fund's best interest.[9]

The Exchange notes that the Fund's investment portfolio of fixed income securities will meet certain criteria for index-based, fixed income exchange-traded funds (''ETFs'') contained in NYSE Arca Equities Rule 5.2(j)(3), Commentary .02.[10]

The average duration of the Fund will vary based on the Sub-Adviser's forecast for interest rates and will normally not exceed one year.[11] The dollar-weighted average portfolio maturity of the Fund will normally not be expected to exceed three years.

The Fund may invest in debt securities, which are securities consisting of a certificate or other evidence of a debt (secured or unsecured) on which the issuing company or governmental body promises to pay the holder thereof a fixed, variable, or floating rate of interest for a specified length of time, and to repay the debt on the specified maturity date. Some debt securities, such as zero coupon bonds, do not make regular interest payments but are issued at a discount to their principal or maturity value. The debt securities that the Fund will invest in will include a variety of fixed income obligations, including, but not limited to, corporate debt securities, government securities, municipal securities, convertible securities, and mortgage-backed securities.

The Fund may invest in variable and floating rate instruments, which involve certain obligations that may carry variable or floating rates of interest, and may involve a conditional or unconditional demand feature. Such instruments bear interest at rates which are not fixed, but which vary with changes in specified market rates or indices. The interest rates on these securities may be reset daily, weekly, quarterly, or some other reset period, and may have a set floor or ceiling on interest rate changes. There is a risk that the current interest rate on such obligations may not accurately reflect existing market interest rates. A demand instrument with a demand notice exceeding seven days may be

[7] 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 Adviser and Sub-Adviser and their 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.

[8] The term ''under normal market conditions'' means, without limitation, the absence of extreme volatility or trading halts in the fixed income 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.

[9] In determining whether a security is of ''comparable quality'', the Sub-Adviser will consider, for example, whether the issuer of the security has issued other rated securities; whether the obligations under the security are guaranteed by another entity and the rating of such guarantor (if any); whether and (if applicable) how the security is collateralized; other forms of credit enhancement (if any); the security's maturity date; liquidity features (if any); relevant cash flow(s); valuation features; other structural analysis; macroeconomic analysis and sector or industry analysis.

[10] *See* NYSE Arca Equities Rule 5.2(j)(3), Commentary .02 governing fixed income based Investment Company Units. The requirements of Rule 5.2(j)(3), Commentary .02(a) that will be met include the following: (i) The index or portfolio must consist of Fixed Income Securities (as defined in Rule 5.2(j)(3), Commentary.02) (Commentary .02(a)(1)); (ii) components that in the aggregate account for at least 75% of the weight of the index or portfolio each must have a minimum original principal amount outstanding of $100 million or more (Rule 5.2(j)(3), Commentary.02(a)(2)); (iii) a component may be a convertible security; however, once the convertible security converts to an underlying equity security, the component is removed from the index or portfolio (Rule 5.2(j)(3), Commentary.02(a)(3)); (iv) no component fixed-income security (excluding Treasury Securities) will represent more than 30% of the weight of the index or portfolio, and the five highest weighted component fixed-income securities do not in the aggregate account for more than 65% of the weight of the index or portfolio (Rule 5.2(j)(3), Commentary.02(a)(4)); and (v) an underlying index or portfolio (excluding exempted securities) must include securities from a minimum of 13 non-affiliated issuers (Rule 5.2(j)(3), Commentary.02(a)(5)).

[11] Duration is a measure used to determine the sensitivity of a security's price to changes in interest rates. The longer a security's duration, the more sensitive it will be to changes in interest rates.

considered illiquid if there is no secondary market for such security.

The Fund may invest in bank obligations, including certificates of deposit, bankers' acceptances, and fixed time deposits. Certificates of deposit are negotiable certificates issued against funds deposited in a commercial bank for a definite period of time and earning a specified return. Bankers' acceptances are negotiable drafts or bills of exchange, normally drawn by an importer or exporter to pay for specific merchandise, which are ''accepted'' by a bank, meaning, in effect, that the bank unconditionally agrees to pay the face value of the instrument on maturity. Fixed time deposits are bank obligations payable at a stated maturity date and bearing interest at a fixed rate. Fixed time deposits may be withdrawn on demand by the investor, but may be subject to early withdrawal penalties which vary depending upon market conditions and the remaining maturity of the obligation.

The Fund may invest in commercial paper. Commercial paper is a short-term obligation with a maturity ranging from one to 270 days issued by banks, corporations, and other borrowers. Such investments are unsecured and usually discounted. To the extent the Fund invests in commercial paper, the Fund will invest in commercial paper rated A–1 or A–2 by S&P or Prime-1 or Prime-2 by Moody's.

The Fund may invest in U.S. government securities. Securities issued or guaranteed by the U.S. government or its agencies or instrumentalities include U.S. Treasury securities, which are backed by the full faith and credit of the U.S. Treasury and which differ only in their interest rates, maturities, and times of issuance. U.S. Treasury bills have initial maturities of one year or less; U.S. Treasury notes have initial maturities of one to ten years; and U.S. Treasury bonds generally have initial maturities of greater than ten years. Certain U.S. government securities are issued or guaranteed by agencies or instrumentalities of the U.S. government including, but not limited to, obligations of U.S. government agencies or instrumentalities such as Fannie Mae, Freddie Mac, the Government National Mortgage Association (''Ginnie Mae''), the Small Business Administration, the Federal Farm Credit Administration, the Federal Home Loan Banks, Banks for Cooperatives (including the Central Bank for Cooperatives), the Federal Land Banks, the Federal Intermediate Credit Banks, the Tennessee Valley Authority, the Export-Import Bank of the United States, the Commodity Credit Corporation, the Federal Financing Bank, the National Credit Union Administration, and the Federal Agricultural Mortgage Corporation (''Farmer Mac'').

The Fund may invest in inflation-indexed bonds, which are fixed income securities whose principal value is periodically adjusted according to the rate of inflation. Two structures are common. The U.S. Treasury and some other issuers use a structure that accrues inflation into the principal value of the bond. Most other issuers pay out the Consumer Price Index (''CPI'') accruals as part of a semiannual coupon. Inflation-indexed securities issued by the U.S. Treasury have maturities of five, ten or thirty years, although it is possible that securities with other maturities will be issued in the future. The U.S. Treasury securities pay interest on a semi-annual basis, equal to a fixed percentage of the inflation-adjusted principal amount.

The Fund may invest in mortgage-related securities and asset-backed securities (''ABSs'').[12] Mortgage-related securities are interests in pools of residential or commercial mortgage loans, including mortgage loans made by savings and loan institutions, mortgage bankers, commercial banks, and others. Pools of mortgage loans are assembled as securities for sale to investors by various governmental, government-related and private organizations. The Fund also may invest in debt securities which are secured with collateral consisting of mortgage-related securities. Interests in pools of mortgage-related securities differ from other forms of debt securities, which normally provide for periodic payment of interest in fixed amounts with principal payments at maturity or specified call dates. Instead, these securities provide a monthly payment which consists of both interest and principal payments. In effect, these payments are a ''pass-through'' of the monthly payments made by the individual borrowers on their residential or commercial mortgage loans, net of any fees paid to the issuer or guarantor of such securities. Additional payments are caused by repayments of principal resulting from the sale of the underlying property, refinancing or foreclosure, net of fees or costs which may be incurred. Some mortgage-related securities (such as securities issued by Ginnie Mae) are described as ''modified pass-through''. These securities entitle the holder to receive all interest and principal payments owed on the mortgage pool, net of certain fees, at the scheduled payment dates regardless of whether or not the mortgagor actually makes the payment.

The Fund may invest in agency mortgage-related securities. The principal governmental guarantor of mortgage-related securities is Ginnie Mae. Ginnie Mae is a wholly owned United States Government corporation within the Department of Housing and Urban Development. Ginnie Mae is authorized to guarantee, with the full faith and credit of the United States Government, the timely payment of principal and interest on securities issued by institutions approved by Ginnie Mae (such as savings and loan institutions, commercial banks, and mortgage bankers) and backed by pools of mortgages insured by the Federal Housing Administration (the ''FHA''), or guaranteed by the Department of Veterans Affairs (the ''VA'').

The Fund may invest up to 10% of its net assets in privately issued (non-government-sponsored entity (''GSE'')) mortgage-related securities, including commercial mortgage-backed securities,[13] collateralized mortgage obligations (''CMOs''),[14] and adjustable rate mortgage-backed securities (''ARMBSs'').[15] Commercial banks, savings and loan institutions, private mortgage insurance companies, mortgage bankers and other secondary market issuers also create pass-through pools of conventional residential mortgage loans. Such issuers may be the originators and/or servicers of the

[12] ABSs are bonds backed by pools of loans or other receivables. ABSs are created from many types of assets, including auto loans, credit card receivables, home equity loans, and student loans. ABSs are issued through special purpose vehicles that are bankruptcy remote from the issuer of the collateral. The credit quality of an ABS transaction depends on the performance of the underlying assets. To protect ABS investors from the possibility that some borrowers could miss payments or even default on their loans, ABSs include various forms of credit enhancement.

[13] Commercial mortgage-backed securities include securities that reflect an interest in, and are secured by, mortgage loans on commercial real property.

[14] CMOs are debt obligations of a legal entity that are collateralized by mortgages and divided into classes. Similar to a bond, interest and prepaid principal is paid, in most cases, on a monthly basis. CMOs may be collateralized by whole mortgage loans or private mortgage bonds, but are more typically collateralized by portfolios of mortgage pass-through securities guaranteed by Ginnie Mae, Freddie Mac, or Fannie Mae, and their income streams.

[15] ARMBSs have interest rates that reset at periodic intervals. Acquiring ARMBSs permits the Fund to participate in increases in prevailing current interest rates through periodic adjustments in the coupons of mortgages underlying the pool on which ARMBSs are based. Such ARMBSs generally have higher current yield and lower price fluctuations than is the case with more traditional fixed income debt securities of comparable rating and maturity.

underlying mortgage loans as well as the guarantors of the mortgage-related securities. The Fund will not purchase mortgage-related securities (including non-GSE mortgage-related securities) or any other assets which in the Sub-Adviser's opinion are illiquid if, as a result, more than 15% of the Fund's net assets will be invested in illiquid securities.[16]

The Sub-Adviser will seek to manage the portion of the Fund's assets committed to privately issued mortgage-related securities in a manner consistent with the Fund's investment objective, policies and overall portfolio risk profile. In determining whether and how much to invest in privately issued mortgage-related securities, and how to allocate those assets, the Sub-Adviser will consider a number of factors. These include, but are not limited to: (1) The nature of the borrowers (*e.g.,* residential vs. commercial); (2) the collateral loan type (*e.g.,* for residential: First Lien—Jumbo/Prime, First Lien—Alt-A, First Lien—Subprime, First Lien—Pay-Option or Second Lien; for commercial: Conduit, Large Loan or Single Asset/Single Borrower); and (3) in the case of residential loans, whether they are fixed rate or adjustable mortgages. Each of these criteria can cause privately issued mortgage-related securities to have differing primary economic characteristics and distinguishable risk factors and performance characteristics.

Other Fund Investments

According to the Registration Statement, to respond to adverse market, economic, political or other conditions, the Fund may invest 100% of its total assets, without limitation, in investment grade debt securities and money market instruments, either directly or through ETFs.[17] The Fund may be invested in this manner for extended periods, depending on the Sub-Adviser's assessment of market conditions. Such debt securities and money market instruments include shares of other fixed income mutual funds, commercial paper, certificates of deposit, bankers' acceptances, U.S. government securities, repurchase agreements, and bonds that are rated BBB or higher. While the Fund is in a defensive position, the opportunity to achieve its investment objective will be limited.

While the Fund, under normal market conditions, will invest at least 80% of its net assets in investment grade fixed income securities, as described above, the Fund may invest its remaining assets in the following.

The Fund may invest in non-investment-grade securities. Non-investment-grade securities, also referred to as ''high yield securities'' or ''junk bonds,'' are debt securities that are rated lower than the four highest rating categories by a nationally recognized statistical rating organization (for example, lower than Baa3 by Moody's or lower than BBB- by S&P) or are determined to be of comparable quality by the Fund's Sub-Adviser. These securities are generally considered to be, on balance, predominantly speculative with respect to capacity to pay interest and repay principal in accordance with the terms of the obligation and will generally involve more credit risk than securities in the investment-grade categories. Investment in these securities generally provides greater income and increased opportunity for capital appreciation than investments in higher quality securities, but they also typically entail greater price volatility and principal and income risk.

The Fund may invest in equity securities, including common stocks, preferred stocks, warrants to acquire common stock, securities convertible into common stock, investments in master limited partnerships and rights. With respect to its equity securities investments, the Fund will invest only in equity securities that trade in markets that are members of the Intermarket Surveillance Group (''ISG'') or are parties to a comprehensive surveillance sharing agreement with the Exchange.[18]

The Fund may invest in exchange-traded notes (''ETNS''). ETNs (also called ''index-linked securities'' as would be listed, for example, under NYSE Arca Equities Rule 5.2(j)(6)), are senior, unsecured unsubordinated debt securities issued by an underwriting bank that are designed to provide returns that are linked to a particular benchmark less investor fees. ETNs have a maturity date and, generally, are backed only by the creditworthiness of the issuer.

The Fund may invest in CMO residuals, which are mortgage securities issued by agencies or instrumentalities of the U.S. government or by private originators of, or investors in, mortgage loans, including savings and loan associations, homebuilders, mortgage banks, commercial banks, investment banks, and special purpose entities of the foregoing. CMO residuals, whether or not registered under the 1933 Act, may be subject to certain restrictions on transferability, and may be deemed ''illiquid'' and subject to the Fund's limitations on investment in illiquid securities.

The Fund may invest in the securities of exchange-traded pooled vehicles that are not investment companies and, thus, not required to comply with the provisions of the 1940 Act.[19] As a result, as a shareholder of such pooled vehicles, the Fund will not have all of the investor protections afforded by the 1940 Act. Such pooled vehicles may, however, be required to comply with the provisions of other federal securities laws, such as the Securities Act. These pooled vehicles typically hold currency or commodities, such as gold or oil, or other property that is itself not a security. If the Fund invests in, and, thus, is a shareholder of, a pooled vehicle, the Fund's shareholders will indirectly bear the Fund's proportionate share of the fees and expenses paid by the pooled vehicle, including any applicable management fees, in addition to both the management fees payable directly by the Fund to the Adviser and the other expenses that the Fund bears directly in connection with its own operations.

The Fund may invest in equities issuers located outside the United States directly,[20] or in financial instruments,

[16] *See* note 29 and accompanying text, *infra.*

[17] The ETFs in which the Fund may invest will be registered under the 1940 Act and include Investment Company Units (as described in NYSE Arca Equities Rule 5.2(j)(3)); Portfolio Depositary Receipts (as described in NYSE Arca Equities Rule 8.100); and Managed Fund Shares (as described in NYSE Arca Equities Rule 8.600). Such ETFs all will be listed and traded in the U.S. on registered exchanges. While the Fund may invest in inverse ETFs, the Fund will not invest in leveraged or inverse leveraged (*e.g.,* 2X, –2X, 3X or –3X) ETFs.

[18] *See* note 38, *infra.*

[19] Such securities include Trust Issued Receipts (as described in NYSE Arca Equities Rule 8.200); Commodity-Based Trust Shares (as described in NYSE Arca Equities Rule 8.201); Currency Trust Shares (as described in NYSE Arca Equities Rule 8.202); Commodity Index Trust Shares (as described in NYSE Arca Equities Rule 8.203); and Trust Units (as described in NYSE Arca Equities Rule 8.500).

[20] Securities of such equities issuers may be any one of the following: American Depositary Receipts (''ADRs''), Global Depositary Receipts (''GDRs''), European Depositary Receipts (''EDRs''), International Depository Receipts (''IDRs''), ''ordinary shares,'' and ''New York shares'' issued and traded in the U.S. (collectively, ''Equity Financial Instruments''). ADRs are U.S. dollar denominated receipts typically issued by U.S. banks and trust companies that evidence ownership of underlying securities issued by a foreign issuer. Generally, ADRs in registered form are designed for use in domestic securities markets and are traded on exchanges or over-the-counter in the U.S. GDRs, EDRs, and IDRs are similar to ADRs in that they are certificates evidencing ownership of shares of a foreign issuer; however, GDRs, EDRs, and IDRs may be issued in bearer form and denominated in other currencies, and are generally designed for use in specific or multiple securities markets outside the U.S. EDRs, for example, are designed for use in European securities markets while GDRs are designed for use throughout the world. Ordinary shares are shares of foreign issuers that are traded

Continued

ETFs, ETNs and exchange-traded pooled vehicles that are indirectly linked to the performance of foreign issuers.

The Fund may invest directly and indirectly in foreign currencies. The Fund may conduct foreign currency transactions on a spot (*i.e.,* cash) or forward basis (*i.e.,* by entering into forward contracts to purchase or sell foreign currencies). At the discretion of the Adviser, the Fund may, but is not obligated to, enter into forward currency exchange contracts for hedging purposes to help reduce the risks and volatility caused by changes in foreign currency exchange rates. When used for hedging purposes, forward currency contracts tend to limit any potential gain that may be realized if the value of the Fund's foreign holdings increases because of currency fluctuations.

The Fund may invest in other mortgage-related securities, which include securities other than those described above that directly or indirectly represent a participation in, or are secured by and payable from, mortgage loans on real property, including mortgage dollar rolls (that is, a series of purchase and sale contracts),[21] or stripped mortgage-backed securities (''SMBS''), which are derivative multi-class mortgage securities.[22] Such other mortgage-related securities may be debt securities issued by agencies or instrumentalities of the U.S. government or by private originators of, or investors in, mortgage loans, including savings and loan associations, homebuilders, mortgage banks, commercial banks, investment banks, partnerships, trusts, and special purpose entities of the foregoing.

The Fund may invest in closed-end funds. Closed-end funds are pooled investment vehicles that are registered under the 1940 Act and whose shares are listed and traded on U.S. national securities exchanges.

The Fund may invest in U.S. exchange-traded futures contracts, options on futures contracts, including stock index futures, U.S. Treasury futures, and options on such futures. The Fund also may invest in U.S. exchange and over-the-counter traded options, which will generally be based on U.S. Treasuries.

The Fund may enter into swap agreements generally based on fixed income securities, including, but not limited to, total return swaps, index swaps, and interest rate swaps. The Fund may utilize swap agreements in an attempt to gain exposure to the securities in a market without actually purchasing those securities, or to hedge a position. The Fund will utilize cleared swaps if available, to the extend [sic] practicable and not enter into any swap agreement unless the Adviser believed that the other party to the transaction is creditworthy. Swaps utilized by the Fund will be backed by collateral of the Fund's assets, as required. The Sub-Adviser will evaluate the creditworthiness of counterparties on an ongoing basis. In addition to information provided by credit agencies, the Sub-Adviser's credit analysts will evaluate each approved counterparty using various methods of analysis, including company visits, earnings updates, the broker-dealer's reputation, past experience with the broker-dealer, market levels for the counterparty's debt and equity, the counterparty's liquidity and its share of market participation.

The Fund may invest in each of collateralized bond obligations (''CBOs''), collateralized loan obligations (''CLOs''), other collateralized debt obligations (''CDOs'') and other similarly structured securities. CBOs, CLOs and other CDOs are types of ABSs. A CBO is a trust which is often backed by a diversified pool of high risk, below investment grade fixed income securities. The collateral can be from many different types of fixed income securities such as high yield debt, residential privately issued mortgage-related securities, commercial privately issued mortgage-related securities, trust preferred securities and emerging market debt. A CLO is a trust typically collateralized by a pool of loans, which may include, among others, domestic and foreign senior secured loans, senior unsecured loans, and subordinate corporate loans, including loans that may be rated below investment grade or equivalent unrated loans. Other CDOs are trusts backed by other types of assets representing obligations of various parties.[23]

The Fund may invest in hybrid instruments. A hybrid instrument is a type of potentially high-risk derivative that combines a traditional stock, bond, or commodity with an option or forward contract. Generally, the principal amount, amount payable upon maturity or redemption, or interest rate of a hybrid is tied (positively or negatively) to the price of some security, commodity, currency or securities index or another interest rate or some other economic factor (each a ''benchmark''). The interest rate or (unlike most fixed income securities) the principal amount payable at maturity of a hybrid security may be increased or decreased, depending on changes in the value of the benchmark. An example of a hybrid instrument could be a bond issued by an oil company that pays a small base level of interest with additional interest that accrues in correlation with the extent to which oil prices exceed a certain predetermined level. Such a hybrid instrument would be a combination of a bond and a call option on oil.

The Fund may invest in structured notes, which are debt obligations that also contain an embedded derivative component with characteristics that adjust the obligation's risk/return profile. Generally, the performance of a structured note will track that of the underlying debt obligation and the derivative embedded within it.[24] The Fund would have the right to receive periodic interest payments from the issuer of the structured notes at an

abroad and on a U.S. exchange. New York shares are shares that a foreign issuer has allocated for trading in the U.S. ADRs may be sponsored or unsponsored, but unsponsored ADRs will not exceed 10% of the Fund's net assets. With respect to its investments in equity securities (including Equity Financial Instruments), the Fund will invest at least 90% of its assets invested in such securities that trade in markets that are members of the ISG or are parties to a comprehensive surveillance sharing agreement with the Exchange. *See* note 38, *infra.*

[21] A mortgage dollar roll involves the sale of mortgage-backed securities by the Fund and its agreement to repurchase the instrument (or one which is substantially similar) at a specified time and price.

[22] SMBSs are usually structured with two classes that receive different proportions of the interest and principal distributions on a pool of mortgage assets. A common type of SMBS will have one class receiving some of the interest and most of the principal from the mortgage assets, while the other class will receive most of the interest and the remainder of the principal. In the most extreme case, one class will receive all of the interest (the ''IO'' class), while the other class will receive all of the principal (the principal-only or ''PO'' class). The yield to maturity on an IO class is extremely sensitive to the rate of principal payments (including pre-payments) on the related underlying mortgage assets, and a rapid rate of principal payments may have a material adverse effect on the Fund's yield to maturity from these securities. If the underlying mortgage assets experience greater than anticipated pre-payments of principal, the Fund may fail to recoup some or all of its initial investment in these securities even if the security is in one of the highest rating categories.

[23] According to the Registration Statement, the risks of an investment in a CBO, CLO or other CDO depend largely on the type of the collateral securities and the class of the instrument in which the Fund invests. Normally, CBOs, CLOs and other CDOs are privately offered and sold, and thus are not registered under the securities laws. As a result, investments in CBOs, CLOs and other CDOs may be characterized by the Fund as illiquid securities; however, an active dealer market may exist for CBOs, CLOs and other CDOs allowing them to qualify for Rule 144A transactions.

[24] Structured notes are typically privately negotiated transactions between two or more parties. The Fund bears the risk that the issuer of the structured note will default or become bankrupt which may result in the loss of principal investment and periodic interest payments expected to be received for the duration of its investment in the structured notes.

agreed-upon interest rate and a return of the principal at the maturity date.

The Fund may invest in shares of exchange-traded real estate investment trusts (''REITs''). REITs are pooled investment vehicles which invest primarily in real estate or real estate related loans. REITs are generally classified as equity REITs, mortgage REITs, or a combination of equity and mortgage REITs.

The Fund may enter into repurchase agreements with financial institutions, which may be deemed to be loans. The Fund follows certain procedures designed to minimize the risks inherent in such agreements. These procedures include effecting repurchase transactions only with large, well-capitalized and well-established financial institutions whose condition will be continually monitored by the Sub-Adviser. In addition, the value of the collateral underlying the repurchase agreement will always be at least equal to the repurchase price, including any accrued interest earned on the repurchase agreement. It is the current policy of the Fund not to invest in repurchase agreements that do not mature within seven days if any such investment, together with any other illiquid assets held by the Fund, amount to more than 15% of the Fund's net assets.

The Fund may enter into reverse repurchase agreements as part of the Fund's investment strategy. Reverse repurchase agreements involve sales by the Fund of portfolio assets concurrently with an agreement by the Fund to repurchase the same assets at a later date at a fixed price. Generally, the effect of such a transaction is that the Fund can recover all or most of the cash invested in the portfolio securities involved during the term of the reverse repurchase agreement, while the Fund will be able to keep the interest income associated with those portfolio securities.

The Fund may engage in short sales transactions in which the Fund sells a security it does not own.

The Fund may invest in mortgage-related securities that are equity securities issued by agencies or instrumentalities of the U.S. government or by private originators of, or investors in, mortgage loans, including savings and loan associations, homebuilders, mortgage banks, commercial banks, investment banks, partnerships, trusts, and special purpose entities of the foregoing.[25]

The Fund, from time to time, in the ordinary course of business, may purchase securities on a when-issued, delayed-delivery or forward commitment basis (*i.e.,* delivery and payment can take place between a month and 120 days after the date of the transaction).

The Fund may invest in U.S. Treasury zero-coupon bonds. These securities are U.S. Treasury bonds which have been stripped of their unmatured interest coupons, the coupons themselves, and receipts or certificates representing interests in such stripped debt obligations and coupons. Interest is not paid in cash during the term of these securities, but is accrued and paid at maturity.

Investment Restrictions

According to the Registration Statement, the Fund may not

(i) With respect to 75% of its total assets, purchase securities of any issuer (except securities issued or guaranteed by the U. S. government, its agencies or instrumentalities or shares of investment companies) if, as a result, more than 5% of its total assets would be invested in the securities of such issuer; or (ii) acquire more than 10% of the outstanding voting securities of any one issuer. For purposes of this policy, the issuer of the underlying security will be deemed to be the issuer of any respective depositary receipt.[26]

(ii) Invest 25% or more of its total assets in the securities of one or more issuers conducting their principal business activities in the same industry or group of industries. This limitation does not apply to investments in securities issued or guaranteed by the U.S. government, its agencies or instrumentalities, or shares of investment companies. The Fund will not invest 25% or more of its total assets in any investment company that so concentrates.[27]

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 Adviser or Sub-Adviser,[28] in accordance with Commission guidance, CMO residuals and demand instruments with a demand notice exceeding seven days. 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.[29]

The Fund may invest in the securities of other investment companies to the extent that such an investment would be consistent with the requirements of Section 12(d)(1) of the 1940 Act, or any rule, regulation or order of the Commission or interpretation thereof. The Trust has entered into agreements with several unaffiliated ETFs that permit, pursuant to a Commission order,

[25] With respect to its mortgage-related securities holdings that are equity securities, the Fund will invest only in such securities that trade in markets that are members of the ISG or are parties to a comprehensive surveillance sharing agreement with the Exchange.

[26] The diversification standard is set forth in Section 5(b)(1) of the 1940 Act. *See* note 20, *supra,* regarding depositary receipts that the Fund may hold.

[27] *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). According to the Registration Statement, mortgage-related securities that are issued or guaranteed by the U.S. government, its agencies or instrumentalities, are not subject to the Fund's industry concentration restrictions by virtue of the exclusion from that test available to all U.S. government securities. The assets underlying such securities may be represented by a portfolio of residential or commercial mortgages (including both whole mortgage loans and mortgage participation interests that may be senior or junior in terms of priority of repayment) or portfolios of mortgage pass-through securities issued or guaranteed by Ginnie Mae, Fannie Mae or Freddie Mac. Mortgage loans underlying a mortgage-related security may in turn be insured or guaranteed by the FHA or the VA.

[28] In reaching liquidity decisions, the Adviser or Sub-Adviser 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).

[29] 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 Securities Act).

the Fund to purchase shares of those ETFs beyond the Section 12(d)(1) limits described above. The Fund will only make such investments in conformity with the requirements of Subchapter M of the Internal Revenue Code of 1986 (the ''Internal Revenue Code'').[30]

According to the Registration Statement, the Fund will seek to qualify for treatment as a Regulated Investment Company (''RIC'') under the Internal Revenue Code.[31]

The Fund's investments will be consistent with the Fund's investment objective and will not be used to enhance leverage.

Creation and Redemption of Shares

The Trust will issue and sell Shares of the Fund in Creation Unit size aggregations of 25,000 Shares or more on a continuous basis through the Distributor, at their NAV next determined after receipt, on any business day. The consideration for purchase of a Creation Unit of the Fund generally will consist of an in-kind deposit of a designated portfolio of securities—the ''Deposit Securities''—per each Creation Unit constituting a substantial replication, or a representation, of the securities included in the Fund's portfolio and an amount of cash—the Cash Component—computed as described below. Together, the Deposit Securities and the Cash Component constitute the ''Fund Deposit,'' which represents the minimum initial and subsequent investment amount for a Creation Unit of the Fund. The Cash Component is an amount equal to the difference between the NAV of the shares (per Creation Unit) and the market value of the Deposit Securities. If the Cash Component is a positive number (*i.e.,* the NAV per Creation Unit exceeds the market value of the Deposit Securities), the Cash Component shall be such positive amount. If the Cash Component is a negative number (*i.e.,* the NAV per Creation Unit is less than the market value of the Deposit Securities), the Cash Component shall be such negative amount and the creator will be entitled to receive cash from the Fund in an amount equal to the Cash Component. The Cash Component serves the function of compensating for any differences between the NAV per Creation Unit and the market value of the Deposit Securities.

The Administrator, through the National Securities Clearing Corporation (''NSCC''), will make available on each business day, immediately prior to the opening of business on the Exchange (currently 9:30 a.m., Eastern Time), the list of the names and the required quantity or number of shares of each Deposit Security to be included in the current Fund Deposit (based on information at the end of the previous business day) for the Fund. Such Fund Deposit will be applicable, subject to any adjustments as described below, in order to effect creations of Creation Units of the Fund until such time as the next-announced composition of the Deposit Securities is made available.

The identity and number of shares or quantity of the Deposit Securities required for a Fund Deposit for the Fund may change as rebalancing adjustments and corporate action events occur from time to time. In addition, the Trust reserves the right to permit or require the substitution of an amount of cash—*i.e.,* a ''cash in lieu'' amount—to be added to the Cash Component to replace any Deposit Security which may not be available in sufficient quantity for delivery or which may not be eligible for transfer (as discussed in the Registration Statement), or which may not be eligible for trading by an Authorized Participant or the investor for which it is acting. The Trust also reserves the right to offer an ''all cash'' option for creations of Creation Units for the Fund.

In addition to the list of names and numbers of securities constituting the current Deposit Securities of a Fund Deposit, the Administrator, through the NSCC, also will make available on each business day, the estimated Cash Component, effective through and including the previous business day, per outstanding Creation Unit of the Fund.

Shares may be redeemed only in Creation Units at their NAV next determined after receipt of a redemption request in proper form by the Fund through the Administrator and only on a business day. The Trust will not redeem Shares in amounts less than Creation Units. Beneficial owners must accumulate enough Shares in the secondary market to constitute a Creation Unit in order to have such Shares redeemed by the Trust.

With respect to the Fund, the Administrator, through the NSCC, will make available immediately prior to the opening of business on the Exchange (currently 9:30 a.m., Eastern Time) on each business day, the ''Fund Securities'' that will be applicable (subject to possible amendment or correction) to redemption requests received in proper form on that day. Fund Securities received on redemption may not be identical to Deposit Securities which are applicable to creations of Creation Units.

For the Fund, unless cash redemptions are available or specified for the Fund, the redemption proceeds for a Creation Unit generally will consist of Fund Securities—as announced by the Administrator on the business day of the request for redemption received in proper form—plus cash in an amount equal to the difference between the NAV of the Shares being redeemed, as next determined after receipt of a request in proper form, and the value of the Fund Securities (the ''Cash Redemption Amount''), less a redemption transaction fee described in the Registration Statement. In the event that the Fund Securities have a value greater than the NAV of the Shares, a compensating cash payment equal to the differential is required to be made by or through an Authorized Participant by the redeeming shareholder.

If it is not possible to effect deliveries of the Fund Securities, the Trust may in its discretion exercise its option to redeem such Shares in cash, and the redeeming beneficial owner will be required to receive its redemption proceeds in cash. In addition, an investor may request a redemption in cash which the Fund may, in its sole discretion, permit. In either case, the investor will receive a cash payment equal to the NAV of its Shares based on the NAV of Shares of the Fund next determined after the redemption request is received in proper form (minus a redemption transaction fee and additional charge for requested cash redemptions specified above, to offset the Trust's brokerage and other transaction costs associated with the disposition of Fund Securities). The Fund may also, in its sole discretion, upon request of a shareholder, provide such redeemer a portfolio of securities which differs from the exact composition of the Fund Securities but does not differ in NAV.

The Trust also reserves the right to offer an ''all cash'' option for redemptions of Creation Units for the Fund. The Adviser represents that, to the extent the Trust effects the redemption of Shares in cash, such transactions will be effected in the same manner for all Authorized Participants.

Net Asset Value

The net asset value (''NAV'') per Share of the Fund will be computed by dividing the value of the net assets of the Fund (*i.e.,* the value of its total assets less total liabilities) by the total number of Shares of the Fund outstanding, rounded to the nearest cent. Expenses and fees, including

[30] 26 U.S.C. 851.

[31] *Id.*

without limitation, the management, administration and distribution fees, are accrued daily and taken into account for purposes of determining NAV per Share.

In calculating NAV, the Fund will generally value its portfolio investments at market prices. In computing the Fund's NAV, the Fund's securities holdings will be valued based on their last readily available market price. Price information on listed securities, including ETFs, ETNs, exchange-traded pooled vehicles, ADRs, equity-related financial instruments and other exchange-traded products, REITs and mortgage-related securities, will be taken from the exchange where the security is primarily traded. Other portfolio securities and assets for which market quotations are not readily available or determined to not represent the current fair value will be valued based on fair value as determined in good faith in accordance with procedures adopted by the Trust's Board of Trustees and in accordance with the 1940 Act.

The Fund will have an approved pricing matrix at the time of launch. The matrix will be based on pre-determined rules for pricing logic (such as mean) and valuation point (such as market close). Third party pricing sources will be used. For assets such as options, futures, swaps, in general, Bloomberg will be the primary source and Reuters the secondary source.

Spot currency transactions and non-exchange-traded derivatives, including forwards, swaps, and certain options will normally be valued on the basis of quotes obtained from brokers and dealers or pricing services using data reflecting the earlier closing of the principal markets for those assets. Prices obtained from independent pricing services use information provided by market makers or estimates of market values obtained from yield data relating to investments or securities with similar characteristics. Exchange-traded options will be valued at market closing price.

Futures and options on futures will be valued at the settlement price determined by the applicable exchange.

Unsponsored ADRs will be valued on the basis of the market closing price on the exchange where the stock of the foreign issuer that underlies the ADR is listed.

Domestic and foreign fixed income securities generally trade in the over-the-counter market rather than on a securities exchange. The Fund will generally value these portfolio securities by relying on independent pricing services. The Fund's pricing services will use valuation models or matrix pricing to determine current value. In general, pricing services 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 price is an estimated price or value for a fixed-income security. Matrix pricing is considered a form of fair value pricing.

The Administrator will calculate NAV and NAV per Share once each business day as of the regularly scheduled close of normal trading on the New York Stock Exchange, LLC (the ''NYSE'') (normally, 4:00 p.m., Eastern Time).

Availability of Information

The Fund's Web site (*www.advisorshares.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) daily trading volume, the prior business day's reported closing price, NAV and mid-point of the bid/ask spread at the time of calculation of such NAV (the ''Bid/Ask Price''),[32] and a calculation of the premium and discount of the Bid/Ask Price against the NAV, and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. 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.[33]

On a daily basis, the Fund's Web site will disclose for each portfolio security and other financial instrument of the Fund the following information: Ticker symbol (if applicable); name and, when available, the individual identifier (CUSIP) of the security and/or financial instrument; number of shares (if applicable) and 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, a basket composition file, which includes the security names and share quantities (as applicable) required to be delivered in exchange for Fund Shares, together with estimates and actual cash components, will be publicly disseminated daily prior to the opening of the NYSE 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 its 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 and U.S. exchange-listed equity securities, including ETFs, ETNs, exchange-traded pooled vehicles, ADRs, equity-related financial instruments and other exchange-traded products, REITs and mortgage-related securities, will be available via the Consolidated Tape Association (''CTA'') high-speed line, and will be available from the national securities exchange on which they are listed. Information regarding unsponsored ADRs will be available from major market data vendors. Intra-day and closing price information relating to the fixed income and equities investments of the Fund, as well as Fund investments in spot currencies and derivatives, including futures, forwards, options, options on futures and swaps, will be available from major market data vendors and from securities and futures exchanges, as applicable. Information relating to U.S. exchange-listed options will be available via the Options Price Reporting Authority. In addition, the Portfolio Indicative Value, as defined in NYSE Arca Equities Rule 8.600(c)(3), will be widely disseminated

[32] 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.

[33] Under accounting procedures 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.

at least every 15 seconds during the Core Trading Session by one or more major market data vendors.[34] 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.

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.[35] 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 a.m. to 8 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.

The Shares will conform to the initial and continued listing criteria under NYSE Arca Equities Rule 8.600. Consistent with NYSE Arca Equities Rule 8.600(d)(2)(B)(ii), the Adviser, as the Reporting Authority, will implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the actual components of the Fund's portfolio. The Exchange represents that, for initial and/or continued listing, the Fund will be in compliance with Rule 10A–3 under the Act,[36] as provided by NYSE Arca Equities Rule 5.3. A minimum of 100,000 Shares 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.

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.[37] 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 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, underlying exchange-traded equity securities (including, without limitation, ETFs, ETNs, exchange-traded pooled vehicles, ADRs, equity-related financial instruments and other exchange-traded products, REITs, and mortgage-related securities), futures, options on futures, and exchange-traded options with other markets and other entities that are members of the ISG, and FINRA, on behalf of the Exchange, may obtain trading information regarding trading in the Shares, underlying exchange-traded equity securities, futures, options on futures, and exchange-traded options from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares, underlying exchange-traded equity securities (including, without limitation, ETFs, ETNs, exchange-traded pooled vehicles, ADRs, equity-related financial instruments and other exchange-traded products, REITs, and mortgage-related securities), futures, options on futures, and exchange-traded options from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.[38] In addition, FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities held by the Fund reported to FINRA's Trade Reporting and Compliance Engine (''TRACE'').

With respect to its investments in equity securities (including Equity Financial Instruments), each Fund will invest at least 90% of its assets invested in such securities that trade in markets that are members of the ISG or are parties to a comprehensive surveillance sharing agreement with the Exchange. 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

[34] Currently, it is the Exchange's understanding that several major market data vendors display and/or make widely available Portfolio Indicative Values taken from CTA or other data feeds.

[35] *See* NYSE Arca Equities Rule 7.12.

[36] 17 CFR 240.10A–3.

[37] 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.

[38] 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.

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) [39] 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 Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares, underlying exchange-traded equity securities (including, without limitation, ETFs, ETNs, exchange-traded pooled vehicles, ADRs, equity-related financial instruments and other exchange-traded products, REITs, and mortgage-related securities), futures, options on futures, and exchange-traded options with other markets and other entities that are members of the ISG, and FINRA, on behalf of the Exchange, may obtain trading information regarding trading in the Shares, underlying exchange-traded equity securities, futures, options on futures, and exchange-traded options from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares, underlying exchange-traded equity securities (including, without limitation, ETFs, ETNs, exchange-traded pooled vehicles, ADRs, equity-related financial instruments and other exchange-traded products, REITs, and mortgage-related securities), futures, options on futures, and exchange-traded options with other markets and other entities that are members of the ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. In addition, FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities held by the Fund reported to FINRA's TRACE. With respect to its investments in equity securities (including Equity Financial Instruments), each Fund will invest at least 90% of its assets invested in such securities that trade in markets that are members of the ISG or are parties to a comprehensive surveillance sharing agreement with the Exchange. The Fund will utilize cleared swaps if available, to the extent practicable, and not enter into any swap agreement unless the Adviser believes that the other party to the transaction is creditworthy. Swaps utilized by the Fund will be backed by collateral of the Fund's assets, as required. Neither the Adviser nor the Sub-Adviser is registered as a broker-dealer or is affiliated with a broker-dealer. The Fund may invest up to 10% of the net assets in privately issued (non-GSE mortgage-related securities, including commercial mortgage-backed securities, CMOs, and ARMBSs). The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid securities, including Rule 144A securities deemed illiquid by the Adviser or Sub-Adviser, CMO residuals, and demand instruments with a demand notice exceeding seven days. The Fund will not invest in leveraged or inverse leveraged (*e.g.,* 2X, –2X, 3X, or –3X) ETFs. The Fund's investment portfolio will meet certain criteria for index-based, fixed income ETFs contained in NYSEArca Equities Rule 5.2(j)(3), Commentary .02, as described above. The Fund's investments will be consistent with the Fund's investment objective and will not be used to enhance leverage.

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. Quotation and last-sale information for the Shares will be available via the CTA high-speed line. In addition, the Portfolio Indicative Value will be widely disseminated by the Exchange at least every 15 seconds during the Core Trading Session. The Fund's Web site will include a form of the prospectus for the Fund that may be downloaded, as well as additional quantitative information updated on a daily basis. 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. On a daily basis, the Fund will disclose for each portfolio security or other financial instrument of the Fund the following information: ticker symbol, name and, when available, the individual identifier (CUSIP) of the security and/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/or financial instrument in the portfolio. 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. 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

[39] 15 U.S.C. 78f(b)(5).

will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. 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.

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 primarily holds fixed income securities and 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 up to 90 days after publication (i) as the Commission may designate 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–2013–121 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–2013–121. 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–NYSEArca-2013–121 and should be submitted on or before December 16, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[40]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–28162 Filed 11–22–13; 8:45 am]

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[40] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70899; File No. SR–NYSEMKT–2013–94]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Revising Rule 61(a)(iii)—Equities To Harmonize the Existing Rule Text With the Recent Amendment to the CTA Plan, and Concordant Change to the Nasdaq UTP Plan, Which Provides That Odd-Lot Transactions Are To Be Reported On the Consolidated Tape

November 19, 2013.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on November 12, 2013, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the 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 revise Rule 61(a)(iii)—Equities to harmonize the existing rule text with the recent amendment to the CTA Plan (and concordant change to the Nasdaq UTP Plan) which provides that odd-lot transactions are to be reported on the Consolidated Tape. 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, on the Commission's Web site at *http://www.sec.gov,* 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,

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

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

The purpose of the proposed change to Rule 61(a)(iii)—Equities is to harmonize the existing rule text with the recent amendment to the CTA Plan (and concordant change to the Nasdaq UTP Plan) which provides that odd-lot transactions are to be reported on the Consolidated Tape.

On September 9, 2013, the various exchanges that comprise the Consolidated Tape Association (''CTA''), including the Exchange, filed with the Commission a proposal to amend the Second Restatement of the CTA Plan (''CTA Plan'') to remove odd-lot transactions from the list of transactions that are not to be reported for inclusion on the Consolidated Tape (the ''Amendment'').[4] The rationale for the Amendment is that odd-lot transactions account for a not insignificant percentage of trading volume, and that including odd-lot transactions on the Consolidated Tape would add post-trade transparency to the marketplace. The Amendment, however, would not include odd-lot transactions in the calculation of last sale prices, given that many of these transactions do lack economic significance.[5]

Consistent with the Amendment to the CTA Plan, the Nasdaq Unlisted Trading Privileges Plan (''Nasdaq UTP Plan'') is likewise being modified to similarly remove odd-lot transactions from the list of transactions that are not to be reported for inclusion on the Consolidated Tape.[6] Pursuant to the NYSE MKT Rule 500—Equities Series, the Exchange trades Nasdaq-listed securities, which are subject to the Nasdaq UTP Plan, on an unlisted trading privileges basis.

In early October 2013, both the CTA and Nasdaq announced that, subject to approval by the Commission, the release date for the proposed Amendment and modified Nasdaq UTP Plan would be December 9, 2013.[7] On October 31, 2013, the Commission approved the Amendment.[8]

The Exchange, therefore, proposes to amend Rule 61(a)(iii)—Equities to conform this rule with both the Amendment and the modified Nasdaq UTP Plan. Current Rule 61(a)(iii)—Equities states that ''[a] transaction of an amount less than one round lot shall not be published to the Consolidated Tape and does not qualify as a last sale.'' To harmonize the rule with the Amendment and the revised Nasdaq UTP Plan, the Exchange proposes to modify paragraph (a)(iii) of the current rule to provide that odd-lot sized transactions would be published to the Consolidated Tape, or to the Securities Information Processor accepting trade reports in that security, but would still not qualify as last sale transactions.[9]

The Exchange proposes to implement the proposed changes to Rule 61(a)(iii)—Equities on the same day that the changes to the CTA Plan and Nasdaq UTP Plan are effective, which is currently scheduled for December 9, 2013.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the requirements of Section 6(b) of the Act,[10] in general, and Section 6(b)(5) of the Act,[11] in particular, in that it is designed to foster cooperation and coordination with persons facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest and not to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed rule change will foster cooperation and coordination with persons facilitating transactions in securities because the proposed rule change would harmonize Exchange rules with the Amendment to the CTA Plan, and with the concordant change to the Nasdaq UTP Plan. In addition, the Exchange believes that the proposed change would remove impediments to and perfect the mechanism of a free and open market and a national market system by providing consistency and additional transparency into securities transactions, thus encouraging the proper functioning of the market. Increased post-trade transparency would, in turn, protect investors and the public interest. Indeed, the Commission's Approval Order concluded that ''including odd-lot transactions on the consolidated tape will enhance post-trade transparency, as well as price discovery, and consequently would further the goals of the Act.''[12] The Approval Order likewise concludes, and the Exchange agrees, that ''information about odd lot transactions would provide important information to investors and other market participants and therefore represents a positive development in the provision of market data.''[13]

Finally, the Exchange believes that the proposed rule change does not unfairly discriminate among the Exchange's member organizations because all members would equally benefit from the additional transparency provided by the proposed change.

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. The Exchange believes that the proposed change adds to the integrity of trading on the securities markets by increasing post-trade transparency as well as price discovery and, if anything, the level of competition could increase as public confidence in the markets is solidified.

[4] *See* Securities Exchange Release No. 34–70428 (Sept. 17, 2013), 78 FR 184 (Sept. 28, 2013) (Notice of the Amendment). In 1974, the Commission declared the original CTA Plan effective. *See* Securities Exchange Release No. 10787 (May 10, 1974), 39 FR 17799. The CTA Plan, pursuant to which markets collect and disseminate last sale price information for non-NASDAQ listed securities, is a ''transactional plan'' under Rule 601 of the Securities and Exchange Act (the ''Act''), 17 CFR 242.601, and a ''national market system plan'' under Rule 608 under the Act, 17 CFR 242.608.

[5] Thus, per the Amendment, odd-lot transactions would not be included in calculations of high and low prices and would not be subject to the Regulation NMS Plan to Address Extraordinary Market Volatility rules, nor would including odd-lot transactions on the Consolidated Tape trigger any short sale restrictions or trading halts. Odd-lot transactions, however, would be included in calculations of daily volume.

[6] *See* Nasdaq Announcement at *http://www.nasdaqtrader.com/TraderNews.aspx?id=uva2013-6.*

[7] *See* CTA Announcement at *https://cta.nyxdata.com/cta/popup/news/2385* (''Pursuant to the latest notice on this subject . . . , pending regulatory approval we are postponing the October testing dates and the implementation which include Odd Lot trade reports to the Consolidated Tape. The new release dat[e] will be December 9, 2013. . . .''). *See also* Nasdaq Announcement at *http://www.nasdaqtrader.com/TraderNews.aspx?id=uva2013-11* (same).

[8] *See* Securities Exchange Release No. 34–70794 (Oct. 31, 2013) (''Approval Order'').

[9] The proposed revision to paragraph (a)(iii) to Rule 61—Equities would thus read: ''A transaction of an amount less than one round lot shall be published to the Consolidated Tape, or to the Securities Information Processor accepting trade reports in that security, but does not qualify as a last sale.''

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] Approval Order at 5.

[13] *Id.*

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [14] and Rule 19b–4(f)(6) thereunder.[15] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [16] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[17] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. According to the Exchange, waiving the 30-day operative delay will enable market participants to benefit from the proposed rule change on the same day that both plans go into effect. The Exchange believes it would be appropriate that the Exchange rules be in conformance with the Amendment to the CTA Plan (and the concordant change to the Nasdaq UTP Plan) on the date that both changes are to become effective (*i.e.,* on December 9, 2013).[18] Based on the Exchange's statements and the non-controversial nature of the proposed rule change, the Commission believes that waiving the operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby grants the Exchange's request and waives the 30-day operative delay.[19]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [20] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEMKT–2013–94 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEMKT–2013–94. 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 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–NYSEMKT–2013–94 and should be submitted on or before December 16, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Kevin M. O'Neill,

Deputy Secretary.

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[14] 15 U.S.C. 78s(b)(3)(A)(iii).

[15] 17 CFR 240.19b–4(f)(6).

[16] 17 CFR 240.19b–4(f)(6).

[17] 17 CFR 240.19b–4(f)(6)(iii).

[18] The Exchange stated that on the event that this rule proposal is operative prior to December 9, 2013, the Exchange would not implement the proposed rule change until December 9, 2013.

[19] For purposes only of waiving the operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[20] 15 U.S.C. 78s(b)(2)(B).

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70900; File No. SR–ISE–2013–58]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Change the Expiration Date for Most Options Contracts to the Third Friday of the Expiration Month Instead of the Saturday Following the Third Friday

November 19, 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 November 7, 2013, the International Securities Exchange, LLC (the ''Exchange'' or the ''ISE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend its rules to change the expiration date for most option contracts to the third Friday of the expiration month instead

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

of the Saturday following the third Friday, and to make other amendments to its rules consistent with the industry-wide change to Friday expiration. The text of the proposed rule change is available on the Exchange's Internet Web site at *http://www.ise.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 self-regulatory organization has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to amend its rules to change the expiration date for most option contracts to the third Friday of the expiration month instead of the Saturday following the third Friday. More specifically, the Exchange is proposing to amend rule text referencing Saturday expirations. The Exchange notes, however, that this change will apply to all standard expiration contracts including those in which the rules are silent on the expiration date.[3] The Exchange is making this filing to harmonize its rules in connection with a recently approved rule filing made by The Options Clearing Corporation (''OCC'') which made substantially similar changes.[4] The Exchange believes that the industry must remain consistent in expiration dates, and, thus, is proposing to update its rules to remain consistent with those of OCC. In addition, the Exchange understands that other exchanges have or will be filing similar rules to effect this industry-wide initiative.[5]

Most option contracts (''standard expiration contracts'') currently expire at the ''expiration time'' (11:59 p.m. Eastern Time) on the Saturday following the third Friday of the specified expiration month (the ''expiration date''). As a result of this proposed rule change, the expiration date for standard expiration contracts would be changed to the third Friday of the expiration month. The expiration time would continue to be 11:59 p.m. Eastern Time on the expiration date. This change would apply only to standard expiration contracts expiring after February 1, 2015, and the Exchange, similar to OCC, does not propose to change the expiration date for any outstanding option contracts already listed with a Saturday expiration date. Option contracts having non-standard expiration dates (''non-standard expiration contracts'') will be unaffected by this proposed rule change.[6]

In order to provide a smooth transition to Friday expiration OCC has moved the expiration exercise procedures to Friday for all standard expiration contracts even though the contracts would continue to expire on Saturday.[7] After February 1, 2015, virtually all standard expiration contracts will actually expire on Friday. The only standard expiration contracts that will expire on a Saturday after February 1, 2015 are certain options that had been listed prior to the effectiveness of the OCC rule change and the completion of systems changes to support Friday expiration. The Exchange will not list any additional options with Saturday expiration dates falling after February 1, 2015.

Certain option contracts have already been listed with Saturday expiration dates as distant as December 2016. For these contracts, transitioning to Friday expiration for newly listed option contracts expiring after February 1, 2015 would create a situation under which certain options with open interest would expire on a Saturday while other options with open interest would expire on a Friday in the same expiration month. Clearing members have expressed a clear preference to not have a mix of options with open interest that expire on different days in a single month.[8] Accordingly, OCC represented in its recently approved filing that it will not issue and clear any new option contract with a Friday expiration if existing option contracts of the same options class expire on the Saturday following the third Friday of the same month. However, Friday expiration processing will be in effect for these Saturday expiration contracts. As with standard expiration options during the transition period, exercise requests received after Friday expiration processing is complete but before the Saturday contract expiration time will continue to be processed without fines or penalties.

Consistent with the OCC filing, the Exchange is proposing to adopt a definition of expiration date and add language to its rules that reflects a Saturday expiration date for series expiring prior to February 1, 2015 and a Friday expiration date for series expiring on or after February 1, 2015.[9] In particular, the Exchange proposes to amend its rules as described in the paragraphs below.

The Exchange proposes to amend Rule 100 (Definitions) to adopt a definition of expiration date, as described above, and to modify the definition of the term ''outstanding'' to mean an option contract which has been issued by the Clearing Corporation and has neither been the subject of a closing writing transaction nor has expired.

The Exchange proposes to amend Rule 418 (Other Restrictions on Option Transactions and Exercises) with respect to certain timing for restrictions on the exercise of option contracts. Specifically, the Exchange proposes to specify that the 10-business day period referenced in Rule 418(a)(2) includes the expiration date for an option contract that expires on a business day. The Exchange also proposes to specify that, with respect to index options, restrictions on exercise may be in effect until the opening of business on the business day of their expiration (*i.e.,* for Friday expirations), or, in the case of an option contract expiring on a day that is not a business day, and as is currently the case for Saturday expirations, on the last business day before the expiration date. Finally, the Exchange proposes to specify in Rule 418(a)(3)(ii) that exercises of expiring American-style, cash-settled index options are not prohibited on the business day of their expiration (*i.e.,* for Friday expirations), or, in the case of an option contract

[3] Mini Options expirations are the same as those for Standard Options and would be amended as specified in this proposal.

[4] *See* Securities Exchange Act Release No. 69772 (June 17, 2013), 78 FR 37645 (June 21, 2013) (order approving SR–OCC–2013–004 [sic]).

[5] *See e.g.* Securities Exchange Act Release Nos. 70372 (September 11, 2013) 78 FR 57186 (September 17, 2013) (SR–NYSEARCA–2013–88); 70259 (August 26, 2013), 78 FR 53809 (August 30, 2013) (SR–PHLX–2013–89); 70091 (August 1, 2013), 78 FR 48212 (August 7, 2013) (SR–CBOE–2013–073).

[6] Options with non-standard expiration contracts include Quarterly Option Series (Supplementary Material .03 to Rule 504, and Supplementary Material .02 to Rule 2009), and Short Term Option Series (Supplementary Material .02 to Rule 504, and Supplementary Material .01 to Rule 2009).

[7] *See* SR–OCC–2013–04.

[8] *Id.*

[9] With the exception of expirations that were listed prior to the effective date of the OCC filing and have open interest.

expiring on a day that is not a business day, and as is currently the case for Saturday expirations, on the last business day prior to their expiration.

The Exchange proposes to amend Rule 504 (Series of Options Contracts Open for Trading) to differentiate between Friday and Saturday expirations. Specifically, the Exchange proposes to specify that additional series of individual stock options may be added in unusual market conditions until the close of trading on the business day prior to expiration in the case of an option contract expiring on a business day (*i.e.,* Thursday for Friday expirations), or, in the case of an option contract expiring on a day that is not a business day, and as is currently the case for Saturday expirations, until the close of trading on the second business day prior to expiration (*i.e.,* Thursday for Saturday expirations). In addition, the Exchange proposes to make a related technical correction to Rule 504. Currently Rule 504 states, in part, that new series of FLEX Equity Options may be added on any business day prior to the expiration date. As the ISE does not list FLEX Equity Options, the Exchange proposes to remove this reference.

The Exchange proposes to amend Rule 720 (Obvious and Catastrophic Errors) to add greater specificity regarding the timing surrounding notifying the Exchange of a ''Catastrophic Error.'' Specifically, the Exchange proposes to specify that, for such transactions in an expiring options series that take place on an expiration date that is a business day (*i.e.,* for Friday expirations), a member must notify the Exchange by 5:00 p.m. Eastern Time that same day. For such transactions in an options series that take place on the business day immediately prior to an expiration date that is not a business day (*i.e.,* for Saturday expirations), a member must notify the Exchange by 5:00 p.m. Eastern Time on such business day (*i.e.,* on Friday).

The Exchange proposes to amend Rule 1100 (Exercise of Options Contracts) in several areas, each of which is designed to differentiate between Friday and Saturday expirations. First, the Exchange proposes to specify in Rule 1100(b) that special procedures apply to the exercise of equity options on the business day of their expiration (*i.e.,* for Friday expirations), or, in the case of an option contract expiring on a day that is not a business day, and as is currently the case for Saturday expirations, on the last business day before their expiration. Second, the Exchange proposes to specify in Rule 1100(c) that, regarding exercise cut-off times, option holders have until 5:30 p.m. Eastern Time on the business day of their expiration (*i.e.,* for Friday expirations), or, in the case of an option contract expiring on a day that is not a business day, and as is currently the case for Saturday expirations, on the business day immediately prior to the expiration date. Third, the Exchange proposes to specify in Rule 1100(h) that the advance notice described therein is applicable if provided by the Exchange on or before 5:30 p.m. Eastern Time on the business day immediately prior to the business day of expiration (*i.e.,* Thursday for Friday expirations), or, in the case of an option contract expiring on a day that is not a business day, and as is currently the case for Saturday expirations, the business day immediately prior to the last business day before the expiration date (*i.e.,* Thursday for Saturday expirations). Fourth, the Exchange proposes to specify in Rule 1100(i)(2) that the reference therein to ''unusual circumstances'' includes, but is not limited to, a significant news announcement concerning the underlying security of an option contract that is scheduled to be released just after the close on the business day the option contract expires (*i.e.,* for Friday expirations), or, in the case of an option contract expiring on a day that is not a business day, and as is currently the case for Saturday expirations, the business day immediately prior to expiration. Fifth, the Exchange proposes to specify in Rule 1100(h)(8)(ii) that exercises of expiring American-style, cash-settled index options are not prohibited on the business day of their expiration (*i.e.,* for Friday expirations), or, in the case of an option contract expiring on a day that is not a business day, and as is currently the case for Saturday expirations, on the last business day prior to their expiration. The Exchange notes that due to an error in its rulebook it currently has two rules labeled as Rule 1100(h), the Exchange therefore also proposes to move one of these subsections, which deals with procedures for exercise of American-style cash-settled index options contracts, to Rule 1100(l).[10]

The Exchange proposes to amend Rule 2001 (Definitions) to clarify the definition of the term ''American-style index option'' to mean an option on an industry or market index that can be exercised on any business day prior to expiration, including the business day of expiration in the case of an option contract expiring on a business day (*i.e.,* for Friday expirations), and the term ''European-style index option'' to mean an option on an industry or market index that can be exercised only on the business day of its expiration (*i.e.,* for Friday expirations), or, in the case of an option contract expiring on a day that is not a business day, and as is currently the case for Saturday expirations, on the last business day prior to the day it expires.

The Exchange proposes to amend Rule 2009 (Terms of Index Option Contracts) with respect to the permitted timing for adding new series of index option contracts so as to differentiate between Friday and Saturday expirations. First, the Exchange proposes to specify in Rule 2009(a)(5) that the last day of trading for A.M.-settled index options is the business day preceding the business day of expiration (*i.e.,* for Friday expirations), or, in the case of an option contract expiring on a day that is not a business day, and as is currently the case for Saturday expirations, the business day preceding the last day of trading in the underlying securities prior to the expiration date. Second, the Exchange proposes to specify in Rule 2009(c)(2) that new series of index option contracts may be added up to, but not on or after, the fourth business day prior to expiration for an option contract expiring on a business day (*i.e.,* up to, but not on or after, the opening of trading on Monday morning for Friday expirations), or, in the case of an option contract expiring on a day that is not a business day, and as is currently the case for Saturday expirations, the fifth business day prior to expiration. Third, the Exchange proposes to specify in Rule 2009(d) that the reported level of the underlying index that is calculated by the reporting authority on the business day of expiration (*i.e.,* for Friday expirations), or, in the case of an option contract expiring on a day that is not a business day, and as is currently the case for Saturday expirations, the last day of trading in the underlying securities prior to the expiration date for purposes of determining the current index value at the expiration of an A.M.-settled index option may differ from the level of the index that is separately calculated and reported by the reporting authority and that reflects trading activity

[10] New Rule 1100(l), previously Rule 1100(h), has been mistakenly referenced in the Exchange's rulebook as Rule 1102(h). With this filing the Exchange will move the rule back to Rule 1100 as approved in SR–ISE–2003–05 but will move it to subsection (l) to avoid conflicting with another rule currently labeled as Rule 1100(h). *See* Securities Exchange Act Release No. 48405 (August 25, 2003), 68 FR 52257 (September 2, 2003) (SR–ISE–2003–05).

subsequent to the opening of trading in any of the underlying securities.

Finally, the Exchange proposes to amend Rule 2206 (Terms of Foreign Currency Options Contracts) to specify that foreign currency options shall be European-style, which means that they may be exercised only on the business day of expiration (*i.e.,* for Friday expirations), or, in the case of an option contract expiring on a day that is not a business day, and as is currently the case for Saturday expirations, the last business day prior to the expiration date (normally a Friday).

To the extent applicable to the timeframes herein, the Exchange is also proposing, with this filing, to replace any reference in the purpose section of any past Exchange rule filings or notices to any expiration date other than Friday for a standard options contract with the new Friday standard. Essentially, the Exchange is now proposing to replace any relevant historic references to expiration dates to be replaced with the proposed Friday expiration. As stated above, the Exchange believes the proposed change will keep the Exchange consistent with the processing at OCC and will enable the Exchange to give effect to the industry-wide initiative. In addition, the Exchange understands that other exchanges have filed or will be filing similar rules, thus creating a uniform expiration date for standard options on listed classes.[11]

The Exchange notes that OCC, industry groups, clearing members and the other exchanges have been active participants in planning for the transition to the Friday expiration.[12] In March 2012, OCC began to discuss moving standard contract expirations to Friday expiration dates with industry groups, including two Securities Industry and Financial Markets Association (''SIFMA'') committees, the Operations and Technology Steering Committee and the Options Committee, and at two major industry conferences, the SIFMA Operations Conference and the Options Industry Conference.[13] OCC also discussed the project with the Intermarket Surveillance Group and at an OCC Operations Roundtable. In each case, there was broad support for the initiative.[14]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[15] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[16] requirements that the rules of an exchange be 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 regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[17] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that keeping its rules consistent with those of the industry will protect all participants in the market by eliminating confusion. The proposed changes thus allow for a more orderly market by allowing all options markets, including the clearing agencies, to have the same expiration date for standard options. In addition, the proposed changes will foster cooperation and coordination with persons engaged in regulating clearing, settling, processing information with respect to, and facilitating transactions in securities by aligning a pivotal part of the options processing to be consistent industry-wide. If the industry were to differ, investors would suffer from confusion and be more vulnerable to violate different exchange rules. The proposed changes do not permit unfair discrimination between any members because they are applied to all members equally. Moreover, the Exchange believes that it helps all members by keeping the Exchange consistent with OCC practices and those of other exchanges.

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. Specifically, the Exchange does not believe the proposed rule change will impose a burden on intramarket competition because it will be applied to all members equally. In addition, the Exchange does not believe the proposed rule change will impose any burden to intermarket competition because it will be applied industry-wide and apply to all market participants. The proposed rule change is structured to enhance competition because the shift from an expiration date of the Saturday following the third Friday to the third Friday is anticipated to be adopted industry-wide and will apply to all option classes listed on the Exchange. This in turn will allow the Exchange to compete more effectively with other exchanges making similar rule changes.

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 Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[18] and Rule 19b–4(f)(6) thereunder.[19] Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.[20]

A proposed rule change filed under Rule 19b–4(f)(6)[21] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[22] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the

[11] *See supra* note 5.

[12] *Id.*

[13] *Id.*

[14] *Id.*

[15] 15 U.S.C. 78f(b).

[16] 15 U.S.C. 78f(b)(5).

[17] 15 U.S.C. 78f(b)(5).

[18] 15 U.S.C. 78s(b)(3)(A)(iii).

[19] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[20] 17 CFR 240.19b–4(f)(6)(iii).

[21] 17 CFR 240.19b–4(f)(6).

[22] 17 CFR 240.19b–4(f)(6)(iii).

Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange stated that waiver of this requirement will allow the Exchange to more quickly align its rules with an industry-wide initiative. The Exchange noted that the transition to Friday expiration has already begun, and that certain option series expiring after February 1, 2015 have already been listed with a Friday expiration date. The Exchange also stated that the proposal will provide greater clarity to members and investors regarding how ISE rules will apply to the expiration of those contracts. Finally, the Exchange noted that none of the options contracts expiring within the next 30-days would be affected by the proposed changes. Based on the Exchange representations above, and since the proposal is based, in part, on a proposal submitted by the OCC and approved by the Commission,[23] the Commission waives the 30-day operative delay requirement and designates the proposed rule change as operative upon filing.[24]

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: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[25] of the Act 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–ISE–2013–58 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–ISE–2013–58. 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–ISE–2013–58 and should be submitted on or before December 16, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–28160 Filed 11–22–13; 8:45 am]

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[23] *See supra* note 4.

[24] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[25] 15 U.S.C. 78s(b)(2)(B).

[26] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70898; File No. SR–NYSE–2013–75]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Revising Rule 61(a)(iii) To Harmonize the Existing Rule Text With the Recent Amendment to the CTA Plan, Which Provides That Odd-Lot Transactions Are To Be Reported on the Consolidated Tape

November 19, 2013.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on November 12, 2013, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the 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 revise Rule 61(a)(iii) to harmonize the existing rule text with the recent amendment to the CTA Plan, which provides that odd-lot transactions are to be reported on the Consolidated Tape. 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, on the Commission's Web site at *http://www.sec.gov,* and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed change to Rule 61(a)(iii) is to harmonize the existing rule text with the recent amendment to the CTA Plan (described below), which provides that odd-lot transactions are to be reported on the Consolidated Tape.

On September 9, 2013, the various exchanges that comprise the Consolidated Tape Association (''CTA''), including the Exchange, filed with the Commission a proposal to amend the Second Restatement of the CTA Plan (''CTA Plan'') to remove odd-lot transactions from the list of transactions that are not to be reported for inclusion on the Consolidated Tape (the ''Amendment'').[4] The rationale for the Amendment is that odd-lot transactions account for a not insignificant percentage of trading volume, and that including odd-lot transactions on the Consolidated Tape would add post-trade transparency to the marketplace. The Amendment, however, would not include odd-lot transactions in the calculation of last sale prices, given that many of these transactions do lack economic significance.[5]

On October 4, 2013, the CTA announced that, subject to approval by the Commission, the release date for the proposed Amendment would be December 9, 2013.[6] On October 31, 2013, the Commission approved the Amendment.[7]

The Exchange, therefore, proposes to amend Rule 61(a)(iii) to conform this rule with the Amendment to the CTA Plan. Current Rule 61(a)(iii) states that ''[a] transaction of an amount less than one round lot shall not be published to the Consolidated Tape and does not qualify as a last sale.'' To harmonize the rule with the Amendment, the Exchange proposes to modify paragraph (a)(iii) of the current rule to provide that odd-lot sized transactions would be published to the Consolidated Tape, but would still not qualify as last sale transactions.[8]

The Exchange proposes to implement the proposed changes to Rule 61(a)(iii) on the same day that the changes to the CTA Plan are effective, which is currently scheduled for December 9, 2013.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the requirements of Section 6(b) of the Act,[9] in general, and Section 6(b)(5) of the Act,[10] in particular, in that it is designed to foster cooperation and coordination with persons facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest and not to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed rule change will foster cooperation and coordination with persons facilitating transactions in securities because the proposed rule change would harmonize Exchange rules with the Amendment to the CTA Plan. In addition, the Exchange believes that the proposed change would remove impediments to and perfect the mechanism of a free and open market and a national market system by providing consistency and additional transparency into securities transactions, thus encouraging the proper functioning of the market. Increased post-trade transparency would, in turn, protect investors and the public interest. Indeed, the Commission's Approval Order concluded that ''including odd-lot transactions on the consolidated tape will enhance post-trade transparency, as well as price discovery, and consequently would further the goals of the Act.''[11] The Approval Order likewise concludes, and the Exchange agrees, that ''information about odd lot transactions would provide important information to investors and other market participants and therefore represents a positive development in the provision of market data.''[12]

Finally, the Exchange believes that the proposed rule change does not unfairly discriminate among the Exchange's member organizations because all members would equally benefit from the additional transparency provided by the proposed change.

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. The Exchange believes that the proposed change adds to the integrity of trading on the securities markets by increasing post-trade transparency as well as price discovery and, if anything, the level of competition could increase as public confidence in the markets is solidified.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[13] and Rule 19b–4(f)(6) thereunder.[14] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[15] normally does not become operative prior to 30 days after

[4] *See* Securities Exchange Release No. 34–70428 (Sept. 17, 2013), 78 FR 184 (Sept. 28, 2013) (Notice of the Amendment). In 1974, the Commission declared the original CTA Plan effective. *See* Securities Exchange Release No. 10787 (May 10, 1974), 39 FR 17799. The CTA Plan, pursuant to which markets collect and disseminate last sale price information for non-NASDAQ listed securities, is a ''transactional plan'' under Rule 601 of the Securities and Exchange Act (the ''Act''), 17 CFR 242.601, and a ''national market system plan'' under Rule 608 under the Act, 17 CFR 242.608.

[5] Thus, per the Amendment, odd-lot transactions would not be included in calculations of high and low prices and would not be subject to the Regulation NMS Plan to Address Extraordinary Market Volatility rules, nor would including odd-lot transactions on the Consolidated Tape trigger any short sale restrictions or trading halts. Odd-lot transactions, however, would be included in calculations of daily volume.

[6] *See* CTA Announcement at *https://cta.nyxdata.com/cta/popup/news/2385* (''Pursuant to the latest notice on this subject . . . , pending regulatory approval we are postponing the October testing dates and the implementation which include Odd Lot trade reports to the Consolidated Tape. The new release dat[e] will be December 9, 2013. . . .'').

[7] *See* Securities Exchange Release No. 34–70794 (Oct. 31, 2013) (''Approval Order'').

[8] The proposed revision to paragraph (a)(iii) to Rule 61 would thus read: ''A transaction of an amount less than one round lot shall be published to the Consolidated Tape but does not qualify as a last sale.''

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] Approval Order at 5.

[12] *Id.*

[13] 15 U.S.C. 78s(b)(3)(A)(iii).

[14] 17 CFR 240.19b–4(f)(6).

[15] 17 CFR 240.19b–4(f)(6).

the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[16] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. According to the Exchange, waiving the 30-day operative delay will enable market participants to benefit from the proposed rule change on the same day that both plans go into effect. The Exchange believes it would be appropriate that Exchange rules be in conformance with the Amendment to the CTA Plan on the date that both changes are to become effective (*i.e.,* on December 9, 2013).[17] Based on the Exchange's statements and the non-controversial nature of the proposed rule change, the Commission believes that waiving the operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby grants the Exchange's request and waives the 30-day operative delay.[18]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[19] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2013–75 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–NYSE–2013–75. 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 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–NYSE–2013–75 and should be submitted on or before December 16, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Kevin M. O'Neill,

Deputy Secretary.

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[16] 17 CFR 240.19b–4(f)(6)(iii).

[17] The Exchange stated that in the event that this rule proposal is operative prior to December 9, 2013, the Exchange would not implement the proposed rule change until December 9, 2013.

[18] For purposes only of waiving the operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[19] 15 U.S.C. 78s(b)(2)(B).

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70897; File No. SR–NASDAQ–2013–139]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Regarding Post-Only Orders Received Prior to the Opening

November 19, 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 November 8, 2013, The NASDAQ Stock Market LLC (''NASDAQ'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by NASDAQ. 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 filing with the Commission a proposal to modify Chapter VI (Trading Systems), Section 1 (Definitions) of the NASDAQ Options Market, LLC (''NOM''), to indicate that Post-Only Orders received prior to the opening will be eligible for execution during the opening cross. The text of the proposed rule change is set forth immediately below.

Deleted text is [bracketed]. New text is *italicized.*

NASDAQ Stock Market Rules

Options Rules

* * * * *

Chapter VI Trading Systems

* * * * *

Sec. 1 Definitions

The following definitions apply to Chapter VI for the trading of options listed on NOM.

(a)–(d) No Change.

(e) The term ''Order Type'' shall mean the unique processing prescribed for designated orders that are eligible for entry into the System, and shall include:

(1)–(10) No Change.

(11) ''Post-Only Orders'' are orders that will not remove liquidity from the System. Post-Only Orders are to be ranked and executed on the Exchange or cancelled, as appropriate, without

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

routing away to another market. Post-Only Orders are evaluated at the time of entry with respect to locking or crossing other orders as follows: (i) If a Post-Only Order would lock or cross an order on the System, the order will be re-priced to $.01 below the current low offer (for bids) or above the current best bid (for offers) and displayed by the System at one minimum price increment below the current low offer (for bids) or above the current best bid (for offers); and (ii) if a Post-Only Order would not lock or cross an order on the System but would lock or cross the NBBO as reflected in the protected quotation of another market center, the order will be handled pursuant to Chapter VI, Section 7(b)(3)(C). Participants may choose to have their Post-Only Orders returned whenever the order would lock or cross the NBBO or be placed on the book at a price other than its limit price. Post-Only Orders received prior to the opening [cross or] *will be eligible for execution during the opening cross and will be processed as per Chapter VI, Section 8. Post-Only Orders received* after market close will be rejected. Post-Only Orders may not have a time-in-force designation of Good Til Cancelled or Immediate or Cancel.

(f)–(h) No Change.

* * * * *

The text of the proposed rule change is available from NASDAQ's Web site at *http://nasdaq.cchwallstreet.com,* at NASDAQ'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, 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 these statements may be examined at the places specified in Item IV below. NASDAQ has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to modify NOM Chapter VI, Section 1(e)(11) to indicate that Post-Only Orders received prior to the opening will now be eligible for execution during the opening cross.[3]

Currently, subsection (e) of Section 1 states that ''Order Type'' means the unique processing prescribed for designated orders that are eligible for entry into the System[4] by NOM Participants and Market Makers.[5] Subsection (e)(11) states that one of these order types, specifically ''Post-Only Orders'', are orders[6] that will not remove liquidity from the System. Post-Only Orders are ranked and executed on the Exchange or cancelled, as appropriate, without routing away to another market. Post-Only Orders are evaluated at the time of entry with respect to locking or crossing other orders as follows: (i) If a Post-Only Order would lock or cross an order on the System, the order will be re-priced to $.01 below the current low offer (for bids) or above the current best bid (for offers) and displayed by the System at one minimum price increment below the current low offer (for bids) or above the current best bid (for offers); and (ii) if a Post-Only Order would not lock or cross an order on the System but would lock or cross the NBBO as reflected in the protected quotation of another market center, the order will be handled pursuant to Chapter VI, Section 7(b)(3)(C).[7] Participants may choose to have their Post-Only Orders returned whenever the order would lock or cross the NBBO or be placed on the book at a price other than its limit price. Post-Only Orders may not have a time-in-force designation of Good Til Cancelled or Immediate or Cancel.[8] Post-Only Orders received prior to the opening cross or after market close will be rejected.[9] Thus, if today at 9:29:00 Market Maker A submits a buy Post-Only Order to buy 100 MSFT calls at $1.25, that order will be rejected. The Exchange is proposing to update how such pre-market orders will be handled.

The Exchange is proposing to state in subsection (e)(11) of Section 1 that Post-Only Orders received prior to market open will be allowed to execute as part of the opening process. The Exchange believes that this narrow change is, as discussed below, desirable in today's market and will significantly reduce unnecessary complexity to the benefit of traders and market participants.

It has come to the attention of the Exchange that rejecting all Post-Only Orders prior to the opening cross causes unnecessary complexity for Market Makers that provide liquidity to the Exchange as part of the opening process. Currently, in order to provide liquidity at the market open, Market Makers must not mark orders as Post-Only, as they will be rejected; rather they must mark the orders as regular orders. Immediately after the opening process has concluded, however, Market Makers have to switch over to marking orders as Post-Only Orders. The process of switching from regular to Post-Only Orders is further complicated because each symbol on the Exchange opens at a unique time. The Exchange's open for options requires that the underlying security be open, which may not necessarily be exactly at 9:30 a.m. ET, and also requires that two other options exchanges begin trading the option, as evidenced by dissemination of a firm quote to the Options Price Reporting Authority (''OPRA'').[10] The nature of the opening process thus results in varying opening times across many hundreds of thousands of different options symbols that open for trading every day on the Exchange. As a result, Market Makers must know exactly when a particular symbol is open for trading before the switch can be made from regular orders to Post-Only Orders. This complexity unnecessarily increases risk to Market Makers and thus the trading environment. The Exchange is proposing to accept Post-Only Orders received prior to the market open. The

[3] The Exchange will explain the proposed change to its participants via an Options Trading Alert.

[4] The term ''System'' means, in relevant part, the automated system for order execution and trade reporting owned and operated by NOM. *See* Chapter VI, Section 1(a).

[5] Options Participants registered as Market Makers have certain rights and bear certain responsibilities beyond those of other Options Participants. All Market Makers are designated as specialists on NOM for all purposes under the Exchange Act or Rules thereunder. *See* Chapter VII, Section 2. An Options Participant that has qualified as an Options Market Maker may register to make markets in individual options. *See* Chapter VII, Section 3(a).

[6] The term ''order'' means a firm commitment to buy or sell options contracts. *See* Chapter 1, Section 1(a)(44).

[7] Section 7(b)(3)(C) states regarding Trade-Through and Locked and Crossed Markets: An order will not be executed at a price that trades through another market or displayed at a price that would lock or cross another market. An order that is designated by the member as routable will be routed in compliance with applicable Trade-Through and Locked and Crossed Markets restrictions. An order that is designated by a member as non-routable will be re-priced in order to comply with applicable Trade-Through and Locked and Crossed Markets restrictions.

[8] *See* Securities Exchange Act Release No. 65761 (November 16, 2011), 76 FR 72230 (November 22, 2011) (SR–NASDAQ–2011–152) (notice of filing and immediate effectiveness adopting a ''Post-Only Order'' type on NOM) (the ''Post-Only Order proposal'').

[9] The Exchange's options market is open from 9:30 a.m. to 4:00 p.m. Eastern Time (''ET''), except for option contracts on certain fund shares or broad-based indexes which close as of 4:15 p.m. *See* Chapter VI, Section 2.

[10] Chapter VI, Section 8.

Exchange believes that this will significantly reduce complexity and risk for Market Makers wishing to provide liquidity for the opening auction and thereby improve prices at the open. The Exchange believes that the proposal may, in addition, result in message traffic reduction by eliminating the need for Market Makers to cancel and re-enter orders depending on time of opening.

For example, if a Market Maker submits a non-Post-Only bid of $1.00 for 100 CSCO calls at 9:29:50, it will be available for execution in the opening cross because the bid is not marked as Post-Only. Assume that the underlying then opens at 9:30:03, and two other options exchanges open by 9:30:07, and the CSCO calls open on the Exchange. The Market Maker will now need to mark new bids as Post-Only. Moreover, if at 9:30:10 the Market Maker wants to update the size of his bid to 50, the Market Maker will need to cancel the non-Post-Only bid and submit a new bid: $1.00 (50). Under the proposed rule, the Market Maker would be able to mark its pre-market bid as Post-Only. After the market is open, if the Market Maker wishes to update its bid, only one message is needed. The Market Maker simply reduces the bid size with one message rather than having to send a cancellation of the non-Post-Only bid followed by a new Post-Only bid.

By modifying the handling of Post-Only Orders received prior to opening, the proposal serves to reduce confusion and unnecessary complexity regarding orders that come in prior to market opening, and serves to promote liquidity at a crucial time for the market to the benefit of traders and market participants.[11]

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [12] in general, and furthers the objectives of Section 6(b)(5) of the Act [13] in particular, in that the proposal is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. The Exchange believes that this minor rule change will simplify its market structure, minimize or negate unnecessary complexity, and encourage liquidity at the crucial time of market open. The Exchange believes this change will make the transition from the pre-open period to regular market trading more efficient and thus promote just and equitable principles of trade and serve to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. While the Exchange does not believe that the proposal should have an impact on competition, it believes the proposal will reduce order entry complexity, enhance market liquidity, and be beneficial to market participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange believes that the foregoing proposed rule change may take effect upon filing with the Commission pursuant to Section 19(b)(3)(A) [14] of the Act and Rule 19b–4(f)(6)(iii) thereunder [15] because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate.

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: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2013–139 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–2013–139. 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 NASDAQ. 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–2013–139 and should be submitted on or before December 16, 2013.

[11] The Exchange believes that its proposal will not add any surveillance burden that cannot be managed by current surveillance systems; and the proposal will not have any negative influence on Exchange capacity. Moreover, the Exchange notes that this proposal is written from the perspective of Market Makers because they are by far the largest users of Post-Only Orders, and as such stand to benefit from the proposal. The Exchange does not believe that this change raises any concerns in respect of non-Market Maker users of Post-Only Orders as the change will similarly benefit them.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(6)(iii). 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.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–28157 Filed 11–22–13; 8:45 am]

BILLING CODE 8011–01–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB), Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov.*

(SSA), Social Security Administration, OLCA, Attn: Reports Clearance Director, 3100 West High Rise, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–966–2830, Email address: *OR.Reports.Clearance@ssa.gov.*

I. The information collection below is pending at SSA. SSA will submit it to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than January 24, 2014. Individuals can obtain copies of the collection instruments by writing to the above email address.

Missing and Discrepant Wage Reports Letter and Questionnaire—26 CFR 31.6051–2—0960–0432. Each year employers report the wage amounts they paid their employees to the Internal Revenue Service (IRS) for tax purposes, and separately to SSA for retirement and disability coverage purposes. The same figures should be reported to SSA and the IRS. However, each year some employer wage reports SSA receives are less than the wage amounts employers report to the IRS. SSA uses Forms SSA–L93–SM, SSA–L94–SM, SSA–95–SM, and SSA–97–SM to resolve this discrepancy and ensure employees receive full credit for their wages. Respondents are employers who reported lower wage amounts to SSA than they reported to the IRS.

Type of Request: Revision of an OMB-approved information collection.

Modality of collection	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–95–SM and SSA–97–SM (and accompanying cover letters SSA–L93–SM, L94–SM)	360,000	1	30	180,000

II. SSA submitted the information collection below to OMB for clearance. Your comments regarding the information collection would be most useful if OMB and SSA receive them 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than December 26, 2013. Individuals can obtain copies of the OMB clearance packages by writing to *OR.Reports.Clearance@ssa.gov.*

Appointment of Representative—20 CFR 404.1707, 404.1720, 404.1725, 410.684 and 416.1507—0960–0527. Persons claiming rights or benefits under the Social Security Act must notify SSA in writing when they appoint an individual to represent them in dealing with SSA. SSA collects the information on Form SSA–1696–U4 to verify the appointment of such representatives. The SSA–1696–U4 allows SSA to inform representatives of items that affect the recipient's claim, and allows claimants to give permission to their appointed representatives to designate a person to receive their claims files. Respondents are applicants for or recipients of Social Security benefits or Supplemental Security Income payments who are notifying SSA they have appointed a person to represent them in their dealings with SSA.

Type of Request: Revision of an OMB-approved information collection.

Modality of collection	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–1696–U4	800,000	1	10	133,333

Dated: November 19, 2013.

Faye Lipsky,

Reports Clearance Director, Social Security Administration.

[FR Doc. 2013–28094 Filed 11–22–13; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 8532]

Shipping Coordinating Committee; Notice of Committee Meeting

The Shipping Coordinating Committee (SHC) will conduct an open meeting at 9:00 a.m. on Thursday, January 9, 2014, in Alexander Hamilton Room on the 9th floor of the Ballston Common Plaza, 4200 Wilson Blvd., Arlington, VA 20598–7200. The USCG Offices in the Ballston Commons Plaza are located above the Ballston Common Mall. The primary purpose of the meeting is to prepare for the first

[16] 17 CFR 200.30–3(a)(12).

Session of the International Maritime Organization's (IMO) Sub-Committee on Ship Design and Construction to be held at the IMO Headquarters, United Kingdom, January 20–24, 2014.

The agenda items to be considered include:

—Adoption of the agenda
—Decisions of other IMO bodies
—Development of a mandatory Code for ships operating in polar waters
—Development of provisions to ensure the integrity and uniform implementation of the 1969 TM Convention
—Development of second-generation intact stability criteria
—Review of the damage stability regulations for ro-ro passenger ships
—Revision of SOLAS chapter II–1 subdivision and damage stability regulations
—Development of guidelines on safe return to port for passenger ships
—Amendments to SOLAS regulation II–1/11 and development of associated guidelines to ensure the adequacy of testing arrangements for watertight compartments
—Development of amendments to the 2011 ESP Code
—Development of guidelines for use of Fibre Reinforced Plastic (FRP) within ship structures
—Development of amendments to SOLAS chapter II–2, the FTP Code and MSC/Circ.1120 to clarify the requirements for plastic pipes on ships
—Review of the recommendation on evacuation analysis for new and existing passenger ships
—Development of amendments to the criterion for maximum angle of heel in turns of the 2008 IS Code
—Development of amendments to part B of the 2008 IS Code on towing, lifting and anchor-handling operations
—General cargo ship safety
—Development of an interpretation of SOLAS regulation II–1/13.6 on means of escape from ro-ro cargo spaces
—Classification of offshore industry vessels and consideration of the need for a non-mandatory Code for offshore construction support vessels
—Carriage of more than 12 industrial personnel on board vessels engaged in international voyages
—Development of guidelines for wing-in-ground craft
—Consideration of IACS unified interpretations
—Biennial agenda and provisional agenda for SDC 2
—Election of Chairman and Vice-Chairman for 2015
—Any other business
—Report to the Maritime Safety Committee

Members of the public may attend this meeting up to the seating capacity of the room. To facilitate the building security process, and to request reasonable accommodation, those who plan to attend should contact the meeting coordinator, LCDR Catherine Phillips, by email at *catherine.a.phillips@uscg.mil,* by phone at (202) 372–1374, by fax at (202) 372–1925, or in writing at Commandant (CG–ENG–2), U.S. Coast Guard, 2703 Martin Luther King Jr. Ave. SE., Stop 7509, Washington, DC 20593–7509 not later than January 2, 2014, 7 days prior to the meeting. Requests made after January 2, 2014, might not be able to be accommodated. Please note that due to security considerations, two valid, government issued photo identifications must be presented to gain entrance to USCG Offices. This location is accessible by taxi, privately owned conveyance, and public transportation (located near the Ballston Metro Station). Additional information regarding this and other IMO SHC public meetings may be found at: *www.uscg.mil/imo.*

Dated: November 14, 2013.

Marc Zlomek,

Executive Secretary, Shipping Coordinating Committee, Department of State.

[FR Doc. 2013–28231 Filed 11–22–13; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF STATE

[Public Notice 8533]

Notice of Meeting of Advisory Committee on International Law

A meeting of the Department of State's Advisory Committee on International Law will take place on Friday, December 13, 2013, from 9:00 a.m. to approximately 2:30 p.m. at the George Washington University Law School (Frederick Lawrence Student Conference Center), 2000 H Street NW., Washington, DC. Acting Legal Adviser Mary McLeod will chair the meeting, which will be open to the public up to the capacity of the meeting room.

Members of the public who wish to attend should contact the Office of the Legal Adviser by December 9 (*lermanjb@state.gov* or 202–776–8442) *mailto:KillTP@state.gov* and provide their name, professional affiliation, address, and phone number. A valid photo ID is required for admission to the meeting. Members of the public who require reasonable accommodations should make their requests by December 6. Requests received after that time will be considered but might not be possible to accommodate.

Dated: November 4, 2013.

Jonas Lerman,

Attorney-Adviser, Office of the Legal Adviser, Executive Director, Advisory Committee on International Law, United States Department of State.

[FR Doc. 2013–28232 Filed 11–22–13; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Waiver of Requirement To Enter Into a Reciprocal Waiver of Claims Agreement With All Customers for Orbital Sciences Corporation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of waiver.

SUMMARY: This notice concerns a petition for waiver submitted to the Federal Aviation Administration (FAA) by Orbital Sciences Corporation (Orbital) to waive, in part, the requirement that a launch operator enter into a reciprocal waiver of claims with each customer. The FAA grants the petition on the condition that no employees of NASA-sponsored CubeSat operators will be inside a hazard area associated with the Minotaur I launch.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this waiver, contact Charles P. Brinkman, Licensing Program Lead, Commercial Space Transportation—Licensing and Evaluation Division, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–7715; email: *Phil.Brinkman@faa.gov*. For legal questions concerning this waiver, contact Sabrina Jawed, Attorney-Adviser, Space Law Branch, AGC–250, Office of the Chief Counsel, Regulations Division, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–8839; email: *Sabrina.Jawed@faa.gov*.

SUPPLEMENTARY INFORMATION:

Background

On November 8, 2013, Orbital submitted a petition to the FAA's Office of Commercial Space Transportation (AST) requesting a waiver under its launch license for flight of the Minotaur I launch vehicle carrying the Air Force Operationally Responsive Space Office-3 (ORS–3) payload. Orbital requested a partial waiver of 14 CFR 440.17, which requires a licensee to enter into a

reciprocal waiver of claims (a ''cross-waiver'') with each of its customers.

The FAA licenses the launch of a launch vehicle and reentry of a reentry vehicle under authority granted to the Secretary of Transportation by the Commercial Space Launch Act of 1984, as amended and re-codified by 51 U.S.C. Subtitle V, chapter 509 (Chapter 509), and delegated to the FAA Administrator and the Associate Administrator for Commercial Space Transportation, who exercises licensing authority under Chapter 509.

The petition for waiver applies to Orbital's November 2013 launch of a Minotaur I launch vehicle and its ORS–3 payload. The ORS–3 mission will demonstrate and validate launch and range improvements for NASA and the military. The ORS–3 payloads consist of a Space Test Program Satellite-3 (STPSat-3), twenty-eight other CubeSats, and two government experiments that will not separate from the upper stage of the launch vehicle. STPSat-3 is an Air Force technology demonstration mission. Nineteen of the CubeSats are U.S. Government owned, one of which is NASA's Small Satellite Program PhoneSat 2 second generation smartphone mission. NASA is sponsoring the remaining ten CubeSats through its CubeSat Launch Initiative. NASA's CubeSat Launch Initiative provides opportunities for small satellite payloads to fly on rockets as part of research addressing science, exploration, technology development, education or operations.[1] The operators of the ten NASA-sponsored CubeSats are University of Hawaii, Vermont Technical College, University of New Mexico, University of Louisiana at Lafayette, University of Florida, University of Alabama in Huntsville, Thomas Jefferson High School for Science and Technology, St. Louis University, University of Kentucky, and Drexel University. Among the NASA-sponsored CubeSats is the first CubeSat built by high school students.[2]

NASA obtained cross-waivers of liability with each of the above educational institutions through Cooperative Research and Development Agreements (CRADAs). These ten educational institutions are part of NASA's Educational Launch of Nanosatellites (ELaNa) program. ELaNa is an initiative created by NASA to attract and retain students in the science, technology, engineering and mathematics disciplines. Students participating in ELaNa are involved in developing, assembling, and testing payloads as well as working with NASA and the launch vehicle integration teams.[3]

Cross-waivers are not required for the nineteen U.S. Government owned CubeSats, or the two U.S. Government owned experiments that will remain attached to the upper stage. The operators of the remaining ten NASA-sponsored CubeSats qualify as customers under the FAA's definitions. Section 440.3 defines a customer, in relevant part, as any person with rights in the payload or any part of the payload, or any person who has placed property on board the payload for launch, reentry, or payload services. A person is an individual or an entity organized or existing under the laws of a State or country. 51 U.S.C. 50901(12) (2013), 14 CFR 401.5 (2013). The subjects of this waiver are persons because University of Hawaii, Vermont Technical College, University of New Mexico, University of Louisiana at Lafayette, University of Florida, University of Alabama in Huntsville, Thomas Jefferson High School for Science and Technology, St. Louis University, University of Kentucky, and Drexel University are entities organized or existing under the laws of Hawaii, Vermont, New Mexico, Louisiana, Florida, Alabama, Virginia, Missouri, Kentucky, and Pennsylvania, respectively. Accordingly, because these persons have rights in their respective payloads due to their ownership of those objects, and because they have placed property on board, they are customers. Section 440.17 requires their signatures as customers.

In this instance, however, each of the CubeSat operators is also subject to a NASA reciprocal waiver of claims, a cross-waiver, which is governed by NASA's regulations at 14 CFR 1266.104. Article 7 of the CRADAs between NASA and the various NASA-sponsored CubeSat operators governs liability and risk of loss and establishes a cross-waiver of liability.

Orbital's petition for partial waiver of the FAA requirement that Orbital implement a cross-waiver with each customer applies to each of the NASA-sponsored CubeSat operators, all of whom have signed a CRADA with NASA, and who are customers of the November 2013 launch of the Minotaur I launch vehicle carrying the ORS–3 payload.

Waiver Criteria

Chapter 509 allows the FAA to waive a license requirement if the waiver 1. will not jeopardize public health and safety, safety of property; 2. will not jeopardize national security and foreign policy interests of the United States; and 3. will be in the public interest. 51 U.S.C. 50905(b)(3); 14 CFR 404.5(b).

Waiver of FAA Requirement for Each Customer To Sign a Reciprocal Waiver of Claims

The FAA waives 14 CFR 440.17, which requires a licensee to enter into a reciprocal waiver of claims with each of its customers, with respect to the NASA-sponsored CubeSat operators, each of which has signed a CRADA with NASA, and who are customers of the November 2013 launch of the Minotaur I launch vehicle carrying the ORS–3 payload.

In 1988, as part of a comprehensive financial responsibility and risk sharing regime that protects launch participants and the U.S. Government from the risks of catastrophic loss and litigation, Congress required that all launch participants agree to waive claims against each other for their own property damage or loss, and to cover losses experienced by their own employees. 51 U.S.C. 50915(b). This part of the regime was intended to relieve launch participants of the burden of obtaining property insurance by having each party be responsible for the loss of its own property and to limit the universe of claims that might arise as a result of a launch. H. Rep. 100–639, at 11–12 (1988); S. Rep. 100–593, at 14, (1988); *Financial Responsibility Requirements for Licensed Launch Activities, Notice of Proposed Rulemaking,* 61 FR 38992, 39011 (Jul. 25, 1996). The FAA's implementing regulations may be found at 14 CFR part 440.

In its request for a waiver, Orbital submits that the NASA CRADA reciprocal waivers of claims imposed on the NASA-sponsored CubeSat operators are equivalent to the requirements imposed on each customer under the FAA's requirements of 14 CFR part 440. A comparison of the two regimes shows that in this particular situation the two sets of cross-waivers are sufficiently similar that the statutory goals of 51 U.S.C. 50914(b) will be met by the FAA agreeing to accept the NASA cross-waivers in this instance, provided that no employees of NASA-sponsored CubeSat operators will be inside a

[1] NASA's CubeSat Launch Initiative (CSLI), *http://www.nasa.gov/directorates/heo/home/CubeSats_initiative.html* (last visited Nov. 13, 2013).

[2] Chris Chester, *Fairfax County School To Put First Student-Built Satellite in Orbit,* WAMU 88.5 News, Nov. 4, 2013, *http://wamu.org/news/13/11/01/fairfax_county_school_helps_put_first_student_built_satellite_in_orbit.*

[3] NASA's Educational Launch of Nanosatellites, *http://www.nasa.gov/mission_pages/smallsats/elana/* (last visited Nov. 13, 2013).

hazard area associated with the Minotaur I launch.

The FAA cross-waivers require the launch participants, including the U.S. Government and each customer, and their respective contractors and subcontractors, to waive and release claims against all the other parties to the waiver and agree to assume financial responsibility for property damage sustained by that party and for bodily injury or property damage sustained by the party's own employees, and to hold harmless and indemnify each other from bodily injury or property damage sustained by their respective employees resulting from the licensed activity, regardless of fault. 14 CFR 440.17(b) and (c). Each party [4] to the cross-waiver must indemnify the other parties from claims by the indemnifying party's contractors and subcontractors if the indemnifying party fails to properly extend the requirements of the cross-waivers to its contractors and subcontractors. 14 CFR 440.17(d).

A comparison of each element shows that, although there are some differences, because Article 7 of the NASA CRADAs addressing liability and risk of loss and signed by each of the NASA-sponsored CubeSat operators is consistent with Congressional intent and the FAA's regulations, and relevant employees will not be present at the launch site, the FAA waives the requirement of 14 CFR 440.17 that NASA-sponsored CubeSat operators must sign a cross-waiver. Additionally, the FAA notes that because the only customers for the Minotaur I November 2013 launch are the U.S. Government, for which cross-waivers are not required, and the various NASA-sponsored CubeSat operators, for which the CRADAs provide waivers of liability, the only signatories to the FAA cross-waivers as required by 14 CFR 440.17 are the FAA, on behalf of the U.S. Government, and Orbital. Therefore, Orbital does not need to amend its cross-waivers to provide that signing customers waive claims against any other customer as defined by 14 CFR 440.3, as the FAA has previously required before granting a similar waiver.[5]

The FAA bases this determination of sufficient similarity between the FAA and NASA cross-waiver schemes on the reasons stated in the waiver the FAA published for Space Exploration Technologies Corporation on October 16, 2012,[6] and for the reasons stated above.[7] The FAA finds that that this waiver implicates no safety, national security or foreign policy issues. The waiver is consistent with the public interest goals of Chapter 509. Under 51 U.S.C. 50914, Congress determined that it was necessary to reduce the costs associated with insurance and litigation by requiring launch participants, including customers, to waive claims against each other. Because the CRADAs under 14 CFR part 1266 accomplish these goals by the same or similar means, the FAA finds this request in the public interest. The FAA grants the waiver with respect to the NASA-sponsored CubeSat operators in reliance on the representations Orbital made in its petition, and on the condition that no employees of NASA-sponsored CubeSat operators will be inside a hazard area associated with the Minotaur I launch.

Issued in Washington, DC, on November 15, 2013.

Kenneth Wong,

Commercial Space Transportation, Licensing and Evaluation Division Manager.

[FR Doc. 2013–28138 Filed 11–22–13; 8:45 am]

BILLING CODE 4910–13–P

[4] Indemnification by the U.S. Government is conditioned upon the passage of legislation. 51 U.S.C. 50915; 14 CFR 440.17(d).

[5] *See Waiver of Requirement to Enter Into a Reciprocal Waiver of Claims Agreement With All Customers for Orbital Sciences Corporation,* Notice of Waiver, 78 FR 57215, 57216 (Sept. 17, 2013).

[6] *Waiver of Requirement to Enter Into a Reciprocal Waiver of Claims Agreement With All Customers,* Notice of Waiver, 77 FR 63221 (Oct. 16, 2012).

[7] The FAA also notes that although its previous waiver cited above discussed NASA's Space Act Agreements rather than CRADAs, the waiver of liability language in both types of NASA contract has the same effect and therefore the FAA applies the same reasoning.

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Buy America Waiver Notification

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice.

SUMMARY: This notice provides information regarding the FHWA's finding that a Buy America waiver is appropriate for the use of non-domestic iron and steel products in CNG Compressor/Controller (1) for Kings County, CA: 2 Storage spheres for city of Exeter, CA: 1 CNG fuelling station for Newman, CA.

DATES: The effective date of the waiver is November 26, 2013.

FOR FURTHER INFORMATION CONTACT: For questions about this notice, please contact Mr. Gerald Yakowenko, FHWA Office of Program Administration, (202) 366–1562, or via email at *gerald.yakowenko@dot.gov*. For legal questions, please contact Mr. Michael Harkins, FHWA Office of the Chief Counsel, (202) 366–4928, or via email at *michael.harkins@dot.gov*. Office hours for the FHWA are from 8:00 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded from the **Federal Register**'s home page at: *http://www.archives.gov* and the Government Printing Office's database at: *http://www.access.gpo.gov/nara*.

Background

The FHWA's Buy America policy in 23 CFR 635.410 requires a domestic manufacturing process for any steel or iron products (including protective coatings) that are permanently incorporated in a Federal-aid construction project. The regulation also provides for a waiver of the Buy America requirements when the application would be inconsistent with the public interest or when satisfactory quality domestic steel and iron products are not sufficiently available. This notice provides information regarding the FHWA's finding that a Buy America waiver is appropriate to use non-domestic CNG Compressor/Controller (1) for Kings County, CA: 2 Storage spheres for city of Exeter CA: 1 CNG fueling station for Newman, CA.

In accordance with Division A, section 122 of the ''Consolidated and Further Continuing Appropriations Act, 2012'' (Pub. L. 112–55), the FHWA published a notice of intent to issue a waiver on its Web site for non-domestic iron and steel products in CNG Compressor/Controller (1) for Kings County, CA: 2 Storage spheres for city of Exeter, CA: 1 CNG fueling station for Newman, CA (*http://www.fhwa.dot.gov/construction/contracts/waivers.cfm?id=91*) on September 3, 2013. The FHWA received no comments in response to the publication. During the 15-day comment period, the FHWA conducted additional nationwide review to locate potential domestic manufacturers of the CNG Compressor/Controller (1) for Kings County, CA: 2 Storage spheres for city of Exeter, CA and 1 CNG fueling station for Newman, CA.

Based on all the information available to the agency, the FHWA concludes that there are no domestic manufacturers of the CNG Compressor/Controller (1) for Kings County, CA: 2 Storage spheres for city of Exeter, CA: 1 CNG fueling station for Newman, CA.

In accordance with the provisions of section 117 of the SAFETEA–LU Technical Corrections Act of 2008 (Pub. L. 110–244, 122 Stat. 1572), the FHWA is providing this notice as its finding that a waiver of Buy America requirements is appropriate. The FHWA invites public comment on this finding for an additional 15 days following the effective date of the finding. Comments may be submitted to the FHWA's Web site via the link provided to the California waiver page noted above.

Authority: 23 U.S.C. 313; Pub. L. 110–161, 23 CFR 635.410.

Issued on: November 18, 2013.

Victor M. Mendez,

Administrator.

[FR Doc. 2013–28196 Filed 11–22–13; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Buy America Waiver Notification

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice.

SUMMARY: This notice provides information regarding the FHWA's finding that a partial Buy America waiver is appropriate for the obligation of Federal-aid Congestion Mitigation and Air Quality (CMAQ) Improvement Program funds for the purchase of 378—light, medium, and heavy duty plug-in battery electric and compressed natural gas vehicles by Chicago DOT.

DATES: The effective date of the waiver is November 26, 2013.

FOR FURTHER INFORMATION CONTACT: For questions about this notice, please contact Mr. Gerald Yakowenko, FHWA Office of Program Administration, (202) 366–1562, or via email at *gerald.yakowenko@dot.gov.* For legal questions, please contact Mr. Michael Harkins, FHWA Office of the Chief Counsel, (202) 366–4928, or via email at *michael.harkins@dot.gov.* Office hours for the FHWA are from 8:00 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded from the **Federal Register**'s home page at: *http://www.archives.gov* and the Government Printing Office's database at: *http://www.access.gpo.gov/nara.*

Background

The FHWA's Buy America policy in 23 CFR 635.410 requires a domestic manufacturing process for any steel or iron products (including protective coatings) that are permanently incorporated in a Federal-aid construction project. The regulation also provides for a waiver of the Buy America requirements when the application would be inconsistent with the public interest or when satisfactory quality domestic steel and iron products are not sufficiently available. This notice provides information regarding the FHWA's finding that a partial Buy America waiver is appropriate for the obligation of Federal-aid CMAQ program funds for the purchase of 378—light, medium, and heavy duty plug-in battery electric and compressed natural gas vehicles by Chicago DOT.

In accordance with Division A, section 122 of the ''Consolidated and Further Continuing Appropriations Act, 2012'' (Pub. L. 112–55), the FHWA published a notice of intent to issue a waiver on its Web site for the 378—light, medium, and heavy duty plug-in battery electric and compressed natural gas vehicles (*http://www.fhwa.dot.gov/construction/contracts/waivers.cfm?id=92*) on September 5, 2013. The FHWA received no comments in response to the publication.

During the 15-day comment period, the FHWA conducted additional review but was unable to locate a domestic manufacturer that could meet a 100 percent domestic steel and iron content requirement. Based on all the information available to the Agency, the FHWA concludes that there are no domestic manufacturers that could meet a 100 percent domestic steel and iron content for light, medium, and heavy duty plug-in battery electric and compressed natural gas vehicles.

The FHWA has reevaluated the applicability of the Buy America requirement as it may apply to the purchase of the vehicles. The FHWA's Buy America requirement was initially established in 1983 when the acquisition of vehicles was not eligible for assistance under the Federal-aid highway program. As such, the FHWA's Buy America requirements were tailored to the types of products that are typically used in highway construction, which generally meet a 100 percent domestic steel and iron content requirement.

Vehicles, however, are not the types of products that were initially envisioned as being purchased with Federal-aid highway funds when Buy America was first enacted. In today's global industry, vehicles are assembled with components that are made all over the world. The FHWA is not aware of any vehicle on the market that can claim to incorporate 100 percent domestic steel and iron content. For instance, the Chevy Volt, which was identified by many commenters in a November 21, 2011, **Federal Register** notice as being a car that is made in the United States, comprises only 40 percent United States and Canada content according to the window sticker (*http://www.cheersandgears.com/uploads/1298005091/med_gallery_51_113_449569.png*). There is no indication of how much of this 40 percent United States/Canadian content is United States-made content. Thus, the FHWA does not believe that application of a domestic content standard should be applied to the purchase of vehicles. However, the FHWA believes that the vehicles should be assembled in the United States. Whenever a person discusses the manufacture of vehicles, the discussion typically refers to where the final assembly takes place. For instance, under a previous proposed waiver notification and comment process, several commenters urged that the waiver be denied because the Chevy Volt is made in the United States, the FHWA interprets these comments as referring to the assembly of the vehicle in Detroit since the Volt window sticker says that the United States/Canada parts content of the vehicle is only 40 percent. While the manufacture of steel and iron products that are typically used in highway construction (such as pipe, rebar, struts, and beams) generally refers to the various processes that go into actually making the entire product, the manufacture of vehicles typically refers to where the vehicle is assembled. Thus, given the inherent differences in the type of products that are typically used in highway construction and vehicles, we feel that simply waiving the Buy America requirement, which is based on the domestic content of the product, without any regard to where the vehicle is assembled would diminish the purpose of the Buy America requirement.

Therefore, while the FHWA has not located a vehicle that meets a 100 percent domestic iron and steel content requirement, the FHWA does not find that a complete waiver based on non-availability pursuant to 23 U.S.C. 313(b)(2) is appropriate. However, the FHWA also recognizes that at least a partial waiver is necessary in order to permit Chicago DOT to proceed with its project. The FHWA believes that a partial waiver that allows the Chicago

DOT to purchase the vehicles so long as the final assembly of the vehicle as the end product occurs in the United States is appropriate. This approach is similar to the conditional waivers given to Alameda County, San Francisco County, and Merced County, CA, for vehicle purchases on November 21, 2011 (76 FR 72027 and 76 FR 72028) and March 30, 2012 (77 FR 19410) as well as one provided for a group of similar purchases in multiple States on June 17, 2013 (78 FR 36296).

In conclusion, and in light of the above, pursuant to 23 U.S.C. 313(b)(1), the FHWA finds that it is in the public interest to grant a partial waiver from the general 100 percent domestic content requirement that applies to Federal-aid highway projects under Buy America. Under this partial waiver, however, the final assembly of any vehicles purchased with CMAQ funds must occur in the United States. Thus, so long as the final assembly of the light, medium, and heavy duty plug-in battery electric and compressed natural gas vehicles occurs in the United States, Chicago DOT may proceed to purchase these vehicles consistent with the Buy America requirement.

In accordance with the provisions of section 117 of the SAFETEA–LU Technical Corrections Act of 2008 (Pub. L. 110–244, 122 Stat. 1572), the FHWA is providing this notice as its finding that a waiver of Buy America requirements is appropriate. The FHWA invites public comment on this finding for an additional 15 days following the effective date of the finding. Comments may be submitted to the FHWA's Web site via the link provided to the Chicago DOT waiver page noted above.

Authority: 23 U.S.C. 313; Pub. L. 110–161, 23 CFR 635.410).

Issued on: November 18, 2013.

Victor M. Mendez,

Administrator.

[FR Doc. 2013–28186 Filed 11–22–13; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2010–0166]

Parts and Accessories Necessary for Safe Operation; Renewal of Exemption for Con-Way Freight, TK Holdings, Inc., and Bendix

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemption; request for comments.

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) renews an exemption which enables motor carriers to mount lane departure warning system sensors lower in the windshield of a commercial motor vehicle (CMV) than is currently permitted by the Agency's regulations. The Agency has concluded that granting this renewed exemption will maintain a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption. However, the Agency requests comments on this issue, especially from anyone who believes this standard will not be maintained.

DATES: This decision is effective November 18, 2013. Comments must be received on or before December 26, 2013.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) number FMCSA-by 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, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.
- *Hand Delivery*: Ground Floor, Room W12–140, DOT Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m. e.t., Monday through Friday, except Federal holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and docket number for this notice. For detailed instructions on submitting comments and additional information on the exemption process, see the ''Public Participation'' heading below. 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 for further information.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* or to Room W12–140, DOT Building, 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 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 is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement for the FDMS published in the **Federal Register** published on December 29, 2010 (73 FR 82132) or you may visit *http://edocket/access.gpo.gov/2008/pdf/E8-785.pdf.*

FOR FURTHER INFORMATION CONTACT: Mr. Luke W. Loy, Vehicle and Roadside Operations Division, Office of Bus and Truck Standards and Operations, MC–PSV, (202) 366–0676, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31315 and 31136(e), FMCSA may grant an exemption from the prohibition on obstructions to the driver's field of view requirements in 49 CFR 393.60(e) 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 of safety that would be achieved absent such exemption'' (49 CFR 381.305(a)).

Applications for Exemptions

On November 11, 2009, Con-way applied for an exemption from 49 CFR 393.60(e)(1) to allow it to install lane departure warning system sensors on 1,272 of its newly purchased power units. Takata and Iteris submitted nearly identical exemption applications for their lane departure warning system sensors on December 15, 2009 and on February 25, 2010, respectively. On June 14, 2010, FMCSA published a notice of these applications, and asked for public comment (75 FR 33666).

Section 393.60(e)(1) of the FMCSRs prohibits the obstruction of the driver's field of view by devices mounted at the top of the windshield. Antennas, transponders and similar devices (collectively, devices) must not be mounted more than 152 mm (6 inches) below the upper edge of the windshield. These devices must be located outside the area swept by the windshield wipers and outside the driver's sight lines to the road and highway signs and signals.

Con-way, Takata, and Iteris stated that over the last several years, truck manufacturers have increased the windshield area to maximize driver visibility. As a result, manufacturers

have installed larger windshield wipers that increase the swept area beyond the minimum required by Federal Motor Vehicle Safety Standard (FMVSS) No. 104, ''Windshield Wiping and Washing Systems.'' FMVSS No. 104 establishes minimum windshield wiper standards to be used by manufacturers of passenger cars, multi-purpose passenger vehicles, trucks, and buses.

Con-way, Takata, and Iteris provided diagrams and photos showing the dimensions of their lane departure sensors and their mounting locations on vehicle windshields. Specifically, the lane departure sensor device itself measures 2 inches by 3.5 inches and is mounted within the top 2 inches of the windshield wiper sweep. The lane departure system requires the forward lens of the sensor to be in the swept area of the windshield for a clear view during inclement weather.

Con-way, Takata, and Iteris cited the findings of a report published by FMCSA's Office of Analysis, Research and Technology titled ''Benefit-Cost Analyses of Onboard Safety Systems,'' which summarizes the projected safety benefits for various CMV onboard safety technologies, including lane departure warning systems. Using projected efficacy rates ranging from 23 percent to 53 percent, the report estimated that, based on industry-wide use, lane departure warning systems have the potential to eliminate approximately 1,609–2,463 single-vehicle roadway departure crashes, 627–1,307 single-vehicle roadway departure rollovers, 1,111–2,223 same-direction lane departure sideswipes, 997–1,992 opposite-direction lane departure sideswipes, and 59–118 opposite-direction lane departure head-on collisions. Con-way, Takata, and Iteris each stated that without the exemption, they would be unable to (1) implement the lane departure warning system, and (2) realize the potential safety benefits that could be expected with the utilization of this technology, as estimated in the FMCSA report described above.

2011 Notice of Final Disposition

On November 18, 2011 (76 FR 71619), FMCSA published a notice of final disposition granting the Con-way, Takata, and Iteris exemption applications. FMCSA determined that granting the temporary exemptions to allow the placement of lane departure warning system sensors lower in the windshield than is currently permitted by the Agency's regulations would provide a level of safety that is equivalent to, or greater than the level of safety achieved without the exemption because (1) based on the technical information available, there was no indication that the lane departure warning system sensors would obstruct drivers' views of the roadway, highway signs and surrounding traffic; (2) generally, trucks and buses have an elevated seating position that greatly improves the forward visual field of the driver, and any impairment of available sight lines would be minimal; and (3) the location within the top two inches of the area swept by the windshield wiper and out of the driver's normal sightline would be reasonable and enforceable at roadside. In addition, the Agency believed that the use of lane departure warning systems by fleets would be likely to improve the overall level of safety to the motoring public.

Bendix's Request for the Renewal of the Exemption

In 2011, Iteris, Inc. completed the sale of its vehicle sensors business to Bendix, which is continuing to sell the Iteris-developed lane departure warning systems. Bendix is seeking renewal of the 2011 exemption.

FMCSA Decision

The Agency believes that granting the exemption renewal to continue allowing the placement of lane departure warning system sensors lower in the windshield than is currently permitted by the Agency's regulations will provide a level of safety that is equivalent to, or greater than the level of safety achieved without the exemption because (1) based on the technical information available, there is no indication that the lane departure warning system sensors would obstruct drivers' views of the roadway, highway signs and surrounding traffic; (2) generally, trucks and buses have an elevated seating position that greatly improves the forward visual field of the driver, and any impairment of available sight lines would be minimal; and (3) the location within the top two inches of the area swept by the windshield wiper and out of the driver's normal sightline will be reasonable and enforceable at roadside. The Agency is unaware of any incidents wherein a crash involving vehicles equipped with these lane departure warning systems could be attributed to the minimal visual intrusion of the devices into the drivers' field of vision. In addition, the Agency believes that the use of lane departure warning systems by fleets is likely to improve the overall level of safety to the motoring public.

While the November 2011 exemption granted relief to motor carriers using only the Takata and Iteris lane departure warning systems, the Agency has determined—given it is unaware of any reduction in the level of safety associated with the use of those systems—that it is appropriate to extend the scope of this exemption at this time to encompass motor carriers using any lane departure warning system, provided that the sensor that is mounted in the vehicle windshield (1) is the same size (2 inches by 3.5 inches) or smaller than the Takata and Bendix sensors, and (2) mounted in the windshield in accordance with the provisions of the original exemption, and as restated below. If, however, a motor carrier wishes to utilize a lane departure warning system using sensors larger than those identified above, a new exemption application will need to be submitted to FMCSA in accordance with the requirements of 49 CFR 381.300.

Terms and Conditions for the Exemption

The Agency hereby grants the exemptions for a two-year period, beginning November 25, 2013 and ending November 25, 2015. During the temporary exemption period, motor carriers using lane departure warning systems with sensors measuring 2 inches by 3.5 inches or smaller must ensure that the sensors are mounted not more than 50 mm (2 inches) below the upper edge of the area swept by the windshield wipers, and outside the driver's sight lines to the road and highway signs and signals. The exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) Motor carriers and/or commercial motor vehicles fail 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(b).

Interested parties possessing information that would demonstrate that CMVs operated by motor carriers using lane departure warning systems are not achieving the requisite statutory level of safety should immediately notify FMCSA. The Agency will evaluate any such information and, if safety is being compromised or if the continuation of the exemption is not consistent with 49 U.S.C. 31136(e) and 31315(b), will take immediate steps to revoke the exemption.

Preemption

During the period the exemption is in effect, no State shall enforce any law or

regulation that conflicts with or is inconsistent with this exemption with respect to a person operating under the exemption.

Issued on: November 18, 2013.

William Bronrott,

Deputy Administrator.

[FR Doc. 2013–28205 Filed 11–22–13; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2013–0002–N–22]

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Request (ICR) abstracted below is being forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** notice with a 60-day comment period soliciting comments on the following collections of information was published on September 16, 2013 (78 FR 56995).

DATES: Comments must be submitted on or before December 26, 2013.

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 25, 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, section 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 issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), 1320.12. On September 16, 2013, FRA published a 60-day notice in the **Federal Register** soliciting comment on ICRs that the agency was seeking OMB approval. 78 FR 56995. FRA received no comments in response to the information collection request (ICR) described in this notice.

Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30-day notice is published. 44 U.S.C. 3507(b)–(c); 5 CFR 1320.12(d); *see also* 60 FR 44978, 44983, Aug. 29, 1995. OMB believes that the 30-day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect. 5 CFR 1320.12(c); *see also* 60 FR 44983, Aug. 29, 1995.

The summary below describes the nature of the information collection request (ICR) and the expected burden. The revised request is being submitted for clearance by OMB as required by the PRA.

Title: Confidential Close Call Reporting System Evaluation-Related Interview Data Collection.

OMB Control Number: 2130–0574.

Type of Request: Extension with change of a currently approved collection.

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.

Annual Estimated Burden: 110 hours.

Addressee: Send comments regarding these information collections to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventeenth Street NW., Washington, DC 20503; Attention: FRA Desk Officer. Comments may also be sent via email to OMB at the following address: *oira_submissions@omb.eop.gov*.

Comments are invited on the following: Whether the proposed collections of information are necessary for the proper performance of the functions of FRA, including whether the information will have practical utility; the accuracy of FRA's estimates of the burden of the proposed information collections; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collections of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this notice in the **Federal Register**.

Authority: 44 U.S.C. 3501–3520.

Issued in Washington, DC, on November 20, 2013.

Rebecca Pennington,

Chief Financial Officer.

[FR Doc. 2013–28165 Filed 11–22–13; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2013–0124 Notice No. 13–20]

Paperless Hazard Communications Pilot Program

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, PHMSA invited comments on an information collection under Office of Management and Budget (OMB) Control No. 2137–0034 entitled, ''Hazardous Materials Shipping Papers and Emergency Response Information,'' pertaining to the Paperless Hazard Communications Pilot Program. In the precursor 60-Day Notice (Docket No. PHMSA–2013–0124, Notice No. 13–7, **Federal Register** Vol. 78, No. 139, FR Doc. 2013–17363, filed July 18, 2013), PHMSA invited volunteers from organizations representing fire and other emergency responders, law enforcement, and other regulated entities (i.e., shippers and carriers who transport hazardous materials (HM) by air, highway, rail, and water) to participate in a pilot program to evaluate the effectiveness of paperless hazard communications systems and to comment on and participate in an information collection activity associated with the pilot program. This 30-Day Notice acknowledges comments received regarding the 60-Day Notice (Docket No. PHMSA–2013–0124, Notice No. 13–7, **Federal Register** Vol. 78, No. 139, FR Doc. 2013–17363, filed July 18, 2013) and provides details on the four information collection efforts to be conducted under the pilot program.

DATES: Interested persons are invited to submit comments on or before December 26, 2013.

ADDRESSES: Send comments by mail to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for DOT–PHMSA, 725 17th Street NW., Washington, DC 20503, by fax, 202–395–5806, or by email, *OIRA_Submission@omb.eop.gov*.

We invite commenters to address the following issues: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of PHMSA, including whether the information will have practical utility; (2) the accuracy of PHMSA's estimate of the burden of the proposed information collection; (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 the use of automated collection techniques or other forms of information technology.

A comment to OMB is most effective if OMB receives it within 30 days of publication.

Instructions: All submissions must include the agency name and docket number for this notice at the beginning of the comment. To avoid duplication, please use only one of these three methods.

Docket: For access to the dockets to read background documents or comments received, go to *http://www.regulations.gov* or DOT's Docket Operations Office (see **ADDRESSES**).

Privacy Act: Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the document (or signing the document, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477) or you may visit *http://www.gpo.gov/fdsys/pkg/FR-2000-04-11/pdf/00-8505.pdf*.

FOR FURTHER INFORMATION CONTACT: Luciana DiGhionno, U.S. Department of Transportation, Engineering and Research Division (PHH–23), Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue SE., East Building, 2nd Floor, Washington, DC 20590–0001, Telephone (202) 366–7611. Requests for a copy of the information collection

should be directed to T. Glenn Foster, U.S. Department of Transportation, Standards and Rulemaking Division (PHH–12), Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue SE., East Building, 2nd Floor, Washington, DC. 20590–0001, Telephone (202) 366–8553.

SUPPLEMENTARY INFORMATION:

1. History of and Current Regulatory Requirements for Shipping Papers

The Hazardous Materials Regulations (HMR; 49 CFR Parts 171–180) require a person who offers HM for transportation in commerce to describe the HM on a shipping paper in the manner required in 49 CFR Part 172, Subpart C. The shipping paper requirements identify key hazard communication information (i.e., UN number, proper shipping name, hazard class, packing group, type and quantity of packaging, and emergency response telephone number). Unless an exception from the shipping paper requirements is provided in the regulations, a paper copy of the shipping paper must accompany HM during transportation. A shipping paper includes ''a shipping order, bill of lading, manifest or other shipping document serving a similar purpose and containing the information required by §§ 172.202, 172.203, and 172.204'' (49 CFR 171.8, definition of ''shipping paper''). A hazardous waste manifest ''may be used as the shipping paper'' if it contains all the information required by Part 172, Subpart C (49 CFR 172.205(h)). The rationale behind a paper-based system is to convey the necessary information in a consistent manner that is widely understood and accepted by all regulated entities, law enforcement, and emergency responders.

In 1994, Congress amended the Federal HM transportation law to require that, after a hazardous material ''is no longer in transportation,'' all offerors and carriers of a hazardous material must retain the shipping paper ''or electronic image thereof for a period of 1 year to be accessible through their respective principal places of business'' (49 U.S.C. 5110(e), added by Pub. L. 103–311, Title I, § 115, 108 Stat. 1678 (Aug. 26, 1994)). An electronic image includes an image transmitted by a facsimile (FAX) machine, an image on the screen of a computer, or an image generated by an optical imaging machine. In 2002, the Research and Special Programs Administration (the predecessor to PHMSA) issued a final rule further amending parts 172, 174, 175, and 176 of the HMR regarding the retention and information requirements associated with shipping papers. The 2002 final rule required shippers and carriers to retain a copy of each HM shipping paper, or an electronic image thereof, for a period of 375 days after the date the HM is accepted by a carrier. Consideration for allowing the use of electronic communication while HM are actually in transportation is the next step in the evolution of hazard communication.

2. Authority Granted Under MAP–21

Section 33005 of the ''Moving Ahead for Progress in the 21st Century Act'' (MAP–21) authorizes PHMSA to conduct a pilot program to evaluate the feasibility and effectiveness of using paperless hazard communications systems. In accordance with MAP–21, in conducting the pilot projects, PHMSA may not waive the current shipping paper requirements and must include at least one rural area in the pilot projects. Upon completion of the pilot projects, PHMSA must prepare a report to be delivered by the Secretary to the Committee on Commerce, Science, and Transportation of the U.S. Senate and to the Committee on Transportation and Infrastructure of the U.S. House of Representatives by October 1, 2014. The report must provide: (1) A detailed description of the pilot projects; (2) an evaluation of each pilot project to include an evaluation of the performance of the e-systems; (3) an assessment of the safety and security impacts of using electronic HM (e-HM) communication systems (e-systems) to include the impact on the public, emergency responders, law enforcement, and on conducting inspections and investigations; (4) an analysis of the associated benefits and costs of using e-systems for each mode of transportation; and (5) a recommendation whether e-systems should be permanently incorporated into the Federal hazmat regulations.

3. Goal, Scope, and Intent of the Pilot Program

Beginning in 2007, PHMSA initiated actions to implement paperless hazard communications. PHMSA strongly believes, through its prior efforts and activities, paperless hazard communication is possible and that this pilot program will demonstrate the capabilities of e-systems. In the precursor 60-Day Notice (Docket No. PHMSA–2013–0124, Notice No. 13–7, **Federal Register** Vol. 78, No. 139, FR Doc. 2013–17363, filed July 18, 2013), PHMSA described a strategy for conducting the pilot projects that will enable PHMSA to evaluate paperless hazard communication systems (e-systems) capabilities from a real-world perspective. Key aspects of this strategy include the following:

- Determining if e-systems are a feasible and effective means of providing hazard communication by evaluating their use while shipping HM from point of origin to final destination using different transportation conveyances (i.e., trucks, railcars, maritime vessels, and airplanes) and during inspection and emergency response simulations. (**Note:** For purposes of the pilot tests conducted under this project, ''simulation'' refers to planned exercises designed solely to test the feasibility and effectiveness of using e-systems to communicate the needed HM shipping paper information during project-related HM inspections and emergency response scenarios among pilot test participants. The scope of the simulations will be defined by project data collection needs for testing electronic communication of shipping paper information. Emergency response simulations will not entail mimicking a full response to a HM incident, and as such will not involve testing first responder procedures, equipment, or resources not related to the communication of shipping paper information.)
- Using the information gathered during the pilot projects (tests) to assess the level of safety and security, as well as the associated benefits and costs, of e-systems as compared to the current HM shipping paper requirements.
- Conducting the tests without disrupting the normal flow of commerce.
- Allowing emergency response providers and law enforcement officials to continue to perform their duties and respective roles during the simulations according to existing emergency and inspection requirements, procedures, and policies.
- Abiding by current HMR hardcopy shipping paper requirements while simultaneously testing e-system hazard communications capabilities.

In the 60-Day Notice, PHMSA explained its process and criteria for evaluating all pilot test volunteers and selecting those participants that satisfy the pilot test qualification requirements, meet the criteria specified in MAP–21, and are best able to aid in testing a variety of scenarios. PHMSA encouraged shippers, carriers, law enforcement, and emergency responders interested in participating in the pilot projects to provide statements of interest via comments to the 60-Day Notice.

4. Pilot Test Volunteer Participants and Comments to the Web Site Announcement and 60-Day Notice

PHMSA indicated it was seeking shippers, carriers, law enforcement personnel, and emergency responders who may be interested in volunteering to participate in the pilot projects via an April 2013 Web site announcement and through the 60-Day Notice.

In reply to an April 2013 announcement posted on the HM–ACCESS Web site entitled, ''Defining the HM ACCESS Pilot Test,'' PHMSA received 64 email responses representing 60 companies/agencies/organizations; of the 64, four (ID Nos. 2, 4, 26, and 27) were double responses (i.e., two entities representing the same agency/company/organization response). Of the 60 responding companies/agencies/organizations, 54 expressed interest in participating in the pilot tests, four (ID Nos. 6, 24, 32, and 33) indicated they do not want to actively participate, and two (ID Nos. 42 and 47) were unclear as to the purpose of their responses.

A total of twenty-eight (28) comments were posted to the 60-Day Notice, with one (ID No. 67) responding twice with the same message. Of the twenty-seven (27) responding agencies/companies/organizations, four (ID Nos. 61, 65, 70, and 77) had previously expressed interest in participating in the pilot tests in their responses to the April 2013 Web site announcement, and four (ID Nos. 59, 63, 75, and 81) indicated they do not want to actively participate in the pilot tests, but provided comments on key aspects of the HM–ACCESS initiative.

The data collected during the pilot tests and information collection efforts is intended to ensure that the evaluation and feasibility report required under MAP–21 focuses on results and includes quantitative data on the recommendation for possible implementation of e-systems into the Federal HM transportation safety program. This data and information will enable PHMSA to more accurately assess the safety and security impacts of using e-systems and to analyze the associated benefits and cost of using the e-systems.

The following table provides a list of all respondents (**Note:** The ID Number (No.), unique to each responding agency/company/organization, was assigned by PHMSA in the order PHMSA reviewed the responses.):

ID No.	Company name	Address associated with comment	Offer to volunteer	Response venue	Category
1	Con-way Freight	Michigan	YES	Web Posting	1
2	United Air Lines	Illinois	YES	Web Posting	1
3	Savage Services	Utah	YES	Web Posting	1
4	PSC	Pennsylvania and Texas	YES	Web Posting	1
5	Tellus Operating Group, LLC	Mississippi	YES	Web Posting	1
6	DG Consulting International LLC	New Hampshire	NO	Web Posting	2
7	Whitehurst Paving Company	Virginia	YES	Web Posting	1
8	American President Lines, Limited (International-Americas Region).	Arizona	YES	Web Posting	1
9	Coastal Transport Company, Incorporated	Texas	YES	Web Posting	1
10	Spill Center, Incorporated	Massachusetts	YES	Web Posting	1
11	Reactives Management Corporation	Virginia	YES	Web Posting	1
12	GBK Gefahrgut Buro Gmbh	Not Provided (International headquarters in Germany).	YES	Web Posting	1
13	ICC Compliance Center	Not Provided (offices in Ohio, Texas, and New York).	YES	Web Posting	1
14	HAZMATEAM, Incorporated	Not Provided	YES	Web Posting	1
15	Environmental Resource Center	North Carolina	YES	Web Posting	1
16	Project Consulting Services, Incorporated	Texas	YES	Web Posting	1
17	Walkerville Area Fire and Rescue	Michigan	YES	Web Posting	1
18	Hopkinsville Fire Department	Kentucky	YES	Web Posting	1
19	Florida Division of Emergency Management.	Florida	YES	Web Posting	1
20	Grand Junction Fire Department	Colorado	YES	Web Posting	1
21	San Diego Fire-Rescue Department	California	YES	Web Posting	1
22	Michigan Department of Community Health.	Michigan	YES	Web Posting	1
23	Madonna University	Michigan	YES	Web Posting	1
24	Texas Tech University Health Sciences Center.	Texas	NO	Web Posting	2
25	Federal Aviation Administration	District of Columbia	YES	Web Posting	1
26	Federal Motor Carrier Safety Administration.	Texas	YES	Web Posting	1
27	Federal Railroad Administration	District of Columbia	YES	Web Posting	1
28	Port of Tacoma	Washington	YES	Web Posting	1
29	Florida Highway Patrol, Florida Department of Highway Safety and Motor Vehicles.	Florida	YES	Web Posting	1
30	New Mexico State Police	New Mexico	YES	Web Posting	1
31	United States Coast Guard	California	YES	Web Posting	1
32	Unknown (Daniel Gregory)	Not Provided	NO	Web Posting	2
33	Unknown (Doug Shackelford)	Not Provided	NO	Web Posting	2
34	Bombardier	Illinois	YES	Web Posting	1
35	Mercedes-Benz USA, LLC	New Jersey	YES	Web Posting	1
36	Huntsman	Not Provided (headquarters in Texas).	YES	Web Posting	1
37	Interline Brands, Incorporated	Florida	YES	Web Posting	1

ID No.	Company name	Address associated with comment	Offer to volunteer	Response venue	Category
38	Citgo	Not Provided (headquarters in Texas).	YES	Web Posting	1
39	Air Liquide America Specialty Gases	Colorado	YES	Web Posting	1
40	Fairchild Semiconductor	Maine	YES	Web Posting	1
41	Raytheon Company	Arizona	YES	Web Posting	1
42	Midstream Pipeline Safety/CenterPoint Energy.	Louisiana	Unknown (reply is ambiguous).	Web Posting	3
43	Kinder Morgan, Incorporated	Not provided (headquarters in Texas).	YES	Web Posting	1
44	Hartman Brothers, Incorporated	Colorado	YES	Web Posting	1
45	Maine Drilling & Blasting	New Hampshire	YES	Web Posting	1
46	Master Meter Program, Pipeline Safety, State Board of Public Utilities.	New Jersey	YES	Web Posting	1
47	Garner	Texas	Unknown (reply is ambiguous).	Web Posting	3
48	Combined Accident Reduction Efforts, Incorporated.	Texas	YES	Web Posting	1
49	Blue Rock	Colorado	YES	Web Posting	1
50	United Steel Workers	Pennsylvania	YES	Web Posting	1
51	Unknown (Michael Wagner)	Not Provided	YES	Web Posting	1
52	Unknown (Carl Zebrocki)	Not Provided	YES	Web Posting	1
53	Unknown (Tom Wray)	Not Provided	YES	Web Posting	1
54	Unknown (Don Shafer)	Not Provided	YES	Web Posting	1
55	AristaTek	Wyoming	YES	Web Posting	1
56	Intrado	Colorado	YES	Web Posting	1
57	J.B. Hunt	Arkansas	YES	60-Day Notice	1
58	CHEMTREC	Virginia	YES	60-Day Notice	1
59	Unknown (Edward Larkin)	Florida	NO	60-Day Notice	2
60	EHSSE	Missouri	YES	60-Day Notice	1
61	Norfolk Southern Corporation	Georgia	YES	60-Day Notice and Web Posting.	1
62	Nordstrom Direct	Iowa	YES	60-Day Notice	1
63	International Association of Fire Chiefs	Virginia	NO	60-Day Notice	2
64	Turnkey Technical Services	Tennessee	YES	60-Day Notice	1
65	HMF2, LLC	California	YES	60-Day Notice and Web Posting.	1
66	Tri-County Fire Department	Texas	YES	60-Day Notice	1
67	Qualified Carriers	New Jersey	YES	60-Day Notice	1
68	Cherry Hill Fire District #13	New Jersey	YES	60-Day Notice	1
69	Mid Columbia Fire and Rescue	Oregon	YES	60-Day Notice	1
70	Maryland Department of the Environment	Maryland	YES	60-Day Notice and Web Posting.	1
71	Seattle Fire Department	Washington	YES	60-Day Notice	1
72	Indiana State Police Commercial Vehicle Enforcement Division.	Indiana	YES	60-Day Notice	1
73	Fire Department, City of New York	New York	YES	60-Day Notice	1
74	Unknown (Raymond Lewis)	Ohio	YES	60-Day Notice	1
75	American Trucking Association	Virginia	NO	60-Day Notice	2
76	Unknown (Daniel Collins)	Ohio	YES	60-Day Notice	1
77	AllTransPack, Incorporated (ATP)	Virginia	YES	60-Day Notice and Web Posting.	1
78	CSX Transportation	Florida	YES	60-Day Notice	1
79	Union Pacific	Nebraska	YES	60-Day Notice	1
80	Cardinal Health Nuclear Pharmacy Services.	Ohio	YES	60-Day Notice	1
81	Commercial Vehicle Safety Alliance	Maryland	NO	60-Day Notice	2
82	Labelmaster Services	Illinois	YES	60-Day Notice	1
83	Quality Distribution Incorporated	Florida	YES	60-Day Notice	1

The comments posted in response to both the Web site announcement and the 60-Day Notice are organized into three categories, based on the information provided in the comments and information publically available on agency/company/organization Web sites. The three categories are as follows:

Category 1—88% of the entities, those expressing interest in participating in the pilot tests.

Category 2—10% of the entities, those not wanting to participate in the pilot tests but commenting on use of e-systems; confirming the importance of certain aspects of e-communication/validating observations in stakeholder information papers; and/or providing comments outside of the defined data

collection and more pertinent to anticipatory regulatory changes.

Category 3—2% of the entities, those submitting only their contact information, and entities posting unclear comments regarding pilot test participation.

No comments were posted to the 60-Day Notice regarding the intended types of data collection questions.

Category 1: Entities Expressing Interest in Participating in the Pilot Tests

73 (88%) of the 83 total entities expressed interest in participating in the pilot tests. These 73 entities include ten (10) emergency response organizations, three (3) Federal government agencies, three (3) state/local government agencies, five (5) law enforcement agencies (one Federal agency, three state agencies, and one port authority), one (1) university, thirteen (13) carriers, five (5) shippers, nine (9) companies that are both shippers and carriers, one (1) association, one (1) union, eleven (11) consultants, two (2) technology vendors, five (5) companies that function as both vendors and consultants, and four (4) unknowns. These 73 entities are primarily located in the eastern half of the U.S. and in the South; a few entities are located in the Southwest, Northwest, and at international locations. Many of the entities have locations in more than one area of the U.S. ID No. 82, a company that functions as both a vendor and consultant, expressed interest in participating in the pilot projects as a consortium of parties to demonstrate the capability of the technological solution that it developed in conjunction with these partners.

Category 2: Non-Participant Volunteer Entities Confirming the Importance of E-Communication Aspects/Validating Stakeholder Information Paper Observations

Eight (10%) of the 83 total entities indicated they do not wish to actively participate in the pilot tests. Collectively, these entities posted comments that indicated they (a) want to continue to receive information on the HM–ACCESS effort; (b) want to participate in a different PHMSA training event (i.e., submitted in error in response to HM–ACCESS); (c) agree with the importance of a particular aspect of the HM–ACCESS initiative; and/or (d) want to emphasize the importance of particular observations made to date regarding HM–ACCESS. In some cases, the comments are not directed to and are outside of the scope of the defined data collection, and instead are more pertinent to anticipatory regulatory changes. Comments from these eight entities included the following:

- Two (ID Nos. 6 and 24) indicated they wanted to receive update information on the HM–ACCESS effort as it becomes available. PHMSA will keep these entities on the HM–ACCESS information distribution email notifications.
- One (ID No. 32) was submitted in error; this entity wanted to register for a pipeline hazard safety training event. PHMSA will keep this entity on the HM–ACCESS information distribution email notifications.
- One (ID No. 33) originally wanted to volunteer to participate in the pilot tests, but later rescinded the request. PHMSA will keep this entity on the HM–ACCESS information distribution email notifications.
- One (ID No. 59) indicated its support of PHMSA's method of allowing stakeholders to assist in testing the viability of using e-HM shipping papers as an alternative to hardcopy HM shipping papers rather than simply issuing a regulatory change, and also affirmed its support of changes that reduce paperwork and clutter. PHMSA recognizes these comments as being consistent with the current HM–ACCESS methodology and pilot test approach.
- One (ID No. 63) emphasized the importance of HM information fitting the intended need and being uniform and scalable while not including extraneous information; being provided in a standard format using cost-effective, standardized tools and data; and being accurate as well as immediately available. As described in the 60-Day Notice, the goal of the paperless hazard communications pilot program is to determine if e-systems are a feasible and effective means of providing hazard communication; the pilot projects will evaluate the feasibility of using e-systems to collect and convey the same information that is currently required on a paper copy of an HM shipping document as described in 49 CFR 172, Subpart C. Evaluation of shipping paper information requirements (content, format, etc.) is outside the scope of HM–ACCESS. This entity also confirmed PHMSA's proceeding with a performance-based regulatory approach that provides for an equivalent or higher level of safety, and commented that e-shipping paper information used for inspections should be instantaneously viewable, thus reducing inspectors' wait time. PHMSA reiterates that the pilot tests will study the performance, safety and security impacts, and the associated benefits and costs of using e-systems for HM shipments, without disrupting the normal flow of commerce, and that the time needed to send and receive the e-information will be one of the data fields evaluated during the tests. The entity also commented on the need for training on electronic tools used to comply with e-shipping papers; the lack of availability of devices for receiving e-HM information in the emergency response community; and allowing shippers to have the capability for data entry and error correction. Although not pertinent to the data collection as defined within the 60-Day Notice, PHMSA recognizes the entity's equipment, training, and data entry concerns. PHMSA encourages the entity to participate in the impact analysis data collection for inclusion in the evaluation and feasibility report required under MAP–21 and to make recommendations for implementing e-systems into the Federal HM transportation safety program. The entity emphasized e-shipping papers should not result in the public safety sector incurring additional equipment, data access, connectivity, etc., costs, and that the format and content of the electronic HM data must meet the various needs and levels of responder operational knowledge and capabilities. As described in the 60-Day Notice, PHMSA seeks volunteer pilot test participants who currently possess e-system(s) capable of managing and communicating the HM shipping paper information at their own expense, and who possess their own equipment and personnel and/or contractor resources necessary to transport HM shipments. PHMSA is not asking companies to purchase additional equipment to support the pilot tests.
- One (ID No. 75) commended PHMSA on its implementation of the HM–ACCESS pilot program consistent with MAP–21 requirements. This entity emphasized the importance of using e-shipping papers to supplement, rather than replace, hardcopy shipping papers until the feasibility and effectiveness of using e-shipping papers to communicate with law enforcement and emergency responders are proven. This commenter also stressed the importance of allowing carriers the choice to use hardcopy shipping papers for the foreseeable future, as long as the required information is provided and safety is maintained. PHMSA reiterates that one strategic aspect of the pilot tests is to abide by current HMR hardcopy shipping paper requirements while simultaneously testing e-system hazard communications capabilities. Hardcopy shipping papers will accompany HM shipments during the pilot tests; the

only difference during the inspection and emergency response simulations will be that the shipping paper information will be communicated electronically. The inspectors and emergency responders will conduct each simulation following their established inspection and response protocols using their own existing equipment and resources. This entity also encouraged leveraging pre-existing communications standards, such as the Federal Motor Carrier Safety Administration's chosen one for transmitting electronic driver logging information in the highway mode, for law enforcement and emergency responders. PHMSA has been communicating with its DOT modal counterparts and other Federal agencies to coordinate similar electronic HM data collection efforts. The entity suggested that PHMSA design the communications standard so that any device capable of receiving information from an electronic logging device would similarly be capable of receiving information from any future paperless hazard communications system, thereby lowering technology costs and facilitating acceptance by the HM transportation industry. It is not PHMSA's intention at this time either to develop an e-communications standard or to test vendors of e-communications technologies or products; rather, PHMSA will conduct the pilot tests to evaluate the feasibility of using e-systems to convey the same HM information that is contained on a paper copy of a shipping document.

- One (ID No. 81) indicated its support of PHMSA's Paperless Hazard Communications Pilot Program, and recommended that PHMSA explore the development and management of a uniform e-system that improves HM recognition and identification without compromising the safety of law enforcement and first responders. As previously stated, the HM–ACCESS effort will test and evaluate the feasibility of using e-systems to convey the same HM information that is contained on a paper copy of a shipping document. PHMSA is not looking to develop a uniform e-system at this time; such a substantial level of effort is beyond the scope of the MAP–21 mandate, and would most likely require that stakeholders purchase additional equipment and resources to utilize the uniform e-system. The entity also commented that drivers must be informed when HM are present and of the method(s) for obtaining e-shipping paper information for inspection and emergency response purposes. Drivers are currently required to meet the training requirements stipulated in 49 CFR 177, Subpart A; any future HM transportation regulation amendments allowing for the use of e-shipping paper information would likely address the methods drivers should use to obtain e-shipping paper information. This entity also emphasized (1) the importance that devices communicating e-shipping paper information have the capability of providing inspectors and first responders the shipping paper information required by 49 CFR Part 172, Subpart C; (2) e-shipping papers must be carried and be accessible in the manner described in 49 CFR 177.817(e); and (3) the e-shipping papers included in the pilot tests should batch with the corresponding paper copy. PHMSA agrees with the importance of these e-shipping paper aspects, and reaffirms the goal of the paperless hazard communications pilot program; namely, to determine if e-systems are a feasible and effective means of providing hazard communication that provides an equivalent level of safety and security as compared to the current shipping paper requirements. Finally, the entity recognized the burden estimate PHMSA calculated of up to one hour for each inspector who participates in the pilot tests to complete the inspection simulation questions; commented that the additional time spent completing the questions would reduce the number of commercial motor vehicle inspections conducted by the inspection agency; and recommended PHMSA find funding for agencies participating in the pilot tests to offset pilot test participation costs. PHMSA understands that this information collection effort may impose a burden on respondents; however, no funding is available to reimburse participants who participate in the HM–ACCESS pilot test and data collection efforts. As previously described, participation in the pilot tests and information collection efforts is strictly voluntary, and PHMSA will develop the information collection utilizing on-line questions, with answers to questions designed to be ''yes,'' ''no,'' or multiple choice as much as possible. The information obtained during the pilot tests and information collection efforts will assist PHMSA in improving safety, hazard communication products, and/or hazard communication materials, and in potentially reducing current burden hours for completing shipping papers.

Category 3: Entities Submitting Only Their Contact Information or Unclear Comments

Two (2%) of the 83 entities (ID Nos. 42 and 47) responded to the April 2013 Web site announcement that they were interested in the ''hazard communication system'' or in ''paperless updates.'' These entities did not state they wanted to participate in the pilot projects. PHMSA will keep these entities on the HM–ACCESS information distribution email notifications.

5. Criteria Used for Selecting Pilot Project Participants

PHMSA will evaluate the entities volunteering to participate in the pilot tests and select those that best satisfy the pilot project and MAP–21 qualification criteria and possess the capability and capacity to aid in testing a variety of scenarios.

PHMSA intends that any pilot conducted under the authority granted by MAP–21 will study the performance, safety and security impacts, and associated benefits and costs of using e-systems for HM shipments, without disrupting the normal flow of commerce. Further, hardcopy shipping documents will still be required to accompany each shipment during the pilot projects, in accordance with the HMR.

PHMSA will conduct pilot tests in three, and potentially four, regions of the U.S.: the Northeast, Southeast, Northwest, and Southwest, with at least one pilot test conducted in a rural area within one or more of the regions, as prescribed by MAP–21. PHMSA will focus the pilot tests in geographical regions possessing high concentrations of HM registrants and presenting historically high numbers of HM incidents resulting in deaths and injuries.

Law Enforcement and Emergency Response Volunteers

Desired law enforcement and emergency responder pilot test participants are those willing to assist in the collection of information during the inspection and emergency response simulations and who operate within the regions of the pilot tests where the participating shippers and carriers operate.

Shipper and Carrier Volunteers

Desired shipper and carrier pilot test participants are those who offer HM for transportation and/or transport HM by a variety of modes and interact with other intermodal carriers for HM transfers. It is not PHMSA's intention to test

vendors of electronic communication technologies or products. To volunteer and be selected as a volunteer, interested shipper and carrier participants will need to ship and/or transport HM within areas of high concentrations of HM registrants and HM incidents. In addition to the regions and modal criteria, potential participants must, at a minimum, satisfy the following requirements:

- Possess e-system(s) capable of managing and communicating the HM shipping paper information at their own expense,
- Possess their own equipment and personnel and/or contractor resources necessary to transport HM shipments,
- Be willing to allow, and participate in, inspections and emergency response simulations during the pilot tests,
- Be willing to provide feedback on experiences regarding e-HM communication during the pilot tests, including providing actual e-HM communications data from the pilot tests,
- Be willing to provide information on the basic function and capabilities of their e-system(s),
- Be willing to provide information on administrative, business, training, equipment, and operational-related benefits and costs associated with implementing e-system(s),
- Transport HM within the targeted test regions of the U.S., and
- Be in good standing with all levels of government and demonstrate compliance with all applicable regulations governing the safe and secure transportation of HM.

As part of PHMSA's participant evaluation and selection process, each shipper and carrier submitting a statement of interest will need to answer on-line the following list of 34 questions to verify its qualifications and capabilities (**Note:** The majority of these questions require only a ''yes'' or ''no'' response.):

Shipper and Carrier Participant Questions

1. Name of company/organization.
2. Point(s) of contact (POC(s)) information.
3. Is your company/organization a shipper, a carrier, or both?
4. Is your company/organization willing to participate in the pilot tests for a period of 8 to 12 weeks in 2014 (specific period to be determined)?
5. Does your company/organization understand that answering these selection questions does not guarantee your company/organization will be selected for participation in the pilot tests (volunteers will be selected based on meeting qualifications specified in MAP–21 and the ability to aid in testing a variety of test scenarios and criteria)?
6. Is your company/organization able to identify a single POC for coordinating your company's/organization's participation in the pilot tests?
7. Is your company/organization willing to provide a coordinating representative to participate in a pre-pilot coordination and training meeting in Washington DC prior to implementation of the pilot tests?
8. Is your company/organization willing to provide a coordinating representative to participate in a one-day debriefing meeting in Washington DC in 2014 following the conclusion of the pilot tests (actual date to be determined)?
9. Does your company/organization have videoconference capability?
10. Is your company/organization willing to allow, and participate in, inspections and emergency response simulations during the pilot tests?
11. Is your company/organization willing to provide feedback on its experiences regarding paperless hazardous materials (e-HM) communication during the pilot tests, including actual e-HM communications data from your company's/organization's participation in the pilot tests and information on administrative, business, training, equipment, and operational-related costs and benefits associated with implementing e-HM systems?
12. Do you understand that PHMSA will use the information you provide in this questionnaire as part of PHMSA's public report to Congress, Federal agencies, and other stakeholders, in support of the Moving Ahead for Progress in the 21st Century Act (MAP–21)? (**Note:** Although your company/organization will be referenced by a unique ID No. in the report, PHMSA cannot guarantee that the name of your company/organization will be kept confidential.)
13. For which U.S. geographic pilot test area(s) is your company/organization volunteering to participate?
14. Do any of your company's/organization's HM shipments that could be included in the pilot tests cross international borders during transport (U.S. and Canadian border, U.S. and Mexican border, travel via plane or ship to other international locations)?
15. Please describe the transport route(s), from origin to final destination, for the HM your company/organization will include in the pilot tests. Include city and state information, along with the general location(s) of any planned stops/layovers, including transfer points.
16. Does your company/organization utilize an outside company to assist with HM information and emergency response communication?
17. Does your company/organization currently have a paperless HM communications system (e-system) capable of managing and communicating the HM shipping paper information?
18. How many different e-systems is your company/organization capable of utilizing for communicating HM shipping paper information?
19. What electronic and wireless technology(ies) are used by your e-system?
20. What type of electronic data exchange format is used by your e-system?
21. In what format(s) can your e-HM shipping paper information be exported?
22. Is your company's/organization's e-system scalable (i.e., able to expand if the amount of information increases)?
23. Does the e-system have built-in security protocols for data protection?
24. Has your company/organization established administrative rights for the e-system?
25. Does the e-system have system redundancy or backup systems?
26. Has your company/organization ever used wireless or electronic communication to provide law enforcement or emergency response personnel with HM information for an HM shipment involved in an inspection or incident?
27. Can e-HM shipping information be accessed during transport (in the field) in real-time?
28. What class(es) of HM would your company/organization ship during the pilot tests?
29. Is your company/organization willing to include multiple shipments in the pilot tests?
30. By what mode would your company/organization transport HM during the pilot tests?
31. Does your company/organization interact with other intermodal carriers for HM transfers?
32. Is your company/organization capable of testing less than truckload (LTL) HM shipments during the pilot tests?
33. Does your company/organization transport HM shipments utilizing your own equipment and personnel, or contractor resources?
34. Does your company/organization interact with freight forwarders and/or brokers as part of your normal business of transporting HM shipments?

6. Request for Information (Following Selection of Pilot Test Participants)

PHMSA is seeking to collect: (1) Information and data as part of the pilot tests to support evaluation of the use of e-shipping papers; and (2) data and information outside of the pilot tests for analyzing potential impacts (safety, security, benefits, and costs) of using e-systems.

PHMSA understands that this information collection effort may impose a burden on respondents. The information obtained will:

- Assist the agency in improving safety, hazard communication products, and/or hazard communication materials, and in potentially reducing current burden hours for completing shipping papers;
- Be provided strictly on a voluntary basis; and
- Be collected primarily utilizing on-line questions with answers to most questions designed to be ''yes,'' ''no,'' or multiple choice.

Volunteer modal inspectors and emergency responders will be responsible for conducting inspection and emergency response simulations and the majority of the data collection during the pilot tests. This approach limits the information collection burden on regulated entities while minimizing information bias. Modal inspectors (typically law enforcement) will test the feasibility and effectiveness of e-systems by performing simulated modal inspections of regulated entities (shippers and carriers) participating in the pilot tests utilizing e-HM shipping papers. The inspectors will conduct each simulation following their established inspection protocols using their own existing equipment and resources. The only difference during the simulations will be that the shipping paper information will be communicated electronically. Following each inspection simulation, the participating inspector will answer a list of on-line questions related to the simulation and submit to PHMSA a copy of the e-HM shipping paper received. Emergency responders will follow a similar process to test the feasibility and effectiveness of e-systems during a simulated incident response involving HM shipments using e-HM shipping papers. PHMSA will use the answers to the on-line questions and the e-HM shipping papers provided by the inspectors and emergency responders to evaluate the feasibility and effectiveness of the e-system involved in the information transfer.

Outside of the pilot tests, information will be collected from shippers, carriers, law enforcement, and emergency responders to aid in the assessment of potential impacts associated with using e-systems for each mode of transportation, as required under MAP–21. Potential impacts to be assessed include benefits, costs, safety, and security impacts on the public, emergency responders, and law enforcement. The impact analysis questions will not be limited to pilot test participants but will be available to all HM stakeholders to voluntarily answer.

The following sections summarize the types of information that will be requested as part of the pilot program to ensure that the evaluation and feasibility report focuses on results and includes quantitative data on the recommendation and possible implementation of e-systems into the Federal HM transportation safety program. This information and data will enable PHMSA to more accurately assess the safety and security impacts of using e-systems and to analyze the associated benefits and costs of using e-systems for HM communication.

Shipper and Carrier Information

Shippers and carriers will not be required to answer the list of on-line inspection and emergency response simulation questions described in the next section as part of the pilot project. However, PHMSA does anticipate that the information provided by modal inspectors and emergency responders in conducting the simulations may necessitate follow-up discussions with the shippers and/or carriers involved. Limited information may need to be collected from shippers and carriers as a result of these follow-up discussions, potentially including obtaining copies of the e-HM shipping papers used during the simulations.

Inspection Simulation Questions

For each HM inspection simulation, inspectors (law enforcement and/or Federal and state modal inspectors) involved in the simulation will be requested to answer the following list of 44 online inspection simulation questions and to provide an electronic copy of the HM shipping paper they received during the simulation. Analysis of the e-HM shipping papers for required hazard communication information will enable PHMSA to verify the integrity of the data transfer.

1. Name of inspection agency/organization you are representing.
2. Main location of inspection agency/organization.
3. Affiliation of your inspection agency/organization.
4. Point of Contact (POC) information for the inspector conducting the inspection simulation.
5. POC information for your inspection agency's/organization's paperless hazardous materials (e-HM) communication system (e-system).
6. Describe the size and geographic parameters of your agency's/organization's jurisdiction.
7. Which transportation mode(s) does your agency/organization inspect?
8. How often are inspections conducted?
9. In general, what percentage of inspections is pre-planned (e.g., at a checkpoint, waystation, etc.), and what percentage is impromptu (e.g., based on potential safety risk posed by an observed transportation conveyance)?
10. Approximately how many conveyance inspections does your agency/organization perform annually?
11. Name and USDOT Number of shipper and/or carrier inspected.
12. POC information for the driver/pilot/captain/conductor involved in the inspection simulation.
13. POC information for the shipper's and/or carrier's e-system.
14. Location of inspection simulation.
15. Date and time of inspection simulation.
16. Was the inspection pre-scheduled or unannounced (with respect to notifying the HM shipper/carrier)?
17. What type(s) of transportation conveyances were inspected during the simulation?
18. Did the inspector have any interaction with other regulatory inspection entities (e.g., U.S. Coast Guard, Customs and Border Protection, etc.) during HM inspection simulation activities?
19. What types of HM information was shared with these regulatory entities?
20. Was an attempt made to communicate any of this information electronically?
21. Describe the simulated pilot test HM conveyance inspection:
    a. What was reason for the simulated inspection?
    b. What HM information did the inspector look for or request?
    c. Did the inspection include interviews?
    d. What conveyance documentation did the inspector review?
22. What types of HM containers were included in the shipment?
23. What class(es) of HM did the shipment being inspected include?
24. Had the shipment undergone any intramodal transfers (i.e., transfers between conveyances within a single transportation mode) prior to the simulation?

25. If the shipment had undergone intramodal transfers:

a. What HM information was shared?

b. By what mechanism was such information communicated:

26. Had the shipment undergone any intermodal transfers (i.e., transfers between transportation modes) prior to the simulation?

27. If the shipment had undergone intermodal transfers:

a. What HM information was shared?

b. By what mechanism was such information communicated:

28. Was the shipment involved in the simulation a less than truckload (LTL) type HM shipment?

29. What device(s), electronic data exchange language, communication mechanism(s), and data format did inspectors use when conducting the simulated inspection?

30. What device(s) and electronic data exchange language did the shipper/carrier use to transmit the electronic shipping papers during the simulated inspection?

31. Was the inspection simulation information collected electronically?

32. How long did it take for the inspector to receive the electronic information from when it was requested?

33. Did the inspector review the HM data received during the simulation for accuracy and completeness?

34. Did the electronic information match that recorded on the hardcopy shipping paper?

35. Did the HM information accurately reflect the details of the HM being transported?

36. Did your agency/organization identify any e-system impediments/limitations during the simulation?

37. Did your agency/organization identify any benefits related to the following e-system components during the simulation?

38. Was the information included within the electronic transmittal sufficient to determine a failed or passed inspection?

39. How do you feel the e-information satisfied the required HM paper documentation (e.g., shipping paper, transportation of dangerous goods manifest, bill of lading, notification to pilot in command, etc.)?

40. What training, if any, is needed to conduct electronic transfers of information for inspections?

41. What additional equipment, if any, is needed to conduct electronic transfers of information for inspections?

42. Do you have any lessons learned that should be considered for improvement of e-commerce?

43. What benefits do you think an e-system would offer over a paper-based system for your agency/organization?

44. How do you believe e-systems will affect the time to conduct an inspection?

Emergency Response Simulation Questions

For each HM emergency response simulation, emergency response providers and/or investigators involved in the simulation will be requested to answer the following list of 42 online emergency response simulation questions and provide an electronic copy of the HM shipping paper as received during the simulation. Analysis of the e-HM shipping papers for required hazard communication information will enable PHMSA to verify the integrity of the data transfer.

1. Name of emergency response agency/organization you are representing.

2. Location of emergency response agency/organization.

3. Point of Contact (POC) information for the responder conducting the emergency response simulation.

4. POC information for your emergency response agency's/organization's paperless hazardous materials (e-HM) communication system (e-system).

5. Describe the size and geographic parameters of your agency's/organization's jurisdiction.

6. How often does your agency/organization respond to HM incidents?

7. Approximately how many transportation HM incidents does your agency/organization respond to annually?

8. Which transportation mode(s) has your agency/organization responded to for an HM incident in the past year?

9. Does your agency/organization utilize an outside company to assist with HM information and emergency response communication?

10. What is the name of the Public Safety Answering Point (PSAP) which has jurisdiction for the location of the emergency response simulation?

11. Location of responsible PSAP.

12. POC information for the responsible PSAP.

13. Name of shipper and/or carrier involved in the emergency response simulation.

14. POC information for the driver/pilot/captain/conductor involved in the emergency response simulation.

15. POC information for the shipper's and/or carrier's e-system.

16. Location of emergency response simulation.

17. Date and time of emergency response simulation.

18. What type(s) of transportation conveyances were involved in the emergency response simulation?

19. What emergency response entities participated in the emergency response simulation?

20. Describe the HM pilot test simulation:

a. What was the simulated event?

b. Which emergency response entity was contacted first, and by whom?

c. Which first responder agency/organization arrived on the scene first?

d. Did a dispatcher perform any follow-up activities (e.g., obtaining additional information from a shipper regarding an HM that may be involved in the simulation) to the initial call?

21. What class(es) of HM were transported during the simulation?

22. Was the shipment involved in the simulation a less than truckload (LTL) type HM shipment?

23. Describe the electronic data exchange that occurred with the PSAP dispatcher as part of the HM pilot test simulation:

a. What HM information did the PSAP dispatcher immediately request?

b. Was information transmitted electronically to the PSAP dispatcher?

24. What device(s) and electronic data exchange language were used to transmit the information to the PSAP dispatcher during the HM simulation?

25. What device(s), electronic data exchange language, communication mechanism(s), and data format were used by the PSAP dispatcher to receive the information during the HM simulation?

26. Describe the electronic data exchange that occurred with the emergency responders prior to their arrival at the scene as part of the HM pilot test simulation:

a. Was HM information provided electronically to the emergency responders prior to their arrival at the scene by the driver/pilot/captain/conductor?

b. Was HM information provided electronically to the emergency responders prior to their arrival at the scene by the PSAP dispatcher?

c. Was HM information provided electronically to the emergency responders prior to their arrival at the scene by the shipper?

d. Was HM information provided electronically to the emergency responders prior to their arrival at the scene by the carrier?

e. Was HM information provided electronically to the emergency responders prior to their arrival at the scene by a source other than the driver/pilot/captain/conductor, PSAP dispatcher, shipper, or carrier?

27. Describe the electronic data exchange that occurred with the emergency responders at the scene as part of the HM pilot test simulation:

a. Was HM information provided electronically to the emergency responders at the scene by the driver/pilot/captain/conductor?

b. Was HM information provided electronically to the emergency responders at the scene by the PSAP dispatcher?

c. Was HM information provided electronically to the emergency responders at the scene by the shipper?

d. Was HM information provided electronically to the emergency responders at the scene by the carrier?

e. Was HM information provided electronically to the emergency responders at the scene by a source other than the driver/pilot/captain/conductor, PSAP dispatcher, shipper, or carrier?

28. Was the information collected electronically by the emergency responders during the HM simulation?

29. If electronic information was provided to the PSAP dispatcher during the HM simulation, how long did it take for the PSAP dispatcher to receive the information from the time it was first requested?

30. If electronic information was provided to emergency responders during the HM simulation, how long did it take for the emergency responders to receive the electronic information from the time it was first requested?

31. Did the emergency responders review the HM data received during the simulation for accuracy and completeness?

32. Did the electronic information match that recorded on the hardcopy shipping paper?

33. Did the HM information accurately reflect the details of the HM being transported?

34. Did your agency/organization identify any e-system impediments/limitations during the HM simulation?

35. Did your agency/organization identify any benefits related to the following e-system components during the HM simulation?

36. Was the information included within the electronic transmittal sufficient, and equivalent to the hardcopy shipping paper, to identify the hazards and properly respond to the HM simulation?

37. How do you feel the e-information satisfied the required HM paper documentation (e.g., shipping paper, transportation of dangerous goods manifest, bill of lading, notification to pilot in command, etc.)?

38. What training, if any, is needed to conduct electronic transfers of information for responders?

39. What additional equipment, if any, is needed to conduct electronic transfers of information for emergency response?

40. Do you have any lessons learned that should be considered for improvement of the use of e-shipping papers in HM commerce?

41. What benefits do you think an e-system would offer over a paper-based system for your agency/organization?

42. How do you believe e-systems will impact the time to respond to an HM incident?

Impact Analysis Questions

PHMSA is seeking to collect information and data from shippers, carriers, law enforcement, and emergency responders to aid in the assessment of potential impacts associated with using e-systems for each mode of transportation, as required under MAP–21. Potential impacts to be assessed include benefits, costs, safety, and security impacts on the public, emergency responders, and law enforcement. Similar to the pilot test simulation questions, PHMSA has developed the following list of 60 impact analysis questions to be administered on-line. PHMSA anticipates the list of impact analysis questions will not be limited to pilot test participants but will be available to all HM stakeholders to voluntarily answer.

1. Name of the agency/company/organization you are representing.

2. Location of the agency/company/organization.

3. Point of Contact (POC) information for the person completing this questionnaire.

4. POC information for your agency's/company's/organization's paperless hazardous materials (e-HM) communication system (e-system).

5. Which category describes your agency/company/organization?

6. With what mode(s) of transportation does your agency/company/organization interact?

7. Describe the size (small, medium, large) of your agency/company/organization.

8. Does your agency/company/organization perform domestic (i.e., within the U.S.) commerce?

9. Does your agency/company/organization perform international commerce?

10. Does your agency/company/organization belong to any chemical and/or transportation industry associations?

11. Are personnel at your agency/company/organization familiar with the look and content of an HM shipping paper?

12. Do you understand that PHMSA will use the information you provide in this questionnaire as part of PHMSA's public report to Congress, Federal agencies, and other stakeholders, in support of the Moving Ahead for Progress in the 21st Century Act (MAP–21)? (**Note:** Although your agency/company/organization will be referenced by a unique ID No. in the report, PHMSA cannot guarantee that the name of your agency/company/organization will be kept confidential.)

13. What class(es) of HM does your company ship?

14. By what mode(s) does your company transport HM?

15. Does your company interact with other intermodal carriers for HM transfers?

16. For each mode used to transport HM shipments, does your company utilize your own equipment and personnel, or contractor resources?

17. Does your company transport less than truckload (LTL) HM shipments?

18. How are your HM shipments packaged?

19. Approximately how much HM does your company ship annually?

20. Does your agency/company/organization utilize an outside company to assist with HM information and emergency response communication?

21. What HM information is essential for emergency responders to receive to assess the hazards and to properly respond to an HM incident after arriving at the emergency site?

22. What HM information is essential for HM inspectors to receive to properly conduct an HM inspection?

23. Does your agency/company/organization currently have an e-system capable of managing and communicating HM shipping paper information?

24. Does the e-system use or contain any proprietary data or have any special licensing requirements governing its use?

25. Is the e-system custom-made or commercial off-the-shelf (COTS)?

26. What electronic and wireless technologies are used by your e-system?

27. Does your agency/company/organization currently have electronic access to conveyance HM data satisfying the DOT shipping paper requirements?

28. What type of electronic data exchange language is used?

29. What format can be used to view and share the data?

30. Is your agency's/company's/organization's e-system scalable (i.e.,

able to expand if the amount of information increases)?

31. If your agency's/company's/organization's e-system fails during an inspection or emergency, is a backup system/procedures available to ensure continuity of information?

32. Who enters HM information into your agency's/company's/organization's e-system?

33. How long is the HM information stored in your agency's/company's/organization's e-system after its initial generation?

34. When can the HM information in your agency's/company's/organization's e-system be accessed?

35. Who can access the HM information in your agency's/company's/organization's e-system?

36. Has your company ever used wireless or electronic communication to provide law enforcement or emergency response personnel with HM information for an HM shipment involved in an inspection or incident?

37. On average, how long does it take to complete a hardcopy HM shipping paper?

38. On average, how long does it take to complete an e-shipping paper?

39. Do you use HM shipping papers for purposes other than regulatory?

40. Has your agency/organization ever received wireless or electronic communication of HM information for an HM shipment involved in an inspection or incident?

41. What technology readiness level from the following list best describes the technology used to operate your e-HM system?

a. Level 5: technology product fully operational in real-world environment

b. Level 4: technology product operational in limited real-world environment

c. Level 3: prototype demonstrated in laboratory environment

d. Level 2: equipment and process concept formulated

e. Level 1: basic technology principles observed

42. Can your agency/company/organization provide a rounded estimation of the costs to develop, implement, operate, and maintain the e-system?

43. Do your agency's/company's/organization's employees receive training on the e-system?

44. How long does the training generally take to complete?

45. Is refresher training provided?

46. How long does refresher training typically take to complete?

47. Are all/most employees who receive initial e-system training provided with refresher training?

48. Can your agency/company/organization provide a rounded estimation of the costs for training personnel on the e-system?

49. Did your agency/company/organization incorporate a customer outreach/education program as part of implementation of your e-system?

50. Can your agency/company/organization provide a rounded estimation of the costs to conduct customer outreach/education on your e-system?

51. What types of security is in place to prevent unauthorized e-system access?

52. Which of the following entities outside your agency/company/organization directly utilize your e-system?

53. What type of involvement and input did these stakeholders have in the design and development of your e-system?

54. If your agency/company/organization has an e-system:

a. What constraints did the e-system have to overcome to be successfully used by your agency/company/organization?

b. What benefits does the e-system offer over a paper-based system?

c. What benefits resulted from your agency's/company's/organization's customer outreach/education efforts regarding your e-system?

d. What constraints did your agency/company/organization need to overcome during customer outreach/education regarding your e-system?

55. If your agency/company/organization does not have an e-system:

a. What constraints would an e-system have to overcome to be successfully used by your agency/company/organization?

b. What benefits would an e-system offer over a paper-based system?

56. Has your agency/company/organization performed any studies/analyses on the effectiveness of your e-system, including the e-system's impacts on your agency/company/organization?

57. What can improve your e-system's capability?

58. With respect to real-work application, has your agency/company/organization observed any positive or negative interactions between your e-system technology and other e-system technologies?

59. Has your agency/company/organization identified any e-system impediments/limitations?

60. Do you have any lessons learned that should be considered for improvement of e-commerce?

7. Total Information Collection Burden

The total information collection burden for the Paperless Hazard Communication Pilot Program is as follows:

Shipper and Carrier Participant Questions: 55 Respondents × 0.5 Hr. = 27.5 Hours

73 entities responded with their interest to participate in the pilot tests. Of these 73, 52 appear to be shippers, carriers, universities, associations, unions, consultants, technology vendors, and unknowns; i.e., all respondents who could potentially act in a shipper and/or carrier capacity. The other 21 entities expressing interest in participating in the pilot appear to be law enforcement and emergency responders. PHMSA is estimating a maximum of 55 participants (52 previously indicated plus three additional, to account for any other respondents who may act in a shipper/carrier capacity) will complete the pilot test participant questions. The 55 respondent estimate has been increased by 25 from the original 30 estimate posted in the 60-Day Notice based on the number of entities who commented to the 60-Day Notice and indicated they wish to participate in the pilot tests. PHMSA does not anticipate that completing the pilot test participant questions will impose a significant burden on shipper and carrier respondents. PHMSA estimates it will take each respondent approximately 30 minutes to answer the list of participant questions, based on the type of questions identified in the following table:

Type of question	Number
Yes/No	20
Yes/No + text	1
Multiple choice	2
Multiple choice + text	1
Select all that apply	4
Select all that apply + text	3
Text	3
Total number of pilot test participant questions	34

The resulting estimated total burden is 27.5 hours (55 respondents × 0.5 hour per respondent = 27.5 hours) for the shipper and carrier participant question data collection.

Shipper and Carrier Information: 40 Respondents × 4.0 Hr. = 160 Hours

PHMSA does not anticipate that follow-up discussions with shippers and carriers and the associated information collection will impose a significant burden on respondents. In

the 60-Day Notice, PHMSA anticipated a total of 30 shippers and carriers (assuming 10 respondents for each of three test regions) and a burden of no more than four hours per shipper and carrier for the entirety of the test period; however, based on the number of entities who commented to the 60-Day Notice and indicated they wish to participate in the pilot tests, PHMSA has increased its estimate to 40 shippers and carriers for this information collection activity. The resulting estimated total burden is 160 hours (40 respondents x 4.0 hour per respondent = 160 hours) for follow-up discussions and associated information collection with shippers and carriers.

Inspection Simulation Questions: 260 Respondents × 1.0 Hr. = 260 Hours

PHMSA does not anticipate that answering the list of inspection simulation questions will impose a significant burden on inspectors. PHMSA anticipates no more than 260 inspection simulations will be conducted utilizing non-federal resources (encompassing all pilot tests, all participants, and each test region throughout the entirety of the test period), resulting in a total of 260 respondents. The 260 respondent estimate has been increased by 20 from the original 240 estimate posted in the 60-Day Notice based on the number of inspectors who commented to the 60-Day Notice and indicated they wish to participate in the pilot tests. PHMSA estimates it will take each inspector approximately 60 minutes to answer the list of inspection simulation questions, based on the type of questions identified in the following table, and to submit a copy of the e-HM shipping paper to PHMSA.

Type of question	Number
Yes/No	1
Yes/No + text	7
Multiple choice	5
Multiple choice + yes/no	1
Multiple choice + text	8
Select all that apply	2
Select all that apply + text	8
Text	12
Total number of inspection simulation questions	44

The resulting estimated total burden is 260 hours (260 respondents x 1.0 hour per respondent = 260 hours) for the inspection simulation question data collection.

Emergency Response Simulation Questions: 24 Respondents × 1.0 Hr. = 24 Hours

PHMSA does not anticipate that answering the list of emergency response simulation questions will impose a significant burden on investigators and emergency responders. PHMSA anticipates no more than 12 emergency response simulations will be conducted utilizing non-Federal resources, resulting in a total of no more than 24 respondents allowing for up to two respondents per simulation (12 emergency response providers and 12 investigators). PHMSA estimates it will take each respondent approximately 60 minutes to answer the list of emergency response simulation questions, based on the type of questions identified in the following table, and to submit a copy of the electronic shipping paper to PHMSA.

Type of question	Number
Yes/No	1
Yes/No + text	5
Multiple choice	4
Multiple choice + text	5
Select all that apply	2
Select all that apply + text	10
Text	15
Total number of emergency response simulation questions	42

The resulting estimated total burden is 24 hours (24 respondents × 1.0 hour per respondent = 24 hours) for the emergency response simulation question data collection.

Impact Analysis Questions: 250 Respondents x 1.5 Hr. = 375 Hours

PHMSA does not anticipate that answering the list of impact analysis questions will impose a significant burden on respondents (shippers, carriers, law enforcement, and emergency responders). PHMSA increased its original estimate posted in the 60-Day Notice from 200 to 250 respondents based on the number of entities who provided comments to the 60-Day Notice. PHMSA estimates no more than 250 respondents will complete the impact analysis questions, and that it will take each respondent approximately 90 minutes to answer the questions.

Type of question	Number
Yes/No	1
Multiple choice	16
Multiple choice + text (+ yes/no)	16
Select all that apply	5
Select all that apply + text (+ yes/no)	15
Text	7
Total number of impact analysis questions	60

The resulting estimated total burden is 375 hours (250 respondents x 1.5 hours per respondent = 375 hours) for the impact analysis question data collection.

Total Information Collection Burden: 629 Respondents 846.5 Hours

Title: Paperless Hazard Communications Pilot Program.

Type of Request: Request for Comments to Information Collection Burden for Paperless Hazard Communications Pilot Program.

Abstract: PHMSA is submitting an information collection to OMB in support of a paperless hazard communications pilot program under Title III, Section 33005 of the Hazardous Materials Transportation Safety Improvement Act of 2012 (MAP–21).

Affected Public: Carriers, Shippers, Emergency Response Providers, and Law Enforcement Personnel

Estimated Number of Respondents: 629.

Estimated Number of Responses: 629.

Estimated Annual Burden Hours: 846.5.

Estimated Annual Burden Costs: $28,500.

Frequency of collection: Single occasion.

Magdy El-Sibaie,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 2013–28168 Filed 11–22–13; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35759]

John D. Nielsen—Control Exemption—Nebkota Railway, Inc.

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of Exemption.

SUMMARY: The Board is granting an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 11323–25 for John D. Nielsen (Nielsen), a noncarrier individual who controls Class III rail carrier Nebraska Northwestern Railroad, Inc. (NNW), to acquire control of Nebkota Railway, Inc. (NRI), another Class III rail carrier, which connects with NNW at Chadron, Neb.

DATES: This exemption will be effective on December 15, 2013. Petitions for stay must be filed by December 5, 2013. Petitions to reopen must be filed by December 10, 2013.

ADDRESSES: An original and 10 copies of all pleadings, referring to Docket No. FD 35759, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Nielsen's representative: Michael J. Barron, Jr., Fletcher & Sippel LLC, Suite 920, 29 North Wacker Drive, Chicago, IL 60606–2832.

FOR FURTHER INFORMATION CONTACT: Jonathon Binet, (202) 245–0368. Federal Information Relay Service (FIRS) for the hearing impaired: 1–800–877–8339.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. Board decisions and notices are available on our Web site at *WWW.STB.DOT.GOV.*

Decided: November 20, 2013.

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

Derrick A. Gardner,

Clearance Clerk.

[FR Doc. 2013–28222 Filed 11–22–13; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

November 19, 2013.

The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, on or after the date of publication of this notice.

DATES: Comments should be received on or before December 26, 2013 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 8140, Washington, DC 20220, or email at *PRA@treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submission(s) may be obtained by calling (202) 927–5331, email at *PRA@treasury.gov,* or the entire information collection request may be found at *www.reginfo.gov.*

Internal Revenue Service (IRS)

OMB Number: 1545–0015.

Type of Review: Extension without change of a currently approved collection.

Title: United States Estate (and Generation-Skipping Transfer) Tax Return.

Form: 706 and related schedules.

Abstract: Form 706 is used by executors to report and compute the Federal Estate Tax imposed by IRC section 2001 and the Federal GST tax imposed by IRC section 2601. IRS uses the information to enforce these taxes and to verify that the tax has been properly computed.

Affected Public: Individuals or Households.

Estimated Annual Burden Hours: 2,046,350.

OMB Number: 1545–0026.

Type of Review: Revision of a currently approved collection.

Title: Return by a U.S. Transferor of Property to a Foreign Corporation.

Form: 926.

Abstract: Form 926 is filed by any U.S. person who transfers certain tangible or intangible property to a foreign corporation to report information required by section 6038B.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Annual Burden Hours: 30,195.

OMB Number: 1545–0122.

Type of Review: Extension without change of a currently approved collection.

Title: Foreign Tax Credit Corporations.

Form: 1118 and Schedules I, J, and K to Form 1118.

Abstract: Form 1118 and separate Schedules I, J, and K are used by domestic and foreign corporations to claim a credit for taxes paid to foreign countries. The IRS uses Form 1118 and related schedules to determine if the corporation has computed the foreign tax credit correctly.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Annual Burden Hours: 3,483,016.

OMB Number: 1545–0757.

Type of Review: Extension without change of a currently approved collection.

Title: TD 7941—Special Lien for Estate Taxes Deferred Under Section 6166 or 6166A.

Abstract: Section 632A permits the executor of a decedent's estate to elect a lien on section 6166 property in favor of the United States in lieu of a bond or personal liability if an election under section 6166 was made and the executor files an agreement under section 6323A(c).

Affected Public: Individual or Household.

Estimated Annual Burden Hours: 8,650.

OMB Number: 1545–0806.

Type of Review: Extension without change of a currently approved collection.

Title: EE–12–78 (Final) Non-Bank Trustees.

Abstract: IRC section 408(a)(2) permits an institution other than a bank to be the trustee of an individual retirement account (IRA). To do so, an application needs to be filed and various requirements need to be met. IRS uses the information to determine whether an institution qualifies to be a non-bank trustee.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Annual Burden Hours: 13.

OMB Number: 1545–0982.

Type of Review: Extension without change of a currently approved collection.

Title: 26 CFR 301.9100–7T, Time and Manner of Making Certain Elections Under the Tax Reform Act of 1986.

Abstract: Section 301.9100–7T lists certain elections that are provided by Tax Reform Act of 1986 and provides general rules regarding the time and the manner for making the elections. These regulations enable taxpayers to take advantage of the benefits of various Code provisions.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Annual Burden Hours: 28,678.

OMB Number: 1545–1072.

Type of Review: Extension without change of a currently approved collection.

Title: TD 8410—Allocation and Apportionment of Interest Expense and Certain Other Expenses (INTL–952–86).

Abstract: The regulations 864 provide rules concerning the allocation and apportionment of expenses to foreign source income for purposes of the foreign tax credit and other provisions.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Annual Burden Hours: 3,750.

OMB Number: 1545–1138.

Type of Review: Extension without change of a currently approved collection.

Title: TD–8350—Requirements for Investments To Qualify Under Section 936(d)(4) as Investments in Qualified Caribbean Basin Countries.

Abstract: The collection of information is required by the Internal Revenue Service to verify that an investment qualifies under IRC section 936(d)(4). The recordkeepers will be possession corporations, certain financial institutions located in Puerto Rico, and borrowers of funds covered by this regulation.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Annual Burden Hours: 1,500.

OMB Number: 1545–1165.

Type of Review: Extension without change of a currently approved collection.

Title: Tax Information Authorization.

Form: 8821 and 8821–A.

Abstract: Form 8821 is used to appoint someone to receive or inspect certain tax information. Data is used identify appointees and to ensure that confidential information is not divulged to unauthorized persons. Form 8821–A is an authorization signed by a taxpayer for the IRS to disclose returns and return information to local law enforcement in the event of a possible identity theft.

Affected Public: Individuals or Households.

Estimated Annual Burden Hours: 147,800.

OMB Number: 1545–1443.

Type of Review: Extension without change of a currently approved collection.

Title: TD 8686—Requirements To Ensure Collection of Section 2056A Estate Tax.

Abstract: The regulation provides guidance relating to the additional requirements necessary to ensure the collection of the estate tax imposed under Section 2056A(b) with respect to taxable events involving qualified domestic trusts (QDOT'S). In order to ensure collection of the tax, the regulation provides various security options that may be selected by the trust and the requirements associated with each option. In addition, under certain circumstances the trust is required to file an annual statement with the IRS disclosing the assets held by the trust.

Affected Public: Individuals or Households.

Estimated Annual Burden Hours: 6,070.

OMB Number: 1545–1878.

Type of Review: Extension without change of a currently approved collection.

Title: IRS e-File Signature Authorization for an Exempt Organization.

Form: 8879–EO.

Abstract: Form 8879–EO authorizes an officer of an exempt organization and electronic return originator (ERO) to use a personal identification number (PIN) to electronically sign an organization's electronic income tax return and, if applicable, Electronic Funds Withdrawal Consent.

Affected Public: Private Sector: Not-for-profit institutions.

Estimated Annual Burden Hours: 425,714.

OMB Number: 1545–2085.

Type of Review: Extension without change of a currently approved collection.

Title: Electronic Notice (e-Postcard).

Form: 990–N.

Abstract: Section 1223 of the Pension Protection Act of 2006, enacted on August 17, 2006, amended Internal Revenue Code (Code) section 6033 by adding Code section 6033(i), which requires certain tax-exempt organizations to file an annual electronic notice (Form 990–N) for tax years beginning after December 31, 2006. These organizations are not required to file Form 990 (or Form 990–EZ) because their gross receipts are normally $25,000 or less.

Affected Public: Private Sector: Not-for-profit institutions.

Estimated Annual Burden Hours: 75,000.

OMB Number: 1545–2244.

Type of Review: Extension without change of a currently approved collection.

Title: Notice 2013–40, Low-Income Housing Credit Disaster Relief for Oklahoma Severe Storms and Tornadoes.

Abstract: The Internal Revenue Service is suspending certain requirements under § 42 of the Internal Revenue Code for low-income housing credit projects to provide emergency housing relief needed as a result of the devastation caused by severe storms and tornadoes in the State of Oklahoma beginning May 18, 2013. This relief is being granted pursuant to the Service's authority under § 42(n) and § 1.42–13(a) of the Income Tax Regulations.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Annual Burden Hours: 25.

Dawn D. Wolfgang,

Treasury PRA Clearance Officer.

[FR Doc. 2013–28132 Filed 11–22–13; 8:45 am]

BILLING CODE 4810–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

November 20, 2013.

The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, on or after the date of publication of this notice.

DATES: Comments should be received on or before December 26, 2013 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 8141, Washington, DC 20220, or email at *PRA@treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submission(s) may be obtained by calling (202) 622–1295, sending an email to *PRA@treasury.gov,* or the entire information collection request may be found at *www.reginfo.gov.*

Internal Revenue Service (IRS)

OMB Number: 1545–0042.

Type of Review: Extension without change of a currently approved collection.

Title: Application to Use LIFO Inventory Method.

Form: 970.

Abstract: Form 970 is filed by individuals, partnerships, trusts, estates, or corporations to elect to use the last-in, first-out (LIFO) inventory method or to extend the LIFO method to additional goods. The IRS uses Form 970 to determine if the election was properly made.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Annual Burden Hours: 42,220.

OMB Number: 1545–0112.

Type of Review: Extension without change of a currently approved collection.

Title: Form 1099–INT, Interest Income.

Form: 1099–INT.

Abstract: Form 1099–INT is used for reporting interest income paid, as

required by sections 6049 and 6041 of the Internal Revenue Code. It is used to verify that payees are correctly reporting their income.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Annual Burden Hours: 63,079,438.

OMB Number: 1545–0191.

Type of Review: Extension without change of a currently approved collection.

Title: Investment Interest Expense Deduction.

Form: 4952.

Abstract: Internal Revenue Code section 163(d) provides a limitation on individuals, estates, or trusts that paid or accrued interest on investment indebtedness. Form 4952 is used to accumulate a taxpayer's interest from all sources and provides a line-by-line computation of the allowable deduction for investment interest.

Affected Public: Individuals or Households.

Estimated Annual Burden Hours: 205,596.

OMB Number: 1545–0800.

Type of Review: Extension without change of a currently approved collection.

Title: Reg. 601.601 Rules and Regulations.

Abstract: Persons wishing to speak at a public hearing on a proposed rule must submit written comments and an outline within prescribed time limits, for use in preparing agendas and allocating time. Persons interested in the issuance, amendment, or repeal of a rule may submit a petition for this. IRS considers the petitions in its deliberations.

Affected Public: Private Sector: Businesses or other for-profits, Farms, and Not-for-profit institutions.

Estimated Annual Burden Hours: 900.

OMB Number: 1545–1287.

Type of Review: Extension without change of a currently approved collection.

Title: FI–3–91 (TD 8456—Final) Capitalization of Certain Policy Acquisition Expenses.

Abstract: Insurance companies that enter into reinsurance agreements must determine the amounts to be capitalized under those agreements consistently. The regulations provide elections to permit companies to shift the burden of capitalization for their mutual benefit.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Annual Burden Hours: 2,070.

OMB Number: 1545–1308.

Type of Review: Extension without change of a currently approved collection.

Title: PS–260–82 (Final) Election, Revocation, Termination, and Tax Effect of Subchapter S Status—TD 8449.

Abstract: Sections 1–1362 through 1.1362–7 of the Income Tax Regulations provide the specific procedures and requirements necessary to implement section 1362, including the filing of various elections and statements with the Internal Revenue Service.

Affected Public: Individuals or Households and Private Sector: Businesses or other for-profits, and farms.

Estimated Annual Burden Hours: 322.

OMB Number: 1545–1576.

Type of Review: Extension without change of a currently approved collection.

Title: Student Loan Interest Statement.

Form: 1098–E.

Abstract: Section 6050S(b)(2) of the Internal Revenue Code requires persons (financial institutions, governmental units, etc.) to report $600 or more of interest paid on student loans to the IRS and the students. Form 1098–E is used for this purpose.

Affected Public: Individuals or Households.

Estimated Annual Burden Hours: 1,051,357.

OMB Number: 1545–1861.

Type of Review: Extension without change of a currently approved collection.

Title: Revenue Procedure 2004–19, Probable or Prospective Reserves Safe Harbor.

Abstract: Revenue Procedure 2004–19 requires a taxpayer to file an election statement with the Service if the taxpayer wants to use the safe harbor to estimate the taxpayers' oil and gas properties' probable or prospective reserves for purposes of computing cost depletion under Sec. 611 of the Internal Revenue Code.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Annual Burden Hours: 50.

OMB Number: 1545–1879.

Type of Review: Extension without change of a currently approved collection.

Title: Exempt Organization Declaration and Signature for Electronic Filing.

Form: 8453–EO.

Abstract: Form 8453–EO is used to enable the electronic filing of Forms 990, 990–EZ, 990–PF, or 1120–POL.

Affected Public: Private Sector: Not-for-profit institutions.

Estimated Annual Burden Hours: 1,046.

OMB Number: 1545–1881.

Type of Review: Extension without change of a currently approved collection.

Title: Election to Treat a Qualified Revocable Trust as Part of an Estate.

Form: 8855.

Abstract: Form 8855 is used to make a section 645 election that allows a qualified revocable trust to be treated and taxed (for income tax purposes) as part of its related estate during the election period.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Annual Burden Hours: 28,200.

OMB Number: 1545–2052.

Type of Review: Revision of a currently approved collection.

Title: U.S. Income Tax Return for Cooperative Associations.

Abstract: IRS Code section 1381 requires subchapter T cooperatives to file returns. Previously, farmers' cooperatives filed Form 990–C, and other subchapter T cooperatives filed Form 1120. If the subchapter T cooperative does not meet certain requirements, the due date of its return is two and one-half months after the end of its tax year which is the same as the due date for all other corporations. The due date for income tax returns filed by subchapter T cooperatives that meet certain requirements is eight and one-half months after the end of their tax year. Cooperatives that filed their income tax returns on Form 1120 were considered to be late, and penalties were assessed since they had not filed by the normal due date for Form 1120. Due to the assessment of the penalties, burden was placed on the taxpayer and on the IRS employees to resolve the issue.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Annual Burden Hours: 335,700.

OMB Number: 1545–2055.

Type of Review: Extension without change of a currently approved collection.

Title: Energy Efficient Appliance Credit.

Form: 8909.

Abstract: Form 8909, Energy Efficient Appliance Credit, was developed to carry out the provisions of Code section 45M. This section was added by section 1334 of the Energy Policy Act of 2005 (P.L. 109–58). The form provides a means for the eligible manufacturer/taxpayer to compute the amount of, and claim, the credit.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Annual Burden Hours: 131.

Brenda Simms,

Treasury PRA Clearance Officer.

[FR Doc. 2013–28200 Filed 11–22–13; 8:45 am]

BILLING CODE 4810–01–P

DEPARTMENT OF THE TREASURY

United States Mint

Pricing for the 2013 Coin and Chronicles Set—Theodore Roosevelt

AGENCY: United States Mint, Department of the Treasury.

ACTION: Notice.

SUMMARY: The United States Mint is announcing a price of $57.95 for the 2013 Coin and Chronicles Set—Theodore Roosevelt.

FOR FURTHER INFORMATION CONTACT: Marc Landry, Acting Associate Director for Sales and Marketing; United States Mint; 801 9th Street NW., Washington, DC 20220; or call 202–354–7500.

Authority: 31 U.S.C. 5111, 5112 & 9701.

Dated: November 19, 2013.

Richard A. Peterson,

Deputy Director, United States Mint.

[FR Doc. 2013–28185 Filed 11–22–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

United States Mint

Pricing for the 2013 United States Mint Limited Edition Silver Proof Set™

AGENCY: United States Mint, Department of the Treasury.

ACTION: Notice.

SUMMARY: The United States Mint is announcing a price of $139.95 for the 2013 United States Mint Limited Edition Silver Proof Set.

FOR FURTHER INFORMATION CONTACT: Marc Landry, Acting Associate Director for Sales and Marketing; United States Mint; 801 9th Street NW., Washington, DC 20220; or call 202–354–7500.

Authority: 31 U.S.C. 5111, 5112 & 9701.

Dated: November 19, 2013.

Richard A. Peterson,

Deputy Director, United States Mint.

[FR Doc. 2013–28184 Filed 11–22–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0757]

Agency Information Collection (Supportive Services for Veteran Families (SSVF) Program) Application for Supportive Services Grant Activities: Under OMB Review

AGENCY: Veterans Health 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 Health 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 December 26, 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. 2900–0757'' 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. 2900–0757, Proposed Information Collection (Supportive Services for Veteran Families (SSVF) Program, Application for Supportive Services Grant.

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.

Title: Supportive Services for Veteran Families (SSVF) Program.

a. Application for Supportive Services Grants VA Form 10–10072.

b. Participant Satisfaction Survey, VA Form 10–10072a.

c. Quarterly Grantee Performance Report, VA Form 10–10072b.

d. Renewal Application. VA Form 10–10072c.

e. Applicant Budget Template Excel Worksheet.

OMB Control Number: 2900–0757.

Type of Review: Revised data collection.

Abstract: The purpose of the Supportive Services for Veteran Families (SSVF) Program is to provide supportive services grants to private non-profit organizations and consumer cooperatives who will coordinate or provide supportive services to very low-income Veteran families who are residing in permanent housing, are homeless and scheduled to become residents of permanent housing within a specified time period, or after exiting permanent housing, are seeking other housing that is responsive to such very low-income Veteran family's needs and preferences.

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 August 27, 2013, Vol. 78, No. 166, pages 53011–53012.

Affected Public: Individuals or households.

Estimated Annual Burden: 3 year average burden hours, 14,000.

Estimated Average Burden per Respondent: 35 hours.

Frequency of Response: One-time.

Estimated Number of Respondents: 400.

Dated: November 19, 2013.

By direction of the Secretary.

Crystal Rennie,

VA Clearance Officer, Department of Veterans Affairs.

[FR Doc. 2013–28144 Filed 11–22–13; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 78 Monday,

No. 227 November 25, 2013

Part II

Department of Transportation

National Highway Traffic Safety Administration

49 CFR Part 571

Federal Motor Vehicle Safety Standards; Occupant Crash Protection; Final Rule

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–2013–0121]

RIN 2127–AK56

Federal Motor Vehicle Safety Standards; Occupant Crash Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: Completing the first initiative of NHTSA's 2007 ''NHTSA's Approach to Motorcoach Safety'' plan and one of the principal undertakings of DOT's 2009 Motorcoach Safety Action Plan, and fulfilling a statutory mandate of the Motorcoach Enhanced Safety Act of 2012, incorporated into the Moving Ahead for Progress in the 21st Century Act, this final rule amends the Federal motor vehicle safety standard (FMVSS) on occupant crash protection to require lap/shoulder seat belts for each passenger seating position in all new over-the-road buses, and in new buses other than over-the-road buses with a gross vehicle weight rating (GVWR) greater than 11,793 kilograms (kg) (26,000 pounds (lb), with certain exclusions. By requiring the passenger lap/shoulder seat belts, this final rule significantly reduces the risk of fatality and serious injury in frontal crashes and the risk of occupant ejection in rollovers, thus considerably enhancing the safety of these vehicles.

DATES: The effective date of this final rule is November 28, 2016. Optional early compliance is permitted.

Petitions for reconsideration: Petitions for reconsideration of this final rule must be received not later than January 9, 2014.

ADDRESSES: Petitions for reconsideration of this final rule must refer to the docket and notice number set forth above and be submitted to the Administrator, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, you may contact Lawrence Valvo or Louis Molino, NHTSA Office of Crashworthiness Standards, telephone 202–366–1740, fax 202–493–2739. For legal issues: Deirdre Fujita, NHTSA Office of Chief Counsel, telephone 202–366–2992, fax 202–366–3820. The mailing address for these officials is: National Highway Traffic Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Washington, DC 20590.

SUPPLEMENTARY INFORMATION: Completing the first initiative of NHTSA's 2007 ''NHTSA's Approach to Motorcoach Safety'' plan and one of the principal undertakings of DOT's 2009 Motorcoach Safety Action Plan, and fulfilling a statutory mandate of the Motorcoach Enhanced Safety Act of 2012, incorporated into the Moving Ahead for Progress in the 21st Century Act, this final rule amends the Federal motor vehicle safety standard (FMVSS) on occupant crash protection to require lap/shoulder seat belts for each passenger seating position in: (a) All new over-the-road buses; and (b) in new buses other than over-the-road buses, with a gross vehicle weight rating (GVWR) greater than 11,793 kilograms (kg) (26,000 pounds (lb)).[1] The notice of proposed rulemaking preceding this final rule called buses with GVWR greater than 11,793 kg (26,000 lb) ''motorcoaches.'' Although transportation by these buses overall is a safe form of transportation in the U.S., several bus crashes in recent years have illustrated that crashes of these vehicles can cause a significant number of fatal or serious injuries in a single event, due in part to the high occupancy rate of the vehicles, the speed at which they travel, and occupant ejection in rollovers. NHTSA's safety research on seat belts in large buses (greater than 11,793 kg (26,000 lb) GVWR) completed in 2009, shows that the installation of lap/shoulder belts on the vehicles is practicable and effective and could reduce the risk of fatal injuries in rollover crashes by 77 percent, primarily by preventing occupant ejection. Lap/shoulder belts are also highly effective in preventing fatalities and serious injuries in frontal crashes, and will enhance protection in side crashes in the affected buses. By requiring passenger lap/shoulder seat belts on (a) new over-the-road buses, and (b) new buses, other than over the road buses, with a GVWR greater than 11,793 kg (26,000 lb), this final rule significantly reduces the risk of fatality and serious injury in frontal crashes and the risk of occupant ejection in rollovers, thus considerably enhancing the safety of these vehicles.

Table of Contents

I. Executive Summary
II. NHTSA's Statutory Authority
  a. National Traffic and Motor Vehicle Safety Act
  b. Motorcoach Enhanced Safety Act of 2012
  c. Agency Views
III. Background
  a. The Agency's 2007 ''NHTSA's Approach to Motorcoach Safety'' Plan
  b. DOT's 2009 Task Force Action Plan
  c. NTSB Recommendations
  d. Congressional Mandate
IV. Safety Need
  a. Introduction
  b. FARS Data
  c. Updated FARS Data
V. Summary of the NPRM
VI. Overview of the Comments
VII. Differences Between the Final Rule and the NPRM
VIII. Motorcoach Definition
  a. GVWR
  1. Response to Comments On Looking Like A Traditional Motorcoach
  2. On Lowering the GVWR Criterion
  b. Sixteen Designated Seating Positions
  c. At Least 2 Rows of Forward-Facing Seats Rearward of the Driver's Seat
  d. Treatment of Various Bus Types and Configurations Under the Final Rule
  1. Shuttle Buses
  2. Trolley and Double-Decker Sightseeing Buses
  3. Limousine and Entertainment Buses, Buses With Multiple Wheelchair Positions
  4. Military Ambulances
  5. Prison Buses
  e. Transit Buses
  f. School Buses
  g. Agency Observations
IX. Requiring Seat Belts at Passenger Seating Positions
X. Type of Belt System on Forward-Facing Seats
XI. Integrated Anchorages
XII. Seat Belt Adjustment, Fit, Lockability, and Other Requirements
XIII. Passenger Seats That Are Not Forward-Facing
XIV. Driver's Seat
XV. Seat Belt Signage and Other Reminders
XVI. Strength Requirements
XVII. Lead Time
XVIII. On Retrofitting Used Buses
XIX. Regulatory Alternatives
XX. Overview of Costs and Benefits
XXI. Rulemaking Analyses and Notices

I. Executive Summary

One of the guiding principles NHTSA considers in determining the priorities of our rulemaking projects is to protect the public against unreasonable risk of death or injury in high-occupancy vehicles. In 2007, NHTSA published a comprehensive plan to research improvements to bus safety, entitled, ''NHTSA's Approach to Motorcoach Safety.''[2] In the plan, the term ''motorcoach'' referred to intercity transport buses. This plan was developed in direct response to several National Transportation Safety Board

[1] Some buses are excluded from this latter category, such as transit and school buses.

[2] *http://www.regulations.gov/#!documentDetail;D=NHTSA-2007-28793-0001.* See Docket No. NHTSA-2007-28793.

(NTSB) recommendations and also to address several crashes that occurred since the recommendations were issued. NHTSA's plan identified as our highest priorities four specific areas where we can most effectively address open NTSB recommendations in the near-term, and also improve the safety of the buses most expeditiously. The four priority areas were: (1) Passenger ejection; (2) rollover structural integrity; (3) emergency egress; and (4) fire safety.[3]

This final rule addresses the first priority area of the NHTSA plan, to minimize intercity bus passenger and driver ejection by requiring the installation of seat belts for all occupants of: (a) New over-the-road buses;[4] and (b) new buses, other than over-the-road buses, with a GVWR greater than 11,793 kg (26,000 lb).[5] The notice of proposed rulemaking (NPRM) preceding this final rule, published on August 18, 2010 (75 FR 50958), proposed to call buses with a GVWR greater than 11,793 kg (26,000 lb) ''motorcoaches,'' and proposed to apply seat belt requirements to those vehicles.

This final rule fulfills a statutory mandate on motorcoach safety set forth in the ''Moving Ahead for Progress in the 21st Century Act'' (MAP–21), On July 6, 2012, President Obama signed MAP–21, which incorporated the ''Motorcoach Enhanced Safety Act of 2012'' (Motorcoach Enhanced Safety Act) in Subtitle G. Among other matters, the Motorcoach Enhanced Safety Act requires DOT to ''prescribe regulations requiring safety belts to be installed in motorcoaches[6] at each designated seating position'' not later than 1 year after the date of enactment of the Act. We have completed this final rule in furtherance of NHTSA's goal to enhance the safety of all heavy buses used in intercity bus transportation, while attending to the Motorcoach Enhanced Safety Act's focus on over-the-road buses.

This final rule is based on scientific data from an extensive test program completed in 2009 at NHTSA's Vehicle Research and Test Center (VRTC). The program began with a full-scale frontal 48 kilometers per hour (km/h) (30 miles per hour (mph)) barrier crash test of a 54-passenger over-the-road bus. The testing involved instrumented test dummies representing 50th percentile adult males, 5th percentile adult females, and 95th percentile adult males in belted and unbelted seating configurations. The weight of the bus as tested (including test dummies and equipment) was 19,377 kg (42,720 lb), which was less than the GVWR of the bus (~24,500 kg (54,000 lb)).[7] In the crash test, NHTSA analyzed the head accelerations (head injury criterion, (HIC)), neck injury (Nij) values, and other injury criteria measured by the test dummies, the kinematics of the dummies during the crash, and the structural integrity of the seats, floor and bus. Follow-on sled testing was also conducted to evaluate the performance of seat belt systems on motorcoach seats under a range of belted and unbelted conditions, and to evaluate seat anchorage strength testing.

Transportation by buses with a GVWR greater than 11,793 kg (26,000 lb) overall is a safe form of transportation. Data from NHTSA's Fatal Analysis Reporting System (FARS) shows that over the 10-year period between 2000 and 2009, there were 87 fatal crashes of buses covered by this final rule, resulting in 209 fatalities.[8] During this period, on average, 21 fatalities have occurred annually to occupants of these buses in crash and rollover events, with about 4 of these fatalities being drivers and 17 being passengers. However, while transportation on these buses is safe overall, given the typical high occupancy of the subject buses and the intercity operation of many of them at high speeds, when serious crashes do occur, a significant number of fatal or serious injuries can result, particularly when occupants are ejected.

A primary goal of this rulemaking is to reduce occupant ejections occurring in crashes of buses the NPRM identified as ''motorcoaches,'' i.e., buses with a GVWR greater than 11,793 kg (26,000 lb). Data from 2000–2009 FARS show that most fatal crashes of large buses involve buses with a GVWR greater than 11,793 kg (26,000 lb) and most of the fatal crashes involving these buses (55 percent) are rollover crashes. Ejections account for 66 percent of the fatalities in rollover crashes of these buses, 20 percent of the fatalities in non-rollover crashes and 45 percent of all fatalities. The risk of ejection can be reduced by seat belts, a simple and effective countermeasure. Seat belts are estimated to be 77 percent effective[9] in preventing fatal injuries in rollover crashes, primarily by preventing ejection.[10]

Another important goal is to improve passenger crash protection of the buses in crashes generally, particularly frontal crashes. Frontal crashes account for 42 percent of the fatalities involving buses with a GVWR greater than 11,793 kg (26,000 lb). Lap/shoulder[11] belts are estimated to be 29 percent effective in preventing fatal injuries in frontal crashes of the subject buses.[12] The ability of the belts to improve the passenger crash protection of heavy buses was demonstrated in our test program, which found that lap/shoulder belts prevented critical head and neck injury values from being exceeded for belted test dummies. (In contrast, unbelted test dummies and test dummies in lap-only belts measured head and neck injury values surpassing critical thresholds.) We also estimate lap/shoulder belts to be 42 percent effective in preventing side fatalities.[13]

[3] In 2009, DOT issued a Departmental Motorcoach Safety Action Plan, which is described later in this preamble. Today's final rule completes one of the principal rulemakings included in the DOT plan to enhance motorcoach safety. *http://www.fmcsa.dot.gov/documents/safety-security/MotorcoachSafetyActionPlan_finalreport-508.pdf*

[4] An over-the-road bus is a bus characterized by an elevated passenger deck located over a baggage compartment. See section 3038(a)(3) of the Transportation Equity Act for the 21st Century, cited in section 32702(6) of Subtitle G, the Motorcoach Enhanced Safety Act, of MAP–21.

[5] Certain bus types are excepted.

[6] Under the Motorcoach Enhanced Safety Act, ''motorcoach'' means an over-the-road bus, but does not include a bus used in public transportation provided by, or on behalf of, a public transportation agency, or a school bus.

[Footnote added.]

[7] GVWR means the value specified by the manufacturer as the loaded weight of a single vehicle (49 CFR 571.3). Under NHTSA's certification regulation (49 CFR Part 567), the GVWR ''shall not be less than the sum of the unloaded vehicle weight, rated cargo load, and 150 pounds times the number of the vehicle's designated seating positions. However, for school buses the minimum occupant weight allowance shall be 120 pounds per passenger and 150 pounds for the driver.''

[8] These data have been updated from the NPRM.

[9] Estimated based on Kahane, ''Fatality Reduction by Safety Belts for Front-Seat Occupants of Cars and Light Trucks,'' December 2000, Washington, DC, National Highway Traffic Safety Administration.

[10] We estimate that even at a minimum seat belt usage rate of only 6 percent, the rule will remain cost effective for the bus passengers.

[11] FMVSS No. 209, an equipment standard, currently applies to all seat belt assemblies installed in buses. FMVSS No. 209 uses the term ''Type 2 seat belt assembly'' to refer to a lap/shoulder belt system. As defined in that standard, a Type 2 seat belt assembly is ''a combination of pelvic and upper torso restraints.'' In this preamble, we use the term ''lap/shoulder'' belt system rather than ''Type 2 seat belt assembly'' for plain language purposes. Documents may occasionally refer to lap/shoulder belts as 3-point belts. Under FMVSS No. 209, a ''Type 1'' seat belt assembly is ''a lap belt for pelvic restraint.'' This preamble refers to Type 1 belts as ''lap-only belts.''

[12] This is discussed in NHTSA's Final Regulatory Impact Analysis (FRIA) that discusses issues relating to the estimated costs, benefits and other impacts of this regulatory action. The FRIA is available in the docket for this final rule and may be obtained by downloading it or by contacting Docket Management at the address or telephone number provided at the beginning of this document.)

[13] Estimated based on Morgan, ''Effectiveness of Lap/Shoulder Belts in the Back Outboard Seating Positions,'' June 1999, Washington, DC, National Highway Traffic Safety Administration. See FRIA.

Accordingly, to reduce the likelihood of occupant ejection and to improve occupant protection in all crashes, particularly frontal crashes, this final rule amends FMVSS No. 208, ''Occupant crash protection'' (49 CFR 571.208), under NHTSA's rulemaking authority set forth in the National Traffic and Motor Vehicle Safety Act (''Vehicle Safety Act'') (49 U.S.C. 30101 et seq.) and the Motorcoach Enhanced Safety Act. The standard is amended to:

- Require a lap/shoulder belt at all designated seating positions on all over-the-road buses,[14] including over-the-road buses used in public transportation,[15] but excluding school buses.
- For buses other than over-the-road buses, this final rule requires a lap/shoulder belt at all passenger seating positions on new buses with a GVWR greater than 11,793 kg (26,000 lb), except for certain excluded bus types.[16] (For buses other than over-the-road buses, we permit side-facing seats to be equipped with a lap belt, for reasons discussed later in this document.)
- Require a lap/shoulder belt at the driver's seating position on subject buses.[17]
- Require the lap/shoulder belt system for passenger seats to meet provisions for seat belt adjustment and fit, so that the seat belts can accommodate children as well as large (95th-percentile) adult males, be lockable for use with a child restraint system, and be releasable at a single point and by a pushbutton action.
- Require the seat belt anchorages, both torso and lap, on passenger seats to be integrated into the seat structure, so as not to impede emergency egress.

The ''performance requirement'' for the lap/shoulder seat belts is the FMVSS No. 210 strength requirement, measured in a static ''pull'' test. The seat belt assembly anchorages must meet the following FMVSS No. 210 requirement:

- Withstand a force of 13,345 Newtons (N) (3,000 lb) applied to the lap portion and a force of 13,345 N (3,000 lb) applied simultaneously to the torso portion of the seat belt assembly.

This final rule does not adopt a ''motorcoach'' definition. Comments responding to the NPRM expressed some confusion and disagreement over attaching the name of ''motorcoach'' to buses that may not have been widely thought of as motorcoaches in the past. In addition, the Motorcoach Enhanced Safety Act uses the term ''motorcoach'' differently than the NPRM. After considering these factors, we have determined that it is unnecessary to define the term ''motorcoach'' to accomplish the objective of this rulemaking. To avoid potential confusion over use of the term, and since the term is unnecessary, we have decided not to use the term ''motorcoach'' to describe the applicability of the lap/shoulder seat belt requirements. Instead, we have decided to simply amend FMVSS No. 208 such that the provisions of FMVSS Nos. 208 and 210 relevant to lap/shoulder belt and anchorages, respectively, are applied to (a) all over-the-road buses, and to (b) non-over-the-road buses with a GVWR greater than 11,793 kg (26,000 lb), excepting the few bus types.

We estimate that installing lap/shoulder seat belts on new subject buses will save approximately 1.7 to 9.2 lives and prevent 146 to 858 injuries per year (3.46–25.17 equivalent lives), depending on the usage of lap/shoulder belts in the buses (see Table 1 below).[18] The cost of installing lap/shoulder belts on new buses is estimated as follows (see Table 2 below). The incremental cost of adding a shoulder belt to the already required lap belt for drivers is estimated to be $18.86. With about 60 percent of the driver seating positions already equipped with lap/shoulder belts, the average bus cost will increase by $7.54. For the driver position, the total cost to the fleet of adding a shoulder belt to the driver seat for 40 percent of covered buses will add an additional $16,597 ($18.86 × 2,200 × .4).

The incremental cost of adding lap/shoulder belts and to change the seat anchorages for a two passenger seat is $78.14 or $39.07 per seating position. On a 54-passenger bus the cost for the passenger seats is $2,110 ($39.07 × 54). The total cost of adding lap/shoulder belts to all new 54-passenger buses is about $4.4 million ($2,110 × 2,100). The cutaway buses have seats for an average of 45 passengers. The incremental cost of adding lap/shoulder belts on a 45-passenger cutaway bus with two passengers per seat is $1,758 ($39.07 × 45). The total cost of adding passenger lap/shoulder belts to all new cutaway covered buses is about $0.2 million ($1,758.15 × 100). Thus, the total cost for all covered bus passenger positions is about $4.6 million. The total cost of adding lap/shoulder belts for passengers and shoulder belts to 40 percent of the driver's seats is $4.6 million ($4,606,353 + $25,238).

The agency has also estimated increased costs in fuel usage. The increased fuel costs depend on added weight (estimated to be 161 lb[19]) and the discount rate used. NHTSA estimates the increased costs in fuel usage for added weight and discounts the additional fuel used over the lifetime of the bus using a 3 percent and 7 percent discount rate. See the FRIA for more details.

The cost per equivalent life saved is estimated to be $0.3 million to $1.8 million (see Table 3 below). Annualized costs and benefits are provided in Table 4.

TABLE 1—ESTIMATED BENEFITS

Fatalities	1.7 to 9.2.
AIS 1 injuries (Minor)	89 to 536.
AIS 2–5 (Moderate to Severe)	57 to 322.
Total Non-fatal Injuries	146 to 858.

[14] There is no lower GVWR bound on the definition of over-the-road bus used in the Motorcoach Enhanced Safety Act and none adopted by this final rule for such buses. Nonetheless, as a practical matter, NHTSA is not aware of any bus meeting the over-the-road bus definition with a GVWR of less than 4,536 kg (10,000 lb).

[15] We are mindful that the Motorcoach Enhanced Safety Act excludes a bus used in public transportation provided by, or on behalf of, a public transportation agency from the meaning of ''motorcoach.'' However, as discussed in the NPRM and in this final rule, we are applying the final rule to over-the-road buses used for public transportation based on determinations we have made pursuant to NHTSA's Vehicle Safety Act authority, 49 U.S.C. 30111, which has existed and continues to exist prior to and separate from the Motorcoach Enhanced Safety Act provisions.

[16] The exceptions are transit buses, school buses, ''prison buses'' (buses manufactured for the purpose of transporting persons subject to involuntary restraint or confinement), and ''perimeter-seating buses'' (which the NPRM had referred to as buses with fewer than two rows of forward-facing seats. As explained in a later section of this preamble, we have decided it would be simpler to define a perimeter-seating bus by reference to the number of forward-facing seats it has than the number of rows it has. Note that, as a result of the Motorcoach Enhanced Safety Act, only buses other than over-the-road buses (which we sometimes refer to as ''non-over-the-road buses'') can be included in this excepted category of a perimeter-seating bus.

[17] The buses are all over-the-road buses, and non-over-the road buses with a GVWR greater than 11,793 kg (26,000 lb), except transit buses and perimeter-seating buses. This final rule also requires a lap/shoulder belt at the driver's seating position on school buses with a GVWR greater than 4,536 kg (10,000 lb).

[18] See FRIA for this final rule. The FRIA assumes that the seat belt use rate on buses regulated by today's rule will be between 15 percent and the percent use in passenger vehicles, which was 83 percent in 2008. These annual benefits accrue when all subject buses in the fleet have lap/shoulder belts.

[19] See FRIA for this final rule. This estimate is based on results from a NHTSA contractor conducting cost/weight teardown studies of motorcoach seats. The weight added by lap/shoulder belts was 5.96 per 2-person seat. This is the weight only of the seat belt assembly itself and does not include changing the design of the seat, reinforcing the floor, walls or other areas of the motorcoach.

TABLE 2—ESTIMATED COSTS

[2008 Economics]

	Per average vehicle	Total fleet ($millions)
Bus Driver	$7.54	$0.02
Bus Passenger	2,094	4.6
Fuel Costs @3%	1,077	2.4
Fuel Costs @7%	794	1.7
New Vehicle and Fuel Costs		
@3%	3,178	7.0
@7%	2,895	6.4

TABLE 3—COST PER EQUIVALENT LIFE SAVED

Cost per equivalent life saved	
50% Belt use for drivers and 15% Belt usage for passengers	$1.5 to $1.8 mill.
83% Belt usage for drivers and passengers	$0.3 to $0.43 mill.
Breakeven Point in passenger belt usage	4 to 5%.

TABLE 4—ANNUALIZED COSTS AND BENEFITS

[In millions of $2008 Dollars]

	Annualized costs	Annualized benefits	Net benefits
3% Discount Rate	$7.0	$28.5—158.6	$21.5 to 151.6.
7% Discount Rate	$6.4	$21.8—121.1	$15.4 to 114.7.

We have assessed the feasibility, benefits, and costs with respect to the application of the seat belt requirements to buses manufactured before the date on which this final rule applies to new vehicles. Based on that assessment, we have decided not to require retrofitting of used buses with seat belts. To learn more about retrofitting, the NPRM requested comment on issues concerning the structural viability of used buses to accommodate seat belts and the crash forces from belted passengers, the reinforcement needed to the bus structure to accommodate the loads, and the cost of retrofitting. Our hypothesis at the time of the NPRM was that the cost of and engineering expertise needed for a retrofitting operation would be beyond the means of bus owners (for-hire operators), many of which are small businesses.[20] The comments on the retrofit issue supported a finding that the impacts would be unreasonable. After considering the low likelihood that a retrofit requirement would be technically practicable at a reasonable cost, the cost impacts on small businesses, and the low benefits that would accrue from a retrofit requirement we have decided not to pursue a retrofit requirement for seat belts. (See FRIA discussion of cost/benefit of retrofit).

II. NHTSA's Statutory Authority

a. National Traffic and Motor Vehicle Safety Act

This final rule is issued under the National Traffic and Motor Vehicle Safety Act (''Vehicle Safety Act'') (49 U.S.C. 30101 *et seq.*). Under the Vehicle Safety Act, the Secretary of Transportation is responsible for prescribing motor vehicle safety standards that are practicable, meet the need for motor vehicle safety, and are stated in objective terms.[21] ''Motor vehicle safety'' is defined in the Vehicle Safety Act as ''the performance of a motor vehicle or motor vehicle equipment in a way that protects the public against unreasonable risk of accidents occurring because of the design, construction, or performance of a motor vehicle, and against unreasonable risk of death or injury in an accident, and includes nonoperational safety of a motor vehicle.''[22] ''Motor vehicle safety standard'' means a minimum performance standard for motor vehicles or motor vehicle equipment.[23] When prescribing such standards, the Secretary must consider all relevant, available motor vehicle safety information, and consider whether a standard is reasonable, practicable, and appropriate for the types of motor vehicles or motor vehicle equipment for which it is prescribed.[24] The Secretary must also consider the extent to which the standard will further the statutory purpose of reducing traffic accidents and associated deaths and injuries.[25] The responsibility for promulgation of

[20] The agency estimated in the NPRM that the service life of a motorcoach can be 20 years or longer. We estimated that the cost of retrofitting can vary substantially. To retrofit a vehicle with lap belts, we estimated it could cost between $6,000 (assuming that the motorcoach structure is lap belt-ready, and can accommodate the loads set forth in the NPRM) to $34,000 per vehicle to retrofit the vehicle with the lap belts and with sufficient structure to meet the NPRM's requirements. To retrofit it with lap/shoulder belts and reinforced structure so as to meet FMVSS No. 210 to support the loads during a crash, we estimated it could cost $40,000 per vehicle. The existing fleet size was estimated to be 29,325 motorcoaches. Hence, the fleet cost of retrofitting lap belts was estimated to range from $175,950,000 ($6,000 × 29,325) to $997,050,000 ($34,000 × 29,325), while the fleet cost of retrofitting lap/shoulder belts was estimated to be $1,173,000,000 ($40,000 × 29,325). These costs did not include increased remaining lifetime fuel costs incurred by adding structural weight to the motorcoach. Later in the analysis we examine a range of costs and include the lifetime fuel costs for the weight of the belts themselves. Weight would vary depending upon the needed structural changes, and lifetime fuel cost would vary depending upon the age of motorcoaches that would be retrofitted.

[21] 49 U.S.C. 30111(a).

[22] 49 U.S.C. 30102(a)(8).

[23] 49 U.S.C. 30102(a)(9).

[24] 49 U.S.C. 30111(b).

[25] Id.

Federal motor vehicle safety standards is delegated to NHTSA. (49 CFR 1.95)[26]

b. Motorcoach Enhanced Safety Act of 2012

On July 6, 2012, President Obama signed MAP–21, which incorporated in Subtitle G the ''Motorcoach Enhanced Safety Act of 2012,'' P.L. 112–141 (July 6, 2012). Section 32703(a) of the Act states that, not later than 1 year after the date of enactment of the Act, the Secretary shall prescribe regulations requiring safety belts to be installed in motorcoaches at each designated seating position. The Motorcoach Enhanced Safety Act also directs the Secretary to consider various motorcoach rulemakings, in provided timeframes, relating to improved roof support standards, advanced glazing standards and other portal improvements to prevent partial and complete ejection of motorcoach passengers, rollover stability enhancing technology, tire pressure monitoring systems, and tire performance standards. The Act also includes provisions on fire research, interior impact protection, enhanced seating designs, and collision avoidance systems, and the consideration of rulemaking based on such research. There also are provisions in the Motorcoach Enhanced Safety Act relating to improved oversight of motorcoach service providers, including enhancements to driver licensing and training programs and motorcoach inspection programs.

In Section 32702, ''Definitions,'' of the Motorcoach Enhanced Safety Act, the Act states at Section 32702(6) that ''the term 'motorcoach' has the meaning given the term 'over-the-road bus' in section 3038(a)(3) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note), but does not include a bus used in public transportation provided by, or on behalf of, a public transportation agency; or a school bus, including a multifunction school activity bus.'' Section 3038(a)(3) (49 U.S.C. 5310 note) states: ''The term 'over-the-road bus' means a bus characterized by an elevated passenger deck located over a baggage compartment.''

Section 32702(2) of the Act states: ''The term 'bus' has the meaning given the term in section 571.3(b) of title 49, Code of Federal Regulations (as in effect on the day before the date of enactment of this Act).'' 49 CFR 571.3(b) is a NHTSA regulation that defines ''bus'' as: ''a motor vehicle with motive power, except a trailer, designed for carrying more than 10 persons.''

Section 32702(12) of the Motorcoach Enhanced Safety Act states: ''The term 'safety belt' has the meaning given the term in section 153(i)(4)(B) of title 23, United States Code.'' Section 153(i)(4)(B) of Title 23 defines ''safety belt'' as ''an occupant restraint system consisting of integrated lap shoulder belts.''

Under section 32703(e)(1) of the Act, any regulation prescribed in accordance with section 32703(a) (and several other subsections) shall apply to all motorcoaches manufactured more than 3 years after the date on which the regulation is published as a final rule, take into account the impact to seating capacity of changes to size and weight of motorcoaches and the ability to comply with State and Federal size and weight requirements, and be based on the best available science.

Section 32703(e)(2), ''Retrofit Assessment For Existing Motorcoaches,'' states: ''The Secretary may assess the feasibility, benefits, and costs with respect to the application of any requirement established under subsection (a) or (b)(2) to motorcoaches manufactured before the date on which the requirement applies to new motorcoaches under paragraph (1).'' The requirements of today's final rule were established under subsection (a).

Section 32706, ''Concurrence of Research and Rulemaking,'' states in paragraph (a) that, to the extent feasible, the Secretary shall ensure that research programs are carried out concurrently, and in a manner that concurrently assesses results, potential countermeasures, costs, and benefits. Paragraph (b), ''Authority to Combine Rulemakings,'' states: ''When considering each of the rulemaking provisions, the Secretary may initiate a single rulemaking proceeding encompassing all aspects or may combine the rulemakings as the Secretary deems appropriate.'' Paragraph (c), ''Considerations,'' states: If the Secretary undertakes separate rulemaking proceedings, the Secretary shall (1) consider whether each added aspect of rulemaking may contribute to addressing the safety need determined to require rulemaking; (2) consider the benefits obtained through the safety belts rulemaking in section 32703(a); and (3) avoid duplicative benefits, costs, and countermeasures.

Section 32711 of the Act states: Any standard or regulation prescribed or modified pursuant to the Motorcoach Enhanced Safety Act of 2012 shall be prescribed or modified in accordance with section 553 of title 5, United States Code.

c. Agency Views

At the time of the enactment of the Motorcoach Enhanced Safety Act, the agency's August 18, 2010 NPRM to require lap/shoulder belts in new buses with a GVWR greater than 11,793 kg (26,000 lb) had been published and work was close to completion in DOT on the final rule. Congress was aware of our progress on the agency's 2007 NHTSA's Approach to Motorcoach Safety Plan and the achievements of the Department's Motorcoach Safety Plan when it passed the statute. Given that the Motorcoach Enhanced Safety Act provides a very short timeframe (1 year) for issuance of a final rule, we believe that Congress intended that a final rule based on the 2010 NPRM would complete the rulemaking proceeding specified in section 32703(a) of the Act. This final rule fulfills the rulemaking mandate of section 32703(a).

We interpret the Motorcoach Enhanced Safety Act as providing us discretion in most areas, while limiting it in some. This regulation was initiated by NHTSA prior to enactment of Act and we are required by the statute to complete it in 1 year, and to complete it in such a way as to prescribe ''safety belts'' (lap/shoulder belts) at ''each designated seating position'' in the buses the statute calls ''motorcoaches'' (over-the-road buses except for buses used in public transportation provided by, or on behalf of, a public transportation agency, or school buses). This final rule achieves the Congressional goal that focuses on over-the-road buses[27] and requires all designated seating positions on the over-the-road buses to have lap/shoulder belts regardless of the seating configuration of the bus or the vehicle GVWR. To the extent discretion in our decision-making on a particular issue for over-the-road buses is limited by the Act, we have identified those circumstances in this preamble.

Yet, this regulation was initiated by NHTSA under the authority of the National Traffic and Motor Vehicle Safety Act (49 U.S.C. 30101 *et seq.*), prior to enactment of the Motorcoach

[26] The Secretary also delegated to NHTSA the authority set out for Section 101(f) of Public Law 106–159 to carry out, in coordination with the Federal Motor Carrier Safety Administrator, the authority vested in the Secretary by subchapter 311 and section 31502 of title 49, U.S.C., to promulgate safety standards for commercial motor vehicles and equipment subsequent to initial manufacture when the standards are based upon and similar to a Federal Motor Vehicle Safety Standard promulgated, either simultaneously or previously, under chapter 301 of title 49, U.S.C.

[27] An over-the-road bus is a bus characterized by an elevated passenger deck over a baggage compartment.

Enhanced Safety Act, and Congress was aware of the NPRM when it enacted the 2012 statute. NHTSA issued the NPRM under rulemaking authority that has existed and continues to exist prior to and separate from the 2012 Act. There is no provision in the Motorcoach Enhanced Safety Act limiting NHTSA's rulemaking authority under the Vehicle Safety Act to require belts on buses, other than specific mandate for ''over-the-road buses,'' which the statute defines. Thus, we believe that the Motorcoach Enhanced Safety Act calls for a regulation for ''over-the-road buses'' without limiting our authority under the Vehicle Safety Act to apply the regulation to other buses as NHTSA finds appropriate under the Vehicle Safety Act, including over-the-road buses used in public transportation, and buses other than over-the-road buses (e.g., body-on-frame buses) with a GVWR greater than 11,793 kg (26,000 lb).

Accordingly, this final rule requires lap/shoulder belts on buses other than those called ''motorcoaches'' in the Motorcoach Enhanced Safety Act. We also believe that NHTSA has wider decision-making discretion regarding those ''other buses,'' and is able to exclude a particular type of non-over-the-road bus from a requirement of the final rule if the agency finds good reason to do so. For example, for sound, practical reasons, including the safety of prison guards, this regulation does not require designated seating positions for prisoners on ''prison buses'' to have seat belts.

NHTSA is authorized under the Vehicle Safety Act to issue motor vehicle safety standards that ''shall be practicable, meet the need for motor vehicle safety, and be stated in objective terms'' (49 U.S.C. 30111(a)). When prescribing a motor vehicle safety standard, NHTSA considers, *inter alia,* relevant available motor vehicle safety information, whether a standard is reasonable, practicable, and appropriate for the particular type of motor vehicle or motor vehicle equipment for which it is prescribed, and the extent to which the standard will carry out the purpose and policy of the Act, i.e., reduce traffic accidents and deaths and injuries resulting from traffic accidents (49 U.S.C. 30111(b)). In exercising this authority, we have responded to the comments on the NPRM and assessed other information relevant to this rulemaking in a manner that ensures that the final rule meets the criteria of the Vehicle Safety Act, the Administrative Procedure Act, other relevant statutes and orders, and the particular statutory instructions of the Motorcoach Enhanced Safety Act.

As to the latter, among the matters we have taken into account are the impact on seating capacity and the impact on the size and weight of motorcoaches. We have considered the best available science. We have weighed the cumulative effect of our rulemakings and whether rulemaking could be combined. We have analyzed retrofit requirements. In sum, we have issued this final rule after careful deliberation of the factors emphasized for consideration in the Motorcoach Enhanced Safety Act, which we note are also factors NHTSA investigates carefully and as a matter of course when the agency conducts rulemaking under the National Traffic and Motor Vehicle Safety Act.

III. Background

a. The Agency's 2007 ''NHTSA's Approach to Motorcoach Safety'' Plan

In 2007, NHTSA undertook a comprehensive review of motorcoach (intercity bus) safety issues and the course of action that the agency could pursue to address them. The agency considered various prevention, mitigation, and evacuation approaches in developing the course of action. Many considerations were factored into determining the priorities, including: Cost and duration of testing, development, and analysis required; likelihood that the effort would lead to the desired and successful conclusion; target population and possible benefits that might be realized; and anticipated cost of implementing the ensuing requirements into the bus fleet.

The result was NHTSA's 2007 ''*NHTSA's Approach to Motorcoach Safety*'' plan (Docket No. NHTSA–2007–28793–001), in which we identified the following areas as the highest priorities for possible near term regulatory action to enhance the safety of the vehicles: (1) Passenger ejection; (2) rollover structural integrity; (3) emergency egress; and (4) fire safety. For passenger ejection (action (1)), we pursued the incorporation of passenger seat belts as the most effective and expeditious way to mitigate ejection.

Today's final rule completes the agency's initiative in achieving the first goal of the plan.[28]

b. DOT's 2009 Task Force Action Plan

In 2009, DOT issued a Departmental Motorcoach Safety Action Plan, which outlined a Department-wide strategy to enhance motorcoach safety.[29] In addition to the four priority action items specified in NHTSA's 2007 ''NHTSA's Approach to Motorcoach Safety'' plan, the DOT plan identified other strategies the Department will pursue to enhance motorcoach safety, such as pursuing electronic stability control (ESC) systems, event data recorders (EDR), and programs addressing driver fatigue and operator maintenance. On May 23, 2012, NHTSA issued an NPRM to establish a new Federal motor vehicle safety standard on ESC, to reduce rollover and loss of directional control crashes of truck tractors and large buses, including motorcoaches (77 FR 30766, Docket number NHTSA–2012–0065). Work is underway in NHTSA and the other DOT agencies on other motorcoach safety initiatives discussed in the plan.

c. NTSB Recommendations

The following NTSB recommendations relate to this final rule.

- H–90–75: Revise Federal Motor Vehicle Safety Standard 208, Occupant Crash Protection, to include a requirement that lap shoulder belt systems for the driver position be installed in all newly manufactured buses, including city, intercity, small, and large. (Class II, Priority Action).
- H–99–47 (''Most Wanted''): In 2 years, develop performance standards for motorcoach occupant protection systems that account for frontal impact collisions, side impact collisions, rear impact collisions, and rollovers.
- H–99–48: Once pertinent standards have been developed for motorcoach occupant protection systems, require newly manufactured motorcoaches to have an occupant crash protection system that meets the newly developed performance standards and retains passengers, including those in child safety restraint systems, within the seating compartment throughout the accident sequence for all accident scenarios.
- H–05–01: Develop performance standards for passenger seat anchorages in motorcoaches.
- H–10–002: To maintain consistency in bus body classifications and to clarify the scope of bus safety initiatives, develop regulatory definitions and classifications for each of the different bus body types that would apply to all U.S. Department of Transportation agencies and promote use of the

[28] NHTSA is completing work on a proposal with regard to action (2) on improving rollover structural integrity.

[29] *http://www.fmcsa.dot.gov/documents/safety-security/MotorcoachSafetyActionPlan_finalreport-508.pdf.* In the DOT plan, ''motorcoach'' is generally used to describe over-the-road buses (buses characterized by an elevated passenger deck over a baggage compartment).

definitions among the bus industry and state governments.

- H–10–003: In NHTSA's rulemaking to improve motorcoach occupant protection, include all buses with a GVWR greater than 10,000 lb, other than school buses.

H–90–75, H–99–47, H–99–48, H–05–01, H–10–002, and H–10–003

It should be noted that, at the time NTSB recommendations H–90–75, H–99–47, H–99–48, and H–05–01 were issued, there were no crash test data or countermeasure studies available. Today, the testing we conducted as part of the ''NHTSA's Approach to Motorcoach Safety'' plan provides extensive data upon which the agency has assessed the practicability of installing lap/shoulder belt systems on the affected buses and the potential effectiveness of the belts at passenger seating positions.[30]

H–90–75 recommended that we amend FMVSS No. 208 to require that lap/shoulder belt systems for the driver position be installed in all newly manufactured buses. This final rule adopts a lap/shoulder belt requirement for the driver's position of large school buses, all over-the-road buses, and non-over-the-road buses with a GVWR greater than 11,793 kg (26,000 lb) with certain exceptions.[31]

H–99–47 and H–99–48 requested us to develop performance standards for motorcoach occupant protection systems that account for frontal impact collisions, side impact collisions, rear impact collisions, and rollovers, and apply those standards to new motorcoaches. Today's final rule requires lap/shoulder belts at each passenger seating position in the affected buses, which includes all over-the-road buses. In the NHTSA test program conducted as part of our ''Approach to Motorcoach Safety'' plan, lap/shoulder belts on forward-facing seats were found to prevent elevated head and neck injury values and provided enhanced occupant protection compared to lap belts.

Addressing H–99–48, this final rule requires the lap/shoulder belts on passenger seating positions to meet FMVSS No. 208's ''lockability'' requirement (S7.1.1.5, 49 CFR 571.208). The requirement is for the lap belt to be lockable so as to secure child restraint systems tightly, without the need to attach a clip or any other device to the vehicle's seat belt webbing.

This final rule addresses H–05–01, which recommended that NHTSA develop performance standards for passenger seat anchorages in motorcoaches. This final rule requires that the lap/shoulder seat belt anchorages on the affected buses meet the anchorage strength requirements for lap/shoulder belts in FMVSS No. 210. Those existing strength requirements specify that each lap/shoulder belt be tested with a load of 13,345 N (3,000 lb) applied simultaneously to the lap and shoulder belt, for a total load of 26,690 N (6,000 lb). This requirement is based on test data from our research program, discussed in ''NHTSA's Approach to Motorcoach Safety'' plan, showing the 13,345 N (3,000 lb) strength requirement is needed to address loads that can occur in serious frontal crashes.

In issuing today's final rule, NHTSA carefully considered H–10–002, which asked NHTSA to develop regulatory definitions and classifications for each of the different bus body types that would apply to all DOT agencies. This issue is discussed in a later section of this preamble on the proposed ''motorcoach'' definition.

We also carefully considered H–10–003, which asked NHTSA to include buses with a GVWR of 4,536 kg (10,000 lb) or more in rulemaking to improve motorcoach occupant protection. NTSB and others raised this issue in comments on the NPRM, and our response on this issue is provided in the definition section of this preamble.

d. Congressional Mandate

On July 6, 2012, President Obama signed the ''Moving Ahead for Progress in the 21st Century Act'' (MAP–21),'' which incorporated in Subtitle G the ''Motorcoach Enhanced Safety Act of 2012.'' Section II of this preamble, above, summarizes the provisions of the Act relevant to this final rule.

IV. Safety Need

a. Introduction

Each year, the commercial bus industry transports millions of people between and in cities, for long and short distance tours, school field trips, commuter, and entertainment-related trips. According to the American Bus Association (ABA), there were approximately 3,400 motorcoach[32] carriers in the United States and Canada in 2007.[33] These motorcoach carriers operated over 33,000 motorcoaches, they logged nearly 750 million passenger trips, and they traveled over 1.8 billion miles yearly. Approximately 3,100 of the carriers were chartered U.S. carriers that operated about 29,000 motorcoaches.

According to the ABA report, the services provided by these commercial buses in 2007 included charter services (pre-formed group (organization, association, tour company, shuttle service, church, school, etc.) that hires a motorcoach for exclusive use under a fixed contract) (46.4 percent of the miles driven), scheduled service (specified, ticketed, predetermined regular-route service between cities or terminals) (26.5 percent of the miles driven), commuter service (transporting people between home and work) (10.3 percent of the miles driven), tour/sightseeing service (planned trip at fixed price for leisure and/or sightseeing) (8.2 percent of the miles driven), special operations (published, regular-route service to special events, or service for employees to work sites) (3.5 percent of the miles driven), and airport shuttle services (private motorcoaches used to enhance public transportation system service to and from the airport) (3.4 percent of the miles driven). In 2007, each motorcoach was driven an average of 56,000 miles. The majority of the motorcoach trips (65 percent) were made by children and senior citizens.

Although commercial bus transportation overall is a safe form of transportation in the U.S., a number of crashes in recent years have illustrated that fatal crashes of high-capacity buses, while a relatively rare event, can cause a significant number of fatal or serious injuries in a single event. Pursuant to the requirements of the Vehicle Safety Act, NHTSA developed its ''Approach to Motorcoach Safety'' plan and commenced the associated safety rulemakings to explore whether there are unreasonable safety risks associated with these buses, and if there are, whether the risks can be reduced in a reasonable manner by the issuance of crashworthiness and crash avoidance safety standards.

We started by analyzing fatal accident crash data from 2000–2009 to assess whether there are unreasonable safety risks associated with high-occupancy bus transportation. We analyzed data for buses with a GVWR greater than 4,536 kg (10,000 lb). The 2000–2009 FARS

[30] NHTSA's research program evaluating the performance of seat belt systems on motorcoach passenger seats is discussed in detail in the NPRM, Section V. See 75 FR at 50967. See also the FRIA for this final rule.

[31] Exceptions are transit buses and perimeter-seating buses.

[32] As used in the report, ''motorcoach'' refers to an over-the-road bus. When we discuss this report, we use the term motorcoach to mean an over-the-road bus.

[33] ''Motorcoach Census 2008, A Benchmarking Study of the Size and Activity of the Motorcoach Industry in the United States and Canada in 2007.'' Paul Bourquin, Economist and Industry Analyst, December 18, 2008.

data revealed that 83 percent of the fatalities in the buses were in buses with a GVWR greater than 11,793 kg (26,000 lb). We focused our rulemaking on those buses, effectively using agency resources.

FARS data show that over half of the fatalities in buses with a GVWR greater than 11,793 kg (26,000 lb) were attributable to rollovers, and that the vast majority of fatalities in rollovers were due to ejections.

NHTSA's research on passenger vehicle and motorcoach rollovers has shown that there exists a proven countermeasure (a lap/shoulder seat belt) that is readily available, practicable, and cost effective, that successfully mitigates the risk of ejection in rollovers. We have also found that nearly half of the fatalities in the covered vehicles were in non-rollover crashes, and that more than half of the fatalities in the 2000–2009 FARS files were not ejected. The potential benefit of lap/shoulder seat belts in reducing those non-ejection fatalities is also remarkable.

This final rule addresses the present occupant fatality risk in over-the-road buses and in other buses with a GVWR greater than 11,793 kg (26,000 lb), given the occurrence of fatality and serious injury in rollover and frontal crashes, and the proven protection afforded by lap/shoulder seat belts. Various commenters have urged us also to require lap/shoulder seat belts on all buses with a GVWR between 4,536 kg and 11,793 kg (10,000 lb and 26,000 lb). Although we decline to do so in today's rulemaking, we can continue our evaluation of whether belts should be required for all buses with a GVWR less than 11,793 kg (26,000 lb) after this final rule.

b. FARS Data

To identify the vehicles to which this rulemaking should apply, the agency examined FARS data files to understand characteristics and trends associated with bus fatal crashes.[34] FARS contains data on a census of fatal traffic crashes within the 50 States, the District of Columbia, and Puerto Rico. To be included in FARS, a crash must involve a motor vehicle traveling on a traffic way customarily open to the public, and must result in the death of an occupant of a vehicle or a non-occupant within 30 days of the crash.

In developing this rulemaking, we analyzed 10 years of FARS data for all high-occupancy buses, i.e., buses with a GVWR greater than 4,536 kg (10,000 lb). We analyzed these FARS data to understand the involvement of these buses in fatal crashes, and to develop a focused strategy for improving the crashworthiness and crash-avoidance attributes of such buses involved in fatal crashes. We did not include data for transit and school buses in this analysis, as these vehicles are not used as motorcoaches or coded as such in FARS, and were not the vehicles targeted by the NHTSA and DOT safety plans, or by the Motorcoach Enhanced Safety Act of 2012, as the subjects of this rulemaking initiative.

The FARS data analysis for fatalities of occupants in buses with a GVWR greater than 4,536 kg (10,000 lb) showed that 83 percent of the occupant fatalities were in buses with a GVWR greater than 11,793 kg (26,000 lb). That is, in these 10 years of data, one noteworthy attribute of the high-occupancy vehicles involved in fatal crashes was that in an overwhelming majority of cases, the GVWR of the vehicles was more than 11,793 kg (26,000 lb). Thus, based on these data, NHTSA determined that the vehicles of significance for this immediate rulemaking were buses with a GVWR greater than 11,793 kg (26,000 lb).[35] The FARS data indicated that these buses have a substantially higher involvement in fatal crashes involving passenger fatalities than buses with a GVWR of 4,536 kg to 11,793 kg (10,000 lb to 26,000 lb). The buses with a GVWR greater than 11,793 kg (26,000 lb) also had more involvement in rollover crashes resulting in occupant ejection than buses with a lighter GVWR.

c. Updated FARS Data

For the NPRM, the agency assumed that the vehicles of significance were coded in FARS as ''cross-country/intercity buses'' in the body type variable.[36] ''Cross-country/intercity buses'' is defined in FARS as buses designed to travel long distances between cities (e.g. Greyhound) and is represented by the over-the-road bus characterized by an elevated passenger deck located over a baggage compartment.

After the NPRM was published, we became aware that we had missed some FARS data that had been filed in the ''other buses'' and ''unknown buses'' FARS body type categories by crash investigators. To address this, when we updated the FARS data for this final rule to include the 2009 FARS data, we also examined 2000–2009 FARS data for ''other buses'' and ''unknown buses'' FARS bus body types. We expanded our analysis to make sure that we identified and examined FARS data for all high-occupancy bus crashes (GVWR greater than 4,536 kg (10,000 lb)).[37] We considered data from all three bus body type categories to assess the fatal crash involvement of buses with a GVWR greater than 4,536 kg (10,000 lb).

The findings of the reanalyzed 2000–2009 FARS data of all buses with a GVWR greater than 4,536 kg (10,000 lb) still showed the merits of focusing this particular rulemaking on buses with a GVWR greater than 11,793 kg (26,000 lb). These buses have a substantially higher involvement in fatal crashes involving passenger fatalities than buses with a GVWR of 4,536 kg to 11,793 kg (10,000 lb to 26,000 lb). Over the 10-year period (2000–2009), there were a total of 42 (7 drivers, 35 passengers) fatalities in cross-country/intercity buses, other buses, and unknown buses with a GVWR of 4,536 kg to 11,793 kg (10,000 lb to 26,000 lb). In contrast, among the cross-country/intercity buses, other buses, and unknown buses categories with a GVWR greater than 11,793 kg (26,000 lb), there were a total of 209 (41 drivers, 168 passengers) occupant fatalities[38] in crashes during the 10-year period (2000–2009). This number includes 134 occupant fatalities in cross-country/intercity buses, 47 in other buses, and 28 in unknown buses (see Table 5 and Figure 1 below).

[34] Previous discussion of the FARS data is set forth in the 2010 seat belt NPRM and in the DOT 2009 Motorcoach Action Plan, *http://www.nhtsa.gov/staticfiles/DOT/NHTSA/reports/HS811177.pdf*. In the DOT 2009 Motorcoach Action Plan, ''motorcoach'' referred to over-the-road buses only.

[35] In the NPRM, NHTSA described the GVWR criterion as 11,793 kg (26,000 lb) or greater, which was not consistent with FMCSA's criterion describing the affected class of commercial vehicles (GVWR greater than 11,793 kg (26,000 lb)). This final rule uses the FMCSA criterion (GVWR greater than 11,793 kg (26,000 lb) in describing the affected vehicles.

[36] The FARS database has five bus body type categories: (1) cross-country/intercity bus, (2) transit bus, (3) school bus, (4) other bus, and (5) unknown bus.

[37] By considering the data for buses categorized as cross-country/intercity buses, other buses, and unknown buses as relevant data, we are analyzing FARS data for all buses in FARS except data for transit buses and school buses. It is reasonable to exclude transit bus and school bus body types because those bus types are easily recognized and categorized as such by crash investigators and those coding the FARS data. By considering all data for the cross-country/intercity bus, other bus and unknown bus categories, today's final rule analyzes all available FARS data relevant to ''motorcoach'' and other bus fatal crashes.

[38] There were 232 occupant fatalities in the affected buses in this 10-year period but 23 fatalities occurred due to a fire (Wilmer, Texas motorcoach fire) and were not related to a crash event. To accurately assess the fatality, NHTSA did not include the 23 Wilmer, Texas fatalities since those were not crash-related.

TABLE 5—NUMBER OF BUS OCCUPANT FATALITIES IN CRASHES BY BUS BODY TYPE, GVWR, AND OCCUPANT TYPE. FARS 2000–2009 DATA FILES

GVWR (lb)	Bus body type							
	Cross-country		Other		Unknown		Total	
	Driver	Pass	Driver	Pass	Driver	Pass	Driver	Pass
10,000–26,000	0	2	5	26	2	7	7	35
>26,000	22	112	11	36	8	20	41	168

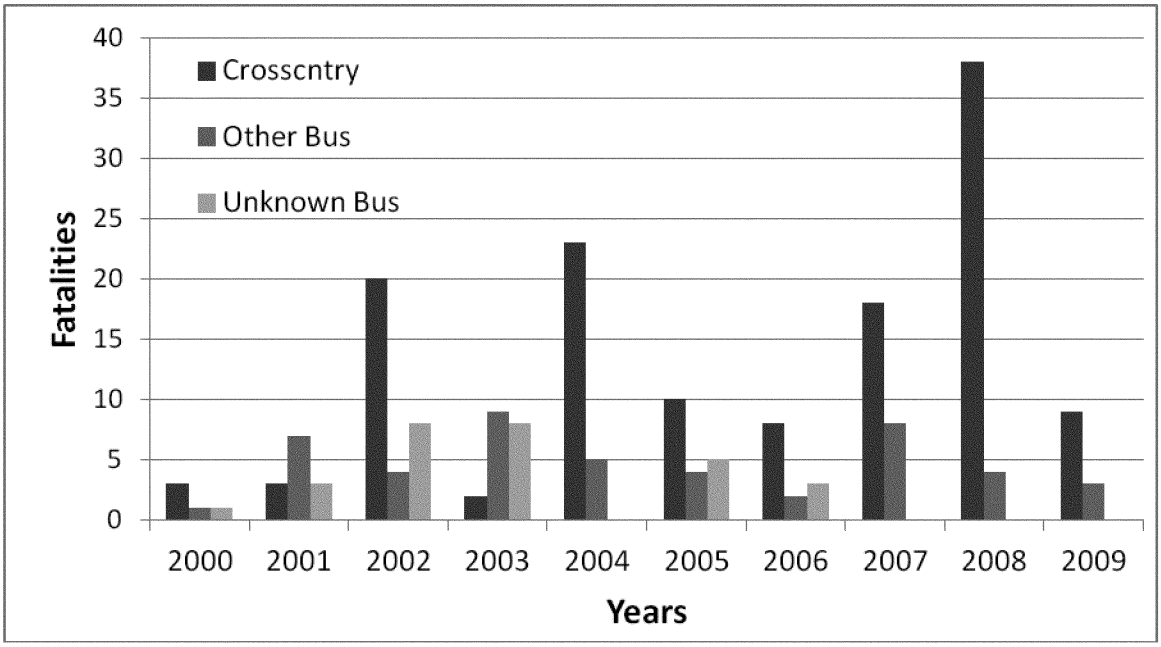

Figure 1: Number of bus occupant fatalities in crashes involving cross-country, other, and unknown buses with a GVWR > 11,793 kg (26,000 lb) except for transit and school buses (categorized by bus body type). (FARS 2000-2009 data files.)

To promulgate a ''motorcoach'' lap/shoulder seat belt standard most effectively, expeditiously, and most closely aligned with NHTSA's Vehicle Safety Act, the Motorcoach Enhanced Safety Act, and the NHTSA and DOT motorcoach safety plans, the agency has focused this particular rulemaking on all over-the-road buses and other buses with a GVWR greater than 11,793 kg (26,000 lb). The present crash data indicate a current need to require lap/shoulder seat belts in buses with a GVWR greater than 11,793 kg (26,000 lb).[39] We can examine buses with a GVWR less than or equal to 11,793 kg (26,000 lb) in a separate action, where information specific to those buses could be more closely analyzed. Safety is our highest priority, and we will continuously work to adopt practical measures that make our transportation systems safer.

Fatality Trends for Buses With a GVWR Greater Than 11,793 kg (26,000 lb)

Among the 209 occupant fatalities in buses with a GVWR greater than 11,793 kg (26,000 lb) in the 10-year period (2000–2009), the FARS data show that 168 (80 percent) were passengers, and 41 (20 percent) were drivers. In addition, the data show that 64 percent of the fatalities were in cross-country/intercity buses and 36 percent were in the other bus and unknown bus categories (see Table 5 above).

As shown in Figure 1, fatalities in the affected vehicles in certain years were significantly higher than average. There were 28 or more occupant fatalities in the covered buses in 2002, 2004, and 2008. We note that such increases in the fatality statistics were often attributable to a small number of serious crashes during the year which caused a large number of fatalities.

For example, the majority of fatalities in 2004 resulted from a crash in Arkansas, which involved an over-the-road bus hitting a highway signpost and subsequently rolling over. The rollover and partial detachment of the roof resulted in the ejection of all 30 occupants. This crash resulted in 15 fatalities, including the driver. All 14 passengers who died in this crash were ejected.

The 42 passenger fatalities in the covered buses in 2008 were mainly a result of 3 separate crashes. The first event was a rollover crash that occurred in Mexican Hat, Utah, where the over-the-road bus overturned as it departed the roadway and rolled one full turn, striking several rocks in a drainage ditch bed at the bottom of the embankment, and came to rest on its wheels. The roof of the bus separated from the body, and 51 of the 53 occupants were ejected. Nine passengers were fatally injured

[39] We note that, consistent with the Motorcoach Enhanced Safety Act, today's final rule includes over-the-road buses with a GVWR less than 11,793 kg (26,000 lb). However, the FARS data in Table 1 shows only 2 fatalities in over-the-road buses (coded as cross-country by FARS) with a GVWR of 4,536 kg to 11,793 kg (10,000 lb to 26,000 lb). These are most likely miscoded. Thus, the field data analysis focuses on buses with a GVWR greater than 11,793 kg (26,000 lb).

and 43 passengers and the driver received various injuries.

The second 2008 event was a crash in Sherman, Texas, where the over-the-road bus went through the bridge railing and off the bridge about 15 feet above a creek, then rolled onto its side. Seventeen passengers died in the crash.

The third 2008 event was a rollover crash near Williams, California, where the over-the-road bus flipped and rolled into a ditch, killing 9 people and injuring more than 30 others. Approximately a dozen passengers were ejected from the bus.

Rollover and Ejection Statistics

Using the aforementioned FARS bus body type categories (cross-county/intercity, other buses and unknown buses), the agency examined the 2000–2009 FARS data for vehicles with a GVWR greater than 11,793 kg (26,000 lb) to understand more about the fatal crashes. The FARS data show that rollovers account for more than half of the occupant fatalities in crashes of the affected buses. Figure 2, below, shows the 209 fatalities in the affected buses categorized by rollover/first impact point for the 10-year period 2000–2009. If a bus had been involved in a rollover, it is categorized as a rollover crash since a rollover is generally the most harmful event in a crash and results in most of the passenger fatalities. Buses not involved in a rollover are categorized by first impact point (front, side, and rear).

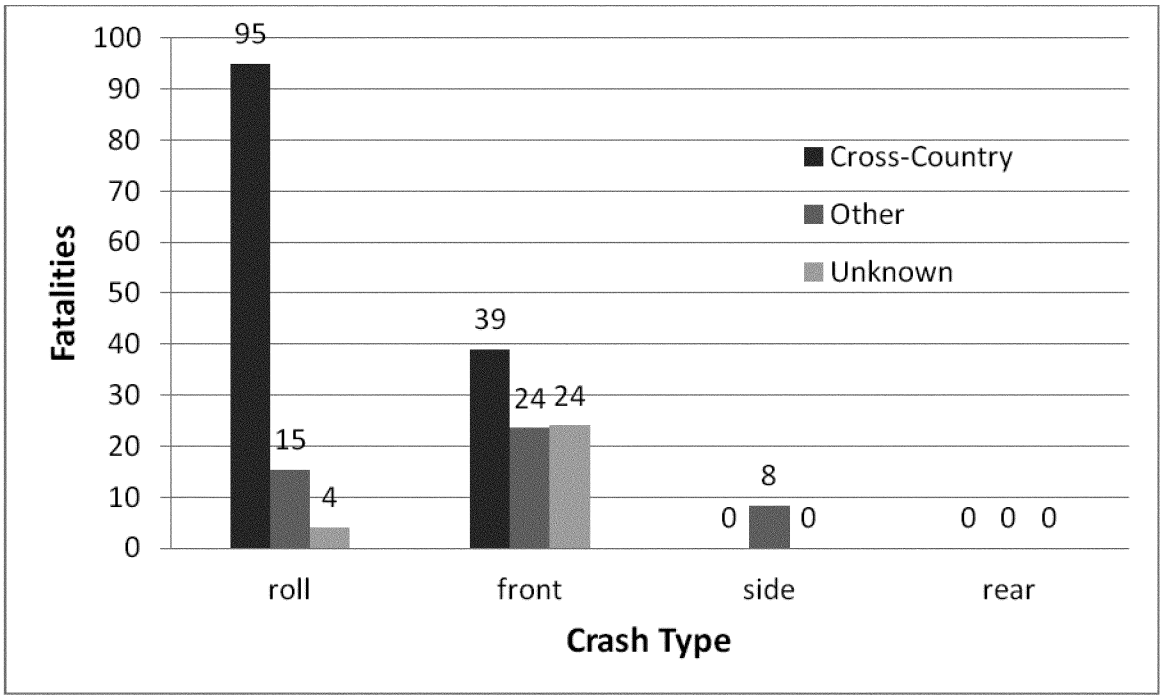

Figure 2. Number of occupant fatalities in cross-country, other, and unknown buses with a GVWR > 11,793 kg (26,000 lb) except for transit and school buses (categorized by rollover/first impact point and bus body type). (2000-2009 FARS data)

Among the 209 occupant fatalities in buses with a GVWR greater than 11,793 kg (26,000 lb) (2000–2009 FARS data), rollovers accounted for 114 fatalities (55 percent). There were no fatalities in side impacts in cross-country and unknown bus body type categories and no fatalities in rear impacts for all three bus body type categories.

The agency further examined these data and found that a majority of fatalities in rollover crashes of buses with a GVWR greater than 11,793 kg (26,000 lb) involved occupant ejections. Figure 3 shows the distribution of fatalities in rollover crashes of cross-country, other, and unknown buses with a GVWR greater than 26,000 lb, by occupant type and ejection status. For the 10-year period from 2000 to 2009, there were 32 fatal rollover crashes, resulting in 114 fatalities. In these rollover crashes, two-thirds (75 out of 114) of the fatalities were occupants who were ejected. Three drivers (3 percent) involved in rollover crashes were ejected.

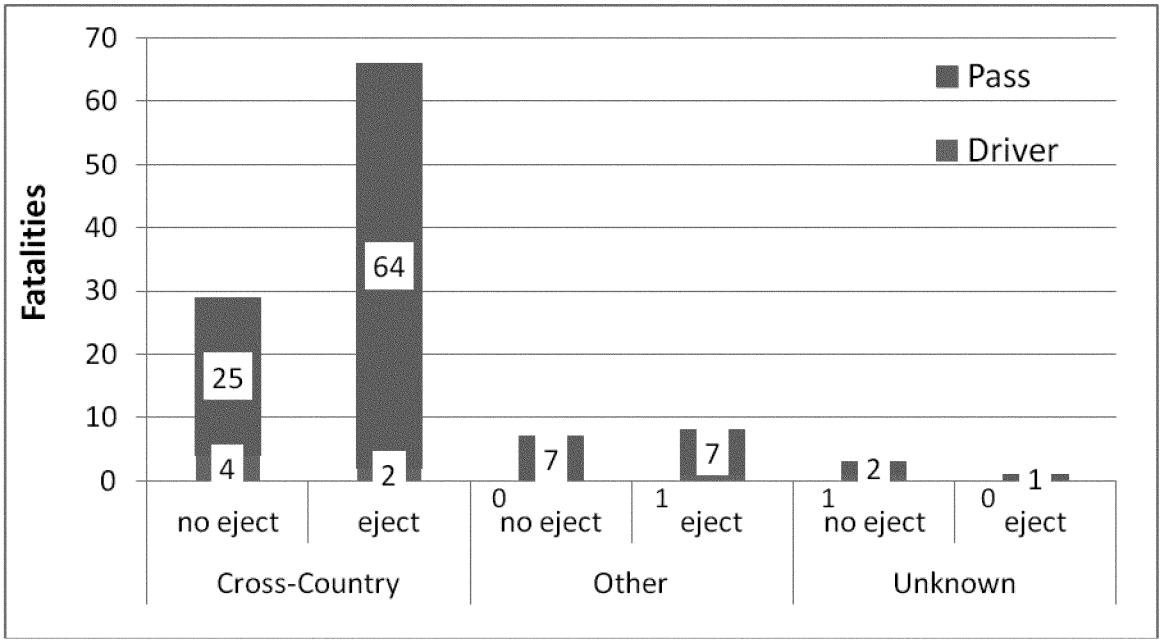

Figure 3. Number of rollover fatalities in cross-country, other, and unknown buses with a GVWR > 11,793 kg (26,000 lb) except for transit and school buses (among drivers and passengers by ejection status and bus body type) (2000-2009 FARS data)

Figure 4 shows ejection status as related to the occurrence of rollovers of the covered buses. For non-rollover crashes there were 95 fatalities, or 45.5 percent (95/209) of the total. In non-rollover crashes only 20.0 percent (19/95) of the 95 fatalities were ejected. Considering all crash types, fatalities were split nearly equally between ejected (45.0 percent (94/209)) and non-ejected (55.0 percent (115/209)).

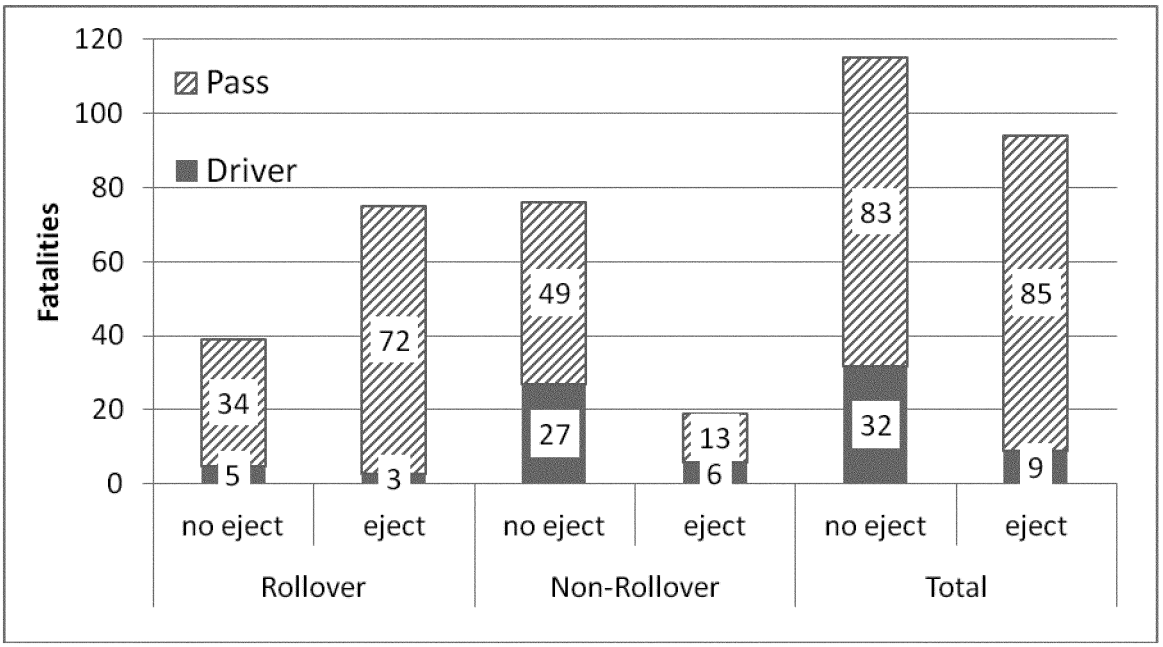

Figure 4 – Fatalities by ejection status and rollover occurrence, in cross-country, other and unknown bus body types with a GVWR > 11,793 kg (26,000 lb)); FARS 2000-2009

V. Summary of the NPRM

The FARS data showed that rollovers accounted for 55 percent of fatalities in buses with a GVWR greater than 11,793 kg (26,000 lb). Further, the vast majority of fatalities in rollover crashes of these covered buses involved occupant ejections. NHTSA proposed in the August 18, 2010 NPRM to amend FMVSS No. 208 to require lap/shoulder belts at all passenger seating positions on ''motorcoaches,'' which the NPRM identified as buses with a GVWR greater than 11,793 kg (26,000 lb).[40] The agency focused the NPRM on these buses to address the ejection safety problem as quickly as possible, and to improve occupant protection in frontal crashes. NHTSA's bus research showed that lap/shoulder belts would improve the survivability of occupants in frontal crashes even when a rollover was not involved.

To define the types of vehicles to which the amended requirements would apply, the NPRM proposed to add a definition of ''motorcoach'' to 49 CFR Part 571.3 and to apply FMVSS No. 208's amended requirements to ''motorcoaches.'' The proposed definition was as follows:

> [Proposed definition] *Motorcoach* means a bus with a gross vehicle weight rating (GVWR) of 11,793 kilograms (26,000 pounds) or greater, 16 or more designated seating positions (including the driver), and at least 2 rows of passenger seats, rearward of the driver's seating position, that are forward-facing or can convert to forward-facing without the use of tools. *Motorcoach* includes buses sold for intercity, tour, and commuter bus service, but does not include a school bus, or an urban transit bus sold for operation as a common carrier in urban transportation along a fixed route with frequent stops.

The NPRM proposed to modify FMVSS No. 208 to require lap/shoulder belts at each seating position (except side-facing seats were permitted to have either a lap or a lap/shoulder belt), require the belts to be integral to the seat (except the driver seat) and to meet current FMVSS No. 208 provisions for seat belt adjustment, fit, lockability, and release. By virtue of the FMVSS No. 208 requirement for lap/shoulder belts at each seat, the NPRM proposed the lap/shoulder belt anchorages meet FMVSS No. 210, which specifies a force of 13,345 N (3,000 lb) applied simultaneously to the lap and torso portions of the belt assembly.

VI. Overview of the Comments

NHTSA received approximately 130 comments on the NPRM. Comments were received from consumer and other groups, individuals, bus seat suppliers, bus manufacturers and industry groups, and motorcoach owners and operators.

This section provides a high-level overview of the comments, and focuses mainly on the reaction of the commenters to the general issue of whether lap/shoulder belts should be required for motorcoach passengers. We note below the general support or opposition to that issue, but readers should keep in mind that there were many issues in the NPRM to which commenters replied. Summaries of responses to sub-issues are provided, to the extent relevant, in the appropriate sections of this preamble.

Many consumer and other groups strongly supported the proposal that lap/shoulder belts be provided for motorcoach passengers. Commenters supporting the proposal included: NTSB, Consumers Union, Advocates for Highway Safety, Center for Automotive Safety, National Association of Bus Crash Families/West Brook Bus Crash Families, groups representing pediatricians, child passenger safety advocates, and school bus transportation organizations, and private individuals. Of the approximately 42 individual members of the public commenting on the NPRM, over 31 supported the proposed requirement for lap/shoulder belts.

The 10 individual members of the public opposing the proposed requirement for lap/shoulder belts generally cited the low annual number of motorcoach fatalities, low seat belt use, poor comfort, difficulty of enforcing use, and a perceived high cost per life saved. Many suggested that efforts should be placed on ''more meaningful'' safety reforms than seat belts, such as driver training programs, limiting the driver's operating hours and/or distance traveled between breaks, and monitoring driver performance. The People's Republic of China opposed the NPRM, stating that seat belts should be optional except for seats in rows that lack ''obvious shielding'' (e.g., the first row).

Seat suppliers IMMI[41] and American Seating supported the proposed seat belt requirement, as did the Automotive Occupant Restraints Council.[42]

Bus manufacturers and associations mostly did not overtly support or oppose the proposal, but most expressed concern about one or more aspects of it. Motor Coach Industries (MCI), a motorcoach manufacturer, stated that the NPRM's claiming that seat belts would enhance rollover protection was speculative and that NHTSA should conduct more research on this subject. Turtle Top, a bus manufacturer, asked that seat belts be a safety option. Blue Bird, a bus and school bus manufacturer, indicated that it supported NHTSA's efforts, but asked that NHTSA exclude buses that met Federal school bus roof crush and occupant protection (lap belt) requirements. Several European bus manufacturers (Van Hool, Setra) stated that the FMVSS No. 210 seat belt anchorage requirement will cause seat backs to be too rigid, and suggested we adopt European belt anchorage requirements instead. Several bus manufacturers asked for a ''prison bus'' exclusion.

Motorcoach transportation providers were divided in their reaction to the proposed requirement for lap/shoulder seat belts. The operators of the larger fleets in the industry were supportive of the proposal. There was concern about costs associated with the upkeep and maintenance of seat belts and enforcement of belt use. The majority of smaller transportation providers opposed having seat belts for passenger seating positions. Most of these commenters cited the excellent overall safety record for their industry, and expressed concerns about increased cost, possible low seat belt use rate, and difficulties in enforcing seat belt use. About 30 submitted a form letter that stated that the costs associated with a retrofit requirement would put many companies out of business since they are already operating at or close to a loss.

An issue in the NPRM on which many commented was: To which vehicles should lap/shoulder seat belt requirements apply, i.e., the proposed definition of ''motorcoach.'' Many consumer groups, seat suppliers, and some bus manufacturers supported applying the seat belt requirements to all buses with a GVWR greater than 4,536 kg (10,000 lb). Many bus manufacturers believed that the proposal did not clearly differentiate between motorcoaches and ''transit buses.'' A number of bus manufacturers

[40] Exceptions were transit and school buses and buses with fewer than two rows of forward-facing seats. Also, as noted earlier, the NPRM stated ''GVWR of 11,793 kg (26,000 lb) or more,'' when it should have stated ''GVWR greater than 11,793 kg (26,000 lb)'' to be consistent with FMCSA regulations. The latter term is also consistent with other NHTSA standards, which use the ''GVWR greater than'' phrasing rather than the ''GVWR of X or more.''

[41] IMMI was founded as Indiana Mills and Manufacturing, Inc. IMMI also manufactures seat belt systems.

[42] In 2011 the organization changed its name to the Automotive Safety Council (ASC).

wanted to reduce the reach of the definition and exclude more bus types. Many commenters had questions about or suggested changes to various components of the proposed definition.

VII. Differences Between the Final Rule and the NPRM

The most significant differences between this final rule and the NPRM are described briefly below. Less significant changes are discussed in the appropriate sections of this preamble.[43]

This final rule does not adopt a ''motorcoach'' definition. We have determined that it is unnecessary to define ''motorcoach'' to accomplish the objective of this rulemaking. Instead, it amends FMVSS No. 208 to require seat belts and the associated requirements at all seating positions on over-the-road buses and on buses, other than over-the-road buses, with a GVWR greater than 11,793 kg (26,000 lb), with the exception of certain bus types.[44] Further, simply applying FMVSS No. 208 and 210 to all over-the-road buses and to other buses based on the GVWR criterion avoids some confusion associated with using the term ''motorcoach'' to describe certain buses that may not have been widely thought of as motorcoaches in the past or described as such by the Motorcoach Enhanced Safety Act.

The proposed GVWR criterion of 11,793 kg (26,000 lb) has been slightly changed to ''GVWR greater than 11,793 kg (26,000 lb)'' from ''GVWR of 11,793 kg (26,000 lb) or greater.'' The one-pound change was made to make the GVWR cut-off more consistent with the regulations of FMCSA, which refer to the ''greater than 11,793 kg (26,000 lb)'' terminology in applying its regulations to commercial vehicles.

The definition of ''motorcoach'' proposed in the NPRM excluded buses with fewer than two rows of passenger seats, rearward of the driver's seat, that are forward-facing or can convert to forward-facing. The intent of this exclusion was to assure that buses whose seating configuration was primarily around the perimeter of the bus would not need to install seat belts.[45] For simplification, we have decided to exclude such perimeter-seating buses by referring to the number of forward-facing designated seating positions (DSPs) rearward of the driver (7 or fewer DSPs) rather than refer to the term ''row,'' which is not defined in 49 CFR 571.3. However, as noted in the footnote above, because of the Motorcoach Enhanced Safety Act, only non-over-the-road buses can be included in this excepted category of a perimeter-seating bus.

The transit bus exclusion now refers to a simple description of a physical feature typically present on a transit bus—the passenger ''stop request'' system—to identify a transit bus under the rule.

The passenger seats in buses used for the transport of passengers under physical restraint (prison buses) are also excluded from the seat belt requirements adopted today. However, as noted in the footnote above, because of the Motorcoach Enhanced Safety Act, only non-over-the-road buses can be included in this excepted category of prison bus.

VIII. Motorcoach Definition

The Vehicle Safety Act requires the FMVSSs to be appropriate for the vehicle type to which they apply. Each FMVSS specifies the vehicle types subject to the standard.

The vehicles affected by this final rule currently fall under the definition of ''bus'' for the purposes of applying the FMVSSs (49 CFR Section 571.3) and must comply with the FMVSSs that apply to buses, consistent with GVWR specifications. A ''bus'' is defined in § 571.3 as ''a motor vehicle with motive power, except a trailer, designed for carrying more than 10 persons.'' Some FMVSSs (or requirements within those standards) apply to buses with a GVWR equal to or less than 4,536 kg (10,000 lb), others apply to buses with a GVWR greater than 4,536 kg (10,000 lb), and some apply to buses without distinguishing GVWR.

The agency issued the NPRM to reduce the risk of ejection in intercity transport buses (75 FR at 50969). A ''motorcoach'' definition was proposed ''to define the vehicle type to which the proposed requirements apply and to distinguish motorcoaches from other bus types.'' *Id.*

NHTSA typically analyzes the construction type and the purpose for which the vehicle is being built when the agency establishes a vehicle class for the FMVSSs. NHTSA has defined a number of motor vehicle types in 49 CFR 571.3, including: passenger cars, multipurpose passenger vehicles (MPVs), trucks, buses, trailers, and motorcycles. For the most part, for purposes of objectivity and to facilitate the ability of manufacturers to know at the time of vehicle manufacture which FMVSS the vehicle must meet, and the ability of dealers knowing at the time of vehicle sale which vehicles may be sold, the agency seeks to define vehicles by their attributes and construction features rather than by their purported intended use.[46] To make manufacturers' and dealers' responsibilities in meeting the Vehicle Safety Act as clear as possible, NHTSA sought to define ''motorcoach'' using reference to relevant visible attributes and construction characteristics rather than by the intended use of the vehicles, or some other factor determined after manufacture or sale.

NHTSA reviewed various definitions used in motorcoach safety legislation. The Motorcoach Enhanced Safety Act defines the term ''motorcoach'' as the meaning given the term ''over-the-road bus'' in section 3038(a)(3) of the Transportation Equity Act for the 21st Century (TEA–21).[47] Section 3038(a)(3) of TEA–21 states that the term ''over-the-road bus'' means a bus characterized by an elevated passenger deck located over a baggage compartment.

TEA–21's definitions also include the following:

- The term ''intercity, fixed-route over-the-road bus service'' means regularly scheduled bus service for the general public, using an ''over-the-road bus,'' that (a) operates with limited stops over fixed routes connecting two or more urban areas not in close proximity; (b) has the capacity for transporting baggage carried by passengers; and (c) makes meaningful connections with scheduled intercity bus service to more distant points.
- The term ''other over-the-road bus service'' means any other transportation using over-the-road buses including local fixed-route service, commuter service, and charter or tour service (including tour or excursion service that

[43] For the convenience of the reader, we have placed in the docket for this final rule a memorandum that describes this final rule's changes to the organization of FMVSS No. 208.

[44] The exceptions are transit buses, school buses, ''prison buses'' (buses manufactured for the purpose of transporting persons subject to involuntary restraint or confinement), and ''perimeter-seating buses'' (which the NPRM had referred to as buses with fewer than two rows of forward-facing seats). Note that under the Motorcoach Enhanced Safety Act, only non-over-the-road buses can be included in these excepted categories of prison bus and perimeter-seating bus. The Act requires each designated seating position on an over-the-road bus to have a lap/shoulder belt.

[45] Perimeter seating is exemplified by a single forward-facing row of seats at the back of the vehicle, inward-facing seats and a large luggage rack, along the side walls. This configuration is intended to increase the speed and ease of passenger boarding and alighting, such as for airport shuttle buses.

[46] An exception is the ''school bus'' definition, which is statutory in origin and which refers to the intended purpose for which the vehicle is sold.

[47] The Motorcoach Enhanced Safety Act states also that the term does not include a bus used in public transportation provided by, or on behalf of, a public transportation agency; or a school bus, including a multifunction school activity bus.

includes features in addition to bus transportation such as meals, lodging, admission to points of interest or special attractions or the services of a tour guide).

We believed that the definitions referring to over-the-road buses or over-the-road bus service were too narrow for our purpose, because a number of intercity transport buses involved in fatal crashes were body-on-chassis buses that lacked an elevated passenger deck over a baggage compartment. The issue of body-on-chassis buses is discussed further below. Further, as explained above, definitions that were based on the intended use of the vehicle could pose difficulties for manufacturers and dealers, since the intended use of a vehicle might not be known at the time of vehicle manufacture or sale. We wanted to make sure as reasonably possible that the buses we most wanted to affect (high-capacity buses associated with known fatality and injury risks) would meet the ''motorcoach'' safety standards, without having to depend on the state of knowledge of persons in the manufacturing and distribution chain about the prospective use of the bus.

We were also concerned that the meaning of some of the terms used in the above definitions was not sufficiently objective for use in the FMVSSs. Examples of these are: ''regularly scheduled,'' ''two or more urban areas not in close proximity,'' and ''meaningful connections . . . to more distant points.''

Currently, there is no common Departmental or industry definition of ''motorcoach.'' FMCSA does not have a definition for motorcoach in its regulations, but it considers a ''motorcoach'' to be an over-the-road bus. As noted above, over-the-road buses are a subset of the buses NHTSA believed should be regulated as ''motorcoaches,'' encompassing a part of but not enough of the heavy bus safety problem we seek to address.

In developing criteria for defining motorcoaches, we also examined other countries' approaches. For countries that have adopted United Nations Economic Commission for Europe (ECE) regulations, motorcoaches are defined as Class III, M3 vehicles. Class III, M3 vehicles are defined as having occupant seating locations for more than 8 passengers, vehicle weights in excess of 5 metric tons (11,023 lb) and are not designed to carry standing passengers. We consider this ECE definition too broad for us to use as a definition of motorcoach, as it captures vehicles that are not subject to today's lap/shoulder seat belt standard. The ECE definition includes vehicles that are not ''buses'' under 49 CFR 571.3.[48] Our discussion of the GVWR criterion is discussed further later in this section. Further, the reference to ''not designed to carry standing passengers'' would not be sufficiently objective for our purposes, as people could reasonably disagree as to whether a particular design allowed or did not allow standees.

We examined the terms used in FARS. The FARS database uses the following description of a motorcoach: ''Cross Country/Intercity Bus (e.g., Greyhound).'' Other descriptive information is also collected in the bus use sub-category, i.e., commuter, tour, scheduled service, shuttle, etc. For our purposes, as explained in the NPRM (75 FR at 50970), the FARS bus body type definition for ''Cross Country/Intercity'' and the use-based sub-categories are not appropriate. One problem is that these terms lack sufficient specificity. In addition, the use-based subcategories are problematic simply because they describe use and not physical characteristics, which limits their potential efficacy in determining the appropriate applicability of the FMVSS at time of vehicle manufacture and sale. The FARS designations are not clear enough to give manufacturers and dealers knowledge of the FMVSSs the bus must meet at the time of manufacture or sale of the vehicle.

In developing the NPRM, NHTSA sought to develop a motorcoach definition as an expedient means of applying FMVSSs to the vehicles targeted by the agency's safety plan. The vehicles of interest were high-occupancy buses associated with a known fatality and injury risk. The buses typically carried a large number of passengers and were operated at highway speeds. Specific safety risks addressed by the NHTSA plan were the risks of ejection, prolonged emergency egress from the vehicles, fire risk, and structural vulnerability to roof loading in a rollover event.

To develop a definition for application of these safety initiatives, we examined the involvement of high-occupancy buses[49] in fatal crashes over a 10-year period (FARS data files, for the NPRM, 1999–2008; for the final rule, 2000–2009). In this examination of high-occupancy bus data, we inspected crash data for buses with a GVWR greater than 4,536 kg (10,000 lb). We analyzed the construction type and various attributes of the vehicles. The 2000–2009 FARS data show that for buses over 4,536 kg (10,000 lb), only 17 percent of the passenger fatalities were in buses with a GVWR less than 11,793 kg (26,000 lb), but that 83 percent of the fatalities were in buses with a GVWR greater than 11, 793 kg (26,000 lb).

We reviewed the underlying chassis structure of high-occupancy vehicles involved in fatal crashes. Some had a monocoque[50] structure with a luggage compartment under the elevated passenger deck (''over-the-road buses''). However, an elevated passenger deck over a baggage compartment was not an element common to the buses involved in fatal intercity transport. In FARS data for buses with a GVWR greater than 11,793 kg (26,000 lb), 36 percent of the fatalities were in the other bus and unknown bus categories, i.e., not in the over-the-road bus category. Some buses were built using body-on-chassis configurations.

We believe that body-on-chassis configurations are newer entrants into the motorcoach services market. They appear to be increasing in number. A cursory review of the types of buses being used in the Washington, DC area for motorcoach services showed that traditional motorcoaches are generally used for fixed-route services between major metropolitan areas. However, for charter, tour, and commuter transportation from outlying areas, many bus types are used. Some are of monocoque structure, while others are of body-on-chassis structure.

The review of the FARS files performed for the NPRM also showed other characteristics that were common to high-occupancy buses involved in fatal crashes: 16 or more designated seating positions, and two or more rows of forward-facing seats that were rearward of the driver's seating position (i.e., this feature distinguishes the bus from a bus with perimeter seating).

With this information, we included these criteria in the proposed definition, noting that the 16 or more capacity criterion also was consistent with FMCSA regulations for commercial driver's licenses. We intended the definition to include buses sold for ''intercity, tour, and commuter bus service'' (75 FR at 50970) and listed those types of service in the definition. We proposed to exclude school buses and urban transit buses from the definition, for reasons explained in the NPRM.

[48] Under 571.3, a bus is designed to carry 10 or more passengers. Vehicles designed to carry fewer than 10 passengers are multipurpose passenger vehicles (MPVs) or passenger cars.

[49] Other than transit buses and school buses.

[50] Monocoque means a type of vehicular construction in which the body is combined with the chassis as a single unit.

a. GVWR

Approximately 11 commenters addressed the proposed GVWR criterion of 11,793 kg (26,000 lb) or greater. Some commenters expressed their support for the criteria proposed in the NPRM, including the 11,793 kg (26,000 lb) GVWR cut-off, without providing specific reasons for their agreement. Many commenters believed that the criterion should be lowered to 4,536 kg (10,000 lb) from 11,793 kg (26,000 lb).

NTSB commented in favor of a 4,536 kg (10,000 lb) GVWR criterion, stating that ''all buses with a GVWR above 10,000 pounds should be defined and have standards addressing roof strength, occupant protection, and window glazing.'' NTSB stated that the 11,793 kg (26,000 lb) GVWR criterion in the motorcoach definition will exclude some medium-sized buses from the proposed lap/shoulder seat belt requirements while including other buses that ''are essentially the same.'' The commenter stated that medium-size buses should be categorized as motorcoaches because of the buses' interior design, use for tour operations, and seating capacity.

The National Association of State Directors of Pupil Transportation Services, Safe Ride News, and Advocates for Highway Safety (Advocates) also supported lowering the GVWR criterion to 4,536 kg (10,000 lb). These commenters stated that the proposed definition would exclude buses that serve the same function and are similar in design to buses that transport many passengers on high-speed roads.

Seat suppliers Freedman Seating Company (Freedman) and IMMI supported lowering the criterion to 4,536 kg (10,000 lb). Freedman stated that the definition of motorcoach proposed in the NPRM would leave a class of vehicles with a GVWR between 4,536 kg (10,000 lb) and 11,793 kg (26,000 lb) that would not be required to have seat belts. Seat supplier American Seating suggested a GVWR criterion of 8,618 kg (19,000 lb) or greater in order to include vehicles of similar construction and design intent as ''motorcoaches.''

Bus manufacturers IC Bus and MCI suggested various vehicle attributes and features of a ''traditional motorcoach'' for use in a definition (e.g., 40+ passenger seats, an elevated passenger deck over a baggage compartment, buses engaged in highway speed). These features are typically associated with over-the-road buses. Alternatively, IC Bus suggested that, if NHTSA believes there is a need to ''expand the motorcoach definition beyond what we would consider the traditional motorcoach,'' then IC Bus would support a mandate for seat belts on all forward-facing passenger seats on all buses with a GVWR over 10,000 lb, excluding urban transit buses and school buses. Similarly, MCI stated that the GVWR criterion should be lowered to include buses with a GVWR less than 11,793 kg (26,000 lb) if the vehicles are sold for and/or are engaged in highway speed operations that are the same as or similar to the typical operation as motorcoaches.

United Motorcoach Association (UMA) commented in favor of applying the rulemaking to buses with a GVWR between 4,536 kg and 11,793 kg (10,000 lb and 26,000 lb), stating that these buses are being increasingly used in intercity charter and tour bus applications and have been in accidents.

Agency Response

We begin by separating two entwined subjects addressed in the comments on the proposed definition. First is a matter about which buses should be called ''motorcoaches,'' and the second concerns the vehicles to which this rulemaking ought to apply.

1. Response to Comments on Looking Like A Traditional Motorcoach

As to the first matter, some commenters were troubled that certain buses would be ''motorcoaches'' under the proposed definition when ''motorcoaches'' were traditionally understood by various industry and user groups to be over-the-road buses (characterized by an elevated passenger deck located over a baggage compartment) and not trolley buses (buses configured to look like trolley cars), double-decker buses, buses using body-on-chassis design, entertainment buses, and the like. MCI, IC Bus, and UMA presented their arguments in a manner that appeared to reserve the term ''motorcoach'' for buses that they described as a ''traditional motorcoach,'' i.e., an ''over-the-road'' bus. IC Bus further recommended that ''motorcoach'' be defined as a ''Class 8'' bus, which has a GVWR greater than 33,000 lb.

Several commenters identified physical features [51] of a ''motorcoach'' that they believed would be helpful to use in a motorcoach definition, such as vehicle floor height (low or high height) (e.g., a passenger compartment that is more than 45 inches above the ground); engine location; body/chassis construction (monocoque versus body-on-chassis); 40 or more passenger seats; whether the bus has equipment for standees; center of gravity (CG), the number of entrance/exit doors, the presence of a lavatory, and the presence of three axles. Some of these features were suggested to distinguish motorcoaches from transit buses. Some appeared to be suggested by commenters seeking to avoid having their buses called motorcoaches.

After the NPRM, NHTSA and FMCSA met to determine whether it was necessary to define the term ''motorcoach'' in the final rule given the public comments and the types of buses NHTSA intended to cover under its rulemaking. Although FMCSA does not define the term motorcoach, it uses the term in its programs and many of its constituency groups have long understood the term ''motorcoach'' to mean an over-the-road bus. FMCSA informed NHTSA that defining ''motorcoach'' to mean buses other than over-the-road buses could cause some consternation among user groups (e.g., bus operators and inspectors) who are accustomed to thinking of a motorcoach as an over-the-road bus. For instance, if NHTSA considered all buses with a GVWR greater than 11,793 kg (26,000 lb) ''motorcoaches,'' confusion in the field may arise as to whether FMCSA's in-use requirements for ''motorcoaches'' apply to the vehicles.

Although each agency in DOT is able to define specific terms in their regulations that have legal relevance only in the context of that agency's regulations, NHTSA agrees that confusion should be avoided as reasonably possible over the use of the word ''motorcoach'' by the agencies of DOT.

Thus, after evaluating the above information, we have made the following conclusions.

NHTSA seeks to require passenger lap/shoulder seat belts in high-occupancy buses that, according to accident data, are associated with an unreasonable risk of passenger fatality and injury due to ejection. Accident data indicate that these buses, which we proposed in the NPRM to call ''motorcoaches,'' are buses with a GVWR greater than 11,793 kg (26,000 lb). FARS data did not show that any feature other than GVWR—such as floor height, seating capacity, CG, number of axles or emergency exits, body/chassis construction, or presence of a toilet—

[51] Some commenters also suggested operating speed and where the bus is driven (such as exclusively in urban areas), but these features were not helpful. Since these issues relate to how the vehicle would be used, as discussed earlier, these use-based suggestions are not conducive toward determining the applicability of the FMVSSs during vehicle manufacture.

was relevant in distinguishing these buses from buses that did not pose the increased fatality risk.

As explained previously and in the NPRM, we believe that limiting the scope of this rulemaking only to ''traditional motorcoaches'' (over-the-road buses) would only be a partial, incomplete response to the safety problem. FARS data for 2000–2009 show that buses other than over-the-road coaches were involved in high speed crashes involving multiple passenger fatalities due to rollover, ejection and frontal impacts. FARS data show that 64 percent of the fatalities were in cross-country/intercity buses (traditional over-the-road type buses) and 36 percent were in the ''other bus'' and ''unknown bus'' categories. We do not find good reason to exclude from today's seat belt requirements buses that are of a similar size, seating configuration, and function as an over-the-road bus type, and that are associated with the same safety risk as an over-the-road bus, only because they have a non-traditional (e.g., body-on-chassis) design and appearance.

To illustrate, the IC Bus HC Series is an example of large ''mid-sized'' body-on-chassis bus that approaches the size of a traditional over-the-road motorcoach. This vehicle can be ordered with a GVWR up to 13,608 kg (30,000 lb), an occupant capacity of 37 or 45, and an interior that has many of the same features as a traditional motorcoach. IC Bus advertises this bus on its Web site [52] as suitable for tours, shuttle service, sports team transport, high-frequency trips, ski trips, church group transport, and scheduled route and transit service. The bus is advertised as having luxury features found on traditional motorcoaches, such as an audio-video entertainment system with DVD and AM/FM/CD stereo, overhead parcel rack with aircraft style air conditioning controls, reading light, plush seating, and availability of WiFi, satellite TV, and wide-screen television. In short, this bus can be ordered in a configuration which lends itself to use as a motorcoach with motorcoach features. There is no reason to believe that it poses a lesser ejection crash safety risk than a traditional over-the-road motorcoach. The main difference between this bus and an over-the-road bus is body-on-chassis construction and a dedicated luggage compartment in the rear.[53] There are similarly sized buses from other manufacturers which even offer luggage storage under the passenger deck.[54]

An elevated passenger deck over a baggage compartment was not an element common to the buses involved in fatal crashes. We believe it would be short-sighted for our regulation to refer to an under-compartment storage location for baggage as determinative of the applicability of this regulation since a separate storage location has been irrelevant to distinguishing the buses' involvement in fatal crashes. Also, tour buses are frequently equipped with just an overhead rack for passengers to store personal belongings. Some buses offer the baggage compartment as an option to the purchaser.

We also determined that a self-contained toilet was only prevalent on long distance travel buses and was not present in all tour or commuter buses. Other equipment such as reading lights, video displays, ventilation ports and adjustable seat backs were also not common to all motorcoach type buses. Accordingly, identifying a motorcoach by the presence of these features could exclude many of the buses that have been in fatal crashes over the years. We also wanted to avoid a definition that could be easily circumvented by persons seeking to have their buses excluded from the motorcoach category. Such a definition would be one that specified that a motorcoach is a vehicle with a feature that a manufacturer could readily leave off of the vehicle.

Yet, after reviewing the comments, the information from FMCSA, the Motorcoach Enhanced Safety Act, and other information, we have decided to adopt a different approach to apply the requirements of this final rule than defining ''motorcoach'' as proposed in the NPRM. We have determined it is unnecessary to define the term to accomplish our rulemaking objectives, and that it is simpler not to define the term at all.

In the NPRM, the agency's proposed definition basically sought to apply FMVSS No. 208's passenger lap/shoulder belt requirements to buses with a GVWR greater than 11,793 kg (26,000 lb), excepting certain bus types. After reviewing the comments, we decided that if those excepted bus types were defined (e.g., transit bus, school bus [55]), a preferred approach would be to simply apply FMVSS No. 208's requirements to buses with a GVWR greater than 11,793 kg (26,000 lb) and exclude those excepted bus types.

After passage of the Motorcoach Enhanced Safety Act, it became necessary to modify this approach slightly for buses meeting the Act's over-the-road bus definition. The Act does not place a 11,793 kg (26,000 lb) lower limit on over-the-road buses, and does not permit other than lap/shoulder belts on designated seating positions in those buses. With the Act's provisions in mind, we decided to apply FMVSS No. 208's requirements separately to over-the-road and to non-over-the-road buses. This is the approach adopted by this final rule.

This approach is preferable to the NPRM's approach for several reasons. Some commenters had trouble reconciling the traditional view of a motorcoach with our proposed definition of a motorcoach and were confused or perplexed that a bus they had never considered to be a motorcoach would be a motorcoach under the regulation. We decided that, with people having pre-conceived ideas of what a ''motorcoach'' is or should be, it is best not to use the traditional term to describe a nontraditional universe of buses. This approach accords with plain writing principles.

Some manufacturers objected to having their buses called motorcoaches and having them subject to this rulemaking. In reality, it does not matter for the application of the standard what name we called the vehicles. The term was intended as an abbreviated way to apply the seat belt requirements to the buses that crash data indicate need seat belts, i.e., buses with a GVWR greater than 11,793 kg (26,000 lb). After considering the comments, we decided we did not need to use the term ''motorcoach'' to accomplish our rulemaking objectives, and that it was best to avoid adopting a definition of ''motorcoach'' that differed from a commonly held understanding of the term.

This approach is also more practical than the NPRM's because of enactment of the Motorcoach Enhanced Safety Act, which refers specifically to over-the-road [56] buses without a limitation on GVWR, and calls specifically for lap/shoulder belts at all designated seating positions on these vehicles. To our knowledge, all buses ''characterized by an elevated passenger deck located over a baggage compartment'' currently manufactured in the U.S. have GVWRs

[52] *www.icbus.com/ICBus/buses/commercial/hcseries/features. Last accessed July 10, 2012.*

[53] Similar buses are being offered by several other manufacturers, including Turtle Top, Glaval Bus, Starcraft Bus, Krystal Koach, and Thor Industries and their subsidiaries.

[54] *www.turtletop.com/OdysseyXLT/Options.aspx.*

[55] ''School bus'' is already defined in 49 CFR 571.3.

[56] An over-the-road bus is statutorily defined as ''a bus characterized by an elevated passenger deck located over a baggage compartment.'' See section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note).

greater than 11,793 kg (26,000 lb). It also does not seem likely that an ''over-the-road'' bus would be produced in the future with a GVWR under 4,536 kg (10,000 lb). However, markets change, and we are aware of buses apparently meeting the ''elevated passenger deck located over a baggage compartment'' description with GVWRs below 11,793 kg (26,000 lb) being sold for use in other countries. Thus, to ensure that all over-the-road buses in the U.S. in the future are equipped with lap/shoulder belts at all designated seating positions, we are adopting the TEA–21 definition of over-the-road bus and explicitly applying today's regulation to that bus type, as well as to buses other than over-the-road buses with GVWRs greater than 11,793 kg (26,000 lb). This approach not only ensures that Congress's intent to enhance the safety of over-the-road buses is realized now and in the future, but better attains our overarching goal under the National Traffic and Motor Vehicle Safety Act of enhancing the safety of intercity buses used for motorcoach transportation.[57]

Thus, we are amending FMVSS No. 208 to require lap/shoulder belts at all seating positions on: (a) Over-the-road buses; and (b) non-over-the-road buses with a GVWR greater than 11,793 kg (26,000 lb) (with the exception of excluded bus types). By extending FMVSS No. 208 to these vehicles, we are also extending associated requirements to the seat belt systems on the vehicles, such as the FMVSS No. 210 anchorage strength requirements. This approach makes the applicability of the amended FMVSS No. 208 requirements very clear. Under today's final rule, if the bus is an over-the-road bus, the seat belt system requirements apply. If the bus is not an over-the-road bus, if its GVWR is greater than 11,793 kg (26,000 lb), the seat belt system requirements apply unless the bus is in an excluded category of bus (transit bus, school bus, perimeter-seating bus, prison bus). This clear-cut approach accords with plain writing principles.

Today's approach is more aligned with NTSB H–10–002 than a situation where the term ''motorcoach'' had different meanings in the NHTSA and FMCSA programs. Today's approach avoids potential confusion among the public that might result from a NHTSA definition of ''motorcoach'' that differed from the understanding of the FMCSA community or from the Motorcoach Enhanced Safety Act.

Accordingly, for the reasons discussed above, this final rule does not adopt a ''motorcoach'' definition. It amends FMVSS No. 208 to apply seat belts and associated requirements at all seating positions and thereby applies the FMVSS No. 210 anchorage strength requirements to over-the-road buses, and to non-over-the-road buses with a GVWR greater than 11,793 kg (26,000 lb) with the exception of certain excluded bus types.

As indicated above, the Motorcoach Enhanced Safety Act also directs the Secretary to consider various other motorcoach rulemakings aside from today's final rule, and directs us to conduct those rulemakings in accordance with the National Traffic and Motor Vehicle Safety Act. We note that in future rulemaking actions targeted at over-the-road buses and other large buses taken pursuant to these statutory authorities, there might be a need for the agency to clarify one or more descriptive parameters in the definition of over-the-road bus, such as the terms ''elevated'' and ''baggage compartment'' in deciding the applicability of the amended rules. Clarification might be needed so as to avoid possible conflict among the Federal motor vehicle safety standards for buses of various types and weights, or to make the applicability of a standard easier to understand.

2. On Lowering the GVWR Criterion

The second matter of concern expressed in the comments was: To which vehicles should this rule apply. Many comments expressed the position that, since the agency is undertaking a rulemaking to install lap/shoulder belts on all seats of large buses, now is the time to require installation of such belts on all buses.[58] It seemed that some commenters wanted the GVWR criterion lowered from 11,793 kg (26,000 lb) to 4,536 kg (10,000 lb), so that when belts are required and other safety efforts are initiated for ''motorcoaches,'' the seat belts and safety improvements would be required for all buses.

This final rule requires all over-the-road buses to have lap/shoulder belts without reference to GVWR, in accordance with the Motorcoach Enhanced Safety Act. For buses other than over-the-road buses, this rule adopts the GVWR criterion of 11,793 kg (26,000 lb)[59] and does not lower it to 4,536 kg (10,000 lb). Our reasons for not lowering the GVWR criterion for buses other than over-the-road buses are discussed below.

This rulemaking originated to focus on the risk of fatality associated with ''motorcoaches,'' which NHTSA's 2007 Motorcoach Safety Plan had called intercity transport buses. This rulemaking was not intended to address whether seat belts should be required on buses regardless of vehicle weight class. This final rule also responds to the Motorcoach Enhanced Safety Act, which requires NHTSA to issue a final rule ''requiring safety belts to be installed in motorcoaches'' within one year after date of enactment of the Act. Congress was aware of the August 2010 NPRM preceding this final rule, and the short timeframe provided by the Act indicates that Congress was aware that NHTSA intended this rulemaking to be focused on heavy buses and that Congress wanted NHTSA to complete it quickly.

The decision to focus this rulemaking on buses with a GVWR greater than 11,793 kg (26,000 lb) is data-driven. In developing this rulemaking, NHTSA analyzed accident data that identified unique safety risks affecting buses that were not sufficiently addressed by the current FMVSSs. These risks include the risks of occupant ejection, prolonged emergency egress from the vehicles, and structural vulnerability to roof loading in a rollover event.

As to which buses posed these risks, we examined accident data from a 10-year period to see which buses were involved in fatal crashes, the type of crashes that caused the harm, and the specific mechanics of the injury-causing event. FARS data showed that most passenger fatalities involved buses with a GVWR of more than 11,793 kg (26,000 lb). This final rule applies the seat belt regulation to these buses associated with that risk.

The decision to focus this rulemaking on buses with a GVWR greater than 11,793 kg (26,000 lb) is based on a sound and focused agency policy. NHTSA established the 2007 ''NHTSA's Approach to Motorcoach Safety'' plan after a comprehensive review of safety issues associated with bus

[57] Furthermore, another practical advantage is this approach enables us to refine the requirements of today's final rule in a clearer manner. We read the Motorcoach Enhancement Safety Act as limiting the final rule's allowance of lap belts on over-the-road buses. We have more discretion for other bus types, and we have used our discretion, as appropriate, to allow lap belts for side-facing seats on non-over-the-road buses, and to exclude certain buses (e.g., prison buses) from requirements for seat belts.

[58] FMVSS No. 208 requires lap/shoulder belts for all seats on buses with a GVWR of 4,536 kg (10,000 lb) or less. It also requires lap belts at the driver seat of buses with a GVWR greater than 4,536 kg (10,000 lb).

[59] This final rule slightly changes the proposed GVWR criterion ''GVWR of 11,793 kg (26,000 lb) or greater'' to ''GVWR greater than 11,793 kg (26,000 lb).'' The change referring to the 1-lb difference was made to make the GVWR cut-off more consistent with the regulations of FMCSA, which use a criterion of ''26,001 lb'' in its definition of ''commercial motor vehicle.'' See 49 CFR 383.5.

transportation and the course of action that the agency could pursue to address them, as well as projects that should be priority actions. Many considerations were factored into determining the priorities, including: cost and duration of testing, development, and analysis required; likelihood that the effort would lead to the desired and successful conclusion; target population and possible benefits that might be realized; and anticipated cost of implementing the ensuing requirements into the motorcoach fleet. The agency has focused today's rulemaking on the subject buses (GVWR above 11,793 kg (26,000 lb)) to achieve the specific goals of NHTSA's 2007 plan efficiently and expeditiously.

Expanding this rulemaking into a major undertaking on seat belts on all buses would delay issuance of this final rule and the benefits attained, which would not accord with the Motorcoach Enhanced Safety Act. We believe that a belt requirement for buses with a GVWR of 4,536 kg to 11,793 kg (10,000 lb to 26,000 lb) is an important issue, our understanding of which would benefit from a fuller discussion of related issues. We would like to consider more fully matters related to the current and future use of the buses, belt use, any technical issues, and the benefits and costs of a belt requirement. Also, as the majority of manufacturers of ''mid-size buses'' (between 10,000 and 26,000 lb GVWR) are small businesses, a separate action on mid-size buses might result in many small businesses commenting on the initiative, with NHTSA gaining more information from participation of these entities in the rulemaking process.

In support of its argument that the GVWR criterion should be lowered to include buses with a GVWR greater than 4,536 kg (10,000 lb), NTSB provided data from the crashes of two body-on-chassis buses (both with a GVWR between 4,536 kg and 11,793 kg (10,000 lb to 26,000 lb) as evidence of a safety need to lower the GVWR weight limit to 4,536 kg (10,000 lb). These crashes resulted in a total of 10 fatalities in 2009 and 2010. As discussed above, the information from NTSB prompted NHTSA to perform a revised data review, to include data from the ''other bus'' and ''unknown bus'' FARS bus categories, both at the 4,536 kg to 11,793 kg (10,000 lb to 26,000 lb) and over 11,793 kg (26,000 lb) GVWR levels.[60] The updated data from the three FARS bus categories continue to show that buses with a GVWR between 4,536 kg and 11,793 kg (10,000 lb to 26,000 lb) do not constitute a large part of the overall safety problem that we were addressing in the ''NHTSA's Approach to Motorcoach Safety Plan.'' (In this discussion, when we refer to the FARS data for buses, we are excluding transit bus and school bus body types, for the reasons discussed in the NPRM.)

As discussed in the earlier section of this preamble, ''Updated FARS Data,'' the new analysis showed that from 2000 through 2009, there were 251 occupant fatalities in buses with a GVWR greater than 4,536 kg (10,000 lb). Only 42 (17 percent) of these occupant fatalities occurred in buses with a GVWR between 4,536 kg and 11,793 kg (10,000 lb to 26,000 lb). In contrast, 209 (83 percent) occupant fatalities were in buses with a GVWR greater than 11,793 kg (26,000 lb). Among the 137 fatalities occurring in rollover crashes in buses with a GVWR greater than 4,536 kg (10,000 lb), 114 (83 percent) were in buses with a GVWR greater than 11,793 kg (26,000 lb).[61]

NHTSA has examined the benefits and costs of our final rule in accordance with the principles for regulatory decision-making set forth in Executive Orders (E.O.) 12866 and 13563, and has made decisions consistent with those orders. Fatalities and injuries in transit buses and in mid-size buses (between 10,000 and 26,000 lb GVWR) were also examined by NHTSA after receiving the comments, to obtain a higher-level view of the occupant protection provided by buses generally. The FRIA provides these analyses for informational purposes.[62] Although it appears that the likely cost per equivalent life saved for mid-size buses will be much greater than the $6.3 million value of a statistical life guideline in ($2008) at least for the present and near future, we would like to continue to examine the need for seat belts on these buses in a future context that will allow more time to conduct this examination than that provided by the Motorcoach Enhanced Safety Act for this final rule.

Accordingly, as we have shown in this section, in developing this final rule, we are applying this rule to high-occupancy buses that have a high involvement in fatal crashes, generally, and in fatal rollover crashes involving ejection, particularly—i.e., buses with a GVWR greater than 11,793 kg (26,000 lb). In doing so, we are mitigating the vast majority of fatalities Congress intended to address in the Motorcoach Enhanced Safety Act, and which NHTSA has targeted in the 2007 ''NHTSA's Approach to Motorcoach Safety'' plan, in a focused and expedited manner.[63]

b. Sixteen Designated Seating Positions

The proposed ''motorcoach'' definition included a provision that one of the attributes of a motorcoach is that it has 16 or more DSPs. This reference was to make the definition similar to FMCSA's definition of a ''commercial motor vehicle,'' for purposes of FMCSA's commercial driver's license (CDL) requirements.

Comments

Some commenters (e.g., Freedman Seating Company, and MCI) recommended that the number of DSPs be reduced to fewer than 16. Freedman and MCI's comments were related to their suggestion that the rule should be applied to smaller buses. Turtle Top's comment highlighted the increased complexity and possible confusion that a ''16 or more DSPs'' provision could create in specifying vehicle types.

Agency Response

Under FMCSA's regulations, buses with a GVWR greater than 11,739 kg (26,000 lb) are commercial motor vehicles under the CDL regulation,

[60] See the previous discussion of this issue in the section titled, ''Updated FARS Data.'' For the NPRM, only data from the ''cross-country/intercity'' FARS bus category were analyzed, as NHTSA had thought that this cross-country/intercity FARS bus category contained the relevant data.

[61] Notwithstanding the agency's determinations about limiting the GVWR limit for non-over-the-road buses, this final rule also responds to the Motorcoach Enhanced Safety Act. That Act requires lap/shoulder belts on over-the-road buses and provides no explicit limit on GVWR. As mentioned earlier, we are not aware of any over-the-road bus being sold in the U.S. with a GVWR below 11,793 kg (26,000 lb). Thus, as a practical matter, the buses affected by this final rule are buses with a GVWR greater than 11,793 kg (26,000 lb).

[62] For the FRIA analysis, we estimate that there are approximately 14,600 mid-size buses (between 10,000 and 26,000 lb GVWR) produced and sold annually for purposes other than school transportation and transit services. We assume for purposes of our analysis that the average mid-size bus has 24 passenger seats. The average per vehicle costs are estimated at $7.54 for the driver position and $937.68 for the passenger positions. The total fleet cost to install lap/shoulder belts on these vehicles is estimated to be $13.8 million and the additional fuel costs would be approximately $6.9 to $9.4 million. We estimate that 0.02 to 0.2 driver lives (1 to 12 injuries) and 0.3 to 1.71 passenger lives (28 to 153 injuries) would be saved annually (0.67 to 4.96 total equivalent lives) by a seat belt requirement applying to mid-size buses, assuming the effectiveness of belts on mid-size buses is equal to that we estimate for belts on buses with a GVWR greater than 11,793 kg (26,000 lb). The cost per equivalent life saved is estimated to range between $0.3 to $1.2 million for drivers, $4.6 to $35.5 million for passengers and $4.2 to $33.7 for all occupants (assuming a seat belt use rate of 50 percent to 83 percent for drivers and 15 percent to 83 percent for passengers).

[63] This final rule does not prohibit the voluntary installation of passenger seat belts in buses with a GVWR between 4,536 kg and 11,793 kg (10,000 lb to 26,000 lb).

regardless of the number of DSPs.[64] Since this final rule does not lower the GVWR criterion, the number of DSPs on a bus with a GVWR greater than 11,793 kg (26,000 lb) is of no consequence for purposes of CDL requirements. Thus, the comments are moot, and the ''16 or more DSPs'' provision is unnecessary and may only add confusion regarding the requirements for buses with a GVWR greater than 11,793 kg (26,000 lb), especially those with only 10 to 15 DSPs. We have deleted the provision.

c. At Least 2 Rows of Forward-Facing Seats Rearward of the Driver's Seat

The proposed ''motorcoach'' definition included a provision that one of the attributes of a motorcoach is that it has ''at least 2 rows of passenger seats, rearward of the driver's seat, that are forward-facing or can convert to forward-facing without the use of tools.'' This reference was to distinguish ''motorcoaches'' from buses with perimeter seating, such as those used to transport passengers in airports between the terminal and locations such as a rental car facility or long term parking.

Buses with perimeter seating usually have a single forward-facing row of seats at the back of the vehicle and seats along one or both sides of the bus. Passengers sitting along the side of the bus face the longitudinal centerline of the vehicle, usually with their backs toward the windows. Buses with perimeter seating are used to carry people for a relatively short period, typically are meant to transport standees, and are spacious to accommodate baggage and other carry-on items and to maximize the speed of passenger boarding and alighting. Passengers are expected to board and disembark the bus quickly, with large baggage and other belongings; the buses are on a tight operating schedule. We proposed to exclude buses with perimeter seating because we believed that they are used for relatively short rides, and are used on set routes and are not widely exposed to general traffic. Also, because of the nature of the transport (frequent and quick loading and unloading of passengers), and the roads on which they generally travel, passenger seat belts in such buses are not as needed or likely to be worn by passengers.

Comments

Advocates suggested that passenger-carrying commercial motor vehicles should not be excluded from the ''motorcoach'' definition simply on the basis of ''the arrangement of designated, forward-facing seating positions.'' Other commenters supported placing seat belts on airport shuttles.

MCI commented changing the criterion from ''at least two rows of passenger seats'' to ''at least 8 seating positions.''

Turtle Top thought the motorcoach definition proposed in the NPRM implied that motorcoaches can have 16 DSPs with only two rows of seats, requirements it thought were conflictive. IC Bus, American Seating, and IMMI commented that all seats in motorcoaches should be required to be forward-facing.

Agency Response

The Motorcoach Enhanced Safety Act directs NHTSA to ''prescribe regulations requiring safety belts to be installed in motorcoaches at each designed seating position.'' ''Safety belts'' mean lap/shoulder belts (see section 32702(12) of the Act) and ''motorcoach'' means ''over-the-road bus'' (a bus characterized by an elevated passenger deck located over a baggage compartment) but does not include a bus used in public transportation provided by, or on behalf of, a public transportation agency, or a school bus (see section 32702(6) of the Act). In response to the Motorcoach Enhanced Safety Act, this final rule requires lap/shoulder belts at each designated seating position in over-the-road buses, even if the bus has perimeter seating.[65]

For buses other than over-the-road buses (typically body-on-frame construction), we have decided to exclude buses with perimeter seating for the reasons discussed in the NPRM and summarized above. However, we are simplifying the language of the standard since the proposed language describing a bus of this type was not well understood or clear enough.

We wish to note, before beginning our discussion, that we received a comment from the family of a man who was permanently disabled in a crash of an airport shuttle bus with perimeter seating. The comment supported having belts on these buses. We have carefully considered the comment but we are unable to concur with its recommendation to require seat belts on these buses.[66] In our decision-making on safety regulations, our decisions must be practical, fair, reasonable and necessary. The available accident data indicate that fatalities and serious injuries in crashes of airport shuttle-type buses of GVWRs greater than 11,793 kg (26,000 lb) with perimeter seating do not happen with a frequency that enables us to conclude that the affected buses with perimeter seating should be required to have seat belts. However, in the future, if data indicate a need for seat belts, we will be willing to revisit this issue.

Simplified Language

The following discussion relates to buses other than over-the-road buses. It does not apply to over-the-road buses. The Motorcoach Enhanced Safety Act requires over-the-road buses to have safety belts, so we have therefore defined ''perimeter-seating bus'' as not including an over-the-road bus.

The proposed regulatory text that sought to exclude airport shuttle-type buses with perimeter seating was not well understood by commenters. To clarify it, we are simplifying the language describing perimeter-seating buses in two ways. First, we are changing the format of the regulatory text. As noted above, the NPRM attempted to specify what a motorcoach has or does not have (as proposed in the NPRM, a motorcoach had to have at least 2 rows of forward-facing passenger seats—i.e., a bus with fewer than 2 rows of forward-facing seats was a perimeter-

[64] Pursuant to the Federal Motor Carrier Safety Administration's Commercial Driver's License Standards at 49 CFR 383.3, persons are required to obtain and hold a CDL if they operate in interstate, foreign or intrastate commerce if they operate a vehicle that meets any of the classifications of a ''commercial motor vehicle'' (CMV) where CMV is defined at 49 CFR 383.5 as follows:

''*Commercial motor vehicle (CMV)* means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle—

(1) Has a gross combination weight rating or gross combination weight of 11,794 kilograms or more (26,001 pounds or more), whichever is greater, inclusive of a towed unit(s) with a gross vehicle weight rating or gross vehicle weight of more than 4,536 kilograms (10,000 pounds), whichever is greater; or

(2) Has a gross vehicle weight rating or gross vehicle weight of 11,794 or more kilograms (26,001 pounds or more), whichever is greater; or

(3) Is designed to transport 16 or more passengers, including the driver; or

(4) Is of any size and is used in the transportation of *hazardous materials* as defined in this section.''

[65] The Motorcoach Enhanced Safety Act's mandate to require seat belts to be installed in over-the-road buses at each designated seating position applies to niche vehicles, such as a vehicles often referred to as a ''limo bus'' or ''party bus,'' to the extent that the ''limo buses'' are based on an ''over-the-road'' bus design. Another type of niche vehicle is the touring/entertainment bus that is a modified over-the-road bus, with eating and sleeping accommodations, used by some celebrities and entertainers when touring the country. Additional comments and discussion related to these two niche bus types can be found in section VIII.d.3. To the extent that these niche vehicles are body-on-frame construction (not over-the-road buses) they could qualify to be exempted as perimeter-seating buses. Also, some of these vehicles may not be buses at all if they have less than 10 passenger DSPs (11 total DSPs, including the driver).

[66] This discussion assumes that the bus is not an over-the-road bus.

seating bus and not a ''motorcoach''). We have decided it is easier to define ''perimeter-seating bus,'' and then exclude perimeter-seating buses from FMVSS No. 208's seat belt requirements.

Second, we have defined a perimeter-seating bus by referring to the maximum number of forward-facing DSPs the vehicle may have, rather than the number of ''rows'' the vehicle may have. This is along the lines suggested by MCI. We are making this change because we have found it difficult to define the term ''row'' for purposes of today's amendments using plain language.

FMVSS No. 226, ''Ejection mitigation'' (49 CFR 571.226) has a definition of row, but that definition does not work entirely well with regard to motorcoach seating configurations.[67] For example, assuming the forward-facing seating positions in a bus is divided by an aisle, the forward-facing seating positions on the left half of the bus may not align with the seats on the right half. This lack of alignment may occur when there is a parcel rack, junction box, door, or some other element of the bus' design that is located on only one side of the bus. These elements may shift placement of seats on that side of the bus, so that the seats do not align with seats on the other side (when viewed from the side of the bus, as specified by FMVSS No. 226).

After reviewing the comments, we have decided that an easier approach is to define ''perimeter-seating bus'' by referring to a maximum number of forward-facing passenger DSPs allowed under the exclusion. Under the NPRM, a bus that has two or more rows of forward-facing passenger seats is potentially a ''motorcoach.'' Since there are typically 4 forward-facing passenger DSPs in a row on a motorcoach, there are 8 forward-facing DSPs in two rows. Thus, the equivalent of saying that a motorcoach has at least 2 rows of forward-facing seats is to say that a motorcoach has at least 8 forward-facing DSPs.

In other words, to be excluded from the affected class as a perimeter-seating bus, the bus has to have 7 or fewer forward-facing passenger DSPs.[68] This final rule adopts the following term in FMVSS No. 208 to describe a perimeter-seating bus: A ''perimeter-seating bus'' is a bus that has 7 or fewer designated seating positions rearward of the driver's seating position that are forward-facing or can convert to forward-facing without the use of tools.

The maximum number of forward-facing DSPs that can fit side-by side in a vehicle 2.6 meters (102.36 inches)[69] wide is 5. This is calculated assuming a minimum DSP width of 450 millimeters (17.7 inches, as specified at 49 CFR 571.3). Thus, a ''perimeter-seating bus'' can have a forward-facing row along the rear wall (5 DSPs) and up to 2 other forward-facing seats behind the driver. Another example is a bus that has some side-facing seats and 3 pairs of seats forward-facing. Under today's rule, as long as the number of forward-facing passenger DSPs is 7 or fewer, the vehicle is a perimeter-seating bus and is excluded from the requirements of this rule.

We recognize that this approach allows a manufacturer to install up to 7 individual forward-facing seats (not including the driver's seat) scattered throughout a bus, and does not require that there be a single row of 5 forward-facing DSPs along the back of the bus. Nonetheless, in limiting the number of forward-facing DSPs to 7 for the bus to be considered a perimeter-seating bus, we believe the definition is clearer and easier to understand than one referring to rows, and adequately describes a bus with primarily side-facing (perimeter) seats.[70]

d. Treatment of Various Bus Types and Configurations Under the Final Rule

We stated in the NPRM that we intended the motorcoach definition to include buses that are sold for intercity, tour, and commuter bus service (75 FR at 50970). In an effort to be as clear and straightforward as possible that buses sold for intercity, tour, and commuter bus service would be motorcoaches, the proposed regulatory text for the motorcoach definition included the following statement: ''*Motorcoach* includes buses sold for intercity, tour, and commuter bus service. . . .'' We did not exclude shuttle buses generally, but requested comment on whether shuttle buses should be excluded from the proposed definition.

1. Shuttle Buses

We received varied comments on whether ''shuttle buses'' should be motorcoaches.

Safe Ride News, Advocates, the National Association of State Directors of Pupil Transportation Services and some individuals supported requiring ''shuttle buses'' to have seat belts. They believed that these vehicles are often in continuous service and can travel on high speed roads, and can match the risk exposure to ejection risk of intercity or over-the-road buses.

Agency Response

The following discussion relates to buses other than over-the-road buses. It does not apply to over-the-road buses. The Motorcoach Enhanced Safety Act requires over-the-road buses to have lap/shoulder belts.

We have decided that there will not be a general exclusion of ''shuttle buses'' from the coverage of this final rule. Comments and agency observations indicate that there is not a clear meaning of the term ''shuttle bus.'' We agree with the United Motorcoach Association that ''shuttle bus'' covers a potentially broad range of uses and bus types. The term can apply to a myriad of commercial passenger vehicles in diverse road and highway exposures. An internet search for buses and services associated with ''shuttle buses'' resulted in vehicles that range from vans to over-the-road buses, transporting passengers over distances of less than a mile to over 100 miles.

Further, FARS data (2000–2009) indicated that for buses with a GVWR greater than 11,793 kg (26,000 lb) and having bus body types other than the excluded categories of transit and school bus, shuttle bus use constituted 22.5 percent of fatalities. Accordingly, we are not excluding shuttle buses from today's final rule.

[67] We have defined ''row'' in Federal Motor Vehicle Safety Standard (FMVSS) No. 226, ''Ejection mitigation.'' (See 49 CFR Section 571.226. ''Row'' means ''a set of one or more seats whose seat outlines do not overlap with the seat outline of any other seats, when all seats are adjusted to their rearmost normal riding or driving position, when viewed from the side.'') That standard's definition of row is not suited to our goals for today's rulemaking. The reason is that ''row'' in FMVSS No. 226 is defined so that any seats that overlap when viewed from the side are considered to be in a single row, i.e., a row does not end until there is a clear separation between seats. This has the effect of minimizing the number of rows in a vehicle, which works well for FMVSS No. 226 because it maximizes the window area required to be covered with an ejection mitigation countermeasure. However, for motorcoaches, if the seats are configured so that when viewed from the side, there is no separation between any seats, the entire seating of the bus would be considered one row. Thus, the bus would not be considered to have two rows of forward-facing seats, and therefore, contrary to the goal of this rulemaking, would not be a ''motorcoach.''

[68] The NPRM did not intend to count the driver's seat in consideration of what is a row. Likewise, we conclude that the driver's seat does not count toward the 7 forward-facing DSPs.

[69] According to the Federal Highway Administration's regulations at 23 CFR 658.15, the maximum width limit for commercial motor vehicles (CMVs) operating on the National Network (NN) is 102 inches, or its approximate metric equivalent of 2.6 meters (102.36 inches), except for Hawaii where it is 2.74 meters (108 inches).

[70] Some commenters thought that the provision in the proposed definition referring to ''at least two rows of forward-facing seats'' was an attempt to require all seats to be forward-facing. We did not intend to propose such a requirement, nor are we aware of safety data showing a need for such a requirement.

Freedman suggested that ''shuttle bus'' should be defined as it is in FMVSS No. 225 (49 CFR 571.225),'' Child restraint anchorage systems: ''a bus with only one row of forward-facing seating positions rearward of the driver's seat.'' We note the FMVSS No. 225 definition of ''shuttle bus'' describes a bus that is classified as a ''perimeter-seating bus'' in today's final rule (see above section).

2. Trolley and Double-Decker Sightseeing Buses

The NPRM's proposed regulatory text for the motorcoach definition stated that ''motorcoaches'' included ''buses sold for . . . tour . . . bus service. . . .''

Comments

Coach USA commented that sightseeing buses called ''trolleys'' (which are buses designed to look like a trolley car on tires) and ''double-deckers'' (buses with two levels of passenger seating, one above the other, some with the top level open and some with both levels enclosed) operate similarly to transit buses and should be excluded from the definition of ''motorcoach.'' The commenter stated that ''[t]hese buses do not operate with passengers on highways, but rather the buses transport passengers exclusively on urban streets, do not exceed about 25 mph, and make frequent stops . . .'' Both Coach USA and the American Bus Association (ABA) suggested that the motorcoach definition exclude buses ''sold for urban sightseeing transportation with frequent stops.'' ABA also recommended that low-floor buses that are used exclusively within urban areas, such as what the commenter said were intra-city double-decker sightseeing buses, be excluded from the motorcoach definition for the same reasons expressed by Coach USA.

Agency Response

We have decided against excluding trolley-type buses and both open and closed top double-decker sightseeing buses from the application of today's final rule.

Regarding trolley-type buses (trolley buses), the agency is concerned that the vehicles are manufactured as buses and are fully capable of being operated at highway speeds. Trolley buses also have overly-large window openings and can be and are at times operated with the windows open, which exacerbates the ejection risk. Seat belts for the passengers will meet a safety need.[71]

Regarding closed top double-decker sightseeing buses, no feature of the vehicle would prevent these buses from being operated in the same manner as double-decker buses operated on the highways, such as those operated by Megabus between major metropolitan areas of the Northeast corridor. Further, Van Hool's distributor advertises Van Hool double-decker buses for intercity bus service.[72] The vehicles can and are being used just like an over-the-road bus for intercity and tour services. (We note that, if a vehicle meets the definition of an over-the-road bus, i.e., if there is a baggage compartment under the elevated passenger deck, the bus must have lap/shoulder belts under the Motorcoach Enhanced Safety Act.)

Regarding open-top double-decker buses, the vehicles are manufactured as buses and are fully capable of operating at highway speeds. We have observed these buses on high-speed freeways, with passengers, as they make their way into Washington, DC. We note that passengers on the top deck of an open-top double-decker bus face unique risks compared to other buses. A collision at a relatively low speed or an unexpected maneuver may expose passengers to an ejection risk. There is even a risk of injury simply to stand up while the vehicle is in operation.[73] (We note again that, if a vehicle meets the definition of an over-the-road bus, i.e., if there is a baggage compartment under the elevated passenger deck, the bus must have lap/shoulder belts under the Motorcoach Enhanced Safety Act.)

Excluding ''sightseeing buses'' would not be reasonable. ''Sight-seeing buses'' generally are not distinguishable from over-the-road and heavy body-on-frame buses. They are manufactured as buses and are capable of and are used on high speed roads. The sights to which they travel may be far distances apart. Travelers are often riding on a particular bus for lengthy tours and may ride the bus over long distances over highways. The buses may pose unique ejection risks if they also have overly-large window openings. Seat belts for the passengers will meet a safety need. (If the bus meets the definition of an over-the-road bus, i.e., if there is a baggage compartment under the elevated passenger deck, the bus must have lap/shoulder belts under the Motorcoach Enhanced Safety Act.)

3. Limousine and Entertainment Buses, Buses With Multiple Wheelchair Positions

Turtle Top described three bus configurations (GVWR greater than 11,793 kg (26,000 lb)) that may be ordered with fewer than 16 DSPs and asked whether they would be covered under the then-proposed motorcoach definition. Two of these bus configurations are the limousine and touring coach. Our answer is the limousine and touring/entertainment coaches are subject to today's seat belt requirements if they are over-the-road buses, regardless of seating capacity and regardless of GVWR, under the Motorcoach Enhanced Safety Act. If the buses are not over-the-road buses, they are subject to the final rule if they have a GVWR greater than 11,793 kg (26,000 lb), and have 8 or more forward-facing DSPs rearward of the driver's position. We assume that the vehicles meet the definition of a ''bus,'' which is defined in the Motorcoach Enhanced Safety Act and our regulations as ''a motor vehicle with motive power, except a trailer, designed for carrying more than 10 persons.'' (See section 32702(2) of the Motorcoach Enhanced Safety Act and 49 CFR 571.3.)

The third bus configuration Turtle Top asked about is ''a coach that has many wheelchair positions and not many seats.'' The coach is subject to today's seat belt requirements if it is an over-the-road bus, regardless of seating capacity and regardless of GVWR, under the Motorcoach Enhanced Safety Act. The designated seating positions on the bus (not the wheel chair positions) must have lap/shoulder belts.

If the bus is not an over-the-road bus, the following discussion applies. NHTSA has interpreted the DSP definition such that wheelchair seating positions are not DSPs and thus are not required to comply with Federal motor vehicle safety standards that apply to DSPs, such as the requirement in this final rule to have seat belts. However, we have said that wheelchair positions are counted in determining vehicle seating capacity for the determination of the type classification of a vehicle.[74] Accordingly, a vehicle would be subject to today's seat belt requirements if it has a GVWR greater than 11,793 kg (26,000 lb), 8 or more forward-facing DSPs or wheelchair positions rearward of the driver's position, and at least 10 passenger DSPs or wheelchair positions total.[75]

[71] We assume that the trolley buses at issue are not transit buses. Transit buses are excluded from coverage of today's final rule.

[72] See, *http://www.abc-companies.com/models/TD925.asp.* Last accessed July 12, 2012.

[73] On July 11, 2008, two passengers of an open-top double-decker bus were killed when they stood as the bus went under an overpass on an interstate highway in Washington, DC. A similar incident occurred on May 30, 2009 near Mattoon, IL, which also killed two passengers.

[74] *http://isearch.nhtsa.gov/gm/78/nht78-3.31.html.*

[75] We assume the bus is not a school bus. There are different provisions for school buses (see, the

4. Military Ambulances

Blue Bird described a military ambulance bus that it provides to the General Services Administration (GSA) that is equipped with seats that fold down to allow transport of litters for the wounded. Blue Bird asked that the agency exclude this type of bus from the motorcoach definition and thus from the lap/shoulder seat belt requirements for passenger seats.

In response, 49 CFR 571.7(c) specifies that, ''No standard applies to a vehicle or item of equipment manufactured for, and sold directly to, the Armed Forces of the United States in conformity with contractual specifications.'' It is not clear, but it is possible that the sale Blue Bird describes is covered under 571.7(c). If the sale is not covered by 571.7(c) and if the bus is an over-the-road bus, it is required to have seat belts. If the ambulance bus is not an over-the-road bus, if the ambulance bus has 7 or fewer forward-facing DSPs rearward of the driver's position, it is excluded from the requirements of this final rule.

5. Prison Buses

MCI, Blue Bird and Turtle Top asked that vehicles designed to transport prisoners be excluded from the formerly-proposed ''motorcoach'' definition. The commenters stated that these vehicles are often equipped with small porthole style windows or metal screens over existing windows, segregation cells, and fiberglass or stainless steel low-back seats or benches (to optimize supervision and observation) that are specially designed to be impervious to human fluids and to have no crevices. The interior of the bus is designed to provide an enhanced view of detainees by law enforcement officers and to be free of loose articles that can be used as weapons and tools, such as a seat belt assembly. Commenters stated that since the detainees are often in restraints, the use of seat belts is impractical in most cases. They noted that for reasons related to the unique needs and purposes of prison buses, prison buses are currently excluded from emergency exit and other requirements of FMVSS No. 217, ''Bus emergency exits and window retention and release.''

Agency Response

The agency agrees with MCI, Blue Bird, and Turtle Top that passenger seats on buses designed for the transport of passengers under physical restraint should be excluded from the amended FMVSS No. 208 requirements adopted today. The necessary features of the bus—fiberglass or stainless steel low-back seats or benches—are incompatible with installation of seat-mounted lap/shoulder belts. Further, according to the commenters, lap/shoulder belt equipment pose hazards as the buckle hardware and belt webbing could cause harm as weapons or tools. In addition, it is unlikely that the prisoners will be able to buckle themselves in, as their hands are usually handcuffed.

Accordingly, this final rule excludes buses other than over-the-road buses from the requirement to provide passenger seat belts on a ''prison bus'' for the reasons above. This final rule defines ''prison bus'' as follows: ''Prison bus'' means a bus manufactured for the purpose of transporting persons subject to involuntary restraint or confinement and has design features consistent with that purpose. This definition is based on a definition used in FMVSS No. 217. However, because these practical reasons do not apply to the driver's seating position, the driver's seating position is required to have lap/shoulder belts as proposed in the NPRM. For the same reason, any passenger seat opposite (not rearward of) the driver's seat is also required to have a lap/shoulder belt since that seat is not usually used by a prisoner.

For over-the-road buses, the Motorcoach Enhanced Safety Act requires over-the-road buses to have safety belts at each designated seating position. The driver's seating position must be equipped with a lap/shoulder belt. With regard to the passenger seats, we agree that the seats and safety belts could pose sufficient risk to the safety of guards and detainees that compliance with the final rule for passenger seating positions could result in an overall reduced level of safety compared to prison buses without the belts. Prison bus purchasers seeking to avoid installation of passenger safety belts due to concerns about the guards' safety should consider buses other than over-the-road buses. If an over-the-road bus is a necessity, the bus manufacturer could apply for an exemption from the requirements of this final rule under 49 CFR Part 555, presenting information that the applicant is unable to sell a bus whose overall level of safety is at least equal to that of a non-exempted vehicle.[76]

e. Transit Buses

In the NPRM, based on an analysis of FARS data, we proposed that ''motorcoach'' would not include ''an urban transit bus sold for operation as a common carrier in urban transportation along a fixed route with frequent stops.'' Our analysis of FARS data showed that, for buses with a GVWR greater than 11,793 kg (26,000 lb), the bus body type with the fewest fatalities at 8.2 percent was ''transit buses.'' We tentatively determined that, due to a lack of a safety need, it was warranted to exclude transit buses from the class of affected vehicles (motorcoaches) to which the lap/shoulder seat belt requirements would apply.

Comments

In general, most of the bus and seat manufacturers commented that the definition needs to better distinguish between the affected vehicles and ''transit buses.'' In general, the public transit agencies described three types of operations that cover most of the major services they provide.[77] These were: (a) ''Urban transit'' service, characterized by fixed route operation with frequent stops; (b) ''express'' service, characterized by fixed route operation that is similar to, but with less frequent stops than traditional urban transit service, and with potentially short portions of the route on the highway; and, (c) ''commuter express'' or ''premium express'' service, characterized by longer routes with a significant portion on the highway, with either single or frequent stops at each end of the route, and no or few intermediate stops.

The American Public Transportation Association (APTA) expressed its concern that the proposed ''motorcoach'' definition may confuse public transportation agencies, bus manufacturers, and the riding public. APTA explained that the term ''urban'' in the proposed definition would not exclude all buses used in fixed route transit service with frequent stops, ''fixed route'' would not exclude transit buses that are used for route-deviated services with frequent stops (i.e., service that conforms to riders' requests,

DSP definition in 49 CFR 571.3, and FMVSS No. 222).

[76] 49 CFR 555.6(d). The number of exempted vehicles sold in the U.S. in any 12-month period is limited to 2,500 vehicles, 49 CFR 555.6(d)(4). The exemption is limited to a period of 2 years by 49 CFR 555.8(b) but applications for renewal of the exemption are automatically granted if filed within 60 days before termination of the exemption and do not terminate until the Administrator grants or denies the application for renewal. 49 CFR 555.8(e).

[77] The public transit agencies also asked use-related questions, such as whether passengers would be required to wear their seat belts, how would standing passengers (standees) benefit from seat belts, and whether standees would be permitted. Since this final rule does not require belts for transit buses, and because the NPRM did not broach these issues at all, NHTSA sees no need to discuss these issues in this final rule.

although still operating with frequent stops), and ''frequent stops'' may be interpreted to exclude express service (i.e., urban transit service with less frequent stops, although still operated on city streets). APTA suggested that the transit bus exclusion in the proposed definition be replaced with the following: ''. . . [except] a transit bus designed and procured for operation in public transportation other than an over-the-road-bus as defined by the U.S. Department of Transportation.''

Turtle Top was concerned that the term ''urban transit bus'' is not defined in the FMVSSs, and was concerned that a given bus could have both over-the-road and urban transit applications.

IC Bus stated that ''to properly exclude 'urban transit bus' from proposed motorcoach bus definition, it is our opinion that it may not be possible to define a 'motorcoach' without including the vehicle's intended use, or vocation.'' IC Bus followed this statement by presenting to the agency an option to define motorcoach based solely on vehicle attributes and features. The features IC Bus presented were essentially those of an over-the-road bus. The American Bus Association (ABA) suggested NHTSA refer to the ''low-floor'' feature of urban transit buses in defining the buses, but did not define ''low floor.'' Gillig, a transit bus manufacturer, and most of the public transit agencies that commented, recommended that buses sold for or used to provide public transportation services, regardless of configuration, be excluded from the ''motorcoach'' definition. Gillig suggested that we adopt the Environmental Protection Agency's (EPA) definition of ''urban bus'' in 40 CFR 86.091–02.

Agency Response

This final rule excludes transit buses from today's lap/shoulder seat belt requirements because fatality data for urban transit buses differ significantly from that of other buses with a GVWR greater than 11,793 kg (26,000 lb). We believe this difference is due in part to the stop-and-go manner of transit bus operation. Updated FARS data from 2000–2009 continue to show that for all bus body types with a GVWR greater than 11,793 kg (26,000 lb), transit buses have the fewest fatalities at 8.2 percent or 23 out of a total of 281. These same data show that there were 20 fatal crashes involving occupants of urban transit buses, resulting in fatalities of 11 drivers and 12 were passengers. Thus, fatal transit bus crashes involve about one fatality, on average. In summary, there are many fewer total fatalities and fatalities per crash for transit buses, and thus a significantly lower risk than in the buses covered by this final rule.

We have not found a safety need justifying a lap/shoulder seat belt requirement for transit buses. To the extent commenters believe there is a safety need, this issue was not explored sufficiently in the NPRM. We discuss the issue of seat belt requirements for the driver seat of transit buses in section XIV of this notice.

Many commenters were troubled that the proposed definition was not sufficiently clear in distinguishing ''transit buses'' from the buses that do need lap/shoulder seat belts. We agree and have adjusted the proposed definition as follows:

- We made the regulatory text clearer in describing a ''transit bus'' by referring to a structural feature (a stop-request system) that buses must have to be a ''transit bus.'' A ''stop-request system'' means a vehicle-integrated system for passenger use to signal to a vehicle operator that a stop is requested.
- We expanded the description of a transit bus by recognizing that a transit bus could be sold for public transportation provided not only by, but also *on behalf of,* a State or local government, for example, by a contractor.
- We made clearer that over-the-road buses do not qualify as ''transit buses,'' even if the over-the-road bus has a stop-request system or is sold for public transportation provided by or on behalf of a State or local government.[78]

This final rule adopts the following definition of ''transit bus'' and associated terms.

''Transit bus'' means a bus sold for public transportation provided by, or on behalf of a State or local government, that is equipped with a stop-request system and that is not an over-the-road bus. ''Stop-request system'' means a vehicle-integrated system for passenger use to signal to a vehicle operator that they are requesting a stop. ''Over-the-road bus'' means a bus characterized by an elevated passenger deck located over a baggage compartment.

IC Bus suggested that we define motorcoach based solely on vehicle attributes and features. We support the idea of using vehicle attributes and features but the features IC Bus presented were essentially those of an over-the-road bus. We will not adopt an approach that narrowly limits the applicability of this final rule to over-the-road buses. In fact, as discussed below, our intent has been to make sure that over-the-road buses used for transit service do not get excluded from this rulemaking. We have not adopted the ABA's suggestion to refer to the ''low-floor'' feature of urban transit buses in defining the buses. Among other things, there is a lack of objectivity in the term, ''low-floor.''

We disagree with Gillig and others suggesting that buses sold for or used to provide public transportation services, regardless of configuration, be excluded from coverage of the rule. We have decided not to use the ''urban bus'' definition in 40 CFR 86.091–02 because several of its terms are not specific enough for FMVSS purposes. Moreover, we are concerned that some attributes of the definition would exclude buses that should be included in this rulemaking, over-the-road buses. Gillig suggested that we adopt the California Air Resources Board (CARB) clarification of ''urban bus.'' We have decided not to do so, because CARB's definition would exclude commuter buses (over-the-road buses), which we intended to include in the definition of ''motorcoach.''

It was NHTSA's intent in the NPRM to require lap/shoulder seat belts on ''over-the-road'' buses operated by transit agencies. Over-the-road buses used by transit agencies and over-the-road buses used by private companies for intercity transport both carry large numbers of passengers over long distances, and at highway speeds. Given the occurrence of a crash, the risk of fatality is the same for both groups of buses. It is not uncommon to see commuter express buses traveling on the highway alongside privately-operated tour and charter buses of nearly identical construction. We acknowledge that the public transit agencies' safety record for operating commuter express service is better than the safety record shown by some private sector operators. However, given the overall similarity of the buses in construction and use, we cannot distinguish, from a public safety standpoint, good reasons for requiring

[78] The Motorcoach Enhanced Safety Act excludes a bus used in public transportation provided by, or on behalf of, a public transportation agency from its meaning of ''motorcoach.'' However, we are applying this final rule to over-the-road buses used for public transportation based on determinations we have made pursuant to NHTSA's Vehicle Safety Act authority, 49 U.S.C. 30111, which has existed and continues to exist prior to and separate from the Motorcoach Enhanced Safety Act provisions. The Motorcoach Enhanced Safety Act does not indicate an intent by Congress to limit NHTSA's rulemaking authority under the Vehicle Safety Act to issue regulations for vehicles not covered by the Motorcoach Enhanced Safety Act. We believe that the Act provides a minimum ''floor'' for this regulation's scope, and not a ''ceiling'' to its reach. Thus, the Motorcoach Enhanced Safety Act calls out a regulation for ''over-the-road buses'' without limiting our authority under the Vehicle Safety Act to regulate other buses as appropriate, including over-the-road buses used in public transportation.

passenger lap/shoulder seat belts in only privately-operated versions of the commuter express buses when the risk of rollover in a crash, risk of fatal or serious injury in a rollover, and risk of fatal or serious injury in all crashes are the same for both groups of buses.[79]

To address confusion about the transit bus exclusion, in this final rule we have decided to adopt a more objective, simple description of ''transit bus.'' As suggested by APTA, we removed the terms ''fixed route'' and ''frequent stops'' since those terms are not sufficiently clear in meaning. In place of these terms, we have incorporating a reference to a structural feature which is present for transit operation along a route that makes frequent stops, a ''stop-request system.'' The terms are no longer needed since a bus with a ''stop-request system'' will likely be making frequent stops and thus operated in a stop-and-go manner.

We have removed the phrase ''. . . operation as a common carrier . . .'' and added instead the phrase ''public transportation provided by, or on behalf of, a State or local government.'' This is similar to APTA's suggestion, but adds additional, important detail. We have also added language that makes clear that an ''over-the-road bus'' does not qualify to be a transit bus, even if it has a stop-request system. We added text that defines ''over-the-road bus'' as in section 3038(a)(3) of TEA–21. Section 3038(a)(3) of TEA–21 states that the term ''over-the-road bus'' means a bus characterized by an elevated passenger deck located over a baggage compartment.

Gillig stated that transit buses are ''used interchangeably in commuter and inter-city service with infrequent stops and on fixed routes with frequent stops.'' The commenter stated that our proposal had the effect of ''requir[ing] transit properties to know at the time they place an order for a bus what specific service the bus will be put into during its entire 12 year life, so that it can be configured appropriately.'' We believe that the revised language adopted today resolves the uncertainty to which Gillig refers. Transit procurers purchasing a new bus with a GVWR greater than 11,793 kg (26,000 lb) will know this: (a) If the bus is an over-the-road bus, it will have passenger lap/shoulder seat belts; (b) if it is not an over-the-road bus, and the bus lacks a stop-request system, it will have passenger lap/shoulder seat belts.

f. School Buses

NHTSA stated in the NPRM that the initiation of rulemaking to require passenger lap/shoulder seat belts on motorcoaches was not meant to imply that seat belts are needed in school buses with GVWRs greater than 4,536 kg (10,000 lb) (''large school buses'') (75 FR at 50978). The preamble referred to an October 21, 2008 **Federal Register** document[80] that had explained NHTSA's decision against requiring seat belts on large school buses. Nevertheless, a number of commenters suggested that passenger seat belts be mandated for these buses.

On August 25, 2011, we again addressed this issue in a separate matter, denying petitions for rulemaking to mandate passenger seat belts on large school buses (76 FR 53102).

The issue of seat belts in school buses has been thoroughly discussed in the two **Federal Register** documents cited above. This issue is outside the scope of this rulemaking and will not be further discussed in today's final rule.

g. Agency Observations

We reiterate the observation made earlier in this preamble that it appears that one of the problems with the NPRM regulatory text was that it proposed a definition of ''motorcoach'' using a traditional term (''motorcoach'') to describe a nontraditional universe of buses. As a result, some readers were confused or perplexed that a bus they had never considered to be a motorcoach would be a motorcoach under the regulation. Buses can be configured in all sorts of nonconventional ways to meet a host of functions. After reading the comments, we were concerned that each new nontraditional bus configuration could yield ambiguity on the part of the builder and operator—''Is this really a motorcoach?''—because to some, the traditional term will occasionally not ''fit'' some nontraditional bus design.

We also observed that the statement: ''*Motorcoach* includes buses sold for intercity, tour, and commuter bus service,'' seemed to confuse rather than clarify because some commenters were apparently reading it as inclusive rather than illustrative. Many commenters asked about motorcoach services not mentioned in the clause, such as ''special operations'' (e.g., casino services), airport express services, contract services for business or government, and ''charter'' service, wondering if these services were excluded. Greyhound pointed out that the clause was confusing and suggested that NHTSA remove it and instead limit the motorcoach definition to visible attributes and construction characteristics, while accommodating the exclusions of transit buses and school buses.

We agree with Greyhound on this matter. Rather than causing the confusion associated with the NPRM's use of the term ''motorcoach,'' this final rule simply extends the FMVSS No. 208 requirements, and the FMVSS No. 210 requirements which follow from that, to all new over-the-road buses, and to new non-over-the-road buses with a GVWR greater than 11,793 kg (26,000 lb), except for very few bus types. This approach simplifies the regulatory text and makes it easier for the public to understand the applicability of the amended requirements. This accords with plain language principles.

IX. Requiring Seat Belts at Passenger Seating Positions

The NPRM proposed to amend FMVSS No. 208 to require the installation of lap/shoulder seat belts at all passenger seating positions on buses with a GVWR greater than 11,793 kg (26,000 lb) (a class proposed in the NPRM as ''motorcoaches''). NHTSA issued the proposal to address the risk of ejection on ''motorcoaches,'' particularly in rollover crashes, and to improve occupant crash protection in all crashes, particularly frontals. Based on the VRTC examination of the effect that lap/shoulder seat belts had in a full-scale barrier crash of a motorcoach and in subsequent sled testing, NHTSA decided to propose requiring lap/shoulder seat belts at all forward-facing and rear-facing seats. The VRTC frontal crash test program showed that lap/shoulder belts at forward-facing seating positions were effective at preventing critical head and neck injury values from being exceeded, whereas dummies in lap-only belts in forward-facing seats measured HIC and Nij values surpassing critical thresholds. The NPRM proposed that the performance of the lap/shoulder belt anchorages be tested to FMVSS No. 210, as is the case with all other vehicles where seat belts are required.

On July 6, 2012, the Motorcoach Enhanced Safety Act was signed, directing NHTSA to ''prescribe regulations requiring safety belts to be installed in motorcoaches at each designed seating position.'' Under the Act, ''safety belts'' mean lap/shoulder belts (see section 32702(12) of the Act)

[79] We also note that many commuter express buses are sold to private operators when the public transit agencies turn over their fleets. An advantage to having passenger seat belts on the buses is that when these commuter express buses are eventually turned to private service, the used buses will have passenger seat belts on them.

[80] 73 FR 62744, October 21, 2008. Response to petitions for reconsideration, 75 FR 66686, October 29, 2010.

and ''motorcoach'' means ''over-the-road bus'' (a bus characterized by an elevated passenger deck located over a baggage compartment) but does not include a bus used in public transportation provided by, or on behalf of, a public transportation agency, or a school bus (see section 32702(6) of the Act).

Comments

Many commenters soundly supported the proposal to require lap/shoulder belts for motorcoach passengers. These included: NTSB, Consumers Union, Advocates for Highway Safety, Center for Auto Safety, National Association of Bus Crash Families/West Brook Bus Crash Families, groups representing pediatricians and child passenger safety advocates, and school bus transportation organizations. Seat suppliers IMMI and American Seating, and the Automotive Occupant Restraints Council supported the proposal, as did 31 of approximately 42 private individuals who commented.

Motorcoach transportation providers were divided in their reaction to the proposed requirement for lap/shoulder seat belts for passengers. The operators of the larger fleets in the industry were generally supportive of the proposal. As noted below, there were concerns expressed by providers about costs associated with the upkeep and maintenance of seat belts and enforcement of belt use.

Many commenters did not support the proposal.

The majority of smaller transportation providers opposed having seat belts for passenger seating positions. Most of these commenters cited the excellent overall safety record for their industry, increased cost, low belt use rate, and difficulties in enforcing seat belt use. About 30 submitted a form letter that stated that the costs associated with a retrofit requirement would put many companies out of business since they are already operating at or close to a loss.

Also opposed to the proposal were 10 individuals who generally cited the low annual number of motorcoach fatalities, possible low seat belt use rate, perceived poor comfort, difficulty of enforcing use, and a belief that the cost per life saved was high. Many suggested that efforts should be placed on ''more meaningful'' safety reforms than seat belts, such as driver training programs, limiting the driver's operating hours and/or distance traveled between breaks, and monitoring driver performance.

The People Republic of China (PRC) suggested that seat belts be required only in the first row or any forward seat without ''obvious shielding'' and remain optional for all other passenger seating positions. The commenter suggested that passengers in other rows will have seat backs in front of them to shield them and thus it is unreasonable to assume that these passengers will be ejected because there is no seat belt. PRC also stated many passengers may not use lap/shoulder belts since ''the motorcoach is a public transportation tool, travelling at relatively slow speed, and most of the passengers travel on shorter routes, going on and off frequently.'' [81]

Bus manufacturers generally did not overtly support or oppose the proposal, but most expressed concern about one or more aspects of it. MCI believed that the NPRM's foundation for a claim of enhanced rollover protection is ''significantly speculative and not based on demonstrated fact,'' and that NHTSA should conduct more research on this. Turtle Top asked that seat belts be a safety option. Blue Bird indicated that it supported NHTSA's efforts but asked that NHTSA exclude buses that met Federal school bus roof crush and occupant protection (lap belt) requirements. Several European bus manufacturers (Van Hool, Setra) stated that the FMVSS No. 210 seat belt anchorage requirement will cause seat backs to be too rigid, and suggested we adopt European belt anchorage requirements instead.[82]

Agency Response

In 1999, 2004, and 2008, the country experienced a series of catastrophic heavy bus crashes.[83] May 1999—bus crash outside of New Orleans, Louisiana, 9 ejections, 22 fatalities and 16 serious injuries. October 2004—crash of a 47-passenger bus near Turrell, Arkansas, 30 ejections, 14 passenger fatalities and the driver. January 2008—crash of a bus near Mexican Hat, Utah, 50 ejected and 9 fatalities. August 2008—crash of a bus carrying 54 passengers near Sherman, Texas, 17 fatalities. October 2008—crash of a bus heading from Sacramento, 12 ejected, 10 fatalities, over 30 injured.

These crashes, and others, involved buses of the very types we are covering under today's final rule.

Some commenters believe that if the buses had seat belts, ''it is likely . . . [friends and family members and others] would be alive today,'' [84] while others believe that a claim of enhanced rollover protection due to seat belts is ''significantly speculative.'' Some commenters suggested that the NPRM represents ''too much solution for not enough problem,'' [85] and that it targets an ''insignificant problem'' (''twice as many Americans are killed each year by fire ants [than on motorcoaches]'' [86]). Some did not think a seat belt requirement was worthwhile because they doubted the seat belts would be worn.

We issued this final rule in accordance with the Vehicle Safety Act and the Motorcoach Enhanced Safety Act. We carefully assessed the safety need for the standard. NHTSA prescribes motor vehicle safety standards that protect the public against unreasonable risk of accidents occurring because of the design, construction, or performance of a motor vehicle, and against unreasonable risk of death or injury in an accident. In prescribing this standard, we considered all relevant, available motor vehicle safety information, and considered whether a standard is reasonable, practicable, and appropriate for the types of motor vehicles for which it is prescribed.

In issuing this final rule, NHTSA considered the relevant, available motor vehicle safety information, without speculation or conjecture. After considering all relevant, available safety information, we determined that the standard is warranted. We have assessed the benefits and costs of this final rule, both quantitative and qualitative, and have made a reasoned determination that its benefits justify its costs. In addition, the Motorcoach Enhanced Safety Act directs that over-the-road buses must have ''safety belts'' (lap/shoulder belts).

We have found an unreasonable risk of death or injury that will be addressed by this final rule. Although fatal crashes of the affected vehicles do not occur frequently, when serious crashes do occur, these can cause a significant number of fatal or serious injuries in a single event, most often due to rollover and ejection, but also due to passengers colliding with objects or structures within the bus. From 2000–2009 FARS data, 55 percent of the fatalities in fatal crashes of the affected vehicles were in rollovers. The vast majority of fatalities in rollovers were ejections. Forty-two percent of fatalities are in frontal crashes. While serious crashes resulting

[81] The last sentence seems to be describing transit bus transportation. [Footnote added.]

[82] Issues related to FMVSS No. 210 will be addressed in a later section of this preamble.

[83] These and other heavy bus crashes were summarized in the NPRM at 75 FR 50964–50965.

[84] National Association of Bus Crash Families/West Brook Bus Crash Families, October 18, 2010.

[85] NHTSA–2010–0112–0009.

[86] NHTSA–2010–0112–0001.

in occupant fatality do not occur frequently, when they do occur in the affected vehicles, passengers are exposed to heightened risks of rollover and ejection and harm from collision.

There is a reasonable and practicable way to reduce the risk of fatality or injury in crashes of the covered vehicles. The risk of ejection can be reduced by seat belts, a simple, effective, and relatively inexpensive countermeasure. Lap/shoulder seat belts are estimated to be 77 percent effective [87] in preventing fatal injuries in rollover crashes and 82 percent in preventing AIS 2–5 severity injuries, primarily by preventing ejection. Moreover, we estimate that even at a minimum passenger seat belt usage rate of only 4 to 5 percent, the rule will remain cost effective. The availability, cost, and effectiveness of this countermeasure render the risk of death or injury in a serious crash of the affected vehicles unreasonable. As a result of this rule, when the covered buses are involved in the serious crash, the risk of death or injury to passengers will be significantly reduced.

Lap/shoulder seat belts reduce the risk of occupant fatality and injury when the occupants are not ejected. Nearly half of the fatalities (45 percent) in the covered vehicles are in non-rollover crashes, and more than half of these are not ejected. In light vehicles, lap/shoulder belt effectiveness for fatalities is estimated to be 29 percent in frontal crashes, 42 percent in side crashes; for injuries of AIS 2–5 severity level, it is 34 percent in frontal crashes and 47 percent in side crashes. *Id.* In our seat belt test program conducted pursuant to the 2007 ''NHTSA's Approach to Motorcoach Safety'' plan, lap/shoulder belts prevented elevated head and neck injury values and provided enhanced occupant protection compared to lap belted and unbelted configurations. Hence, available safety information indicates that lap/shoulder belts will reduce the risk of death and injury in non-rollover crashes as well.

Motor vehicle safety information from the best available research programs demonstrates further a sound scientific basis supporting this final rule.

Data from VRTC's December 2007 full-scale vehicle crash test show that lap/shoulder seat belts have a significant effect in a 48 kilometers per hour (30 miles per hour) frontal barrier crash test. All belted test dummies remained securely fastened in their motorcoach seats, while the unbelted dummies were typically ejected from their seats and ended up in the aisle or in the seats in front of them (75 FR at 50967). The agency followed up the full-scale barrier test by conducting sled tests (laboratory crash simulations) using a representation of the crash pulse from the barrier test. In the sled tests, we evaluated the bus seats without seat belts, the seats with lap/shoulder belts, and the seats with lap only belts. We tested the seats with different size dummies and in frontal and oblique (15°) impact configurations and with and without loading by unrestrained occupants in the rear seat. The results showed that lap/shoulder belts prevented critical head and neck injury values from being exceeded in almost all configurations using the crash pulse from the bus barrier test.

In addition, data from full-vehicle rollover tests demonstrate the efficacy of lap/shoulder seat belts in even ¼-turn bus rollovers.[88] The tests followed a protocol modeled after the Economic Commission for Europe Regulation No. 66 (ECE R.66) [89] full-vehicle ¼-turn rollover test. The ECE R.66 test tips the bus using a platform that raises one side of the bus at a steady rate of not more than 5 degrees/second until the vehicle reaches its unstable equilibrium, commences a quarter-turn rollover, and strikes a hard surface. (The rollover test is illustrated below in Figure 5).

[87] Estimated based on Kahane, ''Fatality Reduction by Safety Belts for Front-Seat Occupants of Cars and Light Trucks,'' December 2000, Washington, DC, National Highway Traffic Safety Administration. We are applying the effectiveness of lap/shoulder belts in rear outboard seating positions of passenger cars as a proxy measure for the effectiveness of lap/shoulder belts in motorcoaches. Real-world data are not available for the effectiveness of lap/shoulder belts in motorcoaches.

[88] National Highway Traffic Safety Administration, ''ECE Regulation 66 Based Research Test of Motor Coach Roof Strength, 1992 MCI MC–12 Motor Coach, NHTSA No.: CN0801,'' May 20, 2008; National Highway Traffic Safety Administration, ''ECE Regulation 66 Based Research Test of Motor Coach Roof Strength, 1991 Prevost LeMirage Motor Coach, NHTSA No.: CM0801,'' May 20, 2008; and National Highway Traffic Safety Administration, ''ECE Regulation 66 Based Research Test of Motorcoach Roof Strength, 2000 MCI 102–EL3 Motor Coach, NHTSA No.: MY0800,'' October 1, 2009.

[89] Uniform Technical Prescriptions Concerning The Approval of Large Passenger Vehicles With Regard to the Strength of Their Superstructure.

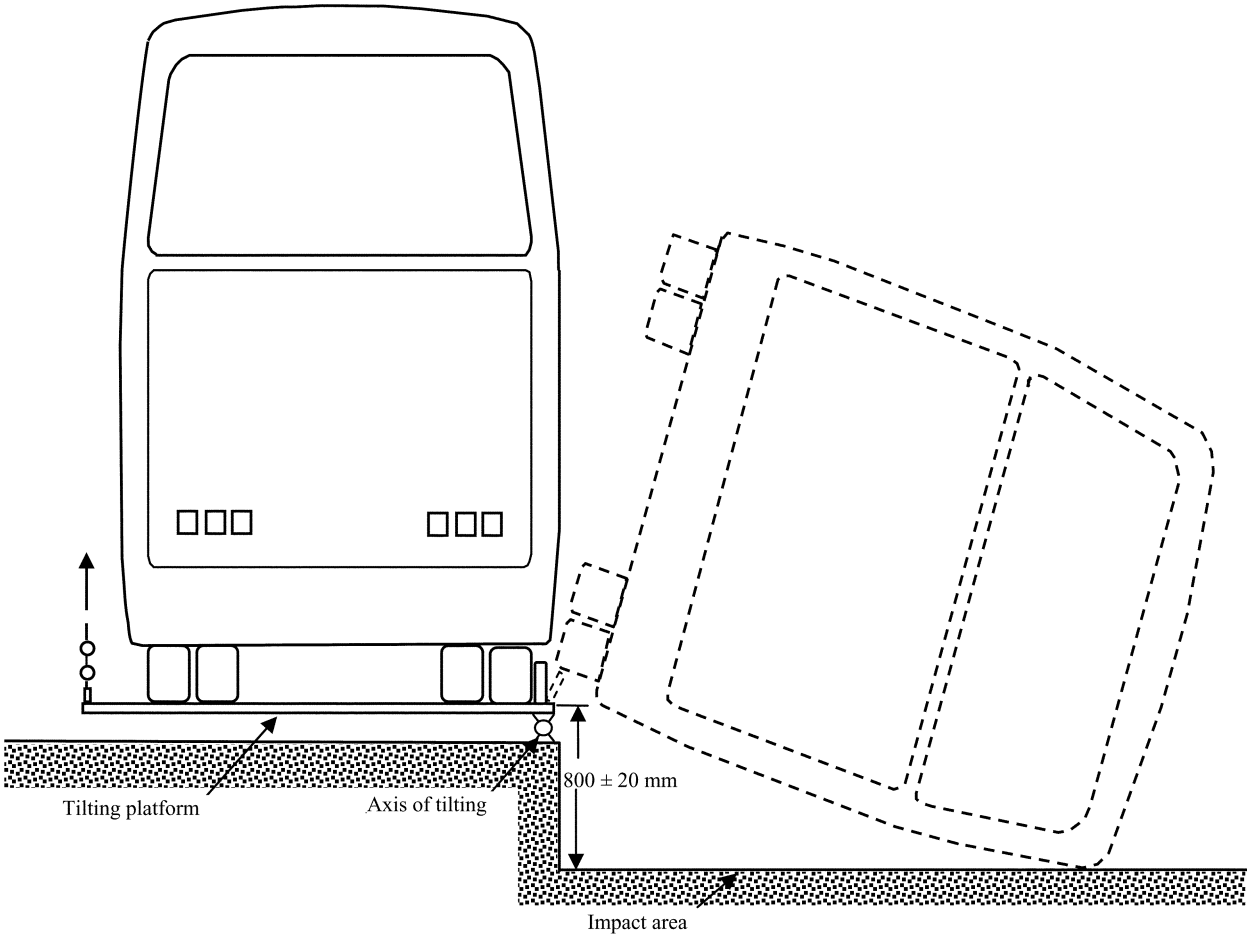

Figure 5: Bus on Tilting Platform

In three tests we conducted, fully-instrumented Hybrid III 50th percentile adult male test dummies were positioned in aisle seats opposite the impact side, with one dummy unrestrained and the other restrained by a seat-integrated lap/shoulder belt. In all three tests, the restrained dummies remained secured to the seat and produced injury values significantly below FMVSS No. 208 Injury Assessment Reference Values (IARVs) for the Hybrid III 50th percentile adult male test dummy. In contrast, the unrestrained dummies fell head first across the occupant compartment and struck the bottom of the luggage compartment and/or the side windows, which produced injury values well above the IARVs in two of the tests. Injury values for the restrained dummies never exceeded 40 percent [90] of the IARV, while the injury values for the unrestrained dummies reached levels up to 590 percent of the IARVs. Alarmingly too, the final resting position of the unrestrained dummy in all three tests was on the impact side window, which has been the most common ejection portal in real-world rollovers.

In response to PRC, these rollover test data and the data from the full-scale barrier crash test support our finding that shielding the motorcoach passenger between seat backs is not enough to prevent ejection from the area between the seats or from the vehicle. Lap/shoulder seat belts are needed on these vehicles. In response to MCI, we will not postpone this final rule until further research is done. The technical basis supporting this rule is robust and known now.

The testing has also demonstrated that installing lap/shoulder seat belts in motorcoaches is practicable. Today, lap/shoulder belts integral to the vehicle seat are offered on many new motorcoaches. The lap/shoulder seat belt/seating systems are readily available from seat suppliers and can be installed by the vehicle manufacturer. Some seat suppliers offer to help provide the engineering analyses bus manufacturers can use to certify compliance with Federal motor vehicle safety standards.[91]

We will not agree to allow lap/shoulder seat belts to be installed at the manufacturer's or purchaser's discretion. The benefits of lap/shoulder belts are realized in all crash modes and will have a significant impact on safety in the deadliest of crashes, rollovers and frontal impacts. When the agency has made a determination to issue an FMVSS to meet a safety need, the benefit of the FMVSS are applied to all travelers equally and are not made optional. Moreover, in this case it would be an unjust policy that provides no choice to the persons who would be

[90] The restrained dummy that produced an injury value of 40 percent of the IARV was positioned in a seat that detached from the vehicle during the impact due to displacement of the side wall and rolled across the occupant compartment. This seat was installed by the agency to gauge lap/shoulder belt effectiveness and was not an original equipment seat. Injury values for restrained dummies where the seat remained attached to the vehicle did not exceed 12 percent of the IARV.

[91] *http://www.cewhite.com/testing-lab* [Last accessed February 28, 2012.]

protected by the lap/shoulder seat belts—the passengers—as to whether the lap/shoulder belts will be provided in the buses in which they ride. For over-the-road buses, the Motorcoach Enhanced Safety Act requires these buses to have lap/shoulder belts.

In 2007, the majority of the motorcoach trips (65 percent) were made by children and senior citizens.[92] This final rule protects these vulnerable populations, as it protects all persons.

Although fatal crashes of the covered vehicles occur infrequently, the crashes can affect the public's confidence in the safety of motorcoach transportation. Then-NTSB Acting Chairman and board member Mark V. Rosenker noted: ''[M]otorcoach travel is also one of the safest modes of transportation, but when accidents and fatalities do occur, the public's perception of the safety of motorcoach travel can be badly damaged, and once they perceive something as being unsafe it is very hard to change their minds.'' [93] Mr. Rosenker observed: ''[W]hen tragedies occur they attract a huge amount of media attention, and as a result, the potential exists for the public to lose confidence in our transportation systems.'' In its comments on the NPRM, the United Motorcoach Association stated: ''Maintaining the confidence of consumers is of critical importance to the motorcoach industry.''

Today's final rule will help sustain public confidence in the safety of the covered vehicles. Today's final rule is a first step toward a time when news of a serious crash of a subject bus is not associated with a catastrophic number of fatal and serious injuries. As consumers become familiar with lap/shoulder seat belts on the covered buses and more aware of the protection they provide, we expect not only use rates to increase, but public confidence in the safety of the affected buses to be bolstered as well.

A number of private transportation providers asked who will enforce a seat belt use requirement and what type of violations will be cited to the carrier if passengers are found not wearing their seat belts. Arrow Coach Lines suggested that the states should consider adopting mandatory seat belt use laws on buses equipped with seat belts, but also suggested that enforcement will be a problem since police officers cannot see inside a bus while it is traveling on a highway. American Bus Association recommended that this rulemaking be followed and supported by a strong DOT effort to encourage motorcoach seat belt use, including incentives or sanctions to states to enforce seat belt use rules and the DOT should support such efforts in reauthorization.

Regarding requirements that drivers should instruct passengers on seat belt use, it is correct that such requirements are outside of NHTSA's regulatory authority.[94] United Motorcoach Association suggested that FMCSA should revise their guidance for pre-trip announcements and/or instructions to include reminders and directions for passengers regarding the use of seat belts. DOT and FMCSA are aware of and are considering these comments concerning the drivers' role in instructing passengers to use their seat belts. DOT, FMCSA and NHTSA are continuing work on the Departmental plan on motorcoach safety and are considering the next steps that could be taken to increase passenger use of the seat belts.

We recognize that seat belt use rates could be low at first, possibly because the belts may seem strange and unfamiliar in the bus. However, we also believe passengers' attitudes about using seat belts can change, just as public opinion changed on using seat belts in passenger vehicles and on restraining children in child safety seats. In 1994 passenger vehicle seat belt use rate was 58 percent. The 2010 data show the highest ever passenger vehicle seat belt use rate at 84 percent.[95] Mandatory seat belt use laws and child safety seat laws no doubt had a role in changing attitudes, but we believe that attitudes also changed when people became more aware of the safety benefits provided by the safety equipment. We believe that, as more and more covered buses are manufactured with lap/shoulder seat belts, the public's familiarity with and awareness of the safety benefits of the lap/shoulder belts on these buses will grow, and with that, seat belt use rates will too.

Even today, we believe that lap/shoulder seat belts in covered buses are cost effective with just a usage rate of only 4 to 5 percent. It is only if the belts are available that passengers will have the opportunity, the choice, to take the step to use them.

Some transportation providers expressed concerns about having to pay more for buses with seat belts, and the depressing of business because of cost being passed on to passengers. A few said that the resale value of its used buses will be substantially reduced and that, since sale of the used buses helps fund the purchase of new buses, some will not be able to purchase new motorcoaches within a normal 12-year cycle.

We have weighed these matters in our decision-making. The incremental cost of this final rule will be relatively small. The agency estimates that the highest annualized cost due to this rule, including fuel cost, is $7.0 million. According to the 2008 Motorcoach Census,[96] in 2007 there were 751 million trips taken on motorcoaches in the U.S. and Canada. If the increase in price of a motorcoach were distributed among these trips, it would account to a one cent increase in the price of a ticket.

As far as the claimed decrease in the resale price of motorcoaches, secondary and tertiary effects of safety regulations are highly speculative and are not typically attributed to the cost of a rule. Even if we were to assess these effects, the commenters did not provide information enabling us to assess or substantiate these claims.

We note that the commenters depict a scenario in which any change to the FMVSSs that requires a new or improved safety feature will have the effect of reducing the resale value of the used vehicles that do not have the safety feature. We note further that this scenario would apply to all vehicles, not just motorcoaches. A person selling a used car that does not have, for example, side impact air bags, competes against a person selling a used car that does. It would be unreasonable for NHTSA not to adopt an FMVSS that requires a new safety device or upgrades to an existing safety feature because the effect of the amendment would lower the demand for some used vehicles. We note also that the demand for vehicles that have the safety feature (e.g., passenger lap/shoulder seat belts on buses) has the positive effect of possibly expediting the transition to lap/shoulder seat belt-equipped buses in the fleet.

Arrow Coach Lines commented that the costs associated with maintenance and upkeep of passenger seat belts in

[92] In 2007, the majority of the motorcoach trips (65 percent) were made by children and senior citizens. ''Motorcoach Census 2008, A Benchmarking Study of the Size and Activity of the Motorcoach Industry in the United States and Canada in 2007.'' Paul Bourquin, Economist and Industry Analyst, December 18, 2008.

[93] Remarks of Mark V. Rosenker, Acting Chairman NTSB, before the Greater New Jersey Motorcoach Association, June 3, 2009, *http://www.ntsb.gov/news/speeches/rosenker/mvr090603.html* [last accessed February 3, 2012]

[94] Similarly, a few commenters asked about the use of seat belts at wheelchair positions. This final rule does not require the use of seat belts by any passenger.

[95] DOT HS 811 378. Traffic Safety Facts Research Note: Seat Belt Use in 2010—Overall Results, September 2010. *www-nrd.nhtsa.dot.gov/Pubs/811378.pdf.*

[96] *Id.*

the covered buses were not discussed in the NPRM, and stated that seat belts will be a ''maintenance nightmare.'' Trans-Bridge Lines stated that it has had seat belts cut, tied into knots, and intentionally broken in their seat belt-equipped buses, which has added additional expenses for their company to inspect, maintain, and repair the seat belts.

In response, we first want to be clear that there is no requirement in the final rule that applies to the operators, such as a maintenance requirement. Second, we do not believe that the costs of maintaining the belts, if any, will be impactful. The commenters did not provide any data on this cost. The agency does not have reason to believe that this work will need to be done more than incidentally or that it will amount to a real cost, attributable to the cost of the rule. Belt maintenance work is not generally recognized as a necessity or as subject to a schedule (unlike safety systems such as tires, where it is generally recognized that the average tire lasts 45,000 miles). Further, we expect that the cost of maintaining the belts, if any, to be very small in comparison to the cost of upgrading the buses with seat belts. In response to a commenter, the assertion that non-seat belt related safety items may suffer in some bus garages due to the rule because the time required to maintain belts may come at the expense of checking other safety items is speculative and we cannot give credence to it without some kind of substantiation of this serious claim.

Three private transportation providers expressed concern over the impact on liability and insurance costs for their non-seat belt equipped motorcoaches if passenger seat belts are installed in new motorcoaches. Vandalia Bus Lines asked how it will market the current fleets without seat belts, and how will insurance companies handle the operators who do not install seat belts because of retrofit costs.

On the issue of liability and private insurance costs to operators of existing non-seat belt equipped motorcoaches, the commenters did not provide any estimate of the potential increase in operating costs. The assertions about these effects are highly speculative, and have not been substantiated or quantified by the commenters. Further, the assertions are at most related to the cost of doing business and not to the cost of the rule. We also believe that, to the extent commenters are arguing against adoption of the NPRM, it would be unreasonable for NHTSA not to adopt an FMVSS that establishes new safety requirements or upgrades an existing safety feature because of assertions about the effect of the amendment on liability and insurance costs associated with operating used vehicles that do not meet the new or upgraded standard.

Other DOT Initiatives

Some motorcoach transportation providers suggested that NHTSA direct regulations towards areas other than seat belts, such as improving vehicle fire resistance, reducing driver inattention and detecting fatigue, and adding passive safety elements such as increased roof strength, improved emergency exits, and seat padding.

This regulation mandating the installation of lap/shoulder belts on over-the-road buses is required by the Motorcoach Enhanced Safety Act. At the same time, many of the alternatives to a lap/shoulder seat belt requirement suggested by various motorcoach operators, such as improving fire resistance, increasing structural integrity, and reducing driver fatigue and inattention, are being explored by DOT as outlined in the Motorcoach Safety Action Plan, and in furtherance of provisions in the Motorcoach Enhanced Safety Act regarding research and rulemaking. However, these actions will be complementary to, not a replacement for, this action on seat belts. Motorcoach crashes are not exclusive to a particular type of enterprise or driver. DOT is taking all reasonable efforts to improve the crashworthiness and crashavoidance characteristics of the vehicles; we have determined that providing passengers lap/shoulder seat belts will amount to an unprecedented enhancement of motorcoach safety.

With regard to other DOT initiatives, FMCSA notes that, although the amendments to FMVSS Nos. 208 and 210 are not applicable to new buses built for sale and use in Canada, FMCSA is developing a rulemaking to cross-reference the new FMVSS requirements, the effect of which would be to require motor carriers operating in the U.S. to have seat belts on the buses. FMCSA explains that it has traditionally held all motor carriers operating in the U.S. to the same safety requirements via 49 CFR Part 393, ''Parts and Accessories Necessary for Safe Operation,'' and that the FMCSA rulemaking would apply to Canada-domiciled bus operators traveling into the U.S. Thus, FMCSA states, in the event FMCSA adopts a rule to require carriers to maintain the seat belts, those requirements may be applied to Canada- and Mexico-domiciled carriers operating buses manufactured on or after the compliance date included in the NHTSA rule.

In summary, for the above reasons, NHTSA has deemed unreasonable the present occupant fatality risk in buses with a GVWR greater than 11,793 kg (26,000 lb), given the risk of fatality and serious injury in rollover and frontal crashes, and the proven protection afforded by lap/shoulder seat belts, an available and relatively inexpensive countermeasure. NHTSA has issued today's final rule to reduce that risk, and to fulfill the statutory mandate of section 32703(a) of the Motorcoach Enhanced Safety Act of 2012.

X. Type of Belt System on Forward-Facing Seats

The NPRM proposed to require lap/shoulder belts for forward-facing passenger seating positions, and not lap belts.

Comments

1. Van Hool and Setra requested that lap or lap/shoulder belts that meet the European regulations be allowed as an alternative to the proposed requirements.

2. Blue Bird said that it manufactures non-school buses with a GVWR greater than 11,793 kg (26,000 lb). The buses meet the Federal school bus safety standard for roof crush (FMVSS No. 220, ''School bus rollover protection'') and have seats that meet the Federal school bus standard for passenger crash protection (FMVSS No. 222, ''School bus passenger seating and crash protection''). Blue Bird requested that we allow buses that meet FMVSS No. 220 and that have passenger seats meeting FMVSS No. 222 to have lap-only belts instead of lap/shoulder belts.

3. Prevost, a coach manufacturer,[97] requested that lap-only belts be allowed at any seat where the occupant is not at risk of striking its head.

Agency Response

The Motorcoach Enhanced Safety Act directs NHTSA to ''prescribe regulations requiring safety belts to be installed in motorcoaches at each designed seating position.'' ''Safety belts'' mean lap/shoulder belts (see section 32702(12) of the Act). Consistent with the Motorcoach Enhanced Safety Act, this final rule requires lap/shoulder belts at each designated seating position in over-the-road buses, regardless of the direction the seat faces.

For buses other than over-the-road buses, this final rule requires lap/shoulder belts at each passenger

[97] Prevost is a division of Volvo Group Canada Inc.

designated seating position, except side-facing seats may be equipped with a lap belt instead of a lap/shoulder belt. We respond to the comments as follows.

1. We decline to allow the option of lap-only belts at forward-facing passenger seating positions on the buses, even lap belts that meet European regulations (ECE R.14 and ECE R.80 are discussed in section XVI of this preamble) and even if the seats meet some of the requirements of FMVSS No. 222.

Our decision is based on the results of NHTSA's test program conducted as part of the agency's 2007 ''NHTSA's Approach to Motorcoach Safety'' plan. These tests found that lap/shoulder belts in forward-facing seats prevented elevated head and neck injury values and provided enhanced occupant protection compared to lap belts.

In the VRTC full-scale over-the-road bus crash, the lap/shoulder-belted dummies exhibited the lowest injury measures and improved kinematics, with low head and neck injury measures and little movement outside the area between seats, compared to the lap-belted dummies and unbelted dummies.

In the VRTC sled tests of lap/shoulder-belted dummies—

- Average HIC and Nij values were low for all dummy sizes and below those seen in unbelted and lap-belted sled tests. This was consistent with the lap/shoulder belt results from the full scale crash test.
- Lap/shoulder belts retained the dummies in their seating positions and were able to mitigate head contact with the seat in front.
- When lap/shoulder-belted dummies were subject to loading (of their seats) by an aft unbelted dummy, there was additional forward excursion of the lap/shoulder-belted dummies, but the resulting average head injury measures were still relatively low in most cases, even in cases when the head contacted the seat in front.
- Lap/shoulder-belted dummies were better restrained in the oblique sled tests, conducted at a 15-degree angle, than lap-belted dummies. They had lower injury measures and were retained in their seats.

In contrast to the lap/shoulder-belted dummies, the results for lap only dummies showed—

- HIC and Nij measures exceeded the IARVs for virtually all the dummies tested (there was a 50th percentile male dummy which measured a HIC of 696 (99 percent of the IARV limit)).
- The poor performance of the lap belt restraint in the sled tests was consistent with the lap belt results from the full scale motorcoach crash test.

2. Blue Bird requested that the final rule allow the option of lap-only belts at forward-facing passenger seating positions on buses that meet FMVSS No. 220 and FMVSS No. 222. Our reasons to decline to allow the option of lap-only belts at forward-facing passenger seating positions are explained above. Further, if the passenger seats on the bus did not meet FMVSS No. 222's seat spacing requirements, then lap belts alone may not provide a sufficient level of occupant protection on the buses. This is because the compartmentalization protection offered by FMVSS No. 222 is not simply predicated on the physical characteristics of the seat, but also the limited seat spacing. This limited spacing serves to control the occupant velocity such that impacting the forward seat back is less injurious.

3. We decline Prevost's suggestion to allow lap-only belts at any seat where the occupant is not at risk of striking its head. Considering that the highest accelerations in motorcoach crashes are typically produced during frontal or rear impacts, and these accelerations are predominantly in the longitudinal direction, lap/shoulder belts will provide the best protection for non-side facing occupants in all forward-facing seats, even for seats that are in a ''clear'' area (no chance of head impact). NHTSA crash and sled testing of motorcoaches and motorcoach seats clearly showed the superior protection offered by lap/shoulder belt as compared to lap belts for forward-facing occupants. Lap/shoulder belts are superior to lap belts in a frontal crash because they provide more surface area for an occupant's body to react with during a crash when compared to lap-only belts, and the forces are spread over the pelvis and torso (with lap/shoulder belts) rather than the pelvis alone (as with lap-only belts).

XI. Integrated Anchorages

We proposed that the lap/shoulder seat belt anchorages, both torso and lap, be required to be integrated into the seat structure for passenger seats, except for the belt anchorages in the last row of the coach (if there is no wheelchair position or side emergency door behind these seats) and in the driver seating position. We proposed integral lap/shoulder belts on the buses to ensure that seat belts for inboard seat positions, in particular, are not mounted such that the belt webbing could impede safe passage through the bus interior during emergency egress. This provision is consistent with a 2010 amendment adopted regarding passenger crash protection on small school buses and optionally provided seat belts on large school buses (FMVSS No. 222).

The last row was proposed to be excluded from the requirement because the location and style of the last row seats in motorcoaches make it possible to place belt anchorages behind or to the side of the seat, where the belt webbing would not impede safe travel in and out of the seat.[98]

We proposed excluding the driver's seating position from the requirement because the driver's compartment is usually separated from the passenger compartment by a bulkhead or partition and passengers are less likely to be entangled in the driver's belt system during egress.

Comments

All persons commenting on this issue were generally supportive of the requirement.

C.E. White stated that the driver lap/shoulder belt should be integrated into the seat frame and it should include an adjustable shoulder height mechanism.

American Seating recommended that seat integrated anchorages not be made a requirement for side-facing seats. American Seating argued that side-facing seats should be excluded for the same reason as the last row of seats since non-integrated seat belts at these positions would not impede occupant egress.

Response

We do not agree that the driver position seat belts should be integral to the seat. As stated in the NPRM, the reason for requiring passenger seats to have integrated lap/shoulder seat belts is to ''ensure that seat belts for inboard seat positions, in particular, are not mounted such that the belt webbing could impede safe passage through the bus interior during emergency egress.'' We do not find there to be a similar need for the driver position. The driver seating position was originally excluded in the NPRM from such a requirement because the driver compartment is usually separated from the passenger compartment by a bulkhead or partition. The driver's shoulder belt anchorage can be attached to the seat structure, side wall, or bulkhead without increasing risk of entanglement of the driver or passengers during egress. Though there may be a comfort advantage for integrating seat belt

[98] However, we proposed that if the seat plan has a wheelchair position located behind the rearmost passenger seat, or a side emergency door rearward of it, the rearmost passenger seat must have its seat belt assembly anchorages attached to the seat structure to reduce the risk of tripping, entanglement, or injury.

anchorages into the driver seat, there is no clear safety benefit in requiring them to be integrated.

In reference to C.E. White's request that the shoulder height be adjustable, we note that all the fit and adjustment requirements of S7.1 of FMVSS No. 208 are being required for the driver position of affected buses. Regarding AORC's request that the lap/shoulder belt move with any suspension seat, we note that we believe this issue is already sufficiently addressed for all buses by the regulatory text of FMVSS No. 208. This section has a requirement that the automatic locking retractor used at a driver seating position of a suspension system must be attached to the seat structure that moves as the suspension system functions. In addition, the lap belt portion of a seat belt equipped with an automatic locking retractor must allow at least 19 mm (¾ inch), but less than 76 mm (3 inches) of webbing movement before retracting webbing to the next locking position. We see no need for any changes to this section for the affected vehicles.

The agency agrees with American Seating's view that seat-integrated anchorages need not be made a requirement for side-facing seats. We note that side-facing seats were excluded from the requirement for integrated anchorages based on the regulatory text presented in the NPRM. We agree to adopt this text in the final rule, thereby excluding any passenger seat that does not have another seat, a wheelchair position, or a side emergency exit door behind it, for the reasons provided in the NPRM.

In addition, NHTSA is excluding any right front outboard seating position that is not rearward of the driver's seat from the requirement that the lap/shoulder seat belt system must be integrated into the seat structure. (The lap/shoulder belts are still required for that position, but they do not need to be integrated into the seat structure.) The agency has decided on this provision because under current FMVSS No. 208, the seat belt assemblies of the right front passenger designated seating position and the driver's designated seating position are subject to the same seat belt requirements. Currently, there are final-stage manufacturers, some of which are small businesses, which manufacture body-on-frame buses by combining an incomplete vehicle that has a driver seat and a right front passenger seat (a chassis cab) with a bus body. We wish to address the situation where a final-stage manufacturer obtains an incomplete vehicle in which the driver seat and the right front passenger seat have non-integral lap/shoulder belts. We do not believe there is a safety need to require the final-stage manufacturer to replace the right front passenger seat (which might have non-integral lap/shoulder belts) with a seat that has integral lap/shoulder seat belts. This is because the right front passenger seat is typically located away from an area that passengers will be traversing to egress the vehicle, and because this provision involves only this one passenger seat on the bus.

Such a provision provides flexibility to final-stage manufacturers using chassis cabs. The manufacturer will be able to use the seating systems that were provided by the chassis cab manufacturer without having to replace the right front passenger seat with a seat that has a different belt system.[99]

XII. Seat Belt Adjustment, Fit, Lockability, and Other Requirements

NHTSA proposed that the lap/shoulder belts installed for passengers and drivers include provisions for seat belt adjustment and fit as specified in S7.1 of FMVSS No. 208. Specifying belt adjustment and fit ensure that the lap and shoulder belt portions of the seat belt assembly are able to accommodate passengers whose dimensions range from those of a small child to a large adult male. Through references in FMVSS No. 208, NHTSA proposed that the upper torso restraint must adjust either by means of an emergency-locking retractor that conforms to § 571.209, or by a manual adjusting device that conforms to § 571.209.

In addition, we proposed that the seat belt at each designated seating position, besides the driver position, meet the FMVSS No. 208 lockability requirements. The lap belt portion must be lockable so that the seat belt assembly can be used to tightly secure a child restraint system without the use of any device that must be attached by the consumer to the seat belt webbing, retractor, or any other part of the vehicle. The lap belt must be lockable without any inverting, twisting or other deformation of the belt webbing.

The NPRM also proposed that each seat belt assembly must have a latch mechanism with all the latch mechanism components accessible to a seated occupant, and that the latch mechanism be capable of releasing both the upper torso restraint and the lap belt simultaneously at a single point and by a pushbutton action.

Comments

Seven commenters responded to this aspect of the NPRM, generally supporting requirements for adjustment and fit. There were some questions raised about the lockability requirements, but as explained below, it seemed to some extent that these were based on a misunderstanding of lockable seat belts.

Agency Response

We note that IMMI stated that it is aware of concerns in the industry about lockability requirements being satisfied by an automatic locking retractor (ALR), which the commenter associated with possible increased harm to passengers. The commenter did not elaborate what it meant by ''harm to passengers,'' and we know of no reason why lockability would lead to harm on motorcoaches. Seat belts in passenger cars and other light duty vehicles have had to meet lockability requirements since the 1990s.

The agency disagrees with Setra's concern that passenger seats that use a locking retractor for the lap portion ''will restrict passenger freedom to move during long trips and would be quite disagreeable.'' This final rule requires that all passenger seats in affected vehicles have seat belt assemblies that are equipped with an emergency locking retractor (ELR).[100] When an ELR and lockability are required, vehicle manufacturers commonly use a switchable seat belt retractor (ELR/ALR) that can easily be converted from the ELR mode to the ALR mode to meet both requirements.[101] For a lap/shoulder (Type 2) belt system, the lap portion of the seat belt can also be made lockable by using a continuous-loop seat belt with the switchable retractor providing tension to the lap belt portion through the shoulder belt portion.[102]

[99] In furtherance of this flexibility, this final rule will also subject the seat belt assembly of the right front passenger designated seating position to the requirements applying to the seat belt assembly of the driver's seating position. We conclude there is no safety downside to this approach since it only involves a single passenger seat.

[100] An ELR is a seat belt retractor that locks only in response to the rapid deceleration of a vehicle or rapid spooling out of the seat belt webbing from the retractor, and increases the comfort of the seat belt assembly compared to an automatic locking retractor (ALR). An ALR is a seat belt retractor that locks when the continuous motion of spooling the belt out is stopped. From that point, the seat belt cannot be pulled out any further without first letting the seat belt fully retract into the retractor housing.

[101] A switchable retractor (ELR/ALR) can be converted from an ELR to an ALR without the use of any tools by slowly pulling all of the webbing out of the retractor, which engages the ALR mode, and letting the retractor wind the webbing back up. In ALR mode, the seat belt is lockable for use with child restraints.

[102] A continuous-loop lap/shoulder belt is a three-point belt that uses one continuous piece of webbing that slides through a latch plate. It is

Such seat belt systems, which are commonly used in current light passenger vehicles, can meet the passenger seat ELR and lockability requirements of this rule without significantly restricting the occupant's freedom of motion.

IMMI suggested that we permit bus manufacturers to install child restraint anchorage systems (FMVSS No. 225, ''LATCH'' systems) at some passenger seats in lieu of meeting lockability requirements. SafetyBeltSafe and Safe Ride News suggested that LATCH be required at some passenger seating locations in the buses. We are not adopting these suggestions. Child restraint systems are required [103] to be capable of attachment to the vehicle seat using the seat belt system and using the child restraint anchorage systems. Motorists are familiar with the belt system to attach child restraints to the vehicle seats. Since the public has gained a strong familiarity using seat belts with child restraints, we are adopting the lockability requirement for all passenger seating positions on the covered buses.

We also disagree with SafetyBeltSafe and Safe Ride News that the final rule should require LATCH at some passenger seating locations in the buses covered by this rule. This issue was not proposed in the NPRM. Note also that bus manufacturers are not prevented from offering LATCH to purchasers of their vehicles if they choose to do so.

Setra objected to the idea that the vehicle owner's manual must include information about using a device such as a lockability feature, believing it not to be practical toward providing bus passengers the prescribed information. The agency disagrees with Setra's belief that instructions in the owner's manual on how the seat belt assembly can be made to accommodate a child restraint serve little or no purpose. Though the owner's manual (or other form of written instruction) might not be directly available to the bus passengers, the instructions will be available to the vehicle operator. Instructions regarding the operation of safety-related vehicle systems at both the driver and the passenger seating positions, including those required by FMVSS No. 208, should be available to the bus operator to assist passengers as needed. Such information could pertain to using the seat belt lockability function for the installation of child restraints, and importantly, disengaging the feature when the belt has to be returned to its ELR state for a subsequent adult passenger.

We disagree with IMMI that the adjustable upper shoulder belt anchor point requirement should be identical to the range for larger occupants in FMVSS No. 210 for school bus seats, i.e., 280 mm to 520 mm. We do not agree that the extended range of seat belt adjustment required for school buses is needed for the vehicles affected by this final rule. In travel on the affected vehicles, a booster seat can be more readily used, if needed, to obtain proper shoulder belt fit than on school buses, since an adult would likely be traveling with the child on the commercial bus to provide and supervise use of the booster seat.[104]

After reading Setra's comment, we reviewed proposed S7.1.6 (FMVSS No. 208) and found it was oversimplified in the NPRM. We have corrected the language in the final rule to more closely reflect S7.1.1 of current FMVSS No. 208, from which it was derived. Specifically, the fit requirements have been extended down to the 50th percentile 6-year-old child and the seat back position has been corrected to indicate the nominal design position.

While reviewing Setra's comment on S4.4.3.1(c), we realized that current S7.1.3 of FMVSS No. 208 was unintentionally left out of the proposed amendatory text for the passenger seating positions. S7.1.3 requires that the intersection of the upper torso belt and lap belt in any lap/shoulder belt assembly, when adjusted in accordance with the manufacturer's instructions, must be at least 6 inches from the vertical centerline of a 50th percentile male occupant when measured along the centerline of the lap belt. This is an important feature of proper belt fit that is applicable to most current seating positions.[105] This section has been added to the requirements adopted today for the seating positions on the affected vehicles.

XIII. Passenger Seats That Are Not Forward-Facing

For side-facing seating positions, the NPRM provided manufacturers with the option of installing either a lap or a lap/shoulder belt. This option was consistent with FMVSS No. 208 (S4.4.5.6), which allows lap belts for side-facing seats on buses with a GVWR of 4,536 kg (10,000 lb) or less. The agency proposed to permit lap belts in side-facing seats because we were unaware of any demonstrable increase in associated risk. We also noted that a study commissioned by the European Commission regarding side-facing seats on minibuses and motorcoaches found that due to different seat belt designs, crash modes and a lack of real world data, it cannot be determined whether a lap belt or a lap/shoulder belt would be the most effective.[106]

Comments

Turtle Top asked why require either type of seat belt for side-facing seats. IMMI and American Seating recommended that forward-facing seating be mandated. They believed that mixing forward-facing seating with rear-facing or side-facing seating can result in unbelted passengers colliding with belted passengers during a crash. American Seating claimed that shoulder belts may cause serious neck injuries when applied to side-facing passenger seating positions. These and other comments are addressed below.

Agency Response

The Motorcoach Enhanced Safety Act directs NHTSA to ''prescribe regulations requiring safety belts to be installed in motorcoaches at each designed seating position.'' The term ''safety belts'' means lap/shoulder belts (see section 32702(12) of the Act) and ''motorcoach'' means ''over-the-road bus'' (with certain vehicles excepted). Thus, the Motorcoach Enhanced Safety Act requires over-the-road buses to have lap/shoulder belts at each designated seating position, which includes side-facing seats.

1. In response to Turtle Top, mandating seat belts at side-facing seats is consistent with the Motorcoach Enhanced Safety Act. In addition, such a mandate is consistent with NHTSA's determination that seat belts at side-facing locations will provide a clear benefit in rollovers, especially in preventing ejection. Seat belts are required for side-seating by FMVSS No. 208 in buses with a GVWR of 4,536 kg (10,000 lb) or less for that reason. The Motorcoach Enhanced Safety Act requires seat belts on side-facing seats only in over-the-road buses. Because seat belt systems will be effective in heavy buses generally, we are not going to forgo requiring seat belts at side-facing seats in non-over-the-road buses.

connected at one end to the vehicle at the anchor point and the other to a retractor system.

[103] FMVSS No. 213, ''Child restraint systems.''

[104] IMMI, SafetyBeltSafe and Safe Ride News's comments about potential problems with requiring manually locking belts equipped with switchable retractors on large school buses is outside the scope of this rulemaking.

[105] Passenger seats of large school buses voluntarily equipped with seat belts do not need to meet this requirement because of the unique seat geometry associated with these seats.

[106] *http://ec.europa.eu/enterprise/automotive/projects/safety_consid_long_stg.pdf.*

As to the specific type of seat belt, the final rule will require lap or lap/shoulder belts (at the manufacturer's option) at side-facing seats on all affected buses, except over-the-road buses. For over-the-road buses the final rule will require lap/shoulder belts in side-facing seats, consistent with the MAP–21 Congressional mandate, as opposed to allowing the option for lap or lap/shoulder belts.

There is not sufficient information that substantiates concerns about lap/shoulder belts on side-facing seats to a degree that would support prohibiting such belts. Yet, NHTSA acknowledges there have been concerns about the shoulder belt on side-facing seats, which we have weighed in past decisions not to require lap/shoulder belts on side-facing seats for any vehicle type of any weight.

In the 2004 Anton's Law final rule we specifically declined to require lap/shoulder belts on side-facing seats of light vehicles because we believed ''the addition of a shoulder belt at this seat position is of limited value, given the paucity of data related to side facing seats.'' [107] However, we declined to prohibit lap/shoulder belts ''because we [were] unaware of any demonstrable increase in associated risk.'' The agency's view on this matter has not changed. There is not enough information showing the effect, positive or negative, of the shoulder belt on side-facing seats.

However, although we have no direct evidence that shoulder belts may cause serious neck injuries when applied to side-facing seats, we are aware of simulation data that are indicative of potential carotid artery injury when the neck is loaded by the shoulder belt.[108] In addition, as we noted in 2004, the Australian Design Rule ADR 5/04, ''Anchorages for Seatbelts'' has specifically prohibited shoulder belts for side-facing seats since 1975.

We believe there are design considerations that could possibly mitigate a risk of neck injury. In the 2004 Anton's Law final rule we noted that a study funded by the European Commission (EC) regarding side-facing seats on minibuses and motorcoaches found that the addition of a panel directly in front of a side-facing seat would help restrain a belted occupant in a frontal crash in a manner that would prevent either spool-out from the belt or belt loading against the neck.[109] The literature review in this same report also stated that neck loading by shoulder belts in frontal crashes can be avoided by locating the shoulder belt anchorage rearward of the occupant neck. We recognize that this could limit the restraint of an occupant's upper torso, given that the shoulder belt may slip off the shoulder.[110]

Our understanding is that there would be few, if any, side-facing seats on over-the-road buses, so the real-world implications of this issue might be narrow. Given that there are unknowns about shoulder belt loading of an occupant's neck on a side-facing seat, and in view of the small number of side-facing seats on the buses in question, manufacturers of over-the-road buses seeking to install lap belts on side-facing seats may petition NHTSA for a temporary exemption from the requirement to install lap/shoulder belt at side-facing seats, under 49 CFR Part 555. The basis for the petition is that the applicant is unable to sell a bus whose overall level of safety is at least equal to that of a non-exempted vehicle.[111] The agency would be receptive to the argument that, for side-facing seats, lap belts provide an equivalent level of safety to lap/shoulder belts.

2. The issue of mandating only forward-facing seats was not a part of the NPRM. In the NPRM, we indicated our awareness of other seating directions when we proposed to permit either a lap belt or lap/shoulder belt for side-facing seats. The commenters suggesting that affected vehicles be restricted to forward-facing seats did not present data showing a safety need for prohibiting seats other than forward-facing seats. While we recognize there is potential for occupant-to-occupant contact when seating configurations are intermixed, this final rule mitigates such potential contact by specifying that some type of seat belt must be provided at all passenger seating positions.

3. The NPRM preamble did not mention rear-facing seats even though we meant to apply the proposed lap/shoulder belt requirements to those seats, as shown by the proposed regulatory text that included language for rear-facing seats. We note for clarification purposes that this final rule requires lap/shoulder belts at all passenger seating positions other than side-facing seats, not just forward-facing positions.

4. BroendumSeats requested that the regulation include ''sleeper seats,'' which are seats that can be reconfigured into a couchette by the passengers to allow them to lie down while the motorcoach is moving. BroendumSeats suggested that this type of seat should meet the proposed regulations when configured as an ordinary coach seat and also be required to restrain the occupant when configured as a couchette and tested using the same forces as used for the sitting position.

In response, we cannot consider the suggestion to apply seat belt requirements to ''sleeper seats'' when configured as couchettes at this time. Such seats need to meet the requirements of the final rule when configured as ordinary coach seats. The couchette configuration was not contemplated during development of the NPRM, nor does the agency have any technical data or market volume data to assess the safety need involved or how NHTSA should address it.

XIV. Driver's Seat

In the NPRM, the agency explained that FMVSS No. 208 currently allows an option of a lap or lap/shoulder belt for the driver seating position in buses with a GVWR greater than 4,536 kg (10,000 lb). The NPRM proposed to amend FMVSS No. 208 to require lap/shoulder belts for the driver seating position in (the vehicles the NPRM proposed to define as) motorcoaches (generally buses with a GVWR greater than 11,793 kg (26,000 lb) except transit and school buses) and in ''large'' (GVWR over 4,536 kg (10,000 lb)) school buses. (''Small'' school buses (GVWR less than or equal to 4,536 kg (10,000 lb)) are already required to be equipped with lap/shoulder belts for the driver's seating position.)

The agency proposed not to require lap/shoulder belts for drivers of transit or other buses. We stated that ''[t]hese buses are driven in different environments than motorcoaches,'' and that ''Motorcoaches are often driven on highways and other high-speed roads, so the risk of injury is greater for drivers of these [motorcoach] vehicles'' as compared to other buses. The NPRM did not provide any estimate of the potential costs and benefits of a lap/shoulder belt requirement but requested comment on the issue.

[107] 59 FR 70907.

[108] Editors: Fildes, B., Diggs, K., ''Occupant Protection in Far Side Crashes,'' Monash University Accident Research Center, Report No. 294, April 2010, pg. 57.

[109] This report may be viewed at *http://ec.europa.eu/enterprise/sectors/automotive/files/projects/safety_consid_long_stg_en.pdf.*

[110] Note that our final rule does not prohibit manufacturers from installing a forward panel or a rearward anchorage location.

[111] 49 CFR part 555 limits the number of exempted vehicles sold in the U.S. in any 12-month period to 2,500 vehicles. The exemption is limited to a period of 2 years by 49 CFR 555.8(b) but applications for renewal of the exemption are automatically granted if filed within 60 days before termination of the exemption and do not terminate until the Administrator grants or denies the application for renewal. 49 CFR 555.8(e).

Comments

All 16 commenters on this issue supported the proposal.

NTSB stated that it is pleased with the proposal to require lap/shoulder belts for the driver position in motorcoaches and large school buses and that such a requirement addresses NTSB Safety Recommendation H–90–75.

The National Association of State Directors of Pupil Transportation Services (NASDPTS) expressed strong support for the lap/shoulder belt requirement for the driver position in motorcoaches and in large school buses. NASDPTS said that in response to the NPRM, it conducted an informal survey of the manufacturers of large school buses and found that currently all new large school buses are being manufactured with a lap/shoulder belt at the driver position. It stated that most states already require lap/shoulder belts at the driver position of school buses and that the School Transportation Specifications and Procedures of the National Congress on School Transportation has recommended that the states adopt this requirement since 1990. The National School Transportation Association also supported the lap/shoulder belt requirement for the driver position of large school buses.

SafetyBeltSafe, Safe Ride News, Advocates, and two seat manufacturers expressed support for the lap/shoulder belt requirement for the driver position of motorcoaches and large school buses, but recommended that it include all buses, including urban transit buses.

Agency Response

The Motorcoach Enhanced Safety Act requires over-the-road buses to have lap/shoulder belts at each designated seating position, which includes the driver position.

In satisfaction of the Act, and in accordance with the NPRM, this final rule requires a lap/shoulder belt for the driver position in over-the-road buses, and in other buses as discussed in the NPRM.

In response to commenters requesting that the requirement be expanded to include the driver position of all buses, we are not agreeing to this suggestion without providing more opportunity to the public to comment on the issue.

After the comments were received, we reanalyzed accident data for the driver's position for these other buses. First, looking at the data for drivers of buses above the 11,793 kg (26,000 lb) threshold and below that threshold, we found that drivers of buses between 4,536 kg and 11,793 kg (10,000 lb and 26,000 lb) are at slightly less risk of fatality than the drivers of motorcoaches above the 11,793 kg (26,000 lb) threshold. On an annual basis, there are 0.7 driver fatalities in the buses between 4,536 kg and 11,793 kg (10,000 lb and 26,000 lb) as compared to 4.1 in the motorcoaches above the 11,793 kg (26,000 lb). These data present that there is less of a safety need to require lap/shoulder belts for the driver positions of buses below the 11,793 kg (26,000 lb) threshold than for buses above the 11,793 kg (26,000 lb) threshold.

Second, regarding the driver's position on transit buses, 2000–2009 FARS data show that for transit buses with a GVWR of 11,793 kg (26,000 lb) or less, transit bus drivers had zero fatalities during this 10 year period. For buses with a GVWR greater than 11,793 kg (26,000 lb), the analysis showed that the number of annual driver fatalities for the category of vehicle in FARS termed transit bus body type is 1.1, as compared to 4.1 for non-transit and non-school buses. Thus, the target population for transit bus drivers is about one-quarter of that for drivers of buses covered by this final rule.

To further learn about this issue, we also conducted a cost/benefit analysis for requiring a lap/shoulder belt at the driver position of buses with a GVWR greater than 4,536 kg (10,000 lb). This analysis found that the cost per equivalent life saved for drivers in the covered buses (GVWR greater than 11,793 kg (26,000 lb)) ranged from $0.01 to $0.04 million, drivers in mid-size buses (GVWR from 4,536 to 11,793 (10,000 to 26,000 lb)) ranged from $0.04 to $3.1 million and drivers in transit buses (GVWR greater than 4,536 kg or 10,000 lb) ranged from $0.04 to $0.8 million.

The issue of requiring lap/shoulder belts at the driver position of large transit buses was not discussed in a meaningful way in the NPRM. Thus, the transit bus industry, including manufacturers, purchasers, and operators of transit buses, did not provide in-depth comment on this issue in response to the NPRM, nor have we been able to benefit from reading comments on the issue. In the absence of this, this final rule will not extend the lap/shoulder belt requirement beyond driver positions of the buses covered in the NPRM.

XV. Seat Belt Signage and Other Reminders

We have decided against requiring passenger seat belt use signage or auditory reminders on covered buses at this time. At this time, the agency does not know enough about the use of seat belt use signage and reminders on covered buses and does not have information on their cost and effectiveness at promoting passengers to use seat belts. In its comment, Trans-Bridge Lines said that it found that the majority of its passengers do not use belts in spite of having signage asking passengers to fasten their seat belts and having the driver instructing them to do so.

It is unclear how auditory seat belt reminders for the passengers, as suggested by some commenters, could be implemented without a sensor to determine the occupancy of the seat and switches in the belt buckles to determine their use. Such a requirement would be relatively expensive, and it does not seem like a prudent investment. Trans-Bridge Lines commented that its drivers must focus on the safe operation of the bus and cannot simultaneously enforce seat belt fastening rules.

UMA believed that FMCSA should revise their guidance for pre-trip announcements and/or instructions to include reminders and directions for passengers regarding the use of seat belts. We have informed FMCSA of UMA's comment.

XVI. Strength Requirements

NHTSA proposed that lap/shoulder belts on the covered buses be required to meet the anchorage strength requirements of FMVSS No. 210. Because the agency proposed a requirement that the passenger lap/shoulder belts must be integrated into the seat structure, the agency's view was that a seat belt anchorage strength requirement not only specifies the strength of the seat belt attachment to the vehicle seat, it also performs the vital function of ensuring the attachment of the seat to the bus. ''A seat belt anchorage strength requirement provides the foundation upon which the entire occupant protection system is built. If the anchorage fails, the belted occupant could be propelled beyond the confines of the occupant seat space, and injury or ejection could occur.'' NPRM, 75 FR at 50973.

In FMVSS No. 210, lap/shoulder belt anchorages and attachment hardware are required to withstand a 13,345 N (3,000 lb) force applied to the lap portion and a 13,345 N (3,000 lb) force simultaneously applied to the torso portion of the belt assembly, for 10 seconds.[112] Anchorages, attachment

[112] An exception for Type 2 lap belts that have detachable torso belts is not relevant here.

hardware, and attachment bolts for seats with multiple designated seating positions are tested simultaneously. The seat belt anchorage comprises any component involved in transferring seat belts loads to the vehicle structure. See S3, FMVSS No. 210. Since the seat belts will be attached to the vehicle seat on the covered buses, the seat belt anchorage includes the seat frame and seat pedestal.

In developing a performance standard for lap/shoulder belt anchorages, the agency considered several alternatives, and assessed the suitability of alternatives using seat belt anchorage test data obtained in the motorcoach crash test and sled test program. NHTSA tentatively determined that the test data best supported applying FMVSS No. 210 to the passenger seat belt anchorages on the covered buses, but we requested comments on alternatives to FMVSS No. 210, particularly ECE R.14 and ECE R.80.

ECE Regulation No. 14, ''Vehicles with Regard to Safety-Belt Anchorages, ISOFIX Anchorages Systems and ISOFIX Top Tether Anchorages,'' applies to M2 and M3 vehicles [113] and specifies a static test method to evaluate seat belt and seat anchorage strength. The ECE R.14 load does not include the load that unbelted occupants aft of the seat being evaluated (we call this the ''target seat'') may impose on the target seat. For M3 vehicles, ECE R.14 applies a load of 4,500 N to the shoulder belt and 4,500 N to the lap belt (total of 9,000 N). In addition, for M3 vehicles it also specifies an additional inertial seat load of 6.6g × the weight of the seat. For M2 seats, it specifies an addition load of 10g × the weight of the seat.[114]

ECE Regulation No. 80, ''Seats of Large Passenger Vehicles and of These Vehicles with Regard to the Strength of the Seats and Their Anchorages,'' applies to M2 and M3 vehicles. The ECE R.80 procedures evaluate the seat back's strength, energy absorption capability and impact protection for occupants in the rear seat aft of the target seat and the target seat's anchorage strength. The seat back performance is assessed with either a dynamic or a static test option. The ECE R.80 load does not include the seat belt loads from the restrained occupant in the target seat and evaluates anchorage performance in terms of the loading of the seat back from unrestrained occupants in the rearward row.

The dynamic test option of ECE R.80 loads the seat back with an unrestrained [115] 50th percentile male dummy in a 30–32 km/h (18.6–19.9 mph) delta V, 6.5–8.5 average g pulse. Performance value limits on the injury measures of the dummy are HIC = 500, chest acceleration = 30 g, femur force = 10,000 N (2,248 lb) and 8,000 N (1,798 lb) for not more than 20 milliseconds.[116] The static test option assesses seat back performance through a static force-deflection test that applies 5,000 N (1,124 lb) to the seat over a 200 millisecond time period.

The agency proposed to adopt FMVSS No. 210 after analyzing the seat belt anchorage test data obtained in the VRTC motorcoach crash test and sled test program.[117]

We studied five sled tests from the sled test program to determine the loads measured at the seat belt anchorages.[118] These five were selected because they represented demanding yet potentially common scenarios for the loads we believe will be imparted to seat belt anchorages during a motorcoach crash. We identified the loads recorded in the sled tests at the seat anchorage points in the second row target seat, the loads on the lap/shoulder belts in the target seat in which test dummies were restrained, and the loads to the seat back of the target seat from the unrestrained dummies in the third (aft) row. We then compared those loads to the loads that seat belt and seat anchorages are required to withstand under FMVSS No. 210, ECE R.14 and ECE R.80. In that way, we could determine which performance test best accounted for the loads imparted on the seat belt anchorages.

Of the five sled tests, the highest total load experienced by the seat anchorages in the forward direction was 46,570 N (10,469 lb). This load resulted from a test of a 10 g seat with two 50th percentile male test dummies restrained with lap/shoulder belts in the middle row and with two unrestrained 50th percentile male dummies in the rear (aft) row. Applying a static load of 48,569 N (10,918 lb) (or approximately 24,285 N (5,460 lb) per seating position) to the seat belt anchorages, using the loading devices and technique specified in FMVSS No. 210, reproduces the load measured at the seat anchorages in the sled test.[119]

FMVSS No. 210 appeared to best account for the loads imparted on the seat belt anchorages. The total load on the seat belt anchorages of 48,569 N (10,918 lb) (approximately 24,285 N (5,460 lb) per seating position) required to generate the same peak total load experienced in the sled test is only slightly lower than the total forces required by FMVSS No. 210 of 53,380 N (12,000 lb) (or 26,690 N (6,000 lb) per seating position). That is, the highest total peak dynamic loading recorded by the seat anchorage of the tests (48,569 N) was about 91 percent of that applied in FMVSS No. 210 (26,690 N (6,000 lb) per seat, or 53,380 N (12,000 lb) for a two-person bench seat). These data indicated that the FMVSS No. 210 load would account for seat belt loads generated by a restrained occupant, seat inertia loads, and loading from unbelted occupants in the rear.

ECE R.14 and ECE R.80 both determine seat belt and seat anchorage strength by separately considering the loading from the belted occupant in the seat and the loading due to unrestrained occupants in the rear row. We believed that the loads specified in these regulations are not sufficiently high to sustain the combined loads from the restrained occupant in the seat and rear occupant loading. In the test of the 7 g seat with restrained 50th percentile male dummies in the target seat and unrestrained 50th percentile male dummies in the rear, we estimated that the total peak load on the anchorages from the lap/shoulder belts alone for one motorcoach seating position was

[113] ECE Regulations define the M2 vehicle category as vehicles having more than eight seating positions and mass not exceeding 5 metric tons (11,023 lb). The M3 vehicle category consists of vehicles having more than eight seating positions and mass exceeding 5 metric tons (11,023 lb).

[114] Seats designed to meet ECE R.14 for M3 vehicles are referred to in this final rule document as ''7 g'' seats and seats designed for M2 vehicles are referred to as ''10 g'' seats.

[115] We note that ECE R.80 also requires testing with a restrained dummy in the rear ''auxiliary'' seat. However, this auxiliary seat need not be the same as the forward seat that is the focus of the test. If the test with the belted dummy in the rear is conducted with the manikin restrained by a lap/shoulder belt and the injury criteria are not exceeded, the auxiliary seat is considered to have met the requirements relating to the static test loads and movement of the upper anchorage of ECE R.14.

[116] These injury criteria do not match those in FMVSS No. 208 for the 50th percentile male test dummy, except for the upper limit on femur force. The chest acceleration limit in FMVSS No. 208 is 60 gs. FMVSS No. 208 specifies a HIC15 limit of 700. The HIC limit in ECE R.80 does not appear to have a time limit.

[117] NHTSA found that the over-the-road bus in the 48 km/h (30 mph) rigid barrier crash test experienced only a 13*g* peak deceleration (crash pulse). Data from our frontal sled test program enabled us to analyze the magnitude of the forces that are exerted on the seat anchorages in a 13g crash.

[118] For a description of the five sled tests, see 75 FR 50973, col. 2.

[119] This relationship was determined by testing a seat to failure using the loading device specified in FMVSS No. 210 and measuring the load applied through the seat belt anchorages and the load experienced at the seat anchorages (in the x-direction). This method was referred to as ''Method B'' in the NPRM and in research report DOT HS 811 335, NHTSA's Motorcoach Safety Research Crash, Sled, and Static Tests, dated May 2010.

11,400 N (2,563 lb) and that from rear occupant loading was 8,150 N (1,832 lb). The contribution of anchorage loads in this sled test from the seat belt loading alone was greater than the 9,000 N (2,023 lb) applied by ECE R.14 and the loading from rear occupant loading was greater than the 5,000 N (1,124 lb) applied by ECE R.80. We believed that a seat manufactured to meet FMVSS No. 210 would better be able to withstand this tri-loading on the seat in a severe yet not uncommon bus crash, than a seat that was not manufactured to account for the rearward loading.

In the NPRM, the agency explained that it has tentatively determined that there were no adverse consequences associated with applying FMVSS No. 210 to the seat belt anchorages of the affected vehicles rather than ECE R.14 (75 FR at 50974). There did not appear to be adverse consequences to meeting FMVSS No. 210 in terms of weight, comfort, or cost, because data from our testing program indicated that the Amaya 7 g seats we acquired to evaluate in our testing program appeared to have been already made to meet the more stringent requirements of FMVSS No. 210. In April 2009, VRTC tested existing Amaya lap/shoulder belt seat designs to evaluate FMVSS No. 210 performance. The agency sought to understand the extent to which changes will be needed to existing 7 g and 10 g seat and seat anchorage designs in order to meet the performance requirements in FMVSS No. 210. Two static tests were performed on the seats using a test fixture and the FMVSS No. 210 test method.[120] Both the 7 g and 10 g seats were able to meet the FMVSS No. 210 performance requirements, which NHTSA believed showed not only the practicability of the proposed FMVSS No. 210 requirements with current designs, but also that meeting FMVSS No. 210 was not likely to adversely affect the weight or comfort of current ''7 g'' seats.

Although we preferred FMVSS No. 210 to ECE R.14 and ECE R.80, the NPRM asked for information that could help the agency make a fuller incremental assessment of each alternative's costs and benefits.

Comments

There were 16 comments on the proposal to apply FMVSS No. 210 to all seating positions in the affected vehicles. Many commenters supported applying FMVSS No. 210, while several others supported the ECE regulations. Two commenters suggested alternative requirements. Many commenters recommended that NHTSA adopt requirements regulating seat back impact and/or energy absorption.

Generally, the seat manufacturers commenting on this issue (C.E. White, Freedman, IMMI, and American Seating) supported applying FMVSS No. 210 as proposed. C.E. White stated that ''not only the forward forces applied to the lap/shoulder belts, representative of the restrain[ed] occupants in the test seat, [should] be taken into consideration but also the forces applied by the knee/femur and head/upper torso of the unrestrained occupants in the seat behind the test seat [should] be taken into consideration.'' Freedman agreed with the agency's conclusion that FMVSS No. 210 should be extended to all seating positions in the affected vehicles and stated that the U.S. bus industry is already familiar with FMVSS No. 210 requirements and will therefore be able to move forward into the testing process very quickly.

IMMI expressed its support of the agency's proposal to extend the FMVSS No. 210 requirements to all seating positions. It believed that FMVSS No. 210 is a better choice than either ECE R.14 or ECE R.80 since it is a more realistic representation of the types of crash forces that may be experienced in real-world crashes, and reflects the total forces that may be experienced by the seat anchorage from both restrained and unrestrained occupants. IMMI said that compliance with FMVSS No. 210 is already achievable and is currently available in motorcoach seating. IMMI stated that, at the time of submission of its comments to the NPRM, at least three manufacturers of covered buses offer IMMI's Premier® FMVSS No. 210 compliant seats in their vehicles. IMMI also stated that it helped these manufacturers develop the necessary floor and wall structure to meet the performance standard.

IMMI also stated that it performed sled tests of its own seats and found that the data produced were consistent with the agency's findings. In addition, IMMI said the results of analytical simulations of severe case loading were also similar to the agency's data. (These data are discussed below.) AORC agreed with the agency's proposal to apply the FMVSS No. 210 anchorage load requirement.

Five bus manufacturers (Setra, Prevost, IC Bus, MCI, and Van Hool) and ABC Companies, a distributor of Van Hool's buses, commented on the proposal to apply the FMVSS No. 210 anchorage load requirements to all seating positions in covered buses. These commenters were divided in their views.

Setra, a European bus manufacturer, preferred the ECE regulations, stating that the ECE regulations have been successfully used in Europe. Setra stated that VRTC's testing might not represent realistic situations, and that seats meeting FMVSS No. 210 may lead to higher injuries than a seat meeting the ECE ''impact requirements.''

Prevost requested that NHTSA consider the M2 requirements of ECE R.14, which it stated is based on a ''closer and more realistic deceleration pulse'' than the proposed FMVSS No. 210 requirements. Prevost stated that the load from an unbelted occupant behind the seat as well as the weight of the seat should be included in the forces applied to the seat, but ''the deceleration pulse must be diligently specified since it has a very significant multiplying effect.'' Prevost also recommended that the requirements be reduced for seats where there is no possibility of an unbelted passenger being seated behind it.

IC Bus agreed with the agency's conclusion that FMVSS No. 210 should be extended to all seating positions in covered buses. IC Bus noted that when it builds a commercial bus that specifies seat belts, it is built to meet the applicable requirements of FMVSS No. 210.

MCI disagreed with the proposal to apply FMVSS No. 210 to all seating positions, believing that NHTSA has not tested a sufficiently broad spectrum of seating configurations. The commenter suggested that the agency duplicate the same or similar test conditions with emphasis on protecting women and children. The commenter submitted confidential test data from sled tests it conducted, and recommended a form of static testing on a bus frame using a unique loading profile that combined aspects of ECE R.14 (10 g; M2 vehicles) and FMVSS No. 210.

Van Hool, a European bus manufacturer, supported adopting ECE R.14 and ECE R.80. Van Hool stated that a ''true European seat'' cannot fulfill the FMVSS No. 210 requirements as proposed in the NPRM because the loads are three times that required by ECE R.14 and the strength of the seat is limited by the energy-absorbing

[120] An additional test was conducted on a 10 g seat because an initial FMVSS No. 210 test was conducted on a 10 g seat using the same seat mounting rails used during the 7 g seat test. During this 10 g seat test, the seat failed to meet the FMVSS No. 210 loads. However, we determined that this test should be deemed invalid because the seat rails were reused. It was unknown to what extent the rails were damaged during the previous test, thus affecting the results of the subsequent test. The rails were replaced on the test fixture and a second test using a 10 g rated seat was performed successfully.

capabilities required by ECE R.80 for unbelted passengers striking the seat from behind. In its submission, Van Hool questioned whether the Amaya seats that were used in the NHTSA VRTC tests, which according to Amaya met the ECE R.14 requirements for M3 and M2 vehicles, were also approved to ECE R.80 since this was not mentioned in the NPRM. Van Hool also asked why the NPRM did not consider a proposal for adding a 10 g standard for large buses into FVMSS No. 207, ''Seating systems.'' [121]

ABC Companies supported an approach that allows compliance with either the U.S. standards or preexisting European standards, to facilitate harmonization of standards.

Transportation providers Greyhound, Coach USA, UMA and American Bus Association (ABA) were divided in their support of the proposed application of FMVSS No. 210 anchorage load requirements.

Greyhound strongly supported the agency's proposal to apply the FMVSS No. 210 requirements to the passenger seat anchorages. Greyhound stated that the 10 percent strength margin that the FMVSS No. 210 loads provided is prudent since ''higher speeds and larger passengers than those [reflected in the VRTC tests] will sometimes be involved in real world crashes.'' Greyhound stated that it sees no basis for allowing the European standards as an alternative to FMVSS No. 210. It commented that FMVSS No. 210 is ''clearly the more appropriate standard'' when compared to ECE R.14 and ECE R.80 because FMVSS No. 210 accounts for the load of both the belted passenger in the seat and an unrestrained passenger in the seat behind, whereas the European standards do not. Greyhound stated that it has been installing IMMI Safeguard Premier seats, which meet FMVSS No. 210 and other FMVSSs, in all of its new buses since 2008.

UMA supported the FMVSS No. 210 requirements. UMA stated that it reviewed the data provided by NHTSA in the NPRM and concluded that seat belt assembly anchorages that meet FMVSS No. 210 will perform in a manner that offers occupants the highest known protection in ''real-life'' crash and rollover occurrences.

ABA favored allowing motorcoach manufacturers to certify their vehicles to either the FMVSS requirements proposed in the NPRM or, at the manufacturer's option, to ECE R.14 and ECE R.80. ABA stated that the agency's proposed performance requirements accurately represent the agency's results of its motorcoach crash and sled testing and subjecting passenger seating to FMVSS No. 210 reasonably matches the forces and loads in NHTSA's test results. However, ABA also suggested that in light of what the commenter believed would be the panoply of new regulations that may be adopted, the considerable costs involved, the relatively small volume of new covered buses sold each year and the global nature of the industry, compliance options permitting harmonization will enhance flexibility, reduce costs and promote the overall turnover of the fleet towards newer vehicles.

Coach USA also supported the approach of allowing manufacturers to comply with either FMVSS No. 210 or ECE R.14 and ECE R.80. The commenter stated that its parent company, Stagecoach Group, headquartered in Scotland, operates approximately 780 motorcoaches in Europe that are equipped with seat belts that meet the EU standards, and the belts ''have not proven to pose a safety issue over a period of several years.'' The commenter believed that ECE R.14 ''is sufficient to accomplish NHTSA's primary goal in this rulemaking, namely, ejection prevention in rollovers.'' Coach USA stated that NHTSA did not suggest that seat belts designed to meet FMVSS No. 210 are necessary to achieve this level of effectiveness in rollover crashes. The commenter believed that frontal crashes resulting in forces on the seat back exceeding those of ECE R.14 are ''rare.'' Coach USA believed that FMVSS No. 210 will provide little, if any, benefit in frontal crashes beyond the benefits produced by ECE R.14.

Coach USA commented that a combination of ECE R.14 and ECE R.80 is likely to provide some safety benefits compared to FMVSS No. 210 by protecting unbelted passengers. It stated that, to the extent that FMVSS No. 210 provides some benefit relative to the European standard in severe frontal crashes, this benefit is offset in other areas and, as a result, the two ECE standards would appear to provide an approximately comparable level of safety when all relevant factors are taken into account.

Coach USA submitted a separate report to the agency which detailed a sled test study that it conducted on Van Hool motorcoach seats, which they stated comply with ECE R.14 (for M3 vehicles) and ECE R.80. Coach USA conducted sled testing and FMVSS No. 210 static testing on Van Hool motorcoach seats installed on a test ''buck'' representing the interior of a motorcoach. In the tests, three rows of seats were mounted on the test buck. The first row (front row) was unoccupied, the second was occupied with Hybrid III 50th percentile adult male test dummies that were restrained with lap/shoulder belts, and the third row was occupied with two unrestrained 50th percentile adult male Hybrid III test dummies. Coach USA stated that the restrained dummies in the second row remained restrained and the seat remained attached to the replicated bus, and the commenter said, provided protection for the belted occupants.

Subsequently, Coach USA conducted an FMVSS No. 210 test on a new Van Hool seat, and the seat failed to meet the standard's strength requirements. Coach USA concluded that FMVSS No. 210 is ''not a necessary requirement for safety. . . . [A] motor coach seat that is able to comply with ECE R.80 dynamic test or its dynamic equivalent such as FMVSS [No.] 208 would assure more protection than a seat that is able to meet FMVSS [No.] 210 requirements.''

Agency Response

In accordance with the Vehicle Safety Act and the Motorcoach Enhanced Safety Act, after considering all relevant, available safety information, we have determined that the FMVSS No. 210 requirements are reasonable, practicable, and appropriate for the seat belt anchorages on buses affected by this final rule (buses with a GVWR greater than 11,793 kg (26,000 lb)). Our reasons for adopting the FMVSS No. 210 requirements, set forth in the NPRM (75 FR at 50973–50975), were supported and bolstered by diverse commenters. The information provided by all the commenters enhanced our knowledge of the subject matter. The requirements we have adopted take into account the impact to seating capacity of changes to size and weight of motorcoaches and the ability to comply with State and Federal size and weight requirements, as required by section 32703(e), ''Application of Regulations,'' of the Motorcoach Enhanced Safety Act, and are based on the best available science, as mandated by section 32703(e) of the Act.

Safety Need

There is a safety need to apply FMVSS No. 210 to the passenger seat belt anchorages of the affected buses. NHTSA has decided not to accept the European requirements because ECE R.14 and ECE R.80 do not consider the totality of loads resulting from (a) belted occupants, (b) unbelted occupants aft of

[121] By this we believe Van Hool meant applying half the forces specified by FMVSS No. 210 to the seat belt anchorages and an inertial load to the seat, assuming a 10 g deceleration instead of the 20 g specified in FMVSS No. 207.

the belted occupant, and (c) the inertia load of the seat, i.e., the ''tri-loading'' from the three in a motorcoach crash. We believe FMVSS No. 210 is needed to ensure the belt anchorages can protect the belted occupant. The static load requirements specified in ECE R.14 (for M2 and M3 vehicles) and ECE R.80 are far below that needed to generate the peak seat anchorage loads that NHTSA measured in its sled tests, which means a seat that minimally meets the ECE required static loads for M3 vehicles may separate from its floor anchorages in a crash of the severity represented by the 48 km/h (30 mph) frontal barrier impact performed by NHTSA.

In its comment supporting the application of FMVSS No. 210, IMMI stated that it performed tests on its own seats after the NPRM and found that the sled test data were consistent with the agency's data provided in the NPRM. IMMI stated that its test data supported the agency's view that FMVSS No. 210 is a more realistic representation of the crash forces that may be experienced in real-world crashes than those of ECE R.14 and ECE R.80. The commenter reported that in over 20 sled tests using 50th and 95th percentile test dummies, IMMI found an average total x-direction (fore-aft) component force of 51,983 N (11,686 lb) for its 2-occupant seat, which it stated was ''near the FMVSS [No.] 210 specified requirement of 26,688 N per position or 53,376 N per 2-occupant seat.'' [122] The close similarity between IMMI's sled tests and NHTSA's sled tests reinforces the conclusion that the FMVSS No. 210 requirements are reasonable and appropriate for the seats on the affected buses.

Other safety information from IMMI also supports the validity of the agency's data. In its comment, IMMI said that it performed two analytical simulations, one with two unrestrained 50th percentile males seated behind two restrained 50th percentile males and another with two unrestrained 95th percentile males seated behind two restrained 50th percentile males, which resulted in total x-direction component forces of 56,196 N (12,633 lb) and 57,451 N (12,916 lb), respectively. The peak total loads in both of IMMI's simulations are also slightly above the loads which may be experienced in an FMVSS No. 210 test, the largest being 8 percent [57,451 N/53,177 N] above the largest x-direction component expected in an FMVSS No. 210 test. In addition, the IMMI simulations indicated that sustained loads of 40,000 N (8,992 lb) to 50,000 N (11,240) for approximately 100 milliseconds following the peak loads are possible in real-world crashes, which are only slightly below the loads applied in an FMVSS No. 210 test.

Reasonable and Appropriate

As noted above, Coach USA supported the approach of allowing manufacturers to comply with either FMVSS No. 210 or ECE R.14 and ECE R.80. Coach USA states that FMVSS No. 210 will provide little, if any, benefit in frontal crashes beyond the benefits produced by ECE R.14. Coach USA said that only 0.16 fatalities from high speed frontal crashes into rigid roadside objects would be prevented annually by the rule, assuming a 15 percent seat belt use rate. It stated that, even if seat belts are used in motorcoaches at the same rate they are used in passenger vehicles (83 percent), the expected number of fatalities prevented per year for this kind of crash is still less than one. It also argued that these estimates do not take into account that some of the crashes in which the most harmful event was listed as ''Roadside'' were not the type of crash simulated by NHTSA (involving direct frontal impact into a rigid object at 48 km/h (30 mph)). Thus, Coach USA suggested NHTSA overestimated the estimated number of fatalities the rule will prevent annually.

In response, accident data show that it is reasonable to base a standard on data from a 48 km/h (30 mph) barrier test, i.e., that it is reasonable to assume that the test is representative of a realistic, severe crash condition. As discussed earlier in this preamble, FARS data show that frontal impacts represent a substantial amount (41.6 percent [87/209]) of the fatalities in buses affected by this final rule. Moreover, the covered buses can travel on high speed roads where the risk of a high speed impact is foreseeable. The NTSB has investigated a number of high speed frontal crashes that likely underwent a velocity change (delta-V) comparable to or exceeding the crash test performed by NHTSA, as illustrated in Table 6.[123]

TABLE 6—EXAMPLES OF FRONTAL MOTORCOACH CRASHES INVESTIGATED BY THE NTSB INVOLVING IMPACT VELOCITIES WELL IN EXCESS OF THE NHTSA 48 KM/H (30 MPH) BARRIER CRASH TEST

Incident	Total occupants	Injury severity †				Approximate impact velocity
		Fatal	Serious	Minor	None	
Osseo 2005	45	5 (inc. driver)	5	30	5	102–126 km/h. (64–78 mph).
Tallulah 2003	15	8	7 (inc. driver) ‡.	0	0	97–105 km/h. (60–65 mph).
Loraine 2002	38	3	6 (inc. driver)	24	5	77–89 km/h. (48–55 mph).
New Orleans 1999	44	22	16	6	0	93 km/h. (58 mph).
Burnt Cabins 1998	23	7 (inc. driver)	1	15	0	97–105 km/h. (60 to 65 mph).

† Title 49 Code of Federal Regulations (CFR) 830.2 defines fatal injury as ''any injury which results in death within 30 days of the accident'' and serious injury as ''any injury which: (1) Requires hospitalization for more than 48 hours, commencing within 7 days from the date the injury was received; (2) results in a fracture of any bone (except simple fractures of fingers, toes, or nose); (3) causes severe hemorrhages, nerve, or tendon damage; (4) involves any internal organ; or (5) involves second- or third-degree burns, or any burn affecting more than 5 percent of the body surface.''

[122] NHTSA notes that the FMVSS No. 210 load is required to be applied at an initial angle of 5 to 15 degrees above the horizontal resulting in an x-direction component force that is lower than 53,380 N; therefore, it is more accurate to compare IMMI's forces to the x-direction component of the applied FMVSS No. 210 load, which is from 51,561 N to 53,177 N for a 2-occupant seat. This indicates that the average total loads that IMMI recorded in its sled tests were within the load range that may be experienced in an FMVSS No. 210 test; their maximum loads were only slightly above those of FMVSS No. 210. [Footnote not in quoted text.]

[123] We note that the investigation of these crashes provided crash speed, which is not directly comparable to the barrier impact speed in the 48 km/h (30 mph) NHTSA crash test. However, these impact speeds ranged from double to 2½ times the barrier crash speed. Depending on the object struck, this suggests a crash severity (as represented by a velocity change (delta-V)) similar to or greater than the barrier impact.

‡ One of the seriously injured passengers died due to accident injuries 35 days after the accident. Only fatalities resulting within 30 days of the accident are included as fatal injuries in the NTSB reports.

Frontal crashes of the subject buses can be just as devastating as rollovers, as shown by the 1999 New Orleans crash that took the lives of 22 people on the bus.[124] Our updated field data show that frontal impacts represent a substantial amount (41.6 percent [87/209]) of the fatalities. Therefore, while our primary focus in this rulemaking was on ejection mitigation in rollovers, our initiative, consistent with NHTSA and the Department's focus on increasing overall safety in these vehicles, was also focused on frontal [125] and other planar crashes. We believe it would be a short-sighted public policy to define the requisite level of performance of the seat belt anchorages considering only rollovers when the affected buses are involved in other severe crashes as well. Requiring anchorage strength that addresses a safety need for frontal crashes will not degrade the performance of these restraints in rollovers. Requiring anchorage strength that addresses only rollovers could degrade the performance of the belts in severe frontal crashes.

NHTSA's frontal passenger crash protection requirements are developed to address foreseeable crashes of different severities, up to and including severe crashes. FMVSS No. 208 specifies a 56 km/h (35 mph) rigid barrier belted test for passenger-carrying vehicles with GVWRs of 3,856 kg (8,500 lb) or less. FMVSS No. 208 and FMVSS No. 210 ensure, to the degree practicable, that at least a minimum level of crash protection will be provided to the occupants of passenger-carrying vehicles in the event the vehicles crash at the higher speeds at which they are driven. This final rule extends this principle to buses with a GVWR greater than 11,793 kg (26,000 lb).

The operation of the affected buses at high speeds can be observed on roadways every day, and crash data files show the repeated involvement of the affected buses in high speed crashes. The risk of injury in a high speed crash is high. NHTSA has determined it is important to ensure that the seat and lap/shoulder seat belt system on the affected buses will withstand the crash energy that was measured in the 48 km/h (30 mph) frontal barrier test. It is important that the seat-to-floor attachments have the ability to withstand the forces resulting from tri-loading of the bus seat (the total load on the subject seat from restrained occupants in the seat, unrestrained occupants rearward of the seat, and the inertia of the seat itself) and that the lap/shoulder belt system will not fail to restrain the occupant when subjected to the load from the restrained occupant and the unrestrained occupant aft of the seat. The static load requirements of ECE R.14 for M2 and M3 vehicles are both well below the level needed to produce the anchorage loads measured in the agency's sled tests. Even if the ECE R.14 static loads are applied simultaneously with the ECE R.80 static loads, which is not required by the ECE regulations, the total load still falls below that measured by the agency.[126]

The FMVSS No. 210 loads also have a margin of safety that ensure the integrity of the seat and lap/shoulder belt anchorages at higher speeds than that replicated by the VRTC test and with occupants of larger mass than the test dummies used in the agency's tests. In its comment in support of the proposal, transportation provider Greyhound believed that the 10 percent strength margin that the FMVSS No. 210 loads provided is prudent since ''higher speeds and larger passengers than those [reflected in the VRTC tests] will sometimes be involved in real world crashes.'' The operator has first-hand knowledge of the operating conditions and the wide range in the weights of passengers using the affected vehicles.

Coach USA estimated that requiring motorcoach passenger seats to meet FMVSS No. 210 will only reduce fatalities in frontal crashes by 0.16 per year assuming seat belt usage of 15 percent and that it would still be less than one fatality per year if seat belt usage is the same as in passenger vehicles (83 percent). It stated that the success of the ECE R.14/ECE R.80 over the past decade in Europe suggests that the European standards are effective in the overwhelming majority of crashes. For these reasons, Coach USA stated that FMVSS No. 210 will provide little, if any, benefit in ''rare'' frontal crashes in terms of reducing fatalities relative to ECE R.14.

We have previously explained our reasons not to accept ECE R.14 and ECE R.80 and our basis for concluding that FMVSS No. 210 is appropriate for the vehicles covered by this final rule. We note here that it is correct that fatalities in the affected vehicles are relatively ''rare'' in comparison to the injuries and deaths in light vehicle crashes. Even with this rarity, we have assessed the benefits and costs of this rule and have found the rule to be cost effective at an assumed lap/shoulder belt use of 4 to 5 percent.

Prevost requested that NHTSA consider the M2 requirements of ECE R.14, which it believed is based on a ''closer and more realistic deceleration pulse'' than the proposed FMVSS No. 210 requirements. Prevost believed that the load from an unbelted occupant behind the seat as well as the weight of the seat should be included in the forces applied to the seat, but did not believe that there was a correlation between the peak load obtained with a 13 g sled test and the loads required in FMVSS No. 210.

Prevost did not explain in its comment why it suggested there is not a correlation between the peak loads obtained in the VRTC testing and the loads required in FMVSS No. 210. In contrast, the best available data show there is a correlation. The agency's sled tests, which used a pulse modeled after the crash pulse from an actual crash of an over-the-road bus, demonstrated that the total loads at the seat-to-floor attachment for motorcoach seats with integrated lap/shoulder belts reached levels that are very close to those generated by the current FMVSS No. 210 requirements.

Further, the best available data do not support a finding that the ECE R.14 for M2 buses uses a ''closer and more realistic deceleration pulse.'' The ECE R.80 pulse bears very little resemblance to an actual crash pulse of the affected vehicles due to the lower energy, faster ramp-up, shorter duration, and potentially higher peak of the ECE pulse, compared to the 13 g pulse obtained from the actual crash of an over-the-road bus. The unrepresentative ECE R.80 crash pulse may yield dummy injury values that are not realistic. When the agency subjected the same seat and dummy configurations to both the ECE R.80 pulse and the pulse obtained by VRTC from an actual motorcoach crash, differences in the injury values, especially with respect to the head, and to a lesser extent the femurs, were observed. The injury values were generally higher with the

[124] In March 2012, a frontal crash of a tour bus on a highway near Sierre, Switzerland, took the lives of 28 people, 22 of whom were children. *http://apnews.excite.com/article/20120314/D9TG77QO0.html*.

[125] This was shown by our proposal to require lap/shoulder belts for occupants and not just lap belts alone, based on the data from the VRTC frontal crash testing of the motorcoach.

[126] Seat back impact and energy absorption are discussed later below.

ECE pulse, and lap/shoulder belted dummies exceeded the HIC IARV in several tests.[127] The higher injury values were likely a result of the faster ramp-up of the ECE pulse, which created a higher closing velocity between the dummy and the seat back ahead of it in spite of the dummies carrying less total energy as compared to the VRTC pulse.

We are unable to agree to Prevost's suggestion that the strength requirements be adjusted (reduced) for seats where there are no other seats behind it (and therefore no unbelted passengers seated behind it). We are aware that some operators of covered buses have changed the passenger seating configuration from that set by the factory or have removed and reinstalled seats. If ''weaker'' seats are moved after the factory installation to a position that had a passenger seat behind it, the weaker seat would not provide the performance required by FMVSS No. 210. Furthermore, this final rule provides some of the flexibility Prevost seeks. Under this final rule, seats with no other seats behind them are not required to have the lap/shoulder belt anchorages attached to the seat structure. For these seats, the lap/shoulder belt anchorages can be attached directly to the vehicle structure.

European bus manufacturer Van Hool supported adopting ECE R.14 and ECE R.80. Van Hool stated that a ''true European seat'' cannot fulfill the FMVSS No. 210 requirements because the loads are three times that required by ECE R.14, and because the strength of the seat is limited by the energy-absorbing capabilities required by ECE R.80 for unbelted passengers striking the seat from behind. Van Hool believed that the Amaya seats tested by NHTSA in our research program were seats made in Mexico for the American market and were not true European seats.

In response, all information available to NHTSA indicate that European seats can meet FMVSS No. 210 and ECE R.14 and ECE R.80. The available information show that the Amaya seats tested at VRTC, which passed FMVSS No. 210, were designed to meet both ECE R.14 and ECE R.80. Our knowledge of the seats meeting ECE R.14 and ECE R.80 is based on information provided by Amaya.

Van Hool was not clear in what it meant by its claim that a ''true European seat'' cannot meet FMVSS No. 210. It is true that the static load requirements for ECE R.14 and ECE R.80 are far below that required to generate the peak seat anchorage loads that NHTSA measured in its sled tests. Thus, if Van Hool meant that a seat that minimally meets the ECE required static loads for M3 vehicles would not meet FMVSS No. 210, that may be correct. However, such a seat may separate from its floor anchorages in a crash, especially in a severe frontal crash at seats where tri-loading occurs, which NHTSA deems unacceptable.

If Van Hool meant that a seat that meets ECE R.14 and R.80 is technically unable to meet FMVSS No. 210, we do not agree. The technical information from our research program shows that meeting FMVSS No. 210 and ECE R.14 and R.80 are not mutually exclusive. It is technically possible for a manufacturer to design a seat that withstands the loads required by FMVSS No. 210 and that deflects upon forces applied from the rear. This is because FMVSS No. 210 requires the seat belt anchorages to ''withstand'' the loads applied to them; there is no limit on or specification for how the seat back may displace except in the absolute, gross sense: The seat back (with integrated shoulder belt anchorages) cannot fail to withstand the applied forces, e.g., the seat cannot break apart, or the seat's pedestal cannot pull from the floor of the bus. Meeting FMVSS No. 210 does not entail designing the seat back to be a ''stone wall,'' as Van Hool worded it. The seat back has to be strong enough to withstand the FMVSS No. 210 forces, but there is no impediment in the standard that prevents a manufacturer from designing the seat back to withstand the requisite loads of FMVSS No. 210 while deflecting in a controlled manner to absorb forces applied from the rear.[128]

The ability of the seat back to absorb the loading from the rear seat passenger is an aspect of performance not regulated by FMVSS No. 210. Manufacturers have the ability, the leeway, and, we maintain, the responsibility to design energy-absorbing seat backs to account for the loading from an occupant aft of the seat, if they believe energy absorption is an appropriate aspect of performance to address. This final rule provides the opportunity and flexibility to manufacturers to develop innovative seat back designs.

Van Hool asked why the NPRM did not consider a proposal for adding a 10 g standard for large buses into FVMSS No. 207,[129] as it claims was done in ECE R.14. The commenter provided the table below (shown as Table 7) of how such a standard could have been proposed and how it would compare to FMVSS No. 210.

TABLE 7—VAN HOOL'S EXAMPLE OF AN ALTERNATIVE ''10 G'' STANDARD

	FMVSS No. 210 as by NPRM	Alternative standard at 10 g (for a single seat of 22.5 kg)
Upper anchorages	13,345 N (3,000 lb)	6,818 N (1,533 lb).
Lower anchorages	13,345 N (3,000 lb)	6,818 N (1,533 lb).
Seat Mass inertia	0	2,250 N (506 lb).
Unbelted passenger	0	6,800 N (1,529 lb).
Total forces	26,690 N (6,000 lb)	22,686 N (5,101 lb).
Total moments	16,014 Nm (11,811 lb-ft)	13,954 Nm (10,292 lb).

In response, we did not develop such a standard. This is because NHTSA determined the appropriate loads by first measuring the seat anchorage loads in a dynamic sled test using the VRTC pulse, and then applying static loads to

[127] See tables A.2 and A.6, test types 1 though 5, 7G seats subjected to the VRTC and EU pulses in research report DOT HS 811 335, NHTSA's Motorcoach Safety Research Crash, Sled, and Static Tests, dated May 2010.

[128] Moreover, even if ECE R.80 cannot be met by a seat meeting FMVSS No. 210, that issue is not determinative as to whether FMVSS No. 210 should be adopted. NHTSA has not decided whether ECE R.80 best addresses seat deformation characteristics. Several seat manufacturers have suggested that the seat deflection requirements of FMVSS No. 222, ''School bus passenger seating and crash protection,'' should be applied to seats on the buses covered by this final rule, and have reported that their seats meet both FMVSS No. 210 and FMVSS No. 222's seat deflection requirements. This is discussed in a later section of today's preamble.

[129] By this we believe Van Hool meant applying half the forces specified by FMVSS No. 210 to the seat belt anchorages and a inertial load to the seat assuming a 10 g deceleration instead of the 20 g specified in FMVSS No. 207.

another seat, using various methods, until the loads measure in the sled test could be recreated.[130] The example ''10 g'' loads Van Hool presented still appear to be below the force levels necessary to generate the same peak seat anchorage loads that were measured in the VRTC sled test. On the other hand, the FMVSS No. 210 loading is only 15 percent [16,014 N/13,954 N] greater than the loading that Van Hool suggested. As such, the FMVSS No. 210 loading provides a slight factor of safety over the Van Hool approach. We note that the Van Hool approach is a function of seat mass. If a greater seat mass were assumed, the difference between the FMVSS No. 210 loading and the Van Hool approach would decrease further.

MCI disagreed with the proposal to apply FMVSS No. 210 to all seating positions, believing that NHTSA has not tested a sufficiently broad spectrum of seat configurations. The commenter suggested that the agency duplicate the same or similar test conditions with emphasis on protecting women and children. The commenter submitted confidential test data from sled tests it conducted using a representative motorcoach frame (test buck) and a variety of dummy, seat, restraint, seat spacing (pitch) and acceleration pulse combinations, and recommended a form of static testing on a bus frame using a unique loading profile that combined aspects of ECE R.14 (10 g; M2 vehicles), ECE R.80, and FMVSS No. 210.

We do not agree that MCI's suggested test is preferable to FMVSS No. 210. The tests that MCI used to draw its conclusions appear to have used the ECE R.80 or a similar pulse, which does not sufficiently represent a real-world crash pulse of the affected vehicles (for the reasons previously stated in this section in response to Prevost). In addition, we believe that the injury values MCI recorded were generally higher than the values recorded by the agency in the VRTC sled tests, especially for the smaller unrestrained occupants, due to the greater seat pitch (seat spacing) used in the MCI tests. This is explored further in the section below, on seat back energy absorption.

Coach USA submitted a separate report to the agency which detailed a study that it conducted on Van Hool motorcoach seats, which they stated comply with ECE R.14 (for M3 vehicles) and ECE R.80. It stated that the objective of its study was ''to evaluate the protective capability of the Van Hool motor coach seats in the severe crash environment employed by NHTSA and to determine if the seat systems (which were certified to the European standards) can meet the requirements of FMVSS 210.''

In its study, Coach USA conducted sled testing and FMVSS No. 210 static testing on Van Hool motorcoach seats that were installed on a test ''buck'' that Coach USA said was fabricated to closely represent the interior of a motorcoach. The test buck used the same aluminum seat mounting tracks and hardware as those used in a motorcoach, with the exception of the seat mounting track to floor fasteners, which were high-strength steel screws and washers as opposed to the rivets used in the actual motorcoach. The test configurations were essentially identical to those used in NHTSA's motorcoach seat sled and static tests described in the NPRM. The tests were performed at Transportation Research Center (TRC) Inc., located in East Liberty, Ohio, which is the same facility that performed NHTSA's testing.

In its sled tests, Coach USA mounted three rows of seats on the test buck at a seat pitch of 800 mm (31.5 inches). The first row (front row) was unoccupied, the second was occupied with Hybrid III 50th percentile adult male test dummies that were restrained with lap/shoulder belts, and the third row was occupied with two unrestrained 50th percentile adult male Hybrid III test dummies. Coach USA used an acceleration pulse that the commenter described as ''slightly more severe'' than the pulse used in the NHTSA test, with a delta-V just over 40 km/h (25 mph) and a peak deceleration of 9.7 g, as compared to a delta-V of 40 km/h (25 mph) and a peak deceleration of 9.5 g in the NHTSA tests.

Coach USA described the results of its sled test as follows:

> The restrained dummies in the second row remained restrained, but contacted the back of the first row of seats. The second row of seats sustained some damage from the forces resulting from the belted dummies pulling and the unbelted dummies impacting the seats from the rear. The seat backs were severely distorted, and a small section of the floor rail was pulled upward pulling free from two of the mounting screws. But the seat remained attached to the ''bus'' providing protection for the belted occupants.

Coach USA also noted that the second row slid forward about 5 inches (127 mm) in the side-wall mounting track, but it claimed this did not create any apparent deviation from expected results, based on a comparison of the left side restrained dummy injury traces with corresponding traces from the NHTSA tests. It reported the injury measures shown in Table 8 and explained that these values are well below the thresholds for frontal passenger protection in FMVSS No. 208 for the 50th percentile adult male dummy.

TABLE 8—COACH USA'S VAN HOOL SEAT STUDY SECOND ROW DUMMY INJURY MEASURES, AS REPORTED BY COACH USA

Seat position	HIC_{15}	Chest g	Chest Defl.	Nij	Femur Load (average. of right and left)
Inj. Ref. Values	700	60 g	63 mm	1.0	10,000 N
Left Seat	331 (47%)	22 g (37%)	7.4 mm (12%)	0.52 (52%)	1,930 N (19%)
Right Seat	464 (66%)	20 g (33%)	5.5 mm (4%)	0.50 (50%)	3,647 N (36%)

Coach USA noted that the injury values measured for the belted dummies in its test of the Van Hool seats are very comparable to those measured in the NHTSA sled tests for the Amaya 7 g seats. In addition, it stated that the Van Hool seat structure had no evidence of being compromised in any way as a result of the test. From these data, Coach

[130] This process was described in the NPRM (75 FR at 50958) and explained in detail in research report DOT HS 811 335, ''NHTSA's Motorcoach Safety Research Crash, Sled, and Static Tests,'' dated May 2010. The method described as ''Method B'' in the research report, which used the loading devices and technique specified in FMVSS No. 210, reproduced the anchorage loads that were measured in the VRTC sled tests when a total load equal to 91 percent of that required by FMVSS No. 210 was applied through the loading device.

USA concluded that ''it can be expected that real world injuries in motorcoaches equipped with Van Hool Seats when involved in similar crash environments would be low.''

Following the sled test, Coach USA conducted an FMVSS No. 210 test on a new Van Hool seat using the same test buck and new mounting tracks. It performed the test following the same protocol that was used in NHTSA's FMVSS No. 210 tests of motorcoach seats reported in the NPRM.[131] Coach USA reported that the Van Hool seat and seat belt anchorages withstood a total load of approximately 35,584 N (8,000 lb) applied through the seat belts before ''severe structur[al] failure began to occur.'' The test was terminated at a total applied load of 37,808 N (8,500 lb), which is short of the FMVSS No. 210 requirement of 53,380 N (12,000 lb) for a seat with two seating positions and lap/shoulder belts. The report indicated that the seat pulled completely free from the rear bracket mount to the side-wall track and the left side tubing structure of the seat was fractured in several locations.

From these tests, Coach USA concluded overall that ''a seat that is able to comply with the dynamic requirements in FMVSS [No.] 208 would be able to offer adequate protection to the occupants in motor coaches [sic] and FMVSS [No.] 210 compliance is not a necessary requirement for safety. Therefore, a motorcoach seat that is able to comply with ECE R.80 dynamic test or its dynamic equivalent such as FMVSS [No.] 208 would assure more protection than a seat that is able to meet FMVSS [No.] 210 requirements.'' It stated that it is questionable whether any benefits will be derived by requiring FMVSS No. 210 since its comparison of the Amaya and Van Hool seat tests ''clearly show that the occupant protection performance of both seats in the sled test are equivalent,'' even though the Amaya 7 g seat meets the strength requirements of FMVSS No. 210 tests while the Van Hool seat does not.

In response, we have carefully reviewed Coach USA's submission, but cannot agree with the commenter's interpretation of the test results.

Although the injury values recorded in the sled test for the restrained test dummies in the second row were within the IARVs for FMVSS No. 208, we are concerned about the reported damage to the seat anchorage tracks of the second row seat (this seat reportedly did not meet FMVSS No. 210). Coach USA reports that, although the second row seat remained attached to the ''bus,'' the row sustained ''damage from the forces resulting from the belted dummies pulling and the unbelted dummies impacting the seats from the rear. The seat backs [of the second row seat] were severely distorted, and a small section of the floor rail was pulled upward pulling free from two of the mounting screws.'' NHTSA believes that this damage, particularly at the floor rail, may be is an indication that the anchorage system was near failure. If the seats were occupied by people heavier than 50th percentile adult males, or the seat pitch (spacing) were different, or if the pulse of the crash were different, the loads carried by any one seat could be increased, with possible seat anchorage failure. We believe that the seat would have withstood the sled test forces better had it been designed to meet FMVSS No. 210. The results did not show a lack of a safety need for FMVSS No. 210.

Second, we cannot conclude that the Van Hool seats minimally met the requirements of the ECE regulations. The Coach USA FMVSS No. 210 test of the Van Hool seat found that the seat and anchorages are much stronger than the minimum necessary to meet the static load requirements of ECE R.14 for M3 or M2 vehicles. The seat withstood a load 100 percent greater than that for M3 vehicles and 33 percent greater than that for M2 vehicles. Yet, the seat anchorage was substantially damaged in the sled test, suggesting that anchorages of seats that minimally met the static load requirements of ECE R.14 for M2 or M3 vehicles may perform even more poorly in the sled test.

Third, we note that the data in Appendix B of the Coach USA report indicated that both unrestrained 50th percentile male dummies in the third row had HIC_{15} values exceeding the IARV for FMVSS No. 208 of 700. One unrestrained dummy had a HIC_{15} of 731, while the other had a HIC_{15} of 1,139. The second row seat that the dummies impacted reportedly met ECE R.80. The results bring into question whether ECE R.80 is able to provide head protection to unbelted occupants in severe frontal crashes (protection for unbelted occupants has been one of the key points voiced by several commenters that support adopting the European regulations).

Based on these observations, we do not agree that the data support a finding that FMVSS No. 210 is unnecessary.

Coach USA questioned in its report whether the NHTSA static test of the Amaya 7 g seat, which was found to withstand the FMVSS No. 210 loads, was ''precisely'' a FMVSS No. 210 test (i.e., mounted the same as in a bus).

Our answer is that an FMVSS No. 210 compliance test is performed in-vehicle, as required by FMVSS No. 210, whereas the test performed for the research program was a simulated in-vehicle test. The test is simulated for research purposes to obtain as much data as possible while conserving research monies and resources. However, the agency's research test was carefully designed to be indicative of the actual seat and anchorage performance.

Coach USA questioned whether the Amaya 7 g seat was mounted to the test fixture without a pedestal, based on Figure 62 in the NHTSA research report that was docketed with the NPRM.

Our response is yes, the seat was mounted on its pedestal and was also attached to a fixture simulating the side wall of the bus. The photograph of the seat from which Coach USA made this observation was a lateral view from the right which obscured the left side pedestal. The setup for these tests, which used actual motorcoach seat mounting rails and hardware at the seat attachment points instead of load cells, can be viewed in Figure 59 of report DOT HS 811 335, NHTSA's Motorcoach Safety Research Crash, Sled, and Static Tests, May 2010.

Several commenters requested NHTSA to allow alternative compliance with the ECE regulations. While NHTSA has the authority to consider alternative compliance with other existing standards such as ECE regulations, alternative compliance is appropriate under the Vehicle Safety Act when such a framework meets the safety need addressed by the rulemaking. Alternative compliance can be provided in such a case because the safety objectives of the rulemaking will be achieved no matter if a manufacturer selects one alternative or another. NHTSA does not have information in this situation that supports a finding that allowing the alternative of certification to both ECE regulations would meet the safety needs of this rulemaking. NHTSA conducted a preliminary comparison of the proposed FMVSS No. 210 standard with ECE R.14/ECE R.80, included on page 106 of the accompanying FRIA, which shows that the separately applied ECE regulations provide for lower seat anchorage strength than FMVSS No. 210. Specifically, NHTSA's analysis and sled and static testing indicate that ECE R.14/ECE R.80 do not provide the level of seat belt anchorage strength needed to address the foreseeable frontal crash scenario represented by a 48 km/h (30

[131] See research report DOT HS 811 335, ''NHTSA's Motorcoach Safety Research Crash, Sled, and Static Tests,'' May 2010.

mph) barrier impact, whereas the FMVSS No. 210 requirement does.

NHTSA was unable to obtain any information (either publically available, through public comments or directly from the European Union) on how the ECE R.14 and R.80 regulations were established or the rationales underlying them. Given the lack of underlying analytical and scientific information available to NHTSA, the agency is unable to conclude that the safety needs of this rulemaking would be met by allowing alternative compliance with the ECE standards. NHTSA is not able to allow alternative compliance with the ECE standards in this rulemaking in particular given Congress's direction in the Motorcoach Enhanced Safety Act to base the regulation ''on the best available science'' (MAP–21, section 32703(e)(1)(C)).

We note, however, that despite having found that FMVSS No. 210 is more effective with respect to seat anchorage strength than certification to both ECE R.14 and ECE R.80, NHTSA keeps an open mind about new developments in motor vehicle safety. In the future, the agency would be willing to consider data and other sound information, beyond that which has already been considered by the agency, from persons wishing to demonstrate that the ECE regulations are not less protective than FMVSS No. 210. In addition, NHTSA is currently planning to research motorcoach seat back performance, and depending on the results and evidence, may consider adopting some form of seat back energy absorptions in the future. At that time, we will take into consideration ECE R.80 and any other relevant information.

Practicable

The agency has concluded that meeting FMVSS No. 210 is practicable, and meeting FMVSS No. 210 with a seat that has deformation capability is also practicable. In its comment, seat manufacturer C.E. White stated that it has proven that a light weight single frame seat structure can be manufactured to meet the FMVSS No. 210,[132] and the commenter provided confidential test data for one of its seat models which supported its claim. Seat manufacturer IMMI also stated that it offers a seat with lap/shoulder seat belts that meets the requirements of FMVSS No. 210.[133] IMMI stated that at least three motorcoach manufacturers offer IMMI's Premier® FMVSS No. 210 compliant seats in their vehicles at the time of its submission of comments. Greyhound stated that it has been purchasing IMMI Safeguard Premier seats, which meet FMVSS No. 210 and other FMVSSs, in all of its new motorcoaches since January 2008. IC Bus noted that when it builds a commercial bus that specifies seat belts, it is built to meet the applicable requirements of FMVSS No. 210. This information on the development and introduction into the motorcoach fleet of seats with anchorages that meet FMVSS No. 210 clearly demonstrates that the requirement to extend the FMVSS No. 210 requirements to all seating positions in motorcoaches is practicable.

Implications of FMVSS No. 210 on Seat Weight, Cost, and Comfort

NHTSA has developed this final rule taking into account the impact to seating capacity of changes to size and weight of subject buses and the ability to comply with State and Federal size and weight requirements, in satisfaction of section 32703(e) of the Motorcoach Enhanced Safety Act. We requested comments on the benefits and costs of adopting ECE R.14 over FMVSS No. 210 and whether motorcoach seats will need to be made significantly heavier, stiffer, or less comfortable in order to meet the strength requirements of FMVSS No. 210. We stated in the NPRM that the agency did not believe there would be adverse consequences associated with applying FMVSS No. 210 to seat belt anchorages on the affected vehicles, based on data from our test program.

Comments

Eight comments specifically discussed the effects that the more stringent strength requirements of FMVSS No. 210 (compared to ECE R.14) will have on seat weight, comfort, and cost. Commenters were divided in their views of the effect that meeting FMVSS No. 210 would have on bus weight, comfort, and cost.

Seat manufacturer C.E. White commented that it has manufactured a lightweight single frame seat structure that meets the criteria of FMVSS No. 210, with energy absorption capability, and provided confidential data supporting its claim.

In response to the agency's question on whether adopting FMVSS No. 210 over ECE R.14 will increase cost and weight, seat manufacturer IMMI said that its own review determined that adopting ECE R.14 would result in only minor material reductions, resulting in minimal savings per seat assembly.

Conversely, bus manufacturer Prevost stated that introduction of lap/shoulder belts will increase the weight of an affected bus by at least 454 kg (1,000 lb). It commented that the more stringent the standard is, the heavier the vehicle is, and manufacturers cannot afford adding weight if it is not justified. Prevost stated that cargo capacity is affected by added weight, and each 79 kg (175 lb) added could potentially reduce the passenger capacity by one.

Bus manufacturer Van Hool stated that requiring buses to meet FMVSS No. 210 specifications will result in increased vehicle and seat weight, increased vehicle and seat price, increased seat size, decreased passenger comfort, and reduced passenger service. Van Hool believed that integration of the FMVSS No. 210 requirements into its vehicle platforms will force Van Hool to initiate new and different production infrastructure and methods, thus increasing manufacturing cost, in addition to the added structural material that would need to be used in the process. The commenter stated that these factors would raise the price of vehicles, and the additional structural material would result in additional deadweight of the coach as a whole, even without seats.

On the other hand, transportation provider Greyhound stated that its real-life experience has demonstrated that there are no adverse consequences to meeting FMVSS No. 210 related to weight, comfort, or cost. Greyhound made the following statement concerning the Safeguard Premier seat manufactured by IMMI, which Greyhound said it has been ordering in its new motorcoaches since 2008:

> These seats and their seat belt assemblies and anchorages comply with FMVSS standards 208, 209, 210, 213, 225, and 302. The SafeGuard Premier also complies with the forward and rearward seat back energy curves defined in FMVSS [No.] 222. The installation of these seats has not caused Greyhound to reduce the number of passengers it can accommodate. The seats are quite comfortable, do not weigh appreciably more than seats equipped with belts meeting the European standard, and are competitively priced.

Transportation provider Coach USA commented that FMVSS No. 210 will result in passenger seats that are larger/bulkier, more rigid/stiffer, less comfortable, and more expensive than those that meet the European standards and that FMVSS No. 210 will increase the overall weight of the affected vehicles. It also stated the larger FMVSS No. 210 compliant seats will require carriers to remove four seats (one row) from their buses, reducing seating

[132] C.E. White also stated that the bus seat can meet the seat back deflection and quasi-static requirements of FMVSS No. 222.

[133] IMMI stated that the seat also meets FMVSS No. 222.

capacity and increasing the cost of operations. Coach USA claims decreased seat comfort along with the increased seat cost and decreased capacity, which will be passed on as cost to the customer, may increase the number of individuals that choose ''the more dangerous option'' of travel by passenger car over motorcoach travel.

In a supplemental comment, Coach USA provided estimates of the cost and weight penalties of compliance with FMVSS No. 210 as compared to compliance with ECE R.14/ECE R.80. It compared seats offered by IMMI, which Coach USA said were the only FMVSS No. 210 compliant seats on the market at the time of its analysis, to Van Hool seats meeting the European regulations.[134] Coach USA determined that the total weight of the IMMI seats required to outfit a single deck motorcoach is 1,615 kg (3,560 lb) at a total cost of $37,800, whereas the total weight of the Van Hool seats required to outfit the same bus is 1,196 kg (2,637 lb) at a cost of $29,830. The commenter stated that, for a double-decker bus, the IMMI seats have a total weight of 2,263 kg (4,988 lb) at a cost of $53,716, whereas the Van Hool seats have a total weight of 1,676 kg (3,695 lb) at a cost of $42,390. Coach USA noted that these estimates do not include costs associated with reinforcement of the bus floor for FMVSS No. 210, which NHTSA estimated at $3,000 per bus in the PRIA. It also added that the cost penalties did not include the reduced fuel efficiency of transporting ''heavier'' FMVSS No. 210 compliant seats, which it estimated as an increase in lifetime fuel cost of $4,584 to $6,217 for a single deck motorcoach and $6,422 to $8,710 for a double-decker motorcoach.[135]

Coach USA was concerned about the cumulative impact of possible regulations resulting from NHTSA's Motorcoach Safety Plan on the weight of motorcoaches. It stated that Federal law imposes weight limits on commercial vehicles on public highways, and while motorcoaches are currently exempt from the general weight limitation, they are still subject to a limit of 10,866 kg (24,000 lb) per axle. It stated that many motorcoaches are already close to this upper limit. Coach USA noted that the motorcoach weight exemption is up for legislative renewal in the upcoming transportation reauthorization and if the exemption is not continued, motorcoaches will be required to meet the general weight limitation, which is currently a maximum of 9,072 kg (20,000 lb) per axle. Coach USA stated that even if the exemption is renewed, manufacturers are likely to struggle to comply with the new NHTSA regulations that will add weight, such as roof crush and window glazing standards, while remaining under the statutory weight limit. Coach USA believed that the European seat belt standard will not increase the weight of motorcoaches to the same degree as FMVSS No. 210.

Agency Response

The information available to the agency on cost and weight varied greatly. Commenters opposed to the adoption of FMVSS No. 210 (Prevost, Van Hool, Coach USA, and Chicago Sightseeing)[136] [137] suggested that motorcoach passenger seats with anchorages that meet FMVSS No. 210 will be heavier than their European counterparts, whereas commenters Greyhound (a transportation provider already purchasing and operating buses with lap/shoulder belts and FMVSS No. 210 compliant seats), IMMI and C.E. White (seat suppliers already manufacturing and selling FMVSS No. 210 compliant seats in the U.S. for the affected buses, with lap/shoulder belts) stated that in their experience, the seats do not weigh appreciably more.

The relevant, best available information on this issue is persuasive in support of a finding that seats meeting FMVSS Nos. 208 and 210[138] will not weigh appreciably more than seats meeting the ECE regulations. We found the information provided by Greyhound, IMMI, and C.E. White compelling due to its empirical basis and the commenters' first-hand experience with the subject seats. In addition, we also evaluated Australia's experience with lap/shoulder belt requirement for motorcoaches, and learned that bus seats with integral lap/shoulder belts have been developed to meet Australian Design Rule 68 (requiring lap/shoulder seat belts with a 20 g crash force capability) that were ''more than twice as strong, weighed less and were not significantly more expensive (excluding the cost of seat belts) to produce than the original products.''[139]

Prevost, Van Hool, and Coach USA estimated that lap/shoulder belt-equipped seats meeting FMVSS No. 210 weigh much more than seats meeting ECE R.14 and ECE R.80. According to Prevost, the installation of lap/shoulder belts increases the weight of the affected vehicles by at least 454 kg (1,000 lb) and each 79 kg (175 lb) could reduce the passenger capacity by one. Van Hool estimated that a two-occupant seat with FMVSS No. 210 anchorages will weigh about 15 kg (33 lb) more than its ECE R.14/ECE R.80 seats, which the commenter said is a 420 kg (926 lb) increase for a 56-passenger bus. In its estimate, Van Hool approximated the weight of an EU-approved lap/shoulder belt equipped seat at 36 kg (79 lb) and an FMVSS No. 210 compliant seat at 51 kg (112 lb). Coach USA estimated that a standard two-occupant Van Hool EU-approved seat at 40 kg (88 lb), a Van Hool slider seat version at 54 kg (119 lb), an IMMI seat with FMVSS No. 210 anchorages at 54 kg (119 lb), and an IMMI slider seat version at 73 kg (161 lb). It stated that the IMMI seats resulted in a 419 kg (923 lb) increase in weight over the Van Hool seats for a single deck motorcoach and a 586 kg (1,293 lb) increase for a double-deck motorcoach.

Only Coach USA identified the manufacturer of the FMVSS No. 210 seat that it used in its weight estimate—IMMI—and, according to the data it used in its vehicle weight estimate, the two-occupant IMMI seat is 14 kg (31 lb) heavier that the ECE-approved Van Hool seat. Yet, IMMI had stated in its comment that there would be only limited-to-minor material reductions, resulting in minimal cost and weight savings per seat assembly if the anchorage requirements were reduced to ECE R.14 loads. (IMMI did not quantify these savings.)

To understand better Coach USA's comment, we looked closer at the IMMI seat used by Coach USA in its estimate and realized that the particular IMMI seat had design features that added weight to the seat, such as IMMI's SafeGuard SmartFrame™ technology. Because the features are not needed for the seat to meet FMVSS No. 210 and all other applicable FMVSSs, we determined the seat was not

[134] Coach USA's submission estimated that a standard IMMI two occupant seat weighs 54 kg (119 lb), an IMMI slider seat weighs 73 kg (161 lb), a Van Hool standard two occupant seat weighs 40 kg (88 lb), and a Van Hool slider seat weighs 54 kg (119 lb).

[135] Coach USA extrapolated these costs from data provided in NHTSA, Preliminary Regulatory Impact Analysis, FMVSS No. 208 Motorcoach Seat Belts (August 2010).

[136] Prevost, Van Hool, and Coach USA are or are affiliated with European bus manufacturers or operators.

[137] Bus driver David Kollisch estimated that heavier load-rated seat belts proposed in the NPRM will add 4,536 kg (10,000 lb) to a motorcoach, but provided no basis for this estimate.

[138] As well as meeting FMVSS No. 222's seat deflection requirements.

[139] ''Three Point Seat Belts On Coaches—The First Decade In Australia,'' Griffiths et al., Abstract ID 05–0017, 19th International Technical Conference on the Enhanced Safety of Vehicles, June 2005, *http://www-nrd.nhtsa.dot.gov/pdf/esv/esv19/05-0017-O.pdf* (cited also in footnote 39, August 18, 2010 NPRM).

representative of a typical seat with FMVSS No. 210 compliant anchorages. We concluded that a more typical seat advertised as having anchorages that meet the FMVSS No. 210 requirements is the Amaya-Astron Torino G and A–210 model coach seats, which are available through Freedman. These seats weigh 39 kg (86 lb) and 40 kg (88 lb), respectively,[140] as opposed to the weight of the IMMI seat as reported by Coach USA (weighing 54 kg (119 lb)).

The information from the seat manufacturers was compelling, since they are now selling the seats at issue. Seat manufacturer C.E. White commented that it has been proven that a lightweight single frame seat structure can be manufactured that meets the criteria of FMVSS No. 210, with energy absorption capability, and provided confidential data supporting its claim. IMMI stated that its own review determined that the reduction of the anchorage requirements to those of ECE R.14 will result in minor material reductions, resulting in minimal savings per seat assembly.

We found the information provided by Greyhound of striking importance, since the commenter has first-hand experience operating buses with FMVSS No. 210 compliant, lap/shoulder-equipped passenger seats. Greyhound stated that it has installed IMMI seats that meet the FMVSS No. 210 requirements in its newer buses, and found in its real-life experience there has been no adverse consequences related to weight, comfort, or cost.

The Australian motorcoach industry had similar concerns regarding increased seat weight with the introduction of Australian Design Rule 68 (ADR 68) in 1994.[141] The ADR 68 dynamic test requirements use a 20 g acceleration pulse, which is 1.5 times greater than the pulse used in the NHTSA sled tests, and the ADR 68 static test total loads are also significantly greater than those required by FMVSS No. 210.[142] In spite of the more stringent requirements of ADR 68, Australian motorcoach seat suppliers have reported that ADR 68 seats with integrated lap/shoulder belts weigh approximately 25 kg (55 lb) to 30 kg (66 lb) for a two-occupant seat.[143] Styleride (*http://www.styleride.com.au*) and McConnell Seats Australia (*http://www.mcconnellseats.com.au*) currently manufacture seats in this weight range that meet ADR 68 requirements. These ADR 68 compliant seats are lighter than the current lap/shoulder belt equipped IMMI and Van Hool seats, yet meet anchorage strength requirements that exceed that required by FMVSS No. 210.

In view of the above information, NHTSA concludes that the concerns expressed about increased seat weight are without merit. Lap/shoulder belt-equipped seats that meet the requirements of FMVSS No. 210 are available in the U.S. that are equivalent in weight to the European seats, and will continue to be available after this final rule.

Other Concerns

Some commenters expressed concerns that the weight increases to the bus seats resulting from meeting FMVSS No. 210 would potentially reduce fuel economy, reduce passenger-carrying capacity, and affect axle weight limits. After considering all available information, we have determined these concerns to be unfounded. In view of the light weight of ADR 68 seats, and the information from C.E. White, IMMI and Freedman, we believe that the average weight increase of the affected buses resulting from this rule will be in line with the estimates made in the agency's cost tear-down study.[144] The agency's cost tear-down study attempts to estimate only the weight of the lap/shoulder belt addition. It estimated that the weight of a domestic bus seat added was 2.7 kg (5.98 lb) per 2-person seat, resulting in a 54 passenger bus weight increase of 73.0 kg (161 lb). Any further increase in vehicle weight, or reduction in passenger capacity, will result from the manufacturer's or purchaser's selection (or design) of seat models and features.

Van Hool, Coach USA, and ABA submitted comments that discussed the cost implications of requiring passenger seats on the affected buses to meet FMVSS No. 210 as compared to ECE R.14/ECE R.80. Coach USA provided an analysis comparing the total cost to outfit its single and double-decker motorcoaches with IMMI seats that meet FMVSS No. 210, as compared to Van Hool seats that meet ECE R.14/ECE R.80 requirements. Coach USA estimated that the additional cost to fully outfit a vehicle with IMMI seats, as opposed to Van Hool seats, to be $10,970 for a single deck bus and $13,768[145] for a double-decker bus (including the estimated cost of $3,000 for reinforcement of the bus floor). This estimate for the single deck bus is slightly less than, but reasonably in line with, the estimate of $12,900 in the PRIA. However, it is significantly higher than our estimate in the FRIA of $2,110 to add lap/shoulder belts for the passenger seats in a 54 passenger bus, which is based on the cost tear-down study.

However, Coach USA also estimated the related increase in lifetime fuel costs due to what the commenter believed would be the extra weight of the IMMI seats to be $4,584 and $6,217, at 3 percent and 7 percent discount rates, respectively.[146] This is a significant increase over that estimated in the PRIA and FRIA. We believe that the 54 kg (119 lb) IMMI seats Coach USA used in its estimate may represent seats at the higher end of the weight spectrum for FMVSS No. 210 seats. As explained above, ADR 68 seats that can withstand anchorage loads in excess of FMVSS No. 210 loads weigh as little as 25 kg (55 lb) to 30 kg (66 lb) for a two-occupant seat. Seat suppliers C.E. White and IMMI affirm the practicability of manufacturing lightweight seats meeting FMVSS No. 210.

We conclude that the data indicate that seats meeting FMVSS No. 210 will result in little, if any, increase in total vehicle weight, depending on how efficiently the vehicle seat and/or attachment points are strengthened. Considering the weight of 40 kg (88 lb) of current Van Hool seats (according to Coach USA's submission), the data indicate there may even be a total weight decrease if the weight can be

[140] Weight data was provided by Freedman.

[141] Griffiths et al., ''Three Point Seat Belts on Coaches—The First Decade in Australia,'' *supra.*

[142] ADR 68 has both dynamic and static test options. For the dynamic option, ADR 68 requires a crash pulse with a 49 km/h (30.4 mph) delta-V and a peak deceleration of 20 g for at least 20 milliseconds. In comparison, the NHTSA motorcoach crash test had the same delta-V, and a 13 g deceleration. Based on the 1.5 greater deceleration in the ADR 68 crash pulse, we estimate peak belt anchorage loading would be 1.5 times greater than that measured in the NHTSA test. Recall that the agency research determined that FMVSS No. 210 static loading was about 1.1 times the peak loading from sled testing performed with the motorcoach crash pulse. Thus, the static load generated by the ADR 68 dynamic options is approximately 1.4 (1.5/1.1) times that of FMVSS No. 210. The ADR 68 static loading is a combination of belt pull forces, push forces on the seat back and inertial loading based on the seat mass. A comparison can be made between the x-direction (fore-aft) loading created by FMVSS No. 210 and ADR 68, assuming a specific seat mass (30 kg (66 lb)) and belt pull angle (20 degrees above horizontal). This analysis indicates the ADR 68 static load option generates approximately 1.3 times the loading of FMVSS No. 210 in the x-direction.

[143] Id.

[144] See NHTSA Docket No. NHTSA–2011–0066–004.

[145] There may be an error in Coach USA's double-deck estimate because it reported a total seat cost for the IMMI and Van Hool of $53,716 and $42,390 respectively, which results in a difference of $11,326.

[146] Coach USA's estimate was based on a weight increase of 419 kg (923 lb) and was extrapolated from the values of $1,812 and $1,336 estimated in the PRIA for a weight increase of 122 kg (269 lb).

reduced to the 25 kg (55 lb) to 30 kg (66 lb) weight of ADR 68 seats.

We do not believe that requiring passenger seats on the affected buses to be equipped with anchorages that meet FMVSS No. 210 will necessarily reduce seat comfort (because of increased stiffness) as suggested by Van Hool and Coach USA. Seat comfort is more dependent on seat cushion design elements such as cushion material, thickness, shape, and cover, rather than on the underlying frame. If the ability of a seat to meet FMVSS No. 210 requirements equated to reduced comfort, then this problem would have arisen in newer passenger vehicles that have seats with fully integrated seat belts, especially with the front seats of most convertibles and some rear seats of multipurpose passenger vehicles. Importantly, Greyhound, which has been operating buses with IMMI lap/shoulder belt equipped passenger seats that meet FMVSS No. 210 since 2008, stated ''The installation of these seats has not caused Greyhound to reduce the number of passengers it can accommodate. The seats are quite comfortable, do not weigh appreciably more than seats equipped with belts meeting the European standard, and are competitively priced.'' After considering the above information we conclude that the data indicate that seats meeting FMVSS No. 210 will not reduce seat comfort or unduly affect costs.

Harmonization

Commenting in support of the ECE regulations, European manufacturer Van Hool stated that implementation of FMVSS No 210 will require vehicle manufacturers to rethink their structural concept and production, which will increase manufacturing cost and the price of motorcoaches, which will ultimately be passed on to customers, whereas, Van Hool stated, harmonization with the European standards would avoid such costs. Coach USA and American Bus Association (ABA) submitted similar comments and added that harmonization would enhance flexibility and promote turnover of the fleet to newer motorcoaches.

NHTSA has compared ECE R.14 and ECR R.80 to FMVSS No. 210 to see if the ECE regulations offer greater benefits than FMVSS No. 210. We have not found ECE R.14 and ECE R.80 to be sufficient to protect against foreseeable crash risks.[147] Our sled and static testing indicated that ECE R.14/ECE R.80 regulations do not provide the level of seat belt anchorage strength required for the foreseeable frontal crash scenario represented by a 48 km/h (30 mph) barrier impact. The static load requirements for ECE R.14 and ECE R.80 are far below that required to generate the peak seat anchorage loads that NHTSA measured in its sled tests, which means a seat that minimally meets the ECE required static loads for M3 vehicles may separate from its floor anchorages in a crash, especially in a severe frontal crash at seats where tri-loading occurs.

We have also compared ECE R.14 and ECR R.80 to FMVSS No. 210 to see if the ECE regulations offer less costs than FMVSS No. 210. The information from the seat manufacturers indicate that meeting ECE R.14 and R.80 would not necessarily result in cost or weight savings. Seat supplier IMMI stated that its own review determined that meeting ECE R.14 would result in minor material reductions, resulting in minimal savings per seat assembly. U.S. seat suppliers C.E. White and IMMI and possibly others already have established their structural concepts and production to meet FMVSS No. 210.

When Australia decided to mandate lap/shoulder belts for passenger seats in motorcoaches, Australia determined that the then-existing ECE regulation (ECE R.80) was not sufficient to ensure seats would not fail in the type of catastrophic coach crashes the country sought to address.[148] Australia had been in the process of considering adopting ECE R.80, but decided that a regulation based on ECR R.80 would not have been effective in those crashes. *Id.* Australia developed and adopted ADR 68 to address the safety need it identified.

We have thoroughly assessed the ECE regulations at issue to compare the benefits achievable under ECE R.14 and ECE R.80 and FMVSS No. 210, in accordance with guiding principles for harmonization. There is a large disparity between the anchorage load requirements of ECE R.14 and R.80 and FMVSS No. 210. While a seat meeting FMVSS No. 210 could be readily designed to also meet ECE R.14 and ECE R.80, seats just meeting the strength requirements for even M2 vehicles would not be capable of complying with FMVSS No. 210. Thus, a compliance option is unacceptable to NHTSA, since it would permit part or all of the covered bus fleet being equipped with seat belt anchorages that cannot withstand the forces generated in foreseeable frontal crashes.

Seat Back Impact and Energy Absorption

In the NPRM, NHTSA requested comment on the energy-absorbing capability of current seat backs to provide impact protection to occupants. Unbelted occupants in the NHTSA sled tests, primarily 5th percentile female dummies, had HIC and Nij values in excess of IARVs when they struck the seat back in front of them. Additionally, in some sled tests the belted dummies interacted with the forward seat back when unbelted dummies in the rear seat struck their seat back, resulting in elevated HIC and Nij values to the belted dummies. We asked for information on whether there may be some potential for seat backs to become stiffer to accommodate the additional loads from seat belts. We requested information on specifications on force-deflection characteristics and/or impact deceleration characteristics for seat backs, such as the absorption test in ECE R.80 and the impactor test in ADR 68.

Comments

Eleven commenters addressed the issue of seat back stiffness, with many suggesting that NHTSA consider adding impact and/or energy absorption requirements such as those in ECE R.80, FMVSS No. 201, ''Occupant protection in interior impact,'' or FMVSS No. 222.

Several commenters believed that ECE R.14 and ECE R.80 should be adopted instead of FMVSS No. 210, based in large part on the fact that ECE R.80 has seat back energy absorption requirements while FMVSS No. 210 does not. This issue was addressed earlier in this preamble and, to avoid redundancy, we will not repeat here our reasons for adopting FMVSS No. 210 rather than the ECE regulations. We reiterate, however, that the ability of the seat back to absorb the loading and provide protection for the rear seat passenger is an aspect of performance not regulated by FMVSS No. 210. Manufacturers have the ability to meet FMVSS No. 210 and to design energy-absorbing seat backs to account for the loading from an occupant aft of the seat, if they believe energy absorption is an appropriate aspect of performance to address.

In this section of the preamble, we explore whether there is a need for NHTSA to regulate in this area. In the comments, there was no consensus that

[147] Coach USA asserted that all of the frontal benefits we estimated resulting from meeting FMVSS No. 210 would be insignificant, a claim we have refuted.

[148] Griffiths et al., ''Three Point Seat Belts on Coaches—The First Decade in Australia,'' supra. The authors state that in 1989, a coach crash resulted in 19 fatalities and a second crash resulted in 35 fatalities. Both crashes were head-on crashes (the first with a heavy truck, the second with another coach) on a highway with a speed limit of 100 km/h (62.1 mph). *Id.*

ECE R.80's energy absorption requirements were the preferred approach. Many comments were submitted on this issue. Several commenters suggested that FMVSS No. 222's seat deflection requirements were superior to those of ECE R.80. Some commenters expressed support for FMVSS No. 201's requirements.

Seat supplier C.E. White believed that NHTSA should regulate seat back energy absorption characteristics, and recommended that NHTSA adopt the school bus compartmentalization requirements of FMVSS No. 222. C.E. White commented that ''without a limitation on the deflection of the upper torso anchorage point of the test seat you stand the chance of jeopardizing the protection of compartmentalization for the unrestrained occupants to the rear of the test seat due to override of the seat back or diminish the torso restraint effectiveness for the restrained occupants of the test seat.''

Seat supplier Freedman stated that some energy absorption capability should be built into seat backs for passenger protection and recommended that FMVSS No. 201 be used as a reference for any energy absorption standards for seats in motorcoaches.

Seat supplier IMMI stated that consideration must be made for injury reduction of unrestrained passengers and, to that end, a requirement for motorcoach seats to provide energy-absorbing capabilities as a passive form of occupant protection should be adopted by NHTSA. IMMI expressed concern that as seat backs are developed to meet the requirements of FMVSS No. 210, severe stiffening of the seat backs will occur which it stated may increase the injury potential for unrestrained occupants. IMMI stated that existing non-belted motorcoach seat backs offer minimal injury mitigating energy-absorbing capability and that the seat backs fold over and direct occupants up into the overhead racks. IMMI also stated that it studied some European seats meeting ECE R.14 and ECE R.80, both at the M2 (10 g) and M3 (7 g) levels, and found them to have anchorages that withstood the loads specified in FMVSS No. 210, but have seat backs with ''unacceptably low seat back energy absorption when subjected to the [FMVSS No. 222] load deflection test.'' IMMI stated that in sled tests it conducted, it found that these ECE seats folded forward and directed the unrestrained dummies out of the seat compartment, which resulted in HIC values over 600.[149]

Based on its studies, IMMI recommended that NHTSA adopt seat back energy absorption requirements for seats on the affected buses. It suggested that a static test similar to the forward and rearward force/deflection tests specified in FMVSS No. 222 could be used to assess energy absorption of the seat back. In addition, IMMI suggested that the following requirements be established for motorcoach passenger seats:

- A minimum seat back height of 150 mm above the shoulder belt anchor point to reduce the potential for ''rideover'' by taller occupants.
- A minimum shoulder belt anchor point height of 520 mm above the seating reference point, which is equal to that required for school bus seats.
- Criteria to provide occupant impact protection with the interior of buses, including the seat back surface and items such as tray tables, video screens, coat hooks, and grab handles.
- Criteria for seat spacing, seat orientation, use of tables, and all other arrangements that could factor into proper energy absorption of a seat back for an unrestrained occupant.

Bus manufacturers MCI, Setra, and Van Hool provided comments regarding impact and energy absorption requirements for the passenger seats. MCI was concerned about the energy-absorbing capability of seat backs meeting FMVSS No. 210 and recommended a form of static testing on a bus frame using a unique loading profile that combined aspects of ECE R.14 (10 g; M2 vehicles) and FMVSS No. 210. Setra stated that the ECE ''impact requirements'' were needed to guard against ''personal injury.''[150] Van Hool said that energy absorption requirements for an unbelted passenger should be addressed and that the static test of ECE R.80 is similar to the compartmentalization requirement in FMVSS No. 222 for school buses.

Greyhound stated that NHTSA should specify seat back energy absorption standards. Greyhound stated that it is installing the IMMI seat on all of its new equipment in large part because of the seat's unique energy-absorbing capability.

Agency Response

In general, all of the commenters who responded on this issue were concerned that requiring motorcoach passenger seats to meet the requirements of FMVSS No. 210 will result in stiffer seat backs that may be more injurious to occupants seated behind them, particularly unbelted occupants. Commenters recommended that NHTSA adopt some form of energy absorption requirement for the seat back. Five of the commenters (CE White, Freedman, IMMI, American Seating, and Greyhound) recommended that seat back energy absorption requirements from existing FMVSSs be extended to motorcoach passenger seats. One commenter (MCI) recommended an alternate static load test which it suggested would prevent stiffening of the seat backs. Five of the commenters (Setra, Van Hool, Coach USA, ABA and ABC) recommended adoption of the European regulations, partly because ECE R.80 has seat back energy absorption requirements.

As explained earlier in this document, seat stiffening as it relates to impacts from belted and unbelted occupants into the seat back in front of them is not an inevitable consequence of meeting FMVSS No. 210. FMVSS No. 210 does not impose displacement limits on the seat belt anchorages; therefore, the anchorages (and seat back, in this case) must simply be strong enough to withstand the required loads and can deform in the process. IMMI indicated in its comment that it found in some tests of European seats that the seats met FMVSS No. 210, but had ''unacceptably low'' seat back energy absorption when subjected to the FMVSS No. 222 forward load deflection static test. IMMI also noted that in sled tests the seat backs of these seats folded forwarded and directed test dummies out of the compartment. Both these behaviors are indicative of seat backs that are not stiff enough, rather than too stiff with respect to their ability to provide compartmentalization for unbelted occupants.

The commenters varied significantly in their views as to the appropriateness of various approaches for the covered buses.

Some commenters supported FMVSS No. 222's school bus requirements. FMVSS No. 222 is a complex, multifaceted standard that requires very strict seating requirements in order for compartmentalization to function properly. Applying the concepts of the standard to the buses covered under today's final rule could result in school bus style seats and barriers, with very tight seat spacing, which may or may not be appropriate for the covered buses. We are unable to adopt FMVSS No. 222-type compartmentalization

[149] Although not specifically reported by IMMI, we assume this is a HIC_{15} value, with a limit of 700, since IMMI referenced FMVSS No. 208.

[150] ECE R.80 is conducted with the occupant both belted and unbelted and it specifies a HIC of 500 for an occupant hitting the seat in front.

requirements for the passenger seats in the affected buses at this time, without fully considering the safety need for the requirements, in addition to related benefits, costs, practicality, and technical challenges. In addition, such a requirement could not be adopted without providing the public an opportunity to comment on this issue.

We cannot agree at this time that the seat back energy absorption requirements of ECE R.80 are most appropriate. The seats advertised as ECE R.80 compliant that were tested by the agency in support of the NPRM, particularly in the full vehicle barrier impact, did not demonstrate ''energy absorption'' or ''compartmentalization'' characteristics. IMMI's tests of European seats also showed a lack of compartmentalization and energy absorption. Coach USA's tests of Van Hool ECE-approved seats resulted in HIC_{15} values for the unrestrained occupants that were above the IARV set in FMVSS No. 208.

NHTSA will undertake further testing of seat backs on affected vehicles to further evaluate the energy absorbing capability of current seats. Section 32705 of the Motorcoach Enhanced Safety Act directs the Secretary to research and test enhanced occupant impact protection technologies for motorcoach interiors to reduce serious injuries for all passengers of motorcoaches and to research and test enhanced compartmentalization safety countermeasures for motorcoaches, including enhanced seating designs. The Act states that not later than two years after the completion of such research and testing, the Secretary shall issue final motor vehicle safety standards if the Secretary determines that such standards meet the requirements and considerations of section 30111(a) and (b) of the Vehicle Safety Act.

XVII. Lead Time

The NPRM proposed a 3-year lead time for new bus manufacturers to meet the new lap/shoulder seat belt requirements. We believed that 3 years were necessary since some design, testing, and development will be needed to certify compliance to the new requirements. We proposed to permit optional early compliance with the requirements.

Comments

Coach USA supported the proposed 3-year lead time. It concurred that the lead time period would allow companies to do the planning and testing involved and would ease the financial burden. UMA also supported a 3-year lead time with early compliance permitted.

Commenters supporting a shorter lead time included some seat suppliers and a number of consumer groups. IMMI said it believes that the lead time could be reduced to 2 years because the technology to comply with the proposed requirements has been commercially available for several years. American Seating supported reducing the lead time to 2 years, suggesting that 3 major motorcoach manufacturers can now supply vehicles in the U.S. that meet the NPRM's proposed requirements.

Many consumer groups supported a shorter lead time. The American Association of Classified School Employees (AACSE) commented that most motorcoaches today are already built with seat belt anchorages at all seating positions. The National Association of Bus Crash Families/West Brook Bus Crash Families suggested an 18-month lead time, stating that manufacturers are already aware of the changes needed to comply with the proposed lap/shoulder belt rule. Advocates also supported an 18-month lead time, suggesting that only those manufacturers that have not previously produced motorcoaches with seat belt anchorages or integrated anchorages should need more than 18 months to implement the requirements of the final rule. The National Association of Bus Crash Families wanted NHTSA to implement a lead time of not longer than 1 year. Four private individuals supported a lead time shorter than 3 years.

Agency Response

Section 32703(e) of the Motorcoach Enhanced Safety Act states that any regulation prescribed in accordance with subsection (a) (which is the provision regarding safety belts) shall, with regard to new motorcoaches, ''apply to all motorcoaches manufactured more than 3 years after the date on which the regulation is published as a final rule.''

Consistent with the Motorcoach Enhanced Safety Act and the effective date proposed in the NPRM, this final rule specifies a 3-year lead time for manufacturers of new buses to meet the lap/shoulder belt requirements. In our judgment, we believe that 3 years is appropriate to provide sufficient time to bus manufacturers to design and test their anchorage systems to the requirements of this final rule. Although some manufacturers are already offering seat systems that comply with FMVSS No. 210, other manufacturers have not incorporated seats with lap/shoulder belts or have incorporated seats with lap/shoulder belts that meet a lesser strength requirement. For the latter manufacturers, some may require strengthening or redesign of motorcoach floor and side wall seat anchorage systems to meet the adopted requirements, in addition to purchasing or designing seats that can withstand the required loads. The 3-year lead time will give these manufacturers time to plan the implementation of the new standard more efficiently and effectively than a shorter lead time. (Under 49 CFR 571.8(b), manufacturers of vehicles built in two or more stages (multi-stage manufacturers) are provided an additional year of lead time for manufacturer certification of compliance. This additional year provides multi-stage manufacturers, many of which are small businesses, added flexibility and time to make the necessary assessments to acquire a basis for certifying their vehicles' compliance.)

A 3-year lead time is important for reducing the chances of manufacturers making mistakes that could lead to future non-compliances. Corrective action for potential non-compliances is likely to be much more costly than designing and manufacturing the buses correctly to start.

An important part of this efficient implementation is related to vehicle weight. As was discussed earlier, commenters expressed concern over possible weight increases if seats had to meet FMVSS No. 210. As we explained earlier in response to those comments, we do not believe that seats with anchorages that meet FMVSS No. 210 need to be much heavier or bulkier than current seats. Indeed, seats now offered by Australian seat suppliers that meet ADR 68 weigh less than the original seats. Australian government officials have noted that early prototype seats did get heavier in response to ADR 68, as manufacturers simply beefed up (strengthened) existing seats with steel bracing. However, when seat designers decided to redesign seats from scratch, the new designs were ''more than twice as strong, weighed less and were not significantly more expensive (excluding the cost of seat belts) to produce than the original product.'' [151] Allowing a 3-year lead time will give sufficient time to seat and vehicle designers, who wish to do so, to develop modern seat designs that meet FMVSS No. 210 and that provide energy-absorption features, while minimizing any weight increase.

Seat suppliers American Seating and IMMI recommended that the lead time

[151] Griffiths et al., ''Three Point Seat Belts On Coaches—The First Decade In Australia,'' *supra.*

be shortened to 2 years. We note that these seat manufacturers are affiliated with each other and offer the same Premier® branded seat, which is advertised as capable of meeting FMVSS No. 210 requirements, in addition to other FMVSSs. Thus, their suggestion may be more representative of time necessary for vehicle manufacturers to modify the vehicle structure to accept a seat such as theirs. However, as stated above, we believe the 3 years of lead time will offer both seat and vehicle manufacturers the opportunity to implement the standard more efficiently, particular in regard to weight.

Various consumer advocates and commenters from the general public requested an even shorter lead time than 2 years. Many of the comments were based on the current availability of bus seats with seat belts. Some argued that the 3-year lead time will result in unnecessary fatalities. NHTSA is keenly aware of the potential loss of life inherent in any single crash of the covered buses, which is why the agency has made this and other rulemaking actions initiated pursuant to the ''NHTSA's Approach to Motorcoach Safety'' plan a high priority. Although we believe that many bus manufacturers will comply with this final rule before the 3-year deadline, it is important to give other manufacturers the time to do the job correctly. In addition, to the extent that many operators of the affected buses now offer vehicles with lap/shoulder seat belts, we believe that early compliance with the final rule will result in an increasing availability of buses with lap/shoulder seat belts before the 3-year date.

Advocates suggested in its comments that the final rule could provide a staggered compliance schedule, with the agency identifying motorcoaches that are not currently compliant with the final rule and allowing 3 years to certify compliance, while the other manufacturers would only get 18 months to certify. We believe such an approach is not viable. The agency's limited compliance testing budget should not be used simply to identify vehicles that either get 18 months to certify (if found to be compliant, which in and of itself would be difficult to verify short of testing a vehicle) or 3 years to certify (if found to not comply) to the new standard. This would be an inefficient use of agency resources with little, if any, potential safety benefit.

XVIII. On Retrofitting Used Buses

In the NPRM, we asked for comments on the issue of retrofitting existing (used) buses with seat belts at passenger seating positions. We did not include a retrofit proposal as part of the NPRM, but we wanted to know more about the technical and economic feasibility of a retrofit requirement. Our understanding at the time of the NPRM was that significant strengthening of the motorcoach structure would be needed to accommodate the additional loading from the seat belts, particularly for the older buses. It was not apparent that establishing requirements similar to or based on the proposed requirements would be cost effective, or feasible from an engineering perspective.

Commenters were sharply divided in their opinion of the merits of a retrofit requirement. In general, motorcoach manufacturers and operators strongly opposed a retrofit requirement as being economically and technically untenable. Seat suppliers did not support a retrofit requirement. Consumer advocates and individual members of the public strongly supported a retrofit requirement.

The following points were made by various commenters.

On the Merits of Retrofitting Buses

- UMA, which represents motorcoach owners/operators and industry suppliers, stated that the motorcoach industry is ''capital intensive, competitive and generally a marginally profitable business, at best.'' UMA stated that any retrofit requirement or retrofit standard would likely divert financial resources from other safety-related efforts, such as training and maintenance. It stated that these efforts are at the core of the current motorcoach industry safety record, and any diversion of resources could have the undesirable effect of increasing, rather than decreasing, motorcoach accidents and the related injuries and fatalities.
- UMA commented that a retrofit requirement would either drive companies out of business or drive up costs of what the commenter called an already safe mode of transportation, adversely affecting customers who require economical transportation, such as students and the elderly.
- ABA, representing bus operators, suppliers, and manufacturers, did not support a retrofit requirement for seat belts on motorcoaches. ABA did not believe that a retrofit requirement is economically or technically feasible for the reasons stated in the NPRM. ABA believed that owners of existing vehicles should not be forced into renewed construction to meet performance requirements that differ from those to which they were originally built.
- ABA and Coach USA stated that NHTSA does not have the statutory authority to impose retroactive, vehicle-based performance standards. The commenters suggested that the agency's authority only extended to requiring the retrofit of ''equipment'' items, such as retro-reflective tape and rear impact (underride) guards, and does not extend to standards requiring substantial vehicle restructuring and a case-by-case determination with regard to the actions necessary to reach compliance.
- Coach USA believed that a retrofit requirement could push motorcoaches over the statutory weight limits for operation on highways.
- Twenty-nine operators submitted identical letters commenting that any retrofit requirement would either put their company out of business or severely restrict their operations. Operators commented that they do not have the technical capacity to test vehicles to ensure that they would comply with any new performance requirements and have no way to ensure or certify that their vehicles, once equipped with seat belts, would meet the government standards.
- Peter Pan commented that retrofitting motorcoaches that are less than 5 years old is expensive and unnecessary and there is no way for the operator to certify that retrofitted vehicles would meet the government standard. It stated that, if the agency decides to require retrofits, the retrofit requirement should be implemented in a similar manner as the Americans with Disabilities Act (ADA), where operators were given 12 years (the average fleet turnover rate) to equip their fleet with lifts.
- Greyhound also suggested the approach of DOT setting a date by which all motorcoaches on the road must have lap/shoulder belts, e.g., a date representing the average over-the-road bus fleet turnover rate, which the commenter said was 12 years.
- Star Shuttle and Charter commented that a retrofit requirement would put them out of business and reduce the value of their existing fleet. It requested that the agency establish a multi-year grant program, whereby operators could obtain funding for retrofitting or acquisition of new seat belt-equipped coaches.
- Monterey-Salinas Transit commented that there could be service reductions with retrofitting based on cost to retrofit and out-of-service time needed to retrofit the motorcoach.
- Plymouth & Brockton expressed concern that in many cases the cost to retrofit buses would exceed the resale value of the buses involved. It urged NHTSA to require seat belts in new buses, but let the natural process of

vehicle attrition allow companies to fully comply with the regulation over time.

• Prestige Bus Charters commented that while it supported requirements for new coaches to be equipped with seat belts, it would be very difficult to absorb the cost to retrofit its buses.

• Seat belt supplier IMMI commented that NHTSA should not require retrofit of lap/shoulder belts, but rather establish technical/performance standards/requirements when a retrofit is determined to be necessary or desirable to fulfill a market-driven need. It added that retrofitted motorcoaches should be made capable of meeting the same performance standards as newly manufactured motorcoaches. IMMI concurred with the many practical issues identified by the agency in the NPRM and that each individual bus would need to be evaluated before a retrofit could be accomplished adequately.

• The National Association of Bus Crash Families/West Brook Bus Crash Families supported a mandatory retrofitting requirement. It commented that without one it could take up to 20 years or more before all motorcoach models are equipped with lap/shoulder seat belts. While acknowledging that for older motorcoaches, design and cost burdens may necessitate the installation of lap belts rather than lap/shoulder belts, the group said it would be ''unfair and unwise'' to have a dual system of motorcoach transportation available to the public—one offering the protection of seat belts and the other not doing so.

On the Merits of Retrofitting Lap Belts Instead of Lap/Shoulder Belts

• IMMI was opposed to an approach that would specify used motorcoaches to be retrofitted with lap only seat belts, rather than lap/shoulder belts, given the agency's research findings that demonstrate that lap/shoulder belts provide the best protection.

• Greyhound did not support a lap belt only retrofit specification, referring also to poor performance of lap belt only systems in NHTSA testing.

• National Association of Bus Crash Families/West Brook Bus Crash Families indicated that motorcoaches manufactured before 2000 that are not structurally robust enough for lap/shoulder retrofitting could be outfitted with just lap belts.

On the Merits of Retrofitting Only a Portion of the Fleet

• Greyhound said that limiting retrofitting to buses manufactured within 5 years of the effective date might avoid unduly impacting smaller operators with older buses that may not be able to sustain the loads of seats with lap/shoulder belts.

• ABA suggested the idea of a voluntary retrofit program for vehicles that were originally built to be seat belt-ready to the European standards (or to the FMVSS), but that were sold without seat belts.

• IMMI said that later model buses could be retrofitted with lap/shoulder belts within 3 years of the implementation date of the final rule.

• Advocates supported a retrofit provision for motorcoaches manufactured more than 5 years prior to the implementation date. It said NHTSA should work with motorcoach carriers, and especially manufacturers, to determine which existing vehicles require retrofit before evaluating whether it is feasible to retrofit such vehicles with lap/shoulder belts. It believed that some makes of motorcoaches could be retrofitted with seat belts at a reasonable cost, or at least at the lower end of the cost range cited in the NPRM.

• SafetyBeltSafe U.S.A and Safe Ride News Publications would like a mandatory retrofit program for motorcoaches less than10 years old.

• National Association of Bus Crash Families/West Brook Bus Crash Families urged NHTSA to require the retrofitting of all existing buses with lap/shoulder belts not more than 3 years after January 1, 2011. It said it would support an interim rule allowing buses manufactured before 2000 that do not meet the structural requirements for lap/shoulder belts to have lap belts only.

Regarding Structural Issues

• Coach USA commented that retrofitting may not be possible in some older vehicles. The structure of older vehicles may not be able to support the necessary modifications and, without standards to ensure that the seats and the structure of the motorcoach can withstand the forces imposed in a crash, could result in additional safety risks.

• UMA believed that the structural modifications needed for each vehicle will depend on factors such as the original manufacturer and age of the vehicle. Arrow Coach Lines stated that retrofitting used motorcoaches with seat belts would be difficult since buses in the fleet will have different levels of deterioration.

• Some bus manufacturers and operators supported a voluntary retrofit program. Some suggested that NHTSA should establish retrofitting guidelines or provide financial support for operators to voluntarily retrofit their buses.

• ABA believed that retrofitting used motorcoaches with seat belts and ensuring that, as installed, the structural integrity of the vehicle will be sufficient to withstand specified forces or loads will require detailed knowledge of the original vehicle design, as well as analysis of the vehicle's in-use condition and technical expertise on how to upgrade the vehicle structure. Regarding manufacturer-provided retrofit kits, ABA stated that because the manufacturer does not know the use, maintenance or wear history of the vehicle, the manufacturer would not be able to assure that the bus will be capable of meeting a particular performance requirement once a belt retrofit kit is applied.

Regarding the Cost of Retrofitting

• Setra estimated that the cost of a retrofit requirement for its buses would be on the order of $85,000 per bus. It specified that retrofitting an existing motorcoach would involve: removing existing seats; removing the flooring; removing the engine in order to gain access to the bus structure at the rear; welding in a new frame structure to accommodate FMVSS No. 210 seat belt requirements; reinstalling the engine, reinstalling removed parts, installing (compliant) seats; and verifying compliance critical elements to meet the FMVSSs.

• Coach USA described NHTSA's estimate of $40,000 per vehicle as ''a significant underestimate.'' Coach USA estimated that for a single deck motorcoach, the cost will be approximately $35,000 per motorcoach to modify the motorcoach structure to meet FMVSS No. 210 seat anchorage requirements, and another $20,000 per motorcoach to replace the seats (approximately $18,000 to purchase the seats and $2,000 to install them).

• Some commenters said that the estimated costs should also include the cost to the company of taking the bus out of service while the vehicle is undergoing retrofitting. Coach USA estimated that a motorcoach will need to be taken out of service for 30 to 45 days to perform the necessary modifications, a cost that Coach USA estimates to be approximately $20,000 per motorcoach.

• UMA commented that the cost to retrofit a vehicle could easily range between $30,000 and $60,000. It noted that about 90 percent of motorcoach companies are small businesses that typically can maintain only small capital reserves to cover such exigencies as highway breakdowns or business income gaps.

• UMA stated that consumer demand for late model equipment on motorcoaches creates a significant decline in asset value after just a few years use. A retrofit requirement ''could likely quell the demand for new motorcoaches if the possibility exists for burdensome recapitalization of existing equipment looms.''

• UMA stated that most motorcoaches in the U.S. are sold direct, or by similar means, by the manufacturers of motorcoaches, and that subsequently, existing motorcoaches are routinely acquired by the manufacturers through trades. The commenter stated that it is likely the manufacturers will evaluate traded motorcoaches, particularly later models, for retrofit eligibility and possible retrofit, to increase the value and likelihood of a sale. UMA stated: ''The absence of a retrofit requirement and/or retrofit standard will likely spur the largest number of compliant seatbelt [sic] equipped in the shortest amount of time.''

Other Issues

• UMA noted that a retrofit requirement could create a cottage industry of unqualified seat belt installers, particularly for motorcoaches not used for public transportation and owned by institutions such as colleges, churches, and the like.

• ABA noted that the vast majority of motorcoach operators (approximately 80 percent) are small businesses with less than 10 employees operating fewer than 7 motorcoaches. ABA stated that the only way to ensure consistency in the evaluation and upgrading of in-use motorcoaches to a retroactive manufacturing standard is to establish Federal specifications and a Federal inspection and evaluation program. ABA stated that without Federal grants for motorcoach operators to perform such retrofits, many operators would not be able to finance such vehicle upgrades.

Agency Response

For a number of reasons, NHTSA and FMCSA have decided not to issue a rule on retrofitting seat belt systems on buses subsequent to initial manufacture. Information from bus manufacturers indicates that establishing requirements to equip buses with seat belts in all passenger seating positions subsequent to initial manufacture would not be cost effective or reasonably feasible from an engineering perspective. Significant strengthening of the bus structure would be needed, if achievable, to accommodate the additional seat belt loading, particularly for those buses that have been in service longer. In some buses, retrofitting with seat belts might not be structurally possible.

In the FRIA, NHTSA presents an analysis of the cost effectiveness of a retrofit requirement, based on the age of the bus to be retrofitted. Two assumptions about costs are included in the analysis. The low cost estimate assumes that the most recent buses can be retrofitted with new seats with lap/shoulder belts and no new structure. Thus, there is little weight gain and fuel costs are only included for the weight of the belts themselves. This is the lowest cost assumption resulting in an estimated installation cost of $14,659. As would be expected, retrofitting becomes less cost effective as a bus gets older, because costs remain the same in our example (but may actually increase in real life), but benefits decrease as there is less remaining life for the bus. Compared to the guideline of $6.3 million per life saved, even with the lowest cost estimate for a retrofit ($14,659/bus and no fuel cost), seat belt usage has to be 39 to 53 percent for a one-year-old bus to break even and it increases by about 4 percentage points per year to get to 54 to 64 percent by age five. Under a higher installation cost assumption ($40,000, with fuel costs only for the weight of the belts and not for added structure), the breakeven point in belt usage is 76 to 81 percent for a one-year-old bus and quickly becomes higher than seat belt usage in light vehicles. Retrofitting a five year-old or newer buses would result in a breakeven point in belt usage from 82 percent to greater than 83 percent, i.e., most of the range exceeds the belt usage rate for passenger vehicles. So, if one were to estimate the costs of retrofit at $40,000 per bus, retrofit is not a cost effective option for buses one to five-years-old. If one were to estimate the costs of retrofit at the lowest possible price, seat belt use would need to exceed 54 to 64 percent to make it worthwhile to retrofit a five-year-old bus. Many commenters emphasized that the cost of retrofitting will impact many small businesses that do not have large profit margins. We agree with the point that public policymakers need to consider that retrofitting costs could divert financial resources from other safety-related efforts, such as driver training and bus maintenance.[152]

We understand that many consumer groups and individuals want to accelerate the installation of seat belts in the entire motorcoach fleet by requiring retrofitting. However, comments from those in favor of retrofitting did not present information offsetting the economic and technical challenges of a retrofit requirement.

We did not obtain helpful information from the comments as to how they foresaw the enforcement of a retrofit program. It is one thing to visually inspect the buses to see if there are seat belts at passenger seating positions, it is another to assess the seat belt system to see if the seat belts and anchorages would hold in a crash and withstand the loading from the passengers. A seat belt requirement that does not have a way to assess whether belt systems will adequately restrain passengers is of diminished value.

Given the low benefits of a retrofit requirement and high costs associated with it, and given the agencies' limited resources, we have decided against developing and implementing a retrofit program. We believe that Departmental and industry resources should be applied to achieve more benefits in other program areas.

A few commenters expressed the view that NHTSA lacks the authority to require retrofitting of seat belts. A discussion of this issue does not need to be undertaken at this time since the agencies are not pursuing a retrofit program for seat belts, but it is a matter on which we disagree with the commenters, and a topic for discussion at the appropriate time. We note here that section 32703(e)(2) of the Motorcoach Enhanced Safety Act, ''Retrofit Assessment for Existing Motorcoaches,'' states that ''The Secretary may assess the feasibility, benefits, and costs with respect to the application of any requirement established under subsection (a) or (b)(2) to motorcoaches manufactured before the date on which the requirement applies to new motorcoaches under paragraph (1).'' Subsection (a) of section 32703 is the provision in the Act that directs the establishment of this final rule for safety belts on motorcoaches.

Regarding a retrofit requirement that would apply only to a subset of used buses, such as more recently-manufactured buses, there are still many challenges with a retrofit requirement for the subset of vehicles. Environmental factors and how the buses were used would affect the ability of the bus to support the belt loads. NHTSA does not have the resources to assist in the development of a practical program that would assess the performance of the retrofitted seat belts.

[152] Even with lap belts, significant strengthening of the motorcoach structure may be needed in order to accommodate the additional seat belt loading, particularly for those buses that have been in service longer. While the distribution of the loading may be different, lap belts will still need to restrain the same amount of loading as lap/shoulder belts.

None of the respondents provided data that would guide the agency in addressing this issue, even for newer buses.

XIX. Regulatory Alternatives

NHTSA examined the benefits and costs of the adopted amendments, seeking to adopt only those amendments that contribute to improved safety, and mindful of the principles for regulatory decision-making set forth in Executive Orders 12866, ''Regulatory Planning and Review,'' and 13563, ''Improving Regulation and Regulatory Review.'' NHTSA has analyzed the merits of requiring lap belts for passenger seating positions as an alternative to lap/shoulder belts for those seating positions, knowing, however, that the Motorcoach Enhanced Safety Act requires lap/shoulder belts on over-the-road buses. NHTSA also considered ECE R.14 anchorage strength requirements as an alternative to FMVSS No. 210 requirements. These alternatives are addressed below.

The Alternative of Lap Belts

The agency examined the alternative of a lap belt only requirement (as an alternative to lap/shoulder belts) for passenger seats in buses. (We note that the alternative of lap belts is not available under the Motorcoach Enhanced Safety Act requirement for lap/shoulder belts on over-the-road buses.) We determined that the lap belt alternative was not a reasonable alternative. Lap belts, while effective against ejection, would provide only a portion of the benefits of passenger frontal crash protection as lap/shoulder belts. Further, test data also leads NHTSA to believe that certain types of injuries would be far more severe if passenger seats only were equipped with lap belts, rather than lap/shoulder belts. In addition, data indicate that motorists are more inclined to use lap/shoulder belts than lap-only belts. These points are discussed below.

Real world data on light vehicles has led the agency to require lap/shoulder belts rather than lap belts in as many seating positions in light vehicles as practical. Both light vehicle data and sled testing with motorcoach seats show that lap belts are not as effective as lap/shoulder belts in reducing injuries and fatalities, particularly in frontal impacts. Our analysis in passenger cars of the effectiveness of lap belts in reducing fatalities in frontal impacts was zero, while it was 29 percent for lap/shoulder belts.

Testing done in NHTSA's motorcoach test program found that lap/shoulder belts in forward-facing seats prevented elevated head and neck injury values and provided enhanced occupant protection compared to lap belts. In the VRTC full-scale motorcoach crash, the lap/shoulder-belted dummies exhibited the lowest injury measures and improved kinematics, with low head and neck injury measures and little movement outside the seating, compared to the lap-belted dummies and unbelted dummies.

In the VRTC sled tests of lap/shoulder-belted dummies—

- Average HIC and Nij values were low for all dummy sizes and below those seen in unbelted and lap-belted sled tests. This was consistent with the lap/shoulder belt results from the full scale crash test.
- Lap/shoulder belts retained the dummies in their seating positions and were able to mitigate head contact with the seat in front.
- When lap/shoulder-belted dummies were subject to loading (of their seats) by an aft unbelted dummy, there was additional forward excursion of the lap/shoulder-belted dummies, but the resulting average head injury measures were still relatively low in most cases, even with head contact with the seat in front in some cases.

In the FRIA (see Table V–6 of the FRIA) accompanying this final rule, we highlight the average injury measurements from two sled tests conducted with lap-belted 5th percentile adult female and 50th percentile adult male dummies. Two crash pulses were utilized in these sled tests, the VRTC pulse and the EU pulse. Both tests were conducted with no rear occupants. Table V–6 of the FRIA shows the average dummy response in the lap belted sled tests. In every instance, the dummies exceeded the head and neck IARVs when the dummies were lap belted.

In contrast to the lap/shoulder-belted dummies, the sled test results for lap only dummies showed—

- HIC and Nij measures exceeded the IARVs for virtually all the dummies tested (there was a 50th percentile male dummy which measured a HIC of 696 (99 percent of the IARV limit)).
- The poor performance of the lap belt restraint in the sled tests was consistent with the lap belt results from the full scale motorcoach crash test.

In the FRIA (see Figure V–17 of the FRIA), we compare the average HIC_{15} and Nij values for the 5th percentile adult female and 50th percentile adult male dummy sizes in the sled testing program, as a means to compare the relative performance of each restraint strategy (unbelted, lap belts, and lap/shoulder belts). Figure V–17 of the FRIA shows that the lowest average HIC and Nij values were associated with the lap/shoulder belt restraint for both dummy sizes. The lower HIC_{15} and Nij values for the lap/shoulder restraint condition are consistent with the dummy kinematics, which indicated that the lap/shoulder belt restraint limited head contact with the forward seat back, particularly for the 5th percentile adult female dummies. In contrast, most of the average injury measures for the lap belt restraint condition were at or above the IARVs. In the sled tests, lap belts resulted in more injuries than being unrestrained, while lap/shoulder belts were the most effective restraint strategy. We also note that, while in the test program we did not measure risk of abdominal injuries, abdominal injuries have been shown to be a problem with lap belts.[153] All this information overwhelmingly shows that lap/shoulder belts would provide more safety benefits to occupants on the affected buses than lap-only belts.

There is also a difference between the restraint systems in terms of estimated belt use rates. In the FRIA, NHTSA estimates that the breakeven point for lap belt use is 2–3 percent, and for lap/shoulder belt use the breakeven point is 4–5 percent (a difference of 2 percentage points). The agency has found that lap/shoulder belt usage is 10 percentage points higher than lap belt usage in the rear seat of passenger cars. Assuming that this relationship would hold for the covered buses, the information indicates that lap/shoulder belts would also be more cost effective than lap belts.

Alternative Anchorage Strength Requirements

In an earlier section of this preamble, NHTSA discussed its decision that the lap/shoulder belt anchorages (and the seat structure itself) must meet FMVSS No. 210 requirements. We sought comment on the alternative of applying the requirements of ECE R.14 and ECE R.80 rather than FMVSS No. 210.

As the agency does in all its FMVSS rulemaking, in developing this final rule NHTSA considered international standards for harmonization purposes. The agency thus reviewed regulations issued by Australia and Japan. In Australia, buses with 17 or more seats and with GVWRs greater than or equal to 3,500 kg (7,716 lb) must comply with ADR 68 (Occupant Protection in Buses). The ADR 68 anchorage test specifies

[153] Morgan, June 1999, ''Effectiveness of Lap/Shoulder Belts in the Back Outboard Seating Positions,'' Washington, DC, National Highway Traffic Safety Administration.

simultaneous application of loading from the belted occupant, the unbelted occupant in the rear (applied to the seat back), and the inertial seat loading from a 20 g crash pulse. We estimate that the ADR 68 anchorage test would result in significantly greater (1.5 times higher) anchorage loads than those measured in our sled tests. In addition, the maximum deceleration in our 48 km/h (30 mph) motorcoach crash test was only 13 g compared to the 20 g specified for inertial seat loading in ADR 68. For these reasons, NHTSA decided not to further consider ADR 68. NHTSA decided against further consideration of Japan's regulation because Japan requires lap belts, and as explained above, the agency has concluded that lap belts are not a reasonable alternative.

NHTSA has compared ECE R.14 and ECR R.80 to FMVSS No. 210 to see if the ECE regulations offer greater benefits than FMVSS No. 210. Our sled and static testing indicated that ECE R.14/ECE R.80 regulations do not provide the level of seat belt anchorage strength required for the foreseeable frontal crash scenario represented by a 48 km/h (30 mph) barrier impact. The static load requirements for ECE R.14 and ECE R.80 are far below that required to generate the peak seat anchorage loads that NHTSA measured in its sled tests, which means a seat that minimally meets the ECE required static loads for M3 vehicles may separate from its floor anchorages in a crash, especially in a severe frontal crash where tri-loading of the seat occurs.

We have also compared ECE R.14 and ECR R.80 to FMVSS No. 210 to see if the ECE regulations offer less costs than FMVSS No. 210. The information from the seat manufacturers indicate that meeting ECE R.14 and R.80 would not necessarily result in cost or weight savings. Seat supplier IMMI stated that its own review determined that meeting ECE R.14 would result in minor material reductions compared to a seat meeting FMVSS No. 210, resulting in minimal savings per seat assembly. U.S. seat suppliers C.E. White and IMMI and possibly others already have established their structural concepts and production to meet FMVSS No. 210. For these reasons, we have decided to adopt FMVSS No. 210 and not the ECE standards.

XX. Overview of Costs and Benefits

Based on FARS data 2000–2009, annually there were 20.9 fatalities and 7,934 injuries to occupants of covered buses. We estimate that installing lap/shoulder seat belts on new covered buses will save 1.7–9.2 lives and prevent 146–858 injuries (3.46–25.17 equivalent lives), depending upon the usage of lap/shoulder belts in the vehicles (Table 9).[154] The cost of adding lap/shoulder belts will be approximately $2,101 per vehicle. Lifetime fuel costs due to an increased weight of the bus will be an additional cost of $794 to $1,077 (estimated in Table 10 below). Total costs are estimated to range from $6.4 to $8.6 million for the 2,200 buses sold per year (all costs are in $2008). The cost per equivalent life saved is estimated to range from $0.3 million to $1.8 million (Table 11).

TABLE 9—ESTIMATED BENEFITS OF FINAL RULE

Fatalities	1.7 to 9.2.
AIS 1 Injuries (Minor)	89 to 536.
AIS 2–5 (Moderate to Severe).	57 to 322.
Total Non-fatal Injuries.	146 to 858.

TABLE 10—ESTIMATED COSTS OF FINAL RULE

[in $2008]

	Per average vehicle	Total fleet ($Millions)
Bus Driver	$7.54	$0.02
Bus Passenger	2,094	4.6
Fuel Costs @ 3%	1,077	2.4
Fuel Costs @ 7%	794	1.7
New Vehicle and Fuel Costs		
@ 3%	3,178	7.0
@ 7%	2,895	6.4

TABLE 11—COSTS PER EQUIVALENT LIFE SAVED

Cost per equivalent life saved	3% to 7% discount rate
50% Belt use for drivers and 15% Belt usage for passengers	$1.5 to $1.8 mill.
83% Belt usage	$0.3 to $0.3 mill.
Breakeven point in passenger belt usage	4 to 5%.

TABLE 12—ANNUALIZED COSTS AND BENEFITS

[In millions of $2008 dollars]

	Annualized costs	Annualized benefits	Net benefits
3% Discount Rate	$7.0	$28.5–158.6	$21.5 to 151.6.
7% Discount Rate	6.4	21.8–121.1	15.4 to 114.7.

The cost of installing lap/shoulder belts on new buses is estimated as follows. For the driver, the difference in costs between a lap belt only and a lap/shoulder belt at the driver seating position is approximately $18.86.[155] This cost includes the difference in cost between a lap and lap/shoulder belt. About 60 percent of the driver positions currently have lap/shoulder belts, thus adding a shoulder belt to the driver seat for 40 percent of the large buses will add an average of $7.54 per bus. For the passenger seats, the incremental cost of adding lap/shoulder belts and to change the seat anchorages for a two passenger seat is $78.14 ($39.07 per seating position). On a 54-passenger bus, the cost for the passenger seats is $2,109.78 ($39.07 × 54). On a 45-passenger bus, the incremental cost of adding lap/shoulder belts and to change the seat anchorages $1,758.15 ($39.07 × 45). A sales weighted average of those buses results in the estimate of $2,094 per average covered bus. The agency has also estimated increased costs in fuel usage. The increased fuel costs depend on added weight (estimated to be 73 kg (161 lb) [156]) and the discount rate used. NHTSA estimates the increased costs in fuel usage for added weight and discounts the additional fuel used over the lifetime of the bus using a 3 percent and 7 percent discount rate. See the FRIA for more details.

XXI. Rulemaking Analyses and Notices

Executive Order 12866, Executive Order 13563, and DOT Regulatory Policies and Procedures

The agency has considered the impact of this rulemaking action under Executive Orders 12866 and 13563 and the Department of Transportation's regulatory policies and procedures (44 FR 11034; February 26, 1979) and determined that it is economically ''significant'' under those documents. This final rule also satisfies a Congressional mandate set forth in the Motorcoach Enhanced Safety Act of 2012, and thus relates to a matter of substantial Congressional and public interest. Accordingly, the action was reviewed under the Executive Order 12866. NHTSA has prepared a FRIA for this final rule.[157]

We estimate that installing lap/shoulder belts on new covered buses will save approximately 1.7 to 9.2 lives and prevent 146 to 858 injuries per year, depending on the usage of lap/shoulder belts in the buses. We estimate that total cost of adding lap/shoulder belts, changing the anchorages and reinforcing the floor is approximately $2,101. The agency has also estimated increased costs in fuel usage. The cost per equivalent life saved is estimated to be $0.3 million to $1.8 million.

The benefits, costs, and other impacts of this rulemaking are summarized in the immediately preceding section of this preamble and discussed at length in the FRIA.

Cumulative Effect of Regulations

Consistent with Executive Order 13563 and the Vehicle Safety Act, we have considered the cumulative effects of the new regulations stemming from NHTSA's 2007 ''NHTSA's Approach to Motorcoach Safety'' plan and DOT's 2009 Motorcoach Safety Action Plan, and have taken steps to identify opportunities to harmonize and streamline those regulations. By coordinating the timing and content of the rulemakings, our goal is to expeditiously maximize the net benefits of the regulations (by either increasing benefits or reducing costs or a combination of the two) while simplifying requirements on the public and ensuring that the requirements are justified. We seek to ensure that this coordination will also simplify the implementation of multiple requirements on a single industry.

NHTSA's Motorcoach Safety Action Plan identified four priority areas—passenger ejection, rollover structural integrity, emergency egress, and fire safety. There have been other initiatives on large bus performance, such as electronic stability control (ESC) systems [158]—an action included in the DOT plan—and an initiative to update the large bus tire standard.[159] In deciding how best to initiate and coordinate rulemaking in these areas, NHTSA examined various factors including the benefits that would be achieved by the rulemakings, the anticipated vehicle designs and countermeasures needed to comply with the regulations, and the extent to which the timing and content of the rulemakings could be coordinated to lessen the need for multiple redesign and to lower overall costs. After this examination, we decided on a course of action that prioritized the goal of reducing passenger ejection and increasing frontal impact protection because many benefits could be achieved expeditiously with countermeasures that were readily available (using bus seats with integral lap/shoulder seat belts, which are already available from seat suppliers) and whose installation would not significantly impact other vehicle designs. Similarly, we have also determined that an ESC rulemaking would present relatively few synchronization issues with other rules, since the vehicles at issue already have the foundation braking systems needed for the stability control technology, and the additional equipment to realize ESC are sensors that are already available and that can be installed without significant impact on other vehicle systems. Further, we estimate that 80 percent of the affected buses already have ESC systems. We realize that a rollover structural integrity rulemaking, or an emergency egress rulemaking, could involve more redesign of vehicle structure than rules involving systems such as seat belts, ESC, or tires.[160] Our decision-making in these and all the rulemakings outlined in the ''NHTSA's Approach to Motorcoach Safety'' plan, DOT's Motorcoach Safety Action Plan, and the Motorcoach Enhanced Safety Plan will be cognizant of the timing and content of the actions so as to simplify requirements applicable to the public and private sectors, ensure that requirements are justified, and increase the net benefits of the resulting safety standards.

Section 32706 of the Motorcoach Enhanced Safety Act directs the Secretary to consider, if DOT undertakes separate rulemaking proceedings, whether each added aspect of rulemaking may contribute to addressing the safety need determined to require rulemaking and the benefits obtained through this safety belt rulemaking, and to avoid duplicative benefits, costs, and countermeasures. NHTSA has and will consider these

[154] The FRIA assumes that the seat belt use rate on the affected buses will be between 15 percent and the percent use in passenger vehicles, which was 83 percent in 2008. These annual benefits would accrue when all affected buses in the fleet have lap/shoulder belts.

[155] ''Cost and Weight Added by the Federal Motor Vehicle Safety Standards for Model Years 1968–2001 in Passenger Cars and Light Trucks,'' December 2004, DOT HS 809 834, Pages 81 and 88.

[156] See FRIA. This estimate is based on results from a NHTSA contractor conducting cost/weight teardown studies of affected bus seats. The weight added by lap/shoulder belts was 2.70 kg (5.96 lb) per 2-person seat. This is the weight only of the seat belt assembly itself and does not include changing the design of the seat, reinforcing the floor, walls or other areas of the bus. The final cost and weight results from the study are in the docket for the NPRM.

[157] NHTSA's FRIA is available in the docket for this final rule and may be obtained by downloading it or by contacting Docket Management at the address or telephone number provided at the beginning of this document.

[158] 77 FR 30766, May 23, 2012.

[159] 75 FR 60037; September 29, 2010.

[160] The initiative on fire safety is in a research phase. Rulemaking resulting from the research will not occur in the near term.

factors so as to avoid duplicative benefits, costs, and countermeasures.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 et seq., as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). The Small Business Administration's regulations at 13 CFR Part 121 define a small business, in part, as a business entity ''which operates primarily within the United States.'' (13 CFR 121.105(a)). No regulatory flexibility analysis is required if the head of an agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

NHTSA has considered the effects of this rulemaking action under the Regulatory Flexibility Act. According to 13 CFR 121.201, the Small Business Administration's size standards regulations used to define small business concerns, manufacturers affected today would fall under North American Industry Classification System (NAICS) No. 336111, *Automobile Manufacturing,* which has a size standard of 1,000 employees or fewer. NHTSA estimates that there are 20 manufacturers of buses subject to this rulemaking, and that approximately 9 of these manufacturers are considered small businesses (these include second-stage manufacturers).

For the reasons discussed below, I certify that this final rule will not have a significant economic impact on a substantial number of small entities. The agency estimates that the average incremental costs to each bus will be $2,101 per unit to meet this final rule. This incremental cost does not constitute a significant impact given that the average cost of the buses subject to this rulemaking ranges from $200,000 to $500,000. Further, these incremental costs, which are very small compared to the overall cost of the bus, can ultimately be passed on to the bus purchaser and/or persons purchasing tickets or chartering the bus's services. In addition, certifying that their buses comply with the safety requirements adopted today will not have a significant economic impact on the manufacturers. Small manufacturers are already certifying their bus's compliance with FMVSS No. 207's seat strength requirements (driver's seat), FMVSS No. 208's occupant crash protection requirements applying to the driver's seating position, and the FMVSS No. 210 seat belt anchorage strength requirements for the driver's seating position. The methodology that is used to certify to today's requirements is a relatively simple static pull test, the same or similar to the tests currently applying to small manufacturers to certify compliance with FMVSS Nos. 207, 208 and 210 for the driver's seating position.

Small manufacturers have many options available to certify compliance, none of which will result in a significant economic impact on these entities. Bus manufacturers typically obtain seating systems from seat suppliers and install the seats on the bus body. Seat suppliers currently offer bus seats with lap/shoulder belts integral to the seats. As a result of this final rule, the bus manufacturers will be able to order passenger seats with lap/shoulder belts from the same suppliers, just as they do today. Seat suppliers (which are large businesses) offer technical assistance to the bus manufacturer regarding installation of the seats and testing to the FMVSSs.[161] The small bus manufacturer can certify compliance with the requirements adopted today using the information and instruction provided by the seat supplier. (Note also that the performance requirements of today's final rule involve a simple static pull test.)

For small bus manufacturers that wish to perform their own testing, there are several options available. One option is to ''section'' the vehicle or otherwise obtain a body section representative of the vehicle, install the seat in the section as they would in the actual full vehicle, and test the seat assembly to the FMVSS No. 210 pull test. This is basically the approach that VRTC used in NHTSA's motorcoach seat belt research program. The bus manufacturer could base its certification on these tests, without testing a full vehicle. The manufacturer could also test a bus that is not completely new. A manufacturer could test seating systems installed on an old bus chassis or other underlying structure, and could sufficiently assess the ability of the seating system to meet today's requirements.

Moreover, a small manufacturer is not required to conduct actual testing. It can certify compliance by using modeling and engineering analyses. Unlike NHTSA, manufacturers certifying compliance of their own vehicles have more detailed information regarding their own vehicles and can use reasonable engineering analyses to determine whether their vehicles will comply with the requirements. A small manufacturer is closely familiar with its vehicle design and can use modeling and relevant analyses on a vehicle-by-vehicle basis to reasonably predict whether its bus design will meet the requirements of today's rule.

We also note that the product cycle of the covered buses is significantly longer than other vehicle types. With a longer product cycle, we believe that the costs of certification for manufacturers would be further reduced as the costs of conducting compliance testing and the relevant analyses could be spread over a significantly longer period of time.

We note that today's rule may affect small businesses as purchasers of the affected buses, but this is an indirect effect. Moreover, as mentioned above, we anticipate that the impact on these businesses will not be significant because the expected price increase of the buses used by these businesses is ($2,101 for each bus valued between $200,000 and $500,000). While fuel costs for these businesses will increase between $794 and $1,077 (in 2008 dollars) per bus over the lifetime of the bus, these expected increases in costs are small in comparison to the cost of each vehicle. We further anticipate that these costs will equally affect all operators of the covered buses and thus small operators will be able to pass these costs onto their consumers.

Executive Order 13132 (Federalism)

NHTSA has examined today's final rule pursuant to Executive Order 13132 (64 FR 43255, August 10, 1999) and concluded that no additional consultation with States, local governments or their representatives is mandated beyond the rulemaking process. The agency has concluded that the rulemaking will not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement.

[161] See *http://www.cewhite.com/testing-lab* (''The entire testing program is FREE for our customers''), see also *http://www.freedmanseating.com/fstl/*) (''We Provide . . . FMVSS/CMVSS 207, 210, and 225 Testing . . . Special Tests Performed Per Client's Specifications'') [Web sites last accessed February 1, 2012]. IMMI indicated in its comments that it also assists in the testing of buses using its seats.

The final rule will not have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

NHTSA rules can preempt in two ways. First, the National Traffic and Motor Vehicle Safety Act contains an express preemption provision: When a motor vehicle safety standard is in effect under this chapter, a State or a political subdivision of a State may prescribe or continue in effect a standard applicable to the same aspect of performance of a motor vehicle or motor vehicle equipment only if the standard is identical to the standard prescribed under this chapter. 49 U.S.C. 30103(b)(1). It is this statutory command by Congress that preempts any non-identical State legislative and administrative law addressing the same aspect of performance.

The express preemption provision described above is subject to a savings clause under which ''[c]ompliance with a motor vehicle safety standard prescribed under this chapter does not exempt a person from liability at common law.'' 49 U.S.C. 30103(e) Pursuant to this provision, State common law tort causes of action against motor vehicle manufacturers that might otherwise be preempted by the express preemption provision are generally preserved. However, the Supreme Court has recognized the possibility, in some instances, of implied preemption of such State common law tort causes of action by virtue of NHTSA's rules, even if not expressly preempted. This second way that NHTSA rules can preempt is dependent upon there being an actual conflict between an FMVSS and the higher standard that would effectively be imposed on motor vehicle manufacturers if someone obtained a State common law tort judgment against the manufacturer, notwithstanding the manufacturer's compliance with the NHTSA standard. Because most NHTSA standards established by an FMVSS are minimum standards, a State common law tort cause of action that seeks to impose a higher standard on motor vehicle manufacturers will generally not be preempted. However, if and when such a conflict does exist—for example, when the standard at issue is both a minimum and a maximum standard—the State common law tort cause of action is impliedly preempted. See *Geier v. American Honda Motor Co.,* 529 U.S. 861 (2000).

Pursuant to Executive Order 13132 and 12988, NHTSA has considered whether this final rule could or should preempt State common law causes of action. The agency's ability to announce its conclusion regarding the preemptive effect of one of its rules reduces the likelihood that preemption will be an issue in any subsequent tort litigation.

To this end, the agency has examined the nature (e.g., the language and structure of the regulatory text) and objectives of today's final rule and finds that this final rule, like many NHTSA rules, will prescribe only a minimum safety standard. As such, NHTSA does not intend that this final rule preempt state tort law that would effectively impose a higher standard on motor vehicle manufacturers than that established by today's final rule. Establishment of a higher standard by means of State tort law will not conflict with the minimum standard final here. Without any conflict, there could not be any implied preemption of a State common law tort cause of action.

National Environmental Policy Act

NHTSA has analyzed this final rule for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action will not have any significant impact on the quality of the human environment.

Paperwork Reduction Act

Under the procedures established by the Paperwork Reduction Act of 1995, a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. This rulemaking does not establish any new information collection requirements.

National Technology Transfer and Advancement Act

Under the National Technology Transfer and Advancement Act of 1995 (NTTAA) (Pub. L. 104–113), ''all Federal agencies and departments shall use technical standards that are developed or adopted by voluntary consensus standards bodies, using such technical standards as a means to carry out policy objectives or activities determined by the agencies and departments.'' After carefully reviewing the available information, including standards from the European Union, Australia and Japan, NHTSA has determined that there are no voluntary consensus standards that we will be incorporating into this rulemaking. The reasons the agency has decided against adopting the international regulations regarding the performance of seat belt anchorages were discussed earlier in this preamble.

Executive Order 12988

With respect to the review of the promulgation of a new regulation, section 3(b) of Executive Order 12988, ''Civil Justice Reform'' (61 FR 4729, February 7, 1996) requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect; (2) clearly specifies the effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct, while promoting simplification and burden reduction; (4) clearly specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. This document is consistent with that requirement.

Pursuant to this Order, NHTSA notes as follows.

The issue of preemption is discussed above in connection with E.O. 13132. NHTSA notes further that there is no requirement that individuals submit a petition for reconsideration or pursue other administrative proceeding before they may file suit in court.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 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 more than $100 million annually (adjusted for inflation with base year of 1995). This final rule will not result in expenditures by State, local or tribal governments, in the aggregate, or by the private sector in excess of $100 million annually.

Executive Order 13211

Executive Order 13211 (66 FR 28355, May 18, 2001) applies to any rulemaking that: (1) Is determined to be economically significant as defined under E.O. 12866, and is likely to have a significantly adverse effect on the supply of, distribution of, or use of energy; or (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. This rulemaking is not subject to E.O. 13211.

Plain Language

Executive Order 12866 and E.O. 13563 require regulations to be written in a manner that is simple and easy to understand. Application of the principles of plain language includes

consideration of the following questions:

- Have we organized the material to suit the public's needs?
- Are the requirements in the rule clearly stated?
- Does the rule contain technical language or jargon that isn't clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rule easier to understand?

If you have any responses to these questions, please write us.

Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

Privacy Act

Anyone is able to search the electronic form of all submissions to any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, and Tires.

In consideration of the foregoing, NHTSA amends 49 CFR part 571 as set forth below.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

■ 1. The authority citation for Part 571 is amended to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117 and 30166; delegation of authority at 49 CFR 1.95.

■ 2. Section 571.208 is amended by revising S4.4, S4.5.5.1(a) and S4.5.5.1(b), the introductory text of S4.5.5.2(a), the introductory text of S4.5.5.2(b), and the introductory text of S7.1.1.5; and adding S7.1.6, to read as follows:

§ 571.208 Standard No. 208; Occupant crash protection.

* * * * *

S4.4 Buses manufactured on or after November 28, 2016.

S4.4.1 *Definitions.* For purposes of S4.4, the following definitions apply:

Over-the-road bus means a bus characterized by an elevated passenger deck located over a baggage compartment, except a school bus.

Perimeter-seating bus means a bus with 7 or fewer designated seating positions rearward of the driver's seating position that are forward-facing or can convert to forward-facing without the use of tools and is not an over-the-road bus.

Prison bus means a bus manufactured for the purpose of transporting persons subject to involuntary restraint or confinement and has design features consistent with that purpose.

Stop-request system means a vehicle-integrated system for passenger use to signal to a vehicle operator that they are requesting a stop.

Transit bus means a bus that is equipped with a stop-request system sold for public transportation provided by, or on behalf of, a State or local government and that is not an over-the-road bus.

S4.4.2 *Buses with a GVWR of 3,855 kg (8,500 lb) or less and an unloaded vehicle weight of 2,495 kg (5,500 lb) or less.*

S4.4.2.1 Each bus with a GVWR of 3,855 kg (8,500 lb) or less and an unloaded vehicle weight of 2,495 kg (5,500 lb) or less, except a school bus, shall comply with the requirements of S4.2.6 of this standard for front seating positions and with the requirements of S4.4.3.1 of this standard for all rear seating positions.

S4.4.2.2 Each school bus with a GVWR of 3,855 kg (8,500 lb) or less and an unloaded vehicle weight of 2,495 kg (5,500 lb) or less shall comply with the requirements of S4.2.6 of this standard for front seating positions and with the requirements of S4.4.3.2 of this standard for all rear seating positions.

S4.4.3 *Buses with a GVWR of 4,536 kg (10,000 lb) or less.*

S4.4.3.1 Except as provided in S4.4.3.1.1, S4.4.3.1.2, S4.4.3.1.3, S4.4.3.1.4 and S4.4.3.1.5, each bus with a gross vehicle weight rating of 4,536 kg (10,000 lb) or less, except a school bus or an over-the-road bus, shall be equipped with a Type 2 seat belt assembly at every designated seating position other than a side-facing position. Type 2 seat belt assemblies installed in compliance with this requirement shall conform to Standard No. 209 (49 CFR 571.209) and with S7.1 and S7.2 of this standard. If a Type 2 seat belt assembly installed in compliance with this requirement incorporates a webbing tension relieving device, the vehicle owner's manual shall include the information specified in S7.4.2(b) of this standard for the tension relieving device, and the vehicle shall conform to S7.4.2(c) of this standard. Side-facing designated seating positions shall be equipped, at the manufacturer's option, with a Type 1 or Type 2 seat belt assembly.

S4.4.3.1.1 Any rear designated seating position with a seat that can be adjusted to be forward- or rear-facing and to face some other direction shall either:

(a) Meet the requirements of S4.4.3.1 with the seat in any position in which it can be occupied while the vehicle is in motion, or meet S4.4.3.1.1(b)(1) and S4.4.3.1.1(b)(2).

(b)(1) When the seat is in its forward-facing and/or rear-facing position, or within ±30 degrees of either position, have a Type 2 seat belt assembly with an upper torso restraint that

(i) Conforms to S7.1 and S7.2 of this standard,

(ii) Adjusts by means of an emergency locking retractor conforming to Standard No. 209 (49 CFR 571.209), and

(iii) May be detachable at the buckle or upper anchorage, but not both.

(2) When the seat is in any position in which it can be occupied while the vehicle is in motion, have a Type 1 seat belt or the pelvic portion of a Type 2 seat belt assembly that conforms to S7.1 and S7.2 of this standard.

S4.4.3.1.2 Any rear designated seating position on a readily removable seat (that is, a seat designed to be easily removed and replaced by means installed by the manufacturer for that purpose) may meet the requirements of S4.4.3.1 by use of a belt incorporating a release mechanism that detaches both the lap and shoulder portion at either the upper or lower anchorage point, but not both. The means of detachment shall be a key or key-like object.

S4.4.3.1.3 Any inboard designated seating position on a seat for which the entire seat back can be folded such that no part of the seat back extends above a horizontal plane located 250 mm above the highest SRP located on the seat may meet the requirements of S4.4.3.1 by use of a belt incorporating a release mechanism that detaches both the lap and shoulder portion at either the upper or lower anchorage point, but not both. The means of detachment shall be a key or key-like object.

S4.4.3.1.4 Any rear designated seating position adjacent to a walkway located between the seat, which

walkway is designed to allow access to more rearward designated seating positions, and not adjacent to the side of the vehicle may meet the requirements of S4.4.3.1 by use of a belt incorporating a release mechanism that detaches both the lap and shoulder portion at either the upper or lower anchorage point, but not both. The means of detachment shall be a key or key-like object.

S4.4.3.1.5 Any rear side-facing designated seating position shall be equipped with a Type 1 or Type 2 seat belt assembly that conforms to S7.1 and S7.2 of this standard.

S4.4.3.2 Each school bus with a gross vehicle weight rating of 4,536 kg (10,000 pounds) or less shall comply with the requirements of S4.4.3.2.1 and S4.4.3.2.2.

S4.4.3.2.1 The driver's designated seating position and any outboard designated seating position not rearward of the driver's seating position shall be equipped with a Type 2 seat belt assembly. The seat belt assembly shall comply with Standard No. 209 (49 CFR 571.209) and with S7.1 and S7.2 of this standard. The lap belt portion of the seat belt assembly shall include either an emergency locking retractor or an automatic locking retractor. An automatic locking retractor shall not retract webbing to the next locking position until at least ¾; inch of webbing has moved into the retractor. In determining whether an automatic locking retractor complies with this requirement, the webbing is extended to 75 percent of its length and the retractor is locked after the initial adjustment. If the seat belt assembly installed in compliance with this requirement incorporates any webbing tension-relieving device, the vehicle owner's manual shall include the information specified in S7.4.2(b) of this standard for the tension-relieving device, and the vehicle shall comply with S7.4.2(c) of this standard.

S4.4.3.2.2 Passenger seating positions, other than any outboard designated seating position not rearward of the driver's seating position, shall be equipped with Type 2 seat belt assemblies that comply with the requirements of S7.1.1.5, S7.1.5 and S7.2 of this standard.

S4.4.3.3 Each over-the-road-bus with a GVWR of 4,536 kg (10,000 lb) or less shall meet the requirements of S4.4.5.1 (as specified for buses with a GVWR or more than 11,793 kg (26,000 lb)).

S4.4.4 *Buses with a GVWR of more than 4,536 kg (10,000 lb) but not greater than 11,793 kg (26,000 lb).*

S4.4.4.1 Each bus with a GVWR of more than 4,536 kg (10,000 lb) but not greater than 11,793 kg (26,000 lb), except a school bus or an over-the-road bus, shall meet the requirements of S4.4.4.1.1 or S4.4.4.1.2.

S4.4.4.1.1 *First option—complete passenger protection system—driver only.* The vehicle shall meet the crash protection requirements of S5, with respect to an anthropomorphic test dummy in the driver's designated seating position, by means that require no action by vehicle occupants.

S4.4.4.1.2 *Second option—belt system—driver only.* The vehicle shall, at the driver's designated seating position, be equipped with either a Type 1 or a Type 2 seat belt assembly that conforms to § 571.209 of this part and S7.2 of this Standard. A Type 1 belt assembly or the pelvic portion of a dual retractor Type 2 belt assembly installed at the driver's seating position shall include either an emergency locking retractor or an automatic locking retractor. If a seat belt assembly installed at the driver's seating position includes an automatic locking retractor for the lap belt or the lap belt portion, that seat belt assembly shall comply with the following:

(a) An automatic locking retractor used at a driver's seating position that has some type of suspension system for the seat shall be attached to the seat structure that moves as the suspension system functions.

(b) The lap belt or lap belt portion of a seat belt assembly equipped with an automatic locking retractor that is installed at the driver's seating position must allow at least ¾; inch, but less than 3 inches, of webbing movement before retracting webbing to the next locking position.

(c) Compliance with S4.4.4.2.1(b) of this standard is determined as follows:

(1) The seat belt assembly is buckled and the retractor end of the seat belt assembly is anchored to a horizontal surface. The webbing for the lap belt or lap belt portion of the seat belt assembly is extended to 75 percent of its length and the retractor is locked after the initial adjustment.

(2) A load of 20 pounds is applied to the free end of the lap belt or the lap belt portion of the belt assembly (i.e., the end that is not anchored to the horizontal surface) in the direction away from the retractor. The position of the free end of the belt assembly is recorded.

(3) Within a 30 second period, the 20 pound load is slowly decreased, until the retractor moves to the next locking position. The position of the free end of the belt assembly is recorded again.

(4) The difference between the two positions recorded for the free end of the belt assembly shall be at least ¾; inch but less than 3 inches.

S4.4.4.2 Each school bus with a GVWR of more than 4,536 kg (10,000 lb) but not greater than 11,793 kg (26,000 lb) shall be equipped with a Type 2 seat belt assembly at the driver's designated seating position. The seat belt assembly shall comply with Standard No. 209 (49 CFR 571.209) and with S7.1 and S7.2 of this standard. If a seat belt assembly installed in compliance with this requirement includes an automatic locking retractor for the lap belt portion, that seat belt assembly shall comply with paragraphs (a) through (c) of S4.4.4.1.2 of this standard. If a seat belt assembly installed in compliance with this requirement incorporates any webbing tension-relieving device, the vehicle owner's manual shall include the information specified in S7.4.2(b) of this standard for the tension-relieving device, and the vehicle shall comply with S7.4.2(c) of this standard.

S4.4.4.3 Each over-the-road-bus with a GVWR of more than 4,536 kg (10,000 lb) but not greater than 11,793 kg (26,000 lb) shall meet the requirements of S4.4.5.1 (as specified for buses with a GVWR or more than 11,793 kg (26,000 lb)).

S4.4.5 *Buses with a GVWR of more than 11,793 kg (26,000 lb).*

S4.4.5.1 Each bus with a GVWR of more than 11,793 kg (26,000 lb), except a perimeter-seating bus, transit bus, or school bus, shall comply with the requirements of S4.4.5.1.1 and S4.4.5.1.2.

S4.4.5.1.1 The driver's designated seating position and any outboard designated seating position not rearward of the driver's seating position shall be equipped with a Type 2 seat belt assembly. The seat belt assembly shall comply with Standard No. 209 (49 CFR 571.209) and with S7.1 and S7.2 of this standard. If a seat belt assembly installed in compliance with this requirement includes an automatic locking retractor for the lap belt portion, that seat belt assembly shall comply with paragraphs (a) through (c) of S4.4.4.1.2 of this standard. If a seat belt assembly installed in compliance with this requirement incorporates any webbing tension-relieving device, the vehicle owner's manual shall include the information specified in S7.4.2(b) of this standard for the tension-relieving device, and the vehicle shall comply with S7.4.2(c) of this standard.

S4.4.5.1.2 Passenger seating positions, other than any outboard designated seating position not rearward of the driver's seating position and seating positions on prison buses

rearward of the driver's seating position, shall:

(a) Other than for over-the-road buses:

(i) Be equipped with a Type 2 seat belt assembly at any seating position that is not a side-facing position;

(ii) Be equipped with a Type 1 or Type 2 seat belt assembly at any seating position that is a side-facing position;

(c) For over-the-road buses, be equipped with a Type 2 seat belt assembly;

(d) Have the seat belt assembly attached to the seat structure at any seating position that has another seating position, wheelchair position, or side emergency door behind it; and

(e) Comply with the requirements of S7.1.1.5, S7.1.3, S7.1.6 and S7.2 of this standard.

S4.4.5.2 Each perimeter-seating bus and transit bus with a GVWR of more than 11,793 kg (26,000 lb) shall meet the requirements of S4.4.4.1.1 or S4.4.4.1.2 (as specified for buses with a GVWR of more than 4,536 kg (10,000 lb) but not greater than 11,793 kg (26,000 lb)).

S4.4.5.3 Each school bus with a GVWR of more than 11,793 kg (26,000 lb) shall be equipped with a Type 2 seat belt assembly at the driver's designated seating position. The seat belt assembly shall comply with Standard No. 209 (49 CFR 571.209) and with S7.1 and S7.2 of this standard. If a seat belt assembly installed in compliance with this requirement includes an automatic locking retractor for the lap belt portion, that seat belt assembly shall comply with paragraphs (a) through (c) of S4.4.4.1.2 of this standard. If a seat belt assembly installed in compliance with this requirement incorporates any webbing tension-relieving device, the vehicle owner's manual shall include the information specified in S7.4.2(b) of this standard for the tension-relieving device, and the vehicle shall comply with S7.4.2(c) of this standard.

* * * * *

S4.5.5.1 *Vehicles manufactured on or after September 1, 2005 and before September 1, 2007.*

(a) For vehicles manufactured for sale in the United States on or after September 1, 2005, and before September 1, 2007, a percentage of the manufacturer's production as specified in S4.5.5.2, shall meet the requirements specified in either S4.1.5.5 for complying passenger cars, S4.2.7 for complying trucks and multipurpose passenger vehicles, or S4.4.3.1 for complying buses.

(b) A manufacturer that sells two or fewer carlines, as that term is defined at 49 CFR 583.4, in the United States may, at the option of the manufacturer, meet the requirements of this paragraph, instead of paragraph (a) of this section. Each vehicle manufactured on or after September 1, 2006, and before September 1, 2007, shall meet the requirements specified in S4.1.5.5 for complying passenger cars, S4.2.7 for complying trucks & multipurpose passenger vehicles, and S4.4.3.1 for complying buses. Credits for vehicles manufactured before September 1, 2006 are not to be applied to the requirements of this paragraph.

* * * * *

S4.5.5.2 *Phase-in schedule.*

(a) Vehicles manufactured on or after September 1, 2005, and before September 1, 2006. Subject to S4.5.5.3(a), for vehicles manufactured on or after September 1, 2005, and before September 1, 2006, the amount of vehicles complying with S4.1.5.5 for complying passenger cars, S4.2.7 for complying trucks and multipurpose passenger vehicles, or S4.4.3.1 for complying buses shall be not less than 50 percent of:

* * *

(b) Vehicles manufactured on or after September 1, 2006, and before September 1, 2007. Subject to S4.5.5.3(b), for vehicles manufactured on or after September 1, 2006, and before September 1, 2007, the amount of vehicles complying with S4.1.5.5 for complying passenger cars, S4.2.7 for complying trucks and multipurpose passenger vehicles, or S4.4.3.1 for complying buses shall be not less than 80 percent of:

* * * * *

S7.1.1.5 Passenger cars, and trucks, buses, and multipurpose passenger vehicles with a GVWR of 4,536 kg (10,000 lb) or less manufactured on or after September 1, 1995 and buses with a GVWR of more than 11,793 kg (26,000 pounds) manufactured on or after November 28, 2016, except a perimeter-seating bus, prison bus, school bus, or transit bus, shall meet the requirements of S7.1.1.5(a), S7.1.1.5(b) and S7.1.1.5(c).

* * *

S7.1.6 *Passenger seats, other than any outboard designated seating position not rearward of the driver's seating position, in buses with a GVWR of more than 11,793 kg (26,000 lb) manufactured on or after* November 28, 2016. The lap belt of any seat belt assembly on any passenger seat in each bus with a GVWR of more than 11,793 kg (26,000 lb), except a perimeter-seating bus, prison bus, school bus, or transit bus, shall adjust by means of any emergency-locking retractor that conforms to 49 CFR 571.209 to fit persons whose dimensions range from those of a 50th percentile 6-year-old child to those of a 95th percentile adult male and the upper torso restraint shall adjust by means of an emergency-locking retractor that conforms to 49 CFR 571.209 to fit persons whose dimensions range from those of a 5th percentile adult female to those of a 95th percentile adult male, with the seat in any position, the seat back in the manufacturer's nominal design riding position, and any adjustable anchorages adjusted to the manufacturer's nominal design position for a 50th percentile adult male occupant.

* * * * *

■ 3. Section 571.222 is amended by:

■ a. Revising S5(a)(2)(i);

■ b. Removing and reserving S5(b)(1)(ii); and

■ c. Revising S5(b)(1)(iii).

The revisions read as follows:

§ 571.222 Standard No. 222; School bus passenger seating and crash protection.

* * * * *

S5. *Requirements.*

* * * * *

(a) *Large school buses.*

* * *

(2) * * *

(i) S4.4.3.2 of Standard No. 208 (49 CFR 571.208);

* * * * *

(b) *Small school buses.* * * *

(1)

(iii) In the case of vehicles manufactured on or after October 21, 2011 the requirements of S4.4.3.2 of § 571.208 and the requirements of §§ 571.207, 571.209 and 571.210 as they apply to school buses with a gross vehicle weight rating of 4,536 kg or less; and,

* * * * *

Dated: November 19, 2013.

David L. Strickland,

Administrator.

[FR Doc. 2013–28211 Filed 11–20–13; 4:15 pm]

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FEDERAL REGISTER

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Part III

Department of Defense

General Services Administration

National Aeronautics and Space Administration

48 CFR Chapter 1, et al.

Federal Acquisition Regulations; Final Rules

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket No. FAR 2013–0076, Sequence No. 7]

Federal Acquisition Regulation; Federal Acquisition Circular 2005–71; Introduction

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Summary presentation of final rules.

SUMMARY: This document summarizes the Federal Acquisition Regulation (FAR) rules agreed to by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) in this Federal Acquisition Circular (FAC) 2005–71. A companion document, the *Small Entity Compliance Guide* (SECG), follows this FAC. The FAC, including the SECG, is available via the Internet at *http://www.regulations.gov.*

DATES: For effective dates and comment dates see separate documents, which follow.

FOR FURTHER INFORMATION CONTACT: The analyst whose name appears in the table below in relation to the FAR case. Please cite FAC 2005–71 and the specific FAR case numbers. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755.

RULES LISTED IN FAC 2005–71

Item	Subject	FAR Case	Analyst
I	Accelerated Payments to Small Business Subcontractors	2012–031	Chambers.
II	New Designated Country—Croatia	2013–019	Davis.
III	Technical Amendments		

SUPPLEMENTARY INFORMATION: Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these FAR cases, refer to the specific item numbers and subjects set forth in the documents following these item summaries. FAC 2005–71 amends the FAR as specified below:

Item I—Accelerated Payments to Small Business Subcontractors (FAR Case 2012–031)

This final rule amends the FAR to add a new clause, Providing Accelerated Payments to Small Business Subcontractors, as part of the implementation of OMB Memorandum M–12–16, Providing Prompt Payment to Small Business Subcontractors (as extended by OMB Memorandum M–13–15, Extension of Policy to Provide Accelerated Payment to Small Business Subcontractors). This new clause requires the prime contractor, upon receipt of accelerated payments from the Government, to make accelerated payments to small business subcontractors, to the maximum extent practicable, after receipt of a proper invoice and all proper documentation from small business subcontractors. This clause will be inserted into all new solicitations issued after the effective date of this rule and resultant contracts, including solicitations and contracts for the acquisition of commercial items. This rule does not provide any new rights under the Prompt Payment Act and does not affect the application of the Prompt Payment Act late payment interest provisions. Small businesses benefit from this clause in that they should be paid more expeditiously by their prime contractor, which should improve small businesses overall cash flow.

Item II—New Designated Country—Croatia (FAR Case 2013–019)

This final rule amends the FAR to add Croatia as a new designated country under the World Trade Organization Government Procurement Agreement (WTO GPA). Croatia joined the European Union on July 1, 2013, which is a party to the WTO GPA.

Therefore, this rule adds Croatia to the list of WTO GPA countries wherever it appears in the FAR, whether as a separate definition, part of the definition of ''designated country,'' the definition of ''Recovery Act designated country,'' or as part of the list of countries exempt from the prohibition of acquisition of products produced by forced or indentured child labor. As a member of the European Union, Croatia also is a party to the Agreement on Trade in Civil Aircraft.

This final rule will not have a significant economic impact on small entities.

Item III—Technical Amendments

Editorial changes are made at FAR 31.205–6, 52.202–1, 52.212–3, 52.212–5, and 52.213–4.

Dated: November 18, 2013.

William Clark,

Acting Director, Office of Government-Wide Acquisition Policy, Office of Acquisition Policy, Office of Government-Wide Policy.

Federal Acquisition Circular (FAC) 2005–71 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 2005–71 FAC 2005–71 is effective November 25, 2013 except for item I, which is effective December 26, 2013.

Dated: November 14, 2013.

Richard Ginman,

Director, Defense Procurement and Acquisition Policy.

Dated: November 18, 2013.

Houston Taylor,

Acting Senior Procurement Executive/Deputy CAO, Office of Acquisition Policy, U.S. General Services Administration.

Dated: November 15, 2013.

William P. McNally,

Assistant Administrator for Procurement, National Aeronautics and Space Administration.

[FR Doc. 2013–28052 Filed 11–22–13; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 12, 32, and 52

[FAC 2005–71; FAR Case 2012–031; Item I; Docket No. 2012–0031, Sequence No. 1]

RIN 9000–AM37

Federal Acquisition Regulation; Accelerated Payments to Small Business Subcontractors

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to implement the policy provided by Office of Management and Budget (OMB) Memoranda M–12–16, dated July 11, 2012, and M–13–15, dated July 11, 2013, by incorporating a new clause to provide accelerated payments to small business subcontractors.

DATES: *Effective:* December 26, 2013.

FOR FURTHER INFORMATION CONTACT: Mr. Edward N. Chambers, Procurement Analyst, at 202–501–3221, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FAC 2005–71, FAR Case 2012–031.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 77 FR 75089 on December 19, 2012, to implement OMB Memorandum M–12–16 that will provide for the acceleration of payments to small business subcontractors. OMB released Memorandum M–12–16, Providing Prompt Payment to Small Business Subcontractors, on July 11, 2012. This policy memorandum outlined the steps agencies shall take to ensure that prime contractors pay their small business subcontractors as promptly as possible. OMB released Memorandum M–13–15, Extension of Policy to Provide Accelerated Payment to Small Business Subcontractors, on July 11, 2013. This policy memorandum extended the OMB Memorandum M–12–16's expiration date by one year to July 11, 2014.

Seven respondents submitted comments on the proposed rule.

II. Discussion and Analysis

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) reviewed the comments in the development of the final rule. A discussion of the comments and the changes made to the rule as a result of those comments are provided as follows:

A. Summary of Significant Changes

As part of the implementation of OMB Memoranda M–12–16 and M–13–15, the FAR is amended to add a new FAR clause, Providing Accelerated Payments to Small Business Subcontractors. This new clause requires the prime contractor, upon receipt of accelerated payment from the Government, to make accelerated payments to small business subcontractors, to the maximum extent practicable, after receipt of a proper invoice and all proper documentation from small business subcontractors. This clause will be inserted into all new solicitations issued after the effective date of this rule and resultant contracts, including solicitations and contracts for the acquisition of commercial items. This rule does not provide any new rights under the Prompt Payment Act and does not affect the application of the Prompt Payment Act late payment interest provisions.

B. Analysis of Public Comments

1. Support for the Rule

Comment: Two respondents expressed support for the rule.

Response: The Councils note the public support for this rule.

2. Clause Prescription

Comment: One respondent recommended adding a paragraph to FAR 52.212–4 to incorporate the new clause in lieu of prescribing the clause in FAR 12.301(d)(4).

Response: The unique nature of the temporary guidance issued in the OMB Memorandum M–12–16, Providing Prompt Payment to Small Business Subcontractors, (and as extended by OMB Memorandum M–13–15) required a new independent clause 52.232–40; thus, a distinct prescription in FAR 12.301(d)(4) is intentionally created.

3. Privity of Contract

Comment: One respondent recommended that the Government should refrain from creating a privity of contract between the Government and the subcontractors. Respondent asserts that this may lead to a cause of action for the subcontractor against the Government if the prime contractor defaults on these requirements.

Response: Directing the prime contractor, upon receipt of accelerated payment from the Government, to accelerate payments to subcontractors does not create privity of contract between the Government and the subcontractors.

4. Compliance With the Rule

Comment: One respondent expressed concern that the rule did not identify a responsible Government party for addressing the prime's failure to accelerate payments to subcontractors. The respondent also stated that the rule does not provide penalties for the prime's failure to accelerate payments. Another respondent stated that the proposed rule lacks clarity as to how the Government will audit contractors to ensure compliance, and to what performance standards prime contractors will be held.

Response: The rule does not create any new remedies for subcontractor payment issues. Subcontractors would utilize existing remedies for non-payment similar, but not limited, to FAR 32.112. If, upon receipt of accelerated payment from the Government, the prime fails to accelerate payments to the maximum extent practicable, the Government may discontinue accelerated payments to the prime contractor. The Government may review prime contractor payments and procedures to ensure the required accelerated payments to small business subcontractors are made to the maximum extent practicable. This flexibility is intended to accommodate varying prime contractor capabilities to make accelerated payments.

5. Definition

Comment: A number of respondents stated that the rule is not specific as to what constitutes ''accelerated payments to the maximum extent practicable''. Two respondents took issue with the lack of specificity, while another supported the flexibility offered by the language. Two respondents questioned what is the definition of accelerated payments. One respondent recommended adding to the definition of accelerated payments that the prime contractor would not be required to accelerate payments equal to or less than the accelerated payment cycle received from the Government.

Response: The flexibility in the clause language is intended to accommodate varying contractor capabilities to make accelerated payments.

6. Pre-Existing Regulatory Coverage

Comment: One respondent stated that the additional language in this FAR rule is unnecessary. The respondent finds FAR 52.232–1 sufficient to accelerate payments to small business subcontractors.

Response: FAR 52.232–1 does not address accelerated payments to prime contractors or subcontractors; it addresses general conditions for payments to prime contractors on certain fixed-price contracts.

7. Administrative Burden

Comment: One respondent stated the rule will result in increased administrative costs, and an evaluation of the existing payment environment should have preceded this rule making. Another respondent recommended adding the following language to the rule, ''The proposed rule is not intended to impose any additional reporting, recordkeeping, or other information collection requirements.''

Response: The respondent did not specify what administrative costs would be increased. However, this rule is established to ensure that, upon receipt of accelerated payment from the Government, the prime contractors shall accelerate payments to small business subcontractors to the maximum extent practicable. The Government gave consideration to relevant payment environment factors prior to issuance of this rule. The addition of the recommended language is unnecessary because this rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act.

8. Commercial Practices

Comment: One respondent opined that Government prime contractors have subcontractor payment terms and payment timelines that are much more subcontractor friendly than those found in the commercial marketplace.

Response: The Councils appreciate those prime contractors who pay their subcontractors on a timely basis, and is issuing this rule to require prime contractors, upon receipt of accelerated payment from the Government, to pay their small business subcontractors in an accelerated manner to the maximum extent practicable.

9. Rule Applicability

Comment: One respondent stated that the rule forces prime contractors to accelerate payments to subcontractors on non-government programs and therefore equitable price adjustments should be expected.

Response: The rule applies to those prime contractors for which the Government provides accelerated payment. It requires prime contractors, upon receipt of accelerated payment from the Government, to accelerate payments to their small business subcontractors under Government prime contracts that include the clause; it does not require prime contractors to accelerate payments to other than their small business subcontractors on Government prime contracts.

Comment: Another respondent recommended applying this requirement to current contracts as well as existing solicitations and limiting the application of this rule to first tier subcontractors.

Response: In accordance with FAR 1.108(d), contracting officers may, at their discretion, include the FAR changes in solicitations issued before the effective date, provided award of the resulting contract(s) occurs on or after the effective date; and contracting officers may, at their discretion, include the changes in any existing contract with appropriate consideration.

The rule is not limited to first-tier subcontractors, because that is inconsistent with the OMB memo that this rule implements, and would reduce the number of small entities that may benefit from this rule.

10. Regulatory Rulemaking Process

Comment: One respondent encouraged the Government to delay the rule and hold a series of public meetings to gain a better understanding of the challenges the rule would create.

Response: The public was provided an opportunity to comment through the standard rule-making process of publication of the proposed rule in the **Federal Register**. All comments received were considered in the formation of this final rule.

11. Implementation

Comment: One respondent noted the current budgetary crisis and recommended a delay in the implementation of this rule. Another respondent recommended the rule emphasize that prime contractors be required to make accelerated payments only if the Government accelerates payments to the prime contractor.

Response: If the Government does not accelerate payment to a prime contractor, that prime contractor is under no obligation to accelerate payments to its small business subcontractors. While the clause requires the prime contractor to accelerate payments to its small business subcontractors under certain conditions, it does not prevent the prime contractor from paying any of its subcontractors on an accelerated basis, if it elects to do so, without regard to the receipt of accelerated payments from the Government.

12. Accelerated Payments

Comment: One respondent recommended guidance that states that Government payments will not be considered accelerated if they are made beyond the Prompt Payment Act thresholds for the incurrence of interest.

Response: Payments under which prompt payment interest has been applied are not Government accelerated payments.

III. Additional Rulemaking

The Councils are considering the need for further FAR guidance relative to facilitating accelerated payments to small business subcontractors. This additional guidance could take the form of additional FAR revisions, or new FAR provisions and clauses, if appropriate. The Councils may decide to publish a Request for Information in the near future to consider its options to address accelerated payments to small business subcontractors. This will support the OMB Memorandum M–13–15, Extension of Policy to Provide Accelerated Payment to Small Business Subcontractors, requirement for the Councils to solicit public input on strategies that might be used over the longer term to help maintain effective cash flow and prompt payment to small business subcontractors.

IV. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 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). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is a significant regulatory action and, therefore, was subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

V. Regulatory Flexibility Act

DoD, GSA, and NASA have prepared a Final Regulatory Flexibility Analysis (FRFA) consistent with the Regulatory

Flexibility Act, 5 U.S.C. 601, *et seq.* The FRFA is summarized as follows:

Although it may have a positive impact on small business subcontractors, DoD, GSA, and NASA do not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because this rule implements the temporary policy provided by OMB Policy Memoranda M–12–16, Providing Prompt Payment to Small Business Subcontractors, dated July 11, 2012 and M–13–15, Extension of Policy to Provide Accelerated Payment to Small Business Subcontractors, on July 11, 2013, which are designed to accelerate payment from Federal contractors to their small business subcontractors. The rule imposes no reporting, recordkeeping, or other information collection requirements. The rule does not duplicate, overlap, or conflict with any other Federal rules, and there are no known significant alternatives to the rule.

This final rule adds a FAR clause that will provide for accelerated payments from the prime contractor to its small business subcontractors when the prime contractor receives an accelerated payment from the Government thus implementing this OMB policy. This rule requires prime contractors, upon receipt of accelerated payments from the Government, to make accelerated payments to their small business subcontractors, improving small business cash flow overall.

No comments were filed by the Chief Counsel for Advocacy of the Small Business Administration in response to the rule and no changes were made to the rule.

Interested parties may obtain a copy of the FRFA from the Regulatory Secretariat. The Regulatory Secretariat has submitted a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration.

VI. Paperwork Reduction Act

The final rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 12, 32, and 52

Government procurement.

Dated: November 18, 2013.

William Clark,

Acting Director, Office of Government-Wide Acquisition Policy, Office of Acquisition Policy, Office of Government-Wide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 12, 32, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 12, 32, and 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 12—ACQUISITION OF COMMERCIAL ITEMS

■ 2. Amend section 12.301 by adding paragraph (d)(4) to read as follows:

12.301 Solicitation provisions and contract clauses for the acquisition of commercial items.

* * * * *

(d) * * *

(4) Insert the clause at 52.232–40, Providing Accelerated Payments to Small Business Subcontractors, as prescribed in 32.009–2.

* * * * *

PART 32—CONTRACT FINANCING

32.002 [Amended]

■ 3. Amend section 32.002 by removing from paragraph (a)(1) ''32.005'' and adding ''32.009'' in its place.

■ 4. Add section 32.009 to read as follows:

32.009 Providing accelerated payments to small business subcontractors.

32.009–1 General.

Pursuant to the policy provided by OMB Memorandum M–12–16, Providing Prompt Payment to Small Business Subcontractors (and as extended by OMB Memorandum M–13–15, Extension of Policy to Provide Accelerated Payment to Small Business Subcontractors), agencies shall take measures to ensure that prime contractors pay small business subcontractors on an accelerated timetable to the maximum extent practicable, and upon receipt of accelerated payments from the Government. This acceleration does not provide any new rights under the Prompt Payment Act and does not affect the application of the Prompt Payment Act late payment interest provisions.

32.009–2 Contract clause.

Insert clause 52.232–40, Providing Accelerated Payments to Small Business Subcontractors, in all solicitations and contracts.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 5. Amend section 52.213–4 by—

■ a. Revising the date of the clause;

■ b. Redesignating paragraphs (a)(2)(vi) through (a)(2)(viii) as paragraphs (a)(2)(vii) through (a)(2)(ix), respectively;

■ c. Adding a new paragraph (a)(2)(vi).

The revision and addition read as follows:

52.213–4 Terms and Conditions–Simplified Acquisitions (Other Than Commercial Items).

* * * * *

Terms and Conditions—Simplified Acquisitions (Other than Commercial items) (Dec 2013)

* * * * *

(a) * * *

(2) * * *

(vi) 52.232–40, Providing Accelerated Payments to Small Business Subcontractors (Dec 2013)

* * * * *

■ 6. Add section 52.232–40 to read as follows:

52.232–40 Providing Accelerated Payments to Small Business Subcontractors.

As prescribed in 32.009–2, insert the following clause:

Providing Accelerated Payments to Small Business Subcontractors (Dec 2013)

(a) Upon receipt of accelerated payments from the Government, the Contractor shall make accelerated payments to its small business subcontractors under this contract, to the maximum extent practicable and prior to when such payment is otherwise required under the applicable contract or subcontract, after receipt of a proper invoice and all other required documentation from the small business subcontractor.

(b) The acceleration of payments under this clause does not provide any new rights under the Prompt Payment Act.

(c) Include the substance of this clause, including this paragraph (c), in all subcontracts with small business concerns, including subcontracts with small business concerns for the acquisition of commercial items.

(End of clause)

■ 7. Amend section 52.244–6 by—

■ a. Revising the date of the clause;

■ b. Redesignating paragraph (c)(1)(x) as paragraph (c)(1)(xi); and

■ c. Adding a new paragraph (c)(1)(x).

The revision and addition read as follows:

52.244–6 Subcontracts for Commercial Items.

* * * * *

Subcontracts for Commercial Items (Dec 2013)

* * * * *

(c)(1) * * *

(x) 52.232–40, Providing Accelerated Payments to Small Business Subcontractors (Dec 2013), if flow down is required in accordance with paragraph (c) of FAR clause 52.232–40.

* * * * *

[FR Doc. 2013–28053 Filed 11–22–13; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 22, 25, and 52

[FAC 2005–71; FAR Case 2013–019; Item II; Docket No. 2013–0019, Sequence No. 1]

RIN 9000–AM66

Federal Acquisition Regulation; New Designated Country—Croatia

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to add Croatia as a new designated country under the World Trade Organization Government Procurement Agreement (WTO GPA). On July 1, 2013, Croatia joined the European Union, which is a party to the WTO GPA.

DATES: *Effective:* November 25, 2013.

FOR FURTHER INFORMATION CONTACT: Ms. Cecelia L. Davis, Procurement Analyst, at 202–219–0202 for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FAC 2005–71, FAR Case 2013–019.

SUPPLEMENTARY INFORMATION:

I. Background

The European Union is a party to the WTO GPA and has assumed rights and obligations under the WTO GPA on behalf of its member states. On July 1, 2013, Croatia became a member of the European Union. Therefore, the European Union has committed to assume rights and obligations on behalf of Croatia under the WTO GPA. On June 27, 2013, the WTO Committee on Government Procurement approved the application of the WTO GPA to Croatia. The United States, which is also a party to the WTO GPA, has agreed to waive discriminatory purchasing requirements for eligible products and supplies of Croatia (see 78 FR 60368, dated October 1, 2013).

Therefore, this rule adds Croatia to the list of WTO GPA countries wherever it appears in the FAR, whether as a separate definition, as part of the definition of ''designated country'' or ''Recovery Act designated country'', or as part of the list of countries exempt from the prohibition of acquisition of products produced by forced or indentured child labor (FAR 22.1503, 25.003, 52.222–19, 52.225–5, 52.225–11, and 52.225–23).

Likewise, as a member of the European Union, Croatia also is a party to the Agreement on Trade in Civil Aircraft (FAR 25.407 and 52.225–7).

Conforming changes were required to FAR 52.212–5, Contract Terms and Conditions Required to Implement Statute or Executive Orders—Commercial Items, and 52.213–4, Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items).

II. Publication of This Final Rule for Public Comment Is Not Required by Statute

''Publication of proposed regulations,'' 41 U.S.C. 1707, is the statute which applies to the publication of the Federal Acquisition Regulation. Paragraph (a)(1) of the statute requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because it is just updating the lists of designated countries and countries that are party to the Agreement on Trade in Civil Aircraft, in order to reflect the fact that Croatia is now a member of the European Union.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 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). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant FAR revision and 41 U.S.C. 1707 does not require publication for public comment.

V. Paperwork Reduction Act

The Paperwork Reduction Act does apply, because the rule affects the response of an offeror that is offering a product of Croatia to the information collection requirements in the provisions at FAR 52.212–3(g)(5), 52.225–6, 52.225–11, and 52.225–23. The offeror no longer needs to list a product from Croatia under ''other end products'', because Croatia is now a designated country. These information collection requirements are currently approved under OMB Control Numbers 9000–0136: Commercial Item Acquisitions, 9000–0025: Buy American Act, Trade Agreements Act Certificate, and 9000–0141: Buy American—Construction, respectively. The impact, however, is negligible.

List of Subjects in 48 CFR Parts 22, 25, and 52

Government procurement.

Dated: November 18, 2013.

William Clark,

Acting Director, Office of Government-Wide Acquisition Policy, Office of Acquisition Policy, Office of Government-Wide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 22, 25, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 22, 25, and 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

22.1503 [Amended]

■ 2. Amend section 22.1503 by removing from paragraph (b)(4) ''Bulgaria, Cyprus'' and adding ''Bulgaria, Croatia, Cyprus'' in its place.

PART 25—FOREIGN ACQUISITION

25.003 [Amended]

■ 3. Amend section 25.003 by—

■ a. Removing from the definition ''Designated country'', in paragraph (1), ''Canada, Cyprus'' and adding, ''Canada, Croatia, Cyprus'' in its place; and

■ b. Removing from the definition ''World Trade Organization Government Procurement Agreement (WTO GPA)

country'', ''Canada, Cyprus'' and adding ''Canada, Croatia, Cyprus'' in its place.

Subpart 25.4—Trade Agreements

25.407 [Amended]

■ 4. Amend section 25.407 by removing ''Canada, Cyprus'' and adding ''Canada, Croatia, Cyprus'' in its place.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 5. Amend section 52.212–5 by revising the date of the clause and paragraphs (b)(27) and (b)(41) to read as follows:

52.212–5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items.

* * * * *

Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Items (NOV 2013)

* * * * *

(b) * * *

____(27) 52.222–19, Child Labor—Cooperation with Authorities and Remedies (NOV 2013) (E.O. 13126).

* * * * *

____(41) 52.225–5, Trade Agreements (NOV 2013) (19 U.S.C. 2501, *et seq.*, 19 U.S.C. 3301 note).

* * * * *

■ 6. Amend section 52.213–4 by revising the date of the clause and paragraph (b)(1)(ii) to read as follows:

52.213–4 Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items).

* * * * *

Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items) (NOV 2013)

* * * * *

(b) * * *

(1) * * *

(ii) 52.222–19, Child Labor—Cooperation with Authorities and Remedies (NOV 2013) (E.O. 13126). (Applies to contracts for supplies exceeding the micro-purchase threshold.)

* * * * *

■ 7. Amend section 52.222–19 by—

■ a. Revising the date of the clause; and

■ b. Removing from paragraph (a)(4) ''Bulgaria, Cyprus'' and adding ''Bulgaria, Croatia, Cyprus'' in its place.

The revision reads as follows:

52.222–19 Child Labor—Cooperation with Authorities and Remedies.

* * * * *

Child Labor—Cooperation With Authorities and Remedies (NOV 2013)

* * * * *

■ 8. Amend section 52.225–5:

■ a. By revising the date of the clause; and

■ b. In paragraph (a), in paragraph (1) of the definition of ''Designated country'', by removing ''Canada, Cyprus'' and adding ''Canada, Croatia, Cyprus'' in its place.

The revisions reads as follows:

52.225–5 Trade Agreements.

* * * * *

Trade Agreements (NOV 2013)

* * * * *

■ 9. Amend section 52.225–7 by—

■ a. Revising the date of the provision; and

■ b. Removing from paragraph (b) ''Canada, Cyprus'' and adding ''Canada, Croatia, Cyprus'' in its place.

The revised text reads as follows:

52.225–7 Waiver of Buy American Act for Civil Aircraft and Related Articles.

* * * * *

Waiver of Buy American Act for Civil Aircraft and Related Articles (NOV 2013)

* * * * *

■ 10. Amend section 52.225–11:

■ a. By revising the date of the clause; and

■ b. In paragraph (a), in paragraph (1) of the definition of ''Designated country'', by removing ''Canada, Cyprus'' and adding ''Canada, Croatia, Cyprus'' in its place.

The revision reads as follows:

52.225–11 Buy American Act—Construction Materials under Trade Agreements.

* * * * *

Buy American Act—Construction Materials Under Trade Agreements (NOV 2013)

* * * * *

■ 11. Amend section 52.225–23:

■ a. By revising the date of the clause;

■ b. In paragraph (a), in paragraph (1) of the definition of ''Designated country'', by removing ''Canada, Cyprus'' and adding ''Canada, Croatia, Cyprus'' in its place; and

■ c. By removing from paragraph (a), in paragraph (1) of the definition of ''Recovery Act designated country'', ''Canada, Cyprus'' and adding, ''Canada, Croatia, Cyprus'' in its place.

The revision reads as follows:

52.225–23 Required Use of American Iron, Steel, and Manufactured Goods—Buy American Act—Construction Materials Under Trade Agreements.

* * * * *

Required Use of American Iron, Steel, and Manufactured Goods—Buy American Act—Construction Materials Under Trade Agreements (NOV 2013)

* * * * *

[FR Doc. 2013–28054 Filed 11–22–13; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 31 and 52

[FAC 2005–71; Item III; Docket No. 2013–0080; Sequence No. 5]

Federal Acquisition Regulation; Technical Amendments

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This document makes amendments to the Federal Acquisition Regulation (FAR) in order to make editorial changes.

DATES: *Effective:* November 25, 2013.

FOR FURTHER INFORMATION CONTACT: The Regulatory Secretariat Division (MVCB), 1800 F Street NW., 2nd Floor, Washington, DC 20405, 202–501–4755, for information pertaining to status or publication schedules. Please cite FAC 2005–71, Technical Amendments.

SUPPLEMENTARY INFORMATION: In order to update certain elements in 48 CFR parts 31 and 52, this document makes editorial changes to the FAR.

List of Subject in 48 CFR Parts 31 and 52

Government procurement.

Dated: November 18, 2013.

William Clark,

Acting Director, Office of Government-Wide Acquisition Policy, Office of Acquisition Policy, Office of Government-Wide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 31 and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 31 and 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

31.205–6 [Amended]

■ 2. Amend section 31.205–6 by removing from paragraph (p)(2)(ii) ''January 1, 1998'' and adding ''January 1, 2012'' in its place, (two times).

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 3. Revise section 52.202–1 to read as follows:

52.202–1 Definitions.

As prescribed in 2.201, insert the following clause:

Definitions (Nov 2013)

When a solicitation provision or contract clause uses a word or term that is defined in the Federal Acquisition Regulation (FAR), the word or term has the same meaning as the definition in FAR 2.101 in effect at the time the solicitation was issued, unless—

(a) The solicitation, or amended solicitation, provides a different definition;

(b) The contracting parties agree to a different definition;

(c) The part, subpart, or section of the FAR where the provision or clause is prescribed provides a different meaning; or

(d) The word or term is defined in FAR Part 31, for use in the cost principles and procedures.

(End of clause)

■ 4. Amend section 52.212–3 by revising the date of the provision and paragraphs (g)(5) and (h)(3) to read as follows:

52.212–3 Offeror Representations and Certifications—Commercial Items.

* * * * *

Offeror Representations and Certifications—Commercial Items (Nov 2013)

* * * * *

(g) * * *

(5) *Trade Agreements Certificate.* (Applies only if the clause at FAR 52.225–5, Trade Agreements, is included in this solicitation.)

(i) The offeror certifies that each end product, except those listed in paragraph (g)(5)(ii) of this provision, is a U.S.-made or designated country end product, as defined in the clause of this solicitation entitled ''Trade Agreements''.

(ii) The offeror shall list as other end products those end products that are not U.S.-made or designated country end products.

Other End Products:

Line item No.	Country of origin

[List as necessary]

(iii) The Government will evaluate offers in accordance with the policies and procedures of FAR Part 25. For line items covered by the WTO GPA, the Government will evaluate offers of U.S.-made or designated country end products without regard to the restrictions of the Buy American Act. The Government will consider for award only offers of U.S.-made or designated country end products unless the Contracting Officer determines that there are no offers for such products or that the offers for such products are insufficient to fulfill the requirements of the solicitation.

(h) * * *

(3) ☐ Are, ☐ are not presently indicted for, or otherwise criminally or civilly charged by a Government entity with, commission of any of these offenses enumerated in paragraph (h)(2) of this clause; and

* * * * *

■ 5. Amend section 52.212–5 by—

■ a. Revising the date of the clause;

■ b. Revising paragraphs (b)(34) and (e)(1)(xii); and

■ c. Amending Alternate II by revising the date of the Alternate and paragraph (e)(1)(ii)(L).

The revised text reads as follows:

52.212–5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items.

* * * * *

Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Items (Nov 2013)

* * * * *

(b) * * *

(34) 52.222–54, Employment Eligibility Verification (Aug 2013). (Executive Order 12989). (Not applicable to the acquisition of commercially available off-the-shelf items or certain other types of commercial items as prescribed in 22.1803.)

* * * * *

(e) * * *

(1) * * *

(xii) 52.222–54, Employment Eligibility Verification (Aug 2013).

* * * * *

Alternate II (Nov 2013). * * *

(e)(1) * * *

(ii) * * *

(L) 52.222–54, Employment Eligibility Verification (Aug 2013).

* * * * *

■ 6. Amend section 52.213–4 by—

■ a. Revising the date of the clause;

■ b. Redesignating paragraphs (a)(2)(v) through (a)(2)(viii) as paragraphs (a)(2)(vi) through (a)(2)(ix);

■ c. Adding a new paragraph (a)(2)(v);

■ d. Removing the newly redesignated paragraph (a)(2)(ix); and

■ e. Revising paragraph (b)(2)(i).

The revised and added text reads as follows:

52.213–4 Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items).

* * * * *

Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items) (Nov 2013)

(a) * * *

(2) * * *

(v) 52.232–39, Unenforceability of Unauthorized Obligations (Jun 2013).

* * * * *

(b) * * *

(2) * * *

(i) 52.209–6, Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (Aug 2013) (Applies to contracts over $30,000).

* * * * *

[FR Doc. 2013–28055 Filed 11–22–13; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket No. FAR 2013–0078, Sequence No. 7]

Federal Acquisition Regulation; Federal Acquisition Circular 2005–71; Small Entity Compliance Guide

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Small Entity Compliance Guide.

SUMMARY: This document is issued under the joint authority of DOD, GSA, and NASA. This *Small Entity Compliance Guide* has been prepared in accordance with section 212 of the

Small Business Regulatory Enforcement Fairness Act of 1996. It consists of a summary of the rules appearing in Federal Acquisition Circular (FAC) 2005–71, which amends the Federal Acquisition Regulation (FAR). An asterisk (*) next to a rule indicates that a regulatory flexibility analysis has been prepared. Interested parties may obtain further information regarding these rules by referring to FAC 2005–71, which precedes this document. These documents are also available via the Internet at *http://www.regulations.gov.*

DATES: November 25, 2013.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact the analyst whose name appears in the table below. Please cite FAC 2005–71 and the FAR case number. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755.

RULES LISTED IN FAC 2005–71

Item	Subject	FAR Case	Analyst
*I	Accelerated Payments to Small Business Subcontractors	2012–031	Chambers.
II	New Designated Country—Croatia	2013–019	Davis.
III	Technical Amendments.		

SUPPLEMENTARY INFORMATION: Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these FAR cases, refer to the specific item numbers and subjects set forth in the documents following these item summaries. FAC 2005–71 amends the FAR as specified below:

Item I—Accelerated Payments to Small Business Subcontractors (FAR Case 2012–031)

This final rule amends the FAR to add a new clause, Providing Accelerated Payments to Small Business Subcontractors, as part of the implementation of OMB Memorandum M–12–16, Providing Prompt Payment to Small Business Subcontractors (as extended by OMB Memorandum M–13–15, Extension of Policy to Provide Accelerated Payment to Small Business Subcontractors). This new clause requires the prime contractor, upon receipt of accelerated payments from the Government, to make accelerated payments to small business subcontractors, to the maximum extent practicable, after receipt of a proper invoice and all proper documentation from small business subcontractors. This clause will be inserted into all new solicitations issued after the effective date of this rule and resultant contracts, including solicitations and contracts for the acquisition of commercial items. This rule does not provide any new rights under the Prompt Payment Act and does not affect the application of the Prompt Payment Act late payment interest provisions. Small businesses benefit from this clause in that they should be paid more expeditiously by their prime contractor, which should improve small businesses overall cash flow.

Item II—New Designated Country—Croatia (FAR Case 2013–019)

This final rule amends the FAR to add Croatia as a new designated country under the World Trade Organization Government Procurement Agreement (WTO GPA). Croatia joined the European Union on July 1, 2013, which is a party to the WTO GPA.

Therefore, this rule adds Croatia to the list of WTO GPA countries wherever it appears in the FAR, whether as a separate definition, part of the definition of ''designated country,'' the definition of ''Recovery Act designated country,'' or as part of the list of countries exempt from the prohibition of acquisition of products produced by forced or indentured child labor. As a member of the European Union, Croatia also is a party to the Agreement on Trade in Civil Aircraft.

This final rule will not have a significant economic impact on small entities.

Item III—Technical Amendments

Editorial changes are made at FAR 31.205–6, 52.202–1, 52.212–3, 52.212–5, and 52.213–4.

Dated: November 18, 2013.

William Clark,

Acting Director, Office of Government-Wide Acquisition Policy, Office of Acquisition Policy, Office of Government-Wide Policy.

[FR Doc. 2013–28056 Filed 11–22–13; 8:45 am]

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FEDERAL REGISTER PAGES AND DATE, NOVEMBER

65515–65868 1
65869–66248 4
66249–66620 5
66621–66824 6
66825–66994 7
66995–67288 8
67289–67924 12
67925–68324 13
68325–68686 14
68687–68980 15
68981–69284 18
69285–69534 19
69535–69752 20
69753–69982 21
69983–70188 22
70189–70484 25

CFR PARTS AFFECTED DURING NOVEMBER

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

Proposed Rules:
51 ..... 69006, 69594

3 CFR

Proclamations:
9047 66605
9048 66607
9049 66609
9050 66611
9051 66613
9052 66615
9053 66617
9054 66619
9055 67287
9056 68325
9057 69533
9058 69751
9059 70189

Executive Orders:
13653 66819

Administrative Orders:
Notices:
Notice of October 30, 2013 65867
Notice of November 7, 2013 67289
Notice of November 12, 2013 68323

5 CFR

733 66825
850 68981
2641 70191

Proposed Rules:
1201 67076

6 CFR

5 69983
1001 66995
1002 66995
1003 66995

7 CFR

27 68983
271 65515
274 65515
319 69285
761 65523
762 65523
765 65523
766 65523
772 65523
948 ..... 69985, 70191
980 70191
1726 69286

Proposed Rules:
245 65890
905 67977
1211 ..... 67979, 68298
3550 65582

8 CFR

Proposed Rules:
214 69778

9 CFR

94 68327
317 66826
318 66826
320 66826
327 66826
331 66826
381 66826
412 66826
424 66826

10 CFR

95 69286
430 68331
770 67295

Proposed Rules:
2 66660
40 ..... 67224, 67225
50 68774
51 ..... 65903, 66858
55 68774
70 ..... 67224, 67225
72 ..... 67224, 67225
74 ..... 67224, 67225
150 ..... 67224, 67225
429 ..... 66202, 67319
430 66202
431 66202

12 CFR

204 66249
213 70193
226 70194
652 65541
1002 69753
1005 ..... 66251, 69753
1013 70193
1024 ..... 68343, 69753
1026 ..... 69753, 70194
1267 67004
1269 67004
1270 67004

Proposed Rules:
380 66661
702 65583
1006 67848

14 CFR

21 68687
25 ..... 67291, 68985, 68986
34 65554
39 ..... 65869, 65871, 66252, 66254, 66258, 67009, 67011, 67013, 67015, 67018, 67020, 67022, 68345, 68347, 68352, 68355, 68357, 68360, 68688, 68691, 68693, 68697, 69987, 69989, 70196, 70198, 70200,

70202, 70205, 70207, 70209, 70211, 70214, 70216
45 65554
61 66261
71 ....65554, 65555, 65556, 67024, 67292, 67293, 67294, 67295, 67296, 67297, 67298, 67299, 68699
91 68360
95 68699
97 ....68702, 68704
117 69287
121 ....67800, 69287
382 ....67882, 67918
399 67882
Proposed Rules:
Ch. I 69789
25 ....66317, 67077, 67320, 67321, 67323, 68775
39 ....66666, 66668, 66859, 66861, 69316, 69318, 69320, 69594, 69595, 69597, 69600, 69785, 70003, 70240, 70242
71 ....67324, 68777, 69787
121 67983
135 66865
1260 ....68375, 68376
1273 68375
1274 ....68375, 68376

15 CFR

30 67927
400 69288
748 69535

16 CFR

1 65557
254 68987
801 68705
1500 66840
Proposed Rules:
1115 69793

17 CFR

1 68506
3 68506
15 69178
17 69178
18 69178
20 69178
22 68506
23 66621
30 68506
140 68506
190 66621
200 67468
240 67468
249 67468
Proposed Rules:
150 68946
170 ....67078, 67985
200 66428
227 66428
232 66428
239 66428
240 66428
249 66428
300 66318

18 CFR

38 70164
284 70164

19 CFR

Proposed Rules:
351 69322

20 CFR

404 66638
416 66638
655 ....69538, 69539, 69541
Proposed Rules:
404 69324
416 70244

21 CFR

1 69543
14 69991
73 68713
123 69992
510 66263
520 66263
522 66263
558 ....66263, 69992
886 68714
1240 66841
1308 68716
Proposed Rules:
Ch. I 65588, 70248
1 ....69602, 69603, 69604
16 ....69006, 69603, 69604, 69605
20 65904
106 69604
110 69604
112 ....69006, 69605
114 69604
117 69604
120 69604
123 69604
129 69604
179 69604
211 69604
310 65904
314 ....65904, 67985
600 65904
601 67985
1308 65923

22 CFR

41 ....66814, 68992
230 66841
502 67025
Proposed Rules:
226 69802

24 CFR

50 68719
55 68719
58 68719
Proposed Rules:
214 66670

25 CFR

151 67928
Proposed Rules:
226 65589

26 CFR

1 ....66639, 68735
54 68240
Proposed Rules:
1 ....68779, 68780
300 65932

28 CFR

16 69753

29 CFR

1910 ....66641, 66642, 69543
1926 ....66641, 66642
2590 68240
4022 68739
Proposed Rules:
1904 ....67254, 68782
1910 ....65932, 69606
1926 65932
1952 ....67254, 68782

30 CFR

Proposed Rules:
75 68783
936 66671

32 CFR

319 ....69550, 69551
320 ....69289, 39291
701 69552

33 CFR

100 ....66844, 67026, 68995
110 67300
117 ....65873, 65874, 66265, 66266, 67027, 67938, 69995, 70218, 70220
141 69292
151 67027
155 67027
160 67027
165 ....65874, 66267, 66269, 67028, 68995, 70222
Proposed Rules:
97 68784
100 69007
117 ....67084, 67999, 69803
140 67326
141 67326
142 67326
143 67326
144 67326
145 67326
146 67326
147 67326
160 68784
165 ....67086, 68002
334 70005

34 CFR

Ch. III 66271
Ch. VI 69612
668 65768
674 65768
682 65768
685 65768
Proposed Rules:
200 69336
Ch. VI 66865

36 CFR

1191 67303

37 CFR

384 66276
385 67938

38 CFR

17 68364
Proposed Rules:
17 69614

39 CFR

20 69755
111 69553
3010 67951
Proposed Rules:
3050 69805

40 CFR

9 66279
19 66643
52 ....65559, 65875, 65877, 66280, 66648, 66845, 67036, 67307, 67952, 68365, 68367, 68997, 69296, 69299, 69773, 69995, 69998
81 66845
98 68162
180 ....65561, 65565, 66649, 66651, 67038, 67042, 67048, 68741, 69562
271 70225
300 ....66283, 69302, 70231
372 66848
721 ....65570, 66279
Proposed Rules:
51 69806
52 ....65590, 65593, 66320, 67090, 67327, 68005, 68377, 68378, 69337, 69625, 69812, 70007, 70248
63 ....66108, 66321
69 70248
80 69628
98 ....66674, 69337
174 70007
271 70255
300 ....66325, 69360, 70256

42 CFR

433 66852
Proposed Rules:
84 69361

44 CFR

64 ....65882, 68999, 69001, 70235
206 66852

45 CFR

146 68240
147 68240
153 66653
155 66653
156 66653
157 66653
158 66653
170 65884
Proposed Rules:
1613 65933

46 CFR

Proposed Rules:
97 68784

47 CFR

1 ....66287, 66288
22 66288
25 67309
27 ....66288, 66298, 70237
54 70238
64 67956
69 67053
73 ....66288, 67310
74 66288
Proposed Rules:
Ch. I 65601
4 69018
64 68005
73 ....68384, 69629
90 65594

48 CFR

Ch. 1 ....70476, 70482
12 70477

22 70480
25 70480
31 70481
32 70477
52 ....70477, 70480, 70481
204 69273
208 69268
212 ....69268, 69273
215 69268
225 69282
233 69268
239 69268
244 69268
252 ....69288, 69273, 69283
Proposed Rules:
1 69812
2 69812
9 69812
12 69812
22 69812
52 69812
927 66865
952 66865
970 66865

49 CFR

27 67882
172 69310
571 ....68748, 70416
575 66655
Proposed Rules:
26 68016
173 66326
174 66326
178 66326
179 66326
180 66326
572 69944

50 CFR

10 65844
17 ....68370, 69569, 70001
20 65573
21 ....65576, 65578, 65844
223 ....66140, 69310
224 66140
300 ....65887, 69002, 70002
622 ....68372, 68373
635 68757
648 ....65888, 66857
660 68764
679 ....68374, 69591, 69592
Proposed Rules:
17 ....65936, 65938, 68660, 70104
21 ....65953, 65955
100 66885
223 ....66675, 69033
224 ....66675, 69033
226 65959
242 66885
635 66327
648 ....66887, 70009
679 ....65602, 68390

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws*.

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H.R. 2747/P.L. 113–50
Streamlining Claims Processing for Federal Contractor Employees Act (Nov. 21, 2013; 127 Stat. 578)

S. 330/P.L. 113–51
HIV Organ Policy Equity Act (Nov. 21, 2013; 127 Stat. 579)

S. 893/P.L. 113–52
Veterans' Compensation Cost-of-Living Adjustment Act of 2013 (Nov. 21, 2013; 127 Stat. 582)

Last List November 15, 2013

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