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FARM CREDIT ADMINISTRATION

12 CFR Parts 602, 618, and 621

RIN 3052–AC76

Releasing Information; General Provisions; Accounting and Reporting Requirements; Reports of Accounts and Exposures

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: The Farm Credit Administration (FCA, we, or our) issues this final rule to establish a regulatory framework for the reliable, timely, accurate, and complete reporting of Farm Credit System (System) accounts and exposures for examination activities and risk evaluation. The final rule specifies the reporting requirements and performance responsibilities, including, but not limited to, establishing uniform and standard data fields to be collected from all System institutions and a disciplined and secure delivery of information. The final rule authorizes a Reporting Entity (defined as the Federal Farm Credit Banks Funding Corporation (Funding Corporation) or an entity approved by FCA), to collect data from all banks and associations and serve as the central data repository manager. Additionally, the final rule requires all banks and associations to provide data to the Reporting Entity to facilitate the collection, enhancement, and reporting of data to FCA.

DATES: *Effective Date:* This regulation will become effective 30 days after publication in the **Federal Register** during which either or both Houses of Congress are in session. We will publish a notice of effective date in the **Federal Register**.

Compliance Date: All provisions of this regulation require compliance on the effective date, except the Reporting Entity's requirements under § 621.15(b)(1) through (b)(6). We are delaying compliance with these requirements to allow for the development of and transition to the System's central data repository. We will publish the compliance date for these requirements in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT:

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Jane Virga, Senior Counsel, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TTY (703) 883–4056.

SUPPLEMENTARY INFORMATION:

I. Objectives

The objectives of this final rule are to:

- Reaffirm FCA's authority to collect data on System institution accounts and exposures for examination activities and risk evaluation;
- Require all banks and associations to provide data on accounts and exposures to the Reporting Entity, for the purposes of reporting to FCA; and
- Establish the authority for and responsibilities of the Reporting Entity to collect, store, manage, and extrapolate data on accounts and exposures for reporting to FCA.

II. Background

The Farm Credit Act of 1971, as amended (Act),[1] in pertinent part, confers authority on FCA to examine and supervise the institutions of the System and authorizes FCA to issue regulations implementing the Act's provisions.[2] Our regulations, including this final rule, are intended to ensure the safe and sound operations of System institutions. In order to meet FCA's responsibility to ensure the safety and soundness of System institutions, we must have reliable, timely, accurate, and complete information about each banks' and associations' assets and liabilities.

Section 4.12(b)(5) of the Act confirms FCA's authority to request information from a System institution for examination and supervision and the concurrent obligation of a System institution to provide FCA with access to the records of the System institution. This statute makes it clear that FCA must have access to all records of a System institution and provides that concealment or refusal to provide access to such records is the basis for the appointment of a receiver or conservator.

In addition to that statutory authority, another section of the Act provides authority to FCA to require the production of System institution records. Section 5.9(4) of the Act provides FCA the power to require such reports as it deems necessary from System institutions.[3] Additionally, section 5.22A of the Act and § 621.12(a) of FCA regulations require each System institution to prepare and file such reports of condition and performance as may be required by FCA. Further clarification is provided in § 621.12(b) of FCA regulations, which states that these reports of condition and performance must be filed four times a year and may include such additional reports as may be necessary to ensure timely, complete, and accurate monitoring and evaluation of the affairs, condition, and performance of System institutions as determined by the Chief Examiner. In addition, § 621.12(c) of FCA regulations requires all reports of condition and performance to be submitted electronically in accordance with the instructions prescribed by FCA.

For over a decade, FCA has collected detailed asset reports through loan data extracts from System institutions to facilitate examination activities and risk evaluation, and shared this data with the Farm Credit System Insurance Corporation (FCSIC) on a confidential basis subject to an interagency agreement. The need for consistent, comprehensive, and comparable data across all System institutions has evolved, as the complexity and volume of assets has increased. The availability of quality and timely data on accounts and exposures, including any loan, lease, letter of credit, derivative, or, any other asset, liability, other balance sheet account, or off-balance-sheet exposure, has become critical to efficient and effective examination activities and risk evaluation. Accordingly, we continue to

[1] Public Law 92–181, 85 Stat. 583 (1971), 12 U.S.C. 2001 *et seq.*

[2] 12 U.S.C. 2252(a)(8), (9), and (10).

[3] Further, under section 5.17(a)(11) of the Act, FCA may ''[e]xercise such incidental powers as may be necessary or appropriate to fulfill its duties and carry out the purposes of {the} Act.''

work with the System to collect more comprehensive data submissions and enhance the reporting to facilitate the evaluation of changing lending risks and conditions.

An integral component of FCA's and FCSIC's ability to quickly and accurately identify and respond to risk is the collection of data on, and identification of, shared assets. Shared assets are any account or exposure where two or more System institutions have assumed a portion of the asset's benefits or risks. On October 3, 2012, the FCA Board approved Bookletter BL–065, which describes FCA's expectations that each System institution and its board of directors establish and implement an automated mechanism to consistently identify shared asset exposures. Bookletter BL–065 continues to contain pertinent guidance for System institutions. After the central data repository is completed by the Reporting Entity, including the implementation of an automated mechanism to accurately identify the System's shared asset exposures, FCA will evaluate whether to rescind Bookletter BL–065.

In addition to other objectives, and in order to facilitate the identification of shared asset exposures and enable System risk assessment, System banks and associations are working with the Funding Corporation to create a central data repository to collect and store data from all System banks and associations, establish an automated mechanism to timely and accurately identify the System's shared asset exposures, and report Systemwide accounts and exposures on behalf of the System banks and associations to FCA. The Funding Corporation, in coordination with the banks and associations, is in the process of developing and deploying the central data repository and plans to assume the role of the Reporting Entity for the banks' and associations' reports of accounts and exposures by yearend 2014.

We believe the final rule provides a uniform system and process for the reporting of accounts and exposures. The final rule reaffirms FCA's authority to collect data from the System and communicates the authority for, and responsibilities of, the Reporting Entity to collect data on behalf of the System banks and associations for delivery to FCA. The final rule also confirms FCA's authority to share examination reports or other information on System institutions prepared or held by FCA with FCSIC, subject to appropriate security and controls.

The final rule requires the banks, associations, and Reporting Entity to establish a system of internal controls over the data. Additionally, the banks and associations must establish a data governance structure with the Reporting Entity to document the responsibilities and accountabilities for the conveyance, storage, and uses of the information stored in the central data repository. This data governance structure should establish agreement among the banks, associations, and Reporting Entity and must be in place prior to the first transfer of data to the Reporting Entity.

During the System's data repository development phase, the banks and associations will continue to prepare and submit the reports of accounts and exposures to FCA in accordance with the instructions prescribed by FCA under § 621.15(a) of this final rule. Upon satisfactory demonstration by the Reporting Entity of the ability to prepare reliable, timely, complete and accurate reporting of accounts and exposures, FCA will accept report(s) of all banks' and associations' accounts and exposures from the Reporting Entity, acting on behalf of the banks and associations. FCA will establish a delayed compliance date for the Reporting Entity's responsibilities under § 621.15(b)(1) through (b)(6) during the data repository development phase.

FCA understands that the development of the central data repository is a necessary precursor to the automated identification and reporting of shared exposures. However, FCA expects timely implementation of the System's mechanism to identify shared asset exposures as required in § 621.15(b)(3) once the data repository is complete. Since the identification of shared asset and customer exposures at the System level through an automated mechanism is not yet implemented, we will establish a delayed compliance date as previously discussed.

The System's ultimate success of implementing a process for reporting shared exposures is dependent upon the cooperation and collaboration of the banks, associations, and Reporting Entity. We also understand that identification, management, and control of shared assets will primarily rest at the bank and association level and will be reported by the banks and associations in their quarterly reports. However, the responsibility of accumulating the shared assets to the shared customer level will primarily rest with the Reporting Entity. As such, the Reporting Entity is not only a conduit to submit the banks and associations reports of accounts and exposures, but is also necessary to establish and report accurate System shared exposures. Due to this interdependency, we expect continual and thorough collaboration and cooperation to ensure the mechanism to identify shared exposures is timely, accurate and complete. The data dictionary and instructions will specify the various components of the shared asset identifiers such as the shared asset number, the shared customer number and the System customer lead. FCA will continue to collaborate with the System on the specifics for identifying shared exposures through the data dictionary and instructions published on the FCA Web site.

The final regulation requires the Reporting Entity to notify FCA immediately in writing of the following events: (1) If there is a breach of information; (2) if there is a request for data from the reports of accounts and exposures from non-System entities; or, (3) if it is unable to prepare and submit the report(s) of accounts and exposures in compliance with the regulation. Additionally, in the event of a breach of information, the Reporting Entity must provide immediate written notice of the breach to each bank and association concerned.

The Reporting Entity may request that the banks and associations appoint a replacement Reporting Entity to assume the authorities and reporting obligations of the Reporting Entity. Additionally, the banks and associations at their discretion, and with the approval of the FCA, may elect to select a replacement Reporting Entity to assume the authorities and reporting obligations of the Reporting Entity.

The proposed rule, which was published for public comment for 30 days, generated five comment letters, four of which were generally supportive. One comment letter opposed the proposed regulation in its entirety. After considering the comments, we now finalize the proposed provisions as discussed below.

III. Discussion of Comment Letters and Section-by-Section Analysis of Final Rule

The five comment letters we received came from one Farm Credit Bank (AgriBank, FCB); three System agricultural credit associations (Farm Credit East, ACA, Greenstone Farm Credit Services, ACA, and River Valley AgCredit, ACA); and the Farm Credit Council (Council) acting on behalf of its membership. These letters contained a number of constructive comments that resulted in changes to a number of provisions in the proposed rule.

General Issues

Four commenters support our efforts to set up a regulatory framework, but ask that we continue to cooperate with System institutions regarding changes to data submission requirements so that an appropriate balance remains between the need to evaluate changing lending risks and the cost of regulatory burden to the System. The concept of a central data repository has been a collaborative and cooperative approach between the System and FCA to ensure all parties' needs are adequately met and addressed. We intend to continue to collaborate and to provide the banks, associations, and Reporting Entity with ample opportunity to provide input on any anticipated changes to the data submission requirements or instructions. In our response below to comments on certain provisions of the proposed rule, we have made some changes to further clarify our intended process for changes to data submission requirements and to limit the regulatory burden on the System.

The commenter that opposed the rule in its entirety was concerned with sending confidential borrower information to the Reporting Entity. We understand and share this concern and believe we have included requirements in the regulation to address it. Specifically, the final rule requires the Reporting Entity to develop and implement an effective system of internal controls over the central data repository to ensure the confidentiality of borrower information. In addition, we expect the banks and associations to establish a data governance structure that documents agreement among the banks, associations, and Reporting Entity on the responsibilities and accountabilities for information stored in the central data repository. Finally, we also require the immediate reporting of any breach of information to FCA and each bank and association concerned.

This commenter is also concerned with the increased cost due to the regulation. We believe that the availability of quality and timely data on accounts and exposures is paramount to efficient and effective examination activities and risk evaluation, as well as the System's own risk-management practices. We believe that establishing a central data repository, including an automated mechanism to accurately identify shared asset exposures, is a prudent expense that provides both FCA and the System (including this commenter) with the ability to timely evaluate risks and conditions, and respond appropriately.

1. Authority To Promulgate the Regulation

FCA cited section 5.22A of the Act as the basis to require a System institution to submit loan data. A commenter questioned whether section 5.22A was the proper authority to promulgate this regulation. Although the commenter acknowledged FCA's inherent authority to access System institution accounts and exposure data for examination activities and support the overall process outlined in the proposed regulation, the commenter was concerned that we cited an incorrect authority for the collection of the data.

The commenter stated that the proposed rule provides a consolidated and efficient approach for submitting data from the System to FCA. However, the commenter stated that it is a ''stretch'' to call the submission of loan and other similar data at the record level a uniform financial report as contemplated in section 5.22A of the Act. The commenter asserts that financial reporting means balance sheet, income statements, and related supporting schedules, even though FCA has the authority to interpret the statute.

Section 5.22A of the Act requires System institutions to comply with FCA's uniform financial reporting instructions. Section 5.22A was cited in Bookletter BL–065, which was the genesis for the proposed regulation. The Bookletter provides FCA's expectations for System institutions to establish and implement an automated mechanism to identify and report shared asset exposures. Section 5.22A of the Act provides, in pertinent part, that each System institution shall comply with uniform financial reporting instructions required by the Farm Credit Administration to standardize and facilitate the reporting of System data.

The commenter suggests section 4.12(b)(5) of the Act as authority for the regulation. Although we continue to believe that section 5.22A of the Act authorizes the regulation, we have included section 4.12(b)(5) as additional authority. Section 4.12(b)(5) of the Act provides that the FCA Board may appoint a conservator or receiver for any System institution that does not provide FCA with access to the ''books, papers, records, or assets of the institution.

Including this additional authority source should provide the balance that the commenter desired and reassurance concerning the types of information retained by System institutions. Also, as a technical matter, we added section 5.22A of the Act as authority for this regulation. We had included a discussion of this section in the preamble to the proposed rule but inadvertently omitted it from the authority citations.

2. Notice and Comment on Instructions

The proposed regulation provides that the banks and associations submit the reports of accounts and exposures in accordance with the instructions provided by FCA. The Council recommended that the rule be revised to provide for notice and comment when FCA changes any of its instructions on the reports of accounts and exposures. The Council asserts that the Administrative Procedure Act, 5 U.S.C. 553 (APA), requires that new instructions be subject to the notice and comment requirements. Another commenter asserted that the open-ended nature of the information collection process in the instructions is inappropriate in that it lacks balance and could be burdensome. As discussed below, we believe that the APA does not require notice and comment on the instructions for the submission of the accounts and exposure data and that the instructions will be appropriate.

The APA establishes, in pertinent part, that an agency must publish a proposed rule for notice and comment. By definition, a rule is an agency statement of general or particular applicability. A rule does not include an agency's ''housekeeping provisions.''

We do not believe that the instructions for the submission of accounts and exposures data are a regulation. The instructions are not an agency statement of general or particular applicability. Rather, we believe that the instructions are procedural on their face and do not change substantive standards for the submission of the data by the System institutions. The instructions do not alter the rights or interests of the System institutions, although the instructions may alter the information and how it is provided to FCA. A procedural rule does not become a substantive one for notice and comment purposes simply because it arguably imposes a ''burden'' on the System.

We do, however, intend to continue to engage in comprehensive collaboration and communication with the banks, associations, and Reporting Entity. We will provide all parties with sufficient time to review any proposed changes to the data dictionary and instructions and respond to us with any concerns, including the appropriateness of the data requirements and any burden.

In the future, FCA may amend the instructions, including the data dictionary, as the System and FCA continue to assess data needs. FCA intends to initiate an annual

collaborative review of the data dictionary and corresponding instructions and provide any details on recommended changes to all parties in order to receive their comments and input prior to initiating any changes. This will ensure the System has the opportunity to provide adequate input to changes in the data submission requirements and in developing instructions on System data collection and storage. FCA plans to inform System institutions of proposed changes to the instructions and allow System institutions ample time to respond to any changes on the content of information to be provided or on the appropriate method of delivering information to the Reporting Entity or FCA. We believe that this process provides adequate balance to ensure that the information collected is appropriate for examination activities and risk analysis. However, exigent circumstances could mandate more frequent changes to the instructions, with or without System input.

The process we have discussed is consistent with the existing process for issuing instructions for providing ''Uniform Call Reports.'' We continue to believe, as first stated in Bookletter BL–065 that ''[c]ollaboration by the System will improve the mechanisms and disciplines necessary to effectively assess and report shared-asset risks in a timely, complete and accurate manner.'' We have confidence that this approach balances the needs of FCA to collect uniform and standardized data for examination and risk analysis with the needs of System institutions to collect the data needed and used for business or risk management purposes. Additionally, to clarify an additional comment on this topic, FCA's instructions on the data submission requirements apply uniformly to all banks and associations.

3. Effective Date

Several of the commenters requested that we carefully consider the effective date of this regulation to ensure the System institutions have sufficient time to comply with the requirements. This regulation will become effective 30 days after publication in the **Federal Register** during which either or both Houses of Congress are in session. FCA will establish a delayed compliance date for the Reporting Entity's requirements under § 621.15(b)(1) through (b)(6) of the rule to allow for the development of and transition to the System's central data repository. Accordingly, the compliance date for § 621.15(b)(1) through (b)(6) requirements will be published separately in the **Federal Register**. All other sections and requirements of the regulation require compliance on the effective date of the regulation.

As discussed in the preamble, we expect the banks and associations to continue preparing and submitting the reports of accounts and exposures to FCA under the current established data dictionary and instructions prescribed by FCA. This current submission of data will continue until such time as the Reporting Entity completes the development and implementation of the central data repository and satisfactorily demonstrates the ability to prepare and deliver to FCA reliable, timely, complete and accurate reporting of accounts and exposures, including the identification of shared asset exposures. When this occurs, FCA will accept report(s) of all banks' and associations' accounts and exposures from the Reporting Entity, acting on behalf of the banks and associations. FCA understands that the identification of shared asset and customer exposures at the System level is not yet implemented and therefore, as stated previously, a delayed compliance date will be established for these requirements of the rule.

Specific Issues

1. Sharing Data on Third-Party Systems or With Contractors [new § 602.2(c)]

The proposed rule would establish a confidentiality and data security agreement requirement between FCA and FCSIC when accounts and exposures data is shared between the two agencies.[4]

The Council and another commenter stated they were extremely concerned over: (1) The security of FCA or FCSIC storing accounts and exposures data on third-party systems; and (2) FCSIC providing the data to third-party contractors or vendors. They recommended we update the regulatory language to ensure that FCSIC cannot release the data to a vendor or any other third party and that the data must remain on FCA or FCSIC systems at all times.

We understand and share the commenters' concerns with data security. However, we believe that the § 602.2(c) requirement for a confidentiality and data security agreement between FCA and FCSIC adequately ensures the integrity, confidentiality, and security of the data. Safeguarding borrower information is of paramount importance to the System and FCA.

As to the comment concerning providing access to contractors, the interagency agreement between FCA and FCSIC governs and protects borrower data in any form and includes restrictions on sharing the data with contractors. These safeguards are appropriate for this type of data and provide FCA and FCISC the necessary access to the information while protecting it from unauthorized access and use. We also note that pursuant to Federal statute, FCA does not waive any privilege by sharing information with FCSIC. *See* 12 U.S.C. 1821(t).

2. Bank and Association Certification Requirement [new § 621.15(a)(2)]

The proposed rule would require each bank and association to provide a written certification that the data submitted ''has been prepared in accordance with all applicable regulations and instructions, and is a true and accurate record of the data maintained in the bank's or association's database, to the best of its knowledge and belief.''

The Council and other commenters suggested revising the certification requirement of the banks and associations to avoid the possible interpretation that FCA is prescribing what data a System institution maintains in its database. The Council asked for clarification that the term ''complete'' apply only to data that a bank and association has available electronically. In addition, one commenter stated that they are unable to certify that all of the actual information in their records, regarding any particular borrower, is fully accurate at any point in time because it is borrower provided.

In order to address these concerns, we have modified the language in the final rule as requested to require that System institutions certify that their submissions are a ''true and accurate record of the data maintained by the bank or association, to the best of its knowledge and belief.'' Furthermore, we intended that each bank's and association's certification apply to the data submitted in its report(s) of

[4] Section 5.59(a)(5) of the Act provides that FCSIC, to the extent practicable, shall use the personnel and resources of FCA to minimize duplication of effort and to reduce costs. Under section 5.59(b), if the FCSIC Board considers it necessary to examine an insured System bank or a System association or any System institution in receivership, it may use FCA examiners to conduct the examination using reports and other information on the System institution prepared or held by FCA. If the FCSIC Board determines that such reports or information are not adequate to enable FCSIC to carry out the duties of FCSIC under section 5.59(b), it may request FCA to examine or to obtain other information from or about the System institution and provide FCSIC the resulting examination report or such other information. *See also* section 5.19(d) of the Act.

accounts and exposures and available in its databases.

3. Reporting Entity Certification Requirement [new § 621.15(b)(4)]

The proposed rule provides, in pertinent part, that the Reporting Entity must certify ''that the information provided in the report of each bank's and association's accounts and exposures has been prepared in accordance with all applicable regulations and instructions and accurately represents the information provided to it by the banks and associations.''

The Council suggested revising the Reporting Entity's certification requirement. It believes the certification by the banks and associations is sufficient to ensure that the information in the report complies with the instructions.

While we agree that the Reporting Entity does not need to certify that the banks and associations have complied with the instructions, the Reporting Entity is responsible for certifying its compliance with the instructions, particularly as they relate to the establishment and implementation of an automated mechanism to identify shared asset exposures. To address these comments, we have modified the language in the final rule to clarify that the Reporting Entity needs to certify that the report accurately represents the information provided to it by the banks and associations and that the Reporting Entity has complied with the requirements of § 621.15(b).

4. Reporting Entity Notification if Unable To Prepare and Submit Report [new § 621.15(b)(6)]

The proposed rule provides, in pertinent part, that the Reporting Entity must ''[n]otify the Farm Credit Administration if it is unable to prepare and submit the quarterly report of accounts and exposures in compliance with the requirements of this section.''

The Council requests that this provision be deleted. It believes that it is inappropriate to require the Reporting Entity to notify FCA when an individual institution fails to comply with the data submission requirements.

FCA did not intend to hold the Reporting Entity responsible for notifying FCA of institution compliance or noncompliance with reporting responsibilities. Rather, FCA wants to be notified if the Reporting Entity is unable to submit the quarterly report to FCA for any reason, such as technical difficulties or if the accounts and exposures report to FCA from the Reporting Entity does not contain all banks' and associations' reports. In order to address the Council's concern, we have modified the language in the final rule to clarify that the Reporting Entity needs to notify FCA if it is unable to submit the quarterly report in compliance with the Reporting Entity's responsibilities as set forth in § 621.15(b)(1) through (b)(3).

5. Information Breach [new § 621.15(b)(7)]

The proposed rule provides, in pertinent part, that the Reporting Entity would be required to immediately notify FCA and each concerned bank and association if there is a breach of information. Each bank and association would then determine whether any notice of the breach to any of its borrowers was required under applicable laws and regulations. The bank and association would be responsible for providing such notification to its borrowers. We defined ''breach of information'' to mean ''unauthorized acquisition of or access to the central data repository, any quarterly reports of accounts and exposures or any other information received pursuant to § 621.15(a)(1).''

Commenters raised several issues regarding these proposed requirements. They were concerned with the Reporting Entity providing written notice ''immediately'' to FCA and each bank and association concerned, if there is an information breach. Commenters asked that the term ''immediately'' be revised to allow a greater time to report, such as 3 business days. Also, commenters requested that we delete the language in § 621.15(b)(7)(ii) that the concerned bank and association determine whether any notice of the breach to any of its borrowers is required under applicable laws and regulations and, if so, that they are responsible for providing such notification. Commenters believe the language is not needed because the banks and associations are already required to comply with applicable laws and regulations. The commenters also requested that FCA clarify that the definition of ''breach'' refers only to situations in which data has been actually accessed by an unauthorized person.

FCA does not believe it appropriate to allow more time to report a security breach. FCA continues to believe that the report must be made ''immediately'' because the extreme sensitivity of the data maintained in the central data repository makes it urgent to communicate an information breach. The term ''immediately'' in this context means without delay or at once. As to the deletion of the language in § 621.15(b)(7)(ii), we agree with the comment and have not included the specific language in this provision of the final rule. As noted in the proposed rule, the Reporting Entity is only responsible for notifying FCA and the bank and association concerned of any information breach. The bank or association concerned must comply with applicable laws and regulations regarding information security and should consider and follow best practices.

Finally, in order to address the concern about the definition of ''breach,'' we have modified § 621.15(b)(7)(iii). In doing so, we do not believe ''breach'' should be limited to the occasion where data has actually been accessed by an unauthorized person. Instead, the modified definition is intended to capture attempts by unauthorized persons to access data and unauthorized possession of data.

IV. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), FCA hereby certifies that the final rule would not have a significant economic impact on a substantial number of small entities. Each of the banks in the Farm Credit System, considered together with its affiliated associations, has assets and annual income in excess of the amounts that would qualify them as small entities. Therefore, Farm Credit System institutions are not ''small entities'' as defined in the Regulatory Flexibility Act.

List of Subjects

12 CFR Part 602

Courts, Freedom of information, Government employees.

12 CFR Part 618

Agriculture, Archives and records, Banks, banking, Insurance, Reporting and recordkeeping requirements, Rural areas, Technical assistance.

12 CFR Part 621

Accounting, Agriculture, Banks, banking, Penalties, Reporting and recordkeeping requirements, Rural areas.

For the reasons stated in the preamble, parts 602, 618 and 621 of chapter VI, title 12 of the Code of Federal Regulations, are amended as follows:

PART 602—RELEASING INFORMATION

■ 1. The authority citation for part 602 is revised to read as follows:

Authority: Secs. 5.9, 5.17, 5.59 of the Farm Credit Act (12 U.S.C. 2243, 2252, 2277a-8); 5 U.S.C 301, 552; 12 U.S.C. 1821(t); 52 FR 10012; E.O. 12600; 52 FR 23781, 3 CFR 1987, p. 235.

■ 2. Section 602.2 is amended by:
■ a. Revising the heading;
■ b. Redesignating existing paragraph (c) as paragraph (d); and
■ c. Adding new paragraph (c) to read as follows:

§ 602.2 Disclosing reports of examination and other non-public information.

* * * * *

(c) *Disclosure to the Farm Credit System Insurance Corporation.* Without waiving any privilege or limiting any of the requirements of section 5.59 of the Farm Credit Act of 1971, as amended, we may disclose reports of examination and other examination and non-public information, including data from reports of System accounts and exposures received pursuant to § 621.15 of this chapter, to the Farm Credit System Insurance Corporation pursuant to confidentiality and data security agreements executed between the agencies.

* * * * *

PART 618—GENERAL PROVISIONS

■ 3. The authority citation for part 618 continues to read as follows:

Authority: Secs. 1.5, 1.11, 1.12, 2.2, 2.4, 2.5, 2.12, 3.1, 3.7, 4.12, 4.13A, 4.25, 4.29, 5.9, 5.10, 5.17, of the Farm Credit Act (12 U.S.C. 2013, 2019, 2020, 2073, 2075, 2076, 2093, 2122, 2128, 2183, 2200, 2211, 2218, 2243, 2244, 2252.

§ 618.8300 [Amended]

■ 4. Section 618.8300 is amended by removing the words ''as authorized in the following paragraphs'' and adding in their place, the words ''as authorized by Farm Credit Administration regulations (§§ 618.8300 through 618.8330)''.

■ 5. Section 618.8310 is amended by adding a new paragraph (c) to read as follows:

§ 618.8310 Lists of borrowers and stockholders.

* * * * *

(c) In connection with preparing and submitting an electronic report of all System accounts and exposures to the Farm Credit Administration in accordance with the requirements of § 621.15 of this chapter, each bank and association may provide information from its lists of borrowers and stockholders to the Reporting Entity as defined in § 621.2 of this chapter.

■ 6. Section 618.8320 is amended by adding a new paragraph (b)(10) to read as follows:

§ 618.8320 Data regarding borrowers and loan applicants.

* * * * *

(b) * * *

(10) In connection with preparing and submitting an electronic report of all System accounts and exposures to the Farm Credit Administration in accordance with the requirements of § 621.15 of this chapter, each bank and association may provide data on its accounts and exposures to the Reporting Entity as defined in § 621.2 of this chapter.

* * * * *

PART 621—ACCOUNTING AND REPORTING REQUIREMENTS

■ 7. The authority citation for part 621 is revised to read as follows:

Authority: Secs. 4.12(b)(5), 5.17, 5.22A, 8.11 of the Farm Credit Act (12 U.S.C. 2183, 2252, 2257a, 2279aa-11); sec. 514 of Pub. L. 102–552.

■ 8. Section 621.2 is amended by:
■ a. Redesignating paragraph (a) as paragraph (b), paragraph (b) as paragraph (d), and paragraphs (c) through (i) as paragraphs (f) through (l), respectively; and
■ b. Adding new paragraphs (a), (c), (e), (m) and (n) to read as follows:

§ 621.2 Definitions.

(a) *Accounts and exposures* means data related to any loan, lease, letter of credit, derivative, or, any other asset, liability, other balance sheet account, or off-balance-sheet exposure of a System institution.

* * * * *

(c) *Banks and associations* mean all Farm Credit Banks, Agricultural credit banks, and associations.

* * * * *

(e) *Central data repository* means a central data warehouse that electronically collects and stores current and historical data and is created by integrating data from one or more disparate sources.

* * * * *

(m) *Reporting entity* means the Federal Farm Credit Banks Funding Corporation, or other entity approved by the Farm Credit Administration.

(n) *Shared asset* means any account or exposure where two or more Farm Credit institutions have assumed a portion of the asset's benefits or risks. An institution's share in the asset may be established through means such as syndications, participation agreements, assignments, or other arrangements with System entities.

■ 9. Revise the heading of subpart D to read as follows:

Subpart D—Reports of Condition and Performance and Accounts and Exposures

■ 10. Section 621.12 is amended by revising the heading to read as follows:

§ 621.12 Reports of condition and performance.

* * * * *

■ 11. Add a new § 621.15 to subpart D to read as follows:

§ 621.15 Reports of accounts and exposures.

(a) *Responsibilities of banks and associations for preparing and submitting reports.* The banks and associations must prepare and submit an accurate and complete report of all bank and association accounts and exposures electronically to the Farm Credit Administration pursuant to the requirements of this part. In order to accomplish such submission, each bank and association must:

(1) Prepare and submit an accurate and complete report of its accounts and exposures electronically to the Reporting Entity:

(i) In accordance with the instructions prescribed by the Farm Credit Administration, or as may be required by the Farm Credit Administration; and

(ii) Within 20 calendar days after each quarter-end date, and at such other times as the Farm Credit Administration may require.

(2) Submit to the Farm Credit Administration and the Reporting Entity a written certification that the information provided in the report of accounts and exposures has been prepared in accordance with all applicable regulations and instructions, and is a true and accurate record of the data maintained by the bank or association, to the best of its knowledge and belief. The reports shall be certified by the officer of the reporting bank or association named for that purpose by action of the reporting bank's or association's board of directors. If the board of directors of the bank or association has not acted to name an officer to certify to the accuracy of its reports of accounts and exposures, then the reports shall be certified by the president or chief executive officer of the reporting bank or association. In the event the bank or association learns of

a material error or misstatement in the information submitted to the Reporting Entity, it must notify the Reporting Entity and the Farm Credit Administration immediately of the error or misstatement and prepare and submit corrected information as soon as practicable.

(3) Respond promptly to any questions by the Reporting Entity related to information provided under this section in connection with the preparation of a report of accounts and exposures, including any data required to establish, implement and maintain consistent, accurate, and complete shared asset identification and reporting of shared asset exposures to the Farm Credit Administration.

(4) Develop, implement, and maintain an effective system of internal controls over the data included in the report of accounts and exposures, including controls for maintaining the confidentiality of borrower information. The system of internal controls, at a minimum, must comply with the requirements of applicable Farm Credit Administration regulations, including § 618.8430 of this chapter.

(b) *Responsibilities of the Reporting Entity for preparing and submitting reports.* The Reporting Entity must:

(1) Collect, store, and manage the information submitted to it by each bank and association under the requirements of this section in a central data repository in accordance with Farm Credit Administration regulations and prescribed instructions.

(2) Prepare and submit an electronic quarterly report of the accounts and exposures of all banks and associations to the Farm Credit Administration in accordance with the instructions prescribed by the Farm Credit Administration or as may be required by the Farm Credit Administration.

(3) Establish, implement, and maintain an automated mechanism to ensure the reliable, timely, accurate and consistent identification of the banks' and associations' shared asset exposures, and report these exposures and the shared asset identifiers in the electronic quarterly report of accounts and exposures to the Farm Credit Administration. In connection with establishing and implementing the automated shared asset identification mechanism, the Reporting Entity may provide the banks and associations information from the central data repository to identify and report shared asset exposures.

(4) Submit to the Farm Credit Administration a written certification that the information provided to the Farm Credit Administration in the report of accounts and exposures of all banks and associations accurately represents the information provided to it by the banks and associations and that the Reporting Entity has complied with the requirements of § 621.15(b). The reports shall be certified by the president or chief executive officer of the Reporting Entity. In the event the Reporting Entity learns of a material error or misstatement in the information submitted to the Farm Credit Administration, it must notify the Farm Credit Administration immediately of the error or misstatement and prepare and submit corrected information as soon as practicable.

(5) Develop, implement, and maintain an effective system of internal controls over the central data repository, including controls for maintaining the confidentiality of borrower information. The system of internal controls, at a minimum, must comply with the requirements of applicable Farm Credit Administration regulations, including § 618.8430 of this chapter and require that the Reporting Entity:

(i) Develop policies and procedures to ensure that the information submitted in the report of accounts and exposures to the Farm Credit Administration is complete and consistent with the information submitted to the Reporting Entity from the banks and associations under § 621.15(a); and

(ii) Specify procedures for monitoring any material corrections or adjustments, in a timely manner, and provide timely notification and resubmission of the report of accounts and exposures to the Farm Credit Administration.

(6) Notify the Farm Credit Administration if it is unable to prepare and submit the quarterly report of accounts and exposures in compliance with the requirements of § 621.15(b)(1) through (b)(3). The notification:

(i) Must be signed by the chief executive officer, or person in an equivalent position, and submitted to the Farm Credit Administration as soon as the Reporting Entity becomes aware of its inability to comply;

(ii) Must explain the reasons for its inability to prepare and submit the report; and

(iii) May include a request that the Farm Credit Administration extend the due date for the quarterly report of accounts and exposures.

(7) In the event there is a breach of information, immediately provide written notice of the breach to:

(i) The Farm Credit Administration; and

(ii) Each bank and association concerned;

(iii) For the purposes of this section, ''breach of information'' means any actual or attempted unauthorized access, possession, use, disclosure, disruption, modification, or destruction of information in the central data repository, any reports of accounts and exposures, or any other information received pursuant to § 621.15(a)(1).

(8) Notify the Farm Credit Administration in writing of any request for data contained in the reports of accounts and exposures that are not explicitly allowed for in § 618.8320(b) of this chapter.

Dated: December 18, 2013.

Dale L. Aultman,

Secretary, Farm Credit Administration Board.

[FR Doc. 2013–30717 Filed 12–23–13; 8:45 am]

BILLING CODE 6705–01–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 700, 701, and 704

RIN 3133–AE33

Technical Amendments

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The NCUA Board (Board) is making technical amendments to NCUA's regulations regarding the rating system for corporate credit unions. The technical amendments conform the regulations to a recent policy change adopted by the Board. Specifically, the policy change eliminates the use of the Corporate Risk Information System (CRIS) for corporate credit unions and replaces it with the CAMEL rating system. The technical amendments merely update the regulations to reflect the conversion from the CRIS to the CAMEL rating system for corporate credit unions.

DATES: The final rule is effective on January 1, 2014.

FOR FURTHER INFORMATION CONTACT: Lisa Henderson, Staff Attorney, Office of General Counsel, at 1775 Duke Street, Alexandria, VA 22314 or telephone: (703) 518–6540.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose of the Final Rule
II. Regulatory Procedures

I. Background and Purpose of the Final Rule

Why is the NCUA Board issuing this rule?

In September 2013, the Board adopted a policy change which converted the

rating system for corporate credit unions from CRIS to CAMEL. The Board made this change to: (1) Improve rating comparability, as CAMEL is the standard rating system for natural person credit unions and banks; (2) reduce complexity in managing two different rating systems; (3) provide a uniform rating system to promote greater consistency in rating assignments; and (4) facilitate governance, as corporate credit union directors are familiar with CAMEL at their own natural person credit unions. The Board is now amending §§ 700.2, 701.14, and 704.4,[1] which still reference the former CRIS rating system, to update them to reflect the current CAMEL rating system.

III. Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact a rule may have on a substantial number of small entities (primarily those under $50 million in assets). NCUA certifies that these technical amendments will not have a significant economic impact on a substantial number of small credit unions.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) applies to rulemakings in which an agency by rule creates a new paperwork burden on regulated entities or modifies an existing burden.[2] For purposes of the PRA, a paperwork burden may take the form of either a reporting or a recordkeeping requirement, both referred to as information collections. NCUA has determined that the technical amendments in this final rule do not increase the paperwork requirements under PRA or regulations of the Office of Management and Budget.

Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order to adhere to fundamental federalism principles. This final rule 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. NCUA has determined that this final rule does not constitute a policy that has federalism implications for purposes of the executive order.

Assessment of Federal Regulations and Policies on Families

NCUA has determined that this final rule will not affect family well-being within the meaning of Section 654 of the Treasury and General Government Appropriations Act, 1999.[3]

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996[4] (SBREFA) provides generally for congressional review of agency rules. A reporting requirement is triggered in instances where NCUA issues a final rule as defined by Section 551 of the Administrative Procedure Act.[5] NCUA has submitted this rule to the Office of Management and Budget for it to determine if the final rule is a ''major rule'' for purposes of SBREFA. NCUA does not believe the rule is major.

Final Rule

Generally, the Administrative Procedure Act (APA) requires a federal agency to provide the public with notice and the opportunity to comment on agency rulemakings. The amendments in this rule are non-substantive and technical. They make minor revisions to reflect the conversion to the CAMEL rating system for corporate credit unions. The APA permits an agency to forego the notice and comment period under certain circumstances, such as when a rulemaking is technical and non-substantive. NCUA finds that, in this instance, notice and public comment are unnecessary under section 553(b)(3)(B) of the APA.[6] NCUA also finds good cause to dispense with the 30-day delayed effective date requirement under section 553(d)(3) of the APA.[7] The rule, therefore, will be effective January 1, 2014.

List of Subjects

12 CFR Part 700

Credit unions.

12 CFR Part 701

Credit unions, Reporting and recordkeeping requirements.

12 CFR Part 704

Corporate credit unions, Credit unions, Investments, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on December 12, 2013.

Gerard Poliquin,

Secretary of the Board.

For the reasons discussed above, the NCUA Board amends 12 CFR parts 700, 701, and 704 as follows:

PART 700—DEFINITIONS

■ 1. The authority citation for part 700 continues to read as follows:

Authority: 12 U.S.C. 1752, 1757(6), 1766.

■ 2. Amend § 700.2 by revising paragraph (2) of the definition of ''Troubled Condition'' to read as follows:

§ 700.2 Definitions.

* * * * *

Troubled condition means:

* * * * *

(2) In the case of an insured corporate credit union:

(i) A Federal credit union that has been assigned a 4 or 5 CAMEL rating by NCUA; or

(ii) A federally insured, state-chartered credit union that has been assigned a 4 or 5 CAMEL rating by either NCUA, after an on-site contact, or its state supervisor; or

(iii) A Federal credit union or a federally insured, state-chartered credit union that has been granted assistance under section 208 of the Federal Credit Union Act, 12 U.S.C 1788, that remains outstanding and unextinguished.

* * * * *

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

■ 3. The authority citation for part 701 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1758, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1786, 1787, 1789. Section 701.6 is also authorized by 15 U.S.C. 3717. Section 701.31 is also authorized by 15 U.S.C. 1601 et seq.; 42 U.S.C. 1981 and 3601–3610. Section 701.35 is also authorized by 42 U.S.C. 4311–4312.

■ 4. Revise § 701.14(b)(4) to read as follows:

§ 701.14 Change in official or senior executive officer in credit unions that are newly chartered or are in troubled condition.

* * * * *

(b) * * *

(4) In the case of an insured corporate credit union, *Troubled condition* means:

[1] 12 CFR 700.2, 701.14, and 704.4.

[2] 44 U.S.C. 3507(d); 5 CFR part 1320.

[3] Public Law 105–277, 112 Stat. 2681 (1998).

[4] Public Law 104–121, 110 Stat. 857 (1996).

[5] 5 U.S.C. 551.

[6] 5 U.S.C. 553(b)(3)(B).

[7] 5 U.S.C. 553(d)(3).

(i) A Federal credit union that has been assigned a 4 or 5 CAMEL rating by NCUA; or

(ii) A federally insured, state-chartered credit union that has been assigned a 4 or 5 CAMEL rating by either NCUA, after an on-site contact, or its state supervisor; or

(iii) A Federal credit union or a federally insured, state-chartered credit union that has been granted assistance under section 208 of the Federal Credit Union Act, 12 U.S.C. 1788, that remains outstanding and unextinguished.

* * * * *

PART 704—CORPORATE CREDIT UNIONS

■ 5. The authority citation for part 704 continues to read as follows:

Authority: 12 U.S.C. 1766(a), 1781, 1789.

■ 6. Revise § 704.4(d)(3)(ii) to read as follows:

§ 704.4 Prompt corrective action.

* * * * *

(ii) Unsafe or unsound practice. NCUA has determined, after notice and an opportunity for hearing pursuant to paragraph (h)(1) of this section, that the corporate credit union received a less-than-satisfactory CAMEL rating (*i.e.,* three or lower) for any rating category (other than in a rating category specifically addressing capital adequacy) and has not corrected the conditions that served as the basis for the less than satisfactory rating. Ratings under this paragraph (d)(3)(ii) refer to the most recent ratings (as determined either on-site or off-site by the most recent examination) of which the corporate credit union has been notified in writing.

* * * * *

[FR Doc. 2013–30557 Filed 12–23–13; 8:45 am]

BILLING CODE 7535–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0604; Directorate Identifier 2012–SW–110–AD; Amendment 39–17705; AD 2013–25–09]

RIN 2120–AA64

Airworthiness Directives; AgustaWestland S.p.A. (Type Certificate Previously Held by Agusta S.p.A.) Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain AgustaWestland S.p.A. (Agusta) Model AB139 and AW139 helicopters. This AD requires inspecting the nose landing gear (NLG) pin installations for incorrect assembly. This AD is prompted by reports of incorrectly installed pins discovered on in-service aircraft. These actions are intended to detect incorrectly installed pins, which could result in collapse of the NLG during taxi or landing.

DATES: This AD is effective January 28, 2014.

The Director of the Federal Register approved the incorporation by reference of a certain document listed in this AD as of January 28, 2014.

ADDRESSES: For service information identified in this AD, contact Agusta Westland, Customer Support & Services, Via Per Tornavento 15, 21019 Somma Lombardo (VA) Italy, ATTN: Giovanni Cecchelli; telephone 39–0331–711133; fax 39 0331 711180; or at *http://www.agustawestland.com/technical-bullettins.* 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: Robert Grant, Aviation Safety Engineer, Safety Management Group, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone 817–222–5328; email *robert.grant@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

On July 12, 2013, at 78 FR 41888, the **Federal Register** published our notice of proposed rulemaking (NPRM), which proposed to amend 14 CFR part 39 to add an AD that would apply to certain serial-numbered AgustaWestland S.p.A. (Agusta) Model AB139 and AW139 helicopters with an NLG pin part number 1661–0001 installed. The NPRM proposed to require, within 50 hours time in service (TIS), inspecting the pin installations in the left and right arms for correct installation of the pin, bolts, washers, and nuts.

- If the installation is not correct, the NPRM proposed to require:
  - Inspecting the bolt and nut for corrosion and removing the bolt and nut from service if there is corrosion.
  - Inspecting the pin for corrosion, a crack, and damage, removing the corrosion and measuring the pin diameter if there is any corrosion, and removing the pin from service if the pin diameter is less than 25.36 mm (.998 in) or if there is a crack in the pin.
  - Dye penetrant inspecting the pin flange for surface cracks and removing the pin from service if there is a surface crack.
- If the installation is correct, the NPRM proposed to require inspecting the bolt head and nut for corrosion and removing the bolt or nut from service if there is any corrosion.

The proposed requirements were intended to detect incorrectly installed pins, which could result in collapse of the NLG during taxi or landing.

The NPRM was prompted by AD No. 2012–0262, dated December 14, 2012, issued by the European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, to correct an unsafe condition for the Agusta Model AB139 and AW139 helicopters. EASA advises that incorrectly installed NLG pins, part number 1661–0001, were discovered on several aircraft. Incorrectly installed pins create a pre-stress condition on the pin flange. According to EASA, a subsequent technical investigation by Agusta concluded that the incorrect installation could be present on a number of other helicopters. EASA states that this condition could lead to NLG structural failure and consequent collapse during landing or taxi, resulting in damage to the helicopter and injury to the occupants. EASA AD 2012–0262 requires inspecting the NLG pin installation on both the left and right arms to determine if the pin, washers, and nuts are correctly installed and, depending on findings, inspecting the bolts, nuts, and pins for corrosion, and also inspecting the pins for surface cracks, and correctly installing the pins.

Comments

We gave the public the opportunity to participate in developing this AD, but we did not receive any comments on the NPRM (78 FR 41888, July 12, 2013).

FAA's Determination

These helicopters have been approved by the aviation authority of Italy and are approved for operation in the United States. Pursuant to our bilateral agreement with Italy, 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

The EASA AD requires compliance within 50 flight hours or 1 month, while this proposed AD requires compliance within 50 hours TIS.

Related Service Information

Agusta has issued Bollettino Tecnico No. 139–306, dated December 12, 2012 (BT 139–306), for Model AB139 and AW139 helicopters. BT 139–306 describes procedures to inspect for correct installation of the bolts, nuts, washers, and pins, inspecting the bolt head and nut for corrosion, and inspecting the pins for surface cracks.

Costs of Compliance

We estimate that this AD affects 102 helicopters of U.S. Registry. We estimate that operators may incur the following costs in order to comply with this AD. At an average labor rate of $85 per hour, inspecting the nose landing gear arm pins will require about 1 work hour, for a cost per helicopter of $85 and a total cost to U.S. operators of $8,670. If required, replacing a pin will require about 1 work hour, and required parts cost $1,680, for a cost per helicopter of $1,765. The cost to replace a bolt or nut is minimal.

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):

2013–25–09 AGUSTAWESTLAND S.P.A. (TYPE CERTIFICATE FORMERLY HELD BY AGUSTA S.P.A.) HELICOPTERS: Amendment 39–17705; Docket No. FAA–2013–0604; Directorate Identifier 2012–SW–110–AD

(a) Applicability

This AD applies to AgustaWestland S.p.A. (Agusta) Model AB139 and AW139 helicopters, serial number 31005, 31006, 31008 through 31157, 31201 through 31398, 31400 through 31412, 31414, 31416, 31418, 31419, 31421, 31425, 31426, 31428, 31432, 31440, 41001 through 41023, 41201 through 41275, 41277 through 41286, 41288, 41293, 41300, 41301, 41303, 41307, 41308, and 41310, with a nose landing gear (NLG) pin part number 1661–0001 installed, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as an incorrect installation of an NLG pin, which could result in collapse of the NLG during taxi or landing.

(c) Effective Date

This AD becomes effective January 28, 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

Within 50 hours time-in-service:

(1) Inspect the NLG pin installations on the left and right arms to determine whether the bolt (item 2), washer (item 3) under the bolt head, washer (item 4) between the NLG arm and pin, pin (item 5), washer (item 6) under the nut, nut (item 7), and cotter pin (item 8) are installed as depicted in Figure 1 of Agusta Bollettino Tecnico (BT) No. 139–306, dated December 12, 2012 (BT 139–306).

(2) If any part is not installed as depicted in Figure 1 of BT 139–306, before further flight, disassemble items 2 through 8 and accomplish the following:

(i) Inspect each bolt and nut for corrosion. If there is any corrosion on a bolt or nut, remove the bolt and nut from service.

(ii) Inspect each pin for corrosion and damage. If there is any corrosion or damage:

(A) Remove the corrosion and damage with an abrasive stone or glass fiber brush.

(B) Measure the pin diameter. If the pin diameter is less than 25.36 mm (0.998 inch), remove the pin from service.

(iii) Inspect each pin for a crack. If there is a crack, remove the pin from service.

(iv) Dye penetrant inspect the pin flange for a crack. If there is a crack, remove the pin from service.

(3) If items 2 through 8 are installed as depicted in Figure 1 of BT 139–306, inspect each bolt head and nut for corrosion. If there is any corrosion on a bolt head or nut, before further flight, remove the bolt or nut from service.

(f) Special Flight Permits

Special flight permits are prohibited.

(g) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Group, FAA, may approve AMOCs for this AD. Send your proposal to: Robert Grant, Aviation Safety Engineer, Safety Management Group, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone 817–222–5328; email *robert.grant@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

(1) The Aircraft Maintenance Plan, DM No. 39–A–60–40–00–01A–351A–D, which is not incorporated by reference, contains additional information about the subject of this AD. For service information identified in this AD, contact Agusta Westland, Customer Support & Services, Via Per Tornavento 15, 21019 Somma Lombardo (VA) Italy, ATTN: Giovanni Cecchelli; telephone 39–0331–711133; fax 39 0331 711180; or at *http://www.agustawestland.com/technical-bullettins.* 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 AD No. 2012–0262, dated December 14, 2012, which you may view in the AD Docket on the internet at *http://www.regulations.gov* in Docket No. 2013–0604.

(i) Subject

Joint Aircraft Service Component (JASC) Code: 3221: Nose Landing Gear Attach Section.

(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) Agusta Bollettino Tecnico (BT) No. 139–306, dated December 12, 2012.

(ii) Reserved.

(3) For Agusta service information identified in this AD, contact Agusta Westland, Customer Support & Services, Via Per Tornavento 15, 21019 Somma Lombardo (VA) Italy, ATTN: Giovanni Cecchelli; telephone 39–0331–711133; fax 39 0331 711180; or at *http://www.agustawestland.com/technical-bullettins.*

(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 December 5, 2013.

Kim Smith,

Directorate Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2013–30187 Filed 12–23–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0661; Directorate Identifier 2013–CE–009–AD; Amendment 39–17693; AD 2013–24–16]

RIN 2120–AA64

Airworthiness Directives; Schempp-Hirth Flugzeugbau GmbH Gliders

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for Schempp-Hirth Flugzeugbau GmbH Model Duo Discus T gliders. This AD results from mandatory continuing airworthiness information (MCAI) issued 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 the instructions provided to inspect the propeller hub and blades are insufficient for detecting cracks and/or other damage, and other operating instructions provided by the flight and maintenance manual are incorrect and insufficient. We are issuing this AD to require actions to address the unsafe condition on these products.

DATES: This AD is effective January 28, 2014.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of January 28, 2014.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at 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 service information identified in this AD, contact Schempp-Hirth Flugzeugbau GmbH, Krebenstrasse 25, 73230 Kirchheim/Teck, Germany; telephone: +49 7021 7298–0; fax: +49 7021 7298–199; email: *info@schempp-hirth.com;* Internet: *http://www.schempp-hirth.com.* You may review copies of the 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.

FOR FURTHER INFORMATION CONTACT: Jim Rutherford, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4165; fax: (816) 329–4090; email: *jim.rutherford@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on July 29, 2013 (78 FR 45471). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

> It was found that the accomplishment instructions provided to check the powered sailplane's propeller hub and blades were not sufficient to detect cracks and/or other damage. The results of a subsequent manual review revealed that some other operating instructions provided by the sailplane flight and maintenance manual were neither correct nor sufficient.
>
> This condition, if not corrected, could lead to operation of the powered sailplane outside its certified limits.
>
> To address this unsafe condition, EASA issued AD 2013–0012 to require amendment of sailplane flight- and maintenance manuals to correct the operating instruction deficiencies and inaccuracies and, for Arcus T sailplanes that had been repaired before the applicable maintenance manual update, an elevator or wing flap hinge moment weight check, as applicable.
>
> Since that AD was published, Schempp-Hirth Flugzeugbau GmbH determined that Action 3 of the accomplishment instructions of Technical Note (Technische Mitteilung) (TN) 890–13, referenced for Duo Discus T sailplanes, was incorrect for S/N 1 through 174. To correct this erroneous maintenance instruction, Schempp-Hirth Flugzeugbau GmbH issued TN 890–13 issue 2.
>
> For the reasons described above, this AD retains the requirements of EASA AD 2013–0012, which is superseded, and requires, for certain Duo Discus T powered sailplanes, the use of instructions as provided in TN 890–13 issue 2.

The MCAI requires exchange of flight manual pages (which introduces a repetitive inspection of the power plant), exchange of maintenance manual pages, exchange of cockpit placards, and transfer of weight and balance data. EASA AD No.: 2013–0054, dated March 5, 2013, supersedes EASA AD No. 2013–0012, dated January 15, 2013. No

FAA action was taken on EASA AD No. 2013–0012. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2013-0661-0002.*

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (78 FR 45471, July 29, 2013) or on the determination of the cost to the public.

Conclusion

We reviewed the relevant data and determined that air safety and the public interest require adopting the 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 45471, July 29, 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 45471, July 29, 2013).

Costs of Compliance

We estimate that this AD will affect 5 products of U.S. registry. We also estimate that it will take about 2.5 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts will cost about $50 per product.

Based on these figures, we estimate the cost of this AD on U.S. operators to be $1,312.50, or $262.50 per product.

In addition, we estimate that any necessary follow-on actions will take about 5 work-hours and require parts costing $3,840, for a cost of $4,265 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 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.

Examining the AD Docket

You may examine the AD docket on the Internet at http://www.regulations.gov/#!documentDetail;D=FAA-;2013-0661-0002; 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 the NPRM, 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.

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:

2013–24–16 Schempp-Hirth Flugzeugbau GmbH: Amendment 39–17693; Docket No. FAA–2013–0661; Directorate Identifier 2013–CE–009–AD

(a) Effective Date

This airworthiness directive (AD) becomes effective January 28, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Schempp-Hirth Flugzeugbau GmbH Model Duo Discus T gliders, serial numbers (S/N) 1 through 240, certificated in any category.

(d) Subject

Air Transport Association of America (ATA) Code 5: Time Limits.

(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 the instructions provided to inspect the propeller hub and blades are insufficient for detecting cracks and/or other damage, and other operating instructions provided by the flight and maintenance manual are incorrect and insufficient. We are issuing this AD to ensure that the instructions for inspecting the propeller hub and blades are sufficient to detect cracks and/or other damage and instructions of the flight and maintenance manual are correct and sufficient.

(f) Actions and Compliance

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

(1) Within 30 days after January 28, 2014 (the effective date of this AD), incorporate amended pages into the applicable FAA-approved sailplane flight manual (SFM), following Action 1 of Schempp-Hirth Flugzeugbau GmbH Technical Note No. 890–13, 2nd issue, dated March 5, 2013.

(2) Within 60 days after January 28, 2014 (the effective date of this AD), do the actions specified in paragraphs (f)(2)(i) through (f)(2)(iii) of this AD:

(i) Incorporate amended pages into the FAA-approved SFM and sailplane maintenance manual (SMM), as applicable, following Action 2 and Action 3 of Schempp-Hirth Flugzeugbau GmbH Technical Note No. 890–13, 2nd issue, dated March 5, 2013.

(ii) Install the amended cockpit placards following Action 4 of Schempp-Hirth Flugzeugbau GmbH Technical Note No. 890–13, 2nd issue, dated March 5, 2013. Replace previous placard as necessary.

(iii) Transfer weight and balance data from weight and balance report into the weight and balance log sheet following Action 5 of Schempp-Hirth Flugzeugbau GmbH Technical Note No. 890–13, 2nd issue, dated March 5, 2013.

(3) The actions required by paragraph (f)(1) and (f)(2)(i) of this AD may be performed by the owner/operator (pilot) holding at least a

private pilot certificate and must be entered into the aircraft records showing compliance with this AD following 14 CFR § 43.9 (a)(1) through (4) and 14 CFR 91.417(a)(2)(v). The record must be maintained as required by 14 CFR 91.417, 121.380, or 135.439.

(4) Initially within 30 days after January 28, 2014 (the effective date of this AD) and repetitively thereafter at intervals not to exceed 12 calendar months, visually inspect (pre-flight) the power plant (propeller hub and propeller blades) for cracks or other damage using the following service information in paragraphs (f)(4)(i) and (f)(4)(ii) of this AD:

(i) *For S/N 1 through 174:* Use step (4)(c) of the *Visual inspection of the power plant* section on page 4.3.3 of Schempp-Hirth Flugzeugbau GmbH Duo Discus T Flight Manual issue May 2000, Revision No. 12, Date of issue November 2011; as specified in Schempp-Hirth Flugzeugbau GmbH Technical Note No. 890–13, 2nd issue, dated March 5, 2013.

(ii) *For S/N 175 through 240:* Use step (4)(c) of the *Visual inspection of the power plant* section on page 4.3.3, of Schempp-Hirth Flugzeugbau GmbH Duo Discus T Flight Manual issue October 2007, Revision No. 2, Date of issue November 2011; as specified in Schempp-Hirth Flugzeugbau GmbH Technical Note No. 890–13, 2nd issue, dated March 5, 2013.

Note 1 to paragraph (f)(4)(ii) of this AD: The flight manual references TN 890–13 and MB 890–8; however, neither are part of the flight manual. Also, MB 890–8 does not apply to the airplanes included in the Applicability of this AD.

(5) If any cracks or other damage is found during any inspection required by paragraph (f)(4) of this AD, before further flight, replace any parts found with cracks and repair any damage.

(6) The revised SFM pages require pre-flight checks that may be done by the pilot. However, the inspection actions required in paragraph (f)(4) of this AD, to include all subparagraphs, are separate from the pilot pre-flight checks and must be done by a properly certificated aircraft mechanic.

(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: Jim Rutherford, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4165; fax: (816) 329–4090; email: *jim.rutherford@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.: 2013–0054, dated March 5, 2013, for more information. You may examine the MCAI in the AD docket on the Internet *http://www.regulations.gov/#!documentDetail; D=FAA–2013–0661–0002.*

(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) Schempp-Hirth Flugzeugbau GmbH Technische Mitteilung Nr. 890–13, 2. Augabe, dated March 5, 2013 (English translation: Schempp-Hirth Flugzeugbau GmbH Technical Note No. 890–13, 2nd Issue, dated March 5, 2013);

(ii) Schempp-Hirth Flugzeugbau GmbH Duo Discus T FLUGHANDBUCH Ausgabe Oktober 2007, Lfd. Nr. der Berichtigung 2, Datum der Berichtigung November 2011 (English translation: Schempp-Hirth Flugzeugbau GmbH Duo Discus T Flight Manual issue October 2007, Revision No. 2, Date of issue November 2011); and

(iii) Schempp-Hirth Flugzeugbau GmbH Duo Discus T FLUGHANDBUCH Ausgabe Mai 2000, Lfd. Nr. der Berichtigung 12, Datum der Berichtigung November 2011 (English translation: Schempp-Hirth Flugzeugbau GmbH Duo Discus T Flight Manual issue May 2000, Revision No. 12, Date of issue November 2011).

Note 2 to paragraphs (i)(2)(i) through (i)(2)(iii) of this AD: This service information contains German to English translation. EASA used the English translation in referencing the documents from Schempp-Hirth Flugzeugbau GmbH. For enforceability purposes, we will refer to the Schempp-Hirth Flugzeugbau GmbH service information as the titles appear on the documents.

(3) For Schempp-Hirth Flugzeugbau GmbH service information identified in this AD, contact Schempp-Hirth Flugzeugbau GmbH, Krebenstrasse 25, 73230 Kirchheim/Teck, Germany; telephone: +49 7021 7298–0; fax: +49 7021 7298–199; email: *info@schempp-hirth.com;* Internet: *http://www.schempp-hirth.com.*

(4) You may view this service information at 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 26, 2013.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–30460 Filed 12–23–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0557; Directorate Identifier 2013–NE–22–AD; Amendment 39–17679; AD 2013–24–05]

RIN 2120–AA64

Airworthiness Directives; Turbomeca S.A. Turboshaft Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Turbomeca S.A. Arriel 1A1, 1A2, 1B, 1C, 1C1, 1C2, 1D, 1D1, 1E2, 1K1, 1S, and 1S1 turboshaft engines. This AD requires a one-time inspection of the free turbine (FT) module (M04) for the affected Turbomeca S.A. Arriel 1 engines and, if a discrepancy is found, repair of the affected module. This AD was prompted by a ''chip illumination event'' in flight on a Turbomeca S.A. Arriel 1 engine. We are issuing this AD to prevent a loss of FT bearing lubrication, resulting in FT module failure, damage to the engine, and damage to the aircraft.

DATES: This AD becomes effective January 28, 2014.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of January 28, 2014.

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: Robert Morlath, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7154; fax: 781–238–7199; email: *robert.c.morlath@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 12, 2013 (78 FR 48824). The NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

> A ''chip light illumination'' event in flight on an ARRIEL 1C2 engine was reported to Turbomeca. Following the event, which resulted from Free Turbine front bearing deterioration, the investigation revealed that the loss of the Free Turbine (FT) bearing module has led to a major disruption in the lubrication of the FT module (M04) bearings. The root cause of the event has been attributed to incorrect bonding of the Free Turbine Bearing Plug, accomplished during the repair process in an identified Repair Center. Consequently, it was possible to identify a batch of Modules M04 which are potentially affected.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2013-0557-0002.*

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (78 FR 48824, August 12, 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 5 engines of U.S. registry. We also estimate that it will take about 1 hour per product to comply with this AD. The average labor rate is $85 per hour. Required parts will cost about $13 per engine. Based on these figures, we estimate the cost of this AD on U.S. operators to be $1,765.

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):

2013–24–05 Turbomeca S.A.: Amendment 39–17679; Docket No. FAA–2013–0557; Directorate Identifier 2013–NE–22–AD.

(a) Effective Date

This AD becomes effective January 28, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Turbomeca S.A. Arriel 1A1, 1A2, 1B, 1C, 1C1, 1C2, 1D, 1D1, 1E2, 1K1, 1S, and 1S1 turboshaft engines equipped with free turbine (FT) module (M04) identified by the part and serial numbers listed in Figure 2 of Turbomeca S.A. Alert Mandatory Service Bulletin (MSB) No. A292 72 0838, Version A, dated May 24, 2013.

(d) Reason

This AD was prompted by a ''chip illumination event'' in flight on a Turbomeca S.A. Arriel 1 engine. We are issuing this AD to prevent a loss of FT bearing lubrication, resulting in FT module failure, damage to the engine, and damage to the aircraft.

(e) Actions and Compliance

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

(1) For Arriel 1B, 1D, and 1D1 engines with an FT module (M04) with a part and serial number listed in Figure 2 of Turbomeca S.A. Alert MSB No. A292 72 0838, Version A, dated May 24, 2013, within 50 flight hours (FHs) from the effective date of this AD, inspect the FT module (M04). Use the instructions in paragraph 6 of Turbomeca S.A. Alert MSB No. A292 72 0838, Version A, dated May 24, 2013 to do the inspection.

(2) For Arriel 1A1, 1A2, 1C, 1C1, 1C2, 1E2, 1K1, 1S, and 1S1 engines with an FT module (M04) with a part and serial number listed in Figure 2 of Turbomeca S.A. Alert MSB No. A292 72 0838, Version A, dated May 24, 2013, within 300 FHs from the effective date of this AD, inspect the FT module (M04). Use the instructions in paragraph 6 of Turbomeca S.A. Alert MSB No. A292 72 0838, Version A, dated May 24, 2013, to do the inspection.

(3) If you find that the FT module (M04) is not eligible for return to service, remove the FT module (M04) before further flight.

(f) Installation Prohibition

After the effective date of this AD, do not install any affected FT module (M04) with a part and serial number listed in Figure 2 of Turbomeca S.A. Alert MSB No. A292 72 0838, Version A, dated May 24, 2013, onto

any engine, or an engine with an affected FT module (M04) onto any helicopter, unless the module has passed the inspections required by paragraphs (e)(1) and (e)(2) of this AD.

(g) 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.

(h) Related Information

(1) For more information about this AD, contact Robert Morlath, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7154; fax: 781–238–7199; email: *robert.c.morlath@faa.gov.*

(2) Refer to MCAI European Aviation Safety Agency AD 2013–0120, dated June 4, 2013, for more information. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2013-0557-0002.*

(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) Turbomeca S.A. Alert Mandatory Service Bulletin No. A292 72 0838, Version A, dated May 24, 2013.

(ii) Reserved.

(3) For Turbomeca service information identified in this AD, contact Turbomeca, S.A., 40220 Tarnos, France; phone: 33 (0)5 59 74 40 00; telex: 570 042; fax: 33 (0)5 59 74 45 15.

(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 14, 2013.

Colleen M. D'Alessandro,

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

[FR Doc. 2013–30459 Filed 12–23–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 61

[Docket No. FAA–2007–27043; Amdt. No. 61–132]

RIN 2120–AI77

Fees for Certification Services and Approvals Performed Outside the United States; Technical Amendment

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; technical amendment.

SUMMARY: The FAA is correcting a direct final rule published on April 12, 2007 (72 FR 18556). In that rule, the FAA amended its regulations to revise the fee requirement for issuance of airman certificates. This document amends one paragraph that unintentionally expanded the FAA's ability to refuse issuance of airman certificates to U.S. citizens and resident aliens, removes two paragraphs that were inadvertently left in one subsection, and renumbers the paragraphs and revises cross-references accordingly.

DATES: Effective December 24, 2013.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this action, contact the General Aviation and Commercial Division, AFS–800, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 385–9600. For legal questions concerning this final rule contact Anne Moore, Office of the Chief Counsel—International Law, Legislation, and Regulations Division, AGC–240, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–3123; facsimile (202) 267–7971, email *anne.moore@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

In 2007, the FAA published a direct final rule revising the fee requirement of 14 CFR 61.13 for the issuance of an airman certificate by extending the fee requirement to all applicants outside the United States regardless of citizenship. 72 FR 18556, 18558 (Apr. 12, 2007). The FAA is now issuing a technical amendment to § 61.13 because the revision to the fee requirement inadvertently expanded the Administrator's authority to refuse to issue a U.S. airman certificate, rating, or authorization to U.S. citizens and resident aliens. Formerly, that provision had been limited to applicants who were non-resident aliens.

The FAA is also removing paragraphs (A) and (B) from paragraph (a)(2)(i) because those paragraphs were inadvertently left in § 61.13 due to erroneous amendatory instructions in the April 12, 2007 direct final rule. 72 FR 18558. Finally, the FAA is renumbering the paragraphs of § 61.13 and updating cross-references to reflect these revisions.

Technical Amendment

Section 61.13 establishes the requirements for the issuance of airman certificates, ratings, and authorizations. Prior to issuance of the 2007 direct final rule, § 61.13(a)(2) stated that an applicant for a certificate, rating, or authorization ''who is neither a citizen of the United States nor a resident alien of the United States'' must (i) show evidence of fees paid for airman certification services outside the United States, and (ii) may be refused issuance of any U.S. airman certificate, rating or authorization by the Administrator.[1] In the 2007 direct final rule, the FAA amended the § 61.13(a)(2) introductory text by removing the language which specifically applied the section to non-U.S. citizens and non-resident aliens. The FAA explained in the preamble that the intention of the rule change was to ensure that fees for airman certification services outside the United States were paid even by U.S. citizens. In changing the introductory text to § 61.13(a)(2), however, the FAA inadvertently extended the Administrator's authority to refuse an airman certificate to all applicants regardless of citizenship. The FAA is issuing this technical amendment to correct this error. As amended, the Administrator's ability to refuse an airman certificate will apply only to non-U.S. citizens and non-resident aliens while retaining application of the fee requirement in § 61.13(a)(2) to all applicants applying outside the United States regardless of citizenship.

The FAA is also correcting a minor error to paragraphs (A) and (B) of § 61.13(a)(2)(i). In the 2007 direct final rule, the FAA stated in the amendatory instructions to § 61.13 that it was revising the introductory text of paragraph (a)(2) and (a)(2)(i), but did not explicitly state it was removing paragraphs (A) and (B) of that paragraph. As a result, paragraphs (A) and (B) of (a)(2)(i) were inadvertently

[1] Under 49 U.S.C. 44703(e)(1), the Administrator may ''restrict or prohibit issuing an airman certificate to an alien[.]''

retained. This technical edit will correct that error. In addition, the FAA is renumbering § 61.13(a)(2)(ii) as § 61.13(a)(3), and § 61.13(a)(3) as § 61.13(a)(4), and revising a cross-reference in the newly created § 61.13(a)(4) to reflect these changes in numbering.

Because the amendment corrects an error and imposes no new burden, the FAA finds that the notice and public procedures under 5 U.S.C. 553(b) are unnecessary. Because the changes in this technical amendment result in no substantive change, the FAA finds good cause exists under 5 U.S.C. 553(d)(3) to make the amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 61

Aircraft, Airmen, Aviation safety.

The Amendment

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

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

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

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

■ 2. Amend § 61.13 by revising paragraph (a) to read as follows:

§ 61.13 Issuance of airman certificates, ratings, and authorizations.

(a) *Application.* (1) An applicant for an airman certificate, rating, or authorization under this part must make that application on a form and in a manner acceptable to the Administrator.

(2) An applicant must show evidence that the appropriate fee prescribed in appendix A to part 187 of this chapter has been paid when that person applies for airmen certification services administered outside the United States.

(3) An applicant who is neither a citizen of the United States nor a resident alien of the United States may be refused issuance of any U.S. airman certificate, rating or authorization by the Administrator.

(4) Except as provided in paragraph (a)(3) of this section, an applicant who satisfactorily accomplishes the training and certification requirements for the certificate, rating, or authorization sought is entitled to receive that airman certificate, rating, or authorization.

* * * * *

Issued in Washington, DC, under the authority provided by 49 U.S.C. 106(f), 44701(a), 44703(e) on December 18, 2013.

Lirio Liu,

Director, Office of Rulemaking.

[FR Doc. 2013–30604 Filed 12–23–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 61, 121, and 135

[Docket No. FAA–2010–0100; Amdt. Nos. 61–130B, 121–365A, 135–127A]

RIN 2120–AJ67

Pilot Certification and Qualification Requirements for Air Carrier Operations; Technical Amendment

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; technical amendment.

SUMMARY: The FAA is correcting a final rule published on July 15, 2013 (78 FR 42324). In that rule, the FAA amended its regulations to create new certification and qualification requirements for pilots in air carrier operations. The FAA unintentionally required without notice and comment a pilot serving as a second in command in part 135 commuter operations to have an airline transport pilot certificate and an aircraft type rating, and a pilot in command in part 135 commuter operations to have 1,000 hours of air carrier experience. This document corrects those errors and makes several additional miscellaneous corrections.

DATES: Effective Date: December 24, 2013.

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

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

SUPPLEMENTARY INFORMATION:

Background

On July 15, 2013, the FAA published a final rule entitled, ''Pilot Certification and Qualification Requirements for Air Carrier Operations'' (78 FR 42324). In that final rule, which became effective July 15, 2013, the FAA revised the pilot certificate requirements for a second in command (SIC) in part 121 operations. Specifically, § 121.436(a) requires a pilot in command to have an airline transport pilot (ATP) certificate, an aircraft type rating for the aircraft flown, and 1,000 hours of air carrier experience obtained as SIC in part 121 operations, as pilot in command (PIC) in operations conducted under §§ 135.243(a)(1), as PIC in operations conducted under § 91.1053(a)(2)(i), or any combination thereof. Section 121.436(b) requires the SIC to hold an ATP certificate and an aircraft type rating for the airplane flown.

The FAA intended these certification requirements to apply only to pilots serving in part 121 operations. Existing § 135.3 states, however, that each certificate holder that conducts commuter operations under part 135 with airplanes in which two pilots are required by the aircraft type certificate shall comply with subparts N and O of part 121 instead of the requirements of subparts E, G, and H of part 135. Because the certification requirements in § 121.436 are located in subpart O of part 121, a PIC serving in part 135 commuter operations in airplanes that require two pilots by type certificate would be required by reference to comply with the new 1,000-hour air carrier experience requirement. Likewise, an SIC in those operations would now be required by reference to hold an ATP certificate and an aircraft type rating. The FAA did not discuss this issue in the preamble to the final rule nor did the FAA intend to impose this requirement on part 135 commuter operations.

Technical Amendment

Because the FAA did not intend to impose additional requirements on PICs and SICs serving in part 135 commuter operations that require two pilots by type certificate, the FAA is revising § 135.3(b) to clarify that an SIC in part 135 commuter operations does not need to comply with § 121.436(b) but may continue to hold a commercial pilot certificate with an instrument rating. The FAA is also amending § 121.436(a) to make clear that the 1,000 hour air carrier experience requirement applies only to PICs in part 121 operations.

The FAA is also making a number of minor corrections that have been

identified since publication of the final rule. The FAA is amending § 61.35 to clarify the age requirements for applicants who take the knowledge test for an ATP certificate with an airplane category multiengine class rating prior to August 1, 2014. The final rule established that applicants who take the knowledge test for an ATP certificate with an airplane category multiengine rating on or after August 1, 2014, must be at least 18 years old. 14 C.F.R. § 61.35(a)(3)(iii)(B). This age was established by subtracting 60 months, which will be the validity period for the ATP multiengine knowledge test, from the minimum age of 23 for an unrestricted ATP certificate. Although discussed in guidance materials, § 61.35 is silent with regard to the age requirement for applicants who take the existing ATP knowledge test before August 1, 2014. This amendment clarifies that an applicant for an ATP knowledge test taken prior to August 1, 2014, which has a validity period of 24 months, must be at least 21 years of age.

The FAA is also revising § 61.39(a)(1)(ii) to clarify that the 60-month expiration period for the knowledge test for an ATP certificate with a multiengine class rating applies to knowledge tests taken after July 31, 2014. As noted in the preamble to the final rule, the FAA is revising the ATP knowledge test to incorporate the new aeronautical knowledge areas in the airline transport pilot certification training program (ATP CTP). 78 FR 42324, 42342. Although applicants for the knowledge test may complete the ATP CTP prior to August 1, 2014, the revised knowledge test upon which the 60-month expiration date is based will not be available until August 1, 2014. As such, the FAA has added the relevant date to § 61.39(a)(1)(ii) for clarity. All knowledge tests for the ATP certificate taken prior to August 1, 2014, will continue to have a 24-month expiration date.

The FAA is making two clarifying amendments to § 61.159. Section 61.159(a)(3) is revised to clarify that the 25 hours of aeronautical experience in a full flight simulator must be appropriate to the class of aircraft (e.g. multiengine-land) for the rating sought. Section 61.159(a)(6) is revised to clarify that applicants for the restricted privileges ATP certificate may credit 100 hours of time accomplished in flight simulation training devices (full flight simulators and flight training devices) toward the total aeronautical experience requirements in § 61.160. As currently written, § 61.159(a)(6) could be construed as allowing only applicants for an ATP certificate under the aeronautical experience requirements in § 61.159 to credit time in a flight simulation training device. It was not the FAA's intention to prevent applicants for the restricted privileges ATP certificate from utilizing that provision.

The FAA is clarifying in § 61.165(f)(2) that applicants seeking to add a multiengine class rating to an ATP certificate with a single engine class rating are only required to take a new knowledge test after July 31, 2014—the date that the new knowledge test that incorporates the aeronautical knowledge areas specific to the ATP CTP will be available.

Finally, the FAA is correcting two cross-reference errors. In § 61.167, the FAA is correcting the reference in paragraph (a)(2)(ii) to reflect paragraph (a)(2)(i) rather than (b)(1). The FAA is also revising § 135.341(a) by replacing the reference to paragraph (c) with the proper reference to § 135.336.

Because these amendments clarify existing requirements and result in no substantive change, the FAA finds that the notice and public procedures under 5 U.S.C. 553(b) are unnecessary. For the same reason, the FAA finds good cause exists under 5 U.S.C. 553(d)(3) to make the amendments effective in less than 30 days.

List of Subjects

14 CFR Part 61

Aircraft, Airmen, Aviation safety.

14 CFR Part 121

Air carriers, Aircraft, Airmen, Aviation safety.

14 CFR Part 135

Air taxis, Aircraft, Airmen, Aviation safety.

Correcting Amendment

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

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

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

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

■ 2. Amend § 61.35 by revising paragraph (a)(3) to read as follows:

§ 61.35 Knowledge test: Prerequisites and passing grades.

(a) * * *

(3) Proper identification at the time of application that contains the applicant's—

(i) Photograph;

(ii) Signature;

(iii) Date of birth, which shows:

(A) For issuance of certificates other than the ATP certificate with an airplane category multiengine class rating, the applicant meets or will meet the age requirements of this part for the certificate sought before the expiration date of the airman knowledge test report;

(B) Prior to August 1, 2014, for issuance of an ATP certificate with an airplane category multiengine class rating under the aeronautical experience requirements of §§ 61.159 or 61.160, the applicant is at least 21 years of age at the time of the knowledge test; and

(C) After July 31, 2014, for issuance of an ATP certificate with an airplane category multiengine class rating obtained under the aeronautical experience requirements of §§ 61.159 or 61.160, the applicant is at least 18 years of age at the time of the knowledge test;

(iv) If the permanent mailing address is a post office box number, then the applicant must provide a current residential address.

* * * * *

■ 3. Amend § 61.39 by revising paragraph (a)(1)(ii) to read as follows:

§ 61.39 Prerequisites for practical tests.

(a) * * *

(1) * * *

(ii) Within the 60-calendar month period preceding the month the applicant completes the practical test for those applicants who complete the airline transport pilot certification training program in § 61.156 and pass the knowledge test for an airline transport pilot certificate with a multiengine class rating after July 31, 2014;

* * * * *

■ 4. Amend § 61.159 by revising paragraphs (a)(3) and (a)(6) to read as follows:

§ 61.159 Aeronautical experience: Airplane category rating.

(a) * * *

(3) 50 hours of flight time in the class of airplane for the rating sought. A maximum of 25 hours of training in a full flight simulator representing the class of airplane for the rating sought may be credited toward the flight time requirement of this paragraph if the training was accomplished as part of an approved training course in parts 121, 135, 141, or 142 of this chapter. A flight training device or aviation training

device may not be used to satisfy this requirement.

* * * * *

(6) Not more than 100 hours of the total aeronautical experience requirements of paragraph (a) of this section or § 61.160 may be obtained in a full flight simulator or flight training device provided the device represents an airplane and the aeronautical experience was accomplished as part of an approved training course in parts 121, 135, 141, or 142 of this chapter.

* * * * *

■ 5. Amend § 61.165 by revising paragraph (f)(2) to read as follows:

§ 61.165 Additional aircraft category and class ratings.

* * * * *

(f) * * *

(2) After July 31, 2014, pass a required knowledge test on the aeronautical knowledge areas of § 61.155(c), as applicable to multiengine airplanes;

* * * * *

§ 61.167 [Amended]

■ 6. Amend § 61.167 by removing the phrase ''paragraph (b)(1)'' from paragraph (a)(2)(ii) and adding the phrase ''paragraph (a)(2)(i)'' in its place.

PART 121—OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS

■ 7. The authority citation for part 121 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40113, 40119, 41706, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 46105.2.

■ 8. Amend § 121.436 by revising paragraph (a)(3) to read as follows:

§ 121.436 Pilot qualification: Certificates and experience requirements.

(a) * * *

(3) If serving as pilot in command in part 121 operations, has 1,000 hours as second in command in operations under this part, pilot in command in operations under § 91.1053(a)(2)(i) of this chapter, pilot in command in operations under § 135.243(a)(1) of this chapter, or any combination thereof. For those pilots who are employed as pilot in command in part 121 operations on July 31, 2013, compliance with the requirements of this paragraph (a)(3) is not required.

* * * * *

PART 135—OPERATING REQUIREMENTS: COMMUTER AND ON DEMAND OPERATIONS AND RULES GOVERNING PERSONS ON BOARD SUCH AIRCRAFT

■ 9. The authority citation for part 135 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 41706, 40113, 44701–44702, 44705, 44709, 44711–44713, 44715–44717, 44722, 45101–45105.

■ 10. Amend § 135.3 by revising paragraph (b) to read as follows:

§ 135.3 Rules applicable to operations subject to this part.

* * * * *

(b) Each certificate holder that conducts commuter operations under this part with airplanes in which two pilots are required by the type certification rules of this chapter shall comply with subparts N and O of part 121 of this chapter instead of the requirements of subparts E, G, and H of this part. Notwithstanding the requirements of this paragraph, a pilot serving under this part as second in command in a commuter operation with airplanes in which two pilots are required by the type certification rules of this chapter may meet the requirements of § 135.245 instead of the requirements of § 121.436.

* * * * *

§ 135.341 [Amended]

■ 11. Amend § 135.341 by removing the phrase ''paragraph (c) of this section'' from paragraph (a) and adding the phrase ''§ 135.336'' in its place.

Issued in Washington, DC under the authority provided by 49 U.S.C. 106(f), 44701(a) and Secs. 216–217, Public Law 111–216, 124 Stat. 2348 on December 18, 2013

Lirio Liu,

Director, Office of Rulemaking.

[FR Doc. 2013–30603 Filed 12–23–13; 8:45 am]

BILLING CODE 4910–13–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1218

Safety Standard for Bassinets and Cradles; Correction

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule; correction.

SUMMARY: The United States Consumer Product Safety Commission (Commission) is correcting a final rule that appeared in the **Federal Register** of October 23, 2013 (78 FR 63019). The document established a standard for bassinets and cradles that incorporates by reference ASTM F2194–13, with certain modifications. The Commission is correcting two references to sections of ASTM F2194–13.

DATES: Effective on April 23, 2014.

FOR FURTHER INFORMATION CONTACT: William Dewgard, Directorate for Compliance, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone: (301) 504–7599; *wdewgard@cpsc.gov.*

SUPPLEMENTARY INFORMATION: The Commission published a final rule establishing a standard for bassinets and cradles that incorporates by reference ASTM F2194–13, with certain modifications. In FR Doc. 2013–24023, appearing on page 63019 in the **Federal Register** of October 23, 2013, two references to sections of ASTM F2194–13 were not correct.

The following corrections are made:

§ 1218.2 [Corrected]

■ 1. On page 63034, in the third column, in § 1218.2, in paragraph (b)(1)(i), ''In addition, bassinet/cradle attachments to cribs or play yards, as defined in 3.1.2 or 3.1.12, are included in the scope of the standard when in the bassinet/cradle use mode.'' is corrected to read: ''In addition, bassinet/cradle attachments to cribs or play yards, as defined in 3.1.2 or 3.1.13, are included in the scope of the standard when in the bassinet/cradle use mode.''

■ 2. On page 63035, in the second column, in § 1218.2, in paragraph (b)(5)(vi), ''The bassinet bed shall not tip over and shall retain the CAMI newborn dummy when tested in accordance with 7.12.5.3.'' is corrected to read: ''The bassinet bed shall not tip over and shall retain the CAMI newborn dummy when tested in accordance with 7.12.4.3.''

Dated: December 18, 2013.

Todd Stevenson,

Secretary, U.S. Consumer Product Safety Commission.

[FR Doc. 2013–30527 Filed 12–23–13; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 40

[Docket No. RM13–7–000; Order No. 793]

Protection System Maintenance Reliability Standard

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: Under section 215 of the Federal Power Act (FPA), the Federal Energy Regulatory Commission (Commission) approves a revised Reliability Standard, PRC–005–2—Protection System Maintenance, to supersede four existing Reliability Standards, PRC–005–1.1b (Transmission and Generation Protection System Maintenance and Testing), PRC–008–0 (Underfrequency Load Shedding Equipment Maintenance), PRC–011–0 (Undervoltage Load Shedding Equipment Maintenance) and PRC–017–0 (Special Protection System Maintenance and Testing).

DATES: *Effective Date:* This rule will become effective February 24, 2014.

FOR FURTHER INFORMATION CONTACT:

Tom Bradish (Technical Information), Office of Electric Reliability, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (301) 665–1391, *tom.bradish@ferc.gov.*

Julie Greenisen (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–6362, *julie.greenisen@ferc.gov.*

SUPPLEMENTARY INFORMATION:

Final Rule

(Issued December 19, 2013)

1. Pursuant to section 215 of the Federal Power Act (FPA),[1] the Commission approves a revised Reliability Standard, PRC–005–2—Protection System Maintenance, to supersede four existing Reliability Standards, PRC–005–1.1b (Transmission and Generation Protection System Maintenance and Testing), PRC–008–0 (Underfrequency Load Shedding Equipment Maintenance), PRC–011–0 (Undervoltage Load Shedding Equipment Maintenance) and PRC–017–0 (Special Protection System Maintenance and Testing), and six associated definitions. The modifications, in part, respond to certain Commission directives issued in Order No. 693,[2] in which the Commission approved initial versions of these four Reliability Standards governing maintenance and testing of protection systems, and maintenance of underfrequency and undervoltage load shedding equipment.

2. Reliability Standard PRC–005–2 represents an improvement over the four existing standards covering protection system maintenance and testing, by incorporating specific, required minimum maintenance activities and maximum time intervals for maintenance of individual components of protection systems and load shedding equipment affecting the bulk electric system. While the proposed Reliability Standard also gives responsible entities the option of developing their own, performance-based maintenance intervals for most components, the intervals must be designed to achieve a minimum performance level, and must be adjusted if that target performance level is not actually achieved. In addition, the proposed Reliability Standard combines the maintenance and testing requirements for protection systems into one comprehensive Reliability Standard, as was suggested by the Commission in Order No. 693.[3]

3. While the revised Reliability Standard contains overall improvements over the four existing Reliability Standards, as discussed below, we are directing NERC to submit an informational filing on the development of a guidance report concerning the commissioning of power system protection systems.

4. The Commission approves the violation risk factors and all but one violation severity level for the revised Reliability Standard. The Commission directs NERC to modify the violation severity level assigned to certain failures to comply with Requirement R1. We also approve the six new definitions associated with proposed Reliability Standard PRC–005–2, i.e., Component, Component Type, Countable Event, Protection System Maintenance Program, Segment, and Unresolved Maintenance Issue. Of these newly defined terms, only the term Protection System Maintenance Program will be incorporated into NERC's Glossary of Terms, with the remainder applying only to Reliability Standard PRC–005–2.

5. Finally, we approve NERC's proposed implementation plan for Reliability Standard PRC–005–2 (as corrected in NERC's October 30, 2013 Errata filing), which requires entities to develop a compliant protection system maintenance program within twelve months, but allows for the transition over time of maintenance activities and documentation to conform to the new minimum maintenance activities and maximum maintenance intervals.

I. Background

A. Regulatory Background

6. Section 215 of the FPA requires a Commission-certified Electric Reliability Organization (ERO) to develop mandatory and enforceable Reliability Standards, subject to Commission review and approval.[4] Once approved, the Reliability Standards may be enforced by the ERO subject to Commission oversight, or by the Commission independently.[5]

7. In 2006, the Commission certified NERC as the ERO pursuant to FPA section 215.[6] In 2007, in Order No. 693, the Commission approved an initial set of Reliability Standards submitted by NERC, including initial versions of four protection system and load-shedding-related maintenance standards, i.e., PRC–005–1, PRC–008–0, PRC–011–0, and PRC–017–0.[7]

8. In approving these protection system-related Reliability Standards, the Commission directed NERC to develop or to consider a number of modifications. Specifically, the Commission directed NERC (1) to develop a revision to PRC–005–1 incorporating a maximum time interval during which to conduct maintenance and testing of protection systems, and (2) to consider combining into one standard the various maintenance and testing requirements for all of the maintenance and testing-related Reliability Standards for protection systems, Special Protection Systems (SPS), underfrequency load shedding (UFLS) equipment, and undervoltage load shedding (UVLS) equipment.[8]

9. Subsequently, in Order No. 758, issued in response to NERC's request for approval of its interpretation of PRC–005–1, the Commission issued three additional directives addressing deficiencies in the existing version of Reliability Standard PRC–005.[9] The Commission directed NERC to modify

[1] 16 U.S.C. 824o (2012).

[2] *Mandatory Reliability Standards for the Bulk Power System,* Order No. 693, 72 FR 16,416 (April 4, 2007), FERC Stats. & Regs. ¶ 31,242 (2007), *order on reh'g,* Order No. 693–A, 120 FERC ¶ 61,053 (2007).

[3] Order No. 693, FERC Stats. & Regs. ¶ 31,242 at P 1475.

[4] 16 U.S.C. 824o(c) and (d).

[5] *See id.* at 824o(e).

[6] *North American Electric Reliability Corp.,* 116 FERC ¶ 61,062, *order on reh'g & compliance,* 117 FERC ¶ 61,126 (2006), *aff'd sub nom., Alcoa, Inc.* v. *FERC,* 564 F.3d 1342 (D.C. Cir. 2009).

[7] Order No. 693, FERC Stats. & Regs. ¶ 31,242 at PP 1474, 1492, 1497, and 1514.

[8] In Order No 763, the Commission approved Reliability Standard PRC–006–1 pertaining to ''underfrequency load shedding,'' which also encompasses ''undervoltage load shedding.'' *Automatic Underfrequency Load Shedding and Load Shedding Plans Reliability Standards,* Order No. 763, 139 FERC ¶ 61,098 (2012).

[9] *Interpretation of Protection System Reliability Standard,* Order No. 758, 138 FERC ¶ 61,094, *order denying clarification,* 139 FERC ¶ 61,227 (2012).

Reliability Standard PRC–005–1 through its standards development process to (1) identify and include the auxiliary relays and non-electrical sensing devices designed to sense or take action against any abnormal system condition that will affect reliable operation (such as sudden pressure relays); (2) include specific requirements for maintenance and testing of reclosing relays that affect the reliable operation of the bulk-power system; and (3) include specific requirements for maintenance and testing of DC control circuitry.

B. Existing Protection System-Related Maintenance Standards

10. Under currently-effective Reliability Standard PRC–005–1b, transmission owners, generator owners, and applicable distribution providers are required to have ''a Protection System maintenance and testing program for Protection Systems that affect the reliability of the BES,'' and must document their compliance with that program.[10] The program must include maintenance and testing intervals and their basis, and a summary of maintenance and testing procedures. However, Reliability Standard PRC–005–1b does not impose any specific requirements regarding maintenance activities, standards or intervals. Similarly, Reliability Standards PRC–008–0, PRC–011–0, and PRC–017–0 require applicable transmission owners, distribution providers, and generator owners to have a maintenance and testing program in place for UFLS equipment, UVLS equipment, and special protection systems, respectively, and to document their compliance with their program. These Reliability Standards, like PRC–005–1b, do not impose any specific requirements regarding maintenance activities, standards or intervals.

C. NERC Petition and Reliability Standard PRC–005–2

11. On February 26, 2013, NERC submitted a petition seeking approval of Reliability Standard PRC–005–2, six new definitions associated with that standard, and an implementation plan that includes retirement of the four currently-effective Reliability Standards that address maintenance and testing of transmission and generation protection systems, UFLS and UVLS equipment, and special protection systems.[11] NERC maintained that the Reliability Standard not only consolidates the four currently-effective standards into a single standard, but also addresses the directives in Order No. 693 related to those standards.[12]

12. The Reliability Standard includes five requirements. Under Requirement R1, each responsible entity must establish a protection system maintenance program that: (1) identifies which method (time-based or performance-based) will be used for each protection system component type, except that the maintenance program for all batteries associated with the station DC supply of a protection system must be time-based, and (2) identifies monitored component attributes for each component type where monitoring is used as a basis for extending maintenance intervals.

13. Under Requirement R2, any responsible entity that uses performance-based maintenance intervals must follow the procedures set out in Attachment A of the Reliability Standard to set and to adjust, as necessary, appropriate maintenance intervals. The Attachment A procedures allow a responsible entity to establish maintenance intervals for a given population of similar components based on historical performance, as long as there is a statistically significant population of components for which performance can be examined and monitored. For example, under the Attachment A procedures, a responsible entity can only use a performance-based interval for ''segments'' with a component population of at least 60 components.[13] The maximum allowable maintenance interval for a given segment is required to be set such that the segment will experience ''countable events'' of no more than four percent of the components within that segment, for the greater of either the last 30 components maintained or all components maintained in the previous year.[14]

14. In addition, to continue to utilize a performance-based interval, the responsible entity must update its list of components and segments annually (or whenever a change occurs within a segment), must maintain a minimum number or percentage of components a year, and must analyze a given segment's maintenance record to determine the percentage of countable events. If the percentage of countable events for the last 30 components maintained or the number of components maintained over the last year (whichever is larger) exceeds four percent, the responsible entity must implement an action plan to reduce the expected countable events to less than four percent for that segment within the next three years.

15. Requirements R3 and R4 require a responsible entity to adhere to the requirements of its protection system maintenance program, including performance of minimum maintenance activities. Under Requirement R3, which governs time-based maintenance, the activities must be performed in accordance with the intervals prescribed in the tables attached to PRC–005–2. Under Requirement R4, the activities must be carried out in accordance with the performance-based intervals established under Requirement R2 and Attachment A.

16. Under Requirement R5, responsible entities must ''demonstrate efforts to correct identified Unresolved Maintenance Issues,'' which are defined as ''deficienc[ies] identified during a maintenance activity that cause[] the component to not meet the intended performance, cannot be corrected during the maintenance interval, and require[] follow-up corrective action.'' NERC explained that the intent of Requirement R5 is ''to assure that Protection System components are returned to working order following the discovery of failures or malfunctions during scheduled maintenance.''[15]

17. With respect to implementation, NERC proposed to require entities to fully comply with Requirements R1, R2, and R5 within 12 months of regulatory approval (or 24 months from the date of NERC Board approval where no regulatory approval is required).[16] Accordingly, applicable entities in the United States must develop their revised protection system maintenance

[10] NERC Reliability Standard PRC–005–1b, Requirements R1 and R2.

[11] PRC–005–2 is not attached to this Final Rule. The complete text of the Reliability Standard is available on the Commission's eLibrary document retrieval system in Docket No. RM13–7 and is posted on NERC's Web site, *available* at: *http://www.nerc.com.*

[12] NERC Petition at 2. NERC states that while the Commission issued additional directives related to the PRC–005 Reliability Standard in Order No. 758, NERC will address these remaining directives in future versions of PRC–005, and is currently addressing the maintenance and testing of reclosing relays in a new phase of Project 2007–17. *See* NERC Petition at 7–8.

[13] NERC defines ''segment'' for purposes of PRC–005–2 as ''Protection Systems or components of a consistent design standard, or a particular model or type from a single manufacturer that typically share other common elements. Consistent performance is expected across the entire population of a Segment.'' NERC Petition, Ex. B (PRC–005–2) at 26.

[14] NERC defines ''countable event'' as ''a failure of a component requiring repair or replacement, any condition discovered during the maintenance activities in Tables 1–1 through 1–5 and Table 3 which requires corrective action, or a Misoperation attributed to hardware failure or calibration failure.'' NERC Petition, Ex. B (PRC–005–2) at 26.

[15] NERC Petition at 18.

[16] NERC Petition, Ex. C (Implementation Plan) at 2, 4.

program within one year after regulatory approval.[17] NERC's proposed implementation plan would allow a longer implementation period with respect to achieving full compliance with the newly-prescribed maintenance activities and documentation, permitting a transition of maintenance activities and documentation over time, with the compliance period scaled to the length of the applicable maximum maintenance interval.[18] Thus, for component types with the shortest allowable maintenance interval (i.e., less than one year, or between one and two years), entities would be required to fully comply with the new requirements within 18 months of regulatory approval, and 36 months of regulatory approval, respectively.[19] For components types with longer maintenance intervals (3, 6, and 12 years), NERC proposed to require compliance over the applicable maintenance interval in equally distributed steps. For component types with the longest maximum allowable maintenance interval (i.e., 12 years), entities must be 30 percent compliant within 5 years, 60 percent compliant within 9 years, and fully compliant within 13 years after regulatory approval.[20]

18. NERC explained that this implementation program takes into consideration that certain entities may not currently be performing all required maintenance activities specified in proposed PRC–005–2, and may not have all the documentation necessary to demonstrate compliance.[21] NERC further stated that ''it is unrealistic for those entities to be immediately compliant with the new activities or intervals,'' and that ''entities should be allowed to become compliant in such a way as to facilitate a continuing maintenance program.'' [22] Finally, NERC explained that it developed this step-wise implementation plan ''in order that entities may implement this standard in a systematic method that facilitates an effective ongoing Protection System Maintenance Program.'' [23]

[17] *See id.*

[18] *Id.* at 1–2.

[19] *Id.* at 4.

[20] *Id.* at 5. NERC notes, however, that ''[o]nce an entity has designated PRC–005–2 as its maintenance program for specific Protection System components, they cannot revert to the original program for those components.'' *Id.* at 2.

[21] *Id.* at 1.

[22] *Id.*

[23] *Id.* at 2.

D. Notice of Proposed Rulemaking and Subsequent Filings

19. On July 18, 2013, the Commission issued a Notice of Proposed Rulemaking (NOPR) proposing to approve Reliability Standard PRC–005–2.[24] The Commission explained that the revised standard represents an improvement over the four existing standards covering protection system maintenance and testing, because it incorporates specific, required minimum maintenance activities and maximum time intervals for maintenance of individual components of protection systems and load shedding equipment affecting the bulk electric system.[25] The Commission further noted that although the proposed Reliability Standard would give entities the option of developing performance-based maintenance intervals for eligible components, those intervals have to be designed to achieve a minimum performance level and must be adjusted if the target performance level is not achieved.[26]

20. The Commission requested additional information and comment on three topics pertaining to PRC–005–2: (1) Verification of operability and settings upon placement in-service of new or modified protection systems; (2) use of a four percent target for countable events in performance-based programs; and (3) violation severity levels for certain Requirement R1 violations.

21. Comments were due on the NOPR on September 23, 2013. Seven sets of comments were received, as identified in Appendix A to this Final Rule.

22. On October 30, 2013, NERC submitted an errata to its February 26, 2013 petition, stating that certain procedural language regarding the process for approval of the standard was inadvertently omitted. NERC submitted a revised Implementation Plan as part of that errata, asking the Commission to consider the revised plan for purposes of proposed PRC–005–2 and this proceeding.

II. Discussion

23. Pursuant to section 215(d)(2) of the FPA, we approve Reliability Standard PRC–005–2, the six associated definitions referenced in the proposed standard, and NERC's proposed implementation plan, as just, reasonable, not unduly discriminatory or preferential, and in the public interest. As discussed in section A below, we believe Reliability Standard PRC–005–2 will enhance reliability through reducing the risk of protection system misoperations by establishing minimum maintenance activities and maximum maintenance time intervals. The Reliability Standard will also reduce the risk of protection system misoperations by establishing requirements for condition-based and performance-based maintenance programs where hands-on maintenance intervals are adjusted to reflect the known and reported condition or the historical performance of the relevant devices.

24. Below, we discuss the matters raised by the Commission in the NOPR or raised by commenters in response to the NOPR, as follows: (A) Approval of PRC–005–2; (B) application of PRC–005–2 to newly-commissioned or modified components; (C) four percent target for countable events; (D) correcting unresolved maintenance issues; (E) the Violation Severity Level assignment for Requirement R1; and (F) definitions.

A. Approval of PRC–005–2

NERC Petition

25. In its petition seeking approval of PRC–005–2, NERC maintained that the proposed standard will improve reliability by:

> (i) Defining and establishing criteria for a Protection System Maintenance Program; (ii) reducing the risk of Protection System Misoperations; (iii) clearly stating the applicability of the Requirements in proposed PRC–005–2 to certain Functional Entities and Facilities; (iv) establishing Requirements for time-based maintenance programs that include maximum allowable maintenance intervals for all relevant devices; and (v) establishing Requirements for condition-based and performance-based maintenance programs where hands-on maintenance intervals are adjusted to reflect the known and reported condition or the historical performance, respectively, of the relevant devices.[27]

26. NERC asserted that the Reliability Standard not only represents a comprehensive approach to documenting and implementing programs for maintenance of all protection systems affecting the reliability of the bulk electric system, but also reduces the risk of misoperations ''by applying consistent, best practice maintenance and inspection activities of Protection System Components in accordance with the maximum intervals established in the proposed Reliability Standard.'' [28]

[24] *Notice of Proposed Rulemaking, Protection System Maintenance Reliability Standard,* 144 FERC ¶ 61,055 (2013) (NOPR).

[25] *Id.* P 2.

[26] *Id.*

[27] NERC Petition at 3.

[28] *Id.* at 11.

NERC maintained that the proposed Reliability Standard represents an improvement over the four standards that would be superseded, because none of the existing standards contain technical requirements for any of the maintenance programs, but merely specify that a program be in place and that each responsible entity comply with the requirements of its own program.[29]

27. NERC also maintained that PRC–005–2 satisfies three outstanding directives from Order No. 693 related to the PRC maintenance standards. First, NERC explained that the Reliability Standard includes maximum allowable intervals for maintenance of protection system components (as set out in Tables 1–1 through 1–5, Table 2, and Table 3 of Reliability Standard PRC–005–2).[30] Second, Reliability Standard PRC–005–2 combines the requirements for PRC–005, PRC–008, PRC–011 and PRC–017 into one new, revised standard, addressing maintenance for transmission and generation protection systems, for special protection systems, and for UFLS and UVLS equipment.[31] Finally, in Order No. 693, the Commission directed NERC to consider whether load serving entities and transmission operators should be included in the applicability of PRC–004.[32] NERC maintained that it considered whether load-serving entities and transmission operators should be subject to any of the PRC maintenance and testing requirements, but determined that the applicable maintenance requirements need only apply to equipment owners such as generation owners, transmission owners, and certain distribution providers.[33] NERC explained that ''[w]hile an equipment owner may need to coordinate with the operating entities in order to schedule the actual maintenance, the responsibility resides with the equipment owners to complete the required maintenance.'' [34]

NOPR Proposal

28. In the NOPR, the Commission proposed to approve Reliability Standard PRC–005–2, finding that it would enhance reliability by incorporating specific, required minimum activities and maximum time intervals for maintenance of individual components of protection systems and load shedding equipment affecting the bulk electric system.[35] The Commission further noted that the proposed Reliability Standard would give entities the option of developing performance-based maintenance intervals for eligible components, but that those intervals had to be designed to achieve a minimum performance level and must be adjusted if the target performance level is not achieved.[36] Finally, in the NOPR the Commission stated that Reliability Standard PRC–005–2 ''appears to adequately address the Commission directives from Order No. 693 with respect to: (1) Including maximum allowable intervals in PRC–005; (2) combining PRC–005, PRC–008, PRC–011, and PRC–017; and (3) considering whether load serving entities and transmission operators should be included in the applicability of the PRC–005 Reliability Standard.''[37]

Comments

29. Most commenters generally support the Commission's proposed approval of PRC–005–2. ITC ''supports NERC's proposal as improving Bulk Electric System reliability and promoting efficiency through consolidation [of protection system-related standards] into a single Standard.'' [38] The Bureau of Reclamation states that the revised standard ''is a significant improvement over the current PRC–005–1 standard because the current standard is more likely to penalize an entity that develops an ambitious maintenance program than an entity that has a less robust maintenance program. . . .'' [39]

30. Duke Energy, however, asks that the Commission reject the revised standard. Duke Energy argues that PRC–005–2 improperly expands the applicability of the protection system maintenance standard because, ''as written, it could also apply to Protection Systems which detect faults on the Bulk Electric System (BES), but which don't affect the reliable operation of the BES.'' [40] Duke Energy argues that the Reliability Standard, as written, would apply to one of Duke Energy's typical protection schemes for dispersed, non-BES generation at distribution stations, because the relays involved are designed to detect faults on the BES although these particular protection schemes do not operate BES elements or interrupt network current flow from the BES.[41] Duke Energy maintains that these protection schemes initiate shutdown of non-BES generation only, and should not properly be covered under a protection system maintenance Reliability Standard. Duke Energy accordingly requests that the Commission remand the standard to NERC with a directive to limit applicability of the standard to protection systems and elements thereof ''which affect the reliable operation of those BES Elements'' on which they detect faults.[42]

Commission Determination

31. We find that Reliability Standard PRC–005–2 will enhance reliability as compared to the currently existing standards, and agree with ITC that PRC–005–2 promotes efficiency by consolidating protection system maintenance requirements into a single standard. Consistent with the NOPR, we believe that Reliability Standard PRC–005–2 should reduce the risk of protection system misoperations by setting out minimum maintenance activities and maximum maintenance time intervals for individual components of protection systems.[43] In addition, we believe that PRC–005–2 will improve reliability by establishing requirements for condition-based and performance-based maintenance programs where maintenance intervals are adjusted to reflect the known and reported condition or the historical performance of the relevant devices. Finally, we agree with the Bureau of Reclamation that the revised standard removes the potential disincentive, inherent in the existing protection system maintenance standards, to adopt more aggressive maintenance programs because compliance is currently measured against each individual company's adopted program rather than against industry standards or minimums.

32. We are not persuaded by Duke Energy that remand of the Reliability Standard is required. Duke Energy argues that PRC–005–2 will bring a new set of protection system schemes under NERC's protection system maintenance standard requirements. We decline to make any specific determination about the applicability of this standard to specific elements or types of elements. Rather, Duke Energy may seek to raise concerns regarding applicability of the Reliability Standard to specific system

[29] *Id.*

[30] *Id.* at 12.

[31] *Id.* at 12–13.

[32] Order No. 693, FERC Stats & Regs. ¶ 31,242 at P 1469.

[33] NERC Petition at 13.

[34] *Id.*

[35] NOPR, 144 FERC ¶ 61,055 at P 2.

[36] *Id.*

[37] *Id.* P 22.

[38] ITC Comments at 4.

[39] Bureau of Reclamation Comments at 1.

[40] Duke Energy Comments at 2. In particular, Duke Energy cites to applicability section 4.2.1, which pertains to ''protection systems that are installed for the purpose of detecting Faults on BES Elements (lines, buses, transformers, etc.).''

[41] *Id.* at 3–4.

[42] *Id.* at 5.

[43] *See* NOPR, 144 FERC ¶ 61,055 at P 2.

elements with NERC or the relevant Regional Entity.

B. Verification of Operability and Settings Upon Placement In-Service

NERC Petition

33. Reliability Standard PRC–005–2 does not include separate requirements for protection system commissioning testing for new or modified equipment (i.e., testing activities necessary to ensure that new or modified equipment has been built and will function in accordance with its design). NERC maintained in its petition that such testing is often performed by a different organization (such as a start-up or commissioning group of the organization, or a contractor hired to construct and start-up or commission the facility) than the organization responsible for the on-going maintenance of the protection system, and that the activities required for such testing will not necessarily correlate to the maintenance activities required by the proposed standard.[44] At the same time, NERC acknowledged that ''a thorough commission testing program would include, either directly or indirectly, the verification of all those Protection System attributes addressed by the maintenance activities specified in the Tables of PRC–005–2,'' and that ''an entity would be wise to retain commissioning records to show a maintenance start date.'' [45]

NOPR Proposal

34. In the NOPR, the Commission noted its concern that PRC–005–2 does not include a requirement to verify that protection system equipment and components operate at least as accurately as required under the PRC–005–2 maintenance standards when those components are first placed in service or are modified, even though NERC has stated that such placement into service can be used as the starting point for the maintenance interval and even though a failure to verify the accurate functioning of protection system components when placed in service or when subsequently modified has contributed to misoperations in the past.[46] The Commission accordingly asked for an explanation of ''whether and if so, how [NERC] intends to interpret and enforce Reliability Standard PRC–005–2 to require that newly installed or modified protection system equipment or components perform at the same level as is required for subsequent compliance, including verification of applicable settings as specified whenever a relay is repaired, replaced, or upgraded with a new firmware version.'' [47]

35. In addition, if NERC did not believe it could interpret PRC–005–2 to require verification of operability and settings of protection system components at commissioning to the same performance level as is required for subsequent compliance with PRC–005–2, the Commission requested comment on whether such a modification to the standard should be made.[48]

Comments

36. NERC, the Cooperatives, ITC and Oncor all object to the application of PRC–005–2 to newly-commissioned or newly-modified protection systems or components. NERC maintains that the proposed standard was not ''designed to establish requirements for commission testing and such testing would go beyond the maintenance activities identified in proposed PRC–005–2.'' [49] NERC accordingly asserts that it ''cannot interpret and enforce proposed PRC–005–2 to require that newly installed or modified protection system equipment or components perform at the same level as is required for subsequent compliance.'' [50]

37. NERC also provides information about its efforts to reduce protection system misoperations through improved commissioning testing practices, and asks that the Commission refrain from issuing a directive to modify PRC–005–2 to address commissioning testing until NERC completes that work and can determine whether it is sufficient to address commissioning testing.[51] NERC states that these efforts include development of a report by the System Protection and Control Subcommittee (SPCS), recently approved by the NERC Planning Committee, in which the SPCS ''suggested improving commissioning practices through (1) analysis of protection system Misoperations; (2) sharing of lessons learned; and (3) development of an industry reference document on protection system commissioning practices.'' [52] With respect to the first recommendation, NERC suggests it is being addressed as part of entities' ongoing obligations under PRC–004–2a (Analysis and Mitigation of Transmission and Generation Protection System Misoperations).[53] As for the second recommendation, NERC notes that the SPCS is working on a lessons learned document.[54] As for the third recommendation, NERC indicates that it is participating in ongoing efforts of an IEEE task force, working on the development of a report to provide guidance on the commissioning of power system protection systems.[55] NERC commits in its Comments to keep the Commission informed on the progress of these ongoing efforts to reduce protection system misoperations related to commissioning testing practices.[56]

38. The Cooperatives agree with NERC that PRC–005–2 cannot be read to include a requirement to verify operability and settings of new or modified protection system equipment, because there is no explicit language in the requirement that would allow such an interpretation and because it would disregard the standards development process.[57] The Cooperatives argue that imposing a commissioning testing requirement as part of PRC–005–2 would constitute a material change to the standard, which must be addressed through the standards development process if needed.[58] Similarly, ITC ''strongly opposes'' application of PRC–005–2 to commissioning of new components, and stresses that the proposed standard was developed solely for the purpose of covering ''ongoing maintenance during the life of the component, and not an initial testing when the component is first commissioned.'' [59] Oncor supports NERC's efforts to develop guidelines on commissioning testing practices instead of imposing additional requirements as part of PRC–005–2, and notes that there are many differences between commissioning testing and periodic

[44] NERC Petition, Ex. E (Supplementary Reference and FAQ) at 35.

[45] *Id.* NERC also noted that an entity ''that requires that their commissioning tests have, at a minimum, the requirements of PRC–005–2 would help that entity prove time interval maximums by setting the initial time clock.'' *Id.*

[46] *See* NOPR, 144 FERC ¶ 61,055 at PP 25–27.

[47] *Id.* P 27.

[48] *Id.* P 28.

[49] NERC Comments at 3.

[50] *Id.* However, NERC states in its comments, as it did in its petition, that ''the date of completion of the commission testing of the Protection System component and its placement into service can be used by an entity as the starting point in determining first maintenance due dates.'' *Id.* at 3–4 (citing to NERC Petition at 35–36).

[51] NERC Comments at 4.

[52] *Id.* at 6.

[53] *Id.*

[54] *Id.*

[55] *Id.* at 7–8. Oncor agrees that the Commission should consider allowing NERC to continue its participation in efforts to create a document providing commissioning guidelines and best practices, instead of adding requirements to PRC–005–2. Oncor Comments at 1.

[56] NERC Comments at 4.

[57] Cooperatives Comments at 3–4.

[58] *Id.* at 4.

[59] ITC Comments at 6–7.

maintenance testing. In addition, Oncor notes that PRC–004–2a is designed to identify deficiencies in performance and provide for correction, while PRC–005–2 is not a deficiency in performance standard.[60]

39. The Cooperatives also argue that the Commission should not require the development of a commissioning testing requirement that would require verification of protection system operability and settings, because such a requirement ''would be redundant, difficult to formulate and enforce, and might affect some (but not all) Registered Entities' willingness to deploy new or upgraded protection systems.'' [61]

40. Idaho Power, on the other hand, believes that the Commission has identified a gap in the Reliability Standards that should be addressed by expanding PRC–005–2 to include newly-commissioned or modified equipment.

Commission Determination

41. While we remain concerned about the continued possibility of misoperations resulting from a failure to properly verify the operability or settings of protection system equipment upon being placed in service or modified, we will not direct NERC to modify PRC–005–2 to include such a requirement or to otherwise develop a separate commissioning testing standard at this time. Instead, we rely on NERC's discussion of its on-going efforts to reactively and proactively reduce protection system misoperations through improved commissioning testing practices, which includes the analysis of misoperations, sharing of lessons learned, and the development of a report intended to provide guidance concerning the commissioning of power system protection systems.[62] As explained in the NOPR, our concern is with a protection system that has not been verified as capable of functioning according to its design when placed in service or modified. In its Comments, NERC describes an event studied by NERC's Event Analysis and Investigation Group, in which an entity did not perform in-service testing as part of commissioning a new protection system, ''resulting in line relays being placed in service with the incorrect transformer ratio.'' [63] According to NERC, this situation remained undetected until the protection system was required to operate for a system disturbance. That protection system failed to operate correctly due to the defect, consequently increasing the magnitude and scope of the system disturbance.[64] We believe that this example, provided by NERC, highlights our concern and the importance of commissioning testing.

42. We agree with a proactive approach to reducing misoperations, i.e., ensuring that a new or modified protection system, when placed in service, is capable of functioning according to its design so that an undetected defect resulting in a misoperation of that protection system does not negatively affect bulk electric system reliability. We encourage and accept NERC's commitment to keep the Commission informed of its efforts concerning this issue.[65] Accordingly, we direct NERC to submit, within one year of issuance of this Final Rule, an informational filing on the status of these efforts, including the development of the guidance report as described in the NERC Comments.

C. Four Percent Target for Countable Events in Performance-Based Program

NERC Petition

43. Pursuant to Requirement R2 of Reliability Standard PRC–005–2, responsible entities may choose to establish performance-based maintenance intervals for individual component types, according to the procedures set out in Attachment A of the standard. Under these procedures, the responsible entity must first develop a list of components to be included in the designated segment (with a minimum population of 60 components).[66] Using that analysis and looking at the greater of either the last 30 components maintained or all components maintained within the segment over the last year, the responsible entity must set a maximum allowable interval for each segment so that countable events will occur on no more than four percent of the components within that segment. In addition, the maintenance history of the segment is to be reviewed at least annually to determine the overall performance of the segment, and, if the four percent target is not met, the entity is required to develop and implement an action plan to reduce countable events to less than four percent within three years.[67]

44. Under PRC–005–2, an entity would not violate Requirement R2 upon failing to achieve a four percent or less failure rate for a given segment in the first year the failure occurs, but would violate Requirement R2 if: (1) The entity could not show that the interval selected was initially set to expect a failure rate of no more than four percent; (2) the entity fails to make immediate changes to its performance-based maintenance program to achieve a four percent target within 3 years; or (3) the entity does not actually achieve a four percent failure rate for that segment within 3 years after adjusting its program.[68]

45. In the Technical Justification NERC submitted as part of its petition, NERC explained the basis for selecting a four percent target for countable events as follows:

The 4% number was developed using the following:

General experience of the drafting team based on open discussions of past performance.

Test results provided by Consumers Energy for the years 1998–2008 showing a yearly average of 7.5% out-of-tolerance relay test results and a yearly average of 1.5% defective rate.

Two failure analysis reports from Tennessee Valley Authority (TVA) where TVA identified problematic equipment based on a noticeably higher failure of a certain relay type (failure rate of 2.5%) and voltage transformer type (failure rate of 3.6%).[69]

NOPR

46. In the NOPR, the Commission questioned whether NERC had provided sufficient support for the choice of a four percent target figure for countable events, particularly with respect to individual components known to have historically higher levels of reliability.[70] The Commission requested support for NERC's proposed approach in PRC–005–2, which adopts a single failure rate target for all component types, as opposed to establishing a target failure rate for each individual component.[71] In addition, the Commission sought

[60] Oncor Comments at 1.

[61] Cooperatives Comments at 5–8.

[62] *See* NERC Comments at 5–8.

[63] *Id.* at 4.

[64] *Id.*

[65] *See id.*

[66] Until such time as the entity has performed and analyzed the required maintenance activities applicable to the segment for at least 30 individual components, it must maintain the segment using PRC–005–2's time-based intervals, as specified in Tables 1–1 to 1–5, 2 and 3, i.e., it cannot adopt a performance-based interval until it has performed and analyzed the maintenance history for a minimum pool of components.

[67] As NERC explains in the Supplementary Reference and FAQ (Ex. E) attached to its petition, entities using a performance-based program must not only ''demonstrate how they analyze findings of performance failures and aberrations'' but must also ''implement continuous improvement actions'' to meet the failure rate targets. *See* NERC Petition, Ex. E at 40.

[68] *See generally id.* at 40–53.

[69] NERC Petition, Ex. D (Technical Justification) at 5.

[70] *See* NOPR, 144 FERC ¶ 61,055 at PP 32–33.

[71] *Id.* P 34.

comment on the selection of four percent as the appropriate target failure rate, assuming a blanket failure rate is used. Finally, the Commission proposed to direct NERC to study and submit a report and recommendations based on the study results concerning the expected failure rates for individual component types if the technical information to respond to the Commission's questions is not currently available.

Comments

47. NERC comments that it continues to support the four percent failure rate target, arguing that an ''acceptable failure rate needs to balance between a goal of ultimate reliability and what could be reasonably expected of a well-performing component population.''[72] NERC maintains that the four percent performance target was selected ''based on the drafting team's experience and past studies performed by several utilities,'' and references back to Section 9 of the Supplementary Reference and FAQ appended to its Petition.[73] In those supplementary materials, the choice of a four percent failure rate is explained as follows:

> It is notable that 4% is specifically chosen because an entity with a small population (30 units) would have to adjust its time intervals between maintenance if more than one Countable Event was found to have occurred during the last analysis period. A smaller percentage would require that entity to adjust the time interval between maintenance activities if even one unit is found out of tolerance or causes a Misoperation.[74]

48. NERC further maintains that ''it is appropriate to use a specified target percentage in a performance based maintenance program when applied to the results of time based maintenance of various component types'' because the ''variable performance expectations for different types of components are already reflected in the Table 1 time intervals.'' [75] Thus, NERC explains, components with high failure rates would not generate significant extensions in allowed maintenance intervals ''unless dramatic advances in component reliability validate the use of significantly lower intervals.'' [76] NERC further explains that extension of the maintenance interval will reduce the number of Countable Events for a given year, such that highly reliable components will have a low number of permitted ''failures'' per year.

49. NERC accordingly asks that the Commission approve the four percent target failure rate as proposed. In the alternative, if the Commission determines it needs additional information to support the four percent figure, NERC asks that it be given the opportunity to provide that additional support rather than have the Commission direct modification of the proposed standard. NERC also indicates that it will have the ''ability to track trends in Misoperations as industry gains practical experience with the performance based maintenance approach reflected in proposed PRC–005–2.'' [77]

50. Idaho Power, the only commenter other than NERC to address the four percent target failure rate, agrees with NERC that the four percent figure should be retained for all component types.[78] Idaho Power believes that the cost of developing specific failure rates for component types would outweigh the benefit of doing so. Idaho Power points out the practical limitations of developing specific failure rates, which ''would need to account for different manufacturers, models, operating environments, production plants, and handling,'' and would need to be updated periodically.[79]

Commission Determination

51. We are persuaded by the comments of NERC and Idaho Power to adopt the four percent target failure rate in performance-based maintenance programs, as described in Attachment A of PRC–005–2. In addition to the rationale provided by NERC, we recognize the practical need to adopt a target failure rate that is available to smaller organizations, and the cost and resources required to develop variable rates for different component types, and thus approve the approach set forth in Attachment A of PRC–005–2. While we do not direct the submission of further data or support for the target failure rate at this time, we note NERC's commitment to continue collecting data on misoperations,[80] and expect that NERC will maintain sufficient data bases to allow future evaluation of performance-based maintenance programs as compared to time-based maintenance programs, including the frequency of misoperations (including clearly tracking the underlying cause of the misoperations).

D. Correcting Unresolved Maintenance Issues (Requirement R5)

NERC Petition

52. Requirement R5 of PRC–005–2 obligates responsible entities to ''demonstrate efforts to correct identified Unresolved Maintenance Issues.'' NERC defines an ''unresolved maintenance issue'' as a ''deficiency identified during a maintenance activity that causes the component to not meet the intended performance, cannot be corrected during the maintenance interval, and requires follow-up corrective action.'' [81] In its Petition, NERC explained the rationale behind providing some latitude to complete correction or restoration of a discovered problem outside of the normal maintenance interval as follows:

> The drafting team does not believe entities should be found in violation of a maintenance program requirement because of the inability to complete a remediation program within the original maintenance interval. The drafting team does believe corrective actions should be timely but concludes it would be impossible to postulate all possible remediation projects and therefore, impossible to specify bounding time frames for resolution of all possible Unresolved Maintenance Issues or what documentation might be sufficient to provide proof that effective corrective action has been initiated. Therefore Requirement R5 requires only the entity demonstrate efforts to correct the Unresolved Maintenance Issues.[82]

NOPR

53. In the NOPR, the Commission agreed that it may be appropriate in certain circumstances to allow entities additional time beyond the maximum maintenance interval period to complete restorative action, including when the corrective action involves redesign, ordering additional equipment, or timing corrective work to correspond to planned outages.[83] However, the Commission noted its expectation that such instances would be limited, and that in most circumstances entities should have the capability to replace components and make minor repairs within the maximum maintenance interval.[84]

Comments

54. ITC states that it ''does not oppose the overall structure'' in Requirement R5 for correcting an Unresolved Maintenance Issue, but has concerns

[72] NERC Comments at 10.

[73] *Id.* at 11.

[74] NERC Petition, Ex. E (Supplementary Reference and FAQ) at 42.

[75] NERC Comments at 11–12.

[76] *Id.* at 12.

[77] *Id.* at 13.

[78] Idaho Power Comments at 2.

[79] *Id.*

[80] NERC Comments at 13.

[81] NERC Petition at 14.

[82] *Id.* at 17.

[83] NOPR, 144 FERC ¶ 61,055 at P 37.

[84] *Id.*

about the Commission's ''expectation that 'entities should have the capability to replace components . . . within the maximum maintenance interval.' '' [85] ITC maintains that this expectation ''ignores the challenges of maintaining older, well-functioning protection systems'' that are ''obsolete by current technology standards and/or for which replacement parts are no longer available.'' [86] ITC notes that its own practice is to institute a new capital project to replace obsolete protection systems with new technologies when obsolete protection systems unexpectedly fail or are found to be unacceptable when tested, which could take up to a year or more to complete.

55. By contrast, the Bureau of Reclamation argues that the Requirement R5 obligation to ''demonstrate efforts to correct identified Unresolved Maintenance Issues'' is unclear, and asks the Commission to direct that NERC clarify the requirement ''by including a requirement for entities to develop plans with timeframes for corrective actions.'' [87]

Commission Determination

56. We are not persuaded that any modification to Requirement R5 is needed at this time, or that it is unreasonable to expect, as stated in the NOPR, that in most circumstances responsible entities should not need longer than the maximum maintenance interval to complete corrective actions. While we agree with the Bureau of Reclamation that the adoption of a formal plan for correcting an Unresolved Maintenance Issue may help to demonstrate that an entity has demonstrated sufficient efforts to meet Requirement R5, we note that the adoption of such a plan may not be necessary in all cases, e.g., if the issue will be quickly resolved. Moreover, we can conceive of situations where the adoption of a formal plan for resolution of the issue should not be treated as a sufficient demonstration of effort to correct the issue.

57. With regard to ITC's comment regarding the time involved in certain replacements, particularly when they involve a new capital project, we recognize that in this circumstance (and others), it may appropriately require a significant period of time to address an Unresolved Maintenance Issue. Nonetheless, we do not believe that such a project is inconsistent with our expectation, as stated in the NOPR, that the instances in which restoration or repair is delayed beyond the normal maximum maintenance interval ''will be limited and, in most circumstances, entities should have the capability to replace components and make minor repairs within the maximum maintenance interval.'' [88]

58. In addition, we note that an Unresolved Maintenance Issue could degrade protection system performance to a level that requires notification and corrective action under Reliability Standard PRC–001–1. Under PRC–001–1, if a protective relay or equipment failure reduces system reliability, the transmission operator or generator operator must notify relevant reliability entities (e.g. the host balancing authority, reliability coordinator, and affected transmission operators and balancing authorities) of the relay or equipment failure and must take corrective action as soon as possible.[89]

E. Violation Severity Level for Requirement R1 Violation—Station Batteries

NERC Petition

59. Under the second sentence of Part 1.1 of Requirement R1, all batteries associated with station DC supply must be included in a time-based maintenance program, i.e., they are not eligible for a performance-based program.[90] In assigning violation severity levels for Requirement R1, NERC assigned a ''lower'' violation severity level for the failure to include applicable station batteries in a time-based maintenance program. NERC also assigned a ''lower'' violation severity level for the failure to specify whether one Component Type is being addressed by time-based or performance-based maintenance, or a combination of both. NERC explained that ''[t]here is an incremental aspect to the violation [of Requirement R1] and the VSLs follow the guidelines for incremental violations.'' [91]

NOPR

60. In the NOPR, the Commission proposed to direct NERC to change the violation severity level for the failure to include station batteries in a time-based program from a ''lower'' designation to a ''severe'' designation, based on the binary nature of the requirement.[92] The Commission noted that entities either satisfy the obligation to include station batteries in a time-based program or fail to meet the requirement in its entirety, which is indicative of a binary requirement.[93] The Commission also noted that a low violation severity level designation does not properly reflect the number of historical violations associated with station battery maintenance.[94]

Comments

61. NERC, Idaho Power, and the Cooperatives support NERC's initial ''lower'' violation severity level designation for the failure to include station batteries in a time-based maintenance program. NERC notes that the purpose of Requirement R1 (as a whole) is ''to obligate the entity to establish a Protection System Maintenance Program for its Protection Systems,'' and that the subparts of the requirement are ''not intended as separate subrequirements for compliance purposes.'' [95] NERC further notes that ''it was not the intent of the standard drafting team to assign more importance to station batteries than any other Protection system component type as far as the *initial establishment* of the Protection System Maintenance Program.'' [96] NERC explains that the violation severity levels for Requirement R1 were assigned based on the main Requirement, and argues that it is appropriate to measure compliance with that Requirement using ''a gradated level of non-compliance based on the number of component types missed. . . .'' [97] NERC states that

[85] ITC Comments at 5.

[86] *Id.*

[87] Bureau of Reclamation Comments at 2.

[88] NOPR, 144 FERC ¶ 61,055 at P 37.

[89] Currently approved PRC–001–1 contains the following:

R2. Each Generator Operator and Transmission Operator shall notify reliability entities of relay or equipment failures as follows:

R2.1. If a protective relay or equipment failure reduces system reliability, the Generator Operator shall notify its Transmission Operator and Host Balancing Authority. The Generator Operator shall take corrective action as soon as possible.

R2.2. If a protective relay or equipment failure reduces system reliability, the Transmission Operator shall notify its Reliability Coordinator and affected Transmission Operators and Balancing Authorities. The Transmission Operator shall take corrective action as soon as possible.

[90] NERC explained this unique treatment of station batteries as follows:

Batteries are the only element of a Protection System that is a perishable item with a shelf life. As a perishable item batteries require not only a constant float charge to maintain their freshness (charge), but periodic inspection to determine if there are problems associated with their aging process and testing to see if they are maintaining a charge or can still deliver their rated output as required. NERC Petition, Ex. D (Technical Justification) at 8.

[91] NERC Petition, Ex. I (Discussion of Assignments of VRFs and VSLs) at 10.

[92] NOPR, 144 FERC ¶ 61,055 at P 39.

[93] *Id.; see also id.* at n.53 (citing *North American Electric Reliability Corporation,* 135 FERC ¶ 61,166, at P 13 (2011).

[94] *Id.* P 39.

[95] NERC Comments at 14.

[96] *Id.* at 14–15 (emphasis in original).

[97] *Id.* at 15.

deletion of the failure to include station batteries in a time-based maintenance program as a separately listed violation would be preferable to a directive requiring that failure to be treated as a ''severe'' level violation.[98]

62. NERC also disagrees with the Commission's statement that an assignment of a ''lower'' violation severity level in this context is inconsistent with the Commission's approach to binary requirements. NERC asserts that neither it nor the standard drafting team considered Requirement R1 to be binary, and NERC points out that the Commission has adopted the general rule that ''gradated Violation Severity Levels, where possible, would be preferable to binary Violations Severity Levels since the application of any penalty for a violation could be more consistently and fairly applied commensurate with the degree of the violation.'' [99]

63. The Cooperatives and Idaho Power agree that a ''lower'' violation severity level is appropriate in this context.[100] The Cooperatives assert that a ''severe'' designation does not reflect the level of risk associated with the failure to test a given battery, and that the number of historical violations associated with station battery maintenance merely reflects NERC's zero-tolerance policy for missing a defined testing interval by even one day.[101] The Cooperatives agree with NERC that Requirement R1.1 is not binary,[102] and Idaho Power maintains that NERC's proposed assignment properly takes into account ''the incremental aspect to potential violations.'' [103]

64. ITC supports the NOPR proposal to direct NERC to modify the violation severity level for Part 1.1 of Requirement R1, and agrees that the requirement is essentially binary with respect to compliance.[104]

Commission Determination

65. We are not persuaded that the failure to include station batteries in a time-based maintenance program should be assigned a ''lower'' violation severity level, when these components were singled out for special treatment in Requirement R1 as proposed. Furthermore, NERC does not propose gradated violation severity levels relating to whether a responsible entity includes station batteries in a time-based maintenance program. Nor does NERC explain how it would develop such gradated violation severity levels. NERC instead proposes a single, ''lower'' violation severity level assignment as to this requirement. NERC treats the requirement as binary, while proposing gradated violation severity levels for all other portions of Requirement R1.[105] In this situation, the violation severity level must be ''severe,'' as NERC has previously stated.[106] However, NERC is free to develop and propose gradated violation severity level assignments for its time-based maintenance program requirement as to station batteries.

66. We also note that the level of risk associated with the failure to test a given battery is not an appropriate consideration in the context of assigning violation severity levels, but rather, should be considered when assigning a violation risk factor. In this case, Requirement R1 has been assigned a medium violation risk factor, which we accept as properly reflecting NERC's determination that a violation of Requirement R1 could directly affect the electrical state or the capability of the bulk-power system, but is unlikely to lead to bulk power system instability, separation, or cascading failures.[107] We accordingly direct NERC to submit a compliance filing changing the violation severity level for the failure to include station batteries in a time-based maintenance program to ''severe.'' [108]

F. Definitions

NERC Petition

67. NERC sought approval of six new definitions as part of proposed Reliability Standard PRC–005–2, i.e., Component, Component Type, Countable Event, Protection System Maintenance Program, Segment, and Unresolved Maintenance Issue. Of these newly defined terms, NERC proposed to include only the term Protection System Maintenance Program in its Glossary of Terms, with the remainder applying only to Reliability Standard PRC–005–2.

NOPR

68. In the NOPR, the Commission proposed to approve all six definitions without modification.

Comments

69. The Bureau of Reclamation asks the Commission to direct NERC to clarify section 4.2 (Applicability) to eliminate use of the vague or confusing terms ''such as,'' ''including,'' and ''etc.,'' including eliminating their use in the definition of the term ''Element'' (as referenced in PRC–005–2) and in the standard-specific definition of ''Component.'' [109] In addition, the Bureau of Reclamation suggests that the Commission require *all* definitions included in standards to be included in the NERC Glossary as a general matter, ''to promote consistency among standards.'' [110]

Commission Determination

70. We are not persuaded that the use of the terms and phrases highlighted by the Bureau of Reclamation, which allow for the use of an illustrative list of elements or facilities that are included within a definition, renders that definition or the standard's applicability impermissibly vague. Nor are we persuaded that the definitions at issue in this docket that are used in the context of this standard must be adopted in NERC's Glossary of Terms for potential application to all

[98] *Id.*

[99] *Id.* at 16 (citing *North American Electric Reliability Corporation,* 123 FERC ¶ 61,284, at P 27 (2008)).

[100] Cooperatives Comments at 9–10; Idaho Power Comments at 2.

[101] Cooperatives Comments at 9.

[102] *Id.*

[103] Idaho Power Comments at 2.

[104] ITC Comments at 4–5.

[105] NERC refers to a Commission statement that BAL–005–0, Requirement R12, which requires an applicable entity to include all tie line flows in a calculation, is not a binary requirement and can be gradated. NERC Comments at 15–16 (citing *North American Electric Reliability Corporation,* 123 FERC ¶ 61,284, at P 26 (2008)). An applicable entity's failure to include any tie line flows in the calculation would represent the most serious excursion from compliance with this requirement and be appropriate for a ''severe'' violation severity level assignment. As to the requirement that a responsible entity include all batteries associated with DC station supply in a time-based maintenance program, the single instance of violation NERC identifies in its violation severity levels for PRC–005–2 Requirement R1 is a failure to include any such batteries in a time-based maintenance program. Even if this requirement can be gradated for the purpose of assigning violation severity levels, the violation NERC identifies likewise would be the most serious excursion from compliance, so that a severe violation severity level assignment would be appropriate.

[106] ''NERC further states that it will determine whether a requirement has a single violation severity requirement or a set of violation severity levels by analyzing the performance required to satisfy a particular requirement. . . . Requirements that are binary, i.e., pass/fail, will have only one violation severity level—severe.'' *North American Electric Reliability Corporation,* 135 FERC ¶ 61,166, at P 13 (2011).

[107] NERC Petition, Ex. I (Discussion of Assignments of VRFs and VSLs) at 5–6.

[108] We disagree with NERC's suggestion to delete this VSL assignment rather than direct a change in it because ''the compliance element is covered adequately by the remaining language in the 'lower' VSL'' for Requirement R1. NERC Comments at 15. Under NERC's suggestion, a responsible entity that specifies that it is using a performance-based maintenance program for station batteries would be in compliance with the first sentence of Requirement R1.1, but in violation of the second sentence, without an applicable violation severity level.

[109] Bureau of Reclamation Comments at 2.

[110] *Id.* at 1–2.

standards.[111] However, we note that NERC should not adopt inconsistent definitions for the same term. We therefore accept the six definitions associated with PRC–005–2 as proposed by NERC without modification.

III. Information Collection Statement

71. The following collection of information contained in this Final Rule is subject to review by the Office of Management and Budget (OMB) under section 3507(d) of the Paperwork Reduction Act of 1995.[112] OMB's regulations require approval of certain information collection requirements imposed by agency rules.[113] Upon approval of a collection(s) of information, OMB will assign an OMB control number and an expiration date. Respondents subject to the filing requirements of a rule will not be penalized for failing to respond to these collections of information unless the collections of information display a valid OMB control number.

72. The Commission approves Reliability Standard PRC–005–2, which replaces PRC–005–1.1b (Transmission and Generation Protection System Maintenance and Testing), PRC–008–0 (Underfrequency Load Shedding Equipment Maintenance), PRC–011–0 (Undervoltage Load Shedding Equipment Maintenance) and PRC–017–0 (Special Protection System Maintenance and Testing). The Reliability Standard combines the requirements for maintenance and testing of protection systems, special protection systems, underfrequency load shedding equipment, and undervoltage load shedding equipment into one, comprehensive standard. In addition, the Reliability Standard sets out minimum maintenance activities and maximum maintenance intervals for the various components of these systems, but also allows applicable entities to adopt performance-based maintenance intervals in certain circumstances.

73. Reliability Standard PRC–005–2 includes specific requirements about the minimum maintenance activities required for each type of applicable component, as well as a maximum time interval during which the maintenance must be completed. Because the specific requirements were designed to reflect common industry practice, entities are generally not expected to experience a meaningful change in actual maintenance and documentation practices. However, applicable entities will have to perform a one-time review of their current protection system maintenance programs to ensure that they meet the requirements of the revised standard PRC–005–2. Accordingly, all expected information collection costs are expected to be limited to the first year of implementation of the revised standard.

74. *Public Reporting Burden:* Our estimate below regarding the number of respondents is based on the NERC compliance registry as of June 10, 2013. According to the compliance registry, 544 entities are registered as distribution providers, 898 entities are registered as generation owners, and 346 entities are registered as transmission owners within the United States. However, due to significant overlap, the total number of these affected entities (i.e., entities registered as a distribution provider, a generation owner, a transmission owner, or some combination of these three functional entities) is 867 entities.

75. Affected entities must perform a one-time review of their existing protection system maintenance program to ensure that it contains at a minimum the activities listed in Tables 1 through 3 in Reliability Standard PRC–005–2 and that the activities are performed within the applicable maximum interval listed in Tables 1 through 3. If the existing protection system maintenance program does not meet the criteria in Reliability Standard PRC–005–2, the entity will have to make certain adjustments to the program.

Requirement	Number of affected entities (1)	Number of PSMP reviewed per entity (2)	Average number of hours per review (3)	Total burden hours (1)*(2)*(3) = (4)	Total cost (4)*$70 [114]
One time review and adjustment of existing protection system maintenance program	867	1	8	6,936	$485,520

[114] This figure is the average of the salary plus benefits for a manager and an engineer. The figures are taken from the Bureau of Labor and Statistics at (*http://bls.gov/oes/current/naics3_221000.htm*).

Title: FERC–725P, Mandatory Reliability Standards: Reliability Standard PRC–005–2

Action: Proposed Collection of Information

OMB Control No: To be determined

Respondents: Business or other for-profit and not-for-profit institutions.

Frequency of Responses: One time.

Necessity of the Information: The Reliability Standard PRC–005–2 implements the Congressional mandate of the Energy Policy Act of 2005 to develop mandatory and enforceable Reliability Standards to better ensure the reliability of the nation's Bulk-Power System. Specifically, the new Reliability Standard ensures that transmission and generation protection systems affecting the reliability of the bulk electric system are maintained and tested.

76. *Internal review:* The Commission has reviewed revised Reliability Standard PRC–005–2 and made a determination that approval of this standard is necessary to implement section 215 of the FPA. The Commission has assured itself, by means of its internal review, that there is specific, objective support for the burden estimates associated with the information requirements.

77. Interested persons may obtain information on the reporting requirements by contacting the Federal

[111] This appears to be a unique situation in that the five defined terms at issue have been developed specifically for use with PRC–005–2 and do not have broader applicability. However, we note that our approval of the defined terms as part of PRC–005–2 makes them binding on the ERO, regional entities, and registered entities for purposes of PRC–005–2, regardless of whether the terms appear in NERC's Glossary of Terms or as part of the individual standard. *See, e.g., Notice of Proposed Rulemaking, Monitoring System Conditions—Transmission Operations Reliability Standard, Transmission Operations Reliability Standards, Interconnection Reliability Operations and Coordination Reliability,* 145 FERC ¶ 61,158, at P 66, n.81 (2013) (''The Commission has held that definitions are standards.'').

[112] 44 U.S.C. 3507(d) (2012).

[113] 5 CFR 1320.11 (2012).

Energy Regulatory Commission, Office of the Executive Director, 888 First Street, NE., Washington, DC 20426 [Attention: Ellen Brown, email: *DataClearance@ferc.gov*, phone: (202) 502–8663, fax: (202) 273–0873].

78. Comments concerning the information collections in this rule and the associated burden estimates should be sent to the Commission and to the Office of Management and Budget, Office of Information and Regulatory Affairs [Attention: Desk Officer for the Federal Energy Regulatory Commission]. For security reasons, comments to OMB should be sent by email to: *oira_submission@omb.eop.gov.* Please reference Docket No. RM13–7–000 (FERC–725P) in your submission.

IV. Regulatory Flexibility Act Analysis

79. The Regulatory Flexibility Act of 1980 (RFA) [115] generally requires a description and analysis of rules that will have significant economic impact on a substantial number of small entities. As discussed above, Reliability Standard PRC–005–2 will apply to an estimated 867 individual entities (the number of entities registered as a distribution provider, a generator owner, a transmission owner, or any combination of those three functional entities). Comparison of the NERC Compliance Registry with data submitted to the Energy Information Administration on Form EIA–861 indicates that, of these entities, 230 may qualify as small entities.[116] Of the 230 small entities, 90 are registered as a combination of distribution providers, generator owners and transmission owners, but it is assumed that each entity would have only one comprehensive program to review.

80. The Commission estimates that, on average, each of the 230 small entities affected will have a one-time cost of $560, representing a one-time review of the program for each entity, consisting of 8 man-hours at $70/hour as explained above in the information collection statement. We do not consider this cost to be a significant economic impact for small entities. Accordingly, the Commission certifies that Reliability Standard PRC–005–2 will not have a significant economic impact on a substantial number of small entities.

V. Environmental Analysis

81. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[117] The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment. Included in the exclusion are rules that are clarifying, corrective, or procedural or that do not substantially change the effect of the regulations being amended.[118] The actions taken herein fall within this categorical exclusion in the Commission's regulations.

VI. Document Availability

82. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through the Commission's Home Page (*http://www.ferc.gov*) and in the Commission's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street NE., Room 2A, Washington, DC 20426.

83. From the Commission's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

84. User assistance is available for eLibrary and the Commission's Web site during normal business hours from the Commission's Online Support at (202) 502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

VII. Effective Date and Congressional Notification

85. This Final Rule is effective February 24, 2014.

86. The Commission has determined, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of OMB, that this rule is not a ''major rule'' as defined in section 351 of the Small Business Regulatory Enforcement Fairness Act of 1996.[119] The Commission will submit the Final Rule to both houses of Congress and to the General Accountability Office.

By the Commission.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

Note: The Appendix will not appear in the *Code of Federal Regulations.*

Appendix A

Commenters

Associated Electric Cooperative, Inc., Basin Electric Power Cooperative, Inc. and Tri-State Generation and Transmission Association (Cooperatives)
Duke Energy Corporation (Duke Energy)
Idaho Power Company (Idaho Power)
International Transmission Company d/b/a ITC*Transmission,* Michigan Electric Transmission Company, LLC, ITC Midwest LLC and ITC Great Plains, LLC (ITC)
North American Electric Reliability Corporation (NERC)
Oncor Electric Delivery Company LLC (Oncor)
United States Department of the Interior, Bureau of Reclamation (Bureau of Reclamation)

[FR Doc. 2013–30628 Filed 12–23–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF JUSTICE

28 CFR Part 16

[CPCLO Order No. 006–2013]

Exemption of Records Systems Under the Privacy Act; Correction

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

ACTION: Correcting amendments.

SUMMARY: The Department of Justice (the Department or DOJ) published a final rule in the **Federal Register** on November 21, 2013, which added a new section to the Department's Privacy Act exemption regulations to exempt two OCDETF systems of records from certain subsections of the Privacy Act. The final text of the rule incorrectly referred to exempted ''subsections'' of the Privacy Act as ''paragraphs'' of the new section. This document corrects the final rule by revising the new section.

DATES: Effective on December 24, 2013.

FOR FURTHER INFORMATION CONTACT: Jill Aronica, Chief Information Systems

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[115] 5 U.S.C. 601–12.

[116] The RFA definition of ''small entity'' refers to the definition provided in the Small Business Act (SBA), which defines a ''small business concern'' as a business that is independently owned and operated and that is not dominant in its field of operation. *See* 15 U.S.C. 632 (2006). According to the Small Business Administration, an electric utility is defined as ''small'' if, including its affiliates, it is primarily engaged in the generation, transmission, and/or distribution of electric energy for sale and its total electric output for the preceding fiscal year did not exceed 4 million megawatt hours.

[117] *Regulations Implementing the National Environmental Policy Act of 1969,* Order No. 486, FERC Stats. & Regs. ¶ 30,783 (1987).

[118] 18 CFR 380.4(a)(2)(ii).

[119] *See* 5 U.S.C. 804(2) (2007).

Section, Executive Office for OCDETF, phone 202–514–1860.

SUPPLEMENTARY INFORMATION: The final rule published in the **Federal Register** on November 21, 2013 (78 FR 69753), added § 16.135 as a new section to the Department's Privacy Act exemption regulations to exempt two OCDETF systems of records from certain subsections of the Privacy Act (5 U.S.C. 552a). The final text of rule § 16.135(c) incorrectly referred to exempted ''subsections'' of the Privacy Act as ''paragraphs'' of § 16.135. This document corrects the final rule by revising § 16.135(c).

List of Subjects in 28 CFR Part 16

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

Pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a and delegated to me by Attorney General Order 2940–2008, 28 CFR part 16 is corrected by making the following correcting amendments:

PART 16—PRODUCTION OR DISCLOSURE OF MATERIAL OR INFORMATION

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

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

Subpart E—Exemption of Records Systems Under the Privacy Act

■ 2. In § 16.135, revise paragraph (c) introductory text and paragraphs (c)(1) through (c)(10) to read as follows:

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

* * * * *

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

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

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

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

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

(5) From subsections (d)(3) and (4) because these subsections are inapplicable to the extent that exemption is claimed from subsections (d)(1) and (2) and for the reasons stated in § 16.135(c)(3) and (c)(4).

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

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

(8) From subsection (e)(3) because to comply with the requirements of this subsection during the course of an investigation could impede the information-gathering process, thus hampering the investigation or intelligence gathering. Disclosure to an individual of investigative interest

would put the subject on notice of that fact and allow the subject an opportunity to engage in conduct intended to impede that activity or avoid apprehension. Disclosure to other individuals would likewise put them on notice of what might still be a sensitive law enforcement interest and could result in the further intentional or accidental disclosure to the subject or other inappropriate recipients, convey information that might constitute unwarranted invasions of the personal privacy of other persons, unnecessarily burden law enforcement personnel in information-collection activities, and chill the willingness of witnesses to cooperate.

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

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

* * * * *

Dated: December 5, 2013.

Erika Brown Lee,

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

[FR Doc. 2013–30067 Filed 12–23–13; 8:45 am]

BILLING CODE 4410–NY–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 64

[Docket No. USCG–2012–0054]

RIN 1625–AC11

Waiver for Marking Sunken Vessels With a Light at Night

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is revising its regulations to implement section 301 of the Coast Guard and Maritime Transportation Act of 2004. This Act authorized the Commandant to waive the statutory requirement to mark sunken vessels with a light at night if the Commandant determines that placing a light would be impractical and waiving the requirement would not create an undue hazard to navigation. The Commandant has delegated to the Coast Guard District Commander in whose district the sunken vessel is located the authority to grant this waiver.

DATES: This final rule is effective January 23, 2014.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket number USCG–2012–0054 and are available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket online by going to *http://www.regulations.gov* and following the instructions on that Web site.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email LT Patrick N. Armstrong, Coast Guard; telephone 202–372–1561, email *Patrick.N.Armstrong@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Ms. Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

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I. Abbreviations

BLS Bureau of Labor Statistics
CFR Code of Federal Regulations
COTP Captain of the Port
E.O. Executive Order
MISLE Marine Information for Safety and Law Enforcement
NAICS North American Industry Classification System
NPRM Notice of proposed rulemaking
Pub. L. Public Law
§ Section symbol
U.S.C. United States Code
USCG United States Coast Guard

II. Regulatory History

The Coast Guard published a notice of proposed rulemaking (NPRM) on May 28, 2013 (78 FR 31872). We note that the NPRM was published with an incorrect Regulatory Identification Number of 1625–AA97, and so we published a correcting notice on September 10, 2013 (78 FR 55230). We received no comments on the proposed rule, no public meeting was requested, and none was held.

III. Background

The Coast Guard is revising its regulations in Title 33 of the Code of Federal Regulations (CFR) part 64, which prescribe rules relating to the marking of structures, sunken vessels, and other obstructions for the protection of maritime navigation. These regulations apply to all sunken vessels in the navigable waters or waters above the continental shelf of the United States. The current regulations in 33 CFR 64 require an owner of a vessel, raft, or other craft that is wrecked and sunk in a navigable channel to immediately mark it with a buoy or a beacon during the day and a light at night, and maintain the markings until the wreck is removed. The current wording uses the phrase ''buoy or daymark,'' which we are replacing with ''buoy or beacon'' in this part. This is a more precise phrase encompassing floating and fixed aids to navigation. There are no provisions for exemptions to this regulation. However, the Commandant is authorized by statute to grant a waiver from the lighting requirement if the Coast Guard determines, due to conditions of the waterway, that marking the sunken vessel with a light is impracticable and that not marking the sunken vessel does not pose an undue hazard to navigation. Such a waiver could save owners the cost of marking sunken vessels with a light without jeopardizing navigational safety.

The potential for saving owners money where there is little risk to navigation safety is the primary purpose of this rule. This final rule adds to the regulations a provision in section 301 of the Coast Guard and Maritime Transportation Act of 2004 (''the Act'') (Pub. L. 108–293), codified at 33 U.S.C. 409, that authorizes the Commandant to waive the requirement to mark a sunken vessel, raft, or other craft with a light at night if the Commandant determines it would be ''impracticable and granting

such a waiver would not create an undue hazard to navigation.'' The Commandant has delegated to the District Commander the authority to grant this waiver. (*See* Aids to Navigation Manual—Administration (COMDTINST M16500.7A)).

In addition, the Coast Guard is making the editorial and organizational changes to 33 CFR part 64 subpart B addressed in the NPRM to make the regulations clearer to the regulated industry.

IV. Discussion of Comments and Changes

Because the Coast Guard received no comments on the proposed rule, we are publishing this final rule with no changes from the May 28, 2013 NPRM.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 (''Regulatory Planning and Review'') and 13563 (''Improving Regulation and Regulatory Review'') direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

This rule is not a significant regulatory action under section 3(f) of E.O. 12866, as supplemented by E.O. 13563, and does not require an assessment of potential costs and benefits under section 6(a)(3) of E.O. 12866. The Office of Management and Budget (OMB) has not reviewed it under E.O. 12866. Nonetheless, we developed an analysis of the costs and benefits of the rule to ascertain its probable impacts on industry.

The Coast Guard did not receive any comments related to the proposed rule or regulatory assessment during the public comment period. We received no additional information or data that would alter our assessments in the NPRM. Therefore, we are adopting the regulatory assessment for the NPRM as final. The following summarizes the costs and benefits as presented in the NPRM regulatory assessment:

SUMMARY OF COSTS AND BENEFITS

Category	Proposed rule
Applicability	Owner/operator of a vessel sunk in navigable channels that request a waiver from the requirement to provide a lighted marker if providing an unlighted marker does not create a hazard to navigation.
Affected population	6 sunken vessels per year.
Industry annualized costs (7% discount rate)	$217 per year.
Government annualized costs (7% discount rate)	$1,140 per year.
Total annualized cost of the rule (7% discount)	$1,357 per year.
Benefits	Cost savings due to waiver of requirement that the marker have a light. Improved clarity and readability for existing information requirements.

The Coast Guard is revising its regulations requiring the owner of a sunken vessel to mark the vessel with a light at night. Existing regulations require an owner of a vessel, raft, or other craft that is wrecked and sunk in a navigable channel to immediately mark it with a buoy or a beacon during the day and with a light at night, and maintain the markings until the sunken vessel is removed.

The revision to the regulations codifies a provision in the Coast Guard and Maritime Transportation Act of 2004 that authorizes the Commandant of the Coast Guard, under certain circumstances, to waive the requirement to mark sunken vessels with a light at night. This new regulatory language permits a waiver to be granted if the District Commander determines the placement of a light would be impractical and granting a waiver will not create an undue hazard to navigation. This final rule also makes certain edits in order to improve readability and clarify existing information requirements.

Costs associated with the rule result from vessel owners/operators requesting waivers from marking a sunken vessel. We estimate that six vessel owners and/or operators per year would request waivers from a District Commander. It is estimated that it would take an owner or operator approximately 15 minutes to report the incident to the Coast Guard, via voice communication, and informally request a waiver for their marker. The loaded hourly wage rate of a Captain, Mate, and Pilot of a Water Vessel (NAICS 53–5021) is $48.30.[1] Therefore, the estimated cost of the initial reporting, per incident, is $12.07 = ($48.30 × .25). We also estimate that it would take approximately 30 minutes, per waiver, to write up and submit a formal request to the District Commander. Therefore, the cost of submitting a request is $24.15 = ($48.30 × .5), and the total cost for each occurrence is $36.22 = ($12.07 + $24.15). The total 10-year cost of six affected vessels is $1,526 discounted at 7 percent and an annualized cost of $217.32 discounted at 7 percent.

The Federal Government will also incur costs to review and grant waivers. We anticipate a Coast Guard Commander (O–5) will review the waiver request and make the determination of whether to grant it. As previously stated, it is projected that six waiver requests per year would be submitted for review. We estimate that each waiver review would take approximately 2 hours. Therefore, the Government's economic burden of reviewing a written waiver request is $190 ($95.00 at an O–5 wage rate[2] × 2 hours) per waiver, and an estimated annual burden of $1,140 per year ($190 per waiver × 6 waivers). The total Government 10-year cost is $8,007, and the annualized cost is $1,140, both discounted at 7 percent. The total 10-year (industry and government) cost of this rule is estimated at $13,573.20 (undiscounted) and $9,533.25 discounted at 7 percent.

[1] See the Bureau of Labor Statistics' (BLS) Web site at *http://www.bls.gov/oes/2011/may/oes535021.htm*, Mean hourly wage for Captains, Mates and Pilots of Water Vessels. In addition, the cost reported in the analysis is based on the loaded wage rate, which is the reported BLS wage rate multiplied by the load rate of 1.4.

[2] Wage rate for an O–5 comes from COMDTINST 7310.1M. Feb 2011.

The primary benefit of this final rule is that it provides a regulatory efficiency benefit. Currently, ship operators may not be aware that waivers from the lighting requirement may be requested. By establishing a waiver provision as part of the Coast Guard regulations, we anticipate a wider audience would have knowledge about petitioning the Coast Guard for a waiver. Additionally, we believe that the clarifications to the regulations could improve the efficiency of data collection of sunken vessels by explaining the information required (such as specifying that vessel type and size should be included in the description of a sunken vessel).

B. Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. 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 fewer than 50,000 people. The Coast Guard received no comments related to its discussion and analysis of impacts on small entities during the public comment period. We received no additional information or data that would alter our discussion and analysis in the NPRM.

The Coast Guard expects that this rule could impact a maximum of six small entities per year at a cost of $36 per waiver per entity, which we assume would have a cost impact of less than 1 percent of annual revenue per affected entity.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

C. 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 the rule so that they can better evaluate its effects on them and participate in the rulemaking. 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.

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).

D. Collection of Information

As noted previously, we estimate that there would be fewer than 10 respondents affected in any given year. Therefore, this rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), since the estimated number of respondents is less than the threshold of 10 respondents per 12-month period for collection of information reporting purposes under the Paperwork Reduction Act.

E. Federalism

A rule has implications for federalism under E.O. 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 E.O. and have determined that it does not have implications for federalism. This rule would merely permit owners and operators of vessels sunk in navigable channels to request a waiver from the existing Coast Guard requirement to mark the sunken vessel with a light at night.

It is well-settled that States may not regulate in categories reserved for regulation by the Coast Guard. It is also well-settled that the reporting of casualties and any other category in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, are within fields foreclosed from regulation by the States or local governments. (*See* the decision of the Supreme Court in the consolidated cases of *United States* v. *Locke* and *Intertanko* v. *Locke,* 529 U.S. 89, 120 S.Ct. 1135 (March 6, 2000)). The Coast Guard believes the Federalism principles articulated in *Locke* apply to this rule since it would only affect an area regulated exclusively by the Coast Guard.

F. Unfunded Mandates Reform Act

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

G. Taking of Private Property

This rule would not cause a taking of private property or otherwise have taking implications under E.O. 12630 (''Governmental Actions and Interference with Constitutionally Protected Property Rights'').

H. Civil Justice Reform

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

I. Protection of Children

We have analyzed this rule under E.O. 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.

J. Indian Tribal Governments

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

K. Energy Effects

We have analyzed this rule under E.O. 13211 (''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use''). We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under E.O. 12866, as supplemented by E.O. 13563, and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under E.O. 13211.

L. Technical Standards

The National Technology Transfer and Advancement Act (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory

activities unless the agency provides Congress, through OMB, 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.

M. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 0023.1 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 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 is categorically excluded under section 2.B.2, figure 2–1, paragraph (34)(a), (b) and (i) of the Instruction. This rule involves regulations which are editorial, regulations delegating authority and regulations in aid of vessel traffic services, and marking of navigation systems. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 64

Navigation (water), Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 64 as follows:

PART 64—MARKING OF STRUCTURES, SUNKEN VESSELS AND OTHER OBSTRUCTIONS

■ 1. The authority citation for part 64 continues to read as follows:

Authority: 14 U.S.C. 633; 33 U.S.C. 409, 1231; 42 U.S.C. 9118; 43 U.S.C. 1333; Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise § 64.11 to read as follows:

§ 64.11 Marking, notification, and approval requirements.

(a) The owner and/or operator of a vessel, raft, or other craft wrecked and sunk in a navigable channel must mark it immediately with a buoy or beacon during the day and with a light at night. The requirement to mark the vessel, raft, or other craft with a light at night may be waived by the District Commander pursuant to § 64.13 of this subpart.

(b) The owner and/or operator of a sunken vessel, raft, or other craft that constitutes a hazard to navigation must mark it in accordance with this subchapter.

(c) The owner and/or operator of a sunken vessel, raft, or other craft must promptly report to the District Commander, in whose jurisdiction the vessel, raft, or other craft is located, the action they are taking to mark it. In addition to the information required by 46 CFR 4.05, the reported information must contain—

(1) Name and description of the sunken vessel, raft, or other craft, including type and size;

(2) Accurate description of the location of the sunken vessel, raft, or other craft, including how the position was determined;

(3) Water depth; and

(4) Location and type of marking established, including color and shape of buoy or other beacon and characteristic of the light, if fitted.

(d) The owner and/or operator of a vessel, raft, or other craft wrecked and sunk in waters subject to the jurisdiction of the United States or sunk on the high seas, if the owner is subject to the jurisdiction of the United States, must promptly report to the District Commander, in whose jurisdiction the obstruction is located, the action they are taking to mark it in accordance with this subchapter. The reported information must contain the information listed in paragraph (c) of this section, including the information required by 46 CFR 4.05.

(e) Owners and/or operators of other obstructions may report the existence of such obstructions and mark them in the same manner as prescribed for sunken vessels.

(f) Owners and/or operators of marine pipelines that are determined to be hazards to navigation must report and mark the hazardous portion of those pipelines in accordance with 49 CFR parts 192 or 195, as applicable.

(g) All markings of sunken vessels, rafts, or crafts and other obstructions established in accordance with this section must be reported to and approved by the appropriate District Commander.

(h) Should the District Commander determine that these markings are inconsistent with part 62 of this subchapter, the markings must be replaced as soon as practicable with approved markings.

■ 3. Revise § 64.13 to read as follows:

§ 64.13 Approval for waiver of markings.

(a) Owners and/or operators of sunken vessels, rafts or other craft sunk in navigable waters may apply to the District Commander, in whose jurisdiction the vessel, raft, or other craft is located, for a waiver of the requirement to mark them with a light at night as required under § 64.11(a) of this subpart. Information on how to contact the District Commander is available at *http://www.uscg.mil/top/units.*

(b) The District Commander may grant a waiver if it is determined that—

(1) Marking the wrecked vessel, raft or other craft with a light at night would be impractical, and

(2) The granting of such a waiver would not create an undue hazard to navigation.

Dated: December 12, 2013.

Gary C. Rasicot,

Director, U.S. Coast Guard, Marine Transportation Systems.

[FR Doc. 2013–30656 Filed 12–23–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2013–1020]

Drawbridge Operation Regulation; Albemarle Sound to Sunset Beach, Atlantic Intracoastal Waterway (AICW), Wrightsville Beach, NC

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the operation of the S.R. 74 Bridge, at mile 283.1, over the AICW, at Wrightsville Beach, NC. The deviation is necessary to facilitate bearing replacement to the bridge. This temporary deviation allows one span of the double leaf bascule drawbridge to remain in the closed to navigation position at a time.

DATES: This deviation is effective from 7 a.m. on January 8, 2014 to 11 p.m. January 29, 2014.

ADDRESSES: The docket for this deviation, [USCG–2013–1020] is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line

associated with this deviation. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Mr. Jim Rousseau, Bridge Administration Branch Fifth District, Coast Guard; telephone (757) 398–6557, email *James.L.Rousseau2@uscg.mil.* If you have questions on reviewing the docket, call Barbara Hairston, Program Manager, Docket Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION: The North Carolina Department of Transportation, the owner and operator of this bascule bridge, has requested a temporary deviation from the current operating regulations set out in 33 CFR 117.821(a)(6), to facilitate bearing replacement to the bridge.

Under the current operating schedule, the draw for the S.R. 74 Bridge, at mile 283.1 over the AICW, at Wrightsville Beach, NC shall open on the hour between 7 a.m. to 7 p.m. and from 7 p.m. to 7 a.m. need not open except with a two hour advance notice.

Under this temporary deviation, one span of the drawbridge will be maintained in the closed to navigation position at a time, beginning at 7 a.m., on Wednesday, January 8, 2014 until and including to 11 p.m., on Wednesday January 29, 2014. The bridge will operate under its current operating schedule at all other times. The Coast Guard has carefully coordinated the restrictions with commercial and recreational waterway users.

Due to scaffolding hanging below the bridge the S.R. 74 Bridge has a temporary vertical clearance in the closed position of 18 feet above mean high water for ongoing maintenance. Vessels able to pass under the bridge in the closed position may do so at anytime and are advised to proceed with caution. Or, if they can pass through a single span opening, they may request such under the current operating schedule. There is no immediate alternate route for vessels transiting this section of the AICW that cannot pass a single span opening. The Coast Guard will also inform additional waterway users through our Local and Broadcast Notices to Mariners of the closure periods for the bridge so that vessels can arrange their transits to minimize any impacts caused by the temporary deviation.

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

Dated: December 13, 2013.

Waverly W. Gregory, Jr.,

Bridge Program Manager, Fifth Coast Guard District.

[FR Doc. 2013–30655 Filed 12–23–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2013–1023]

Drawbridge Operation Regulation; Shark River, NJ

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the bascule span of the Route 71 Bridge across Shark River (South Channel), mile 0.8, at Belmar, NJ. The deviation is necessary to facilitate the replacement of motor seals and instrumentation on the drawbridge. This deviation allows the bridge to remain in the closed to navigation position during the rehabilitation project.

DATES: This deviation is effective from 7 p.m. on Monday, January 6, 2014 until 5 a.m. on Friday, January 17, 2014.

ADDRESSES: The docket for this deviation [USCG–2013–1023] is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH''. Click on Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Terrance Knowles, Environmental Protection Specialist, Coast Guard; telephone 757–398–6587, email *Terrance.A.Knowles@uscg.mil.* If you have questions on viewing the docket, call Barbara Hairston, Program Manager, Docket Operations, at 202–366–9826.

SUPPLEMENTARY INFORMATION: The New Jersey Department of Transportation (NJDOT), the owner and operator of this bascule drawbridge, has requested a temporary deviation from the current operating regulations to help facilitate the replacement of motor seals and instrumentation on the bridge. The Route 71 Bridge across Shark River (South Channel), mile 0.8, at Belmar, NJ, has a vertical clearance in the closed position of 13 feet above mean high water (MHW).

Under the current operating schedule set out in 33 CFR 117.5 and 117.751(b), the draw must open promptly and fully for the passage of vessels when a request or signal to open is given, from October 1 through May 14 of any year. Under this temporary deviation, the bridge will be closed-to-navigation for the rehabilitation, which will restrict the operation of the draw span from 7 p.m., on January 6, 2014 through 5 a.m., January 10, 2014 and from 7 p.m., on January 13, 2014 through 5 a.m., January 17, 2014. Vessels able to pass through the bridge in the closed position may do so at anytime. The bridge will not be able to open for emergencies and there is no alternate route for vessels to pass this section of Shark River.

The Coast Guard will inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessels can arrange their transits to minimize any impact caused by the temporary deviation. Waterway traffic consists of recreational boats, tugs, and barges.

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

Dated: December 13, 2013.

Waverly W. Gregory, Jr.,

Bridge Program Manager, Fifth Coast Guard District.

[FR Doc. 2013–30653 Filed 12–23–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2013–0989]

RIN 1625–AA00

Safety Zone; Lower Mississippi River Mile 94.1–Mile 95.1; New Orleans, LA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for all waters of the Lower Mississippi River from mile marker 94.1 to mile marker 95.1 above head of passes (AHP). This safety zone is necessary to protect persons and vessels from potential safety hazards associated with a fireworks display in the Lower Mississippi River at mile marker 94.6 AHP. Entry into this zone is prohibited unless specifically authorized by the Captain of the Port New Orleans or a designated representative.

DATES: This rule is effective from 11:55 p.m. on December 31, 2013 to 12:15 a.m. on January 1, 2014.

ADDRESSES: Documents indicated in this preamble are parts of docket [USCG–2013–0989] and are available online at *www.regulations.gov.* They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call Lieutenant Commander (LCDR) Brandon Sullivan, Sector New Orleans, at (504) 365–2281 or *Brandon.J.Sullivan@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

AHP Above Head of Passes
COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
MM Mile Marker
NPRM Notice of Proposed Rulemaking

A. Regulatory History and Information

The Coast Guard is issuing this final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable and unnecessary. This safety zone is needed to protect vessels and mariners from the safety hazards associated with an aerial fireworks display taking place over the waterway. Providing notice and comment for this rule establishing the necessary safety zone would be impracticable as it would delay the safety measure necessary to protect life and property from the possible hazards associated with the display. Delay would also unnecessarily interfere with the planned fireworks display. The impacts on navigation are expected to be minimal as the safety zone will only impact navigation for a short duration.

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**. Waiting a full 30 days after publication in the **Federal Register** is contrary to the public interest as that would delay the effectiveness of the safety zone until after the planned fireworks event. Immediate action is needed to protect vessels and mariners from the safety hazards associated with an aerial fireworks display that will last for only a short duration. The Coast Guard will notify the public and maritime community that the safety zone will be in effect and of its enforcement periods via broadcast notices to mariners.

B. Basis and Purpose

J&M Displays is sponsoring a fireworks display from a barge located at MM 94.6 AHP on the Lower Mississippi River. This event will take place from 11:55 p.m. on December 31, 2013 to 12:15 a.m. on January 1, 2014. The Coast Guard has determined that a safety zone is needed to protect the public, mariners, and vessels from the hazards associated with these aerial fireworks displays over the waterway.

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; Pub. L. 107–295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to establish and define regulatory safety zones.

C. Discussion of the Final Rule

The Coast Guard is establishing a temporary safety zone on the Lower Mississippi River from 11:55 p.m. on December 31, 2013 to 12:15 a.m. on January 1, 2014. The safety zone will include the entire width of the Lower Mississippi River in New Orleans, LA, from MM 94.1 to MM 95.1 AHP. Entry into this zone is prohibited unless permission has been granted by the Captain of the Port New Orleans, or a designated representative.

The Captain of the Port New Orleans will inform the public through broadcast notices to mariners of the enforcement period for the safety zone as well as any changes in the planned schedule. Mariners and other members of the public may also contact Coast Guard Sector New Orleans Command Center to inquire about the status of the safety zone, at (504) 365–2200.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. This safety zone will restrict navigation on the Lower Mississippi River from MM 94.1 to MM 95.1 AHP, for approximately 20 minutes from December 31, 2013 to January 1, 2014. Due to the short duration of the event, the impacts on routine navigation are expected to be minimal.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their

fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities because the safety zone will only be subject to enforcement for approximately 20 minutes from December 31, 2013 to January 1, 2014. Before the activation of the zone, COTP New Orleans will issue maritime advisories widely available to users of the river and will make notifications to the public through marine band radio when the safety zone is being enforced. Additionally, deviation from this rule may be requested and will be considered on a case-by-case basis by COTP New Orleans or a COTP New Orleans designated representative.

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** section, 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 INTFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves establishing a temporary safety zone for all waters of the Lower Mississippi River from MM 94.1 to MM 95.1 AHP. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**.

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 ACESS 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; 33 CFR 1.05–1, 6.04–1, 6.04.6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. A new temporary § 165.T08–0989 is added to read as follows:

§ 165.T08–0989 Safety Zone, Lower Mississippi River Mile 94.1–Mile 95.1; New Orleans, LA.

(a) *Location.* The following areas are safety zones: All waters of the Lower Mississippi River from mile marker 94.1

to mile marker 95.1 above head of passes, New Orleans, LA.

(b) *Effective Date.* This rule is effective from 11:55 p.m. on December 31, 2013 to 12:15 a.m. on January 1, 2014.

(c) *Periods of Enforcement.* The safety zone for MM 94.1 to MM 95.1 AHP will be enforced from 11:55 p.m. on December 31, 2013 to 12:15 a.m. on January 1, 2014. The Captain of the Port (COTP) New Orleans or a COTP New Orleans designated representative will inform the public through broadcast notices to mariners of the enforcement period for the safety zone as well as any changes in the planned schedule.

(d) *Regulations.*

(1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless specifically authorized by the Captain of the Port New Orleans or designated personnel. Designated personnel include commissioned, warrant and petty officers of the U.S. Coast Guard assigned to units under the operational control of USCG Sector New Orleans.

(2) The safety zone is closed to all persons and vessels, except as may be permitted by the COTP New Orleans or a COTP New Orleans designated representative.

(3) Vessels requiring deviation from this rule must request permission from the COTP New Orleans or a COTP New Orleans designated representative. They may be contacted on VHF–FM Channel 16 or 67, or through Coast Guard Sector New Orleans at 504–365–2200.

Dated: December 2, 2013.

P. W. Gautier,

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

[FR Doc. 2013–30647 Filed 12–23–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2013–0837]

RIN 1625–AA00

Safety Zone; Barge Launches; Gulfport Lake; Gulfport, MS

AGENCY: Coast Guard, DHS.

ACTION: Interim rule and request for comments.

SUMMARY: The Coast Guard is establishing a safety zone for Gulfport Lake, Gulfport, MS. This action is necessary for the protection of persons and vessels on navigable waters during the launching of barges in Gulfport Lake, Gulfport, MS, particularly small craft in the area that risk being swamped. Entry into, transiting or anchoring in the zone during the launching of barges is prohibited for all vessels, mariners, and persons unless specifically authorized by the Captain of the Port Mobile or a designated representative. The Coast Guard also requests comments on this interim rule before establishing a final rule.

DATES: This rule is effective without actual notice from December 24, 2013 through December 31, 2016. For the purposes of enforcement, actual notice will be used from November 8, 2013, until December 24, 2013.

Comments and related material must be received by the Coast Guard on or before January 23, 2014.

ADDRESSES: Documents mentioned in this preamble are part of Docket Number USCG–2013–0837. 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.

You may submit comments identified by docket number USCG–2013–0837, using any one of the following methods:

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

(2) *Fax:* (202) 493–2251.

(3) *Mail or Delivery:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is (202) 366–9329.

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

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email LT Stanley A. Tarrant, Coast Guard Sector Mobile, Waterways Management Division; telephone (251) 441–5940, email *Stanley.A.Tarrant@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

CFR Code of Federal Regulations
COTP Captain of the Port
DHS Department of Homeland Security
NPRM Notice of Proposed Rulemaking

A. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided.

1. Submitting Comments

If you submit a comment, please include the docket number (USCG–2013–0837) for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online at *http://www.regulations.gov,* or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* type the docket number (USCG–2013–0837) in the ''SEARCH'' box and click ''SEARCH''. Click on ''Submit a Comment'' on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may

change the rule based on your comments.

2. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number (USCG–2013–0837) in the ''SEARCH'' box and click ''SEARCH''. Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

4. Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one, using one of the methods specified under **ADDRESSES**. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

B. Regulatory History and Information

Through this interim rule, the Coast Guard is establishing a recurring safety zone for the protection of mariners and vessels during monthly barge launching operations on Gulfport Lake, Gulfport, MS. The Coast Guard has previously established six (6) individual safety zones as temporary final rules for the launching of barges in Gulfport Lake, Gulfport, MS during 2013. These individual safety zones were issued as temporary final rules that were enforced with actual notice and are accessible in the docket as explained above under **ADDRESSES**. These temporary safety zones have enabled the Coast Guard to maintain safe navigation for all in the area during the barge launches without issue. Rather than continuing to establish individual safety zones on a monthly basis, the Coast Guard is establishing one recurring safety zone through this interim rule to be in effect approximately one day each month during the barge launching operations. Once established, the specific dates and times for launches will be noticed each month through broadcast notices to mariners providing at least 24 hours notice of when the safety zone will be enforced. The requirements of this interim rule are the same as those in the temporary rules available in the docket.

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.** This interim rule establishes a recurring safety zone to replace the temporary safety zones occurring monthly and the safety zone requirements are and have been noticed to vessels and mariners transiting the regulated area. Delaying the effective date to provide a full 30 days' notice is unnecessary and would be contrary to public interest by delaying the safety measures needed to protect persons and vessels from safety hazards associated with launching the barges. Additionally, delaying the safety zone would unnecessarily interfere with launching the barges and possible commercial and contractual obligations.

C. 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; Pub. L. 107–295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to propose, establish, and define regulatory safety zones. Trinity Offshore, LLC is a ship yard and repair facility located on Gulfport Lake in Gulfport, MS. Trinity Offshore, LLC provided the Coast Guard with a schedule of barge launches, indicating one barge launch a month over the course of the next three years. The launching of barges from this facility creates a 3 to 6 foot launch wave that will propagate southward across Gulfport Lake. This wave poses significant safety hazards to vessels, particularly small craft in the area that could potentially be swamped. The COTP Mobile is establishing a safety zone for Gulfport Lake, Gulfport, MS, to protect persons and vessels during the launching of barges. The COTP anticipates minimal impact on vessel traffic due to this regulation. However, this safety zone is deemed necessary for the protection of life and property within the COTP Mobile zone.

D. Discussion of the Interim Rule

The Coast Guard is establishing a safety zone for Gulfport Lake, to include all waters between an eastern boundary represented by positions 30° 25′ 37.2″ N, 089° 03′ 09.7″ W to 30° 25′ 27.0″ N, 089° 03′ 09.7″ W and a western boundary represented by positions 30° 25′ 35.4″ N, 089° 03′ 45.7″ W to 30° 25′ 28.8″ N, 089° 03′ 45.7″ W. This rule will protect the safety of life and property in this area. Entry into, transiting or anchoring in this zone during the launching of barges will be prohibited to all vessels, mariners, and persons unless specifically authorized by the Captain of the Port Mobile or a designated representative. The COTP may be contacted by telephone at 251–441–5976.

The COTP Mobile or a designated representative will inform the public through broadcast notice to mariners of enforcement periods for the safety zone. This rule will only be enforced during the launching of barges occurring once a month.

E. Regulatory Analyses

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

1. Regulatory Planning and Review

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

The safety zone listed in this rule will only restrict vessel traffic from entering, transiting or anchoring in Gulfport Lake, Gulfport, MS during the launching of barges. The effect of this regulation will not be significant for several reasons: (1) This rule will only affect vessel traffic for a short duration; (2) vessels may request permission from the COTP to transit through the safety zone; and (3) impacts on routine navigation are expected to be minimal. Notifications to the marine community will be made through broadcast notice to mariners. These notifications will allow the public to plan operations around the affected area.

2. Impact on Small Entities

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

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

3. Assistance for Small Entities

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

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

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children From Environmental Health Risks

We have analyzed this 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 would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined 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 a safety zone on a waterway during the launching of barges and is not expected to result in any significant adverse environmental impact as described in NEPA. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. Environmental analysis checklists supporting this determination and Categorical Exclusion Determinations are available for each of the preceding individual safety zones and will be done for this recurring safety zone and made available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping

requirements, Security measures, Waterways.

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.841 to read as follows:

§ 165.841 Safety Zone; Barge Launches; Gulfport Lake; Gulfport, MS.

(a) *Location.* The following area is a safety zone: Gulfport Lake, to include all waters between an eastern boundary represented by positions 30° 25′ 37.2″ N, 089° 03′ 09.7″ W to 30° 25′ 27.0″ N, 089° 03′ 09.7″ W and a western boundary represented by positions 30° 25′ 35.4″ N, 089° 03′ 45.7″ W to 30° 25′ 28.8″ N, 089° 03′ 45.7″ W.

(b) *Effective period and enforcement dates.* This safety zone is effective immediately on December 24, 2013 and enforceable through actual notice beginning November 8, 2013. The COTP Mobile or a designated representative will inform the public through broadcast notice to mariners of enforcement periods for the safety zone, giving at least 24 hour notice before enforcement begins. Enforcement periods are expected to occur once a month for approximately two (2) hours.

(c) *Regulations.*

(1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port Mobile or a designated representative.

(2) Persons or vessels desiring to enter into or passage through the zone must request permission from the Captain of the Port Mobile or a designated representative. They may be contacted on VHF–FM channels 16 or by telephone at 251–441–5976.

(3) If permission is granted, all persons and vessels shall comply with the instructions of the Captain of the Port or designated representative.

(d) *Informational broadcasts.* The Captain of the Port or a designated representative will inform the public through broadcast notices to mariners of the enforcement period for the safety zone as well as any changes that may occur.

Dated: November 7, 2013.

S. Walker,

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

[FR Doc. 2013–30648 Filed 12–23–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2013–0992]

RIN 1625–AA00

Safety Zone; Allied PRA–Solid Works, San Diego Bay; San Diego, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the navigable waters of the San Diego Bay in support of a fireworks display on the evening of January 28, 2014. The zone is necessary to provide for the safety of the participants, crew, spectators, participating vessels, and other vessels and users of the waterway. Persons and vessels are prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port or his designated representative.

DATES: This rule is effective from 9 p.m. to 10 p.m. on January 28, 2014.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2013–0992]. 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 Petty Officer Giacomo Terrizzi, Waterways Management, U.S. Coast Guard Sector San Diego, Coast Guard; telephone 619–278–7656, email *d11marineeventssandiego@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking
TFR Temporary Final Rule

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 because an NPRM would be impracticable. The Coast Guard received less than 60 days notice for this event. As such, the Coast Guard did not have time to follow standard notice and comment procedures.

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.** Delaying the effective date would be contrary to the public interest because immediate action is needed to ensure the public's safety.

B. Basis and Purpose

The Ports and Waterways Safety Act gives the Coast Guard authority to create and enforce safety zones. The Coast Guard is establishing a temporary safety zone from 9 p.m. to 10 p.m. on January 28, 2014 on a portion of the navigable waters of the San Diego Bay for the Allied PRA—Solid Works fireworks display, which will be conducted from a barge located southwest of Embarcadero Park South in San Diego Bay. The safety zone will include all the navigable waters within 600 feet of the nearest point of the barge, which will be located in the following approximate position: 32°42.13′N, 117°10.01′W. The sponsor will provide a tug boat to patrol the safety zone and inform vessels of the safety zone. This safety zone is necessary to provide for the safety of the crew, spectators, and other vessels and users of the waterway.

C. Discussion of the Final Rule

The Coast Guard is establishing a safety zone that will be enforced from 9 p.m. to 10 p.m. on January 28, 2014. The limits of the safety zone will include all

the navigable waters within 600 feet of the nearest point of the fireworks barge in approximate position: 32°42.13′N, 117°10.01′W, located southwest of Embarcadero Park South in San Diego Bay.

The safety zone is necessary to provide for the safety of the crews, spectators, and other vessels and users of the waterway. Persons and vessels will be prohibited from entering into, transiting through, or anchoring within the safety zone unless authorized by the Captain of the Port, or his designated representative. The temporary safety zone includes a portion of waters in the San Diego Bay. Before activating the zone, the Coast Guard will notify mariners by appropriate means including but not limited to Local Notice to Mariners and Broadcast Notice to Mariners.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. The safety zone is of a limited duration, no more than 60 minutes, and is limited to a relatively small geographic area at a time when vessel traffic is low. Additionally, before the effective period, the Coast Guard will publish a Local Notice to Mariners and just prior to and during a marine information broadcast.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

(1) This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in the impacted portion of the San Diego Bay from 9 p.m. to 10 p.m. on January 28, 2014.

(2) This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: The safety zone will only be in effect for no more than a 60 minute period, late in the evening when vessel traffic is low. Furthermore, vessel traffic can transit safely around the safety zones while the zones are in effect.

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 expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T11–612 to read as follows:

§ 165.T11–612 Safety zone; Allied PRA–Solid Works; San Diego, CA.

(a) *Location.* The limits of the safety zone will include all the navigable waters within 600 feet of the nearest point of the fireworks barge in approximate position 32°42.13′N, 117°10.01′W.

(b) *Enforcement Period.* This section will be enforced from 9 p.m. to 10 p.m. on January 28, 2014. If the event concludes prior to the scheduled termination time, the Captain of the Port will cease enforcement of this safety zone and will announce that fact via Broadcast Notice to Mariners.

(c) *Definitions.* The following definition applies to this section: *designated representative* means any commissioned, warrant, or petty officer of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, and local, state, and federal law enforcement vessels who have been authorized to act on the behalf of the Captain of the Port.

(d) *Regulations.* (1) Entry into, transit through or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port of San Diego or his designated representative.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated representative.

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

(4) The Coast Guard may be assisted by other federal, state, or local agencies.

Dated: December 9, 2013.

J.A. Janszen,

Commander, U.S. Coast Guard, Acting, Captain of the Port San Diego.

[FR Doc. 2013–30657 Filed 12–23–13; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2012–0988; FRL–9904–36-Region-5]

Approval and Promulgation of Air Quality Implementation Plans; Indiana; Indiana State Board Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Pursuant to its authority under the Clean Air Act (CAA), EPA is taking final action to approve state implementation plan (SIP) submissions made by the Indiana Department of Environmental Management (IDEM) intended to meet the state board requirements under section 128 of the CAA. The proposed rule associated with this final action was published on August 19, 2013.

DATES: This final rule is effective on January 23, 2014.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2012–0988. All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly-available only in hard copy. Publicly-available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Andy Chang at (312) 886–0258 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Andy Chang, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–0258, *chang.andy@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information section is arranged as follows:

I. What is the background for this action?
II. What action is EPA taking?
III. Statutory and Executive Order Reviews

I. What is the background for this action?

Under section 128 of the CAA, each SIP must contain provisions that address two requirements: (i) That any board or body which approves permits or enforcement orders under this chapter shall have at least a majority of members who represent the public interest and do not derive any significant portion of their income from persons subject to permits and enforcement orders under this chapter, and (ii) that any potential conflicts of interest by members of such board or body or the head of an executive agency with similar powers be adequately disclosed. To comply with this statutory provision, Indiana submitted the following rules for incorporation into the SIP: IC 13–13–8–1, IC 13–13–8–2(a), IC 13–13–8–2(b), IC 13–13–8–3, IC 13–13–8–4, and IC 13–13–8–11. EPA's August 19, 2013, proposed rulemaking

(*see* 78 FR 50360 at 50366) details how these rules satisfy the applicable requirements of section 128. EPA did not receive any comments regarding its proposal to approve Indiana's state board provisions.

II. What action is EPA taking?

For the reasons discussed in our August 19, 2013, proposed rulemaking, EPA is taking final action to approve IDEM's submissions addressing the state board requirements under section 128 of the CAA. The specific rules that we are approving as satisfying these requirements are IC 13–13–8–1, IC 13–13–8–2(a), IC 13–13–8–2(b),[1] IC 13–13–8–3, IC 13–13–8–4, and IC 13–13–8–11. It should be noted that our August 19, 2013, rulemaking contained proposed actions for various additional IDEM submissions, including those addressing the CAA section 110(a)(1) and (2) ''infrastructure'' SIP requirements for the 2008 ozone and 2008 lead national ambient air quality standards, as well as the prevention of significant deterioration of air quality provisions. This final rulemaking, however, is limited only to the state board requirements under section 128 of the CAA.

III. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on Tribal governments or preempt Tribal law.

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 action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 24, 2014. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the Proposed Rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: December 6, 2013.

Susan Hedman,

Regional Administrator, Region 5.

40 CFR part 52 is 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.*

■ 2. In § 52.770 the table in paragraph (c) is amended by adding a new heading entitled ''State Statutes'' and entry IC 13–13–8 at the end of the table to read as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

[1] In EPA's August 19, 2013, proposed approval of Indiana's state board provisions, we incorrectly cited this rule as IC 13–18–8–2(b). We want to clarify that this final approval is consistent with Indiana's submission, specifically with respect to IC 13–13–8–2(b).

EPA-APPROVED INDIANA REGULATIONS

Indiana citation	Subject	Indiana effective date	EPA approval date	Notes
*	*	*	*	*
State Statutes				
IC 13–13–8	Environmental Rules Board.	1/1/2013	12/24/2013, [INSERT PAGE NUMBER WHERE THE DOCUMENT BEGINS].	1, 2(a), 2(b), 3, 4, and 11 only.

* * * * *

[FR Doc. 2013–30336 Filed 12–23–13; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 225

[FRA–2008–0136, Notice No. 6]

RIN 2130–ZA12

Adjustment of Monetary Threshold for Reporting Rail Equipment Accidents/Incidents for Calendar Year 2014

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This rule increases the rail equipment accident/incident reporting threshold from $9,900 to $10,500 for certain railroad accidents/incidents involving property damage that occur during calendar year 2014. This action is needed to ensure that FRA's reporting requirements reflect cost increases that have occurred since the reporting threshold was last published in November of 2012.

DATES: This regulation is effective January 1, 2014.

FOR FURTHER INFORMATION CONTACT: Kebo Chen, Staff Director, U.S. Department of Transportation, Federal Railroad Administration, Office of Safety Analysis, RRS–22, Mail Stop 25, West Building 3rd Floor, Room W33–314, 1200 New Jersey Ave. SE., Washington, DC 20590 (telephone 202–493–6079); or Gahan Christenson, Trial Attorney, U.S. Department of Transportation, Federal Railroad Administration, Office of Chief Counsel, RCC–10, Mail Stop 10, West Building 3rd Floor, Room W31–204, 1200 New Jersey Ave. SE., Washington, DC 20590 (telephone 202–493–1381).

SUPPLEMENTARY INFORMATION:

Background

A ''rail equipment accident/incident'' is a collision, derailment, fire, explosion, act of God, or other event involving the operation of railroad on-track equipment (standing or moving) that results in damages to railroad on-track equipment, signals, tracks, track structures, or roadbed, including labor costs and the costs for acquiring new equipment and material, greater than the reporting threshold for the year in which the event occurs. 49 CFR 225.19(c). Each rail equipment accident/incident must be reported to FRA using the Rail Equipment Accident/Incident Report (Form FRA F 6180.54). 49 CFR 225.19(b), (c) and 225.21(a). Paragraphs (c) and (e) of 49 CFR 225.19 further provide that the dollar figure that constitutes the reporting threshold for rail equipment accidents/incidents will be adjusted, if necessary, every year in accordance with the procedures outlined in appendix B to part 225 (Appendix B) to reflect any cost increases or decreases.

Aside from periodically reviewing and adjusting the annual threshold in accordance with Appendix B, FRA has also periodically amended its method for calculating the threshold. In 49 U.S.C. 20901(b) Congress required that the threshold be based on publicly available information obtained from the Bureau of Labor Statistics (BLS), other objective government source, or be subject to notice and comment. In 1996 FRA adopted a new method for calculating the monetary reporting threshold for accidents/incidents. *See* 61 FR 60632 (Nov. 29, 1996). In 2005, FRA again amended its method for calculating the reporting threshold because the BLS ceased collecting and publishing the railroad wage data used by FRA in the threshold calculation. Consequently, FRA had to substitute railroad employee wage data collected by the Surface Transportation Board for the BLS data that was no longer collected (70 FR 75414 (Dec. 20, 2005)).

In this rule, FRA is merely adjusting the reporting threshold based on the currently published formula in Appendix B. Following the adoption of this 2014 reporting threshold, FRA intends to evaluate and amend, as appropriate, its method for calculating the monetary threshold for accident/incident reporting and, as a result, the formula utilized to calculate the threshold may change. FRA intends to reexamine and amend its method for calculating its reporting threshold because, since 2006, new data sources and methodologies for calculating the threshold have become available and updating the formula to include these advances will ensure it appropriately reflects changes in costs, wages, and inflation.

New Reporting Threshold

Approximately one year has passed since the rail equipment accident/incident reporting threshold was revised. 77 FR 71354 (November 30, 2012). Consequently, FRA has recalculated the threshold, as required by 49 CFR 225.19(c), based on increased costs for labor and increased costs for equipment. FRA has determined that the current reporting threshold of $9,900, which applies to rail equipment accidents/incidents that occur during calendar year 2013, should increase by $600 to $10,500 for equipment accidents/incidents occurring during calendar year 2014, effective January 1, 2014. The specific inputs to the equation set forth in Appendix B (*i.e.,* $Tnew = Tprior * [1 + 0.4(Wnew—Wprior)/Wprior + 0.6(Enew—Eprior)/100])$ are:

Tprior	Wnew	Wprior	Enew	Eprior
$9,900	$26.93344	$25.56943	197.23333	191.50000

Where:

Tnew = New threshold; *Tprior* = Prior threshold (with reference to the threshold, ''prior'' refers to the previous threshold rounded to the nearest $100, as reported in the **Federal Register**); *Wnew* = New average hourly wage rate, in dollars; *Wprior* = Prior average hourly wage rate, in dollars; *Enew* = New equipment average Producer Price Index (PPI) value; *Eprior* = Prior equipment average PPI value. Using the above figures, the calculated new threshold, (*Tnew*) is $10,451.83, which is rounded to the nearest $100 for a final new reporting threshold of $10,500.[1]

Notice and Comment Procedures

In this rule, FRA has recalculated the monetary reporting threshold based on the formula discussed in detail and adopted, after notice and comment, in the final rule published December 20, 2005, 70 FR 75414. FRA has found that both the current cost data inserted into this pre-existing formula and the original cost data that they replace were obtained from reliable Federal government sources. FRA has found that this rule imposes no additional burden on any person, but rather is intended to provide a benefit by permitting the valid comparison of accident data over time. Accordingly, finding that notice and comment procedures are either impracticable, unnecessary, or contrary to the public interest, FRA is proceeding directly to the final rule.

FRA regularly recalculates the monetary reporting threshold using the formula published in Appendix B near the end of each calendar year. Therefore, any person affected by this rule should anticipate the on-going adjustment of the threshold and has reasonable time to make any minor changes necessary to come into compliance with the reporting requirements. FRA attempts to use the most recent data available to calculate the updated reporting threshold prior to the next calendar year. FRA has found that issuing the rule no later than December of each calendar year and making the rule effective on January 1, of the next year, allows FRA to use the most up-to-date data when calculating the reporting threshold and to compile data that accurately reflects rising wages and equipment costs. As such, FRA finds that it has good cause to make this final rule effective January 1, 2014.

Regulatory Impact

Executive Orders 12866 and 13563 and DOT Regulatory Policies and Procedures

This rule has been evaluated in accordance with existing policies and procedures, and determined to be non-significant under both Executive Orders 12866 and 13563 in addition to DOT policies and procedures (44 FR 11034 (Feb. 26, 1979)).

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601–612) requires a review of proposed and final rules to assess their impact on small entities, unless the Secretary certifies that the rule will not have a significant economic impact on a substantial number of small entities. Pursuant to Section 312 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), FRA has issued a final policy statement that formally establishes ''small entities'' as including railroads that meet the line-haulage revenue requirements of a Class III railroad. 49 CFR part 209, app. C. For other entities, the same dollar limit in revenues governs whether a railroad, contractor, or other respondent is a small entity. *Id.*

About 738 of the approximately 782 railroads in the United States are considered small entities by FRA. FRA certifies that this final rule will have no significant economic impact on a substantial number of small entities. To the extent that this rule has any impact on small entities, the impact will be neutral or insignificant. The frequency of rail equipment accidents/incidents, and therefore also the frequency of required reporting, is generally proportional to the size of the railroad. A railroad that employs thousands of employees and operates trains millions of miles is exposed to greater risks than one whose operation is substantially smaller. Small railroads may go for months at a time without having a reportable occurrence of any type, and even longer without having a rail equipment accident/incident. For example, current FRA data indicate that 2,482 rail equipment accidents/incidents were reported in 2008, with small railroads reporting 334 of them. Data for 2009 show that 1,911 rail equipment accidents/incidents were reported, with small railroads reporting 325 of them. In 2010, 1,904 rail equipment accidents/incidents were reported, and small railroads reported 304 of them. In 2011, 2,023 rail equipment accidents/incidents were reported, with small railroads reporting 308 of them. In 2012, 1,742 rail equipment accidents/incidents were reported, with small railroads reporting 288 of them. On average over those five calendar years, small railroads reported about 15.5% of the total number of rail equipment accidents/incidents, ranging from 13% to 17% annually. FRA notes that these data are accurate as of the date of issuance of this final rule, and are subject to minor changes due to additional reporting. Absent this rulemaking (*i.e.,* any increase in the monetary reporting threshold), the number of reportable accidents/incidents would increase, as keeping the 2013 threshold in place would not allow it to keep pace with the increasing dollar amounts of wages and rail equipment repair costs. Therefore, this rule will be neutral in effect. Increasing the reporting threshold will slightly decrease the recordkeeping burden for railroads over time. Any recordkeeping burden will not be significant and will affect the large railroads more than the small entities, due to the higher proportion of reportable rail equipment accidents/incidents experienced by large entities.

Paperwork Reduction Act

There are no new information collection requirements associated with this final rule. Therefore, no estimate of a public reporting burden is required.

Federalism Implications

Executive Order 13132, entitled, ''Federalism,'' signed on August 4, 1999, requires that each agency ''in a separately identified portion of the preamble to the regulation as it is to be issued in the **Federal Register**, provide[] to the Director of the Office of Management and Budget a federalism summary impact statement, which consists of a description of the extent of the agency's prior consultation with State and local officials, a summary of the nature of their concerns and the agency's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of the State and local officials have been met.'' This rulemaking action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132. This rule will not have a substantial direct effect on States, on the relationship between the National Government and the States, or on the distribution of power and the responsibilities among the various

[1] On June 12, 2013, Union Pacific Railroad Company filed a revised 2nd Quarterly Report of Wage A&B Data (Form A Wage Statistics Summary—0100) for 2012 with the Surface Transportation Board, following the publication of the 2013 threshold. Based upon the revised data, the 2013 threshold would have been $10,000 (*Tnew* = 9500*(1+0.4*(26.10–24.93)/24.93+0.6*(191.5–186.37)/100.00) = 9970.76) . The current method for calculating the current threshold requires using the prior threshold as published in the **Federal Register**. Even though the corrected threshold for 2013 would have been higher at $10,000, leading to a higher *Tprior* in the calculation for 2014, the end result for 2014 is still $10,500 using the current formula.

levels of government, as specified in the Executive Order 13132. Accordingly, FRA has determined that this rule will not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism assessment. Accordingly, a federalism assessment has not been prepared.

Environmental Impact

FRA has evaluated this regulation in accordance with its ''Procedures for Considering Environmental Impacts'' (FRA's Procedures) (64 FR 28545 (May 26, 1999)) as required by the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), other environmental statutes, Executive Orders, and related regulatory requirements. FRA has determined that this regulation is not a major FRA action (requiring the preparation of an environmental impact statement or environmental assessment) because it is categorically excluded from detailed environmental review pursuant to section 4(c)(20) of FRA's Procedures. 64 FR 28545, 28547 (May 26, 1999). In accordance with section 4(c) and (e) of FRA's Procedures, the agency has further concluded that no extraordinary circumstances exist with respect to this regulation that might trigger the need for a more detailed environmental review. As a result, FRA finds that this regulation is not a major Federal action significantly affecting the quality of the human environment.

Unfunded Mandates Reform Act of 1995

Pursuant to Section 201 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 2 U.S.C. 1531), each Federal agency ''shall, unless otherwise prohibited by law, assess the effects of Federal regulatory actions on State, local, and tribal governments, and the private sector (other than to the extent that such regulations incorporate requirements specifically set forth in law).'' Section 202 of the Act (2 U.S.C. 1532) further requires that ''before promulgating any general notice of proposed rulemaking that is likely to result in the promulgation of any rule that includes any Federal mandate that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of [$143,100,000 or more (as adjusted for inflation)] in any one year, and before promulgating any final rule for which a general notice of proposed rulemaking was published, the agency shall prepare a written statement'' detailing the effect on State, local, and tribal governments and the private sector. The final rule will not result in the expenditure, in the aggregate, of $143,100,000 or more in any one year, and thus preparation of such a statement is not required.

Energy Impact

Executive Order 13211 requires Federal agencies to prepare a Statement of Energy Effects for any ''significant energy action.'' 66 FR 28355 (May 22, 2001). Under the Executive Order, a ''significant energy action'' is defined as any action by an agency (normally published in the **Federal Register**) that promulgates or is expected to lead to the promulgation of a final rule or regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking: that (1)(i) is a significant regulatory action under Executive Order 12866 or any successor order, and (ii) is likely to have a significant adverse effect on the supply, distribution, 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. FRA has evaluated this final rule in accordance with Executive Order 13211. FRA has determined that this final rule is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Consequently, FRA has determined that this regulatory action is not a ''significant energy action'' within the meaning of Executive Order 13211.

Privacy Act

Anyone is able to search the electronic form of all our 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.). See *http://www.regulations.gov/#!privacyNotice* for the privacy notice of regulations.gov or interested parties may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477).

List of Subjects in 49 CFR Part 225

Investigations, Penalties, Railroad safety, Reporting and recordkeeping requirements.

The Rule

In consideration of the foregoing, FRA amends part 225 of chapter II, subtitle B of title 49, Code of Federal Regulations, as follows:

PART 225–[AMENDED]

■ 1. The authority citation for part 225 is revised to read as follows:

Authority: 49 U.S.C. 103, 322(a), 20103, 20107, 20901–20902, 21301, 21302, 21311; 28 U.S.C. 2461, note; and 49 CFR 1.89.

■ 2. Amend § 225.19 by revising the first sentence of paragraph (c) and revising paragraph (e) to read as follows:

§ 225.19 Primary groups of accidents/incidents.

* * * * *

(c) *Group II—Rail equipment.* Rail equipment accidents/incidents are collisions, derailments, fires, explosions, acts of God, and other events involving the operation of on-track equipment (standing or moving) that result in damages higher than the current reporting threshold (*i.e.,* $6,700 for calendar years 2002 through 2005, $7,700 for calendar year 2006, $8,200 for calendar year 2007, $8,500 for calendar year 2008, $8,900 for calendar year 2009, $9,200 for calendar year 2010, $9,400 for calendar year 2011, $9,500 for calendar year 2012, $9,900 for calendar year 2013, and $10,500 for calendar year 2014) to railroad on-track equipment, signals, tracks, track structures, or roadbed, including labor costs and the costs for acquiring new equipment and material. * * *

* * * * *

(e) The reporting threshold is $6,700 for calendar years 2002 through 2005, $7,700 for calendar year 2006, $8,200 for calendar year 2007, $8,500 for calendar year 2008, $8,900 for calendar year 2009, $9,200 for calendar year 2010, $9,400 for calendar year 2011, $9,500 for calendar year 2012, $9,900 for calendar year 2013, and $10,500 for calendar year 2014. The procedure for determining the reporting threshold for calendar years 2006 and beyond appears as paragraphs 1–8 of appendix B to part 225.

* * * * *

Issued in Washington, DC, on December 20, 2013.

Karen J. Hedlund,

Deputy Administrator.

[FR Doc. 2013–30807 Filed 12–23–13; 8:45 am]

BILLING CODE 4910–06–P

Proposed Rules

Federal Register
Vol. 78, No. 247
Tuesday, December 24, 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 AGRICULTURE

Agricultural Marketing Service

7 CFR Part 966

[Doc. No. AMS–FV–13–0076; FV13–966–1 PR]

Tomatoes Grown in Florida; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would increase the assessment rate established for the Florida Tomato Committee (Committee) for the 2013–14 and subsequent fiscal periods from $0.024 to $0.0375 per 25-pound carton of tomatoes handled. The Committee locally administers the Federal marketing order, which regulates the handling of tomatoes grown in Florida. Assessments upon Florida tomato handlers are used by the Committee to fund reasonable and necessary expenses of the program. The fiscal period begins August 1 and ends July 31. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by January 8, 2014.

ADDRESSES: Interested persons are invited to submit written comments on this proposed rule. Comments must be sent to the Docket Clerk, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or internet: *http://www.regulations.gov.* Comments should reference the document number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.regulations.gov.* All comments submitted in response to this proposed rule will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting the comments will be made public on the internet at the address provided above.

FOR FURTHER INFORMATION CONTACT: Corey E. Elliott, Marketing Specialist, or Christian D. Nissen, Regional Director, Southeast Marketing Field Office, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA; Telephone: (863) 324–3375, Fax: (863) 325–8793, or Email: *Corey.Elliott@ams.usda.gov or Christian.Nissen@ams.usda.gov.*

Small businesses may request information on complying with this regulation 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 proposed rule is issued under Marketing Agreement No. 125 and Order No. 966, both as amended (7 CFR part 966), regulating the handling of tomatoes grown in Florida, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (USDA) is issuing this proposed rule in conformance with Executive Orders 12866 and 13563.

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, Florida tomato handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as proposed herein would be applicable to all assessable Florida tomatoes beginning on August 1, 2013, and continue until amended, suspended, or terminated.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This proposed rule would increase the assessment rate established for the Committee for the 2013–14 and subsequent fiscal periods from $0.024 to $0.0375 per 25-pound carton of Florida tomatoes.

The Florida tomato marketing order provides authority for the Committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers of Florida tomatoes. They are familiar with the Committee's needs and with the costs of goods and services in their local area and are therefore in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 2012–13 and subsequent fiscal periods, the Committee recommended, and USDA approved, an assessment rate of $0.024 per 25-pound carton of tomatoes that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other information available to USDA.

The Committee met on August 22, 2013, and unanimously recommended 2013–14 expenditures of $1,824,600 and an assessment rate of $0.0375 per 25-pound carton of Florida tomatoes. In comparison, last year's budgeted expenditures were $1,672,952. The assessment rate of $0.0375 is $0.0135 higher than the rate currently in effect. The Committee depleted its reserve by using the funds to help meet its annual expenditures over the past year. Therefore, the Committee recommended

increasing the assessment rate to generate sufficient funds to cover expenditures and increase its reserve balance.

The major expenditures recommended by the Committee for the 2013–14 year include $800,000 for education and promotion, $458,500 for salaries, and $300,000 for research. Budgeted expenses for these items in 2012–13 were $750,000, $436,372, and $250,000, respectively.

The assessment rate recommended by the Committee was derived by reviewing anticipated expenses; expected shipments of Florida tomatoes; income from interest, Market Access Program funds, and specialty crop block grants; and the need to add additional funds to the reserve. Florida tomato shipments for the year are estimated at 35 million 25-pound cartons, which should provide $1,312,500 in assessment income. Income derived from handler assessments, interest, and other sources would be adequate to cover budgeted expenses. Reserve funds projected to be $440,500 would be kept within the maximum permitted by the order of no more than approximately one fiscal period's expenses as stated in § 966.44.

The proposed assessment rate would continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate would be in effect for an indefinite period, the Committee would continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations to modify the assessment rate. The dates and times of Committee meetings are available from the Committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA would evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Committee's 2013–14 budget and those for subsequent fiscal periods would be reviewed and, as appropriate, approved by USDA.

Initial 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 proposed rule on small entities. Accordingly, AMS has prepared this initial 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 tomatoes subject to regulation under the marketing order and approximately 100 producers in the production area. Small agricultural service firms are defined by the Small Business Administration (SBA) as those whose annual receipts are less than $7,000,000, and small agricultural producers are defined as those having annual receipts of less than $750,000 (13 CFR 121.201).

Based on industry and Committee data, the average annual price for fresh Florida tomatoes during the 2012–13 season was approximately $10.64 per 25-pound carton, and total fresh shipments were approximately 35.5 million cartons. Based on the average price, about 80 percent of handlers could be considered small businesses under SBA's definition. In addition, based on production data, grower prices as reported by the National Agricultural Statistics Service, and the total number of Florida tomato growers, the average annual grower revenue is below $750,000. Thus, the majority of handlers and producers of Florida tomatoes may be classified as small entities.

This proposal would increase the assessment rate for the 2013–14 and subsequent fiscal periods from the current rate of $0.024 to $0.0375 per 25-pound carton of tomatoes. The Committee unanimously recommended the increased assessment rate and 2013–14 expenditures of $1,824,600. The increase was recommended to generate sufficient funds to cover the Committee's expenditures and add to its reserve. As previously stated, income derived from handler assessments, interest, and other income would be adequate to meet this year's anticipated expenses.

A review of historical information and preliminary information pertaining to the upcoming season indicates that the grower price for the 2013–14 season should average around $9.73 per 25-pound carton of tomatoes. Utilizing this estimate and the proposed assessment rate of $0.0375, estimated assessment revenue as a percentage of total grower revenue would be approximately 0.4 percent for the season.

Alternative expenditure and assessment levels were discussed prior to arriving at this budget. However, the Committee agreed on $1,824,600 in expenditures, reviewed the quantity of assessable tomatoes and the need to add additional funds to the reserve, and recommended an assessment rate of $0.0375 per 25-pound carton of tomatoes.

This action would increase the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. These costs would be offset by the benefits derived from the operation of the marketing order. In addition, the Committee's meeting was widely publicized throughout the Florida tomato industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the August 22, 2013, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit comments on this proposed rule, including the regulatory and informational impacts of this action on small businesses.

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 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 proposed rule would impose no additional reporting or recordkeeping requirements on either small or large Florida tomato handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this action.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/MarketingOrdersSmallBusinessGuide.*

Any questions about the compliance guide should be sent to Jeffrey Smutny at the previously-mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 15-day comment period is provided to allow interested persons to respond to this proposed rule. Fifteen days is deemed appropriate because: (1) The 2013–14 fiscal period began on August 1, 2013, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable Florida tomatoes handled during such fiscal period; (2) the Committee needs to have sufficient funds to pay its expenses, which are incurred on a continuous basis; and (3) handlers are aware of this action, which was unanimously recommended by the Committee at a public meeting.

List of Subjects in 7 CFR Part 966

Marketing agreements, Reporting and recordkeeping requirements, Tomatoes.

For the reasons set forth in the preamble, 7 CFR part 966 is proposed to be amended as follows:

PART 966—TOMATOES GROWN IN FLORIDA

■ 1. The authority citation for 7 CFR part 966 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 966.234 is revised to read as follows:

§ 966.234 Assessment rate.

On and after August 1, 2013, an assessment rate of $0.0375 per 25-pound carton is established for Florida tomatoes.

Dated: December 17, 2013.

Rex A. Barnes,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2013–30558 Filed 12–23–13; 8:45 am]

BILLING CODE 3410–02–P

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 72 and 73

[NRC–2009–0558]

RIN 3150–AI78

Security Requirements for Facilities Storing Spent Nuclear Fuel

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft regulatory basis; availability of responses to public comments.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC), published, on December 16, 2009, a notice of availability and request for comment on the NRC's draft regulatory basis [previously known as the technical basis] document for a proposed rulemaking that would revise the security requirements for storing spent nuclear fuel (SNF) in an independent spent fuel storage installation (ISFSI), and for storing SNF and/or high-level radioactive waste (HLW) in a monitored retrievable storage installation (MRS). The draft regulatory basis, comments on the draft regulatory basis, and the NRC staff's responses to these comments, are located on the Federal e-Rulemaking Web site at *http://www.rulemaking.gov* under Docket ID: NRC–2009–0558 and copies may also be obtained using the other methods specified below.

ADDRESSES: Please refer to Docket ID NRC–2009–0558 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–2009–0558. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- NRC's Agencywide Documents Access and Management System (ADAMS): You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select *''ADAMS Public Documents''* and then select *''Begin Web-based ADAMS Search.''* For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced. In addition, for the convenience of the reader, the ADAMS accession numbers are provided in a table in the section of this document entitled, Availability of Documents.
- NRC's PDR: You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Susan Stuchell, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–287–3609; email: *Susan.Stuchell@nrc.gov.*

SUPPLEMENTARY INFORMATION: In 2007, the Commission approved the initiation of a rulemaking recommended by the NRC staff in SECY–07–0148, to strengthen security requirements at ISFSIs. On December 16, 2009 (74 FR 66589), the NRC staff published in the **Federal Register** a notice of availability and request for comment on the NRC staff's draft regulatory basis for the rulemaking. In light of opposition, expressed in comments, on some of the key technical approaches discussed in the draft regulatory basis, the staff sought direction from the Commission concerning the proposed rulemaking. In SRM–SECY–10–0114, the Commission directed the staff to continue its assessment of the threat against ISFSIs, engage stakeholders, develop draft guidance, and provide a supplemental paper (now due on May 14, 2014) to evaluate whether changes in the proposed rulemaking's direction are necessary. The NRC staff is still in the information gathering stage for this planned security rulemaking.

The comments on the draft regulatory basis have been summarized for purposes of clarity and conciseness and grouped together into 20 subject areas. Five individuals or groups submitted written comments on the draft regulatory basis, and their comments have been assigned the following identification (ID) numbers:

Commenter	Commenter's ID No.
U.S. Department of Energy	(1)
Nuclear Energy Institute	(2)
Union of Concerned Scientists	(3)
Anonymous via Greenpeace	(4)
Prairie Island Indian Community	(5)

The NRC staff has responded to all comments. The comment summaries and the staff's responses are available in ADAMS under Accession No. ML13085A150.

Availability of Documents: The following table lists the documents that are available to the public and how they may be obtained:

Document	PDR	Web	ADAMS Accession No.
Draft Technical Basis, Revision 1 (December 2009) [NRC–2009–0558]	X	X	ML093280743.
Commission: SECY–10–0114 (August 26, 2010)	X	.....	ML101960614.
Commission: SRM–SECY–10–0114 (November 16, 2010)	X	X	ML103210025.
Commission: SECY–07–0148 (redacted) (August 28, 2007)	X	X	ML080030050.
Commission: SRM–SECY–07–0148 (December 18, 2007)	X	X	ML073530119.
Comment: Nuclear Energy Institute, January 29, 2010	X	X	ML100341196.
Comment: Prairie Island Indian Community, January 31, 2010	X	X	ML100341215.
Comment: Anonymous, January 31, 2010	X	X	ML100341214.
Comment: Department of Energy, February 1, 2010	X	X	ML100341195.
Comment: Union of Concerned Scientists, January 31, 2010	X	X	ML100341213.
Comment Summaries and Responses	X	X	ML13085A150.

Dated at Rockville, Maryland, this 17th day of December 2013.

For the Nuclear Regulatory Commission.

Mark Thaggard,

Deputy Director, Division of Security Policy, Office of Nuclear Security and Incident Response.

[FR Doc. 2013–30679 Filed 12–23–13; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF ENERGY

10 CFR Parts 429 and 430

[Docket Number EERE–2010–BT–STD–0011]

RIN 1904–AC22

Energy Conservation Program for Consumer Products: Energy Conservation Standards for Residential Furnace Fans

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of extension of public comment period.

SUMMARY: On October 25, 2013, the U.S. Department of Energy (DOE) published a notice of proposed rulemaking (NOPR) regarding energy conservation standards for residential furnace fans, with a comment period that was scheduled to close December 24, 2013. This document announces an extension of the time period for submitting comments on the NOPR. The comment period is extended 30 days.

DATES: The comment period for the NOPR regarding energy conservation standards for residential furnace fans published on October 25, 2013 (78 FR 64067) is extended to January 23, 2014.

ADDRESSES: Any comments submitted must identify the NOPR for Energy Conservation Standards for Residential Furnace Fans, and provide docket number EERE–2010–BT–STD–0011 and/or regulatory information number (RIN) 1904–AC22. Comments may be submitted using any of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.

2. *Email: FurnFans-2010–STD–0011@ee.doe.gov.* Include the docket number and/or RIN in the subject line of the message. Submit electronic comments in Word Perfect, Microsoft Word, PDF, or ASCII file format, and avoid the use of special characters or any form of encryption.

3. *Postal Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. If possible, please submit all items on a compact disc (CD), in which case it is not necessary to include printed copies.

4. *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Office, 950 L'Enfant Plaza SW., Suite 600, Washington, DC 20024.

Telephone: (202) 586–2945. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to Office of Energy Efficiency and Renewable Energy through the methods listed above and by email to *Chad_S._Whiteman@omb.eop.gov.*

Docket: The docket is available for review at *www.regu lations.gov,* including **Federal Register** notices, framework documents, public meeting attendee lists and transcripts, comments, and other supporting documents/materials. All documents in the docket are listed in the *www.regulations.gov* index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

A link to the docket Web page can be found at: *http://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/41.* This Web page contains a link to the docket for this notice on the *www.regulations.gov* site. The *www.regulations.gov* Web page contains simple instructions on how to access all documents, including public comments, in the docket.

For information on how to submit a comment or review other public comments and the docket, contact Ms. Brenda Edwards at (202) 586–2945 or by email: *Brenda.Edwards@ee.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Ronald Majette, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW., Washington, DC, 20585–0121. Telephone: (202) 586–7935. Email: *residential_furnace_fans@ee.doe.gov.*

Ms. Kavita Vaidyanathan, U.S. Department of Energy, Office of the General Counsel, GC–71, 1000 Independence Avenue SW., Washington, DC, 20585–0121. Telephone: (202) 586–0669. Email: *Kavita.Vaidyanathan@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: On October 25, 2013, DOE published a NOPR in the **Federal Register** (78 FR 64067) to make available and invite comments on the proposed rule regarding energy conservation standards for residential furnace fans. That notice set a deadline for the submission of written comment by December 24, 2013, and comments were also accepted at a public meeting held at DOE Headquarters on December 3, 2013. Several stakeholders requested an extension of the comment period. These stakeholders stated the additional time is necessary for interested parties to consider and respond to the proposed rule and public meeting presentation, in order to submit meaningful and useful comments.

After careful consideration of the multiple requests for more time to develop comments, DOE has determined that an extension of the

public comment period is appropriate and in the public interest based on the foregoing reasoning. Accordingly, DOE is hereby extending the comment period and will consider any comments received by January 23, 2014.

Issued in Washington, DC, on December 18, 2013.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

[FR Doc. 2013–30726 Filed 12–23–13; 8:45 am]

BILLING CODE 6450–01–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

RIN 3133–AE34

Requirements for Contacts with Federal Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule.

SUMMARY: The NCUA Board (Board) proposes to amend part 701 of its regulations to require examinations and other contacts between NCUA staff and staff or officials of a federal credit union (FCU) occur in an FCU's business offices or other public location. This does not include a private residence. The proposal also would require affected FCUs to bring to the meeting site any records or materials NCUA staff requests, and to maintain at least one method for members and NCUA staff to contact the credit union. These requirements would apply upon the effective date of a final rule. Additionally, the proposal would require all FCUs to obtain and maintain a business office, not located on the premises of a private residence address, no later than two years following the effective date of a final rule.

DATES: Comments must be received on or before January 23, 2014.

ADDRESSES: You may submit comments by any of the following methods (Please send comments by one method only):

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *NCUA Web site: http://www.ncua.gov/Legal/Regs/Pages/PropRegs.aspx.* Follow the instructions for submitting comments.
- *Email:* Address to *regcomments@ncua.gov.* Include ''[Your name]—Comments on Notice of Proposed Rulemaking for Part 701'' in the email subject line.
- *Fax:* (703) 518–6319. Use the subject line described above for email.
- *Mail:* Address to Gerard Poliquin, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.
- *Hand Delivery/Courier:* Same as mail address.

Public Inspection: You may view all public comments, as submitted, on NCUA's Web site at *http://www.ncua.gov/Legal/Regs/Pages/PropRegs.aspx,* except those we cannot post for technical reasons. NCUA will not edit or remove identifying or contact information from the public comments submitted. You may inspect paper copies of comments in NCUA's law library at 1775 Duke Street, Alexandria, Virginia 22314, by appointment weekdays between 9 a.m. and 3 p.m. To make an appointment, call (703) 518–6546 or send an email to *OGCMail@ncua.gov.*

FOR FURTHER INFORMATION CONTACT: Elizabeth Wirick, Staff Attorney, Office of General Counsel, at the above address or by telephone: (703) 518–6540.

SUPPLEMENTARY INFORMATION:

I. Background
II. Summary of the Proposed Rule
III. Regulatory Procedures

I. Background

1. NCUA Authority to Regulate Settings of FCU Examinations and Other On-Site Contacts, Require Production of Records, and Regulate Operating Conditions of FCUs

The Federal Credit Union Act (Act) requires FCUs to ''make financial reports to it [the NCUA Board] as and when it may require'' and requires FCUs to make ''books and records accessible to'' NCUA for examination purposes.[1] Likewise, federally insured, state-chartered credit unions must make ''reports of condition . . . in such form . . . as the Board may require.[2] Under this authority, the Board requires all insured credit unions to file quarterly call reports.[3]

The Act also requires and authorizes the Board to appoint examiners to examine any insured credit union to determine the credit union's condition.[4] NCUA examiners often review and verify the information credit unions submit in their call reports through on-site examinations. Specialized NCUA staff, such as problem case officers, also visit credit unions to address issues identified in the examination process.

In addition to the Board's statutory responsibilities to obtain financial reports and conduct examinations of insured credit unions, the Act gives the Board general authority to adopt regulations related to the oversight of FCUs. Taken together, these powers give the Board the authority to specify the location and other conditions of examinations and other on-site contacts with FCUs, as well as to require FCUs to conduct business in a commercial setting rather than in a home.

2. NCUA Authority To Direct Conditions of Work for NCUA Employees

The Act grants the Board authority to ''direct employees of the Board'' [5] and ''define their duties.'' [6] Most of NCUA's 1,260 employees are credit union examiners who work on-site at credit union locations, performing examinations and other types of reviews. By requiring that all examinations and other on-site contacts between NCUA staff and FCU officials occur in business offices or other public locations, the proposal ensures that examinations and other FCU contacts occur in a professional and safe setting.

3. Home-Based Credit Unions

In the early days of credit union organizing, it was common for a credit union to operate out of the home of one of its officials. As credit unions grew, however, most added offices either at a sponsor's location or in another commercial setting. NCUA has identified approximately 95 remaining home-based, federally insured credit unions. These are credit unions operated out of a home or on the premises of a home address, such as in a garage, sunroom, or basement apartment. Eighty-one of these are FCUs, with assets ranging from $34,000 to $12,000,000. Most of these FCUs are very small; 34 have assets below $1,000,000 and 38 have assets between $1,000,000 and $5,000,000.[7]

More recently, NCUA has encouraged examiners and other staff to arrange meetings with officials of home-based FCUs in public places, such as libraries or hotel conference rooms. NCUA did not, however, prohibit staff from meeting with an FCU official at a private

[1] 12 U.S.C. 1756.

[2] *Id.* 1782(a)(1).

[3] 12 CFR 741.6.

[4] 12 U.S.C. 1784.

[5] *Id.* 1766(j)(1).

[6] *Id.* 1789(a)(4).

[7] The 14 federally insured, state-chartered, home-based credit unions have assets ranging from $115,000 to nearly $11,000,000. The state-chartered, home-based credit unions are located in nine states as follows: Kansas has five, Utah has two, and Alabama, Illinois, Minnesota, Nebraska, Ohio, Pennsylvania, and Vermont each have one.

home if the official was reluctant to come to another location.

When an on-site contact occurs at the home of an FCU official, NCUA has no way of ensuring the environment is safe for its employees or conducive to working efficiently and securely. NCUA staff who have conducted on-site contacts in homes have recently raised concerns about the conditions they sometimes face. These concerns include: aggressive animals; lack of proper seating, lighting, and rest room access; interruptions from other residents of the home; exposure to allergens; poorly maintained driveways that pose hazards to examiners' vehicles; and low clearances or dilapidated stairways to access basement home offices. These types of concerns are much less likely to arise in a public, non-residential setting. For those home-based credit unions located in rural areas, NCUA is also concerned about the potential for examiners being isolated in a remote location.

Recently, NCUA began extensive efforts to encourage home-based credit unions to obtain commercial office space. NCUA's Office of Small Credit Union Initiatives (OSCUI) has worked with NCUA's Regional Offices to identify home-based credit unions. OSCUI then contacted each of these credit unions to offer assistance in planning for the credit union's long-term viability, including obtaining office space. OSCUI also offered grants to support relocation of home-based credit unions holding the NCUA Low Income Designation. To date, no home-based credit union has taken advantage of these services.

4. Why is NCUA proposing this rule?

The Board proposes to amend its regulations to require that any examinations or other on-site contacts between NCUA staff and FCU officials occur at an FCU's business offices or at a mutually agreeable public location. This does not include a private residence. No later than two years following the effective date of a final rule, the proposal would also require all FCUs to obtain and maintain a business office, not located in a private residence. The Board is proposing this rule because, as discussed above, it is concerned that continuing to allow NCUA staff to meet with FCU officials at private residences poses safety risks and is not favorable to conducting business in an appropriate fashion. In addition, the lack of a business office impedes the ability of FCUs to thrive and grow by obtaining new members or providing additional services to existing members.

The proposed rule would also require FCUs to maintain and monitor telephone numbers or electronic mail addresses, or both. The Board believes another impediment to an FCU's long-term viability is the inability of members to contact the FCU. In the recent outreach to home-based credit unions, OSCUI staff discovered that many of these credit unions lacked a dedicated telephone number with an answering system, a monitored electronic mail address, or both. Lacking both telephone and electronic mail access is not acceptable for a present-day financial institution. NCUA staff, FCU members, and potential FCU members need a reliable way to reach the FCU by electronic mail or telephone, leave messages, and receive prompt replies.

Operating an FCU out of a private residence also creates significant operational risks. The preservation and security of records is a critical concern, and NCUA is concerned many home-based FCUs are storing records in areas where they are at risk for accidental destruction, such as in basements near water heater tanks. Member privacy is also at risk if records are stored where other residents of the household could access them. Finally, as occurred in a recent situation, if an FCU official operating a home-based credit union dies or becomes disabled, NCUA can face barriers to accessing the FCU's records.

Further, a home-based FCU that pays rent for its space to the residing official creates disincentives for FCU management to procure appropriate space. These rental arrangements, by their nature, pose a potential conflict of interest for FCU officials.

The Board also notes that requiring examinations and other contacts with NCUA staff to occur in an alternative public location for credit unions that lack offices is not an ideal long-term solution. While addressing NCUA's concerns about staff safety and working conditions, meeting in public locations raises other risks. The main concern is the potential for inadvertent violations of privacy laws, or disclosure of confidential supervisory information related to the FCU's condition. For example, credit union examinations frequently involve discussion of the details of particular member loan files, which contain personally identifiable information (PII) that can be used to distinguish or trace an individual's identity. Likewise, examination contacts focus on the FCU's operations and often involve discussions of corrective actions the FCU must take. If these discussions occur in the alternative public locations, as permitted for the first two years under the proposal, NCUA staff and FCU officials must exercise caution that no other parties can overhear any PII or confidential supervisory information.

Having credit union officials move paper files to and from meeting locations, as would be required by the proposal if the credit union is unable to send records electronically, also entails privacy risks. When examiners take possession of an FCU's books and records outside of a credit union's office, the potential for inadvertent disclosure of PII increases further. As required by the Office of Management and Budget, NCUA has adopted guidance for staff regarding privacy responsibilities. These instructions require staff to take a variety of steps to safeguard PII.[8] One requirement is that staff taking possession of an FCU's records must conduct the contact in a non-public place.[9] Combining this requirement with the proposal's prohibition on meetings in residences limits the number of acceptable locations for off-site contacts.

In summary, while conducting contacts in alternative public locations, NCUA staff and credit union officials must exercise extreme care to avoid violations of privacy laws or revealing confidential supervisory information about the credit union. In the longer term, the Board has determined to eliminate this risk by requiring all FCUs to have an office that will facilitate discussions involving members' PII and confidential supervisory information without the risk of unauthorized disclosure of this sensitive information.

The Board emphasizes that it is sensitive to the challenges the smallest FCUs face, and wants to ensure the long-term viability of all FCUs. Lacking appropriate commercial office space, however, is a significant barrier to both long-term viability and effective supervision. As noted above, over the past year, NCUA has undertaken extensive efforts to assist home-based credit unions, and these efforts will continue. OSCUI will offer another round of grants to support relocation of home-based credit unions that hold the NCUA Low Income Designation in 2014. OSCUI will also produce a Home Relocation Guide best practice document and work with all affected FCUs to provide guidance on relocation.

[8] NCUA Instruction 01200.15, Rules and Consequences for Safeguarding Personally Identifiable Information (Oct. 5, 2007).

[9] NCUA Instruction 13500.09, Security of External Party's Documentation (Mar. 25, 2008).

II. Summary of the Proposed Rule

The proposed rule adds new section 701.40 to part 701 of NCUA's regulations. Paragraph (a) requires that any meetings between an FCU and NCUA staff occur at an FCU's offices or another alternative public location. This paragraph excludes from the definition of ''office,'' private homes, as well as separate areas of residential premises. Defining ''office'' in this manner will address the many varieties of home-based offices, including rooms in homes, separate apartments attached to homes, separate buildings on residential premises such as garages, and separate apartments within a residential apartment building not zoned for retail use. All of these types of locations raise similar concerns in terms of working conditions and safety for NCUA staff, as well as member accessibility.

Paragraph (b) specifies that any home-based FCU official that meets with NCUA staff at an alternative public location must deliver all necessary records to that location. The proposal lists examples of acceptable alternative public locations, such as restaurants, hotel lobbies or meeting rooms, libraries, and community centers. For FCUs that operate from churches or other communal sites such as lodges, the church or lodge office would also be an acceptable alternative public location under the proposed rule. FCU officials and NCUA staff must, however, find a meeting space that complies with NCUA's privacy regulations related to the security of records provided to NCUA. Where an FCU's records with PII are present and in the possession of NCUA staff, the meeting space must be in a separate area, such as a conference room in a hotel, library, or community center.

Subparagraph (c) requires FCUs to maintain and monitor, at a minimum, either an electronic mail address or a telephone number.

The proposed rule applies only to FCUs, not all federally insured credit unions. State supervisory authorities may continue to conduct their examinations of home-based, state credit unions at any location they choose.

Two years after the final rule's effective date, the proposal would revise § 701.40 to prohibit FCUs from operating out of homes. The proposal would also prohibit storage of FCU records at residential locations and continue to require FCUs to maintain at least one method of contact. As permitted in conjunction with the requirement that NCUA staff meet with FCU officials at an office or other public location, an FCU that operates out of a church office or similar location will be deemed in compliance with the requirement to obtain office space. OSCUI will consult with affected FCUs to determine if specific situations meet the office requirement.

The proposed rule does not immediately require FCUs to operate out of an office location, so that all affected FCUs have time to adapt to this change. The delayed effective date for obtaining office space, combined with the immediate requirement to meet in public places, improves working conditions for NCUA staff in the short term without immediately imposing a new requirement on small FCUs. As noted above, OSCUI staff will continue to be available to assist affected FCUs as they transition to obtaining business office locations, with appropriate and secure records storage areas, over the next two years.

The proposed rule intends to ensure that all FCUs operate in a manner consistent with modern-day expectations for insured financial institutions. In conjunction with its recent rule requiring all federally insured credit unions to file quarterly call reports electronically, NCUA provided grants so that all credit unions with NCUA's Low Income Designation that lacked computers could obtain them. NCUA will make similar efforts to assist home-based FCUs to comply with these proposed requirements.

III. Request for Comments

NCUA requests comments on all aspects of the proposed rule. In light of NCUA's concerns about staff safety and working conditions, NCUA particularly requests comments about whether the portion of the rule requiring home-based credit unions to meet NCUA staff at an alternative public location should also apply to state-chartered, federally insured credit unions.

IV. Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact a proposed rule may have on a substantial number of small credit unions (primarily those under $50 million in assets). Although this rule would affect relatively few FCUs, NCUA recognizes that all of the affected FCUs are small credit unions. As discussed above, NCUA is offering assistance to locate suitable meeting space at low or no cost as well as assistance with initial relocation expenses. Over the longer term, NCUA will work with officials of affected FCUs to provide consulting, training, and education and resource support as home-based FCUs transition to commercial locations. Accordingly, NCUA certifies this rule will not have a significant economic impact on a substantial number of small credit unions.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) applies to rulemakings in which an agency creates a new paperwork burden on regulated entities or modifies an existing burden. For purposes of the PRA, a paperwork burden may take the form of either a reporting or a recordkeeping requirement, both referred to as information collections. The proposed change to part 701 simply requires examinations and other meetings with NCUA staff to occur in certain authorized locations, and that FCUs maintain a functioning telephone number or electronic mail address, or both. This proposed rule will not create new paperwork burdens or modify any existing paperwork burdens.

Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order to adhere to fundamental federalism principles. Given the minor requirements the rule imposes on FCUs only, it will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. NCUA has determined that this proposed rule does not constitute a policy that has federalism implications for purposes of the Executive Order.

Treasury and General Government Appropriations Act, 1999

NCUA has determined that this proposed rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999.[10]

List of Subjects in 12 CFR Part 701

Credit unions, Reporting and recordkeeping requirements.

[10] Public Law 105–277, 112 Stat. 2681 (1998).

By the National Credit Union Administration Board on December 12, 2013.

Gerard Poliquin,

Secretary of the Board.

For the reasons set forth above, NCUA proposes to amend 12 CFR part 701 as follows:

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

■ 1. The authority citation for part 701 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1758, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1786, 1787, 1789. Section 701.6 is also authorized by 15 U.S.C. 3717. Section 701.31 is also authorized by 15 U.S.C. 1601 *et seq.;* 42 U.S.C. 1981 and 3601–3610. Section 701.35 is also authorized by 42 U.S.C. 4311–4312.

■ 2. Add § 701.40 to part 701 to read as follows:

§ 701.40 Examinations and communication requirements.

(a) *Office location.* All examinations, on-site contacts, and other meetings between a federal credit union and NCUA, where NCUA staff are physically present, must be held in a federal credit union's offices or at an alternative public location. For purposes of this section, a federal credit union's offices do not include an office maintained in a home or on the premises of a residential address.

(b) *Alternative public location.* For purposes of this section, an alternative public location means a place designated by NCUA staff that is open and available to the general public and that is generally accessible during normal business hours. Alternative public locations may include, but are not limited to, restaurants, hotel lobbies or meeting rooms, libraries, and community centers. Federal credit union officials meeting with NCUA staff at an alternative public location must deliver to that location all credit union records required by NCUA staff. For contacts where member information protected under federal privacy law or regulation is present or discussed, the meeting location must allow for necessary safeguards of this information.

(c) *Required communication services.* All federal credit unions must maintain either an electronic mail address or telephone service, or both. The electronic mail address or telephone number must be dedicated exclusively for the credit union's business purposes, and authorized credit union officials must monitor them regularly.

■ 3. Effective [DATE 24 MONTHS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**], revise § 701.40 to read as follows:

§ 701.40 FCU office location and requirements.

(a) *Office location.* Federal credit unions must maintain at least one office in a building that is accessible to credit union members during the federal credit union's normal business hours. Office space maintained in a home or on the premises of a residential address does not meet this requirement.

(b) *Records.* An FCU's records must be stored either at the FCU's office location or another commercial location designed for secure records storage.

(c) *Required communication services.* All federal credit unions must maintain either an electronic mail address or telephone service, or both. The electronic mail address or telephone number must be dedicated exclusively for the credit union's business purposes, and authorized credit union officials must monitor them regularly.

[FR Doc. 2013–30560 Filed 12–23–13; 8:45 am]

BILLING CODE 7535–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2013–1001; Notice No. 25–13–35–SC]

Special Conditions: Airbus, A350–900 Series Airplane; High Speed Protection System

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This action proposes special conditions for Airbus A350–900 series airplanes. These airplanes will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. These design features include a high-speed protection system. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: We must receive your comments by February 7, 2014.

ADDRESSES: Send comments identified by docket number FAA–2013–1001 using any of the following methods:

- *Federal eRegulations Portal:* Go to *http://www.regulations.gov/* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 8 a.m. and 5 p.m., Monday through Friday, except federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: The FAA will post all comments it receives, without change, to *http://www.regulations.gov/,* including any personal information the commenter provides. Using the search function of the docket Web site, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478), as well as at *http://DocketsInfo.dot.gov/*.

Docket: Background documents or comments received may be read at *http://www.regulations.gov/* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: Todd Martin, FAA, Airframe/Cabin Safety, ANM–115, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–1178; facsimile (425) 227–1322.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning these special conditions. You can inspect the docket before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 7:30 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

We will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these special conditions based on the comments we receive.

If you want us to acknowledge receipt of your comments on this proposal, include with your comments a self-addressed, stamped postcard on which you have written the docket number. We will stamp the date on the postcard and mail it back to you.

Background

On August 25, 2008, Airbus applied for a type certificate for their new A350–900 series airplane. Later, Airbus requested and the FAA approved an extension to the application for FAA type certification to June 28, 2009. The A350–900 series has a conventional layout with twin wing-mounted Rolls Royce Trent engines. It features a twin aisle 9-abreast economy class layout, and accommodates side-by-side placement of LD–3 containers in the cargo compartment. The basic A350–900 series configuration accommodates 315 passengers in a standard two-class arrangement. The design cruise speed is Mach 0.89 with a Maximum Take-Off Weight of 591,000 lbs. Airbus proposes the A350–900 series to be certified for extended operations (ETOPS) beyond 180 minutes at entry into service for up to a 420 minute maximum diversion time.

The A350–900, like Airbus A320, A330, A340 and A380 series aircraft, has a high speed protection system that limits nose down pilot authority at speeds above V_C/M_C, and prevents the airplane from actually performing the maneuver required under § 25.335(b)(1). Special conditions are necessary to address the Airbus A350–900 series high speed protection system. The proposed special conditions identify various symmetric and non-symmetric maneuvers that will ensure that an appropriate design dive speed, V_D/M_D, is established.

Type Certification Basis

Under Title 14, Code of Federal Regulations (14 CFR) 21.17, Airbus must show that the A350–900 series meets the applicable provisions of part 25, as amended by Amendments 25–1 through 25–129.

If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR part 25) do not contain adequate or appropriate safety standards for the A350–900 series because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same or similar novel or unusual design feature, the special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the A350–900 series must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36 and the FAA must issue a finding of regulatory adequacy under section 611 of Public Law 92–574, the ''Noise Control Act of 1972.''

The FAA issues special conditions, as defined in 14 CFR 11.19, under § 11.38, and they become part of the type-certification basis under § 21.17(a)(2).

Novel or Unusual Design Features

The Airbus A350–900 series will incorporate the following novel or unusual design features:

A high speed protection system that limits nose down pilot authority at speeds above V_C/M_C, and prevents the airplane from actually performing the maneuver required under § 25.335(b)(1). The proposed special conditions identify various symmetric and non-symmetric maneuvers that will ensure that an appropriate design dive speed, V_D/M_D, is established.

Discussion

Section 25.335(b)(1) is an analytical envelope condition which was originally adopted in Part 4b of the Civil Air Regulations in order to provide an acceptable speed margin between design cruise speed and design dive speed. Flutter clearance design speeds and airframe design loads are impacted by the design dive speed. While the initial condition for the upset specified in the rule is 1g level flight, protection is afforded for other inadvertent overspeed conditions as well. Section 25.335(b)(1) is intended as a conservative enveloping condition for potential overspeed conditions, including non-symmetric ones.

To establish that potential overspeed conditions are enveloped, the applicant should demonstrate that any reduced speed margin, based on the high speed protection system in the A350–900 series, will not be exceeded in inadvertent, or gust induced, upsets resulting in initiation of the dive from non-symmetric attitudes; or that the airplane is protected by the flight control laws from getting into non-symmetric upset conditions. The proposed special conditions identify various symmetric and non-symmetric maneuvers that will ensure than an appropriate design dive speed, V_D/M_D, is established.

These special conditions are proposed in lieu of § 25.335(b)(1). Section 25.335(b)(2), which also addresses the design dive speed, is applied separately (Advisory Circular (AC) 25.335–1A provides an acceptable means of compliance to § 25.335(b)(2)). The applicant should conduct a demonstration that includes a comprehensive set of conditions, as described below.

Paragraph (2) of the proposed special condition references AC 25–7C, section 32.c.(3), included here for information.

''(3) *Gust Upset.* In the following three upset tests, the values of displacement should be appropriate to the airplane type and should depend upon airplane stability and inertia characteristics. The lower and upper limits should be used for airplanes with low and high maneuverability, respectively.

(a) With the airplane trimmed in wings-level flight, simulate a transient gust by rapidly rolling to the maximum bank angle appropriate for the airplane, but not less than 45 degrees nor more than 60 degrees. The rudder and longitudinal control should be held fixed during the time that the required bank is being attained. The rolling velocity should be arrested at this bank angle. Following this, the controls should be abandoned for a minimum of 3 seconds after V_{MO}/M_{MO} or 10 seconds, whichever occurs first.

(b) Perform a longitudinal upset from normal cruise. Airplane trim is determined at V_{MO}/M_{MO} using power/thrust required for level flight but with not more than maximum continuous power/thrust. (If V_{MO}/M_{MO} cannot be reached in level flight with maximum continuous power or thrust, then the airplane should be trimmed at V_{MO}/M_{MO} in a descent.) This is followed by a decrease in speed, after which a pitch

attitude of 6–12 degrees nose down, as appropriate for the airplane type, is attained using the same power/thrust and trim. The airplane is permitted to accelerate until 3 seconds after V_{MO}/M_{MO}. The force limits of § 25.143(d) for short term application apply.

(c) Perform a two-axis upset, consisting of combined longitudinal and lateral upsets. Perform the longitudinal upset, as in paragraph (b) above, and when the pitch attitude is set, but before reaching V_{MO}/M_{MO}, roll the airplane 15–25 degrees. The established attitude should be maintained until 3 seconds after V_{MO}/M_{MO}.''

Paragraphs (3) and (4) of the proposed special condition indicate that failures of the high speed protection system must be improbable and must be annunciated to the pilots. If these two criteria are not met, then the probability that the established dive speed will be exceeded, and the resulting risk to the airplane, is too great. On the other hand, if the high speed protection system is known to be inoperative, then dispatch of the airplane could be acceptable under an approved Minimum Equipment List (MEL) containing language similar to paragraph (5). Dispatch under an MEL would require that appropriate reduced operating speeds, V_{MO}/M_{MO}, are provided in the airplane flight manual, and the cockpit display of those reduced speeds, as well as the overspeed warning for exceeding those speeds, are equivalent to that of the normal airplane with the high speed protection system operative.

We do not believe that application of the Interaction of Systems and Structures special condition (reference A350 issue paper A–3) or the European Aviation Safety Agency (EASA) Certification Specification (CS) 25.302, is appropriate in this case, because design dive speed is, in and of itself, part of the design criteria. Stability and control, flight loads, and flutter evaluations all depend on the design dive speed. Therefore, a single design dive speed should be established that will not be exceeded taking into account the performance of the high speed protection system, as well as its failure modes, failure indications and accompanying flight manual instructions.

Applicability

As discussed above, these special conditions apply to A350–900 series airplanes. Should Airbus apply at a later date for a change to the type certificate to include another series incorporating the same novel or unusual design feature, the special conditions would apply to that series as well.

Conclusion

This action affects only certain novel or unusual design features on the Airbus A350–900 series airplanes. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for Airbus A350–900 series airplanes.

(1) In lieu of compliance with § 25.335(b)(1), if the flight control system includes functions that act automatically to initiate recovery before the end of the 20 second period specified in § 25.335(b)(1), V_D/M_D must be determined from the greater of the speeds resulting from conditions (a) and (b) below. The speed increase occurring in these maneuvers may be calculated, if reliable or conservative aerodynamic data are used.

(a) From an initial condition of stabilized flight at V_C/M_C, the airplane is upset so as to take up a new flight path 7.5 degrees below the initial path. Control application, up to full authority, is made to try and maintain this new flight path. Twenty seconds after initiating the upset, manual recovery is made at a load factor of 1.5 g (0.5 acceleration increment), or such greater load factor that is automatically applied by the system with the pilot's pitch control set to neutral. Power, as specified in § 25.175(b)(1)(iv), is assumed until recovery is initiated, at which time power reduction and the use of pilot controlled drag devices may be used.

(b) From a speed below V_C/M_C, with power to maintain stabilized level flight at this speed, the airplane is upset so as to accelerate through V_C/M_C at a flight path 15 degrees below the initial path (or at the steepest nose down attitude that the system will permit with full control authority if less than 15 degrees). The pilot's controls may be in the neutral position after reaching V_C/M_C and before recovery is initiated. Recovery may be initiated three seconds after operation of the high speed warning system by application of a load of 1.5g (0.5 acceleration increment), or such greater load factor that is automatically applied by the system with the pilot's pitch control neutral. Power may be reduced simultaneously. All other means of decelerating the airplane, the use of which is authorized up to the highest speed reached in the maneuver, may be used. The interval between successive pilot actions must not be less than one second.

(2) The applicant must also demonstrate that the speed margin, established as above, will not be exceeded in inadvertent, or gust induced, upsets resulting in initiation of the dive from non-symmetric attitudes, unless the airplane is protected by the flight control laws from getting into non-symmetric upset conditions. The upset maneuvers described in AC 25–7C, Chapter 2, Section 8, Paragraph 32c.(3)(a) and (c), may be used to comply with this requirement.

(3) Detected loss of the high speed protection function must be less than 10^{-3} per flight hour.

(4) Failures of the system must be annunciated to the pilots. The Operating Limitations Section of the Airplane Flight Manual must contain instructions that reduce the maximum operating speeds, V_{max}/M_{max}, to a value that maintains a speed margin between these speeds and V_D/M_D that is consistent with showing compliance to § 25.335(b) without the benefit of the high speed protection system.

(5) Dispatch of the airplane with the high speed protection system inoperative is prohibited except under an approved Minimum Equipment List (MEL) that requires Airplane Flight Manual instructions to indicate reduced maximum operating speeds, as described in paragraph (4). In addition, the cockpit display of the reduced operating speeds, as well as the overspeed warning for exceeding those speeds, must be equivalent to that of the normal airplane with the high speed protection system operative. Also, it must be shown that no additional hazards are introduced with the high speed protection system inoperative.

Issued in Renton, Washington, on November 16, 2013.

Jeffrey E. Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–29938 Filed 12–23–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–27009; Directorate Identifier 2007–NE–02–AD]

RIN 2120–AA64

Airworthiness Directives; Turbomeca S.A. Turboshaft Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede airworthiness directive (AD) 2007–19–09R1 that applies to Turbomeca S.A. Arriel 2B1 turboshaft engines that do not have modification TU157 incorporated. AD 2007–19–09R1 requires replacement of the hydromechanical metering unit (HMU) with a serviceable HMU. Since we issued AD 2007–19–09R1, we received reports of ruptures on HMU constant delta pressure valves that have less than 2,000 hours in service. This proposed AD would continue to require HMU replacement; reduce the compliance interval; and include the power turbine (C2) cycle consumption rate when determining compliance times. We are proposing this AD to prevent failure of the HMU, which could lead to damage to the engine, and damage to the aircraft.

DATES: We must receive comments on this proposed AD by February 24, 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 Turbomeca, S.A., 40220 Tarnos, France; phone: 33 (0)5 59 74 40 00; telex: 570 042; fax: 33 (0)5 59 74 45 15. You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2007–27009; 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 MCAI, 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: 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:

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–2007–27009; Directorate Identifier 2007–NE–02–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

On May 24, 2010, we issued AD 2007–19–09R1, Amendment 39–16322 (75 FR 30687, June 2, 2010). That AD applies to all Turbomeca S.A. 2B1 turboshaft engines that do not incorporate modification TU157. That AD requires replacement of the HMU with a serviceable HMU. AD 2007–19–09R1 resulted from reports of HMU valve rupture. We issued AD 2007–19–09R1 to prevent failure of the HMU, which could lead to damage to the engine and damage to the aircraft.

Actions Since Existing AD Was Issued

Since we issued AD 2007–19–09R1, Amendment 39–16322 (75 FR 30687, June 2, 2010), we received reports of ruptures on HMU constant delta pressure valves that have less than 2,000 hours in service. Also since we issued AD 2007–19–09R1, the European Aviation Safety Agency has issued AD 2013–0171, dated July 30, 2013, which reintroduces a requirement for periodic replacement of the HMU.

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 retain certain requirements of AD 2007–19–09R1, Amendment 39–16322 (75 FR 30687, June 2, 2010) but would reduce the compliance interval and include the C2 cycle consumption rate when determining compliance times.

Costs of Compliance

We estimate that this proposed AD affects 264 engines installed on aircraft of U.S. registry. We also estimate that it would take about 1 hour per engine to comply with this proposed AD. The average labor rate is $85 per hour. Parts cost about $5,000 per engine. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $1,342,440.

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.

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing airworthiness directive (AD) 2007–19–09R1, Amendment 39–16322 (75 FR 30687, June 2, 2010), and adding the following new AD:

Turbomeca S.A.: Docket No. FAA–2007–27009; Directorate Identifier 2007–NE–02–AD.

(a) Comments Due Date

The FAA must receive comments on this AD action by February 24, 2014.

(b) Affected ADs

This AD supersedes AD 2007–19–09R1, Amendment 39–16322 (75 FR 30687, June 2, 2010).

(c) Applicability

This AD applies to Turbomeca S.A. Arriel 2B1 turboshaft engines that do not have modification TU157 incorporated.

(d) Unsafe Condition

This AD was prompted by reports of ruptures on hydromechanical metering unit (HMU) constant delta pressure valves that have less than 2,000 hours in service. We are issuing this AD to prevent failure of the HMU, which could lead to damage to the engine and damage to the aircraft.

(e) Compliance

Within the compliance times specified, replace the HMU with a part eligible for installation, unless already done.

(1) *HMU Operating Hours and Power Turbine (C2) Cycles Are Known.*

(i) If on the effective date of this AD, the HMU C2 cycles are less than 900, then replace the HMU before the HMU accumulates 1,000 C2 cycles or 1,500 HMU operating hours, whichever occurs first;

(ii) If on the effective date of this AD, the HMU C2 cycles are 900 or more, then replace the HMU within 100 HMU C2 cycles after the effective date of this AD;

(iii) Thereafter, replace the HMU at every 1,000 HMU C2 cycles or 1,500 HMU operating hours, whichever comes first.

(2) *HMU Operating Hours Are Known and C2 Cycles Are Not Known.*

(i) If on the effective date of this AD, the HMU operating hours are less than 1,100, then replace the HMU before accumulating 1,200 HMU operating hours;

(ii) If on the effective date of this AD, the HMU operating hours are 1,100 or more, then replace the HMU within 100 HMU operating hours after the effective date of this AD;

(iii) Thereafter, replace HMUs at every 1,200 HMU operating hours.

(f) Definition

For the purposes of this AD, ''HMU operating hours'' or ''C2 cycles'' are defined as operating hours or C2 cycles since new, since overhaul, or since application of Turbomeca S.A. Service Bulletin (SB) No. 292 73 2105, Version B, dated December 16, 2010, or earlier version, or of Turbomeca S.A. Mandatory SB (MSB) No. 292 73 2818, Version D, dated June 24, 2013, or earlier version, whichever occurs later.

(g) Optional Terminating Action

Incorporation of Turbomeca S.A. SB No. 292 73 2157, Version C, dated July 17, 2013, or earlier version, is terminating action to the replacement and repetitive inspection requirements of this AD.

(h) Credit for Previous Actions

If you performed the actions required by paragraphs (e)(1) or (e)(2) of this AD using an earlier version of Turbomeca S.A. MSB No. 292 73 2818, Version D, dated June 24, 2013, you met the requirements of this AD. However, you must still repetitively replace the HMU as required by paragraphs (e)(1)(iii) and (e)(2)(iii) of this AD.

(i) 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.

(j) 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 Airworthiness Directive 2013–0171, dated July 30, 2013. You may examine the AD on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2007–27009.

(3) Turbomeca S.A. MSB No. 292 73 2818, Version D, dated June 24, 2013 and Turbomeca S.A. SB No. 292 73 2157, Version C, dated July 17, 2013, and Turbomeca S.A. SB No. 292 73 2105, Version B, dated December 16, 2010, pertain to the subject of this AD and can be obtained from Turbomeca S.A. using the contact information in paragraph (j)(4) of this AD.

(4) For service information identified in this AD, contact Turbomeca, S.A., 40220 Tarnos, France; phone: 33 (0)5 59 74 40 00; telex: 570 042; fax: 33 (0)5 59 74 45 1.

(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.

Issued in Burlington, Massachusetts, on December 11, 2013.

Robert J. Ganley,

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

[FR Doc. 2013–30488 Filed 12–23–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–1029; Directorate Identifier 2013–NM–177–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede airworthiness directive (AD) 2010–13–04, which applies to certain Bombardier, Inc. Model DHC–8–400 series airplanes. AD 2010–13–04 requires modifying the nose landing gear (NLG) trailing arm. Since we issued AD 2010–13–04, we received a report of several missing or damaged pivot pin retention bolts. This proposed AD would require installing a new pivot pin retention mechanism. This proposed AD would also add airplanes to the applicability. We are proposing this AD to prevent failure of the pivot pin retention bolt, which could result in a

loss of directional control or loss of a NLG tire during take-off or landing.

DATES: We must receive comments on this proposed AD by February 7, 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, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Bombardier, Inc., Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email *thd.qseries@aero.bombardier.com;* Internet *http://www.bombardier.com*. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the 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. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Ricardo Garcia, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7331; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2013–1029; Directorate Identifier 2013–NM–177–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

On June 10, 2010, we issued AD 2010–13–04, Amendment 39–16335 (75 FR 35622, June 23, 2010). AD 2010–13–04 requires actions intended to address an unsafe condition on the products listed above.

Since we issued AD 2010–13–04, Amendment 39–16335 (75 FR 35622, June 23, 2010), Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2009–29R1, dated August 14, 2013 (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:

> Two in-service incidents have been reported on DHC–8 Series 400 aircraft in which the nose landing gear (NLG) trailing arm pivot pin retention bolt (part number NAS6204–13D) was damaged. One incident involved the left hand NLG tire which ruptured on take-off. Investigation determined that the retention bolt failure was due to repeated contact of the castellated nut with the towing device including both the towbar and the towbarless rigs. The loss of the retention bolt allowed the pivot pin to migrate from its normal position and resulted in contact with and rupture of the tire. The loss of the pivot pin could compromise retention of the trailing arm and could result in a loss of directional control due to loss of nose wheel steering. The loss of an NLG tire or the loss of directional control could adversely affect the aircraft during take off or landing.
>
> To prevent the potential failure of the pivot pin retention bolt, Bombardier Aerospace has developed a modification which includes a new retention bolt, a reverse orientation of the retention bolt and a rework of the weight on wheel (WOW) proximity sensor cover to provide clearance for the re-oriented retention bolt.
>
> Since the original issue of this [Canadian] AD [which corresponds to AD 2010–13–04, Amendment 39–16335 (75 FR 35622, June 23, 2010)], there have been several reports of pivot pin retention bolts found missing or damaged. Additional investigation determined that the failures were caused by high contact stresses on the retention bolt due to excessive frictional torque on the pivot pin and an adverse tolerance condition at the retention bolt.
>
> Revision 1 of this [Canadian] AD mandates the installation of a new pivot pin retention mechanism.

This proposed AD would also add airplanes to the applicability. AD 2010–13–04, Amendment 39–16335 (75 FR 35622, June 23, 2010), affected Model DHC–8–400 series airplanes, serial numbers 4001, 4003, 4004, 4006, and 4008 through 4238 inclusive. This proposed AD would affect serial numbers 4001 through 4435 inclusive. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2013–1029.

Relevant Service Information

Bombardier, Inc. has issued Service Bulletin 84–32–110, Revision A, dated April 8, 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 This Proposed AD

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

Costs of Compliance

We estimate that this proposed AD affects 383 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Modification of the NLG trailing arm [retained actions from AD 2010-13-04, Amendment 39-16335 (75 FR 35622, June 23, 2010)].	3 work-hours × $85 per hour = $255.	$100	$355	$22,365
Installation of new pivot pin retention mechanism [new proposed action].	2 work-hours × $85 per hour = $170.	None	170	65,110

According to the manufacturer, some of the costs of this proposed 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 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 determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

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

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

3. Will not affect intrastate aviation in Alaska; and

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing airworthiness directive (AD) 2010–13–04, Amendment 39–16335 (75 FR 35622, June 23, 2010), and adding the following new AD:

Bombardier, Inc.: Docket No. FAA–2013–1029; Directorate Identifier 2013–NM–177–AD.

(a) Comments Due Date

We must receive comments by February 7, 2014.

(b) Affected ADs

This AD supersedes AD 2010–13–04, Amendment 39–16335 (75 FR 35622, June 23, 2010).

(c) Applicability

This AD applies to Bombardier, Inc. Model DHC–8–400, –401, and –402 airplanes, certificated in any category, serial numbers 4001 through 4435 inclusive.

(d) Subject

Air Transport Association (ATA) of America Code 32, Landing Gear.

(e) Reason

This AD was prompted by a report of several missing or damaged pivot pin retention bolts. We are issuing this AD to prevent failure of the pivot pin retention bolt, which could result in a loss of directional control or a NLG tire during take-off or landing.

(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) Retained Actions and Compliance

This paragraph restates the requirements of paragraph (f)(1) of AD 2010–13–04, Amendment 39–16335 (75 FR 35622, June 23, 2010), with no changes. For airplanes having serial numbers 4001, 4003, 4004, 4006, and 4008 through 4238 inclusive: Within 2,000 flight hours after July 28, 2010 (the effective date of AD 2010–13–04), modify the NLG trailing arm by incorporating Bombardier Modification Summary 4–113599, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 84–32–65, Revision A, dated March 2, 2009.

(h) New Requirement of This AD: Installing a New Pivot Pin Retention Mechanism

For airplanes having serial numbers 4001 through 4435 inclusive: Within 6,000 flight hours or 36 months after the effective date of this AD, whichever occurs first, install a new pivot pin retention mechanism by incorporating Bombardier Modification Summary 4–113749, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 84–32–110, Revision A, dated April 8, 2013.

(i) Credit for Actions Accomplished in Accordance With Previous Service Information

(1) This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before July 28, 2010 (the effective date of AD 2010–13–04, Amendment 39–16335 (75 FR 35622, June 23, 2010)), using the Accomplishment Instructions of Bombardier Service Bulletin 84–32–65, dated December 17, 2008, which is not incorporated by reference in this AD.

(2) This paragraph provides credit for actions required by paragraph (h) of this AD, if those actions were performed before the effective date of this AD using Bombardier Service Bulletin 84–32–110, dated December 21, 2012, which is not incorporated by reference in this AD.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, ANE–170, New York 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 ACO, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they were approved by the State of Design Authority (or its delegated agent, or by the DAH with a State of Design Authority's design organization approval). For a repair method to be approved, the repair approval must specifically refer to this AD. You are required to ensure the product is airworthy before it is returned to service.

(k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF–2009–29R1, dated August 14, 2013, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2013–1029.

(2) For service information identified in this AD, contact Bombardier, Inc., Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email *thd.qseries@aero.bombardier.com;* Internet *http://www.bombardier.com.* You may review copies of this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on December 11, 2013.

John P. Piccola,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–30468 Filed 12–23–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–1057; Directorate Identifier 2013–CE–041–AD]

RIN 2120–AA64

Airworthiness Directives; M7 Aerospace LLC Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all M7 Aerospace LLC Models SA226–AT, SA226–T, SA226–T(B), SA226–TC, SA227–AC (C–26A), SA227–AT, SA227–BC (C–26A), SA227–CC, SA227–DC (C–26B), SA227–TT, SA26–AT, and SA26–T airplanes. This proposed AD was prompted by reports of airplanes with multiple fatigue cracks in the FS 69.31 front pressure bulkhead. This proposed AD would require repetitively inspecting (visually) the FS 51.31 front pressure bulkhead on SA26 series airplanes and FS 69.31 front pressure bulkhead on SA226 and SA227 series airplanes for cracks, and repairing any cracked bulkhead. This proposed AD also requires reporting certain inspection results to M7 Aerospace LLC. We are proposing this AD to correct the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by February 7, 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 proposed AD, contact M7 Aerospace LP, 10823 NE Entrance Road, San Antonio, Texas 78216; phone: (210) 824–9421; fax: (210) 804–7766; Internet: *http://www.m7aerospace.com;* email: none. 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 and locating Docket Number FAA–2013–1057; 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: Andrew McAnaul, Aerospace Engineer, FAA, ASW–150 (c/o San Antonio MIDO), 10100 Reunion Place, Suite 650, San Antonio, Texas 78216; phone: (210) 308–3365; fax: (210) 308–3370; email: *andrew.mcanaul@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2013–1057; Directorate Identifier 2013–CE–041–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

We received reports of two M7 Aerospace LLC Model SA227 airplanes with multiple fatigue cracks in the FS 69.31 front pressure bulkhead. The cracks are located in the radii of the left-hand and right-hand part number 27–21027 frames. The cracks were discovered by maintenance personnel after the flight crew reported trouble maintaining normal cabin pressure. The root cause for multiple site fatigue cracking is the normal ground-air-ground pressure cycles.

This unsafe condition, if not corrected, could result in cabin depressurization.

Relevant Service Information

We reviewed M7 Aerospace LLC SA26 Series Service Bulletin 26–53–001 R1; SA226 Series Service Bulletin 226–53–017 R1; SA227 Series Service Bulletin 227–53–011 R1; and SA227 Series Commuter Category Service Bulletin CC7–53–007 R1, all revised November 6, 2013. The service information describes procedures for repetitively inspecting (visually) the FS 51.31 front pressure bulkhead on SA26 series airplanes and FS 69.31 front pressure bulkhead on SA226 and SA227 series airplanes for cracks, and, if any crack damage is found, reporting and repairing any cracked bulkhead.

FAA's Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of these same type designs.

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in the service information described previously. This proposed AD also requires sending the inspection results to M7 Aerospace LLC.

Operators who had the initial inspection and resulting repairs accomplished using procedures different from the M7 Aerospace LLC service information required by this AD action may apply for an alternative method of compliance (AMOC) following the instructions in paragraph (m) of this AD.

Costs of Compliance

We estimate that this proposed AD affects 360 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspect visually F.S. 69.31 or F.S. 51.31 bulkhead (as applicable), looking for cracking in the radius.	12 work-hours × $85 per hour = $1,020 per inspection.	Not Applicable	$1,020	$367,200 per inspection cycle.

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

ON-CONDITION COSTS

Action	Labor cost	Parts costs	Cost per product
Repair damage	400 work-hours × $85 per hour = $34,000	$8,000	$42,000

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB control number. The control number for the collection of information required by this proposed AD is 2120–0056. The paperwork cost associated with this AD has been detailed in the Costs of Compliance section of this document and includes time for reviewing instructions, as well as completing and reviewing the collection of information. Therefore, all reporting associated with this proposed AD would be mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at 800 Independence Ave. SW., Washington, DC 20591. ATTN: Information Collection Clearance Officer, AES–200.

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

For the reasons discussed above, I certify this proposed regulation:

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

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

(3) Will not affect intrastate aviation in Alaska and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator,

the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

M7 Aerospace LLC: Docket No. FAA–2013–1057; Directorate Identifier 2013–CE–041–AD.

(a) Comments Due Date

We must receive comments by February 7, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to M7 Aerospace LLC Models SA226–AT, SA226–T, SA226–T(B), SA226–TC, SA227–AC (C–26A), SA227–AT, SA227–BC (C–26A), SA227–CC, SA227–DC (C–26B), SA227–TT, SA26–AT, and SA26–T airplanes, all serial numbers, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code: 5312, Fuselage Main, Bulkhead.

(e) Unsafe Condition

This AD was prompted by reports of airplanes with multiple fatigue cracks in the FS 69.31 front pressure bulkhead. We are issuing this AD to detect and correct cracks in the FS 51.31 (SA26 airplanes) and FS 69.31 (SA226 and SA227 airplanes) front pressure bulkhead, which if not corrected, could result in cabin depressurization.

(f) Compliance

Comply with this AD within the compliance times specified in paragraphs (h) through (j) of this AD, including all subparagraphs, unless already done.

(g) Inspection for Crack Damage

Do a detailed visual inspection of the front pressure bulkhead using the compliance times in paragraphs (h)(1) and (h)(2) of this AD, including all subparagraphs, as applicable.

(1) *For all SA26–AT and SA26–T airplanes:* Do a detailed visual inspection of the F.S. 51.31 front pressure bulkhead following paragraphs A. through E. of the Accomplishment Instructions in M7 Aerospace LLC SA26 Series Service Bulletin 26–53–001 R1, revised November 6, 2013.

(2) *For all SA226–AT, SA226–T, SA226 T(B), and SA226–TC airplanes:* Do a detailed visual inspection of the F.S. 69.31 front pressure bulkhead following paragraphs A. through E. of the Accomplishment Instructions in M7 Aerospace LLC SA226 Series Service Bulletin 226–53–017 R1, revised November 6, 2013.

(3) *For all SA227–AC (C–26A), SA227–AT, SA227–BC (C–26A), and SA227–TT airplanes:* Do a detailed visual inspection of the F.S. 69.31 front pressure bulkhead following paragraphs A. through E. of the Accomplishment Instructions in M7 Aerospace LLC SA227 Series Service Bulletin 227–53–011 R1, revised November 6, 2013.

(4) *For all SA227–CC and SA227–DC (C–26B) airplanes:* Do a detailed visual inspection of the F.S. 69.31 front pressure bulkhead following paragraphs A. through E. of the Accomplishment Instructions in M7 Aerospace LLC SA227 Series Commuter Category Service Bulletin CC7–53–007 R1, revised November 6, 2013.

Note 1 to paragraph (g) of this AD: Operators who had the initial inspection and resulting repairs accomplished using procedures different from the M7 Aerospace LLC service information required by this AD action may apply for an alternative method of compliance (AMOC) following the instructions in paragraph (m) of this AD.

(h) Bulkhead Inspection Compliance Times

(1) Initially do the inspections for crack damage required by paragraph (g)(1), (g)(2), (g)(3), or (g)(4) of this AD, as applicable, using the compliance times specified below:

(i) *For airplanes with 30,000 or more hours TIS,* perform the inspection within the next 150 hours TIS after the effective date of this AD;

(ii) *For airplanes with at least 25,000 but less than 30,000 hours TIS,* perform the inspection within the next 300 hours TIS after the effective date of this AD;

(iii) *For airplanes with at least 20,000 but less than 25,000 hours TIS,* perform the inspection within the next 450 hours TIS after the effective date of this AD;

(iv) *For airplanes with at least 11,000 but less than 20,000 hours TIS,* perform the inspection within the next 600 hours TIS after the effective date of this AD; or

(v) *For airplanes with less than 11,000 hours TIS,* perform the inspection before or upon accumulating 11,000 hours TIS or within the next 600 hours TIS after the effective date of this AD, whichever occurs later.

(2) After the initial inspection specified in paragraph (h)(1) of this AD, to include all subparagraphs, repetitively thereafter do the inspections required in paragraph (g)(1), (g)(2), (g)(3), or (g)(4) of this AD, as applicable, at intervals not to exceed 1,000 hours TIS.

(i) Reporting Requirement for All Airplanes

If any cracks or other damage is found during any inspection required by paragraph (g)(1), (g)(2), (g)(3), or (g)(4) of this AD, before further flight, report all damage to M7 Aerospace LLC using the contact information and reporting criteria specified in paragraph F. of the Accomplishment Instructions in the service information listed in paragraphs (i)(1) through (i)(4) of this AD, as applicable:

(1) M7 Aerospace LLC SA227 Series Commuter Category Service Bulletin CC7–53–007 R1, revised November 6, 2013.

(2) M7 Aerospace LLC SA227 Series Service Bulletin 227–53–011 R1, revised November 6, 2013.

(3) M7 Aerospace LLC SA26 Series Service Bulletin 26–53–001 R1, revised November 6, 2013.

(4) M7 Aerospace LLC SA226 Series Service Bulletin 226–53–017 R1, revised November 6, 2013.

(j) Repair of Crack Damage

If any damage is found during any inspection required by paragraph (g)(1), (g)(2), (g)(3), or (g)(4) of this AD, before further flight, repair the damage following paragraph G. of the Accomplishment Instructions in the service information listed in paragraphs (j)(1) through (j)(4) of this AD, as applicable. The repair scheme provided will be based on the damage reports submitted per paragraph (i) of this AD.

(1) M7 Aerospace LLC SA227 Series Commuter Category Service Bulletin CC7–53–007 R1, revised November 6, 2013.

(2) M7 Aerospace LLC SA227 Series Service Bulletin 227–53–011 R1, revised November 6, 2013.

(3) M7 Aerospace LLC SA26 Series Service Bulletin 26–53–001 R1, revised November 6, 2013.

(4) M7 Aerospace LLC SA226 Series Service Bulletin 226–53–017 R1, revised November 6, 2013.

(k) Credit for Actions Accomplished in Accordance With Previous Service Information

This AD allows credit for the initial inspection and any resulting actions required in paragraphs (g)(1) through (g)(4), (i), and (j) of this AD, including all subparagraphs, if done before the effective date of this AD following the procedures specified in the Accomplishment Instructions of the applicable service information listed in paragraphs (k)(1) through (k)(4) of this AD:

(1) M7 Aerospace LLC SA227 Series Commuter Category Service Bulletin CC7–53–007, dated September 26, 2013.

(2) M7 Aerospace LLC SA227 Series Commuter Category Service Bulletin 227–53–011, dated September 26, 2013.

(3) M7 Aerospace LLC SA26 Series Service Bulletin 226–53–001, dated September 26, 2013.

(4) M7 Aerospace LLC SA226 Series Service Bulletin 226–53–017, dated September 26, 2013.

(l) Paperwork Reduction Act Burden Statement

A Federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800

Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

(m) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Fort Worth Airplane Certification Office Fort Worth Airplane Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (n)(1) of this AD.

(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.

(n) Related Information

(1) For more information about this AD, contact Andrew McAnaul, Aerospace Engineer, FAA, ASW–150 (c/o San Antonio MIDO), 10100 Reunion Place, Suite 650, San Antonio, Texas 78216; phone: (210) 308–3365; fax: (210) 308–3370; email: *andrew.mcanaul@faa.gov.*

(2) For service information identified in this AD, contact M7 Aerospace LP, 10823 NE Entrance Road, San Antonio, Texas 78216; phone: (210) 824–9421; fax: (210) 804–7766; Internet: *http://www.m7aerospace.com;* email: none. 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.

Issued in Kansas City, Missouri, on December 13, 2013.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–30503 Filed 12–23–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

37 CFR Parts 1, 3, 5 and 11

[Docket No. PTO–C–2013–0059]

Forum To Discuss Proposed Changes To Implement the Hague Agreement Concerning International Registration of Industrial Designs

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice of meeting.

SUMMARY: The United States Patent and Trademark Office (''USPTO'' or ''Office'') is convening a forum to discuss implementation of title I of the Patent Law Treaties Implementation Act of 2012 (''PLTIA''). The PLTIA amends the patent laws to implement the provisions of the 1999 Geneva Act of the Hague Agreement Concerning International Registration of Industrial Designs (''Hague Agreement'') and is to take effect on the entry into force of the Hague Agreement with respect to the United States. On November 29, 2013, the Office published a proposed rule in the **Federal Register** proposing changes to the rules of practice to implement title I of the PLTIA and seeking written comments on the proposals. The forum is an additional way for the public to learn about the Office's proposals in advance of the written comment deadline.

DATES:

Event: The USPTO will hold a forum in Alexandria, Virginia, on January 14, 2014, beginning at 9:00 a.m. Eastern Standard Time (EST), and ending at 12:00 p.m. EST.

Registration: Registration for the forum is requested by December 31, 2013.

ADDRESSES:

Event: The forum will be held at: Madison Auditorium, Concourse Level, United States Patent and Trademark Office Headquarters, 600 Dulany Street, Alexandria, Virginia 22314.

Registration: Registration is required. Early registration is recommended because seating is limited. There is no fee to register for the forum, and registration will be on a first-come, first-served basis. Registration on the day of the event will be permitted on a space-available basis beginning 30 minutes before the event.

To register, please go to: *https://www.SignUp4.net/Public/ap.aspx?EID=610J10E* and provide the requested information. Each attendee, even if from the same organization, must register separately. If you need special accommodations due to a disability, please inform the contact person identified below.

The USPTO plans to make the forum event available via Web cast. Web cast information will be available on the USPTO's Internet Web site before the event.

FOR FURTHER INFORMATION CONTACT: David Gerk, by telephone at 571–272–9300, or by electronic mail message at *David.Gerk@uspto.gov,* or Boris Milef, by telephone at 571–272–3288, or by electronic mail message at *Boris.Milef@uspto.gov.*

SUPPLEMENTARY INFORMATION:

Purpose: This document is to announce that a forum will be convened by the Office to discuss the proposed changes to the Office's rules of practice in order to implement title I of the PLTIA. *See Changes To Implement the Hague Agreement Concerning International Registration of Industrial Designs,* 78 FR 71870 (Nov. 29, 2013). Public comments will not be solicited for the forum. However, written comments to the proposed rules can be submitted on or before January 28, 2014, as set forth in the Office's notice of proposed rulemaking. While public attendees may have the opportunity to ask questions, group consensus advice will not be sought. Additional details regarding specific topics for the forum will be made available on the Office's Web site.

Background: The Hague Agreement provides that an applicant may apply for design protection in all member countries and with intergovernmental organizations by filing a single, standardized international design application in a single language. Title I of the PLTIA amends title 35 to implement the provisions of the Hague Agreement and is to take effect on the entry into force of the Hague Agreement with respect to the United States. For the forum, the Office intends to provide information regarding the proposed rule changes to implement the PLTIA. Additional information concerning the proposed rules and the Hague Agreement, and any updates concerning the forum, can be found on the Office's Web site, *www.uspto.gov.*

Dated: December 19, 2013.

Margaret A. Focarino,

Commissioner for Patents, performing the functions and duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2013–30785 Filed 12–23–13; 8:45 am]

BILLING CODE 3510–16–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2011–0528; FRL—9904–67—Region 6]

Approval and Promulgation of Implementation Plans; Texas; Revisions to the New Source Review (NSR) State Implementation Plan (SIP); Standard Permit for Oil and Gas Facilities and Standard Permit Applicability

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Texas New Source Review (NSR) State Implementation Plan (SIP) submitted by the Texas Commission on Environmental Quality (TCEQ) on September 20, 1995; April 19, 1996; July 22, 1998; and September 11, 2000. These revisions to the Texas SIP establish the Standard Permit for Installation and/or Modification of Oil and Gas Facilities. EPA also proposes to approve non-substantive revisions to the Texas Standard Permit SIP rules relating to applicability, submitted on February 1, 2006, and March 11, 2011. EPA proposes to find that these revisions to the Texas SIP comply with the Federal Clean Air Act (the Act or CAA) and EPA regulations and are consistent with EPA policies. EPA is proposing these actions under section 110 of the Act.

DATES: Comments must be received on or before January 23, 2014.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R06–OAR–2011–0528, by one of the following methods:

- *www.regulations.gov.* Follow the on-line instructions for submitted comments.
- *Email:* Ms. Adina Wiley at *wiley.adina@epa.gov.*
- *Mail or delivery:* Ms. Adina Wiley, Air Permits Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.

Instructions: Direct your comments to Docket ID No. EPA–R06–OAR–2011–0528. 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 the disclosure of which is restricted by statute. Do not submit information through *http://www.regulations.gov* or email, if you believe that it is CBI or otherwise protected from disclosure. The *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 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 along with any disk or CD–ROM submitted. 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 should be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: The index to the docket for this action is available electronically at *www.regulations.gov* and in hard copy at EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available at either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment with the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at (214) 665–7253.

The State submittal related to this SIP revision, and which is part of the EPA docket, is also available for public inspection at the State Air Agency listed below during official business hours by appointment:

The State submittals, which are part of the EPA docket, are also available for public inspection at the State Air Agency during official business hours by appointment: Texas Commission on Environmental Quality, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT: Ms. Adina Wiley, Air Permits Section, telephone (214) 665–2115; fax (214) 665–6762; email *wiley.adina@epa.gov.*

SUPPLEMENTARY INFORMATION:

Throughout this document, the following terms have the meanings described below:

- ''we,'' ''us,'' and ''our'' refer to EPA.
- ''Act'' and ''CAA'' means Clean Air Act.
- ''40 CFR'' means Title 40 of the Code of Federal Regulations—Protection of the Environment.
- ''SIP'' means State Implementation Plan as established under section 110 of the Act.
- ''NSR'' means new source review, a phrase intended to encompass the statutory and regulatory programs that regulate the construction and modification of stationary sources as provided under CAA section 110(a)(2)(C), CAA Title I, parts C and D, and 40 CFR 51.160 through 51.166.
- ''Minor NSR'' means NSR established under section 110 of the Act and 40 CFR 51.160.
- ''NNSR'' means nonattainment NSR established under Title I, section 110 and part D of the Act and 40 CFR 51.165.
- ''PSD'' means prevention of significant deterioration of air quality established under Title I, section 110 and part C of the Act and 40 CFR 51.166.
- ''Major NSR'' means any new or modified source that is subject to NNSR and/or PSD.
- ''TSD'' means the Technical Support Document for this action.
- ''NAAQS'' means national ambient air quality standards promulgated under section 109 of that Act and 40 CFR part 50.
- ''TCEQ'' means ''Texas Commission on Environmental Quality.''

Table of Contents

I. What action is EPA proposing?
II. What has the State submitted?
III. EPA's Evaluation
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V. Statutory and Executive Order Reviews

I. What action is EPA proposing?

EPA is proposing to approve four submittals from the State of Texas as revisions to the Texas New Source Review (NSR) State Implementation Plan (SIP) that incorporate the Standard Permit for Installation and/or Modification of Oil and Gas Facilities (hereafter referred to as the ''Oil and Gas Standard Permit''). Texas initially submitted the Standard Permit provisions on September 20, 1995, and submitted subsequent revisions to those provisions on April 19, 1996; July 22, 1998; and September 11; 2000. We also are proposing to approve submittals from the State of Texas as a revision to the NSR SIP that contain non-substantive changes to the applicability provisions of the Standard Permits SIP permitting program. Texas submitted revisions to the Standard Permit applicability provisions on February 1, 2006 and resubmitted them on March 11, 2011.

We have evaluated the SIP submissions for whether they meet the Act and 40 CFR part 51, and are consistent with EPA's interpretation of the relevant provisions. Based upon our evaluation, EPA has concluded that the SIP revision submittals for the Oil and Gas Standard Permit and the non-substantive revisions to the Standard Permit applicability provisions meet the applicable requirements of the Act and 40 CFR part 51. Therefore, EPA is proposing to approve the provisions of

the submittals relating to the Oil and Gas Standard Permit SIP revisions and to the Standard Permit applicability provisions. EPA is proposing this action under section 110 of the Clean Air Act (CAA).

II. What has the State submitted?

A. Submittals Relating to the Oil and Gas Standard Permit

The TCEQ has developed and submitted the Oil and Gas Standard Permit as a revision to the Texas Minor NSR permit program. The Standard Permit was initially developed by TCEQ in 1995, and TCEQ has adopted subsequent amendments and submitted these as revisions to the Texas SIP since that time. As discussed in Section I of this rulemaking, EPA is proposing approval of the Oil and Gas Standard Permit—from the date of the initial submittal, dated September 20, 1995, through the September 11, 2000 SIP revision. This Section contains a brief summary of each of the SIP revisions pertaining to the Oil and Gas Standard Permit that is subject to our proposed approval.

i. September 20, 1995 SIP Submittal

On July 26, 1995, the Texas Natural Resources Conservation Commission (TNRCC) [1] adopted revisions to the state regulations to establish the Oil and Gas Standard Permit. The Standard Permit was adopted at Title 30 of the Texas Administrative Code (30 TAC) Chapter 116.617(3). Note that the September 20, 1995 SIP submittal contained additional, severable, revisions to 30 TAC Chapter 116, which are not addressed as part of this rulemaking.

ii. April 19, 1996 SIP Submittal

On March 27, 1996, the TNRCC adopted amendments to the state regulations to delete 30 TAC 116.617(3)—Installation and/or Modification of Oil and Gas Facilities and move the Standard Permit to 30 TAC 116.620. The Standard Permit previously contained in 30 TAC 116.617(3) was moved and renumbered to conform these sections to Texas Register style conventions and to allow ease in revising the section in the future. Note that the April 19, 1996 SIP submittal contained additional, severable, revisions to 30 TAC Chapter 116, which are not addressed as part of this rulemaking.

iii. July 22, 1998 SIP Submittal

On June 17, 1998, the TNRCC adopted amendments to the state regulations that included amendments to 30 TAC 116.620. These revisions added a requirement that sources subject to National Emission Standards for Hazardous Air Pollutants (NESHAPs) show compliance with Maximum Achievable Control Technology (MACT) standards, and also made non-substantive changes. Note that the July 22, 1998 SIP submittal contained additional, severable, revisions to 30 TAC Chapter 116, which are not addressed as part of this rulemaking.

iv. September 11, 2000 SIP Submittal

On August 9, 2000, the TNRCC adopted amendments to the state regulations that included amendments to 30 TAC 116.620. These revisions made non-substantive changes. Note that the September 11, 2000 SIP submittal contained additional, severable, revisions to 30 TAC Chapters 101 and 116, which are not addressed as part of this rulemaking.

B. Relating to Standard Permit Applicability Provisions

i. February 1, 2006 SIP Submittal

On January 11, 2006, the TCEQ adopted revisions to the Standard Permit SIP rules, which made non-substantive changes to the applicability provisions in 30 TAC 116.610(a) and (b). Note that the February 1, 2006 SIP submittal contained additional, severable, revisions to 30 TAC Chapter 116, which are not addressed as part of this rulemaking.

ii. March 11, 2011 SIP Submittal

On March 11, 2011, the same changes that were submitted on February 1, 2006, to 30 TAC 116.610(a) and (b) were resubmitted. Note that the March 11, 2011 SIP submittal contained additional, severable, revisions to 30 TAC Chapter 116, which are not addressed as part of this rulemaking.

TABLE 1—SUMMARY OF PENDING SIP SUBMITTALS ADDRESSED IN THIS ACTION

Date submitted to EPA	Date adopted by State	Date effective as State rule	Sections related to standard permit for installation and/or modification of oil and gas facilities
9/20/1995	7/26/1995	9/1/1995	Submittal of new Section 116.617(3).
4/19/1996	3/27/1996	4/19/1996	Deletion of Section 116.617(3); Standard Permit moved and renumbered to new Section 116.620 to conform to Texas Register style conventions.
7/22/1998	6/17/1998	7/8/1998	Revisions to Section 116.620.
9/11/2000	8/9/2000	9/4/2000	Revisions to Section 116.620.
02/01/2006	01/11/2006	02/01/2006	Revisions to Section 116.610.
03/11/2011	01/11/2006	02/01/2006	Revisions to Section 116.610.

TABLE 2—SUMMARY OF THE INDIVIDUAL REVISIONS TO EACH SECTION EVALUATED

Section—title	Date submitted to EPA	Date adopted by State	Date effective as State rule	Comments
30 TAC Chapter 116—Control of Air Pollution by Permits for New Construction or Modification				
Subchapter F—Standard Permits				
Section 116.610—Standard Permit Applicability.	02/01/06	01/11/06	02/01/06	• Non-substantive changes to 116.610(a). • Non-substantive changes to 116.610(b).
	03/11/11	01/11/06	02/01/06	Resubmittal of the January 11, 2006 adopted changes to 116.610(a) and (b).
Section 116.617—Standard Permit List	9/20/1995	7/26/1995	9/1/1995	Initial adoption of Standard Permit at 116.617(3).

[1] TNRCC is the predecessor agency of the TCEQ.

TABLE 2—SUMMARY OF THE INDIVIDUAL REVISIONS TO EACH SECTION EVALUATED—Continued

Section—title	Date submitted to EPA	Date adopted by State	Date effective as State rule	Comments
	4/19/1996	3/27/1996	4/19/1996	Deletion of 116.617(3).
Section 116.620—Installation and/or Modification of Oil and Gas Facilities.	4/19/1996	3/27/1996	4/19/1996	Initial adoption of this section; Standard Permit moved from 116.617(3).
	7/22/1998	6/17/1998	7/8/1998	• 116.620(a)(4) removed reference to standard exemption (SE) 6 and replaced with reference to PBR 106.512. • 116.620(a)(13) was updated to include reference to case-by-case MACT review under Subchapter C. • 116.620(a)(14) was subdivided into sections 116.620(a)(14)–(15). • 116.620(a)(16) was added to require sources subject to NESHAPs to show compliance with MACT standards. • 116.620(a)(15)–(16) were renumbered to (17) and (18). • 116.620(b)(1) removed reference to SE 83 and replaced with reference to PBR 106.476. • 116.620(c)(1)(A) uses EPA acronym in place of formal name. • 116.620(c)(1)(J) adds ''Permits'' to division name. • 116.620(c)(2)(J) adds ''Permits'' to division name. • 116.620(d)(3) changes office name. • 116.620(e)(1) changes office name and removes ''his or her designated representative''.
	9/11/2000	8/9/2000	9/4/2000	• 116.620(a)(4) eliminated the parenthetical reference to the former standard exemption 6. • 116.620(a)(11) eliminated parentheses around H2S. • 116.620(b)(1) eliminated the parenthetical reference to previous SE 83. • 116.620(b)(E) eliminated reference to ''exemptions'' and now refers to ''permits by rule'' consistent with the other rule language updates. • 116.620(c)(1)(J) changes office name.

C. Overview of the Oil and Gas Standard Permit

EPA approved Texas' general regulations for Standard Permits in 30 TAC Subchapter F of 30 TAC Chapter 116 on November 14, 2003 (68 FR 64543) as meeting the federal requirements for Minor NSR.[2] The November 14, 2003, action describes how those rules meet EPA's requirements for new minor sources and minor modifications. A Standard Permit is a minor NSR permit that is adopted under Chapter 116, Subchapter F. Subchapter F provides an alternative process for approving the construction of certain categories of new and modified sources for which TCEQ has adopted a Standard Permit. These provisions provide for a streamlined minor NSR mechanism for authorizing the construction of certain sources within source categories for which TCEQ has adopted a Standard Permit. A Standard Permit is not available to a facility or group of facilities that undergo a change that constitutes a new major source or major modification under Title I of the Act, part C (Prevention of Significant Deterioration of Air Quality) or part D (Nonattainment Review). Such major source or major modification must comply with the applicable permitting requirements under Chapter 116, Subchapter B, which meet the new source review requirements in Title I, part C or part D of the Act. A facility that qualifies for a minor NSR Standard Permit must also comply with all applicable provisions of section 111 of the Act (NSPS) and section 112 of the Act (NESHAP). Furthermore, a facility that qualifies for a minor NSR Standard Permit must comply with all rules and regulations of TCEQ.

A Standard Permit is not a case-by-case Minor NSR SIP permit, but rather it is a streamlined mechanism with all permitting requirements for construction and operation of a certain source category. Therefore, each Standard Permit approved in a SIP should contain all terms and conditions on the face of it (combined with the SIP general requirements), and it should not be used to address site-specific determinations.

The Oil and Gas Standard Permit was developed to provide a streamlined permitting process for oil and gas facilities. The Standard Permit contained in 30 TAC 116.620 simplifies the permit review process for these facilities by establishing standardized

[2] EPA did not approve the Standard Permit for Installation and/or Modification of Oil and Gas Facilities in the November 14, 2003, action as part of the Texas SIP (68 FR 64543, at 64547).

conditions applicable to the oil and gas industry, which help to streamline the agency review process and allow more rapid approval than would be possible under case-by-case minor NSR review permitting.

The standardized conditions contained in the Oil and Gas Standard Permit include emission specifications, control requirements, inspection requirements, approved test methods provisions, and monitoring and recordkeeping requirements. In addition, a source applying for authorization under 30 TAC 116.620 must also meet the applicable requirements contained in the other Sections under 30 TAC Chapter 116, Subchapter F—Standard Permits, which include registration and fee requirements and general permit conditions for Standard Permits. In accordance with 30 TAC 116.610(b), the Oil and Gas Standard Permit is limited to Minor NSR and cannot be used to authorize a project that constitutes a new major stationary source or major modification. Therefore, as discussed in the following section, the Oil and Gas Standard Permit provisions are evaluated with respect to the applicable Minor NSR requirements.

As previously mentioned, the Oil and Gas Standard Permit includes standardized conditions for the emission units located at oil and gas facilities that may be authorized by the Standard Permit. The types of emission units that may be authorized by the Standard Permit are the following:

- Internal combustion engines (ICEs),
- Natural gas turbines (NG turbines),
- Flares,
- Other combustion units (design heat input > 40 million Btu per hour),
- Natural gas glycol dehydration units,
- Storage tanks,
- Separators,
- Condensers,
- Vapor recovery units,
- Process vents, and
- Process fugitives.

In order for one of the previously-listed emission units to be authorized by the Standard Permit, that unit must meet the applicable unit-specific standardized conditions, and, the oil and gas facility as a whole must meet any applicable site-wide standardized conditions contained in the Standard Permit. If a proposed project at an oil and gas facility includes any emission units that are not explicitly covered by the Oil and Gas Standard Permit, the permit applicant would turn to another type of Standard Permit authorization or a permit-by-rule (PBR) or, if necessary, case-by-case NSR permitting for authorization. For example, the Oil and Gas Standard Permit does not provide authorization for cooling towers. Therefore, an oil and gas facility with a cooling tower on-site would not be able to use the Oil and Gas Standard Permit to authorize the emissions from that emission unit, but could rely upon the separate cooling tower SP or PBR.[3] Any other emission units not specifically authorized under the Oil and Gas Standard Permit also could obtain authorization through either a SP or PBR that explicitly addresses it or obtain a case-by-case minor NSR permit. In addition to cooling towers, other examples of emission units that may be found at oil and gas facilities that are not covered by the Oil & Gas Standard Permit include, but are not limited to, truck loading emissions, heat exchangers, amine sweetening units, and sulfur recovery units. If EPA discovers evidence to support the determination that the TCEQ were found to be misapplying the Oil and Gas Standard Permit or a permittee obtained authorization under this Standard Permit for emission units that are outside the scope of 116.620, then EPA or the public could address this implementation failure on a permit specific basis or other CAA remedy mechanism, such as a finding of failure to implement.

III. EPA's Evaluation

The Act at Section 110(a)(2)(C) requires states to develop and submit to EPA for approval into the state SIP, preconstruction review and permitting programs applicable to certain new and modified stationary sources of air pollutants for attainment and nonattainment areas that cover both major and minor new sources and modifications, collectively referred to as the NSR SIP. The CAA NSR SIP program is composed of three separate programs: Prevention of Significant Deterioration (PSD), Nonattainment New Source Review (NNSR), and Minor NSR. PSD is established in part C of title I of the CAA and applies in areas that meet the NAAQS—''attainment areas''—as well as areas where there is insufficient information to determine if the area meets the NAAQS—''unclassifiable areas.'' The NNSR SIP program is established in part D of title I of the CAA and applies in areas that are not in attainment of the NAAQS—''nonattainment areas.'' The Minor NSR SIP program addresses construction or modification activities that do not emit, or have the potential to emit, beyond certain major source/major modification thresholds and thus do not qualify as ''major'' and applies regardless of the designation of the area in which a source is located. Any submitted SIP revision, including revisions to a Minor NSR program, must meet the applicable requirements for SIP elements in section 110 of the Act, and be consistent with all applicable statutory and regulatory requirements.

EPA regulations governing the criteria that states must satisfy for EPA approval of the NSR programs as part of the SIP are contained in 40 CFR Sections 51.160–51.166. Regulations specific to Minor NSR programs are contained in 40 CFR Section 51.160–51.164. The TCEQ has developed the Oil and Gas Standard Permit as a component of the Texas Minor NSR program; therefore we will evaluate the Standard Permit as submitted on September 20, 1995; April 19, 1996; July 22, 1998; and September 11, 2000, against the federal requirements for Minor NSR programs.

40 CFR Section 51.160 establishes the requirements that all Minor NSR programs must meet. We will address these specific requirements in Section III.A. 40 CFR Section 51.161 establishes the public notice requirements for Minor NSR programs. We will address the public notice requirements more fully in Section III.B. Section 51.160–51.164 requires that a SIP revision demonstrate that the adopted rules will not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA. We will address the specific requirements for permitting activities that ensure attainment more fully in Section III.C.

A. EPA's Evaluation of Requirements for Minor NSR

EPA's regulations addressing a Minor NSR program as part of a state's SIP are included at 40 CFR 51.160, which applies to all programs under Title I of the CAA. These provisions of a Minor NSR program must provide that the permitting authority will not permit the construction of a facility or modification that will cause a violation of applicable portions of the control strategy or interfere with attainment or maintenance of a NAAQS. To accomplish this goal, the state's Minor NSR program must include the means by which the state agency will review and take final action on proposed new construction or modification to be protective of the control strategy and NAAQS. As stated in 40 CFR 51.160, all NSR programs, including the Minor

[3] For example, cooling towers, including those located at oil and gas facilities, that meet all of the applicable PBR requirements may be authorized under the SIP-approved Cooling-Water Unit PBR found at 30 TAC 116.371.

NSR program, must include legally enforceable[4] procedures that meet the following requirements:

- Provide for the submission, by the owner or operator of the building, facility, structure or installation to be constructed or modified of such information on the nature and amounts of emissions to be emitted by it or emitted by associated mobile sources; and the design, construction and operation of such facility, building, structure, or installation as may be necessary to allow the permitting authority to make a determination on approvability. 40 CFR 51.160(c).
- The Minor NSR program must provide that approval of any construction or modification must not affect the responsibility of the owner or operator to comply with applicable portions of the control strategy. 40 CFR 51.160(d).
- The Minor NSR program must include procedures to identify the types and sizes of facilities, buildings, structures, or installations which will be subject to review. The Minor NSR program must also discuss the basis for determining which facilities will be subject to review. 40 CFR 51.160(e).
- The Minor NSR program must also discuss the air quality data and the dispersion or other air quality modeling used to meet the NSR requirements. 40 CFR 51.160(f).

The SIP submittals being evaluated as part of this rulemaking are for a Standard Permit that is submitted as part of Texas's Minor NSR program; therefore, the provisions from the Oil and Gas Standard Permit are evaluated against the federal requirements for Minor NSR and in conjunction with the existing SIP-approved provisions of the Standard Permitting Program found in 30 TAC Chapter 116, Subchapter F—Standard Permits that provides the basic requirements that a facility must meet to qualify for a Standard Permit.

Based on our evaluation, we propose to find that the Oil and Gas Standard Permit provisions found in 30 TAC 116.620 provide for the necessary procedures and applicable requirements that are required for Minor NSR programs. Our evaluation is summarized below with additional details regarding our evaluation available in the TSD accompanying this rulemaking.

In accordance with 30 TAC 116.611, sources seeking authorization via the Oil and Gas Standard Permit are required to submit a Standard Permit registration to TCEQ, which is to include information regarding the proposed project to be authorized (e.g., emission estimates, description of project and related process, description of equipment being installed). 30 TAC 116.615 includes general conditions that must be met by sources authorized via a Standard Permit, including the Oil and Gas Standard Permit. These general conditions specifically require that sources authorized under a Standard Permit comply with all ''rules, regulations, and orders of the commission issued in conformity with the [Texas Clean Air Act].'' See 30 TAC 116.615(10). In the case where more than one state or federal rule of regulation or permit condition are applicable, the source must comply with the most stringent requirement or limit. See 30 TAC 116.615(10). Therefore, the conditions of the Standard Permit in no way supersede or relax other applicable state or federal requirements. In addition, the provisions found in the Oil and Gas Standard Permit under 30 TAC 116.620 also require that sources authorized under the Standard Permit submit appropriate documentation to demonstrate compliance with state and federal provisions, including PSD, NNSR, NSPS, and NESHAP. The Standard Permit also requires that new or increased emissions authorized under the permit shall not cause or contribute to a violation of any NAAQS and references that engineering judgment and/or air dispersion modeling may be used to demonstrate NAAQS compliance for the specific minor construction project. See 30 TAC 116.620(a)(13)–(17). Regarding testing, recordkeeping, reporting and monitoring provisions, the Oil and Gas Standard Permit contains provisions that include these requirements for the emission sources that can be authorized under the Standard Permit. See 30 TAC 116.620(c)–(e). As discussed in Section I.E of this rulemaking and the accompanying TSD, the Oil and Gas Standard Permit may be used to authorize only those emission sources that are specifically covered by the Standard Permit provisions. Therefore, the Standard Permit contains testing, recordkeeping, reporting and monitoring provisions for the covered emission sources as necessary to ensure compliance with applicable requirements for those covered sources.

Based on our evaluation of the proposed provisions found in the Standard Permit, in conjunction with the underlying SIP-approved provisions of the Texas Standard Permitting Program found in Chapter 116, Subchapter F, we propose to find that the Oil and Gas Standard Permit meets the requirements that are applicable to Minor NSR.

B. EPA's Evaluation of Public Availability of Information Requirements for Minor NSR

Federal requirements for public notice of Minor NSR programs are found at 40 CFR 51.160 and 51.161. The procedures for a Minor NSR program in 40 CFR 51.160 require an opportunity for public comment on information submitted by the permit applicant and on the permitting authority's analysis of the application, submitted materials and proposed approval or disapproval of the permit application. EPA further explains at 40 CFR 51.161(b) that opportunity for public comment is, at a minimum, the availability for public inspection in at least one location in the area affected of the information submitted by the owner/operator and of the permitting authority's analysis of the effect on air quality; a 30-day period for submittal of public comment; and a notice by prominent advertisement in the area affected of the location where the public can see the submitted materials and analysis. The SIP submittals being evaluated as part of this rulemaking are for a Standard Permit; therefore, the provisions from the Oil and Gas Standard Permit are evaluated against the federal requirements regarding public notice in conjunction with the existing SIP-approved provisions of the Standard Permits Program found in 30 TAC Chapter 116, Subchapter F—Standard Permits that provides the basic requirements that a facility must meet to qualify for a Standard Permit, including public participation requirements. See 30 TAC 116.603.

Based on our evaluation, we propose to find that the SIP's general provisions for all Standard Permits found at 30 TAC 116.603 apply to the Oil and Gas Standard Permit. These general provisions were found to meet EPA's requirements for public participation for minor NSR permits and in some cases are more stringent. (73 FR 53716, September 17, 2008). As required by 30 TAC 116.603, a Standard Permit must comply with the following public notice requirements:

- Notice of a proposed Standard Permit is required to be published in the *Texas Register,* the commission's publicly accessible electronic media, and in a daily or weekly newspaper of general circulation in the area affected by the activity that is subject to the proposed permit. If the proposed

[4] A requirement is ''legally enforceable'' if some authority has the right to enforce the restriction. 67 FR 80186, at 80190.

standard permit will have statewide applicability, notice will be published in the daily newspaper of largest general circulation within each of the following metropolitan areas: Austin, Dallas, and Houston and any other regional newspapers designated by the executive director on a case-by-case basis. Additionally, the commission will publish notice in the Texas Register and issue a press release;

- The notice must provide for a public comment period on the proposed Standard Permit of at least 30 days;
- A public meeting is required to be held to provide an additional opportunity for public comment;
- Written responses must be prepared to all public comments received from the public related to the issuance of a Standard Permit, which will be made available to the public;
- Notice of the final action on the proposed Standard Permit is required to be published in the Texas Register, including the text of the response to comments; and
- Copies of the final issued Standard Permit along with the response to public comments received on the draft permit are required to be made available at the TCEQ Austin office and appropriate TCEQ regional offices.

Subsequent amendments or revocation of an issued Standard Permit must also meet the public notice procedures contained in Section 603, as required by 30 TAC 116.605.

Based on our evaluation of the proposed provisions found in the Oil & Gas Standard Permit, as well as the underlying SIP-approved provisions of the Texas Standard Permitting Program found in Chapter 116, Subchapter F, we propose to find that the Oil and Gas Standard Permit meets the federal public notice requirements that are applicable to Minor NSR for those emission sources that are specifically covered by the Standard Permit provisions. In addition, Texas has provided documentation within their SIP revision submittals to document that the SIP-approved public notice process was followed consistent with the 30 TAC 116.603 requirements when the Oil and Gas Standard Permit was initially issued and subsequently amended. The SIP submittals are available in the docket accompanying this rulemaking.

C. EPA's Evaluation of the Oil and Gas Standard Permit With Respect to Attainment, Reasonable Further Progress, and Other Applicable Requirements of the Act

Under Section 110(l), the regulations submitted as SIP revisions establishing the Oil and Gas Standard Permit must meet the procedural requirements of Section 110(l) by demonstrating that the State followed all necessary procedural requirements such as providing reasonable notice and public hearing of the SIP revision. Additionally, the SIP revision must demonstrate that the adopted rules will not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA. We propose to find that the TCEQ satisfied all procedural requirements pursuant to Section 110(l) as detailed in our accompanying TSD.

A Minor NSR program is a requirement of the CAA and EPA's regulations at 40 CFR 51.160–51.164. As discussed in this proposed action and in the accompanying TSD, EPA proposes that the Oil and Gas Standard Permit as submitted on September 20, 1995, and revised through SIP submittals dated April 19, 1996; July 22, 1998; and September 11, 2000, satisfies the minimum requirements for a Minor NSR program, including adequate provisions for legal enforceability and public participation to ensure protection of the control strategy and any applicable NAAQS. The Oil and Gas Standard Permit also contains sufficient safeguards to prevent circumvention of Major NSR permitting requirements. Therefore, we propose that the Oil and Gas Standard Permit is protective of the NAAQS and applicable control strategy requirements and satisfies the requirements of 110(l) of the Act.

D. Summary of EPA's Evaluation of the Oil and Gas Standard Permit

For the reasons presented above, EPA proposes to find that the Oil and Gas Standard Permit, as submitted on September 20, 1995, and revisions submitted on April 19, 1996; July 22, 1998; and September 11, 2000, is limited to Minor NSR. EPA proposes to find that the program satisfies the federal requirements for Minor NSR and contains sufficient enforceable safeguards to ensure that the NAAQS and applicable control strategies are protected.

E. Summary of EPA's Evaluation of the Revisions to the Standard Permit Applicability Provisions

On February 1, 2006, and March 11, 2011, the State of Texas submitted revisions to the Standard Permit SIP rules, which made non-substantive changes to the applicability provisions in 30 TAC 116.610(a) and (b). The revisions include changes such as defining acronyms, changing capitalization, rephrasing, and updating and deleting cross-references as appropriate due to revisions to other sections. EPA proposes to approve the revisions to 30 TAC 116.610(a) and (b) because these changes are ministerial and non-substantive in nature.

IV. Proposed Action

We are proposing to approve the submittals for a Minor NSR Oil and Gas Standard Permit submitted September 20, 1995; April 19, 1996; July 22, 1998; and September 11, 2000. We also are proposing to approve the submittals for the Standard Permit SIP rules making non-substantive changes to the Standard Permit applicability provisions in 30 TAC 116.610(a) and (b) as submitted February 1, 2006, and resubmitted March 11, 2011. EPA is proposing this action in accordance with section 110 of the Act.

After review and consideration of public comments, we will take final action on the SIP revisions that are identified herein.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Clean Air Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this notice merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

• Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Hydrocarbons, Intergovernmental relations, Lead, Nitrogen oxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: December 16, 2013.

Ron Curry,

Regional Administrator, EPA Region 6.

[FR Doc. 2013–30729 Filed 12–23–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2012–0661; A–1–FRL–9904–44–Region–1]

Approval and Promulgation of Air Quality Implementation Plans; New Hampshire; Manchester and Nashua Carbon Monoxide Limited Maintenance Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of New Hampshire. This SIP revision establishes carbon monoxide (CO) limited maintenance plans for the City of Manchester, New Hampshire and the City of Nashua, New Hampshire. As part of its limited maintenance plan, New Hampshire will continue year-round CO monitoring at the Londonderry Moose Hill station in Londonderry, New Hampshire with triggers to reestablish CO monitoring sites in Manchester and Nashua if elevated CO levels are recorded in Londonderry. Future carbon monoxide transportation conformity evaluations for Manchester and Nashua would for the length of their limited maintenance plans be considered to satisfy the regional emissions analysis and ''budget test'' requirements. This action is being taken under the Clean Air Act.

DATES: Written comments must be received on or before January 23, 2014.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R01–OAR–2012–0661 by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: arnold.anne@epa.gov.*
3. *Fax:* (617) 918–0047.
4. *Mail:* ''Docket Identification Number EPA–R01–OAR–2012–0661,'' Anne Arnold, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912.
5. *Hand Delivery or Courier.* Deliver your comments to: Anne Arnold, Manager, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square—Suite 100, (mail code OEP05–2), Boston, MA 02109–3912. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

Instructions: Direct your comments to Docket ID Number EPA–R01–OAR–2012–0661. EPA's policy is that all comments received 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 information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov,* or email, information that you consider to be CBI or otherwise protected. The *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 *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 electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

In addition, copies of the state submittal are also available for public inspection during normal business hours, by appointment at the State Air Agency; Air Resources Division, Department of Environmental Services, 6 Hazen Drive, P.O. Box 95, Concord, NH 03302–0095.

FOR FURTHER INFORMATION CONTACT: Donald O. Cooke, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional

Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square—Suite 100, (Mail code OEP05–2), Boston, MA 02109–3912, telephone number (617) 918–1668, fax number (617) 918–0668, email *cooke.donald@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

Organization of this document. The following outline is provided to aid in locating information in this preamble.

I. Background and Purpose
II. Criteria for Limited Maintenance Plan Designation
A. EPA Guidance
B. Emission Inventory
C. Demonstration of Maintenance
D. Monitoring Network and Verification of Continued Attainment
III. Contingency Measures
IV. State Commitments
V. Conformity
VI. Proposed Action
VII. Statutory and Executive Order Reviews

I. Background and Purpose

The City of Manchester, New Hampshire (Manchester) and the City of Nashua, New Hampshire (Nashua) were designated nonattainment by EPA for carbon monoxide on March 3, 1978 (43 FR 8962) and April 11, 1980 (45 FR 24869), respectively. The current National Ambient Air Quality Standard (NAAQS) for CO is 9.0 parts per million (ppm) for an 8-hour average concentration and 35 ppm for a 1-hour concentration, not to be exceeded more than once per calendar year. In 1991, following passage of the Clean Air Act Amendments of 1990 (CAA), both cities were designated ''nonattainment'' and ''not classified'' (November 6, 1991; 56 FR 56694) although ambient monitoring showed NAAQS attainment had been achieved by that time. In February 1999, the State of New Hampshire submitted a formal CO redesignation request and a CO maintenance plan for Manchester and Nashua. Effective January 29, 2001 (November 29, 2000; 65 FR 71060), EPA redesignated Manchester and Nashua from nonattainment to attainment for CO and approved New Hampshire's CO maintenance plan.

On May 30, 2007, the New Hampshire Department of Environmental Services (NH DES) submitted a SIP revision to EPA that contained modifications to their CO maintenance plan for the Nashua CO maintenance area. These modifications which were approved by EPA through a direct final rule (September 10, 2007; 72 FR 51564) changed the triggering mechanism by which contingency measures would be implemented in Nashua, and allowed the State to discontinue CO monitoring in the Nashua maintenance area. New Hampshire would rely on data from the CO monitor in Manchester to determine when, and if, monitoring would be reestablished in the Nashua maintenance area, and, in some circumstances, when contingency measures would be triggered in the Nashua maintenance area. At the time of the SIP revision approval, CO concentrations measured in Nashua were below the NAAQS for nearly 20 years, and maximum measured concentrations were less than 50% of the 9 parts per million 8-hour CO standard.

On August 1, 2012, the NH DES submitted a limited maintenance plan SIP revision for the remainder of Manchester and Nashua's second ten-year maintenance plans (January 29, 2011 to January 29, 2021). The revision also requests discontinuance of CO monitoring in Manchester to be replaced by a CO monitoring station in Londonderry, New Hampshire (mid-way between Manchester and Nashua). These revisions are the subject of today's notice of proposed rulemaking.

Under the CO limited maintenance plan New Hampshire would continue to implement strategies that have helped reduce CO emissions in Manchester and Nashua. These strategies include: New Hampshire's Vehicle Inspection/Maintenance On Board Diagnostic (OBD II) program; Vehicle Miles Travel reductions (implement congestion and emission reduction programs such as traffic signal coordination, increased mass transit, RideShare, anti-idling and other traffic mitigation measures); and Low Emissions Vehicles Standards. New Hampshire has also committed to continuing CO monitoring in Londonderry with triggers to reestablish CO monitoring in Manchester and Nashua. In the event monitored carbon monoxide concentrations reach or exceed the limited maintenance eligibility criteria of 7.65 parts per million, then the area would revert to a full maintenance plan.

II. Criteria for Limited Maintenance Plan Designation

A. EPA Guidance

For the Manchester and Nashua areas, NH DES's SIP revision uses EPA's limited maintenance plan approach, as detailed in the EPA guidance memorandum, ''Limited Maintenance Plan Option for Nonclassifiable CO Nonattainment Areas'' from Joseph Paisie, Group Leader, Integrated Policy and Strategies Group, Office of Air Quality and Planning Standards (OAQPS), dated October 6, 1995, (the Paisie Memorandum, [a copy of which is included in the Docket as part of the States' SIP revision]). Pursuant to this approach EPA will consider the maintenance demonstration satisfied for ''not classified'' areas if the monitoring data show the design value is at or below 7.65 parts per million, or 85 percent of the level of the 8-hour carbon monoxide NAAQS. The design value must be based on eight consecutive quarters of data. For such areas, there is no requirement to project emissions of air quality over the maintenance period. EPA believes if the area begins the maintenance period at, or below, 85 percent of the CO 8 hour NAAQS, the applicability of ''Prevention of Significant Deterioration'' (PSD), the control measures already in the SIP, and Federal measures (including the Federal Motor Vehicle Control Program emission standards, limiting CO emissions), should provide adequate assurance of maintenance over the initial 10-year maintenance period. In addition, the design value for the area must continue to be at or below 7.65 ppm until the time of final EPA action on the redesignation.

The 8-hour CO design values for each of New Hampshire's CO maintenance areas are summarized in Table 1 below. In all cases, 8-hour design values are significantly less than the 7.65 ppm threshold specified in EPA guidance, thus making each area potentially eligible for the limited maintenance plan option.

TABLE 1—8-HOUR DESIGN VALUES (PPM) BY YEAR FOR MANCHESTER AND NASHUA

Year	Manchester Bridge Street	Manchester Pearl Street	Nashua Main Street
2001	3.6	.....	4.1
2002	*	2.0	4.0
2003	*	3.4	4.0

TABLE 1—8-HOUR DESIGN VALUES (PPM) BY YEAR FOR MANCHESTER AND NASHUA—Continued

Year	Manchester Bridge Street	Manchester Pearl Street	Nashua Main Street
2004	*	3.4	4.0
2005	*	1.8	3.2
2006	*	3.0	3.2
2007	*	3.0	2.4
2008	*	3.5	*
2009	*	3.5	*
2010	*	2.4	*
2011	*	2.3	*

* Monitoring discontinued.

B. Emission Inventory

Consistent with EPA's guidance for limited maintenance plans, the State developed an attainment emissions inventory to identify the level of emissions in Hillsborough County, which includes Manchester and Nashua, sufficient to attain the NAAQS. (See Table 2 below.) The State also developed an attainment emissions inventory identifying the level of emissions statewide associated with attaining and maintaining the CO NAAQS. (See Table 3 below.) These inventories are consistent with EPA's most recent guidance on emissions inventories for nonattainment areas available at the time, and they document a downward trend in CO emissions during the time period associated with the monitoring data achieving attainment and continued maintenance of the CO NAAQS.

TABLE 2—CO EMISSIONS FOR HILLSBOROUGH COUNTY, 1999–2008

Category	CO emissions (tons per year)			
	1999	2002	2005	2008
Point	184	143	191	92
Area	12,822	12,864	13,210	13,384
Non-Road Mobile	32,162	29,216	26,776	23,259
On-Road Mobile	92,831	58,379	58,666	40,576
Total	137,999	100,602	98,841	77,311

TABLE 3—CO EMISSIONS FOR NEW HAMPSHIRE (STATEWIDE), 1999–2008

Category	CO emissions (tons per year)			
	1999	2002	2005	2008
Point	4,923	2,724	4,754	3,357
Area	78,133	74,099	73,706	47,798
Non-Road Mobile	123,530	124,801	119,322	104,887
On-Road Mobile	345,413	294,533	236,990	174,154
Total	552,000	496,157	434,772	330,196

C. Demonstration of Maintenance

The maintenance demonstration requirement is considered to be satisfied if the monitoring data show that the area is meeting the air quality criteria for limited maintenance areas (7.65 ppm or 85% of the CO NAAQS). There is no requirement to project emissions over the maintenance period. The EPA believes since the area is below 85 percent of exceedance levels, the air quality along with the continued applicability of PSD requirements, any control measures already in the SIP, and Federal measures, should provide adequate assurance of maintenance over the remainder of the 10-year maintenance period.

When EPA approves a limited maintenance plan, EPA is concluding that an emissions budget may be treated as essentially not constraining for the length of the maintenance period because it is unreasonable to expect that such an area will experience so much growth in that period that a violation of the CO NAAQS would result.

D. Monitoring Network and Verification of Continued Attainment

In its SIP revision, NH DES commits to continue CO monitoring year-round at the Londonderry Moose Hill station in Londonderry. NH DES worked closely with EPA to carefully select this site due to its central proximity to Manchester and Nashua. The Londonderry Moose Hill Station came online on January 1, 2011 as a National Core (NCore) multi-pollutant monitoring station measuring a wide variety of pollutants. The Londonderry station measures fine particulate ($PM_{2.5}$), nitrogen oxides, ozone, sulfur dioxide and carbon monoxide, in addition to wind speed, wind direction, and relative humidity.

III. Contingency Measures

Section 175A(d) of the Act requires that a maintenance plan include contingency provisions, as necessary, to promptly correct any violation of the NAAQS that occurs after redesignation of the area. Under section 175A(d), contingency measures do not have to be

fully adopted at the time of redesignation. However, the contingency plan is considered to be an enforceable part of the SIP and should ensure that the contingency measures are adopted expeditiously once they are triggered by a specified event. Previously implemented contingency measures and emissions reductions strategies in New Hampshire have proven successful, and will be continued through the maintenance period. These include: Vehicle Inspection/Maintenance (I/M); vehicle miles traveled reductions; and other emissions reduction programs.

Vehicle Inspection/Maintenance (I/M)—EPA approved New Hampshire's I/M program on January 25, 2013 (78 FR 5292). In its CO maintenance plan SIP revision, NH DES commits to continued implementation of this program.

Vehicle Miles Traveled reductions—In its CO maintenance plan SIP revision, NH DES commits to continue working with the NH Department of Transportation and regional Metropolitan Planning Organizations (MPOs) to identify effective congestion and emission reduction project and programs such as traffic signal coordination, increased mass transit, RideShare, anti-idling and other traffic management strategies.

Other emissions reductions programs—NH DES and local MPOs are actively promoting low emissions vehicles and emissions reductions strategies such as anti-idling programs and park & ride lot construction as part of their long range transportation plans.

IV. State Commitments

New Hampshire will monitor CO levels using the Londonderry Moose Hill station and emissions inventories. Because New Hampshire proposes to discontinue monitoring CO in Manchester, it will adopt a more stringent contingency threshold or ''trigger'' than indicated in the 2007 SIP revision. In the event the second highest CO concentration in any calendar year monitored in Londonderry reaches 50 percent of the Federal 1-hour or 8-hour NAAQS for CO, New Hampshire will, within six months of recording such concentrations, reestablish the CO monitoring site in Manchester consistent with EPA siting criteria, and resume analyzing and reporting those data. If the reestablished Manchester CO monitor measures a violation of the either the Federal 1-hour or 8-hour NAAQS for CO, contingency measures will be implemented in Manchester and Nashua. Contingency measures in Nashua would cease once a reestablished CO monitor in Nashua shows that the area is in attainment of the CO standard.

V. Conformity

Section 176(c) of the Act defines transportation conformity as conformity to the SIP's purpose of eliminating or reducing the severity and number of violations of the NAAQS and achieving expeditious attainment of such standards. The Act further defines transportation conformity to mean that no Federal transportation activity will: (1) Cause or contribute to any new violation of any standard in any area; (2) increase the frequency or severity of any existing violation of any standard in any area; or (3) delay timely attainment of any standard or any required interim emission reductions or other milestones in any area. The Federal Transportation Conformity Rule, 40 CFR part 93 subpart A, sets forth the criteria and procedures for demonstrating and assuring conformity of transportation plans, programs and projects which are developed, funded or approved by the U.S. Department of Transportation, and by metropolitan planning organizations or other recipients of funds under title 23 U.S.C. or the Federal Transit Laws (49 U.S.C. Chapter 53). The transportation conformity rule applies within all nonattainment and maintenance areas. As prescribed by the transportation conformity rule, once an area has an applicable State Implementation Plan with motor vehicle emissions budgets, the expected emissions from planned transportation activities must be consistent with (''conform to'') such established budgets for that area.

According to EPA's guidance on limited maintenance plans, in the case of the Manchester and Nashua New Hampshire CO limited maintenance plan areas, the emissions budgets may be treated as essentially not constraining for the length of the maintenance period as long as the area continues to meet the limited maintenance criteria, because there is no reason to expect that these areas will experience so much growth in that period that a violation of the CO NAAQS would result. In other words, emissions from on-road transportation sources need not be capped for the maintenance period because it is unreasonable to believe that emissions from such sources would increase to a level that would threaten the air quality in this area for the duration of this maintenance period. Therefore, for limited maintenance plan CO maintenance areas, all Federal actions that require conformity determinations under the transportation conformity rule are considered to satisfy the regional emissions analysis and ''budget test'' requirements in 40 CFR 93.118 of the rule.

Since limited maintenance plan areas are still maintenance areas, however, transportation conformity determinations are still required for transportation plans, programs and projects. Specifically, for such determinations, transportation plans, transportation improvement programs, and projects must still demonstrate that they are fiscally constrained (40 CFR part 108) and must meet the criteria for consultation and Transportation Control Measure (TCM) implementation in the conformity rule (40 CFR 93.112 and 40 CFR 93.113, respectively). In addition, projects in limited maintenance areas will still be required to meet the criteria for CO hot spot analyses to satisfy ''project level'' conformity determinations (40 CFR 93.116 and 40 CFR 93.123) which must incorporate the latest planning assumptions and models that are available. All aspects of transportation conformity (with the exception of satisfying the emission budget test) will still be required.

If the Manchester or Nashua CO attainment areas monitor CO concentrations at or above the limited maintenance eligibility criteria or 7.65 parts per million, then that maintenance area would no longer qualify for a limited maintenance plan and would revert to a full maintenance plan. In this event, the limited maintenance plan would remain applicable for conformity purposes only until the full maintenance plan is submitted and EPA has found its motor vehicle emissions budgets adequate for conformity purposes or EPA approves the full maintenance plan SIP revision. Any required new conformity determinations could not be made until there is an adequate budget or approved full maintenance plan. At that time, regional emissions analyses would resume as a transportation conformity criteria.

VI. Proposed Action

EPA is proposing to approve conversion of the Manchester and Nashua current carbon monoxide maintenance plans to a limited maintenance plan for the remainder of the City of Manchester, and the City of Nashua, New Hampshire CO maintenance plans which terminate on January 29, 2021.

EPA is proposing to approve replacement of the CO air quality monitoring in Manchester with carbon monoxide monitoring at the Londonderry Moose Hill station in Londonderry, New Hampshire with triggers to reestablish CO monitoring

sites in Manchester and Nashua if elevated CO levels are recorded in Londonderry.

VII. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: December 10, 2013.

Michael P. Kenyon,

Acting Regional Administrator, EPA New England.

[FR Doc. 2013–30576 Filed 12–23–13; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 54

[REG–143172–13]

RIN 1545–BL90

DEPARTMENT OF LABOR

Employee Benefits Security Administration

29 CFR Part 2590

RIN 1210–AB60

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[CMS–9946–P]

45 CFR Part 146

RIN 0938–AS16

Amendments to Excepted Benefits

AGENCY: Internal Revenue Service, Department of the Treasury; Employee Benefits Security Administration, Department of Labor; Centers for Medicare & Medicaid Services, Department of Health and Human Services.

ACTION: Proposed rules.

SUMMARY: This document contains proposed rules that would amend the regulations regarding excepted benefits under the Employee Retirement Income Security Act of 1974, the Internal Revenue Code, and the Public Health Service Act. Excepted benefits are generally exempt from the health reform requirements that were added to those laws by the Health Insurance Portability and Accountability Act and the Patient Protection and Affordable Care Act.

DATES: Comments are due on or before February 24, 2014.

ADDRESSES: Written comments may be submitted to the Department of Labor as specified below. Any comment that is submitted will be shared with the other Departments and will also be made available to the public. Warning: Do not include any personally identifiable information (such as name, address, or other contact information) or confidential business information that you do not want publicly disclosed. All comments may be posted on the Internet and can be retrieved by most Internet search engines. No deletions, modifications, or redactions will be made to the comments received, as they are public records. Comments may be submitted anonymously.

Comments, identified by ''Excepted Benefits,'' may be submitted by one of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail or Hand Delivery: Office of Health Plan Standards and Compliance Assistance, Employee Benefits Security Administration, Room N–5653, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210, Attention: Excepted Benefits.

Comments received will be posted without change to *www.regulations.gov* and available for public inspection at the Public Disclosure Room, N–1513, Employee Benefits Security Administration, 200 Constitution Avenue NW., Washington, DC 20210, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Amy Turner or Beth Baum, Employee Benefits Security Administration, Department of Labor, at (202) 693–8335; Karen Levin, Internal Revenue Service, Department of the Treasury, at (202) 317–5500; Jacob Ackerman, Centers for Medicare & Medicaid Services, Department of Health and Human Services, at (410) 786–1565.

Customer Service Information: Individuals interested in obtaining information from the Department of Labor concerning employment-based health coverage laws, may call the EBSA Toll-Free Hotline at 1–866–444–EBSA (3272) or visit the Department of Labor's Web site (*http://www.dol.gov/ebsa*). In addition, information from HHS on private health insurance for consumers can be found on the Centers for Medicare & Medicaid Services (CMS)

Web site (*www.cms.gov/cciio*) and information on health reform can be found at *www.HealthCare.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104–191, 110 Stat. 1936 added title XXVII of the Public Health Service Act (PHS Act), part 7 of the Employee Retirement Income Security Act of 1974 (ERISA), and chapter 100 of the Internal Revenue Code (the Code), providing portability and nondiscrimination provisions with respect to health coverage. These provisions of the PHS Act, ERISA, and the Code were later augmented by other consumer protection laws, including the Mental Health Parity Act of 1996,[1] the Mental Health Parity and Addiction Equity Act of 2008,[2] the Newborns' and Mothers' Health Protection Act,[3] the Women's Health and Cancer Rights Act,[4] the Genetic Information Nondiscrimination Act of 2008,[5] the Children's Health Insurance Program Reauthorization Act of 2009,[6] Michelle's Law,[7] and the Affordable Care Act.[8]

The Affordable Care Act reorganizes, amends, and adds to the provisions of part A of title XXVII of the PHS Act relating to group health plans and health insurance issuers in the group and individual markets. The term ''group health plan'' includes both insured and self-insured group health plans.[9] Section 715(a)(1) of ERISA and section 9815(a)(1) of the Code, as added by the Affordable Care Act, incorporate the provisions of part A of title XXVII of the PHS Act into ERISA and the Code to make them applicable to group health plans and health insurance issuers providing health insurance coverage in connection with group health plans. The PHS Act sections incorporated by these references are sections 2701 through 2728.

II. Overview of the Proposed Regulations

Sections 2722 and 2763 of the PHS Act, section 732 of ERISA, and section 9831 of the Code provide that the requirements of title XXVII of the PHS Act, part 7 of ERISA, and chapter 100 of the Code, respectively, generally do not apply to excepted benefits. Excepted benefits are described in section 2791 of the PHS Act, section 733 of ERISA, and section 9832 of the Code.

The parallel statutory provisions establish four categories of excepted benefits. The first category includes benefits that are generally not health coverage[10] (such as automobile insurance, liability insurance, workers compensation, and accidental death and dismemberment coverage). The benefits in this category are excepted in all circumstances. In contrast, the benefits in the second, third, and fourth categories are types of health coverage but are excepted only if certain conditions are met.

The second category of excepted benefits is limited excepted benefits, which may include limited scope vision or dental benefits, and benefits for long-term care, nursing home care, home health care, or community based care. Section 2791(c)(2)(C) of the PHS Act, section 733(c)(2)(C) of ERISA, and section 9832(c)(2)(C) of the Code authorize the Secretaries of HHS, Labor, and the Treasury (collectively, the Secretaries) to issue regulations establishing other, similar limited benefits as excepted benefits. The Secretaries exercised this authority previously with respect to certain health flexible spending arrangements (health FSAs).[11] To be excepted under this second category, the statute provides that limited benefits must either: (1) be provided under a separate policy, certificate, or contract of insurance; or (2) otherwise not be an integral part of a group health plan, whether insured or self-insured.

The third category of excepted benefits, referred to as ''noncoordinated excepted benefits,'' includes both coverage for only a specified disease or illness (such as cancer-only policies), and hospital indemnity or other fixed indemnity insurance. These benefits are excepted only if all of the following conditions are met: (1) The benefits are provided under a separate policy, certificate, or contract of insurance; (2) there is no coordination between the provision of such benefits and any exclusion of benefits under any group health plan maintained by the same plan sponsor; and (3) the benefits are paid with respect to any event without regard to whether benefits are provided under any group health plan maintained by the same plan sponsor.[12]

The fourth category of excepted benefits is supplemental excepted benefits. Such benefits must be: (1) Coverage supplemental to Medicare, coverage supplemental to the Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA) or to Tricare, or similar coverage that is supplemental to coverage provided under a group health plan; and (2) provided under a separate policy, certificate, or contract of insurance.[13]

These proposed regulations would amend the second category of excepted benefits, limited excepted benefits.

A. Dental and Vision Benefits

In 2004, the Departments of the Treasury, Labor, and HHS published final regulations with respect to excepted benefits (the HIPAA regulations).[14] (Subsequent references to the ''Departments'' include all three Departments, unless the headings or context indicate otherwise.) Under the HIPAA regulations, vision and dental benefits are excepted if they are limited in scope (described as benefits, substantially all of which are for treatment of the eyes or mouth, respectively) and are either: (1) Provided under a separate policy, certificate, or contract of insurance; or (2) are otherwise not an integral part of a group health plan. While only insured coverage may qualify under the first test, both insured and self-insured coverage may qualify under the second test. The HIPAA regulations provided that benefits are not an integral part of a plan if participants have the right to

[1] Public Law 104–204, 110 Stat. 2944 (September 26, 1996).

[2] Public Law 110–343, 122 Stat. 3881 (October 3, 2008).

[3] Public Law 104–204, 110 Stat. 2935 (September 26, 1996).

[4] Public Law 105–277, 112 Stat. 2681–436 (October 21, 1998).

[5] Public Law 110–233, 122 Stat. 881 (May 21, 2008).

[6] Public Law 111–3, 123 Stat. 65 (February 4, 2009).

[7] Public Law 110–381, 122 Stat. 4081 (October 9, 2008).

[8] The Patient Protection and Affordable Care Act, Public Law 111–148, was enacted on March 23, 2010, and the Health Care and Education Reconciliation Act, Public Law 111–152, was enacted on March 30, 2010. (They are collectively known as the ''Affordable Care Act''.)

[9] The term ''group health plan'' is used in title XXVII of the PHS Act, part 7 of ERISA, and chapter 100 of the Code, and is distinct from the term ''health plan,'' as used in other provisions of title I of the Affordable Care Act. The term ''health plan'' does not include self-insured group health plans.

[10] See 62 FR 16894, 16903 (Apr. 8, 1997), which states that these benefits are generally not health insurance coverage).

[11] 26 CFR 54.9831–1(c)(3)(v); 29 CFR 2590.732(c)(3)(v); 45 CFR 146.145(c)(3)(v).

[12] 26 CFR 54.9831–1(c)(4); 29 CFR 2590.732(c)(4); 45 CFR 146.145(c)(4). *See also* Q7 in FAQs about Affordable Care Act Implementation Part XI, available at *http://www.dol.gov/ebsa/faqs/faq-aca11.html.*

[13] 26 CFR 54.9831–1(c)(5); 29 CFR 2590.732(c)(5); 45 CFR 146.145(c)(5). The Departments issued additional guidance regarding supplemental health insurance coverage as excepted benefits. *See* EBSA Field Assistance Bulletin No. 2007–04 (available at *http://www.dol.gov/ebsa/pdf/fab2007-4.pdf*); CMS Insurance Standards Bulletin 08–01 (available at *http://www.cms.gov/CCIIO/Resources/Files/Downloads/hipaa_08_01_508.pdf*); and IRS Notice 2008–23 (available at *http://www.irs.gov/irb/2008-07_IRB/ar09.html*).

[14] 69 FR 78720 (Dec. 30, 2004).

elect not to receive coverage for the benefits, and if participants elect to receive coverage for such benefits, they pay an additional premium or contribution for it. By contrast, health FSA benefits could qualify as excepted benefits without any participant contribution under the HIPAA regulations.[15]

Following enactment of the Affordable Care Act, various stakeholders asked the Departments to amend the regulations in order to remove conditions for limited-scope vision and dental benefits to be treated as excepted benefits. Specifically, some employers represented that, although their vision and dental benefits complied with the pre-Affordable Care Act requirements in title XXVII of the PHS Act, part 7 of ERISA, and chapter 100 of the Code (such as the nondiscrimination and preexisting condition exclusion provisions), compliance with the Affordable Care Act provisions (including the 90-day waiting period limitation [16] and the prohibition on annual limits) [17] presented additional challenges. These employers argued that, where employers are providing such benefits on a self-insured basis and without a contribution from employees, employers should not be required to charge a nominal contribution from participants simply for the benefits to qualify as excepted benefits. In some cases, the cost of collecting the nominal contribution would be greater than the contribution itself. Moreover, they pointed out that employers providing dental and vision benefits through a separate insurance policy are not required to charge a participant any premium in order for the dental or vision benefits to be considered excepted benefits. Similarly, consumer groups argued that, if an employer offers primary group health coverage that is unaffordable to individuals, but limited-scope vision or dental coverage that is affordable, such limited-scope vision or dental coverage should qualify as excepted benefits so as not to make such individuals ineligible for the premium tax credit under section 36B of the Code for enrolling in coverage through an Affordable Insurance Exchange, or ''Exchange'' (also called a Health Insurance Marketplace or Marketplace).

In response to these concerns, and to level the playing field between insured and self-insured coverage, these proposed regulations would eliminate the requirement under the HIPAA regulations that participants pay an additional premium or contribution for limited-scope vision or dental benefits to qualify as benefits that are not an integral part of a plan (and therefore as excepted benefits). The Departments invite comments on this approach.

B. Limited Wraparound Coverage

The Affordable Care Act requires that non-grandfathered health plans in the individual and small group markets cover essential health benefits (EHB), which include items and services in ten statutorily specified categories that are equal in scope to a typical employer plan.[18] Because employer group coverage varies from State to State, HHS regulations at 45 CFR 156.100 provide for States to adopt individual benchmarks from among a range of primarily small group plan offerings in each State to serve as a reference plan, reflecting both the scope of services and limits offered by a typical employer plan in that State.[19]

Prior to the Affordable Care Act, there was no Federal requirement that health coverage in the individual and small group market include a standardized set of benefits such as those included in EHB. Self-insured group health plans and health insurance coverage in the large group market often cover items and services in addition to the types of services included in EHB. For example, items and services that either cannot be or are unlikely to be included in EHB include routine adult vision and dental care, long-term/custodial nursing home care, non-medically necessary pediatric orthodontia, and coverage that extends beyond the benchmark plan's coverage of wellness programs, manipulative treatment, infertility, home health care, private duty nursing, hospice, or certain non-traditional treatments. In addition, some of these group health plans may provide broader provider networks, in terms of the number and types of contracted providers, than those often included in the individual and small group market. Federal law is designed to encourage employers to provide group coverage for their employees.[20]

Experts suggest that most workers who are offered minimum value employer-sponsored coverage will not meet the criteria for the premiums to be considered to be ''unaffordable'' and thus not qualify for the premium tax credit for enrolling in coverage through an Exchange.[21] Nevertheless, in some cases, employer plans may be unaffordable for some employees. These individuals might purchase coverage through an Exchange with a premium tax credit. While such individuals might pay lower premiums for coverage through an Exchange, they might also have less generous coverage in terms of benefits or a different provider network than they would have had in their group health plan. Some group health plan sponsors have asked whether wraparound coverage could be provided for employees for whom the employer premium is unaffordable and who obtain coverage through an Exchange. This approach would allow employers

[15] Under paragraph (c)(3)(v) of the HIPAA regulations, benefits provided under a health FSA are only excepted for a class of participants if other group health coverage, not limited to excepted benefits, is made available for the year to the class of participants; and the arrangement is structured so that the maximum benefit payable to any participant in the class for a year does not exceed an amount specified in the regulations.

[16] *See* PHS Act section 2708. *See also* proposed regulations, published on March 21, 2013, at 78 FR 17313, stating that ''the Departments will consider compliance with these proposed regulations as compliance with PHS Act section 2708 at least through the end of 2014.'' (78 FR at 17317).

[17] *See* PHS Act section 2711 and its implementing regulations at 26 CFR 54.9815–2711T, 29 CFR 2590.715–2711, and 45 CFR 147.126.

[18] For more information on grandfathered health plans, *see* section 1251 of the Affordable Care Act and its implementing regulations at 26 CFR 54.9815–1251T, 29 CFR 2590.715–1251, and 45 CFR 147.140. For more information on essential health benefits, *see* 45 CFR 156.110, incorporated into the regulations through 78 FR 12834, Patient Protection and Affordable Care Act; Standards Related to Essential Health Benefits, Actuarial Value, and Accreditation; Final Rule, Feb. 25, 2013.

[19] 45 CFR 156.100, 78 FR 12840.

[20] Section 4980H of the Code generally provides that an applicable large employer is subject to an assessable payment if one or more full-time employees is certified to the employer as having received an applicable premium tax credit or cost-sharing reduction and either (1) the employer fails to offer to its full-time employees (and their dependents) the opportunity to enroll in minimum essential coverage (MEC) under an eligible employer sponsored plan, or (2) the employer offers its full-time employees (and their dependents) the opportunity to enroll in MEC under an eligible employer-sponsored plan but the coverage fails to meet requirements for affordability and minimum value. Section 5000A of the Code provides that MEC includes group health plans that are self-insured or are offered in the large or small group market within a State. Under section 5000A, nonexempt individuals must either maintain MEC for themselves and any nonexempt family members or include an additional payment with their Federal income tax return. Section 36B of the Code allows a premium tax credit to certain taxpayers who enroll (or whose family members enroll) in a qualified health plan (QHP) through an Exchange. The credit subsidizes a portion of the premiums for the QHP. In general, the premium tax credit may not subsidize coverage for an individual who is eligible for other MEC. If the MEC is eligible employer-sponsored coverage, however, an individual is treated as eligible for that coverage only if the coverage is affordable and provides minimum value or if the individual enrolls in the coverage.

[21] *See* Congressional Budget Office, CBO and JCT Estimates of the Effects of the Affordable Care Act on the Number of People Obtaining Employer-Based Insurance, March 2012, at Table 2, available at *http://www.cbo.gov/sites/default/files/cbofiles/attachments/03-15-ACA_and_Insurance_2.pdf. See also* Carter C. Price & Evan Saltzman, *Delaying the Employer Mandate,* July 2013, available at *http://www.rand.org/pubs/research_reports/RR411.html.*

to provide such employees with overall coverage that is comparable to the group health plan coverage, taking into account both the wraparound coverage and the Exchange coverage.

Accordingly, the Departments have developed these proposed regulations to treat certain wraparound coverage provided under a group health plan as excepted benefits when it is offered to individuals who could receive such benefits through their group health plan if they could afford the premiums, but who do not enroll in the employer-sponsored plan because the premium is unaffordable under the law. As excepted benefits, the coverage would generally be exempt from the HIPAA and Affordable Care Act market reform requirements of ERISA, the PHS Act, and the Code. Wraparound coverage would only qualify as excepted benefits under limited circumstances in order to alleviate two concerns. First, the wraparound coverage could not replace group coverage for employers who drop coverage or who otherwise do not offer minimum value coverage. Instead, the wraparound coverage would only be considered to be an excepted benefit if it is used to provide additional coverage to individuals and families enrolled in non-grandfathered individual health insurance coverage and for whom minimum value coverage under the employer's group health plan is offered but is unaffordable. Second, the proposed rules aim to prevent plan sponsors from structuring wraparound coverage so that low-income workers receive fewer primary benefits than high-income workers. These proposed regulations are intended to allow a plan sponsor to maintain a comparable level of benefits for all potential enrollees, including not only high-income workers in their group health plan but also low-income workers that enroll in non-grandfathered individual market coverage, promoting equity in coverage.

The proposed regulations, which the Departments are proposing would be effective for plan years starting in 2015, describe the circumstances under which employer-provided wraparound coverage would constitute excepted benefits (limited wraparound coverage) and therefore would not disqualify an employee from eligibility for the premium tax credit and cost-sharing reductions. The Departments note that provision of excepted benefits will not satisfy an applicable large employer's responsibilities under section 4980H of the Code. Under these proposed regulations, limited wraparound coverage is an excepted benefit if five conditions are met.

First, the coverage can wrap around only certain coverage provided through the individual market. Specifically, the individual health insurance coverage must be non-grandfathered and cannot consist solely of excepted benefits. In States that elect to establish a Basic Health Program (BHP), certain low-income individuals (*for example,* those with household income between 133% and 200% of the Federal poverty level) who would otherwise qualify for a tax credit to obtain a qualified health plan through an Exchange will instead be enrolled in coverage through the BHP. Therefore, the Departments invite comments on how an employer might make wraparound coverage available to BHP enrollees.

Second, the limited wraparound coverage must be specifically designed to provide benefits beyond those offered by the individual health insurance coverage. Specifically, the limited wraparound coverage must provide either benefits that are in addition to EHBs, or reimburse the cost of health care providers considered out-of-network under the individual health insurance coverage, or both. The Departments invite comments on the types of benefits and provider arrangements that could be included in this coverage as well as their similarities to, or differences from, other types of excepted benefits described in the HIPAA regulations. The Departments also invite comments on whether the proposed standard should be modified to require that these wraparound coverage benefits be ''substantial'' or ''material'' and, if so, how those terms should be defined.

The limited wraparound coverage may, but is not required to, also provide benefits to reimburse for participants' otherwise applicable cost sharing under the individual health insurance policy, but that cannot be its primary purpose. For the benefits to be considered specifically designed to wrap around the individual health insurance coverage, it must provide additional wraparound benefits as discussed in the immediately preceding paragraph; the coverage cannot provide benefits solely pursuant to a coordination-of-benefits provision that simply pays benefits whenever the individual health insurance policy does not cover all or part of a medical expense.

The third condition requires the limited wraparound coverage to be otherwise not an integral part of a group health plan. That is, under the proposed regulations, the plan sponsor offering the limited wraparound coverage must sponsor another group health plan meeting minimum value (as defined under section 36B(c)(2)(C)(ii) of the Code) for the plan year, referred to as the ''primary plan.'' This primary plan must be affordable for a majority of the employees eligible for the primary plan. Only individuals eligible for this primary plan may be eligible for the limited wraparound coverage. The Departments seek input on this proposed standard, including whether the majority level is an appropriate level (or whether the primary plan should provide coverage that is affordable for a higher or lower percentage of employees), recognizing the goal of preventing plan sponsors from shifting participants from the employer-sponsored primary plan to the individual market with limited wraparound coverage. Assuming use of the 9.5% of income test set forth in section 36B(c)(2)(C)(i) of the Code as the basic definition of ''affordable,'' the Departments also request comments on how to implement that definition here—for example, whether the Departments should use a Form W–2 safe harbor based on employee wages like the one set forth in the proposed regulations under Code section 4980H.

Under the fourth condition set forth in the proposed regulations, the limited wraparound coverage must be limited in amount. Specifically, the total cost of coverage under the limited wraparound coverage must not exceed 15 percent of the cost of coverage under the primary plan offered to employees eligible for the wraparound coverage.[22] For this purpose, the cost of coverage includes both employer and employee contributions towards coverage and is determined in the same manner as that in which the applicable premium is calculated under a COBRA continuation provision.[23] This is similar to the standard in the 2007 enforcement safe harbor for treating supplemental health insurance coverage as excepted benefits. Under the safe harbor, the cost of coverage under the supplemental policy, certificate, or contract of insurance must not exceed 15 percent of

[22] If an employer provides more than one primary plan option (for example, a health maintenance organization option and a preferred provider organization option), and one primary plan does not satisfy the 15% standard but another plan does, the Departments would consider the 15% standard to be met if the average value of the primary plan options meets the 15% standard.

[23] Under the COBRA rules, plans are generally permitted to charge up to 102 percent of the applicable premium. The cost of coverage for purposes of these proposed regulations is 100 percent of the applicable premium, not 102 percent of the applicable premium that the plan is generally permitted to charge under the COBRA rules.

the cost of primary coverage.[24] The Departments solicit comment on the level of this threshold, as well as other possible thresholds that could be used to ensure that the benefit is limited in amount, such as whether other thresholds used in the context of health FSAs or health savings accounts (HSAs) would be easier to administer or more appropriate.

The fifth and final condition for the limited wraparound coverage to qualify as excepted benefits relates to nondiscrimination. The limited wraparound coverage must not differentiate among individuals in eligibility, benefits, or premiums based on any health factor of an individual (or any dependent of the individual), consistent with the requirements of section 2705 of the PHS Act (as incorporated into ERISA section 715 and Code section 9815) and its implementing regulations. This condition is similar to the standard in the 2007 enforcement safe harbor treating supplemental health insurance coverage as excepted benefits. In addition to the cost standard mentioned above, the safe harbor requires that such coverage be similar to Medicare Supplemental Coverage in that it must not differentiate among individuals in eligibility, benefits, or premiums based on any health factor of an individual (or any dependent of the individual).

In addition, to satisfy the fifth condition, the limited wraparound coverage must not impose any preexisting condition exclusion, consistent with the requirements of section 2704 of the PHS Act (as incorporated into ERISA section 715 and Code section 9815) and its implementing regulations. Finally, both the primary coverage and the limited wraparound coverage must not discriminate in favor of highly compensated individuals, consistent with the provisions of section 2716 of the PHS Act (also incorporated by reference into ERISA section 715 and Code section 9815) and section 105(h) of the Code, and its implementing regulations at 26 CFR 1.105–11 as applicable.[25] These limitations are intended to ensure the coverage is available regardless of health status and to prevent employers from shifting employees with high medical costs to an Exchange. Conditioning excepted benefit status on meeting standards consistent with the compensation-based nondiscrimination rules, in combination with the requirement that the primary plan be affordable for a majority of the employees eligible for it, helps ensure that employers will not be able to use wraparound coverage to send excessive numbers of low wage workers to the Exchanges. Comments are invited as to whether additional nondiscrimination standards are needed to prevent such cost-shifting and abuse.

C. Employee Assistance Programs

Employee assistance programs (EAPs) are typically programs offered by employers that can provide a wide-ranging set of benefits to address circumstances that might otherwise adversely affect employees' work and health. Benefits may include short-term substance use disorder or mental health counseling or referral services, as well as financial counseling and legal services. They are typically available free of charge to employees and are often provided through third-party vendors. To the extent an EAP provides benefits for medical care, it would generally be considered group health plan coverage, which would generally be subject to the HIPAA and Affordable Care Act market reform requirements, unless the EAP meets the criteria for being excepted benefits.

Since enactment of the Affordable Care Act, various stakeholders have asked the Departments to treat EAPs as excepted benefits for reasons analogous to the arguments described above with respect to vision and dental benefits. Specifically, some employers represented that compliance with the prohibition on annual limits could be problematic as such benefits are typically very limited, and that EAPs generally are intended to provide benefits in addition to those provided under other group health plans sponsored by employers. Moreover, consumer groups have represented that EAPs with very limited benefits, which may be the only coverage offered to employees, may prohibit the employee from obtaining a premium tax credit under section 36B of the Code if the EAP is treated as minimum essential coverage under section 5000A of the Code. At the same time, the Departments recognize that no universal definition exists for EAPs, and are concerned that employers not act to shift primary coverage to a separate ''EAP plan,'' exempt from the consumer protection provisions of title XXVII of the PHS Act, part 7 of ERISA, and chapter 100 of the Code, including the mental health parity provisions.[26]

The Departments issued guidance on September 13, 2013, which stated the Departments' intent to amend the excepted benefits regulations with respect to EAPs.[27] The guidance also provided transition relief, stating, ''[u]ntil rulemaking is finalized, through at least 2014, the Departments will consider an employee assistance program or EAP to constitute excepted benefits only if the employee assistance program or EAP does not provide significant benefits in the nature of medical care or treatment. For this purpose, employers may use a reasonable, good faith interpretation of whether an employee assistance program or EAP provides significant benefits in the nature of medical care or treatment.''

These proposed regulations set forth criteria for an EAP to qualify as excepted benefits beginning in 2015. Under these proposed regulations, benefits provided under EAPs are excepted if four criteria are met. First, the program cannot provide significant benefits in the nature of medical care. The Departments invite comments on how to define ''significant.'' For example, the Departments request comments as to whether a program that provides no more than 10 outpatient visits for mental health or substance use disorder counseling, an annual wellness checkup, immunizations, and diabetes counseling, with no inpatient care benefits, should be considered to provide significant benefits in the nature of medical care.[28]

[24] The Departments issued parallel guidance regarding supplemental health insurance coverage as excepted benefits under HIPAA and related legislation. *See* EBSA Field Assistance Bulletin No. 2007–04 (available at *http://www.dol.gov/ebsa/pdf/fab2007-4.pdf*); CMS Insurance Standards Bulletin 08–01 (available at *http://www.cms.gov/CCIIO/Resources/Files/Downloads/hipaa_08_01_508.pdf*); and IRS Notice 2008–23 (available at *http://www.irs.gov/irb/2008-07_IRB/ar09.html*).

[25] Section 2716 of the PHS Act (as incorporated into ERISA and the Code) generally applies to insured coverage and section 105(h) of the Code and its implementing regulations generally apply to self-insured coverage.

[26] The mental health parity provisions are included in PHS Act section 2726, ERISA section 712, and Code section 9812.

[27] *See* IRS Notice 2013–54 (available at *http://www.irs.gov/pub/irs-drop/n-13-54.pdf*) and DOL Technical Release 2013–03 (available at *http://www.dol.gov/ebsa/newsroom/tr13-03.html*), Q&A 9. *See also* CMS Insurance Standards Bulletin—Application of Affordable Care Act Provisions to Certain Healthcare Arrangements (available at *http://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/cms-hra-notice-9-16-2013.pdf*).

[28] Other examples of EAPs that do not provide significant benefits in the nature of medical care, discussed in IRS Notice 2004–50 Q&A–10 include (1) an EAP with benefits that consist primarily of free or low-cost confidential short-term counseling (which could address substance abuse, alcoholism, mental health or emotional disorders, financial or legal difficulties, and dependent care needs) to identify an employee's problem that may affect job performance and, when appropriate, referrals to an outside organization, facility or program to assist the employee in resolving the problem; and (2) a wellness program that provides a wide-range of education and fitness services (also including sports and recreation activities, stress management, and

The second criterion for an EAP to constitute excepted benefits is that its benefits cannot be coordinated with benefits under another group health plan. The Departments propose three conditions to meet this standard. Participants in the separate group health plan must not be required to exhaust benefits under the EAP (making the EAP a ''gatekeeper'') before an individual is eligible for benefits under the other group health plan. Moreover, participant eligibility for benefits under the EAP must not be dependent on participation in another group health plan. Lastly, benefits under the EAP must not be financed by another group health plan.

The third criterion for an EAP to constitute excepted benefits is that no employee premiums or contributions be required to participate in the EAP. The fourth criterion is that there is no cost sharing under the EAP.

These criteria are intended to ensure that employers are able to continue offering EAPs as supplemental benefits to other coverage, and to ensure that in circumstances in which an EAP with limited benefits is the only coverage, or the only affordable coverage provided to an employee, that the coverage does not unreasonably disqualify an employee from otherwise being eligible for the premium tax credit for enrolling in coverage through an Exchange. The Departments request comments on whether the criteria proposed are sufficient to prevent the potential for abuse, including the evasion of compliance with the mental health parity provisions, and whether different or additional standards should be included.

D. Comment Solicitation, Applicability Date and Reliance

The Departments invite comments on these proposed regulations generally, and on the specific issues identified in this preamble. Until rulemaking is finalized, through at least 2014, for purposes of enforcing the provisions of title XXVII of the PHS Act, part 7 of ERISA, and chapter 100 of the Code, the Departments will consider dental and vision benefits, and EAP benefits, meeting the conditions of these proposed regulations to qualify as excepted benefits. To the extent final regulations or other guidance with respect to vision or dental benefits or EAPs is more restrictive on plans and issuers than these proposed regulations, the final regulations or other guidance will not be effective prior to January 1, 2015.

III. Economic Impact and Paperwork Burden

A. Summary—Department of Labor and Department of Health and Human Services

As stated above, these proposed regulations would amend the definition of limited excepted benefits to: (1) Eliminate the requirement that participants in self-insured plans pay an additional contribution for limited-scope vision or dental benefits to qualify as benefits that are not an integral part of a plan (and therefore as excepted benefits); (2) allow plan sponsors in limited circumstances to offer wraparound coverage to individuals who, but for the unaffordability of the premium, would receive such benefits through their group health plan; and (3) set forth the criteria under which EAPs that do not provide significant benefits in the nature of medical care constitute excepted benefits.

B. Executive Order 12866—Department of Labor and Department of Health and Human Services

OMB has determined that this regulatory action is significant within the meaning of section 3(f)(4) of the Executive Order, and the Departments accordingly provide the following assessment of its potential benefits and costs. The Departments expect the impact of these proposed regulations to be limited because they do not require any action or impose any requirements on employers and plan sponsors. The proposed modifications to vision, dental, and EAP benefits are primarily clarifications. Additionally, the Departments expect that the take-up with respect to limited wraparound coverage will be limited for several reasons. The proposed rules are designed so that the wraparound coverage could not replace group coverage for employers who drop coverage or who otherwise do not offer minimum value coverage. Instead, the wraparound coverage would only be considered to be an excepted benefit if it is used to provide additional coverage to individuals and families enrolled in non-grandfathered individual health insurance coverage and for whom minimum value coverage under the employer's group health plan is offered but is unaffordable. Moreover, the proposed rules aim to prevent plan sponsors from structuring wraparound coverage so that low-income workers receive fewer primary benefits than high-income workers. Lastly, the Departments note that provision of excepted benefits will not satisfy an applicable large employer's responsibilities under section 4980H of the Code.

One objective of the Affordable Care Act is to allow individuals with comprehensive health insurance plans to maintain their current level of benefits. The Departments recognize that many plan sponsors provide generous health benefits to their workers. Some employers offer EAPs or other additional benefits to their employees as part of a comprehensive set of benefits. Others are interested in newly offering wraparound coverage to employees who qualify for tax credits in an Exchange to provide them with coverage comparable to employees who enroll in a group health plan. These proposed regulations would clarify the circumstances under which plan sponsors can provide such limited wraparound coverage to make their employees' coverage ''whole.''

Specifically, these proposed regulations would allow plan sponsors to provide coverage for limited vision, dental, wraparound, and EAP benefits consistent with the qualifications for excepted benefits. These proposed improvements would help employees by continuing to maintain their access to health coverage that new requirements could constrain. The Departments expect these proposed regulations to have some costs, but these costs could be limited because they would not require any action or impose any requirements on employers and plan sponsors; take-up may be low; and the proposed modifications to vision, dental, and EAP benefits are primarily clarifications. With respect to vision and dental benefits, the proposed regulations would allow self-insured plans to offer dental and vision benefits to employees without charging a nominal contribution. With respect to EAPs, the proposed regulations would clarify the extent to which such benefits constitute excepted benefits rather than primary coverage.

With respect to wraparound coverage, the proposed regulations would allow plan sponsors to offer limited wraparound coverage to employees in certain limited circumstances. This proposal is not intended to replace group coverage for employers who drop coverage or who do not otherwise offer it, and offering the wraparound coverage will not satisfy an applicable large employer's responsibilities under section 4980H of the Code. Instead, the proposal is intended for plan sponsors whose goal is to provide health benefits

health screenings) designed to improve the overall health of the employees and prevent illness, where any costs charged to the individual for participating in the services are separate from the individual's coverage under the health plan.

to employees eligible for coverage through an Exchange that is, in total, comparable to the benefits offered through the sponsor's minimum value group health plan. As such, the targets of the proposed regulation are plan sponsors who otherwise would provide the full range of health benefits to qualifying enrollees. The wraparound coverage may only be offered to individuals eligible for the primary plan coverage the plan sponsor offers; and that primary coverage must provide minimum value and must be affordable for a majority of employees who are eligible for the primary plan coverage. Plan designs will be limited by nondiscrimination rules aimed at preventing plan sponsors from discriminating in favor of highly compensated employees or offering different benefits for workers along other dimensions such as health status (*i.e.,* discriminating against those with high medical costs).

The proposal provides additional flexibility for sponsors and does not impose additional costs on sponsors. The Federal budget impact of the proposal also depends on assumptions about the choices made by employers and workers. As with other group health coverage, employer contributions to the limited wraparound coverage would be excluded from employee income for tax purposes. The budget implications of adding limited wraparound coverage as a form of excepted benefits depend on the number of employers that elect this option and the number of employees that in turn receive it. As previously described, this proposal targets a narrow group of plan sponsors: those that offer minimum value coverage that is affordable for a majority of employees. The Departments seek input on this standard, including whether the majority level is an appropriate level (or whether the primary plan should provide coverage that is affordable for a larger or smaller fraction of employees), recognizing the goal of preventing plan sponsors from shifting employees from the primary plan to the individual market with limited wraparound coverage, and on the cost implications of different definitions. The cost of this proposal is difficult to quantify, as it is unclear how many plan sponsors will be eligible to offer and how many employees will elect the wraparound coverage. It is important to note that the cost of the proposed limited wraparound coverage can be reduced by limiting its availability. This could be accomplished by modifying the ''majority'' standard so that a greater proportion of employees would have to be offered a primary plan that is affordable. The majority level was proposed to help minimize the implications for the primary plan's risk pool by preventing a large number of low-wage workers from leaving the primary plan for Exchange coverage. The Departments invite input on this level, and on other standards that would achieve these goals.

Another factor in assessing the proposal's cost is that the decision to offer the wraparound coverage is optional. There is greater administrative complexity associated with the wraparound coverage than primary coverage and, given a choice, some plan sponsors may choose to increase the affordability of their primary coverage rather than offer limited wraparound coverage. Some plan sponsors may not have that choice: the employers may not be in a financial position to make their primary health plans affordable, let alone contribute to wraparound coverage. Employers may also continue to allow employees to simply obtain Exchange coverage with no additional wraparound benefit, and these employers would continue to pay any shared responsibility payments as applicable, resulting in no additional Federal costs.

The Departments seek comment on the effects of the proposal. Specifically, the Departments request detailed data that would inform the following questions: How many employers offer coverage that provides minimum value and is affordable for a majority of the employees who are eligible for coverage? What is the total number of individuals who are eligible for primary plan coverage that provides minimum value and is affordable for a majority of eligible employees, but would not find it affordable? To what extent would this proposed rule cause employers to drop health insurance coverage or avoid newly offering it, and what is the dollar value associated with such dropped coverage? To what extent would wrap-around coverage be offered more widely as a result of this rule, and what is the average dollar value associated with such coverage? To what extent would premiums for relatively generous health coverage change in the presence and in the absence of this rule?

C. Regulatory Flexibility Act—Department of Labor and Department of Health and Human Services

The Regulatory Flexibility Act (5 U.S.C. 601 et seq.) (RFA) imposes certain requirements with respect to Federal rules that are subject to the notice and comment requirements of section 553(b) of the Administrative Procedure Act (5 U.S.C. 551 et seq.) and that are likely to have a significant economic impact on a substantial number of small entities. Unless an agency certifies that a proposed rule is not likely to have a significant economic impact on a substantial number of small entities, section 603 of RFA requires that the agency present an initial regulatory flexibility analysis at the time of the publication of the notice of proposed rulemaking describing the impact of the rule on small entities and seeking public comment on such impact. Small entities include small businesses, organizations and governmental jurisdictions.

For purposes of the RFA, the Departments continue to consider a small entity to be an employee benefit plan with fewer than 100 participants. The basis for this definition is found in section 104(a)(2) of the act, which permits the Secretary of Labor to prescribe simplified annual reports for pension plans that cover fewer than 100 participants. Pursuant to the authority of section 104(a)(3), the Department of Labor has previously issued at 29 CFR 2520.104–20, 2520.104–21, 2520.104–41, 2520.104–46 and 2520.104b-10 certain simplified reporting provisions and limited exemptions from reporting and disclosure requirements for small plans, including unfunded or insured welfare plans covering fewer than 100 participants and satisfying certain other requirements.

Further, while some large employers may have small plans, in general small employers maintain most small plans. Thus, the Departments believe that assessing the impact of these proposed rules on small plans is an appropriate substitute for evaluating the effect on small entities. The definition of small entity considered appropriate for this purpose differs, however, from a definition of small business that is based on size standards promulgated by the Small Business Administration (13 CFR 121.201) pursuant to the Small Business Act (15 U.S.C. 631 et seq.). The Departments therefore request comments on the appropriateness of the size standard used in evaluating the impact of this proposed rule on small entities.

Because the proposed rules would impose no additional costs on employers or plans, the Departments believe that it would not have a significant economic impact on a substantial number of small entities. Accordingly, pursuant to section 605(b) of the RFA, the Departments hereby certify that the proposed rules, if promulgated, would not have a

significant economic impact on a substantial number of small entities.

D. Special Analyses—Department of the Treasury

For purposes of the Department of the Treasury it has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these proposed regulations, and, because these proposed regulations do not impose a collection of information on small entities, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking has been submitted to the Small Business Administration for comment on its impact on small business.

E. Unfunded Mandates Reform Act

For purposes of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1501 *et seq.*), as well as Executive Order 12875, these proposed rules do not include any Federal mandate that may result in expenditures by State, local, or tribal governments, or the private sector, which may impose an annual burden of $100 million adjusted for inflation since 1995.

F. Federalism—Department of Labor and Department of Health and Human Services

Executive Order 13132 outlines fundamental principles of federalism. It requires adherence to specific criteria by Federal agencies in formulating and implementing policies that have ''substantial direct effects'' on the States, the relationship between the national government and States, or on the distribution of power and responsibilities among the various levels of government. Federal agencies promulgating regulations that have these federalism implications must consult with State and local officials, and describe the extent of their consultation and the nature of the concerns of State and local officials in the preamble to the final regulation.

In the Departments' view, the proposed regulations, by clarifying policy regarding certain excepted benefits options that can be designed by employers to support their employees, would provide more certainty to employers and others in the regulated community as well as States and political subdivisions regarding the treatment of such arrangements under ERISA. Accordingly, the Departments will affirmatively engage in outreach with officials of State and political subdivisions regarding the proposed rules and seek their input on the proposed rules and any federalism implications that they believe may be presented by it.

G. Congressional Review Act

These proposed regulations are subject to the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 et seq.), and, if finalized, will be transmitted to the Congress and to the Comptroller General for review in accordance with such provisions.

IV. Statutory Authority

The Department of the Treasury regulations are proposed to be adopted pursuant to the authority contained in sections 7805 and 9833 of the Code.

The Department of Labor regulations are proposed to be adopted pursuant to the authority contained in 29 U.S.C. 1027, 1059, 1135, 1161–1168, 1169, 1181–1183, 1181 note, 1185, 1185a, 1185b, 1191, 1191a, 1191b, and 1191c; sec. 101(g), Public Law 104–191, 110 Stat. 1936; sec. 401(b), Public Law 105–200, 112 Stat. 645 (42 U.S.C. 651 note); sec. 512(d), Public Law 110–343, 122 Stat. 3765; Public Law 110–460, 122 Stat. 5123; Secretary of Labor's Order 1–2011, 77 FR 1088 (January 9, 2012).

The Department of Health and Human Services regulations are proposed to be adopted pursuant to the authority contained in sections 2701 through 2763, 2791, and 2792 of the PHS Act (42 U.S.C. 300gg through 300gg–63, 300gg-91, and 300gg–92), as amended.

List of Subjects

26 CFR Part 54

Excise taxes, Health care, Health insurance, Pensions, Reporting and recordkeeping requirements.

29 CFR Part 2590

Continuation coverage, Disclosure, Employee benefit plans, Group health plans, Health care, Health insurance, Medical child support, Reporting and recordkeeping requirements.

45 CFR Part 146

Health care, Health insurance, Reporting and recordkeeping requirements, and State regulation of health insurance.

John Dalrymple,

Deputy Commissioner for Services and Enforcement, Internal Revenue Service.

Signed this 11th day of December, 2013.

Phyllis C. Borzi,

Assistant Secretary, Employee Benefits Security Administration, Department of Labor.

Dated: November 22, 2013.

Marilyn Tavenner,

Administrator, Centers for Medicare & Medicaid Services.

Dated: December 3, 2013.

Kathleen Sebelius,

Secretary, Department of Health and Human Services.

Department of The Treasury

Internal Revenue Service

Accordingly, 26 CFR Part 54 is proposed to be amended as follows:

PART 54—PENSION EXCISE TAXES

■ **Paragraph 1.** The authority citation for part 54 continues to read, in part, as follows:

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

Section 54.9831–1 also issued under 26 U.S.C. 9833; * * *

■ **Paragraph 2.** Section 54.9831–1 is amended by revising paragraphs (c)(3)(i) and (c)(3)(ii), and adding paragraphs (c)(3)(vi) and (c)(3)(vii), to read as follows:

§ 54.9831–1 Special rules relating to group health plans.

* * * * *

(c) * * *

(3) * * *

(i) *In general.* Limited-scope dental benefits, limited-scope vision benefits, or long-term care benefits are excepted if they are provided under a separate policy, certificate, or contract of insurance, or are otherwise not an integral part of a group health plan as described in paragraph (c)(3)(ii) of this section. In addition, benefits provided under a health flexible spending arrangement are excepted benefits if they satisfy the requirements of paragraph (c)(3)(v) of this section. Furthermore, benefits that wraparound individual health insurance coverage are excepted benefits if they satisfy the requirements of paragraph (c)(3)(vi) of this section, and benefits provided under an employee assistance program are excepted benefits if they satisfy the requirements of paragraph (c)(3)(vii) of this section.

(ii) *Not an integral part of a group health plan.* For purposes of this paragraph (c)(3), benefits are not an

integral part of a group health plan (whether the benefits are provided through the same plan or a separate plan) only if participants have the right to elect not to receive coverage for the benefits.

* * * * *

(vi) *Limited wraparound coverage.* Limited benefits that wraparound benefits provided through individual health insurance coverage are excepted benefits if all of the following requirements are satisfied—

(A) *Wraps around certain individual health insurance coverage.* The individual health insurance coverage is not a grandfathered health plan (as described in section 1251 of the Affordable Care Act) and does not consist solely of excepted benefits (as defined in paragraph (c) of this section).

(B) *Covers benefits or providers not covered by individual health insurance coverage.* The wraparound coverage is specifically designed to wrap around the individual health insurance coverage described in paragraph (c)(3)(vi)(A) of this section, as follows:

(*1*) The wraparound coverage must provide coverage of benefits that are not essential health benefits, or reimburse the cost of health care providers that are considered out-of-network under the individual health insurance coverage, or both. The wraparound coverage may also provide benefits for participants' otherwise applicable cost sharing under the individual health insurance policy.

(*2*) The wraparound coverage must not provide benefits only under a coordination-of-benefits provision.

(C) *Otherwise not an integral part of the plan.* The plan sponsor with respect to the wraparound coverage must sponsor another group health plan meeting minimum value (as defined under section 36B(c)(2)(C)(ii)) and that is affordable for a majority of the employees eligible for that group health plan (''primary plan''). Only individuals eligible for this primary plan may be eligible for the wraparound coverage.

(D) *Limited in amount.* The total cost of coverage under the wraparound coverage must not exceed 15 percent of the cost of coverage under the primary plan (as described in paragraph (c)(3)(vi)(C) of this section). For this purpose, the cost of coverage includes both employer and employee contributions towards coverage and is determined in the same manner as the applicable premium is calculated under a COBRA continuation provision.

(E) *Nondiscrimination.* The following conditions must be satisfied:

(*1*) The wraparound coverage must not differentiate among individuals in eligibility, benefits, or premiums based on any health factor of an individual (or any dependent of the individual), consistent with the requirements of section 2705 of the PHS Act (as incorporated into section 9815) and § 54.9802–1.

(*2*) The wraparound coverage must not impose any preexisting condition exclusion, consistent with the requirements of section 2704 of the PHS Act (as incorporated into section 9815).

(*3*) To the extent the primary coverage is insured, the primary coverage must not be discriminatory under section 2716 the PHS Act (as incorporated into section 9815). To the extent the primary coverage is self-insured, the primary coverage must not be discriminatory under section 105(h) and § 1.105–11.

(*4*) To the extent the wraparound coverage is insured, the wraparound coverage must not be discriminatory under section 2716 the PHS Act (as incorporated into section 9815) and to the extent the wraparound coverage is self-insured, the wraparound coverage must not be discriminatory under section 105(h) and § 1.105–11.

(vii) *Employee assistance programs.* Benefits provided under employee assistance programs are excepted if they satisfy all of the following requirements—

(A) The program does not provide significant benefits in the nature of medical care.

(B) The benefits under the employee assistance program cannot be coordinated with benefits under another group health plan, as follows:

(*1*) Participants in the other group health plan must not be required to exhaust benefits under the employee assistance program (making the employee assistance program a gatekeeper) before an individual is eligible for benefits under the other group health plan;

(*2*) Participant eligibility for benefits under the employee assistance program must not be dependent on participation in another group health plan; and

(*3*) Benefits under the employee assistance program must not be financed by another group health plan.

(C) No employee premiums or contributions may be required as a condition of participation in the employee assistance program.

(D) There is no cost sharing under the employee assistance program.

* * * * *

Employee Benefits Security Administration

29 CFR Chapter XXV

For the reasons set forth above, 29 CFR part 2590 is proposed to be amended as follows:

PART 2590—RULES AND REGULATIONS FOR GROUP HEALTH PLANS

■ 1. The authority citation for part 2590 continues to read as follows:

Authority: Secs. 29 U.S.C. 1027, 1059, 1135, 1161–1168, 1169, 1181–1183, 1181 note, 1185, 1185a, 1185b, 1191, 1191a, 1191b, and 1191c; sec. 101(g), Public Law 104–191, 110 Stat. 1936; sec. 401(b), Public Law 105–200, 112 Stat. 645 (42 U.S.C. 651 note); sec. 512(d), Public Law 110–343, 122 Stat. 3765; Public Law 110–460, 122 Stat. 5123; Secretary of Labor's Order 1–2011, 77 FR 1088 (January 9, 2012).

■ 2. Section 2590.732 is amended by revising paragraphs (c)(3)(i) and (c)(3)(ii), and adding paragraphs (c)(3)(vi) and (c)(3)(vii), to read as follows:

§ 2590.732 Special rules relating to group health plans.

* * * * *

(c) * * *

(3) * * *

(i) *In general.* Limited-scope dental benefits, limited-scope vision benefits, or long-term care benefits are excepted if they are provided under a separate policy, certificate, or contract of insurance, or are otherwise not an integral part of a group health plan as described in paragraph (c)(3)(ii) of this section. In addition, benefits provided under a health flexible spending arrangement are excepted benefits if they satisfy the requirements of paragraph (c)(3)(v) of this section. Furthermore, benefits that wraparound individual health insurance coverage are excepted benefits if they satisfy the requirements of paragraph (c)(3)(vi) of this section, and benefits provided under an employee assistance program are excepted benefits if they satisfy the requirements of paragraph (c)(3)(vii) of this section.

(ii) *Not an integral part of a group health plan.* For purposes of this paragraph (c)(3), benefits are not an integral part of a group health plan (whether the benefits are provided through the same plan or a separate plan) only if participants have the right to elect not to receive coverage for the benefits.

* * * * *

(vi) *Limited wraparound coverage.* Limited benefits that wraparound benefits provided through individual

health insurance coverage are excepted benefits if all of the following requirements are satisfied—

(A) *Wraps around certain individual health insurance coverage.* The individual health insurance coverage is not a grandfathered health plan (as described in section 1251 of the Affordable Care Act and § 2590.715–1251 of this part) and does not consist solely of excepted benefits (as defined in paragraph (c) of this section).

(B) *Covers benefits or providers not covered by individual health insurance coverage.* The wraparound coverage is specifically designed to wrap around the individual health insurance coverage described in paragraph (c)(3)(vi)(A) of this section, as follows:

(*1*) The wraparound coverage must provide coverage of benefits that are not essential health benefits, or reimburse the cost of health care providers that are considered out-of-network under the individual health insurance coverage, or both. The wraparound coverage may also provide benefits for participants' otherwise applicable cost sharing under the individual health insurance policy.

(*2*) The wraparound coverage must not provide benefits only under a coordination-of-benefits provision.

(C) *Otherwise not an integral part of the plan.* The plan sponsor with respect to the wraparound coverage must sponsor another group health plan meeting minimum value (as defined under section 36B(c)(2)(C)(ii) of the Code) and that is affordable for a majority of the employees eligible for that group health plan (''primary plan''). Only individuals eligible for this primary plan may be eligible for the wraparound coverage.

(D) *Limited in amount.* The total cost of coverage under the wraparound coverage must not exceed 15 percent of the cost of coverage under the primary plan (as described in paragraph (c)(3)(vi)(C) of this section). For this purpose, the cost of coverage includes both employer and employee contributions towards coverage and is determined in the same manner as the applicable premium is calculated under a COBRA continuation provision.

(E) *Nondiscrimination.* The following conditions must be satisfied:

(*1*) The wraparound coverage must not differentiate among individuals in eligibility, benefits, or premiums based on any health factor of an individual (or any dependent of the individual), consistent with the requirements of section 2705 of the PHS Act (as incorporated into ERISA section 715) and § 2590.715–2705.

(*2*) The wraparound coverage must not impose any preexisting condition exclusion, consistent with the requirements of section 2704 of the PHS Act (as incorporated into ERISA section 715) and § 2590.715–2704.

(*3*) To the extent the primary coverage is insured, the primary coverage must not be discriminatory under section 2716 the PHS Act (as incorporated into ERISA section 715). To the extent the primary coverage is self-insured, the primary coverage must not be discriminatory under section 105(h) of the Code and 26 CFR 1.105–11.

(*4*) To the extent the wraparound coverage is insured, the wraparound coverage must not be discriminatory under section 2716 the PHS Act (as incorporated into ERISA section 715). To the extent the wraparound coverage is self-insured, the wraparound coverage must not be discriminatory under section 105(h) of the Code and 26 CFR 1.105–11.

(vii) *Employee assistance programs.* Benefits provided under employee assistance programs are excepted if they satisfy all of the following requirements—

(A) The program does not provide significant benefits in the nature of medical care.

(B) The benefits under the employee assistance program cannot be coordinated with benefits under another group health plan, as follows:

(*1*) Participants in the other group health plan must not be required to exhaust benefits under the employee assistance program (making the employee assistance program a gatekeeper) before an individual is eligible for benefits under the other group health plan;

(*2*) Participant eligibility for benefits under the employee assistance program must not be dependent on participation in another group health plan; and

(*3*) Benefits under the employee assistance program must not be financed by another group health plan.

(C) No employee premiums or contributions may be required as a condition of participation in the employee assistance program.

(D) There is no cost sharing under the employee assistance program.

* * * * *

Department of Health and Human Services

45 CFR Subtitle A

For the reasons set forth in the preamble, the Department of Health and Human Services proposes to amend 45 CFR part 146 as set forth below:

PART 146—REQUIREMENTS FOR THE GROUP HEALTH INSURANCE MARKET

■ 1. The authority citation for part 146 continues to read as follows:

Authority: Secs. 2702 through 2705, 2711 through 2723, 2791, and 2792 of the PHS Act (42 U.S.C. 300gg–1 through 300gg–5, 300gg–11 through 300gg–23, 300gg–91, and 300gg–92).

■ 2. Section 146.145 is amended by revising paragraphs (c)(3)(i) and (c)(3)(ii), and adding paragraphs (c)(3)(vi) and (c)(3)(vii), to read as follows:

§ 146.145 Special rules relating to group health plans.

* * * * *

(c) * * *

(3) * * *

(i) *In general.* Limited-scope dental benefits, limited-scope vision benefits, or long-term care benefits are excepted if they are provided under a separate policy, certificate, or contract of insurance, or are otherwise not an integral part of a group health plan as described in paragraph (c)(3)(ii) of this section. In addition, benefits provided under a health flexible spending arrangement are excepted benefits if they satisfy the requirements of paragraph (c)(3)(v) of this section. Furthermore, benefits that wraparound individual health insurance coverage are excepted benefits if they satisfy the requirements of paragraph (c)(3)(vi) of this section, and benefits provided under an employee assistance program are excepted benefits if they satisfy the requirements of paragraph (c)(3)(vii) of this section.

(ii) *Not an integral part of a group health plan.* For purposes of this paragraph (c)(3), benefits are not an integral part of a group health plan (whether the benefits are provided through the same plan or a separate plan) only if participants have the right to elect not to receive coverage for the benefits.

* * * * *

(vi) *Limited wraparound coverage.* Limited benefits that wraparound benefits provided through individual health insurance coverage are excepted benefits if all of the following requirements are satisfied—

(A) *Wraps around certain individual health insurance coverage.* The individual health insurance coverage is not a grandfathered health plan (as described in section 1251 of the Affordable Care Act and § 147.140 of this subchapter) and does not consist solely of excepted benefits (as defined in paragraph (c) of this section).

(B) *Covers benefits or providers not covered by individual health insurance coverage.* The wraparound coverage is specifically designed to wrap around the individual health insurance coverage described in paragraph (c)(3)(vi)(A) of this section, as follows:

(*1*) The wraparound coverage must provide coverage of benefits that are not essential health benefits, or reimburse the cost of health care providers that are considered out-of-network under the individual health insurance coverage, or both. The wraparound coverage may also provide benefits for participants' otherwise applicable cost sharing under the individual health insurance policy.

(*2*) The wraparound coverage must not provide benefits only under a coordination-of-benefits provision.

(C) *Otherwise not an integral part of the plan.* The plan sponsor with respect to the wraparound coverage must sponsor another group health plan meeting minimum value (as defined under section 36B(c)(2)(C)(ii) of the Code) and that is affordable for a majority of the employees eligible for that group health plan (''primary plan''). Only individuals eligible for this primary plan may be eligible for the wraparound coverage.

(D) *Limited in amount.* The total cost of coverage under the wraparound coverage must not exceed 15 percent of the cost of coverage under the primary plan (as described in paragraph (c)(3)(vi)(C) of this section). For this purpose, the cost of coverage includes both employer and employee contributions towards coverage and is determined in the same manner as the applicable premium is calculated under a COBRA continuation provision.

(E) *Nondiscrimination.* The following conditions must be satisfied:

(*1*) The wraparound coverage must not differentiate among individuals in eligibility, benefits, or premiums based on any health factor of an individual (or any dependent of the individual), consistent with the requirements of section 2705 of the PHS Act and § 147.110 of this subchapter.

(*2*) The wraparound coverage must not impose any preexisting condition exclusion, consistent with the requirements of section 2704 of the PHS Act and § 147.108 of this subchapter.

(*3*) To the extent the primary coverage is insured, the primary coverage must not be discriminatory under section 2716 the PHS Act. To the extent the primary coverage is self-insured, the primary coverage must not be discriminatory under section 105(h) of the Code and 26 CFR 1.105–11.

(*4*) To the extent the wraparound coverage is insured, the wraparound coverage must not be discriminatory under section 2716 the PHS Act. To the extent the wraparound coverage is self-insured, the wraparound coverage must not be discriminatory under section 105(h) of the Code and 26 CFR 1.105–11.

(vii) *Employee assistance programs.* Benefits provided under employee assistance programs are excepted if they satisfy all of the following requirements—

(A) The program does not provide significant benefits in the nature of medical care.

(B) The benefits under the employee assistance program cannot be coordinated with benefits under another group health plan, as follows:

(*1*) Participants in the other group health plan must not be required to exhaust benefits under the employee assistance program (making the employee assistance program a gatekeeper) before an individual is eligible for benefits under the other group health plan;

(*2*) Participant eligibility for benefits under the employee assistance program must not be dependent on participation in another group health plan; and

(*3*) Benefits under the employee assistance program must not be financed by another group health plan.

(C) No employee premiums or contributions may be required as a condition of participation in the employee assistance program.

(D) There is no cost sharing under the employee assistance program.

* * * * *

[FR Doc. 2013–30553 Filed 12–20–13; 11:15 am]

BILLING CODE 4830–01–P; 4510–29–P; 4120–01–P

Notices

Federal Register

Vol. 78, No. 247

Tuesday, December 24, 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

December 18, 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 January 23, 2014 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.

Farm Service Agency

Title: Noninsured Crop Disaster Assistance Program.

OMB Control Number: 0560–0175.

Summary of Collection: The Noninsured Crop Assistance Program (NAP) is authorized under 7 U.S.C. 7333 and implemented under regulations issued at 7 CFR Part 1437. The NAP is administered under the general supervision of the Executive Vice-President of the Commodity Credit Corporation (CCC) (who also serves as Administrator, Farm Service Agency (FSA)), and is carried out by the FSA State and County committees. NAP is intended to reduce financial losses that occur when natural disasters cause a catastrophic loss of production or prevented planting of an eligible crop by providing coverage equivalent to the catastrophic risk protection level of Federal Crop Insurance. NAP provides assistance for losses of floriculture, ornamental nursery, Christmas tree crops, turfgrass sod, seed crops, aquaculture (including ornamental fish), sea oats and sea grass, and industrial crops. FSA will collect information using several forms.

Need and Use of the Information: The information collected is necessary to determine whether a producer and crop or commodity meet applicable conditions for assistance and to determine compliance with existing rules. Producers must annually: (1) Request NAP coverage by completing an application for coverage and paying a service fee by the CCC-established application closing date; (2) file a current crop-year report of acreage for the covered crop or commodity; and (3) certify harvest production of each covered crop or commodity. The information collected allows CCC to provide assistance under NAP for losses of commercial crops or other agricultural commodities (except livestock) for which catastrophic risk protection under 7 U.S.C. 1508 is not available, and that are produced for food or fiber.

Description of Respondents: Farms; Business or other for-profit; Not-for-profit Institutions.

Number of Respondents: 291,500.

Frequency of Responses: Recordkeeping; Reporting: On occasion; Weekly; Monthly; Annually.

Total Burden Hours: 2,031,830.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2013–30562 Filed 12–23–13; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2013–0041]

National Advisory Committee of Meat and Poultry Inspection

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of public meeting.

SUMMARY: The Food Safety and Inspection Service (FSIS) is announcing a meeting of the National Advisory Committee on Meat and Poultry Inspection (NACMPI). The Committee is being convened to review two topics for FSIS. The first topic will address safe handling instructions included on food labels. FSIS is seeking input from the committee to fully explore enhancing the safe food handling label on meat and poultry packages. With this input, the Agency will consider whether or not the current safe handling instructions should be changed to meet the needs of the consuming public; FSIS is also seeking feedback from NACMPI on FSIS's Establishment-Specific Data Release Strategic Plan. The plan was developed from recommendations by the NACMPI committee in 2010. FSIS would like the committee to review the strategic plan and provide further suggestions.

DATES: The meeting is scheduled for January 7–8, 2014 from 9:00 a.m. to 5:00 p.m. Eastern Time. The committee will meet from 8:00 a.m. to 9:00 a.m. on January 7th for administrative purposes; this portion of the meeting is not open to the public.

ADDRESSES: The meetings will be held in the Auditorium at the Patriot Plaza III Building, 355 E. Street SW., Washington, DC 20024. The auditorium is located on the first floor. Please note that due to increased security measures at the Patriot Plaza III, all persons

wishing to attend are strongly encouraged to register in advance.

FOR FURTHER INFORMATION CONTACT: Sally Fernandez, Program Specialist, Designated Federal Officer, via Email: *Sally.Fernandez@fsis.usda.gov;* Telephone: (202) 690–6524; or Fax: (202) 690–6519 regarding specific questions about the committee or this meeting. General information about the committee can also be found at: *http://www.fsis.usda.gov/wps/portal/informational/aboutfsis/!ut/p/a0/04_Sj9CPykssy0xPLMnMz0vMAfGjzOINAg3MDC2dDbz8LQ3dDDz9wgL9vZ2dDdz9TfQLsh0VAfb5Y5I!/?1dmy&current=true&urile=wcm%3apath%3a%2Ffsis-content%2Finternet%2Fmain%2Ftopics%2Fregulations%2Fadvisory-committees%2Fnacmpi%2Fnacmpi.*

SUPPLEMENTARY INFORMATION:

Background

The purpose of the Committee is to provide advice to the Secretary concerning State and Federal programs with respect to meat, poultry, and processed egg product inspection, safety, and other matters that fall within the scope of the FMIA and PPIA. The agenda topics are safe handling instructions included on food labels and FSIS's Establishment-Specific Data Release Strategic Plan.

Register for the Meeting: The public is asked to pre-register for the meeting. Your pre-registration must state the following: (1) The names of each person in your group; (2) organization or interest represented; (3) the number of people planning to give oral comments, if any; and (4) whether anyone in your group requires special accommodations. Submit registrations to *http://www.fsis.usda.gov/wps/portal/fsis/topics/regulations/advisory-committees/nacmpi/nacmpi-meetings.* FSIS will also accept walk-in registrations. Members of the public requesting to give an oral comment to the Committee must sign in at the registration desk.

Public Comments: Written public comments may be mailed to: USDA, FSIS, 1400 Independence Avenue SW., Mailstop 3778, Washington, DC 20250; submitted via Fax: (202) 690–6519; or by Email: *NACMPI@fsis.usda.gov.* All written comments must arrive by February 8, 2013. Oral comments are also accepted (see instructions under ''Register for the Meeting'' above).

Availability of Materials for the Meeting: All written public comments will be compiled into a binder and available for review at the meeting. Duplicate comments from multiple individuals will appear as one comment, with a notation that multiple copies of the comment were received. Please visit *http://www.fsis.usda.gov/wps/portal/fsis/topics/regulations/advisory-committees/nacmpi-reports* to learn more about the agenda, for the meeting, or reports, resulting from this meeting.

Meeting Accommodations: USDA is committed to ensuring that all interested persons are included in our events. If you are a person with a disability and would like to request reasonable accommodations to participate in this meeting, please contact Sally Fernandez via Phone: (202) 690–6524; Fax (202) 690–6519; or Email: *Sally.Fernandez@fsis.usda.gov.* All reasonable accommodation requests are managed on a case by case basis.

USDA Nondiscrimination Statement

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

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

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

Additional Public Notification

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

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

Done at Washington, DC, December 16, 2013.

Alfred V. Almanza,

Administrator.

[FR Doc. 2013–30561 Filed 12–23–13; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Forest Service

Black Hills National Forest, South Dakota; Thunder Basin National Grassland, Wyoming; Teckla-Osage-Rapid City Transmission 230 kV Project

AGENCY: Forest Service, USDA.

ACTION: Corrected Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service will prepare an environmental impact statement (EIS) on a proposal by Black Hills Power (BHP) to construct and operate a 230 kilovolt (kV) transmission line between the Teckla and Osage Substations in northeastern Wyoming to the Lange Substation in Rapid City, South Dakota. The Bureau of Land Management (BLM) is a cooperating agency on this EIS. The Teckla-Osage-Rapid City Transmission 230 kV Project would be approximately 150 miles long. It would cross portions of the Black Hills National Forest and private lands in South Dakota and portions of the Thunder Basin National Grasslands, private lands, BLM lands, and state lands in Wyoming. The line would be constructed on wood or steel H-frame structures for most of its length with possibly some steel monopole structures in the Rapid City area. The structures would be 65 to 75 feet tall and the line would require a right-of-way approximately 125 feet wide.

This corrected notice of intent (corrected NOI) updates information in

the original notice, published in the **Federal Register** August 26, 2011 (76FR53400). A corrected notice was needed to update the timing information for the Draft and Final EISs, and to clarify the mailing address for comments. Also, this project analysis is being conducted under the authority of the Forest Service predecisional objection regulation at 36 CFR 218, Subparts A and B, issued in the **Federal Register** on March 27, 2013 (78FR18481).

DATES: The draft environmental impact statement is expected to be available for public review in December 2013 and the final environmental impact statement is expected to be completed by August 2014.

ADDRESSES: Send written comments to Ruth Esperance, District Ranger, Mystic Ranger District, Teckla-Osage-Rapid City Project, 8221 South Highway 16, Rapid City, South Dakota 57702;. Send comments via email to *comments-rocky-mountain-black-hills-mystic@fs.fed.us* with ''Teckla–Osage–Rapid City Transmission Line'' as the subject. Electronic comments must be readable in Word, Rich Text or PDF formats.

FOR FURTHER INFORMATION CONTACT: Those with questions or needing additional information should contact Jessica Eggers at the Mystic Ranger District office in Rapid City at (605) 343–1567, or Geri Proctor at the Thunder Basin National Grasslands in Douglas, WY at (307) 358–4690. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The actions proposed are in direct response to an application submitted to the Black Hills National Forest and Thunder Basin National Grassland by Black Hills Power (BHP) to construct and operate a 230 kilovolt (kV) transmission line between the Teckla and Osage Substations in northeast Wyoming and the Lange Substation in Rapid City, South Dakota. The project area covers parts of Campbell and Weston Counties in Wyoming, and Pennington, Meade, and Lawrence Counties in South Dakota.

Purpose and Need for Action

The purpose of the Teckla-Osage-Rapid City Transmission Project is to:

- Strengthen the regional transmission network
- Improve the reliability of the transmission system
- Provide additional transmission capacity to help meet the growing demand for electricity and economic development in the region

Proposed Action

The proposed action is to construct the Teckla-Osage-Rapid City 230 kV transmission line as described below:

- Approximately 135 miles of transmission line
- Require a 125 foot right-of-way
- Construction of wood or steel H-frame structures 65–75 feet in height.

This proposal also includes specific actions needed for interim and final reclamation.

Lead and Cooperating Agencies

The Bureau of Land Management is a cooperating agency on this EIS.

Responsible Officials

For the Forest Service: Craig Bobzien, Forest Supervisor, Black Hills National Forest, 1019 N. 5th Street, Custer, SD 57730; and Carolyn P. Upton, Deputy Forest Supervisor, Medicine Bow—Routt National Forest and Thunder Basin National Grassland, 2468 Jackson Street, Laramie, WY 82070. For the Bureau of Land Management: Stephanie Connolly, District Manager, BLM Wyoming High Plains District, 2987 Prospector Drive, Casper, WY 82604.

Nature of Decision To Be Made

The Forest Supervisors and BLM District Manager will decide whether the proposed action will proceed as proposed or as modified by an alternative; which recommended mitigation measures and monitoring requirements will be applied; and whether an Amendment to a forest plan or resource management plan is required.

Issues

Prior to scoping the preliminary issues included effects of the project on plants and wildlife including sensitive species such as sage grouse, goshawks, and other raptors; archaeological sites; hydrology and water quality; and scenic integrity and visual resources. Public scoping and analysis of comments has allowed the Forest Service and BLM to clarify the list of key issues. While the EIS will analyze effects of the alternatives on archaeological sites, hydrology and water quality, these topics are not expected to drive the formulation of alternatives and thus will not be listed as key issues. Those issue topics which will drive alternatives include effects of the project on wildlife including sensitive species such as sage grouse, goshawks, and other raptors; wetlands and vegetation communities; scenic integrity and visual resources; private property including values and electricity rates; existing and future motorized recreation trail opportunities; existing forest vegetation (tree removal); and public health as affected by electromagnetic fields.

Scoping Process and Next Steps

The original notice of intent initiated the scoping process, which guides the development of the environmental impact statement. Comments and input regarding the proposal were received from the public, other groups, and agencies during the initial public comment period through October 28, 2011. Public meetings were held at the Hell Canyon Ranger District Office, 1225 Washington Boulevard in Newcastle, WY; and the Mystic Ranger District office, 8221 South Highway 16 in Rapid City, SD. The agencies read and considered all comments, refined the list of issues, and developed one additional alternative to the proposed action, and analyzed the effects of all alternatives. The Draft Environmental Impact Statement (DEIS) is expected to be issued in December 2013. The public will be invited to review the DEIS and respond with comment during a 45-day comment period. The agencies expect to host one or more public meetings after the DEIS is issued, with the time(s) and place(s) yet to be determined. Public comment will be reviewed and appropriate changes will be documented in the Final EIS, which is expected to be issued in August 2014.

It is important that reviewers provide their comments at such times and in such manner that they are useful to the agency's preparation of the environmental impact statement. Therefore, comments should be provided prior to the close of any comment period and should clearly articulate the reviewer's concerns and contentions.

Comments received in response to a solicitation, including names and addresses of those who comment, will be part of the public record for this proposed action. Comments submitted anonymously will be accepted and considered, however, anonymous comments may not provide eligibility to participate in the predecisional objection process.

Dated: December 17, 2013.

Dennis L. Jaeger,

Deputy Forest Supervisor, Black Hills National Forest.

[FR Doc. 2013–30665 Filed 12–23–13; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF COMMERCE

Census Bureau

Proposed Information Collection; Comment Request; Current Population Survey (CPS) Basic Demographic Items

AGENCY: U.S. Census Bureau, 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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: To ensure consideration, written comments must be submitted on or before February 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(s) and instructions should be directed to Karen Woods, U.S. Census Bureau, 7H110F, Washington, DC 20133–8400 at (301) 763–3806 (or via the internet at *Karen.g.wms.woods@census.gov*).

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau plans to request clearance from the Office of Management and Budget (OMB) for the collection of basic demographic information on the Current Population Survey (CPS) beginning in June 2014. The current clearance expires June 30, 2014.

The CPS has been the source of official government statistics on employment and unemployment for over 50 years. The Bureau of Labor Statistics (BLS) and the Census Bureau jointly sponsor the basic monthly survey. The Census Bureau also prepares and conducts all the field work. At the OMB's request, the Census Bureau and the BLS divide the clearance request in order to reflect the joint sponsorship and funding of the CPS program. The BLS submits a separate clearance request for the portion of the CPS that collects labor force information for the civilian noninstitutional population. Some of the information within that portion includes employment status, number of hours worked, job search activities, earnings, duration of unemployment, and the industry and occupation classification of the job held the previous week. The justification that follows is in support of the demographic data.

The demographic information collected in the CPS provides a unique set of data on selected characteristics for the civilian noninstitutional population. Some of the demographic information we collect are age, marital status, gender, Armed Forces status, education, race, origin, and family income. We use these data in conjunction with other data, particularly the monthly labor force data, as well as periodic supplement data. We also use these data independently for internal analytic research and for evaluation of other surveys. In addition, we use these data as a control to produce accurate estimates of other personal characteristics.

II. Method of Collection

The CPS basic demographic information is collected from individual households by both personal visit and telephone interviews each month. All interviews are conducted using computer-assisted interviewing. Households in the CPS are in sample for four consecutive months, and for the same four months the following year. This is called a 4–8–4 rotation pattern; households are in sample for four months, in a resting period for eight months, and then in sample again for four months.

III. Data

OMB Control Number: 0607–0049.

Form Number: There are no forms. We conduct all interviews on computers.

Type of Review: Regular submission.

Affected Public: Households.

Estimated Number of Respondents: 59,000 per month.

Estimated Time per Response: 1.6396 minutes.

Estimated Total Annual Burden Hours: 19,347.

Estimated Total Annual Cost: There is no cost to the respondents other than their time.

Respondents Obligation: Voluntary.

Legal Authority: Title 13, U.S.C., Section 182, and Title 29, U.S.C., Sections 1–9.

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: December 18, 2013.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2013–30546 Filed 12–23–13; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Census Bureau

Proposed Information Collection; Comment Request; 2014 Census Site Test

AGENCY: U.S. Census Bureau.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: To ensure consideration, written comments must be submitted on or before February 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(s) and instructions should be directed to Erin Love, Census Bureau, HQ–3H468E, Washington, DC 20233; (301) 763–2034 (or via email at *erin.s.love@census.gov*).

SUPPLEMENTARY INFORMATION:

I. Abstract

During the years preceding the 2020 Census, the Census Bureau will pursue its commitment to reduce the costs of conducting a decennial census, while striving to maintain the level of quality it achieved for previous ones. A primary decennial census cost driver is the collection of data from members of the public for which the Census Bureau received no reply via initially offered response options. Increasing the number of people who take advantage of self-response options and improving our methods for enumerating people who do not initially respond can contribute to a less costly census with high-quality results, reducing the need for more costly enumerator-administered options.

The 2014 Census Site Test will allow the Census Bureau to, on a small scale, employ a variety of new methods and advanced technologies that are under consideration for the 2020 Census. To improve self-response, the Census Bureau plans to test new contact and notification strategies such as allowing respondents to pre-register their email address, cell phone number/text, mailing address, and physical location, and provide a preference for a contact strategy of either email or text. Furthermore, participants will have the option of responding to the test via multiple response modes including the Internet, paper questionnaires, and telephone interviews. In addition, the 2014 Census Site Test provides an opportunity for the Census Bureau to test potential enhancements to its automated processing of responses lacking a pre-assigned Census identification (ID) number. To optimize the self-response testing, there will be a communications and promotional campaign designed to increase awareness and encourage participation by potential respondents.

Even though self-response is encouraged, there will be households that do not respond and therefore there is a need to test strategies to most effectively and efficiently collect information for those households. The 2014 Census Site Test will examine reducing the total number of contacts made to a household during the Nonresponse Follow-Up (NRFU) operation as well as adapting the number and type of contacts made to a household based on information we have about that household. As well, this test will employ various uses of administrative records, most notably the removal of cases through the use of administrative records data either before or during the field work with the goal to reduce NRFU costs and increase interviewer efficiency. This test of NRFU operations will be accomplished by utilizing an automated field data collection instrument. Additionally, the Census Bureau will experiment with employee-owned commercially available devices on which a custom developed data collection application can be provided, commonly referred to as Bring Your Own Device (BYOD).

II. Method of Collection

The Census Bureau will conduct this test in Washington, DC and Montgomery County, MD. This geographic site test will include 192,500 Housing Units to be contacted for the census. This component includes an initial self-response phase that is followed by a NRFU phase for no more than 50,000 non-responding housing units. The households in NRFU are those who have failed to self-respond by a certain deadline. A Census Bureau employee may visit or phone these households and will attempt to collect their questionnaire data.

For the self-response phase, the Census Bureau will randomly assign sampled housing units to one of eight different contact and enumeration strategies. Each strategy aims to increase the use of self-response enumeration in a decennial census. Most sampled housing units will initially receive a pre-notification containing instructions about how to respond to the test online. Some households will receive a notice that allows respondents to pre-register for the Census and to notify the Census Bureau of their communication preference such as email or text/cell phone. The telephone assistance option will be available to all households. Respondents who become aware of the test can respond by going to the Internet site or contacting the Telephone Questionnaire Assistance line. For those participants who have not responded within an allotted time period, the Census Bureau will attempt to contact them additional times, which will include reminders by email or a final reminder along with a paper questionnaire by mail.

If a household does not respond by a certain date, it will be included in the universe for the NRFU portion of the test. There are three major NRFU treatments being tested in the 2014 Census Site Test. First, the *Tailored Contact Strategies* portion will research and test ways of reducing the cost of in-person follow-up for cases sent to the field by finding ways to streamline operations to promote efficiencies (such as reducing the number of contact attempts), while striving to maintain quality. In addition, the project will use 2010 Census field procedures to use as a control group from which to compare results.

Second, the *Adaptive Design Strategies* portion will test a method of managing data collection by dynamically adapting contact attempt strategies on a *per case basis* using paradata and business rules to inform real-time management decisions. Principles associated with adaptive design such as using alternative modes of contact and using paradata to model the likelihood for a household to respond to repeated contact attempts will be applied to the NRFU workload in an attempt to lower field costs.

Third, the *Administrative Records* portion of the NRFU operations will reduce NRFU workloads at various stages of fieldwork. Some areas (in both the *Tailored Contact* and *Adaptive Design* portions described above) will have their NRFU workload reduced because administrative records information will be utilized to enumerate households that have been determined to be vacant or occupied and therefore do not require fieldwork. In other areas, administrative records information will be utilized to only enumerate unoccupied units that do not require field work. Administrative records will also be used to enumerate households for which a number of unsuccessful contact attempts have been made in the field in lieu of additional contact attempts. Overall, using administrative records information to remove non-responding cases from the field workload may reduce costs associated with NRFU operations.

The geographic area contains two strata, based on relative levels of response. The strata include distinct geographic areas that will correspond with different contact strategies. This mix of levels of response will allow the Census Bureau to gather cost data associated with mileage and hours spent traveling to housing units and interviewing respondents during NRFU operations. In addition, Time and Motion studies will be conducted.

For the 2014 Census Site Test, the Census Bureau will test the use of an automated enumeration device in field operations. The enumeration device is a new development effort with the goal of replacing paper based data collection methods historically used in decennial operations such as Nonresponse Follow-Up (NRFU). The test will help evaluate:

- The effectiveness of conducting a field operation with the use of consumer grade devices (e.g. iPhones and iPads).
- The effectiveness of replacing traditional paper maps with Google

Maps for locating housing units for enumeration activities.

In addition, for follow-on to the 2014 Census Site Test, the Census Bureau will experiment with using employee owned commercially owned smartphones to conduct the NRFU. The use of employee owned equipment/services is commonly referred to as Bring Your Own Device or BYOD. A sample of 250 households will be contacted at the end of the field operation using this methodology. The objectives of this component of the test are to:

- Design and develop software solutions, deployment, and support processes that run on commercially available employee owned mobile devices (i.e., iPhone).
- Deploy and support secure software solutions that can be installed on commercially available employee owned mobile devices.
- Conduct interviews of respondents using employee owned mobile devices (i.e., iPhone).
- Capture lessons learned.

III. Data

OMB Control Number: None.

Form Number: Paper questionnaires: DC–1A and DC–1B; electronic questionnaires with numbers as yet to be determined.

Type of Review: Regular submission.

Affected Public: Individuals or Households.

Estimated Number of Respondents: 192,500.

Estimated Time Per Response: 10 minutes per response.

Estimated Total Annual Burden Hours: 32,083.

Estimated Total Annual Cost: Respondents who are contacted by cell phone and/or text message may incur charges depending on their plan with their service provider. The Census Bureau estimates that the total cost to respondents will be no more than $840,000. There are no other costs to respondents other than their time to participate in this data collection.

Respondents Obligation: Mandatory.

Legal Authority: Title 13 U.S.C. 141 and 193.

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: December 18, 2013.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2013–30611 Filed 12–23–13; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, Department of Commerce

ACTION: Notice and Opportunity for Public Comment

Pursuant to Section 251 of the Trade Act 1974, as amended (19 U.S.C. 2341 et seq.), the Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of these firms contributed importantly to the total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE

[12/06/2013 through 12/18/2013]

Firm name	Firm address	Date accepted for investigation	Product(s)
GKI, Inc	6204 Factory Road, Crystal Lake, IL 60014.	12/13/2013	The firm manufactures metal cutting tools for the stamped metal part manufacturing industry.
Metaltech Products, Inc	16055 Highway E, Lebanon, MO 65536.	12/17/2013	The firm manufactures custom metal fabrications—including radiator covers, generator covers/enclosures, weather boxes, back-up power supply -battery racks, and mobile feed troughs.
Decker Manufacturing, Inc	312 Blondeau St, Keokuk, IA 52632.	12/17/2013	The firm manufactures metal curry combs, grooming brushes, hog catchers & rings, and farrier supplies.
Novatek, Inc	2185 Tracy Hall Parkway, Provo, UT 84606.	12/17/2013	The firm is a machine shop manufacturer specializing in asphalt and concrete milling products.
Mountainside Medical Colorado, LLC.	6165 Lookout Road, Boulder CO 80301.	12/17/2013	The firm manufactures electromechanical products and subassemblies for the medical industry.
Trent Spendrup Corporation (dba Spendrup Fan Co.).	2768 C 1/2 Road, Grand Junction, CO 81501.	12/17/2013	The firm manufactures custom industrial fans.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance for Firms Division, Room 71030, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.9 for procedures to request a public

hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

Dated: December 18, 2013.

Michael DeVillo,

Eligibility Examiner.

[FR Doc. 2013–30730 Filed 12–23–13; 8:45 am]

BILLING CODE 3510–WH–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–106–2013]

Notification of Proposed Production Activity, Xylem Water Systems USA LLC, Subzone 37D, (Centrifugal, Submersible Pumps and Related Components), Auburn, New York

Xylem Water Systems USA LLC (Xylem), operator of Subzone 37D, submitted a notification of proposed production activity to the FTZ Board for its facilities located in Auburn, New York. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on December 2, 2013.

Xylem already has authority to produce centrifugal pumps, submersible pumps, and related controllers. The current request would add a new finished product (control panels) and certain foreign components to the scope of authority. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status components and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt Xylem from customs duty payments on the foreign status components used in export production. On its domestic sales, Xylem would be able to choose the duty rates during customs entry procedures that apply to control panels (2.7%) and centrifugal and submersible pumps (free) for the foreign status inputs noted below and in the existing scope of authority. Customs duties also could possibly be deferred or reduced on foreign status production equipment.

The components and materials sourced from abroad include: control panels; steel rivets; rubber diaphragms; axial fans; aluminum capacitors; metal brackets; and pump stands (duty rate ranges from free to 2.9%).

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is February 3, 2014.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.*

FOR FURTHER INFORMATION CONTACT: Pierre Duy at *Pierre.Duy@trade.gov* or (202) 482–1378.

Dated: December 17, 2013.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2013–30667 Filed 12–23–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–520–803]

Polyethylene Terephthalate Film, Sheet, and Strip From the United Arab Emirates; 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 polyethylene terephthalate film, sheet, and strip (PET Film) from the United Arab Emirates (UAE). The period of review (POR) is November 1, 2011, through October 31, 2012. The review covers two producer/exporters of the subject merchandise, JBF RAK LLC (JBF) and FLEX Middle East FZE (FLEX). The Department preliminarily determines that sales of subject merchandise have been made below normal value by JBF and FLEX. Interested parties are invited to comment on these preliminary results.

DATES: *Effective Date:* December 24, 2013.

FOR FURTHER INFORMATION CONTACT: Andrew Huston, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4261.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The products covered by the order are all gauges of raw, pre-treated, or primed polyethylene terephthalate film, whether extruded or co-extruded. Excluded are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer more than 0.00001 inches thick. Also excluded is roller transport cleaning film which has at least one of its surfaces modified by application of 0.5 micrometers of SBR latex. Tracing and drafting film is also excluded. Polyethylene terephthalate film is classifiable under subheading 3920.62.00.90 of the Harmonized Tariff Schedule of the United States (HTSUS). While HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of the order is dispositive.

Methodology

The Department is conducting this review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act). Constructed export price is calculated in accordance with section 772 of the Act. Normal value is calculated in accordance with section 773 of the Act.

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum, which is hereby adopted by this notice.[1] The Preliminary Decision Memorandum 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 in room 7046 of the main Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the Internet at *http://enforcement.trade.gov/frn/.* The signed Preliminary Decision Memorandum and electronic versions of the Preliminary Decision Memorandum are identical in content.

[1] *See* the Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, ''Decision Memorandum for the Preliminary Results of Antidumping Duty Administrative Review: Polyethylene Terephthalate Film, Sheet, and Strip from the United Arab Emirates'' (Preliminary Decision Memorandum), dated concurrently with this notice.

Preliminary Results of Review

As a result of our review, we preliminarily determine the following weighted-average dumping margins exist for the period November 1, 2011, through October 31, 2012:

Manufacturer/Exporter	Weighted-average margin (percent)
JBF RAK LLC	1.41
FLEX Middle East FZE	7.11

Disclosure and Public Comment

The Department intends to disclose the calculations used in our analysis to parties in this review within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Interested parties are invited to comment on the preliminary results of this review. Pursuant to 19 CFR 351.309(c)(1)(ii), interested parties may submit case briefs not later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may not be filed later than five days after the time limit for filing case briefs.[2] Parties who submit case briefs or rebuttal briefs in this review are requested to submit with each brief: (1) A statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities.[3] Executive summaries should be limited to five pages total, including footnotes.[4]

Pursuant to 19 CFR 351.310(c), any interested party may request a hearing within 30 days of the publication of this notice in the **Federal Register**. If a hearing is requested, the Department will notify interested parties of the hearing schedule. 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, filed electronically via IA ACCESS within 30 days after the date of publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs.

We intend to issue the final results of this administrative review, including the results of our analysis of issues raised by the parties in the written comments, within 120 days of publication of these preliminary results in the **Federal Register**, unless otherwise extended.[5]

Assessment Rates

Upon issuing the final results of the review, the Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of review.

For any individually examined respondents whose weighted-average dumping margin is above *de minimis,* we will calculate importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered value of those same sales in accordance with 19 CFR 351.212(b)(1).[6] We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific assessment rate calculated in the final results of this review is above *de minimis.* Where either the respondent's weighted-average dumping margin is zero or *de minimis,* or an importer-specific assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.

Cash Deposit Requirements

The following deposit requirements will be effective for all shipments of PET Film from the UAE entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review, as provided for by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for the companies under review will be the rate established in the final results of this review (except, if the rate is zero or *de minimis,* no cash deposit will be required); (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 4.05 percent, the all-others rate established in the investigation.[7] These cash 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) 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 preliminary results of administrative review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: December 17, 2013.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

1. Scope of the Order
2. Date of Sale
3. Discussion of Methodology
4. Product Comparisons
5. Export Price and Constructed Export Price
6. Normal Value
7. Cost of Production Analysis
8. Currency Conversion

[FR Doc. 2013–30749 Filed 12–23–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–427–818]

Low Enriched Uranium From France: Continuation of Antidumping Duty Order

AGENCY: Enforcement and Compliance, formerly Import Administration,

[2] *See* 19 CFR 351.309(d)(1).

[3] *See* 19 CFR 351.309(c)(2), (d)(2).

[4] *See id.*

[5] *See* section 751(a)(3)(A) of the Act.

[6] In these preliminary results, the Department applied the assessment rate calculation methodology adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101 (February 14, 2012).

[7] *See Polyethylene Terephthalate Film, Sheet, and Strip from Brazil, the People's Republic of China and the United Arab Emirates: Antidumping Duty Orders and Amended Final Determination of Sales at Less Than Fair Value for the United Arab Emirates,* 73 FR 66595, 66597 (November 10, 2008).

International Trade Administration, Department of Commerce.

SUMMARY: As a result of the determinations by the Department of Commerce (the ''Department'') and the International Trade Commission (the ''ITC'') that revocation of the antidumping duty order on low enriched uranium (''LEU'') from France would likely lead to a continuation or recurrence of dumping and material injury to an industry in the United States, the Department is publishing a notice of continuation of the antidumping duty order.

DATES: *Effective Date:* December 24, 2013.

FOR FURTHER INFORMATION CONTACT: Hilary Sadler, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–4340.

SUPPLEMENTARY INFORMATION:

Background

On December 3, 2012, the Department initiated a sunset review of the antidumping duty order on LEU from France, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the ''Act'').[1] As a result of its review, the Department determined that revocation of the order on LEU from France would likely lead to a continuation or recurrence of dumping and, therefore, notified the ITC of the magnitude of the margins likely to prevail should the order be revoked.[2] On December 12, 2013, the ITC published its determination, pursuant to section 751(c) of the Act that revocation of the antidumping duty order on LEU from France would lead to a continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[3]

Scope of the Order

The product covered by the order is all low enriched uranium (''LEU''). LEU is enriched uranium hexafluoride (UF_6) with a U^{235} product assay of less than 20 percent that has not been converted into another chemical form, such as UO_2, or fabricated into nuclear fuel assemblies, regardless of the means by which the LEU is produced (including LEU produced through the downblending of highly enriched uranium).

Certain merchandise is outside the scope of the order. Specifically, the order does not cover enriched uranium hexafluoride with a U^{235} assay of 20 percent or greater, also known as highly enriched uranium. In addition, fabricated LEU is not covered by the scope of the order. For purposes of the order, fabricated uranium is defined as enriched uranium dioxide (UO_2), whether or not contained in nuclear fuel rods or assemblies. Natural uranium concentrates (U_3O_8) with a U^{235} concentration of no greater than 0.711 percent and natural uranium concentrates converted into uranium hexafluoride with a U^{235} concentration of no greater than 0.711 percent are not covered by the scope of the order.

Also excluded from the order is LEU owned by a foreign utility end-user and imported into the United States by or for such end-user solely for purposes of conversion by a U.S. fabricator into uranium dioxide (UO_2) and/or fabrication into fuel assemblies so long as the uranium dioxide and/or fuel assemblies deemed to incorporate such imported LEU (i) remain in the possession and control of the U.S. fabricator, the foreign end-user, or their designed transporter(s) while in U.S. customs territory, and (ii) are reexported within eighteen (18) months of entry of the LEU for consumption by the end-user in a nuclear reactor outside the United States. Such entries must be accompanied by the certifications of the importer and end user.

The merchandise subject to this order is classified in the Harmonized Tariff Schedule of the United States (''HTSUS'') at subheading 2844.20.0020. Subject merchandise may also enter under 2844.20.0030, 2844.20.0050, and 2844.40.00. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to the order is dispositive.

Continuation of the Order

As a result of the determinations by the Department and the ITC that revocation of the antidumping duty order would likely lead to a continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to Section 751(d)(2) of the Act, the Department hereby orders the continuation of the antidumping duty order on LEU from France. U.S. Customs and Border Protection will continue to collect antidumping duty cash deposits at the rates in effect at the time of entry for all imports of subject merchandise. The effective date of the continuation of the order will be the date of publication in the **Federal Register** of this notice of continuation. Pursuant to section 751(c)(2) of the Act, the Department intends to initiate the next five-year review of the order not later than 30 days prior to the effective date of the continuation.

The five-year (''sunset'') review and this notice are in accordance with section 751(c) of the Act and published pursuant to section 777(i)(1) of the Act.

Dated: December 17, 2013.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2013–30737 Filed 12–23–13; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Initiation of Five-Year (''Sunset'') Review,* 77 FR 71684 (December 3, 2013).

[2] *See Low Enriched Uranium from France: Final Results of the Expedited Sunset Review of the Antidumping Duty Order,* 78 FR 21100 (April 9, 2013).

[3] *See Low Enriched Uranium from France (Investigation No. 731–TA–909 (Second Review),* 78 FR 75579 (December 12, 2013).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–838]

Seamless Refined Copper Pipe and Tube From Mexico: 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 seamless refined copper pipe and tube from Mexico.[1] The review covers two producers/exporters of the subject merchandise, GD Affiliates S. de R.L. de C.V. (Golden Dragon) [2] and Nacional de Cobre, S.A. de C.V. (Nacobre). The period of review (POR) is November 1, 2011, through October 31, 2012. We

[1] *See Seamless Refined Copper Pipe and Tube From Mexico and the People's Republic of China: Antidumping Duty Orders and Amended Final Determination of Sales at Less Than Fair Value From Mexico,* 75 FR 71070 (Nov. 22, 2010) (*Order*).

[2] The Department has previously treated GD Affiliates S. de R.L. de C.V. as part of a single entity including: 1) GD Copper Cooperatief U.A.; 2) Hong Kong GD Trading Co. Ltd.; 3) Golden Dragon Holding (Hong Kong) International, Ltd.; 4) GD Copper U.S.A. Inc.; 5) GD Affiliates Servicios S. de R.L. de C.V.; and 6) GD Affiliates S. de R.L. de C.V., which is collectively referred to as Golden Dragon. *See, e.g., Seamless Refined Copper Pipe and Tube From Mexico: Final Results of Antidumping Duty New Shipper Review,* 77 FR 59178 (Sept. 26, 2012), and accompanying Issues and Decision Memorandum. In addition, Counsel for GD Affiliates S. de R.L. de C.V. submitted a letter to the Department, on behalf of the Golden Dragon affiliates listed above, and entered an appearance and requested an administrative review of GD Affiliates S. de R.L. de C.V., on November 30, 2012.

have preliminarily found that sales of subject merchandise have been made at prices below normal value. Interested parties are invited to comment on these preliminary results.

DATES: *Effective Date:* December 24, 2013.

FOR FURTHER INFORMATION CONTACT: Elizabeth Eastwood or Dennis McClure, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3874 or (202) 482–5973, respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The merchandise subject to the *Order* is seamless refined copper pipe and tube. The product is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7411.10.1030 and 7411.10.1090, and also may enter under HTSUS subheadings 7407.10.1500, 7419.99.5050, 8415.90.8065, and 8415.90.8085. The HTSUS subheadings are provided for convenience and customs purposes only; the written product description of the scope of the order is dispositive.[3]

Methodology

The Department has conducted this review in accordance with section 751(a)(2) of the Tariff Act of 1930, as amended (the Act). Constructed export price is calculated in accordance with section 772 of the Act. Normal value is calculated in accordance with section 773 of the Act.

For a full description of the methodology underlying our conclusions, see the Preliminary Decision Memorandum. 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 it is available to all parties in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed and 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:

Producer or Exporter	Weighted-average dumping margin (percent)
GD Affiliates S. de R.L. de C.V ..	2.26
Nacional de Cobre, S.A. de C.V	0.59

Disclosure and Public Comment

The Department intends to disclose to interested parties the calculations performed in connection with these preliminary results within five days after the date of publication of this notice.[4] Pursuant to 19 CFR 351.309(c), interested parties may submit cases briefs no later than 30 days after the date of publication of these preliminary results of review. Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than five days after the time limit for filing case briefs.[5] Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[6] Case and rebuttal briefs should be filed using IA ACCESS.[7]

Pursuant to 19 CFR 351.310(c), 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, filed electronically via IA ACCESS. An electronically-filed document must be received successfully in its entirety by IA ACCESS by 5 p.m. Eastern Standard Time within 30 days after the date of publication of this notice.[8] Hearing requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing to be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.[9]

The Department intends to issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, no later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h), unless this deadline is extended.

Assessment Rates

Upon issuance of the final results, the Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review.[10] Golden Dragon and Nacobre reported the names of the importers of record and the entered value for all of their sales to the United States during the POR. If Golden Dragon's and Nacobre's weighted-average dumping margins are not zero or *de minimis* (*i.e.,* less than 0.50 percent) in the final results of this review, we will calculate importer-specific assessment rates on the basis of the ratio of the total amount of dumping calculated for the importer's examined sales and the total entered value of those sales in accordance with 19 CFR 351.212(b)(1). We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific assessment rate calculated in the final results of this review is not zero or *de minimis.* Where either the respondent's weighted-average dumping margin is zero or *de minimis,* or an importer-specific assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

The Department clarified its ''automatic assessment'' regulation on May 6, 2003. This clarification will apply to entries of subject merchandise during the POR produced by Golden Dragon and Nacobre for which they did not know its merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction. For a full discussion of this clarification, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[3] *See* Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, entitled ''Seamless Refined Copper Pipe and Tube from Mexico: Decision Memorandum for Preliminary Results of Antidumping Duty Administrative Review; 2011–2012,'' (Preliminary Decision Memorandum), dated concurrent with and adopted by this notice, for a complete description of the Scope of the Order.

[4] *See* 19 CFR 351.224(b).

[5] *See* 19 CFR 351.309(d).

[6] *See* 19 CFR 351.309(c)(2) and (d)(2).

[7] *See* 19 CFR 351.303.

[8] *See* 19 CFR 351.310(c).

[9] *See id.*

[10] *See* 19 CFR 351.212(b).

We intend to issue instructions to CBP 41 days after the publication date of the final results of this review.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of seamless refined copper pipe and tube from Mexico entered, or withdrawn from warehouse, for consumption on or after the date of publication as provided by section 751(a)(2) of the Act: (1) The cash deposit rates for Golden Dragon and Nacobre will be equal to the weighted-average dumping margins established in the final results of this administrative review; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation but the manufacturer is, the cash deposit rate will be the rate established for the most recently completed segment for the manufacturer of the merchandise; (4) the cash deposit rate for all other manufacturers or exporters will continue to be 26.03 percent, the all-others rate established in the *Order.* These cash 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 Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Tolling of Deadlines

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.[11] 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 December 18, 2013.

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(h) and 351.221(b)(4).

Dated: December 18, 2013.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

1. Normal Value Comparisons
2. Determination of Comparison Method
3. Product Comparisons
4. Date of Sale
5. Constructed Export Price
6. Normal Value
7. Duty Absorption
8. Currency Conversion

[FR Doc. 2013–30664 Filed 12–23–13; 8:45 am]

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[11] *See* Memorandum for the Record from Paul Piquado, Assistant Secretary for Enforcement and Compliance, ''Deadlines Affected by the Shutdown of the Federal Government'' (Oct. 18, 2013).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–831]

Fresh Garlic From the People's Republic of China: Preliminary Results and Partial Rescission of the 18th Antidumping Duty Administrative Review; 2011–2012

AGENCY: Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Department) is conducting the 18th administrative review (AR) of the antidumping duty order on fresh garlic from the People's Republic of China (PRC) covering the period of review (POR) November 1, 2011, through October 31, 2012.[1] The mandatory respondents in this review are: Hebei Golden Bird Trading Co., Ltd. (Golden Bird) and Shenzhen Xinboda Industrial Co., Ltd. (Xinboda). The Department has preliminarily determined that, during the POR, the respondents in this proceeding have made sales of subject merchandise at less than normal value (NV). The Department is also preliminarily determining that 13 companies made no shipments.

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 77 FR 77017 (December 31, 2012) (*Initiation Notice*).

DATES: *Effective Date:* December 24, 2013.

FOR FURTHER INFORMATION CONTACT: Nicholas Czajkowski or Lingjun Wang, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–1395 or (202) 482–2316, respectively.

Scope of the Order

The merchandise covered by the order includes all grades of garlic, whole or separated into constituent cloves. Fresh garlic that are subject to the order are currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) 0703.20.0010, 0703.20.0020, 0703.20.0090, 0710.80.7060, 0710.80.9750, 0711.90.6000, and 2005.90.9700. Although the HTSUS numbers are provided for convenience and customs purposes, the written product description, available in *Antidumping Duty Order: Fresh Garlic from the People's Republic of China,* 59 FR 59209 (November 16, 1994), remains dispositive. For a full description of the scope of the order, see the Preliminary Decision Memorandum.[2]

Partial Rescission of Administrative Review

On December 31, 2012, the Department initiated this administrative review with respect to 139 companies.[3] Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in whole or in part, if a party who requested the review withdraws the request within 90 days of the date of publication of the notice of initiation of the requested review. The Department is rescinding this review for Jinxiang Jinma Fruits Vegetables Products Co., Ltd. and Zhengzhou Harmoni Spice Co., Ltd., as: (1) Parties have timely withdrawn all review requests with respect to these companies; and (2) these companies have separate rates from a prior completed segment of this proceeding. For these companies, antidumping duties shall be assessed at rates equal to

[2] *See* Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance regarding ''Decision Memorandum for the Preliminary Results of the 2011–2012 Antidumping Duty Administrative Review: Fresh Garlic from the People's Republic of China,'' dated concurrently with these results and hereby adopted by this notice (Preliminary Decision Memorandum).

[3] *See Initiation Notice,* 77 FR at 77020–77022.

the rates of the cash deposits of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(2).

The Department also received timely withdrawal requests for 94 other companies listed in the *Initiation Notice.* However, we are not rescinding the reviews for these companies at this time because they do not have a separate rate, and therefore, each currently remains part of the PRC-wide entity.[4] The PRC-wide entity is currently subject to this administrative review.

Preliminary Determination of No Shipments

Thirteen companies listed in Appendix I timely filed ''no shipment'' certifications stating that they had no entries of subject merchandise during the POR. Based on the certifications by these companies, and our analysis of U.S. Customs and Border Protection (CBP) information, we preliminarily determine that the companies listed in Appendix I did not have any reviewable transactions during the POR. In addition, the Department finds that, consistent with its refinement to its assessment practice in non-market economy (NME) cases, further discussed below, it is appropriate not to rescind the review, in part, in these circumstances, but to complete the review with respect to these 13 companies, and to issue appropriate instructions to CBP based on the final results of the review.[5]

PRC-Wide Entity

Of the remaining companies subject to these preliminary results, 20 are not eligible for separate rate status or rescission as they did not submit separate rate applications or certifications.[6] As a result, these 20 companies are under review as part of the PRC-wide entity. For our determination with respect to the PRC-wide entity, *see* the Preliminary Decision Memorandum.

Methodology

The Department has conducted this review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act). Export prices have been calculated in accordance with section 772 of the Act. Because the PRC is an NME within the meaning of section 771(18) of the Act, NV has been calculated in accordance with section 773(c) of the Act.

The Preliminary Decision Memorandum provides a full description of the methodology underlying our conclusions. 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 Department's Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the Internet at *http://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 has determined that the following preliminary dumping margins exist for the period November 1, 2011, through October 31, 2012:

Exporters	Weighted-average margin (dollars per kilogram)
Hebei Golden Bird Trading Co., Ltd	$1.17
Shenzhen Xinboda Industrial Co., Ltd	1.76
Qingdao Xintianfeng Foods Co., Ltd	1.47
Shenzhen Bainong Co., Ltd	1.47
Chengwu County Yuanxiang Industry & Commerce Co., Ltd	1.47
Yantai Jinyan Trading, Inc.	1.47
Jinxiang Merry Vegetable Co., Ltd	1.47
Cangshan Qingshui Vegetable Foods Co., Ltd	1.47
Jining Yifa Garlic Produce Co., Ltd	1.47
Jinan Farmlady Trading Co., Ltd	1.47
Weifang Hongqiao International Logistics Co., Ltd	1.47
PRC-Wide Rate	4.71

Disclosure and Public Comment

The Department will disclose calculations performed for these preliminary results to interested parties within ten days of the date of publication of this notice.[7] We will notify interested parties of the schedule for submitting case briefs and rebuttal briefs, in accordance with 19 CFR 351.309(c) and 19 CFR 351.309(d)(1), respectively. Pursuant to 19 CFR 351.309(d)(2), rebuttal briefs must be limited to issues raised in the case briefs. Parties who submit arguments are requested to submit with the argument: (1) A statement of the issue; (2) a brief summary of the argument; and, (3) a table of authorities.

Interested parties who wish to request a hearing, or participate if one is requested, must electronically submit a request using IA ACCESS to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce. The Department must receive the electronically-filed document, successfully in its entirety, by 5 p.m. Eastern Standard Time within 30 days after the date of publication of this notice.[8] Interested parties should include in the requests: the party's name, address, 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 will inform the parties of the scheduled date, time and location of the hearing.[9] Parties should confirm by telephone or electronic mail, the date, time, and location.

Unless the deadline is extended pursuant section 751(a)(3)(A) of the Act, the Department will issue the final results of this administrative review, including the results of our analysis of the issues raised by the parties in their comments, within 120 days after issuance of these preliminary results.

Deadline for Submission of Publicly Available Surrogate Value Information

In accordance with 19 CFR 351.301(c)(3), the deadline for submission of publicly available information to value the factors of production under 19 CFR 351.408(c) is 20 days after the date of publication of these preliminary results. 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 notes that 19 CFR 351.301(c)(1), permits new information only insofar as it rebuts, clarifies, or

[4] These 94 companies are included in the PRC-wide entity list at Appendix II.

[5] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011); *see also* ''Assessment Rates'' section below.

[6] *See* Appendix II.

[7] *See* 19 CFR 351.224(b).

[8] *See* 19 CFR 351.310(c).

[9] *See* 19 CFR 351.310.

corrects information recently placed on the record.[10] 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.[11]

Assessment Rates

If these preliminary results of review are adopted in the final results, then the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review. The Department will direct CBP to assess importer-specific assessment rates based on the resulting per-unit (*i.e.,* per kilogram) amount on each entry of the subject merchandise during the POR. The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of the review. In accordance with 19 CFR 351.212(b)(1), the Department calculated exporter/importer-specific assessment rates for the merchandise subject to the review.

Also, the Department recently announced a refinement to its assessment practice in NME cases. Pursuant to this refinement in practice, for merchandise that was not reported 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 NME-wide rate. In addition, if the Department determines that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.,* at that exporter's rate) will be liquidated at the PRC-wide rate.[12]

Cash Deposit Requirements

The following cash deposit requirements, when imposed, will apply to all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) For the exporters listed above, the cash deposit rate will be the rate established in these final results of review (except, if the rate is zero or *de minimis,* a zero cash deposit rate will be required for that company); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates (*i.e.,* those companies with no shipments listed in Appendix I), 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 the PRC-wide rate of $4.71 per kilogram; 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 requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice 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 preliminary results in accordance with sections 751 and 777(i) of the Act, and 19 CFR 351.221(b)(4).

Dated: December 16, 2013.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix I

Companies That Have Certified No Shipments

1. Jinxiang Chengda Imp. & Exp. Co., Ltd.
2. Foshan Fuyi Food Co., Ltd.
3. Heze Ever-Best International Trade Co., Ltd.
4. Zhengzhou Huachao Industrial, Co., Ltd.
5. Qingdao Maycarrier Import & Export Co., Ltd.
6. Jinxiang Merry Vegetable Co., Ltd.
7. Cangshan Qingshui Vegetable Foods Co., Ltd.
8. Qingdao Tiantaixing Foods Co., Ltd.
9. Qingdao Sea-line International Trading Co.
10. XuZhou Simple Garlic Industry Co., Ltd.
11. Jining Yongjia Trade Co. Ltd.
12. Jinxiang Yuanxin Imp. & Exp. Co., Ltd.
13. Shandong Jinxiang Zhengyang Import & Export Co. Ltd.

Appendix II

List of Companies Subject to the PRC-Wide Rate

1. American Pioneer Shipping
2. Anhui Dongqian Foods Ltd.
3. Anqiu Friend Food Co., Ltd.
4. Anqiu Haoshun Trade Co., Ltd.
5. APM Global Logistics (Shanghai) Co., Ltd.
6. APS Qingdao
7. Chiping Shengkang Foodstuff Co., Ltd.
8. CMEC Engineering Machinery Import & Export Co., Ltd.
9. Dongying Shunyifa Chemical Co., Ltd.
10. Dynalink Systems Logistics (Qingdao) Inc.
11. Eimskip Logistics Inc.
12. Feicheng Acid Chemicals Co., Ltd.
13. Frog World Co., Ltd.
14. Golden Bridge International, Inc.
15. Guangxi Lin Si Fu Bang Trade Co., Ltd
16. Hangzhou Guanyu Foods Co., Ltd.
17. Henan Weite Industrial Co., Ltd.
18. Hongqiao International Logistics Co.
19. Intecs Logistics Service Co., Ltd.
20. IT Logistics Qingdao Branch
21. Jinan Solar Summit International Co., Ltd.
22. Jinan Yipin Corporation Ltd.
23. Jining De-Rain Trading Co., Ltd.
24. Jining Highton Trading Co., Ltd.
25. Jining Jiulong International Trading Co., Ltd.
26. Jining Tiankuang Trade Co., Ltd.
27. Jining Trans-High Trading Co., Ltd.
28. Jinxiang County Huaguang Food Import & Export Co., Ltd.
29. Jinxiang Dacheng Food Co., Ltd.
30. Jinxiang Dongyun Freezing Storage Co., Ltd. (a/k/a Jinxiang Eastward Shipping Import and Export Limited Company)
31. Jinxiang Dongyun Import & Export Co., Ltd.
32. Jinxiang Fengsheng Import & Export Co., Ltd.
33. Jinxiang Grand Agricultural Co., Ltd.
34. Jinxiang Hejia Co., Ltd.
35. Jinxiang Infarm Fruits & Vegetables Co., Ltd.
36. Jinxiang Meihua Garlic Produce Co., Ltd.
37. Jinxiang Shanyang Freezing Storage Co., Ltd.
38. Jinxiang Shenglong Trade Co., Ltd.
39. Jinxiang Tianheng Trade Co., Ltd.
40. Jinxiang Tianma Freezing Storage Co., Ltd.
41. Jinxiang Xian Baishite Trade Co., Ltd. (a/k/a Jinxiang Best Trade Co., Ltd.)
42. Juye Homestead Fruits and Vegetables Co., Ltd.
43. Kingwin Industrial Co., Ltd.
44. Laiwu Fukai Foodstuff Co., Ltd.
45. Laizhou Xubin Fruits and Vegetables
46. Linshu Dading Private Agricultural Products Co., Ltd.
47. Linyi City Hedong District Jiuli Foodstuff Co.
48. Linyi City Kangfa Foodstuff Drinkable Co., Ltd.
49. Linyi Katayama Foodstuffs Co., Ltd.
50. Linyi Tianqin Foodstuff Co., Ltd.
51. Ningjin Ruifeng Foodstuff Co., Ltd.
52. Qingdao Apex Shipping Co., Ltd.
53. Qingdao BNP Co., Ltd.
54. Qingdao Cherry Leather Garment Co., Ltd.

[10] *See, e.g., 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.

[11] *See* 19 CFR 351.301(c)(3).

[12] For a full discussion of this practice, *see Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011).

55. Qingdao Chongzhi International Transportation Co., Ltd.
56. Qingdao Everfresh Trading Co., Ltd.
57. Qingdao Liang He International Trade Co., Ltd
58. Qingdao Lianghe International Trade Co., Ltd.
59. Qingdao Saturn International Trade Co., Ltd.
60. Qingdao Sino-World International Trading Co., Ltd.
61. Qingdao Winner Foods Co., Ltd.
62. Qingdao XinTian Feng Food Co., Ltd.
63. Qingdao Yuankang International
64. Qufu Dongbao Import & Export Trade Co., Ltd.
65. Rizhao Huasai Foodstuff Co., Ltd.
66. Samyoung America (Shanghai) Inc.
67. Shandong Chengshun Farm Produce Trading Co., Ltd.
68. Shandong Chenhe Intl Trading Co., Ltd.
69. Shandong China Bridge Imports
70. Shandong Dongsheng Eastsun Foods Co., Ltd.
71. Shandong Garlic Company
72. Shandong Longtai Fruits and Vegetables Co., Ltd.
73. Shandong Sanxing Food Co., Ltd.
74. Shandong Wonderland Organic Food Co., Ltd.
75. Shandong Xingda Foodstuffs Group Co., Ltd.
76. Shandong Yipin Agro (Group) Co., Ltd.
77. Shanghai Ever Rich Trade Company
78. Shanghai Goldenbridge International Co., Ltd.
79. Shanghai Great Harvest International Co., Ltd.
80. Shanghai LJ International Trading Co., Ltd.
81. Shanghai Medicines & Health Products Import/Export Co., Ltd.
82. Shanghai Yijia International Transportation Co., Ltd.
83. Shenzhen Fanhui Import & Export Co., Ltd.
84. Shenzhen Greening Trading Co., Ltd.
85. Shenzhen Xunong Trade Co., Ltd.
86. Sunny Import & Export Limited
87. T&S International, LLC.
88. Taian Eastsun Foods Co., Ltd.
89. Taian Fook Huat Tong Kee Pte. Ltd.
90. Taian Solar Summit Food Co., Ltd.
91. Taiyan Ziyang Food Co., Ltd.
92. Tianjin Spiceshi Co., Ltd.
93. U.S. United Logistics (Ningbo) Inc.
94. V.T. Impex (Shandong) Limited
95. Weifang Chenglong Import & Export Co., Ltd.
96. Weifang He Lu Food Import & Export Co., Ltd.
97. Weifang Hong Qiao International Logistics Co., Ltd.
98. Weifang Jinbao Agricultural Equipment Co., Ltd.
99. Weifang Naike Foodstuffs Co., Ltd.
100. Weifang Shennong Foodstuff Co., Ltd.
101. Weihai Textile Group Import & Export Co., Ltd.
102. WSSF Corporation (Weifang)
103. Xiamen Huamin Import Export Company
104. Xiamen Keep Top Imp. and Exp. Co., Ltd.
105. Xinjiang Top Agricultural Products Co., Ltd.
106. XuZhou Heiners Agricultural Co., Ltd.
107. Yishui Hengshun Food Co., Ltd.
108. You Shi Li International Trading Co., Ltd.
109. Zhangzhou Xiangcheng Rainbow Greenland Food Co., Ltd.
110. Zhengzhou Dadi Garlic Industry Co., Ltd.
111. Zhengzhou Xiwannian Food Co., Ltd.
112. Zhengzhou Xuri Import & Export Co., Ltd.
113. Zhengzhou Yuanli Trading Co., Ltd.
114. Zhong Lian Farming Product (Qingdao) Co., Ltd.

Appendix III

List of Topics Discussed in the Preliminary Decision Memorandum

1. Partial Rescission of Administrative Review
2. Non-Market Economy Country Status
3. Preliminary Determination of No Shipments
4. Separate Rates
5. Separate Rate for Non-Selected Companies
6. PRC-Wide Entity
7. Surrogate Country
8. Date of Sale
9. Fair-Value Comparisons
10. U.S. Price
11. Normal Value
12. Currency Conversion

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DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Aerosols and Similar Pressurized Containers—Meeting To Discuss the Method of Sale for Packages Utilizing Bag on Valve Technology (BOV)

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice.

SUMMARY: The National Institute of Standards and Technology (NIST) is facilitating a meeting on January 9, 2014, from 10:00 a.m. to 3:00 p.m. Eastern time to discuss the method of sale (quantity statement) for products sold in pressurized containers using Bag on Valve (BOV) technology.

DATES: The meeting will be held on Thursday, January 9, 2014, from 10:00 a.m. to 3:00 p.m. Eastern time.

ADDRESSES: The meeting will be held at NIST, 100 Bureau Drive, Building 101, Lecture Room D, Gaithersburg, MD 20899. Please see **SUPPLEMENTARY INFORMATION** section for admittance instructions.

FOR FURTHER INFORMATION CONTACT: Mr. Sefcik, NIST, Office of Weights and Measures, 100 Bureau Drive, Stop 2600, Gaithersburg, MD 20899–2600. You may also contact Mr. Sefcik by telephone (301) 975–4868 or by email at *david.sefcik@nist.gov*.

SUPPLEMENTARY INFORMATION: NIST is hosting and facilitating a meeting to support the efforts of the National Conference on Weights and Measures (NCWM), Laws and Regulations Committee on January 9, 2014, from 10:00 a.m. to 3:00 p.m. Eastern time. The meeting is intended to bring together federal and state government officials, industry, trade associations, and other interested parties to discuss the appropriate method of sale for packages labeled with a net quantity that utilizes BOV technology. NIST participates to promote uniformity among the states in laws, regulations, methods, and testing equipment that comprises the regulatory control of commercial weighing and measuring devices and systems and other trade and commerce issues.

The meeting will include a review of existing regulations within the Federal Trade Commission (FTC), Food and Drug Administration (FDA), Environmental Protection Agency (EPA), and the Consumer Products Safety Commission (CPSC), current test procedures, safety concerns, and a discussion on how value and price comparison can be maintained related to the method of sale. Once registered, participants will receive logistical information and a tentative agenda.

Any changes and recommendations will be reported and presented through the NCWM for possible inclusion in NIST Handbook 130.

Packages in the marketplace using BOV technology, where the propellant is not dispensed along with the product, have been found with quantity statements in terms of net volume (i.e., milliliters and fluid ounces). Most states adopt the Uniform, Packaging and Labeling Regulation (UPLR) in NIST Handbook 130, ''Uniform Laws and Regulations in the Areas of Legal Metrology and Engine Fuel Quality'' as their state regulation. There is a requirement in the UPLR that the net quantity on aerosol packages and similar pressurized containers be labeled in terms of net weight. Another provision in the UPLR states that ''any net content statement that does not permit price and quantity comparison is forbidden.'' Products using BOV technology versus traditional aerosol products cannot be easily distinguished when placed side by side, creating a challenge when consumers attempt to make value comparisons when two different methods of sale (i.e., weight and volume) are used. The outcome of

the meeting is intended to produce a recommendation on the method of sale for labeling the net quantity of products sold using BOV technology and how products using BOV technology should be classified.

All participants must pre-register for this meeting in order to gain access to the NIST campus. Please submit your full name, email address, and phone number to Mr. David Sefcik no later than 5:00 p.m. Eastern time, Friday, December 27, 2013. Non-U.S. citizens will be required to provide additional information after pre-registering with Mr. Sefcik. Mr. Sefcik's email address is *david.sefcik@nist.gov* and his phone number is (301) 975–4868.

Dated: December 17, 2013.

Willie E. May,

Associate Director for Laboratory Programs.

[FR Doc. 2013–30672 Filed 12–23–13; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD023

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Amendment 40 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico

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

ACTION: Notice of intent (NOI) to prepare a draft environmental impact statement (DEIS); scoping; request for comments.

SUMMARY: NMFS, Southeast Region, in collaboration with the Gulf of Mexico Fishery Management Council (Council) intends to prepare a DEIS to describe and analyze management alternatives to be included in Amendment 40 to the Fishery Management Plan (FMP) for the Reef Fish Resources of the Gulf of Mexico (Amendment 40). Amendment 40 will consider alternatives to define private and for-hire components of the recreational red snapper fishery and allocate red snapper resources between these components. The purpose of Amendment 40 is to increase the stability for the for-hire component, provide a basis for increased flexibility in future management of the recreational sector, and reduce the chance for recreational quota overruns which could affect rebuilding of the red snapper stock. The purpose of this NOI is to solicit public comments on the scope of issues to be addressed in the DEIS, as specified in this notice. The Council will continue to take comments on this action as it develops Amendment 40. The next Council meeting where public comment is scheduled will be February 3–7, 2014, at the Westin Galleria Houston, 5060 W. Alabama Street, Houston, TX 77056.

DATES: Written comments on the scope of issues to be addressed in the DEIS must be received by NMFS by January 23, 2014.

ADDRESSES: You may submit comments on Amendment 40 identified by ''NOAA–NMFS–2013–0178'' by any of the following methods:

- *Electronic submissions:* Submit electronic comments via the Federal e-Rulemaking Portal: *http://www.regulations.gov.* Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0178,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Peter Hood, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Peter Hood, Southeast Regional Office, telephone: (727) 824–5305; or email: *peter.hood@noaa.gov*.

SUPPLEMENTARY INFORMATION: The red snapper stock is currently overfished and under a rebuilding plan. The commercial sector is managed under an individual fishing quota program that keeps the sector from exceeding its quota. The recreational sector is managed under a quota and NMFS projects the season length based on the quota and recent years' harvest trends. Due to the uncertainty in estimating recreational catches, the recreational sector has experienced quota overages in the last several years. The Council and NMFS have determined that separating the recreational sector into more than one component and establishing separate red snapper recreational sub-quotas for the different components may be one method to improve the management of recreational red snapper harvest.

The recreational sector for red snapper includes a private recreational component and a for-hire component. The for-hire component includes headboats and charter vessels. Current recreational management measures such as season length, daily bag limits, and size limits are applied to the recreational sector as a whole, without making a distinction between the private and for-hire components.

The for-hire component includes vessels that have a Federal reef fish permit and may fish for reef fish in Federal waters and state waters, as well as vessels that do not have a Federal reef fish permit and may only fish for reef fish in state waters. Federal reef fish for-hire permits were first issued in 1996. In 2004, a moratorium on the issuance of new permits was implemented (*i.e.,* a cap was placed on the number of vessel permits issued) because of concern that this component of the fishery was expanding too fast. There is no limit to the number of state-permitted for-hire vessels.

There is also no limit to the number of private angler vessels that may target reef fish species including red snapper. Over time, there has been an increase in the number of private recreational vessels, while the number of Federal for-hire vessels has decreased. This change in vessel demographics has resulted in private vessels landing proportionally more of the red snapper recreational quota than Federal for-hire vessels in recent years. For example, in 2004 when the reef fish for-hire permit moratorium was implemented, approximately 55 percent of the recreational red snapper quota was landed by Federal for-hire vessels and 45 percent was landed by private vessels. In 2011, approximately 33 percent of the recreational red snapper quota was landed by Federal for-hire vessels and 67 percent was landed by private vessels.

The Council and NMFS are currently considering four actions in Amendment 40. These actions would define the different components of the recreational sector, determine how the quota would be split among the components, determine whether participation in the for-hire component would be mandatory or voluntary, and determine quota closure options for the different recreational components. The Council

and NMFS may add actions in the future, such as landing reporting requirements, after the scoping process or from future discussions on this amendment.

NMFS, in collaboration with the Council, will develop a DEIS to describe and analyze alternatives to address the management needs described above including the ''no action'' alternative. In accordance with NOAA's Administrative Order 216–6, Section 5.02(c), Scoping Process, NMFS, in collaboration with the Council, has identified preliminary environmental issues as a means to initiate discussion for scoping purposes only. The public is invited to provide written comments on the preliminary issues, which are identified as actions in the Amendment 40 action guide. These preliminary issues may not represent the full range of issues that eventually will be evaluated in the DEIS. A copy of the Amendment 40 action guide is available at *http://sero.nmfs.noaa.gov/sustainable_fisheries/gulf_fisheries/reef_fish/index.html.*

After the DEIS associated with Amendment 40 is completed, it will be filed with the Environmental Protection Agency (EPA). After filing, the EPA will publish a notice of availability (NOA) of the DEIS for public comment in the **Federal Register**. The DEIS will have a 45-day comment period. This procedure is pursuant to regulations issued by the Council on Environmental Quality (CEQ) for implementing the procedural provisions of the National Environmental Policy Act (NEPA; 40 CFR parts 1500–1508) and to NOAA's Administrative Order 216–6 regarding NOAA's compliance with NEPA and the CEQ regulations.

The Council and NMFS will consider public comments received on the DEIS in developing the final environmental impact statement (FEIS), and before voting to submit the final amendment to NMFS for Secretarial review, approval, and implementation. NMFS will announce in the **Federal Register** the availability of the final amendment and FEIS for public review during the Secretarial review period, and will consider all public comments prior to final agency action to approve, disapprove, or partially approve the final amendment. During Secretarial review, NMFS will also file the FEIS with the EPA and the EPA will publish an NOA for the FEIS in the **Federal Register**.

NMFS will announce, through a document published in the **Federal Register**, all public comment periods on the final amendment, its proposed implementing regulations, and the availability of its associated FEIS. NMFS will consider all public comments received during the Secretarial review period, whether they are on the final amendment, the proposed regulations, or the FEIS, prior to final agency action.

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

Dated: December 18, 2013.

Sean F. Corson,

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

[FR Doc. 2013–30694 Filed 12–23–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD007

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Pacific Fishery Management Council's (Pacific Council) Highly Migratory Species Management Team (HMSMT) will hold a meeting, which is open to the public.

DATES: The HMSMT will meet Wednesday, January 22, 2014, to Friday, January 24, 2014. The meeting will begin each day at 8:30 a.m. and continue until close of business on each day. The meeting is expected to adjourn by midday on January 24.

ADDRESSES:

Meeting Address: The meeting will be held in the Pacific Room, Southwest Fisheries Science Center, 8901 La Jolla Shores Dr., La Jolla, CA 92037–1509.

Council Address: Pacific Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Dr. Kit Dahl, Pacific Council; telephone: (503) 820–2280.

SUPPLEMENTARY INFORMATION: The HMSMT plans to discuss the following topics:

1. Potential changes to management measures for the west coast drift gillnet fishery.
2. Developments to improve reporting of HMS fishery performance metrics out of the Pacific Fishery Information Network (PacFIN) database.
3. Updates on recent developments at the international level affecting HMS stocks of interest.
4. Potential changes to HMS management that may be implemented for the April 1, 2015—March 31, 2017 biennial period, which the Council will begin considering in June 2014.

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document 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 intent to take final action to address the emergency.

Special Accommodations

The meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt at (503) 820–2280 at least 5 days prior to the meeting date.

Dated: December 18, 2013.

Tracey L. Thompson,

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

[FR Doc. 2013–30551 Filed 12–23–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD045

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a joint public meeting of its Monkfish Committee and Monkfish Advisory Panel on January 10, 2014 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Friday, January 10, 2014 at 9:30 a.m.

ADDRESSES:

Meeting address: The meeting 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: The New England Fishery Management Council's Monkfish Oversight Committee and Advisory Panel will review the analyses provided by the Monkfish Plan Development Team for trips limits, including incidental catch limits, and DAS allocations for fishing years 2014–16 as part of Framework Adjustment 8 (FW 8) to the Monkfish Fishery Management Plan. The Committee may also review any alternatives included in FW 8 in developing recommendations for consideration by the New England and Mid-Atlantic Fishery Management Councils.

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 this meeting. Action 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 Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: December 19, 2013.

Tracey L. Thompson,

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

[FR Doc. 2013–30645 Filed 12–23–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD038

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Pacific Council) Ad Hoc Trawl Groundfish Electronic Monitoring Technical Advisory Committee (GEMTAC) will hold a work session, which is open to the public.

DATES: The meeting will be held January 22 and 23, 2014, from 9 a.m. until the earlier of 5 p.m. or when business for each day has been completed.

ADDRESSES: The meeting will be held at the Holiday Inn Portland Airport, Latourell Room 8439, NE Columbia Blvd., Portland, OR 97220; telephone: (503) 256–5000.

Council Address: Pacific Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Mr. Brett Wiedoff, Staff Officer, Pacific Council; telephone: (503) 820–2280.

SUPPLEMENTARY INFORMATION: At the November Pacific Council meeting in Costa Mesa, CA, the Pacific Council adopted for further analysis a range of alternatives for electronic monitoring (EM) of the West Coast groundfish trawl catch share program and announced that, at its April 2014 meeting, it will consider draft Exempted Fishing Permit (EFP) applications submitted for the purpose of allowing the use of EM in place of observers for vessels participating in the trawl rationalization program. In a letter to the industry, the Pacific Council encouraged applicants to provide draft EFP applications to the Pacific Council's GEMTAC before submission of a complete EFP application to the Pacific Council for its April meeting. The GEMTAC will hold a work session January 22 and 23 in Portland to discuss development of an impact analysis for the Council's adopted alternatives (January 22) and to review draft EFP applications (January 23). The GEMTAC may comment on completeness of the study design, feasibility of implementation, or other elements of the draft EFP applications that might be considered for adjustment. No management actions will be decided at this meeting.

Although non-emergency issues not contained in the meeting agenda may come before the GEMTAC for discussion, those issues may not be the subject of formal action during this meeting. The meeting 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 GEMTAC's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt at (503) 820–2280 at least 5 days prior to the meeting date.

Dated: December 18, 2013.

Tracey L. Thompson,

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

[FR Doc. 2013–30552 Filed 12–23–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD040

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Issuance of a scientific research permit.

SUMMARY: Notice is hereby given that NMFS has issued Permit 16344 to Dr. Jerri Bartholomew, Oregon State University, Corvalis Oregon.

ADDRESSES: The application, permit, and related documents are available for review by appointment at: Protected Resources Division, NMFS, 1655 Heindon Road, Arcata, CA 95521.

FOR FURTHER INFORMATION CONTACT: Diane Ashton at 707–825–5185, or email: *diane.ashton@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Authority

The issuance of permits and permit modifications, as required by the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) (ESA), is based on a finding that such permits/modifications: (1) Are applied for in good faith; (2) Would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) Are consistent with the purposes and policies set forth in section 2 of the ESA. Authority to take listed species is subject to conditions set forth in the permits. Permits and modifications are issued in accordance with and are subject to the ESA and NMFS regulations (50 CFR parts 222–226) governing listed fish and wildlife permits.

Species Covered in This Notice

This notice is relevant to federally threatened Southern Oregon/Northern California Coast coho salmon (*Oncorhynchus kisutch*).

Permit Issued

A notice of the receipt of an application for a scientific research permit (16344) was published in the **Federal Register** on April 14, 2011 (76 FR 20956). Permit 16344 was issued to Dr. Jerri Bartholomew on December 10, 2013.

Permit 16344 authorizes Dr. Jerri Bartholomew to obtain juvenile Southern Oregon/Northern California Coast coho salmon of hatchery origin for field and laboratory studies of effects of disease upon exposure to the myxozoan parasite.

Ceratomyxa shasta

Permit 16344 authorizes directed mortality of juvenile Southern Oregon/Northern California Coast coho salmon of hatchery origin, following completion of the studies.

Permit 16344 is for research to be conducted in the Klamath River, California, and at the John L. Fryer Salmon Disease Laboratory at Oregon State University in Corvalis, Oregon. The purpose of the research is to provide information to NMFS for evaluation of water management decisions to minimize disease risks to juvenile Southern Oregon/Northern California Coast coho salmon in the Klamath River; and to evaluate habitat restoration and management actions. Permit 16344 expires on December 31, 2018.

Dated: December 19, 2013.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2013–30624 Filed 12–23–13; 8:45 am]

BILLING CODE 3510–22–P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC–2010–0075]

Proposed Extension of Approval of Information Collection; Comment Request—Safety Standards for Full-Size Baby Cribs and Non-Full-Size Baby Cribs

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: As required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the Consumer Product Safety Commission (CPSC or Commission) requests comments on a proposed request for extension of approval of a collection of information for the safety standards for full-size baby cribs and non-full-size baby cribs. The Office of Management and Budget (OMB) previously approved the collection of information under control number 3041–0147. OMB's approval will expire on February 28, 2014. The Commission will consider all comments received in response to this notice before requesting an extension of approval of this collection of information from OMB.

DATES: The Office of the Secretary must receive comments not later than February 24, 2014.

ADDRESSES: You may submit comments, identified by Docket No. CPSC–2010–0075, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: *http://www.regulations.gov.* Follow the instructions for submitting comments. The Commission does not accept comments submitted by electronic mail (email), except through *www.regulations.gov.* The Commission encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described above.

Written Submissions: Submit written submissions in the following way: Mail/Hand delivery/Courier (for paper, disk, or CD–ROM submissions), preferably in five copies, to: Office of the Secretary, Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–7923.

Instructions: All submissions received must include the agency name and docket number for this notice. All comments received may be posted without change, including any personal identifiers, contact information, or other personal information provided, to: *http://www.regulations.gov.* Do not submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If furnished at all, such information should be submitted in writing.

Docket: For access to the docket to read background documents or comments received, go to: *http://www.regulations.gov,* and insert the docket number, CPSC–2010–0075, into the ''Search'' box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: For further information contact: Robert H. Squibb, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; (301) 504–7815, or by email to: *rsquibb@cpsc.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

Section 104(b) of the Consumer Product Safety Improvement Act of 2008 (CPSIA), Public Law 110–314, 122 Stat. 3016 (August 14, 2008), requires the Consumer Product Safety Commission (Commission or CPSC) to promulgate consumer product safety standards for durable infant or toddler products. These standards are to be ''substantially the same as'' applicable voluntary standards or more stringent than the voluntary standard if the Commission concludes that more stringent requirements would further reduce the risk of injury associated with the product. The Commission issued safety standards for full-size and non-full-size baby cribs in response to the direction contained in section 104(b) of the CPSIA.

1. Full-Size Cribs

On December 28, 2010, the Commission published a final rule for full-size cribs that incorporated by reference ASTM F1169–10, *Standard Consumer Safety Specification for Full-Size Baby Cribs,* with modifications. 75 FR 81766. On December 9, 2013, the Commission adopted the revised ASTM standard for full-size cribs, ASTM F1169–13, which was codified at 16 CFR part 1219. 78 FR 73692.

Sections 8 and 9 of the ASTM F1169–13 contain requirements for marking, labeling, and instructional literature that fall within the definition of ''collections of information'' at 5 C.F.R. § 1320.3(c). Section 9 of ASTM F1169–13 also requires full-size cribs to be provided with instructions regarding assembly, maintenance, cleaning, storage, and use, an assembly drawing, a list and description of all parts and tools required for assembly, and a full-size diagram of the required bolts and other fasteners, as well as a variety of warnings.

2. Non-Full-Size Cribs

On December 28, 2010, in the final rule on full-size cribs, the Commission also addressed non-full-size cribs. The Commission incorporated by reference ASTM F 406–10a, *Standard Consumer Safety Specification for Non-Full-Size Baby Cribs,* with modifications, which was codified at 16 CFR part 1220. 75 FR 81766.

Sections 9 and 10 of ASTM F406–10a, contain requirements for marking, labeling, and instructional literature that

fall within the definition of ''collections of information'' at 5 C.F.R. § 1320.3(c). Section 10 of ASTM F406–10a also requires non-full-size cribs to be provided with instructions regarding assembly, maintenance, cleaning, storage, and use, as well as a variety of warnings.

B. Total Burden Hours

1. Crib Suppliers

There are 78 known firms supplying full-size cribs to the U.S. market and 24 supplying non-full-size cribs. All firms are assumed to use compliant labels already on both their products and their packaging. If firms needed to make some modifications to their existing labels the estimated time required to make these modifications is about one hour per model. Each firm supplies approximately 11 different models of full-size cribs and four different models of non-full-size cribs; therefore, the estimated burden hours associated with the labels is ((1 hour × 78 firms × 11 models per firm) + (1 hour × 24 firms × 4 models per firm) = 954 annual hours.

Section 9 of ASTM F1169–11 and section 10 of ASTM F406–10a require instructions to be supplied with the product. This is a practice that is usual and customary with both full-size and non-full-size cribs. Cribs are products that generally require some installation and maintenance instructions, and any products sold without such information would not be able to compete successfully with products that provide this information. Any burden associated with supplying instructions with full-size cribs and non-full-size cribs would be ''usual and customary'' and not within the definition of ''burden'' under OMB's regulations. 5 CFR 1320.3(b)(2).

We estimate that hourly compensation for the time required to create and update labels is $27.66 (U.S. Bureau of Labor Statistics, ''Employer Costs for Employee Compensation,'' June 2013, Table 9, total compensation for all sales and office workers in goods-producing private industries: *http://www.bls.gov/ncs/*). Therefore, the estimated annual cost associated with the proposed requirements is $26,388 ($27.66 per hour × 954 hours).

2. Federal Government

The estimated annual cost of the information collection requirements to the federal government is approximately $3,527, which includes 60 staff hours to examine and evaluate the information as needed for Compliance activities. This is based on a GS–12 level salaried employee. The average hourly wage rate for a mid-level salaried GS–12 employee in the Washington, DC, metropolitan area (effective as of January 2011) is $40.80 (GS–12, step 5). This represents 69.4 percent of total compensation (U.S. Bureau of Labor Statistics, ''Employer Costs for Employee Compensation,'' June 2013, Table 1, percentage of wages and salaries for all civilian management, professional, and related employees, *http://www.bls.gov/ncs/*). Adding an additional 30.6 percent for benefits brings average hourly compensation for a mid-range salaried GS–12 employee to $58.78. Assuming that approximately 60 hours will be required annually, this results in an annual cost of $3,527.

C. Request for Comments

The Commission solicits written comments from all interested persons about the proposed collection of information. The Commission specifically solicits information relevant to the following topics:

—Whether the collection of information described above is necessary for the proper performance of the Commission's functions, including whether the information would have practical utility;
—Whether the estimated burden of the proposed collection of information is accurate;
—Whether the quality, utility, and clarity of the information to be collected could be enhanced; and
—Whether the burden imposed by the collection of information could be minimized by use of automated, electronic or other technological collection techniques, or other forms of information technology.

Dated: December 19, 2013.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2013–30644 Filed 12–23–13; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID USA–2013–0046]

Proposed Collection; Comment Request

AGENCY: Department of Defense/Department of the Army/U.S. Army Training and Doctrine Command (TRADOC).

ACTION: Notice.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the *Paperwork Reduction Act of 1995,* the Office of the Assistant Secretary of Defense for the Department of the Army announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by February 24, 2014.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

• *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, 2nd Floor, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to U.S. Army PEO Aviation, Product Director Aviation Networks and Mission Planning (SFAE–AV–AS–ANMP) ATTN: George C. Goodman Jr. Sparkman Center, Building 5309, Redstone Arsenal, Alabama 35898, Phone (256) 842–4995.

SUPPLEMENTARY INFORMATION:

Title; Multiple Forms; and OMB Number: Centralized Aviation Flight Records (CAFRS); DA Form 2408–12; OMB Control Number 0702–XXXX.

Needs and Uses: The information collection requirement is necessary to obtain and retain flying experience, qualifications and training data of each aviator, crew member, Unmanned

Aircraft System (UAS) operator, flight surgeon and aeromedical physician assistants in aviation service; and to monitor and manage individual contractor flight and ground personnel records. Leadership uses CAFRS to determine proficiency of Air Traffic Controllers and Air Traffic Control Maintenance Technicians and the reliability of the Air Traffic Control system operations within the Department of the Army. CAFRS provides Commanders with access to essential aviation information in order to accomplish effective Risk Assessment/Risk Management throughout the Aviation Mission Planning process.

Affected Public: Individuals or Households; Federal Government Employees.

Annual Burden Hours: 99,600.

Number of Respondents: 1,328.

Responses per Respondent: 300.

Average Burden per Response: .25.

Frequency: On Occasion, Weekly, and Daily.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

Respondents are contractors. CAFRS system collection of information manages qualification and training records for aviation personnel. The system provides the Army's senior level leadership visibility over aviation flight operations information to assist in resource, readiness, and personnel management decision-making.

Dated: December 18, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–30528 Filed 12–23–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2013–OS–0209]

Notice of Availability (NOA) for General Purpose Warehouse and Information Technology Center Construction (GPW/IT)—Tracy Site—Environmental Assessment (EA); Finding of No Significant Impact (FONSI)

AGENCY: Defense Logistics Agency, DoD.

ACTION: Notice of Availability (NOA) for General Purpose Warehouse and Information Technology Center Construction (GPW/IT)—Tracy Site—Environmental Assessment (EA) Finding of No Significant Impact (FONSI).

SUMMARY: On October 31, 2013, Defense Logistics Agency (DLA) published a NOA in the **Federal Register** (78 FR 65300) announcing the publication of the General Purpose Warehouse and Information Technology Center Construction (GPW/IT)—Tracy Site—EA. The EA was available for a 30-day public comment period which ended November 29, 2013. The EA was prepared as required under the National Environmental Policy Act (NEPA) (1969). In addition, the EA complied with DLA Regulation (DLAR) 1000.22. No comments were received during the comment period. This FONSI documents the decision of DLA to construct the GPW/IT at Tracy, California. DLA has determined that the proposed action was not a major federal action significantly affecting the quality of the human environment within the context of NEPA and that no significant impacts on the human environment are associated with this decision.

FOR FURTHER INFORMATION CONTACT: Ann Engelberger at (703) 767–0705 during normal business hours Monday through Friday, from 8:00 a.m. to 4:30 p.m. (EST) or by email: *Ann.Engelberger@dla.mil.*

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency (DLA) completed an EA to address the potential environmental consequences associated with the construction of a General Purpose Warehouse and Technology Information Center at Defense Distribution Depot San Joaquin, California, Tracy Site. The FONSI incorporates the EA by reference and summarizes the results of the analysis in the EA.

Purpose and Need for Action: The Proposed Action is needed to meet the overall strategy for installation development and sustainment over the short and long term, and to meet current and future mission requirements and national security objectives associated with the DLA Distribution Depot San Joaquin.

Proposed Action and Alternatives: Under the Proposed Action, DLA would construct a GPW in fiscal year (FY) 2014 and an IT Center in FY 2015 at the Tracy Site. The GPW would be approximately 365,500 square feet and would include a 360,000 square feet active bulk warehouse and a 5,500 square feet annex. The active bulk warehouse would be composed of four bays. The annex would include administrative offices; restrooms; locker rooms; mechanical, electrical and communications rooms; a multi-purpose room; and eight sprinkler riser annexes. The proposed GPW would be constructed in an area that is bordered by Ennis Drive to the north, 7th Street to the east, B Street to the south and an existing parking lot to the northwest. The project area is currently paved and serves as a trailer parking lot and laydown area (i.e., outside storage). As part of the Proposed Action, DLA would construct a new trailer parking lot (approximately 295,000 square feet) and new laydown area (approximately 240,000 square feet) at the Tracy Site. The trailer parking lot would be constructed in an unimproved, open lot that is bordered by C Street to the north, 5th Street to the east, D Street to the south and 4th Street to the west. The laydown area would be constructed in an unimproved, irregularly shaped open lot that is intersected by 5th Street starting approximately 200 feet south of D Street and continuing approximately 800 feet to the south. The project area also includes approximately 100 feet to the west of 5th Street and approximately 150 to 400 feet east of 5th Street, bound by Ennis Drive to the southeast.

The proposed IT Center would be approximately 44,900 square feet (31,400 square feet Information Systems facility and 13,400 square feet electronic equipment storage area). The project would include a 48,200 square feet parking lot; computer/server rooms with raised flooring; administrative offices; conference rooms; storage areas; break rooms; restrooms and public access areas. The IT Center would be constructed in the northwestern-most corner of the Tracy Site, north of Building 201 and A Street, and immediately west of West Street. The majority of the project area for the proposed IT Center is currently paved and serves as a personally owned vehicle (POV) parking lot.

The IT Center would house the Defense Automatic Addressing Center (DAASC) and Joint Staff, Command and Control (J6) organizations and all their computer/server equipment. The IT Center would also include computer/server rooms with raised flooring; administrative offices; conference rooms; storage areas; break rooms; restrooms and public access areas. Supporting facilities for the GPW and IT Center would include all utilities (i.e., potable water, sanitary server and wastewater distribution, electricity and natural gas). Upon completion of the Proposed Action, the total impervious surface area of the GPW, trailer parking lot, laydown area, IT Center and POV parking lot would be approximately 512,100 square feet. Because the entire project area for the proposed GPW and the majority of the project area for the proposed IT Center is currently paved

and improved, the overall increase in impervious surface area upon completion of the Proposed Action would be minor.

Under the No Action Alternative, DLA would not construct the GPW or IT Center. Modern facilities would not be provided and operational conditions would not be improved. In general, implementation of the No Action Alternative would require that DLA continue to operate under substandard, inefficient, and in some cases, unsafe conditions. These deficiencies would impair DLA's future ability to sustain current and future national security objectives and other mission requirements successfully. The No Action Alternative would not meet the purpose of and need for the action.

Potential Environmental Impacts: Potential impacts from the Proposed Action and No Action Alternative were analyzed for the following environmental resources: Land use, noise, air quality, geological resources, water resources, biological resources, health and safety, utilities and infrastructure (including transportation), hazardous materials and wastes, socioeconomic resources and environmental justice, and cultural resources. Long-term, adverse impacts on geology, soils and water resources would be expected from a long-term increase in storm water runoff volume and velocity due to an increase in impervious surface area. However, impacts would be minor because the majority of the project areas are either currently paved or previously disturbed. Once construction of the GPW and IT Center is completed, there would be a long-term increase in demand for water, wastewater treatment, electricity and natural gas. No significant impacts on any of the aforementioned environmental resources would be expected from the implementation of the Proposed Action.

Determination: DLA has determined that implementation of the Proposed Action will not have a significant effect on the human environment. Human environment was interpreted comprehensively to include the natural and physical environment and the relationship of people with that environment. Specifically, no highly uncertain or controversial impacts, unique or unknown risk or cumulatively significant effects were identified. Implementation of the Proposed Action will not violate any federal, state or local laws. Based on the results of the analyses performed during the preparation of the environmental assessment, David Rodriguez, Director, DLA Installation Support, concludes that construction of the GPW/IT project does not constitute a major federal action significantly affecting the quality of the human environment within the context of NEPA. Therefore, an environmental impact statement for the proposed action is not required.

Dated: December 18, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–30569 Filed 12–23–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Threat Reduction Advisory Committee; Notice of Federal Advisory Committee Meeting

AGENCY: Office of the Under Secretary of Defense (Acquisition, Technology and Logistics), DoD.

ACTION: Federal Advisory Committee meeting notice.

SUMMARY: The Department of Defense announces the following Federal advisory committee meeting of the Threat Reduction Advisory Committee (''the Committee''). This meeting will be closed to the public.

DATES: Tuesday, January 28, 2014, from 1:00 p.m. to 4:00 p.m. and Wednesday, January 29, 2014, from, 8:30 a.m. to 4:30 p.m.

ADDRESSES: National Geospatial-Intelligence Agency, Springfield, Virginia on January 28 and CENTRA Technology Inc., Arlington, Virginia on January 29.

FOR FURTHER INFORMATION CONTACT: Mr. William Hostyn, DoD, Defense Threat Reduction Agency/J2/5/8R–AC, 8725 John J. Kingman Road, MS 6201, Fort Belvoir, VA 22060–6201. Email: *william.hostyn@dtra.mil.* Phone: (703) 767–4453. Fax: (703) 767–4206.

SUPPLEMENTARY INFORMATION:

Purpose of Meeting: This meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (FACA) (5 U.S.C., Appendix, as amended),the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150. The Committee will obtain, review and evaluate classified information related to the Committee's mission to advise on technology security, Combating Weapons of Mass Destruction (C–WMD), counter terrorism and counter proliferation.

Agenda: Beginning at 1:00 p.m., January 28, and through the end of the meeting on January 29, the committee will receive a classified brief from the Commander of U.S. Strategic Command (USSTRATCOM), as the Commander of USSTRATCOM, Admiral Haney will review his CWMD priorities and discuss what issues the TRAC may be able to review and provide advice or recommendations. A classified C–WMD focused intelligence update will follow, where representatives from the Defense Intelligence Agency (DIA)/CWMD Division will provide the latest intelligence assessments for the Levant region and other regions of concern. The Committee will deliberate on the Cooperative Threat Reduction, in a classified setting, on initial recommendations to commission a study on metrics through a Systems Analysis FFRDC, ensure the development of vignettes to tell the story of the accomplishments of the CTR program, and that DoD must find a more productive method of engaging the COCOMs. Next, a classified deliberation on WMD-Elimination, where the Committee will review their progress in reviewing DoD's enduring counter-proliferation and weapons of mass destruction elimination missions. Potential recommendations for deliberation will include a discussion regarding the organization of the Standing Joint Force Headquarters for Elimination. Following that, a classified deliberation will focus on Strategic CWMD Indications & Warnings. The Committee will discuss their review of the Global Combatting WMD Awareness System (GCAS) and discuss if GCAS can be developed into a relevant near term capability to support operational needs of the Combatant Commands. Additional discussion will include the need for further work to define what a strategic I&W capability should consist of and what role or gap the GCAS should fill. The following discussion will focus on Securing Special Nuclear Materials, at the classified level. This topic is a new area of review, therefore, the Committee will discuss the draft Terms of Reference that has been developed in an effort to achieve consensus on the direction of this focus area. The session will conclude with a classified discussion on the way ahead.

Meeting Accessibility: Pursuant to 5 U.S.C. 552b, and 41 CFR 102–3.155, the Department of Defense has determined that the meeting shall be closed to the public. The Under Secretary of Defense for Acquisition, Technology and Logistics, in consultation with the DoD FACA Attorney, has determined in writing that the public interest requires all sessions of this meeting be closed to

the public because the discussions will be concerned with classified information and matters covered by 5 U.S.C. 552b(c)(1). Such classified matters are inextricably intertwined with the unclassified material and cannot reasonably be segregated into separate discussions without disclosing secret material.

Committee's Designated Federal Officer or Point of Contact: Mr. William Hostyn, DoD, Defense Threat Reduction Agency/J/2/5/8R–ACP, 8725 John J. Kingman Road, MS 6201, Fort Belvoir, VA 22060–6201. Email: *william.hostyn@dtra.mil.* Phone: (703) 767–4453. Fax: (703) 767–4206.

Written Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140 and section 10(a)(3) of FACA, the public or interested organizations may submit written statements to the membership of the Committee at any time or in response to the stated agenda of a planned meeting. Written statements should be submitted to the Committee's Designated Federal Officer. The Designated Federal Officer's contact information is listed in this notice or it can be obtained from the General Services Administration's FACA Database—*http://www.facadatabase.gov/committee/committee.aspx?cid=1663&aid=41.*

Written statements that do not pertain to a scheduled meeting of the Committee may be submitted at any time. However, if individual comments pertain to a specific topic being discussed at a planned meeting, then these statements must be submitted no later than five business days prior to the meeting in question. The Designated Federal Officer will review all submitted written statements and provide copies to all committee members.

Dated: December 18, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–30550 Filed 12–23–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Policy Board (DPB); Notice of Federal Advisory Committee Meeting

AGENCY: Department of Defense, Office of the Under Secretary of Defense (Policy).

ACTION: Federal Advisory Committee Meeting Notice.

SUMMARY: The Department of Defense (DoD) is publishing this notice to announce the following Federal advisory committee meeting of the Defense Policy Board (DPB). This meeting will be closed to the public.

DATES: *Quarterly Meeting:* Tuesday, January 14, 2014, from 8:00 a.m. to 6:00 p.m. and Wednesday, January 15, 2014, from 7:00 a.m. to 9:30 a.m.

ADDRESSES: The Pentagon, 2000 Defense Pentagon, Washington, DC 20301–2000.

FOR FURTHER INFORMATION CONTACT: Ms. Ann Hansen, 2000 Defense Pentagon, Washington, DC 20301–2000. Phone: (703) 571–9232.

SUPPLEMENTARY INFORMATION:

This meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and the Federal Advisory Committee Management Act; Final Rule 41 CFR parts 101–6 and 102–3.

Purpose of Meeting: To obtain, review and evaluate classified information related to the DPB's mission to advise on: (a) Issues central to strategic DoD planning; (b) policy implications of U.S. force structure and force modernization and on DoD's ability to execute U.S. defense strategy; (c) U.S. regional defense policies; and (d) other research and analysis of topics raised by the Secretary of Defense, the Deputy Secretary or the Under Secretary of Defense for Policy.

Meeting Agenda: Beginning at 8:00 a.m. on January 14 through the end of the meeting on January 15, the DPB will have secret through top secret (SCI) level discussions on national security issues regarding Pakistan.

Meeting Accessibility: Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.155, the Department of Defense has determined that this meeting shall be closed to the public. The Under Secretary of Defense (Policy), in consultation with the Department of Defense FACA Attorney, has determined in writing that this meeting be closed to the public because the discussions fall under the purview of Title 5, United States Code, Section 552b(c)(1) and are so inextricably intertwined with unclassified material that they cannot reasonably be segregated into separate discussions without disclosing secret or classified material.

Committee's Designated Federal Officer or Point of Contact: Ann Hansen, *osd.pentagon.ousd-policy.mbx.defense-board@mail.mil.*

Written Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140 and section 10(a)(3) of the Federal Advisory Committee Act, the public or interested organizations may submit written statements to the membership of the DPB at any time or in response to the stated agenda of a planned meeting. Written statements should be submitted to the DPB's Designated Federal Officer; the Designated Federal Officer's contact information is listed in this notice or it can be obtained from the GSA's FACA Database—*http://facasms.fido.gov/default.aspx.*

Written statements that do not pertain to a scheduled meeting of the DPB may be submitted at any time. However, if individual comments pertain to a specific topic being discussed at a planned meeting then these statements must be submitted no later than five business days prior to the meeting in question. The Designated Federal Officer will review all submitted written statements and provide copies to all committee members.

Dated: December 18, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–30556 Filed 12–23–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Air Force

U.S. Air Force Scientific Advisory Board Notice of Meeting

AGENCY: U.S. Air Force Scientific Advisory Board, Department of the Air Force.

ACTION: ACTION:Meeting notice.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR § 102–3.150, the Department of Defense announces that the United States Air Force (USAF) Scientific Advisory Board (SAB) meeting will take place on 7 January 2014 at the Secretary of the Air Force Technical and Analytical Support Conference Center, 1550 Crystal Drive, Arlington, VA 22202. The meeting will be from 7:30 a.m.–4:45 p.m. on Tuesday, 7 January 2014. The sessions from 7:30 a.m.–10:30 a.m., Tuesday, 7 January 2014, will be open to the public.

The purpose of this Air Force Scientific Advisory Board quarterly meeting is to formally kick off the FY14 SAB studies: Defense of USAF Forward

Bases; Nuclear Command, Control, and Communications; Technology Readiness for Hypersonic Vehicles; and Combating Sexual Assault. In accordance with 5 U.S.C. 552b, as amended, and 41 CFR § 102–3.155, some sessions of the USAF Scientific Advisory Board meeting will be closed to the public because they will discuss information and matters covered by section 5 U.S.C. 552b(c)(1) and (2).

Any member of the public wishing to attend this meeting or provide input to the USAF Scientific Advisory Board must contact the Designated Federal Officer at the address detailed below at least five days prior to the meeting date. Submit a written statement in accordance with 41 CFR § 102–3.140(c) and section 10(a)(3) of the Federal Advisory Committee Act and the procedures described in this paragraph. Statements being submitted in response to the agenda mentioned in this notice must be received by the Designated Federal Officer at the address listed below at least five calendar days prior to the meeting which is the subject of this notice. Written statements received after this date may not be provided to or considered by the USAF Scientific Advisory Board until its next meeting. The Designated Federal Officer will review all timely submissions with the USAF Scientific Advisory Board Chairperson and ensure they are provided to members of the USAF Scientific Advisory Board before the meeting that is the subject of this notice.

FOR FURTHER INFORMATION CONTACT: The USAF Scientific Advisory Board Executive Director, Lt Col Derek Lincoln, 240–612–5502, United States Air Force Scientific Advisory Board, 1500 West Perimeter Road, Ste. #3300, Joint Base Andrews, MD 20762, *Derek.Lincoln@pentagon.af.mil.*

Henry Williams,

Acting Air Force Federal Register Liaison Officer.

[FR Doc. 2013–30619 Filed 12–23–13; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2013–ICCD–0158]

Agency Information Collection Activities; Comment Request; Federal Direct Consolidation Loan Program Application Documents

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 a revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before February 24, 2014.

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–0158 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. We will ONLY accept comments in this mailbox when the regulations.gov site is not available to the public for any reason.

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: Federal Direct Consolidation Loan Program Application Documents.

OMB Control Number: 1845–0053.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: Individuals or households, Private Sector.

Total Estimated Number of Annual Responses: 2,430,000.

Total Estimated Number of Annual Burden Hours: 575,100.

Abstract: This collection of information includes the following documents: (1) Federal Direct Consolidation Loan Application and Promissory Note (Application and Promissory Note); (2) Instructions for Completing the Federal Direct Consolidation Loan Application and Promissory Note (Instructions); (3) Additional Loan Listing Sheet; (4) Request to Add Loans; and (5) Loan Verification Certificate (LVC). The Application and Promissory Note serves as the means by which a borrower applies for a Federal Direct Consolidation Loan and promises to repay the loan. The Instructions explain to the borrower how to complete the Application and Promissory Note. The Additional Loan Listing Sheet provides additional space for a borrower to list loans that he or she wishes to consolidate, if there is insufficient space on the Application and Promissory Note. The Request to Add Loans serves as the means by which a borrower may add other loans to an existing Federal Direct Consolidation Loan within a specified time period. The LVC serves as the means by which the U.S. Department of Education obtains the information needed to pay off the holders of the loans that the borrower wants to consolidate.

This revision updates the forms to reflect certain statutory and regulatory changes revises language for greater clarity and for greater consistency with other Direct Loan Program promissory notes.

Dated: December 18, 2013.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2013–30525 Filed 12–23–13; 8:45 am]

BILLING CODE 4000–01–P

ELECTION ASSISTANCE COMMISSION

Notice and Request for Public Comment on State Requests To Include Additional Proof-of-Citizenship Instructions on the National Mail Voter Registration Form

AGENCY: U.S. Election Assistance Commission (EAC).

ACTION: Notice for Public Comment.

SUMMARY: The United States Election Assistance Commission (''EAC'') seeks public comment on whether to amend the State-specific instructions applicable to Arizona, Kansas, and Georgia on the National Mail Voter Registration Form (''Federal Form''). Those States have requested that the EAC modify their State-specific instructions on the Federal Form to include State law requirements that, as a precondition to registering to vote in Federal elections, voter registration applicants provide additional proof of their United States citizenship beyond that already required by the Federal Form. EAC is voluntarily soliciting public comment on these requests from Arizona, Kansas, and Georgia.

DATES: Comments must be in writing and must be submitted no later than 5:00 p.m. EST on January 3, 2014.

ADDRESSES: You may submit comments, identified by docket number EAC–2013–0004 and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the online instructions for submitting comments. Do not submit electronically any personally identifiable information (such as full Social Security numbers, full dates of birth, and full driver's license numbers) if its disclosure is restricted by statute. Such information should be redacted to include only the last four digits of an individual's Social Security number or other taxpayer identification number, driver's license number, or account number, and only the year of an individual's birth.

Mail or Courier Delivery: ATTN: NVRA Federal Form Comments, U.S. Election Assistance Commission, 1335 East West Highway, Suite 4300, Silver Spring, MD 20910. Please do not send duplicate copies via mail or courier of comments that were submitted electronically via the Federal eRulemaking Portal.

FOR FURTHER INFORMATION CONTACT: Ms. Karen Lynn-Dyson, Director, Office of Research, Policy, and Programs, at (301) 563–3919 or 1–866–747–1471 (toll-free), U.S. Election Assistance Commission, 1335 East West Highway, Suite 4300, Silver Spring, MD 20910.

SUPPLEMENTARY INFORMATION:

Background: The EAC is the Federal agency charged with developing, maintaining, and, where necessary, modifying the National Mail Voter Registration Form mandated by Section 9(a) of the National Voter Registration Act of 1993 (''NVRA''), 42 U.S.C. 1973gg–7(a). Pursuant to Sections 4(a)(2) and 6(a) of the NVRA, *id.* §§ 1973gg–2(a)(2) and 1973gg–4(a), States covered by the NVRA must accept and use the Federal Form for registration of voters in elections for Federal office.

As originally enacted, the NVRA assigned authority to the Federal Election Commission ''in consultation with the chief election officers of the States'' to ''develop a mail voter registration application form'' and to ''prescribe such regulations as are necessary to carry out'' this responsibility. 42 U.S.C. 1973gg–7(a). The FEC undertook this responsibility, in consultation with the States, and issued the original regulations on the Federal Form in 1994. NVRA Final Rule Notice, 59 FR 32,311 (June 23, 1994). In the Help America Vote Act of 2002 (''HAVA''), the FEC's responsibilities regarding the Federal Form were transferred to the EAC. 42 U.S.C. 15532.

The EAC's discretion in developing the content of the Federal Form is constrained by several statutory requirements, including those found in Section 9(b) of the NVRA, 42 U.S.C. 1973gg-7(b), and Section 303(b)(4) of HAVA, *id.* § 15483(b)(4). The EAC has promulgated regulations that further delineate the contents and format of the Federal Form. *See* 11 CFR Part 9428, Subpart B. The EAC commissioners have delegated to the Executive Director of the EAC the day-to-day responsibilities of implementing and interpreting EAC regulations and policy, answering questions from stakeholders regarding the application of NVRA or HAVA, and maintaining the Federal Form consistent with the NVRA and EAC Regulations and policies.

State Requests to Modify State-Specific Instructions: The chief election official of each State is responsible for notifying the EAC within 30 days of any change in the State's voter eligibility requirements or any other information reported under 11 CFR 9428.6. Pursuant to those requirements, the FEC and later the EAC received numerous requests over the years from States to modify the Federal Form's State-specific instructions in various respects.

In recent years, the EAC has received requests from three States to include State-specific instructions on the Federal Form requiring voter registration applicants from their states to supply additional proof of their United States citizenship as a precondition to registration. These changes were requested as a result of the passage of State laws requiring such additional proof of citizenship. Arizona first submitted its request to the EAC to include such an instruction in 2005, as a result of the State's passage in 2004 of a voter initiative known as Proposition 200, later codified at Ariz. Rev. Stat § 16–166(F). Kansas first submitted its request to the EAC to include such instructions in 2012, as a result of the State's passage in 2011 of amendments to its voter registration laws, codified at Kan. Stat. Ann. § 25–2309(*l*). Georgia first submitted its request to the EAC to include such instructions in 2013, as a result of the State's passage in 2009 of amendments to its voter registration laws, codified at Ga. Code Ann. § 21–2–216(g).

On March 6, 2006, the EAC denied Arizona's original 2005 request to include additional proof of citizenship instructions on the Federal Form, finding that the form already required applicants to attest to their citizenship under penalty of perjury and to complete a mandatory checkbox indicating that they are citizens of the United States. The EAC also found that Congress had specifically considered but ultimately rejected a provision in the NVRA that would have allowed states to require documentary proof of citizenship, because such a provision was, in Congress's words, ''not necessary or consistent with the purposes of'' the NVRA. On the basis of these findings, the EAC concluded that Arizona's proof of citizenship law was preempted by Federal law, and that Arizona must accept the Federal Form for voter registration in Federal elections, without requiring additional proof of citizenship.

In July 2006, after receiving a request from Arizona's Secretary of State, the EAC's then-chairman requested that the EAC commissioners grant an accommodation to Arizona by reconsidering the Executive Director's March 6, 2006, final decision on behalf of the agency and granting Arizona's request to include its requested proof-of-citizenship instructions in the State-specific instructions on the Federal Form. On July 11, 2006, the EAC commissioners denied the chairman's motion for an accommodation by a tie vote of 2–2.

Private parties filed litigation against Arizona, challenging, among other issues, Arizona's compliance with the NVRA, and this litigation reached the Supreme Court during the 2012 Term.

In June 2013, the Supreme Court ruled that the NVRA preempts inconsistent State law and States must accept and use the Federal Form for voter registration purposes in elections for Federal office. *Arizona* v. *Inter Tribal Council of Arizona, Inc.,* ____ U.S. ____, 133 S. Ct. 2247, 2253–60 (2013) (hereinafter ''*Inter Tribal Council''*).

The EAC deferred consideration of the requests by Kansas and Georgia pursuant to internal operating procedures put in place in 2011 by the former EAC Executive Director. These procedures provided that requests that ''raise issues of broad policy concerns to more than one state'' would be deferred until the EAC regained a quorum of its commissioners, so that they would have the opportunity, if they desired, to provide additional policy guidance to the Executive Director and staff. Currently all four seats on the EAC are vacant.

Following the Supreme Court's decision in *Inter Tribal Council* in June 2013, Arizona and Kansas renewed their requests to the EAC to change the State-specific instructions on the Federal Form to include additional proof-of-citizenship requirements, and the EAC likewise deferred those renewed requests, in accordance with the 2011 EAC internal procedures. Kansas and Arizona officials then initiated litigation against the EAC in the United States District Court for the District of Kansas, challenging the EAC's deferral of these requests. *See Kobach* v. *EAC,* No. 5:13–cv–4095 (D. Kan. filed Aug. 21, 2013). On December 13, 2013, as part of this litigation, the district court remanded the Kansas and Arizona matters to the EAC with instructions that the EAC render a final agency action on the Kansas and Arizona requests to change the Federal Form by no later than January 17, 2014. The Court's order provided that if the EAC has not acted by January 17, 2014, the States' requests will be deemed by the Court to have been denied. The Georgia request is not part of this pending federal court litigation.

Request for Public Comments: The EAC invites public comments on the requests from Arizona, Kansas and Georgia to modify the State-specific instructions for those States on the Federal Form to require additional proof of citizenship under their respective state laws beyond the existing requirements on the Federal Form. The EAC invites public comments on any issues that commenters believe are relevant to the EAC's consideration of these State requests. Comments must be in writing and must be submitted no later than 5:00 p.m. EST on January 3, 2014.

Dated: December 19, 2013.

Alice Miller,

Chief Operating Officer and Acting Executive Director, U.S. Election Assistance Commission.

[FR Doc. 2013–30659 Filed 12–23–13; 8:45 am]

BILLING CODE 6820–KF–P

DEPARTMENT OF ENERGY

Proposed Agency Information Collection Extension With Changes

AGENCY: U.S. Energy Information Administration (EIA), U.S. Department of Energy.

ACTION: Notice and Request for OMB Review and Comment.

SUMMARY: EIA has submitted an information collection request to the OMB for extension with changes, under the provisions of the Paperwork Reduction Act of 1995, for the Electricity and Renewable Power Surveys (OMB Control Number 1905–0129) information collection. EIA requests a three-year clearance with changes for the following existing forms:

- Form EIA–411, ''Coordinated Bulk Power Supply Program Report''
- Form EIA–826, ''Monthly Electric Utility Sales and Revenue Report with State Distributions''
- Form EIA–860, ''Annual Electric Generator Report''
- Form EIA–860M, ''Monthly Update to the Annual Electric Generator Report''
- Form EIA–861, ''Annual Electric Power Industry Report''
- Form EIA–861S, ''Annual Electric Power Industry Report (Short Form)''
- Form EIA–923, ''Power Plant Operations Report'' and

the addition of a new survey, Form EIA–930, ''Balancing Authority Operations Report'' under OMB Control Number 1905–0129.

EIA also proposes to discontinue OMB Control Number 1905–0196 for the Solar Information Collection. This collection includes the Form EIA–63A (Annual Solar Thermal Collector/Reflector Shipments Report), Form EIA–63B (Annual Photovoltaic Module/Cell Shipments Report), and Form EIA–902 (Annual Geothermal Heat Pump Shipments Report). The current approval will expire on December 31, 2013. EIA does not plan to collect data on the Forms EIA–63A and EIA–902 and proposes to transfer the Form EIA–63B to the Electric Power Information Collection (OMB Control Number 1905–0129).

DATES: Comments regarding this collection must be received on or before January 23, 2014. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, please advise the DOE Desk Officer at OMB of your intention to make a submission as soon as possible. The Desk Officer may be telephoned at 202–395–4718 or contacted by email at *Chad_S_Whiteman@omb.eop.gov.*

ADDRESSES: Written comments should be sent to the

DOE Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10102, 735 17th Street NW., Washington, DC 20503, *Chad_S_Whiteman@omb.eop.gov.*

And to Rebecca Peterson, U.S. Energy Information Administration, Mail Stop EI–23, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, *erus2014@eia.gov.*

FOR FURTHER INFORMATION CONTACT: Direct any requests for additional information or copies of the information collection instrument and instructions to Rebecca Peterson at *erus2014@eia.gov,* or at 202–586–4509. The collection instrument and instructions are also available on the Internet at: *http://www.eia.gov/survey/changes/electricity/.*

SUPPLEMENTARY INFORMATION: This information collection request contains:

(1) *OMB No.:* 1905–0129;

(2) *Information Collection Request Title:* Electricity and Renewables Power Surveys;

(3) *Type of Request:* Extension, with changes of a currently approved collection;

(4) *Purpose:* The electricity and renewables surveys collect data from entities involved in the production, transmission, delivery, and sale of electricity, and in maintaining the reliable operation of the power system. The data collected are the primary source of information on the nation's electric power industry. EIA uses the data collected on the electric power surveys to answer queries from the U.S. Congress, other federal and state agencies, the electric power industry, and the public; and as input to the National Energy Modeling System (NEMS) and to EIA's other forecasting and analytical activities. Other users of the data include policy makers, regulators, energy market analysts, and the energy industries.

EIA proposes that the existing Form EIA–63B, ''Annual Photovoltaic Cell/

Module Shipments Report,'' move into this clearance package to permit EIA to better align its surveys and programs. In addition, EIA's proposed new Form EIA–930, ''Balancing Authority Operations Report,''' will collect hourly information on the operation of the power system, a topic of growing interest due to the impact of renewable power plants and demand response programs on power system performance.

Changes to the currently approved forms in this package include collecting enhanced data on power system reliability, operations, environmental performance, and energy efficiency and demand response programs, and eliminating questions where the data either are no longer needed or cannot be accurately or cost-effectively collected. In addition, EIA proposes changes to the data protection terms for the electric power survey forms to uniformly apply the same policy regarding electric power data. There are two changes in the provisions for protecting the survey data. The first change is that EIA will protect and not publicly disclose the information on the individuals who complete the survey forms. The second change is that, with the exceptions of blackstart data and power plant construction costs reported on Form EIA–860, and all data reported on Form EIA–63B, EIA will no longer apply disclosure limitation procedures to the published aggregate electric power statistical data.

(5) *Annual Estimated Number of Respondents:* 14,328;

(6) *Annual Estimated Number of Total Responses:* 74,934;

(7) *Annual Estimated Number of Burden Hours:* 141,145;

(8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* $76,000.

Authority: Section 13(b) of the Federal Energy Administration Act of 1974, Public Law 93–275, codified at 15 U.S.C. 772(b).

Issued in Washington, DC, December 18, 2013.

Stephanie Brown,

Director, Office of Survey Development and Statistical Integration, U.S. Energy Information Administration.

[FR Doc. 2013–30727 Filed 12–23–13; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Certification Reports, Compliance Statements, Application for a Test Procedure Waiver, and Recordkeeping for Consumer Products and Commercial/Industrial Equipment Subject to Federal Energy or Water Conservation Standards

AGENCY: Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy.

ACTION: Proposed information collection; request for comments.

SUMMARY: The U.S. Department of Energy (DOE) invites public comment on a proposed collection of information that DOE is developing for submission to the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1995. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Written comments must be submitted on or before February 24, 2014.

ADDRESSES: Direct all written comments to Ms. Ashley Armstrong, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121. Email: *certification_compliance_enforcement @ee.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Ashley Armstrong at *Ashley.Armstrong@ee.doe.gov.*

SUPPLEMENTARY INFORMATION: This information collection request contains: (1) OMB No. 1910–1400;

(2) *Information Collection Request Title:* Certification Reports, Compliance Statements, Application for a Test Procedure Waiver, and Recordkeeping for Consumer Products and Commercial/Industrial Equipment subject to Energy or Water Conservation Standards;

(3) *Type of Request:* Renewal;

(4) *Purpose:* DOE is seeking approval to collect information from manufacturers and to require that manufacturers retain records of covered consumer products and commercial and industrial equipment pursuant to Title III of the Energy Policy and Conservation Act of 1975, as amended (''EPCA''), 42 U.S.C. 6291 *et seq.* The EPCA sets forth a variety of provisions designed to improve energy efficiency. Part A of Title III (42 U.S.C. 6291–6309) of the EPCA provides for the Energy Conservation Program for Consumer Products Other Than Automobiles.

The Energy Conservation Program for Consumer Products Other Than Automobiles consists of four parts: (1) Testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures. The testing requirements consist of test procedures that manufacturers of covered products must use (1) as the basis for certifying to DOE that their products comply with the applicable energy conservation standards adopted under the EPCA, and (2) for making representations about the efficiency of those products. DOE must use these test requirements to determine whether the products comply with any relevant standards promulgated under the EPCA.

DOE is renewing its information collection on the energy and water efficiency of consumer products and commercial equipment manufactured for distribution in commerce in the United States. Under the Energy Conservation Program for Consumer Products Other Than Automobiles DOE requires that manufacturers: (1) Submit certification and compliance reports for each basic model distributed in commerce in the U.S.; (2) maintain records underlying the certified ratings for each basic model including test data and the associated calculations; and (3) submit an application for a test procedure waiver for which manufacturers may elect to submit if they manufacturer a basic model that cannot be tested pursuant to the DOE test procedure.

DOE currently requires manufacturers or their party representatives to prepare and submit certification reports and compliance statements using DOE's electronic Web-based tool, the Compliance and Certification Management System (CCMS), which is the only mechanism for submitting

certification reports to DOE. CCMS currently has product specific templates which manufacturers are required to use when submitting certification data to DOE. See *http://www.regulations.doe.gov/ccms.* DOE believes the availability of electronic filing through the CCMS system reduces reporting burdens, streamlines the process, and provides the Department with needed information in a standardized, more accessible form. This electronic filing system also ensures that records are recorded in a permanent, systematic way.

Covered products and equipment are described in 10 CFR parts 429, 430, and 431. They generally include: (1) Residential refrigerators, refrigerator-freezers and freezers; (2) Room air conditioners; (3) Central air conditioners and heat pumps, including SDHV and Space-Constrained; (4) Residential water heaters; (5) Residential furnaces, including boilers; (6) Dishwashers; (7) Residential clothes washers; (8) Residential clothes dryers; (9) Direct heating equipment; (10) Conventional cooking tops, conventional ovens, microwave ovens; (11) Pool heaters; (12) Fluorescent lamp ballasts; (13) General service fluorescent lamps, general service incandescent lamps, and incandescent reflector lamps; (14) Faucets; (15) Showerheads; (16) Water closets; (17) Urinals; (18) Ceiling fans; (19) Ceiling fan light kits; (20) Torchieres; (21) Compact fluorescent lamps; (22) Dehumidifiers; (23) Class A external power supplies; (24) Non-class A external power supplies; (25) Battery chargers; (26) Candelabra base incandescent lamps and intermediate base incandescent lamps; (27) Electric motors; (28) Small electric motors; (29) Commercial refrigerators, freezers, and refrigerator-freezers; (30) Commercial air conditioners and heat pumps (air-cooled, water-cooled, and water-sourced); (31) Packaged terminal air conditioners and heat pumps; (32) Single package vertical units; (33) Variable refrigerant flow systems; (34) Computer room air conditioners; (35) Commercial water heating equipment; (36) Commercial warm air furnaces; (37) Commercial packaged boilers; (38) Automatic commercial ice makers; (39) Commercial clothes washers; (40) Distribution transformers; (41) Illuminated exit signs; (42) Traffic signal modules and pedestrian modules; (43) Commercial unit heaters; (44) Commercial pre-rinse spray valves; (45) Refrigerated bottled or canned beverage vending machines; (46) Walk-in coolers and walk-in freezers, including each of the components (doors/panels/refrigeration system); (47) Metal halide lamp ballasts and fixtures; (48) Furnace fans; (49) General service lamps; (50) Unfired hot water storage tanks; (51) Hot water supply boilers; and (52) television sets.

(5) *Annual Estimated Number of Respondents:* 2000;

(6) *Annual Estimated Number of Total Responses:* 20,000;

(7) *Annual Estimated Number of Burden Hours:* 68,000 (3 hours for certification reports, compliance statements, and recordkeeping; 50 hours for test procedure waiver preparation);

(8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* $6,800,000.

Statutory Authority

Part A of Title III of the Energy Policy and Conservation Act, as amended (42 U.S.C. 6291–6309); 10 CFR parts 429, 430, and 431.

Issued in Washington, DC, on December 18, 2013.

Kathleen Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

[FR Doc. 2013–30674 Filed 12–23–13; 8:45 am]

BILLING CODE 6450–01–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: EC14–14–000.
Applicants: NRG Energy Holdings, Inc., Edison Mission Energy.
Description: NRG Energy Holdings Inc. submits additional information concerning the application relating to the delivered price tests analyses pursuant to Appendix A of the Merger Policy Statement.
Filed Date: 12/11/13.
Accession Number: 20131212–0009.
Comments Due: 5 p.m. ET 1/2/14.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG14–17–000.
Applicants: RE Clearwater LLC.
Description: RE Clearwater LLC Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 12/12/13.
Accession Number: 20131212–5151.
Comments Due: 5 p.m. ET 1/2/14.

Docket Numbers: EG14–18–000.
Applicants: RE Columbia Two LLC.
Description: RE Columbia Two LLC Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 12/12/13.
Accession Number: 20131212–5155.
Comments Due: 5 p.m. ET 1/2/14.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2607–003; ER10–2626–002; ER10–2624–002.
Applicants: Old Dominion Electric Cooperative, Inc., New Dominion Energy Cooperative, TEC Trading, Inc.
Description: Triennial Market Power Update of the ODEC Entities under ER10–2607, et. al.
Filed Date: 12/13/13.
Accession Number: 20131213–5276.
Comments Due: 5 p.m. ET 2/11/14.

Docket Numbers: ER11–2664–007.
Applicants: Powerex Corp.
Description: Notice of Non-Material Change in Status of Powerex Corp.
Filed Date: 12/13/13.
Accession Number: 20131213–5278.
Comments Due: 5 p.m. ET 1/3/14.

Docket Numbers: ER13–630–000.
Applicants: Arizona Public Service Company.
Description: Arizona Public Service Company's Second Supplement to December 28, 2012 Triennial Market Power Update.
Filed Date: 12/11/13.
Accession Number: 20131211–5179.
Comments Due: 5 p.m. ET 1/2/14.

Docket Numbers: ER13–2295–002.
Applicants: Midcontinent Independent System Operator, Inc.
Description: 12–16–2013 TCDC Compliance Filing to be effective 11/1/2013.
Filed Date: 12/13/13.
Accession Number: 20131213–5244.
Comments Due: 5 p.m. ET 1/3/14.

Docket Numbers: ER14–612–001.
Applicants: Skylar Energy LP.
Description: Amendment to Skylar Petition to be effective 1/16/2014.
Filed Date: 12/13/13.
Accession Number: 20131213–5224.
Comments Due: 5 p.m. ET 1/3/14.

Docket Numbers: ER14–624–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: 12–16–2013 Cleco NITSA NOA Succession Filing to be effective 12/19/2013.
Filed Date: 12/13/13.
Accession Number: 20131213–5240.
Comments Due: 5 p.m. ET 1/3/14.

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: December 16, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–30548 Filed 12–23–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER14–630–000]

AlphaGen Power 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 AlphaGen Power LLC's application for market-based rate authority, with an accompanying rate schedule, 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 January 13, 2014.

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(s) 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: December 17, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–30549 Filed 12–23–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD14–1–000]

Zero Rate Reactive Power Rate Schedules; Notice Allowing Post-Workshop Comments

On December 11, 2013, a Commission staff-led workshop explored the mechanics of filing reactive power rate schedules for which there is no compensation.[1] Interested persons are invited to file written comments focused on the mechanics of filing reactive power rate schedules for which there is no compensation.

Comments should be filed with the Commission in this docket, Docket No. AD14–1–000, on or before 5:00 p.m. Eastern Time on January 24, 2014.

A link to the workshop webcast can be found here: *http://stream.capitolconnection.org/capcon/ferc/ferc.htm.*

[1] The workshop was held in response to the Commission's directive in *Chehalis Power Generating, L.P.,* Docket No. ER05–1056–007. *Chehalis Power Generating, L.P.,* 145 FERC ¶ 61,052 (2013).

Dated: December 17, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–30547 Filed 12–23–13; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2013–0301; FRL—9904–40–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Beryllium (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), ''NESHAP for Beryllium (40 CFR Part 61, Subpart C) (Renewal)'' (EPA ICR No. 0193.11, OMB Control No. 2060–0092), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq*). This is a proposed extension of the ICR, which is currently approved through March 31, 2014. Public comments were previously requested via the **Federal Register** (78 *FR* 33409) on June 4, 2013, during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. 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.

DATES: Additional comments may be submitted on or before January 23, 2014.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2013–0301, to: (1) EPA online, using *www.regulations.gov* (our preferred method), by email to: *docket.oeca@epa.gov*, or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460; and (2) OMB via email to *oira_submission@omb.eop.gov*. Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other

information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Learia Williams, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–4113; fax number: (202) 564–0050; email address: *williams.learia@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit: *http://www.epa.gov/dockets.*

Abstract: The sources subject to this rule (i.e., extraction plants, ceramic plants, foundries, incinerators, propellant plants, and machine shops which process beryllium and its derivatives), complying with the onetime only stack test, would be required to submit initial notification reports and a one-time-only report with the emission limit determination. The sources complying with the alternative ambient air quality limit by operating a continuous monitor in the vicinity of the affected facility are required to submit a monthly report of all measured concentrations. Records shall be retained for two years.

Form Numbers: None.

Respondents/affected entities: Sources processing beryllium ore, beryllium, beryllium oxides, beryllium alloys, or beryllium-containing waste.

Respondent's obligation to respond: Mandatory (40 CFR part 61, subpart C).

Estimated number of respondents: 33 (total).

Frequency of response: Monthly and occasionally.

Total estimated burden: 2,629 hours (per year). ''Burden'' is defined at 5 CFR 1320.3(b).

Total estimated cost: $292,208 (per year), includes $35,000 in either annualized capital or operation & maintenance costs.

Changes in the Estimates: There is an apparent increase of two hours in the total estimated respondent burden as currently identified in the OMB Inventory of Approved Burdens. This increase is due to rounding, and is not due to any program changes. The most-recently approved ICR rounded the burden hours associated with recordkeeping for operating parameters and emissions to the nearest whole number. In contrast, burden hours are rounded to two decimal places in this ICR, resulting in an apparent increase of two hours.

There is an increase in the respondent cost from the most recently-approved ICR due to the use of updated labor rates. This ICR references labor rates from the Bureau of Labor Statistics to calculate the respondent burden cost.

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2013–30609 Filed 12–23–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2013–0353; FRL–9904–25–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NSPS for Stationary Spark Ignition Internal Combustion Engines (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), ''NSPS for Stationary Spark Ignition Internal Combustion Engines (40 CFR Part 60, Subpart JJJJ) (Renewal)'' (EPA ICR No. 2227.04, OMB Control No. 2060–0610), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) This is a proposed extension of the ICR, which is currently approved through April 30, 2014. Public comments were previously requested via the **Federal Register** (78 *FR* 35023) on June 11, 2013, during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. 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.

DATES: Additional comments may be submitted on or before January 23, 2014.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2013–0353, to: (1) EPA online, using *www.regulations.gov* (our preferred method), by email to: *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460; and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Learia Williams, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–4113; fax number: (202) 564–0050; email address: *williams.learia@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit: *http://www.epa.gov/dockets.*

Abstract: The affected entities are subject to the General Provisions of the NESHAP at 40 CFR part 63, subpart A, and any changes, or additions specified at 40 CFR part 60, subpart JJJJ. Owners or operators of the affected facilities must submit a one-time-only report of any physical or operational changes, initial performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports are required semiannually at a minimum.

Form Numbers: None.

Respondents/affected entities: Owners or operators of stationary spark ignition internal combustion engines.

Respondent's obligation to respond: Mandatory (40 CFR part 60, subpart JJJJ).

Estimated number of respondents: 17,811 (total).

Frequency of response: Initially and occasionally.

Total estimated burden: 23,286 hours (per year). ''Burden'' is defined at 5 CFR 1320.3(b).

Total estimated cost: $4,641,926 (per year), which includes $2,364,136 annualized capital or operation & maintenance costs.

Changes in the Estimates: The increase in burden from the most recently approved ICR is due to adjustments in the number of new or modified sources and updated labor rates. This ICR accounts for the industry growth since the last ICR renewal period and uses updated labor rates from the Bureau of Labor Statistics to calculate burden costs.

Additionally, the capital/startup and O&M costs as calculated in section 6(b)(iii) have been corrected to reflect initial performance tests as a one-time capital/startup costs, rather than ongoing O&M costs. This results in an increase in capital costs, and a corresponding decrease in O&M costs.

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2013–30610 Filed 12–23–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OEI–2013–0565; FRL–9904–58–OEI]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Confidentiality Rules (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR, which is abstracted below, describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before February 24, 2014.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OEI–2013–0565; to EPA online using *www.regulations.gov* (our preferred method), by email to *docket.oei@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460 and (2) OMB by mail to: Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Larry F. Gottesman, Agency Freedom of Information Act Officer, Collection Strategies Division, Office of Information Collection, (Mail Code 2822T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: 202–566–2162; email address: *gottesman.larry@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On September 6, 2013 (75 FR 59708), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID. No. EPA–HQ–OEI–2013–0565, which is available for online viewing at *http://www.regulations.gov,* or in person viewing at the Office of Environmental Information Docket in the EPA Docket Center (EPA/DC), EPA WJC West, Room 3334, 1301 Constitution Avenue NW., Washington, DC. The EPA/DC Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744 and the telephone number for the Office of Environmental Information Docket is 202–566–0219.

Use EPA's electronic docket and comment system at *http://www.regulations.gov* to submit or view public comments, access the index listing of the contents of the docket and to access documents in the docket that are available electronically. Once in the system, select ''docket search'', then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, confidential business information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *http://www.regulations.gov.*

Title: Confidentiality Rules (Renewal).

ICR numbers: EPA ICR No. 1665.12; OMB Control No. 2020–0003.

ICR Status: This ICR is scheduled to expire on January 31, 2014. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. 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 OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable.

Abstract: In the course of administering environmental protection statutes, EPA collects data from ''businesses'' in many sectors of the U.S. economy. In many cases, ''businesses'' mark the data it submits to EPA as confidential business information (CBI). In addition, businesses submit information to EPA without the Agency requesting the information. EPA established the procedures described in 40 CFR part 2, subparts A and B, to protect the confidentiality of information as well as the rights of the public to obtain access to information under the Freedom of Information Act (FOIA). In accordance with these regulations, when EPA finds it necessary to make a final confidentiality determination (e.g., in response to a FOIA request or in the course of rulemaking or litigation, a resubstantiation of a prior claim, or an advance confidentiality determination), it shall notify the affected business and provide an opportunity to submit a substantiation of confidentiality claims. This ICR relates to information EPA needs to collect to assist in determining whether previously submitted information is entitled to confidential treatment.

Form Numbers: None.

Respondents/affected entities: Entities potentially affected by this action are businesses and other for-profit companies.

Respondent's obligation to respond: Required to obtain or retain a benefit, 5 U.S.C. Section 522 Freedom of Information Action.

Estimated number of respondents: 228.

Frequency of response: 1 per year.

Total estimated burden: 1533 hours. Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $139,514 includes $0 annualized capital or operation & maintenance costs.

Changes in Estimates: EPA as part of the ICR renewal process obtained usage of each of the letters for the past 12 months that comprise this ICR to obtain up-to-date estimates. EPA found that both usage and response rates decreased.

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2013–30608 Filed 12–23–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9904–54-Region-5]

Proposed CERCLA Administrative Cost Recovery Settlement; Cadie Auto Salvage Site, Belvidere, Boone County, Illinois

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: In accordance with the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), notice is hereby given of a proposed administrative settlement for recovery of past response costs concerning the Cadie Auto Salvage Site in Belvidere, Boone County, Illinois with the following settling party: Helen E. Cadie. The settlement requires the owner Settling Party to pay a set percentage of the net proceeds from the sale of the Site. The settlement includes a covenant not to sue the Settling Party pursuant to CERCLA, contribution protection for the Settling Party pursuant to CERCLA, and a release of a CERCLA lien on the Site. For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at the EPA, Region 5, Records Center, 77 W. Jackson Blvd., 7th Fl., and Chicago, Illinois 60604.

DATES: Comments must be submitted on or before January 23, 2014.

ADDRESSES: The proposed settlement is available for public inspection at the EPA, Region 5, Records Center, 77 W. Jackson Blvd., 7th Fl., Chicago, Illinois 60604. A copy of the proposed settlement may be obtained from Peter Felitti, Assoc. Regional Counsel, EPA, Office of Regional Counsel, Region 5, 77 W. Jackson Blvd., mail code: C–14J, Chicago, Illinois 60604. Comments should reference the Cadie Auto Salvage Site, Belvidere, Boone County, Illinois and EPA Docket No. and should be addressed to Peter Felitti, Assoc. Regional Counsel, EPA, Office of Regional Counsel, Region 5, 77 W. Jackson Blvd., mail code: C–14J, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Peter Felitti, Assoc. Regional Counsel, EPA, Office of Regional Counsel, Region 5, 77 W. Jackson Blvd., mail code: C–14J, Chicago, Illinois 60604.

SUPPLEMENTARY INFORMATION: The Cadie Auto Salvage Superfund Site is located in Belvidere, Boone County, Illinois. After EPA received a request from the Illinois Environmental Protection Agency, U.S. EPA conducted an assessment of the Site and conducted a removal action. A total of 248 compressed gas cylinders on the Site were shipped off site for disposal as well as approximately 733 gallons of flammable liquids, two oz. of metallic mercury, ten tons of empty drums, eight tons of non-hazardous soil, 18 tons of hazardous soil, and fifty cans of waste aerosols. The work was completed on December 1, 2010. U.S. EPA issued a General Notice Letter to the Settling Party in September 2010. Between June 2010 and August 2013, EPA and the Settling Party negotiated the present proposed Administrative Settlement.

Dated: December 6, 2013.

Richard C. Karl,

Director, Superfund Division.

[FR Doc. 2013–30666 Filed 12–23–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9904–64–OA]

Notification of a Public Meeting of the Environmental Justice Technical Guidance Review Panel

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA Science Advisory Board (SAB) Staff Office announces a public meeting of the SAB Environmental Justice Technical Guidance Review Panel to provide advice through the Chartered SAB on the agency's *Draft Technical Guidance for Assessing Environmental Justice in Regulatory Analysis* (*May 1, 2013).*

DATES: The Environmental Justice Technical Guidance (EJTG) Review Panel public meeting will be held on Thursday January 30, 2014 from 9:00 a.m. to 5:00 p.m. (Eastern Time) and on Friday January 31, 2014 from 9:00 a.m. to 5:00 p.m. (Eastern Time).

ADDRESSES: The public meeting will be held at The Renaissance Arlington Capitol View Hotel, 2800 South Potomac Avenue, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: Any member of the public who wants further information concerning the public meeting may contact Dr. Sue Shallal, Designated Federal Officer (DFO), via telephone at (202) 564–2057 or email at *shallal.suhair@epa.gov.* General information concerning the SAB can be found on the EPA Web site at *http://www.epa.gov/sab*.

SUPPLEMENTARY INFORMATION: The SAB was established pursuant to the Environmental Research, Development, and Demonstration Authorization Act (ERDDAA), codified at 42 U.S.C. 4365, to provide independent scientific and technical advice to the Administrator on the technical basis for Agency positions and regulations. The SAB is a Federal Advisory Committee chartered under the Federal Advisory Committee Act (FACA), 5 U.S.C., App. 2. The SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies. Pursuant to FACA and EPA policy, notice is hereby given that the SAB Environmental Justice Technical Guidance Review Panel will hold a public meeting to discuss the agency's draft technical document that provides information on how to consider environmental justice in regulatory analysis. This SAB panel will provide advice to the Administrator through the chartered SAB.

Background: The EPA's National Center for Environmental Economics along with the Office of Environmental Justice has requested that the SAB peer review their *Draft Technical Guidance for Assessing Environmental Justice in Regulatory Analysis* (*May 1, 2013).* The EPA released the draft technical guidance for public comment on May 9, 2013 (see *https://www.federalregister.gov/articles/2013/05/09/2013–11165/technical-guidance-for-assessing-environmental-justice-in-regulatory-analysis*). The deadline for submitting public comments to the agency was September 6, 2013. Background on this SAB review, including the process for forming this review panel was provided in a **Federal**

Register Notice published on June 4, 2013 (Volume 78 FR 107; 33416–33417). The SAB Panel met on June 19–20, 2013 to learn about the development of the technical guidance, how the EPA currently assesses environmental justice (EJ) concerns and to provide their initial impressions. The purpose of this upcoming meeting is for the SAB Panel to learn about the comments submitted by the public to the agency and to develop draft responses to the charge questions. Additional information about this advisory activity can be found at the following URL: *http://yosemite.epa.gov/sab/sabproduct.nsf/fedrgstr_activites/EJ%20Technical%20Guidance?OpenDocument.* A meeting agenda and other meeting materials will be posted at the above noted URL prior to the meeting.

Technical Contacts: Any technical questions concerning EPA's draft technical document should be directed to Dr. Kelly Maguire at (202) 566–2273 or by email at *maguire.kelly@epa.gov.*

Availability of Meeting Materials: Prior to the meeting, the review documents, agenda and other materials will be accessible through the calendar link on the blue navigation bar at *http://www.epa.gov/sab/.*

Procedures for Providing Public Input: Public comment for consideration by EPA's federal advisory committees and panels has a different purpose from public comment provided to EPA program offices. Therefore, the process for submitting comments to a federal advisory committee is different from the process used to submit comments to an EPA program office. Federal advisory committees and panels, including scientific advisory committees, provide independent advice to the EPA. Interested members of the public may submit relevant written or oral information on the topic of this advisory activity, and/or the group conducting the activity, for the SAB to consider during the advisory process. Input from the public to the SAB will have the most impact if it provides specific scientific or technical information or analysis for SAB committees to consider or if it relates to the clarity or accuracy of the technical information. Members of the public wishing to provide comment should contact the DFO directly. *Oral Statements:* In general, individuals or groups requesting an oral presentation at a public meeting will be limited to five minutes. Interested parties should contact Dr. Sue Shallal, DFO, in writing (preferably via email) at the contact information noted above by January 23, 2014, to be placed on the list of public speakers for the meeting. *Written Statements:* Written statements should be supplied to the DFO via email at the contact information noted above by January 23, 2014 for the meeting so that the information may be made available to the Committee members for their consideration. Written statements should be supplied in one of the following electronic formats: Adobe Acrobat PDF, MS Word, MS PowerPoint, or Rich Text files in IBM–PC/Windows 98/2000/XP format. It is the SAB Staff Office general policy to post written comments on the Web page for the advisory meeting or teleconference. Submitters are requested to provide an unsigned version of each document because the SAB Staff Office does not publish documents with signatures on its Web sites. Members of the public should be aware that their personal contact information, if included in any written comments, may be posted to the SAB Web site. Copyrighted material will not be posted without explicit permission of the copyright holder.

Accessibility: For information on access or services for individuals with disabilities, please contact Dr. Sue Shallal at (202) 564–2057 or *shallal.suhair@epa.gov.* To request accommodation of a disability, please contact Dr. Shallal preferably at least ten days prior to the meeting to give EPA as much time as possible to process your request.

Dated: December 17, 2013.

Thomas H. Brennan,

Deputy Director, EPA Science Advisory Board Staff Office.

[FR Doc. 2013–30708 Filed 12–23–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9904–65–OA]

Notification of a Public Teleconference of the Chartered Science Advisory Board

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA Science Advisory Board (SAB) Staff Office announces a public teleconference of the Chartered Science Advisory Board Panel to complete Board discussions of planned actions identified in the agency's regulatory agenda and their supporting science and to discuss possible future SAB advice related to EPA's strategic priorities.

DATES: The public teleconference will be held on Friday, January 21, 2014 from 1:00 p.m. to 5:00 p.m. (Eastern Time).

Location: The public teleconference will be conducted by telephone only.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing to obtain information concerning the public meeting may contact Dr. Angela Nugent, Designated Federal Officer (DFO), EPA Science Advisory Board Staff Office (1400R), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; by telephone/voice mail at (202) 564–2218 or at *nugent.angela@epa.gov.* General information about the SAB as well as any updates concerning the meeting announced in this notice may be found on the EPA Web site at *http://www.epa.gov/sab.*

SUPPLEMENTARY INFORMATION: The SAB was established pursuant to the Environmental Research, Development, and Demonstration Authorization Act (ERDDAA), codified at 42 U.S.C. 4365, to provide independent scientific and technical advice to the Administrator on the technical basis for Agency positions and regulations. The SAB is a Federal Advisory Committee chartered under the Federal Advisory Committee Act (FACA), 5 U.S.C., App. 2. The SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies. Pursuant to FACA and EPA policy, notice is hereby given that the SAB will hold a public meeting to discuss and deliberate on the topics below.

As noted in the **Federal Register** Notice announcing a meeting of the chartered SAB on December 4–5, 2013 (78 FR 68057–68058), the EPA has recently underscored the need to routinely inform the SAB about proposed and planned agency actions that have a scientific or technical basis. Accordingly, the agency provided notice to the SAB that the Office of Management and Budget published the ''Unified (Regulatory) Agenda'' on the Web on July 3, 2013 (*http://www.reginfo.gov/public*). On December 4–5, 2013, the Chartered SAB discussed whether it should provide advice and comment on the adequacy of the scientific and technical basis for EPA actions included in the Unified (Regulatory) Agenda. The chartered SAB discussed information relating to these planned actions at the December 4–5, 2013 meeting. On January 21, 2014, the chartered SAB will conclude its discussion of one action, the Standards of Performance for Greenhouse Gas Emissions from New Stationary Sources: Electric Utility Generation Units (2060–AQ91).

The chartered SAB will also discuss draft advisory letters to the EPA Administrator on the Science to Achieve Results (STAR) fellowship program and possible future SAB advice related to the EPA's strategic priorities.

Availability of Meeting Materials: Agendas and materials in support of this meeting will be placed on the EPA Web site at *http://www.epa.gov/sab* in advance of the meeting.

Procedures for Providing Public Input: Public comment for consideration by EPA's federal advisory committees and panels has a different purpose from public comment provided to EPA program offices. Therefore, the process for submitting comments to a federal advisory committee is different from the process used to submit comments to an EPA program office.

Federal advisory committees and panels, including scientific advisory committees, provide independent advice to EPA. Members of the public can submit comments for a federal advisory committee to consider as it develops advice for EPA. Input from the public to the SAB will have the most impact if it provides specific scientific or technical information or analysis for SAB panels to consider or if it relates to the clarity or accuracy of the technical information. Members of the public wishing to provide comment should contact the Designated Federal Officer directly. *Oral Statements:* In general, individuals or groups requesting an oral presentation at a teleconference will be limited to three minutes. Each person making an oral statement should consider providing written comments as well as their oral statement so that the points presented orally can be expanded upon in writing. Interested parties should contact Dr. Angela Nugent, DFO, in writing (preferably via email) at the contact information noted above by January 14, 2014 for the teleconference, to be placed on the list of public speakers. *Written Statements:* Written statements should be supplied to the DFO via email at the contact information noted above by January 14, 2014 for the teleconference so that the information may be made available to the Panel members for their consideration. Written statements should be supplied in one of the following electronic formats: Adobe Acrobat PDF, MS Word, MS PowerPoint, or Rich Text files in IBM–PC/Windows 98/2000/XP format. It is the SAB Staff Office general policy to post written comments on the Web page for the advisory meeting or teleconference. Submitters are requested to provide an unsigned version of each document because the SAB Staff Office does not publish documents with signatures on its Web sites. Members of the public should be aware that their personal contact information, if included in any written comments, may be posted to the SAB Web site. Copyrighted material will not be posted without explicit permission of the copyright holder.

Accessibility: For information on access or services for individuals with disabilities, please contact Dr. Angela Nugent at (202) 564–2218 or *nugent.angela@epa.gov.* To request accommodation of a disability, please contact Dr. Nugent preferably at least ten days prior to the teleconference to give EPA as much time as possible to process your request.

Dated: December 16, 2013.

Thomas H. Brennan,

Deputy Director, EPA Science Advisory Staff Office.

[FR Doc. 2013–30710 Filed 12–23–13; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collections Being Reviewed by the Federal Communications Commission

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 Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before February 24, 2014. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov mailto:PRA@fcc.gov* and to *Cathy.Williams@fcc.gov mailto:Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0289.

Title: Section 76.76.601, Performance Tests; Section 76.1704, Proof of Performance Test Data; Section 76.1705, Performance Tests (Channels Delivered); 76.1717, Compliance with Technical Standards.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; State, local or Tribal Government.

Number of Respondents: 8,250.

Estimated Time per Response: 0.5–70 hours.

Frequency of Response: Recordkeeping requirement, Semi-annual and Triennial reporting requirements; Third party disclosure requirement.

Total Annual Burden: 276,125 hours.

Total Annual Costs: None.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Sections 4(i) and 624(e) of the Communications Act of 1934, as amended.

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

Privacy Impact Assessment: No impact(s).

Needs and Uses: 47 CFR 76.601(b) requires the operator of each cable television system shall conduct complete performance tests of that system at least twice each calendar year (at intervals not to exceed seven months), unless otherwise noted below. The performance tests shall be directed at determining the extent to which the

system complies with all the technical standards set forth in § 76.605(a) and shall be as follows:

(1) For cable television systems with 1000 or more subscribers but with 12,500 or fewer subscribers, proof-of-performance tests conducted pursuant to this section shall include measurements taken at six (6) widely separated points. However, within each cable system, one additional test point shall be added for every additional 12,500 subscribers or fraction thereof (e.g., 7 test points if 12,501 to 25,000 subscribers; 8 test points if 25,001 to 37,500 subscribers, etc.). In addition, for technically integrated portions of cable systems that are not mechanically continuous (i.e., employing microwave connections), at least one test point will be required for each portion of the cable system served by a technically integrated microwave hub. The proof-of-performance test points chosen shall be balanced to represent all geographic areas served by the cable system. At least one-third of the test points shall be representative of subscriber terminals most distant from the system input and from each microwave receiver (if microwave transmissions are employed), in terms of cable length. The measurements may be taken at convenient monitoring points in the cable network: Provided, that data shall be included to relate the measured performance of the system as would be viewed from a nearby subscriber terminal. An identification of the instruments, including the makes, model numbers, and the most recent date of calibration, a description of the procedures utilized, and a statement of the qualifications of the person performing the tests shall also be included.

(2) Proof-of-performance tests to determine the extent to which a cable television system complies with the standards set forth in § 76.605(a)(3), (4), and (5) shall be made on each of the NTSC or similar video channels of that system. Unless otherwise as noted, proof-of-performance tests for all other standards in § 76.605(a) shall be made on a minimum of four (4) channels plus one additional channel for every 100 MHz, or fraction thereof, of cable distribution system upper frequency limit (e.g., 5 channels for cable television systems with a cable distribution system upper frequency limit of 101 to 216 MHz; 6 channels for cable television systems with a cable distribution system upper frequency limit of 217–300 MHz; 7 channels for cable television systems with a cable distribution upper frequency limit to 300 to 400 MHz, etc.). The channels selected for testing must be representative of all the channels within the cable television system.

(3) The operator of each cable television system shall conduct semi-annual proof-of-performance tests of that system, to determine the extent to which the system complies with the technical standards set forth in § 76.605(a)(4) as follows. The visual signal level on each channel shall be measured and recorded, along with the date and time of the measurement, once every six hours (at intervals of not less than five hours or no more than seven hours after the previous measurement), to include the warmest and the coldest times, during a 24-hour period in January or February and in July or August.

(4) The operator of each cable television system shall conduct triennial proof-of-performance tests of its system to determine the extent to which the system complies with the technical standards set forth in § 76.605(a)(11).

Note 1 to 47 CFR 76.601 states prior to additional testing pursuant to Section 76.601(c), the local franchising authority shall notify the cable operator, who will then be allowed thirty days to come into compliance with any perceived signal quality problems which need to be corrected.

47 CFR 76.1704 requires that proof of performance test required by 47 CFR 76.601 shall be maintained on file at the operator's local business office for at least five years. The test data shall be made available for inspection by the Commission or the local franchiser, upon request. If a signal leakage log is being used to meet proof of performance test recordkeeping requirement in accordance with Section 76.601, such a log must be retained for the period specified in 47 CFR 76.601(d).

47 CFR 76.1705 requires that the operator of each cable television system shall maintain at its local office a current listing of the cable television channels which that system delivers to its subscribers.

47 CFR 76.1717 states that an operator shall be prepared to show, on request by an authorized representative of the Commission or the local franchising authority, that the system does, in fact, comply with the technical standards rules in part 76, subpart K.

OMB Control Number: 3060–0433.

Title: Basic Signal Leakage Performance Report.

Form Number: FCC Form 320.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 5,920 respondents and 5,920 responses.

Frequency of Response: Recordkeeping requirement, Annual reporting requirement.

Estimated Time per Hours: 20 hours.

Total Annual Burden: 118,400 hours.

Total Annual Cost: None.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Sections 4(i), 302 and 303 of the Communications Act of 1934, as amended.

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

Privacy Impact Assessment(s): No impact(s).

Needs and Uses: Cable television system operators and Multichannel Video Programming Distributors (MPVDs) who use frequencies in the bands 108–137 and 225–400 MHz (aeronautical frequencies) are required to file a Cumulative Signal Leakage Index (CLI) derived under 47 CFR 76.611(a)(1) or the results of airspace measurements derived under 47 CFR 76.611(a)(2). This filing must include a description of the method by which compliance with basic signal leakage criteria is achieved and the method of calibrating the measurement equipment. This yearly filing of FCC Form 320 is done in accordance with 47 CFR 76.1803. The records must be retained by cable operators.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2013–30650 Filed 12–23–13; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collections 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 January 23, 2014. 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 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.: 3060–0800.

Title: FCC Application for Assignments of Authorization and Transfers of Control: Wireless Telecommunications Bureau and/or Public Safety and Homeland Security Bureau.

Form No.: FCC Form 603.

Type of Review: Revision to a currently approved collection.

Respondents: Individuals or households; business or other for-profit entities; not-for-profit institutions; State, local or Tribal Government.

Number of Respondents and Responses: 2,447 respondents; 2,447 responses.

Estimated Time per Response: 0.5–1.75 hours.

Frequency of Response: Recordkeeping requirement; occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in 47 U.S.C. 4(i), 154(i), 303(r) and 309(j).

Total Annual Burden: 2,754 hours.

Total Annual Cost: $366,975.

Nature and Extent of Confidentiality: In general there is no need for confidentiality. On a case by case basis, the Commission may be required to withhold from disclosure certain information about the location, character, or ownership of a historic property, including traditional religious sites.

Privacy Act Impact Assessment: Yes.

Needs and Uses: FCC Form 603 is a multi-purpose form used to apply for approval of assignment or transfer of control of licenses in the wireless services. The data collected on this form is used by the FCC to determine whether the public interest would be served by approval of the requested assignment or transfer. This form is also used to notify the Commission of consummated assignments and transfers of wireless and/or public safety licenses that have previously been consented to by the Commission or for which notification but not prior consent is required. This form is used by applicants/licensees in the Public Mobile Services, Personal Communications Services, General Wireless Communications Services, Private Land Mobile Radio Services, Broadcast Auxiliary Services, Broadband Radio Services, Educational Radio Services, Fixed Microwave Services, Maritime Services (excluding ships), and Aviation Services (excluding aircraft).

The purpose of this form is to obtain information sufficient to identify the parties to the proposed assignment or transfer, establish the parties basic eligibility and qualifications, classify the filing, and determine the nature of the proposed service. Various technical schedules are required along with the main form applicable to Auctioned Services, Partitioning and Disaggregation, Undefined Geographical Area Partitioning, Notification of Consummation or Request for Extension of Time for Consummation.

The form 603 is being revised to add a National Security Certification that is applicable to applicants for licenses issued as a result of the Middle Class Tax Relief and Job Creation Act of 2012 (2012 Spectrum Act). Section 6004 of the 2012 Spectrum Act, 47 U.S.C. 1404, prohibits a person who has been, for reasons of national security, barred by any agency of the Federal Government from bidding on a contract, participating in an auction, or receiving a grant from participating in any auction that is required or authorized to be conducted pursuant to the 2012 Spectrum Act.

On June 27, 2013, the Commission released a Report and Order (R&O), FCC 13–88, WT Docket No. 12–357, in which it established service rules and competitive bidding procedures for the 1915–1920 MHz and 1995–2000 MHz bands. See Service Rules for the Advanced Wireless Services H Block-Implementing Section 6401 of the Middle Class Tax Relief and Job Creation Act of 2012 Related to the 1915–1920 MHz and 1995–2000 MHz Bands, Report and Order, FCC 13–88, 28 FCC Rcd 9483 (2013). The R&O also implemented Section 6004 by requiring that a party seeking to participate in any auction conducted pursuant to the 2012 Spectrum Act certify in its application, under penalty of perjury, the applicant and all of the related individuals and entities required to be disclosed on its application are not person(s) who have been, for reasons of national security, barred by any agency of the Federal Government from bidding on a contract, participating in an auction, or receiving a grant and thus statutorily prohibited from participating in such a Commission auction or being issued a license. In addition, the R&O determined that the National Security Certification required by Section 6004 extends to transfers, assignments, and other secondary market mechanisms involving licenses granted pursuant to the 2012 Spectrum Act. See H Block R&O, 28 FCC Rcd at 9555 ¶ 187. The Commission therefore seeks approval for a revision to its currently approved information collection on FCC Form 603 to include this additional certification. The revised collection will enable the Commission to determine whether an

applicant's request for a license pursuant to the 2012 Spectrum Act is consistent with Section 6004.

Additionally, the form 603 is being revised to update the Alien Ownership certifications pursuant to the Second Report and Order, FCC 13–50, IB Docket 11–133, Review of Foreign Ownership Policies for Common Carrier and Aeronautical Radio Licensees under Section 310(b)(4) of the Communications Act of 1934, as Amended.

The addition of the National Security Certification and the revision to the Alien Ownership certification result in no change in burden for the revised collection. The Commission estimates that the additional certification will not measurably increase the estimated average amount of time for respondents to complete FCC Form 603 across the range of applicants or for Commission staff to review the applications.

OMB Control No.: 3060–1058.

Title: FCC Application or Notification for Spectrum Leasing Arrangement: Wireless Telecommunications Bureau and/or Public Safety and Homeland Security Bureau.

Form No.: FCC Form 608.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; not-for-profit institutions; State, Local or Tribal Government.

Number of Respondents and Responses: 991 respondents; 991 responses.

Estimated Time per Response: 1 hour.

Frequency of Response: Recordkeeping requirement and on occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in 47 U.S.C. 151, 154(i), 154(j), 155, 158, 161, 301, 303(r), 308, 309, 310 and 503.

Total Annual Burden: 991 hours.

Annual Cost Burden: $1,282,075.

Nature and Extent of Confidentiality: In general there is no need for confidentiality. On a case by case basis, the Commission may be required to withhold from disclosure certain information about the location, character, or ownership of a historic property, including traditional religious sites.

Privacy Act Impact Assessment: Not applicable.

Needs and Uses: FCC Form 608 is a multipurpose form. It is used to provide notification or request approval for any spectrum leasing arrangement ('Leases') entered into between an existing licensee ('Licensee') in certain wireless services and a spectrum lessee ('Lessee'). This form also is required to notify or request approval for any spectrum subleasing arrangement ('Sublease'). The data collected on the form is used by the FCC to determine whether the public interest would be served by the Lease or Sublease. The form is also used to provide notification for any Private Commons Arrangement entered into between a Licensee, Lessee, or Sublessee and a class of third-party users (as defined in Section 1.9080 of the Commission's Rules).

The form 608 is being revised to add a National Security Certification that is applicable to applicants for licenses issued as a result of the Middle Class Tax Relief and Job Creation Act of 2012 (2012 Spectrum Act). Section 6004 of the 2012 Spectrum Act, 47 U.S.C. 1404, prohibits a person who has been, for reasons of national security, barred by any agency of the Federal Government from bidding on a contract, participating in an auction, or receiving a grant from participating in any auction that is required or authorized to be conducted pursuant to the 2012 Spectrum Act.

On June 27, 2013, the Commission released a Report and Order (R&O), FCC 13–88, WT Docket No. 12–357, in which it established service rules and competitive bidding procedures for the 1915–1920 MHz and 1995–2000 MHz bands. See Service Rules for the Advanced Wireless Services H Block-Implementing Section 6401 of the Middle Class Tax Relief and Job Creation Act of 2012 Related to the 1915–1920 MHz and 1995–2000 MHz Bands, Report and Order, FCC 13–88, 28 FCC Rcd 9483 (2013). The R&O also implemented Section 6004 by requiring that a party seeking to participate in any auction conducted pursuant to the 2012 Spectrum Act certify in its application, under penalty of perjury, the applicant and all of the related individuals and entities required to be disclosed on its application are not person(s) who have been, for reasons of national security, barred by any agency of the Federal Government from bidding on a contract, participating in an auction, or receiving a grant and thus statutorily prohibited from participating in such a Commission auction or being issued a license. In addition, the R&O determined that the National Security Certification required by Section 6004 extends to transfers, assignments, and other secondary market mechanisms involving licenses granted pursuant to the 2012 Spectrum Act. See H Block R&O, 28 FCC Rcd at 9555 ¶ 187. The Commission therefore seeks approval for a revision to its currently approved information collection on FCC Form 608 to include this additional certification. The revised collection will enable the Commission to determine whether an applicant's request for a license pursuant to the 2012 Spectrum Act is consistent with Section 6004.

Additionally, the form 608 is being revised to update the Alien Ownership certifications pursuant to the Second Report and Order, FCC 13–50, IB Docket 11–133, Review of Foreign Ownership Policies for Common Carrier and Aeronautical Radio Licensees under Section 310(b)(4) of the Communications Act of 1934, as Amended.

The addition of the National Security Certification and the revision to the Alien Ownership certification result in no change in burden for the revised collection. The Commission estimates that the additional certification will not measurably increase the estimated average amount of time for respondents to complete FCC Form 608 across the range of applicants or for Commission staff to review the applications.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2013–30651 Filed 12–23–13; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burden and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501—3520), the Federal Communications Commission invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s). Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden 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 burden for small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid OMB control number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before February 24, 2014. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Submit your PRA comments to Benish Shah, Federal Communications Commission, via the Internet at *Benish.Shah@fcc.gov.* To submit your PRA comments by email send them to: *PRA@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Benish Shah, Office of Managing Director, (202) 418–7866.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0713.

Title: Alternative Broadcast Inspection Program (ABIP) Compliance Notification.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for-profit, Not-for-profit institutions.

Number of Respondents and Responses: 53 respondents; 2,650 responses.

Estimated Time Per Response: 5 minutes (0.084 hours).

Frequency of Response: On occasion reporting requirement; third party disclosure.

Obligation to Respond: Voluntary. Statutory authority for this collection of information is contained in 47 U.S.C. 303(n) and 47 CFR 73.1225.

Total Annual Burden: 223 hours.

Total Annual Cost: N/A.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: The Commission is not requesting that respondents submit confidential information to the Commission. If the Commission requests that respondents submit information which respondents believe is confidential, respondents may request confidential treatment of such information pursuant to section 0.459 of the Commission's rules, 47 CFR 0.459.

Needs and Uses: The Alternative Broadcast Inspection Program (ABIP) is a series of agreements between the Federal Communications Commission's (FCC) Enforcement Bureau and a private entity, usually a state broadcast association, whereby the private entity agrees to facilitate inspections (and re-inspections, where appropriate) of participating broadcast stations to determine station compliance with FCC regulations. Broadcast stations participate in ABIP on a voluntary basis. The private entities notify their local FCC District Office or Resident Agent Office in writing of those stations that pass the ABIP inspection and have been issued a Certificate of Compliance by the ABIP inspector. The FCC uses this information to determine which broadcast stations have been certified in compliance with FCC Rules and will not be subject to certain random FCC inspections.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2013–30652 Filed 12–23–13; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request Re: Information Collection for Qualitative Research

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. chapter 35), the FDIC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. As part of its continuing effort to reduce paperwork and respondent burden, the FDIC invites the general public and other Federal agencies to take this opportunity to comment on its submission to OMB of a request for approval of a proposed new generic collection of information from persons who may participate in interviews, financial service focus groups, and cognitive testing sessions. On June 19, 2013 (78 FR 36779), the FDIC requested comment for 60 days on a proposed new information collection entitled *Information Collection for Qualitative Research.* No comments were received on the proposal. The FDIC hereby gives notice of submission of its request to OMB to establish the collection.

DATES: Comments must be submitted on or before January 23, 2014.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- *http://www.FDIC.gov/regulations/laws/federal/notices.html*
- *Email: comments@fdic.gov* Include the name of the collection in the subject line of the message.
- *Mail:* Leneta G. Gregorie (202–898–3719), Counsel, Room NY–5050, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.

All comments should reference ''Information Collection for Qualitative Research.'' A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Leneta Gregorie, at the FDIC address above.

SUPPLEMENTARY INFORMATION:

Proposal for the following new generic collection of information:

Title: Information Collection for Qualitative Research

OMB Number: 3064–NEW.

Affected Public: Consumers and financial services providers.

Estimated Annual Number of Respondents: 760.

Estimated Average Time per Response: 2.94 hours (varying from 1 to 3.5 hours, including, where applicable, travel time and intake form).

Total Estimated Annual Burden: 2,235 hours.

General Description of Collection: The FDIC plans to collect information from consumers and financial services providers through qualitative research methods such as focus groups, in-depth interviews, and/or qualitative virtual methods. The information collected will be used to deepen the FDIC's understanding of the knowledge, experiences, behaviors, capabilities, and preferences of consumers of financial services. These qualitative research methods will also contribute to the FDIC's understanding of how consumers, including those who are financially underserved, use a range of

different types of bank and non-bank financial services. Interviews of financial services providers are intended to provide greater insight into the providers' perceptions of the opportunities and challenges of providing an array of financial services and products. These qualitative methods will also provide an opportunity to test and improve other survey efforts conducted by the FDIC. For instance, it could help identify specific financial services and terminology used by consumers and financial industry professionals to improve FDIC's economic inclusion survey instruments (OMB Control Nos. 3064–0158 and 3064–0167). The FDIC does not intend to use qualitative research to measure or quantify results.

Participation in this information collection will be voluntary and conducted in-person, by phone, or using other methods, such as virtual technology. The FDIC plans to retain an experienced contractor(s) to recommend the most appropriate collection method based on the objectives of each qualitative research effort. It is likely that each qualitative research effort will include a short intake form (1 or 2 pages long). The FDIC will consult with OMB regarding each specific information collection during the approval period. This voluntary collection of information will put a slight burden on a very small percentage of the public. The FDIC estimates that, over the three year clearance period of this request, it may conduct annually up to 50 focus groups, 110 one-on-one in-person or phone interviews, four cognitive testing sessions, and one virtual survey for a variety of projects associated with financial services.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Dated at Washington, DC, this 19th day of December, 2013.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2013–30617 Filed 12–23–13; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act (PRA), pursuant to 5 CFR 1320.16, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR part 1320 Appendix A.1. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before February 24, 2014.

ADDRESSES: You may submit comments, identified by *FR 1378 or FR 3073,* by any of the following methods:

- *Agency Web site: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: regs.comments@federalreserve.gov.* Include OMB number in the subject line of the message.
- *Fax:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Robert deV. Frierson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room MP–500 of the Board's Martin Building (20th and C Streets NW.) between 9:00 a.m. and 5:00 p.m. on weekdays.

Additionally, commenters may send a copy of their comments to the OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235 725 17th Street NW., Washington, DC 20503 or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of the PRA OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, once approved. These documents will also be made available on the Federal Reserve Board's public Web site at: *http://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Cynthia Ayouch—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

Request for Comment on Information Collection Proposals

The following information collections, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collections, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

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

Proposal To Approve Under OMB Delegated Authority the Implementation of the Following Information Collections

1. *Report title:* Surveys of Consumer and Community Affairs Publications and Resources.

Agency form number: FR 1378.

OMB control number: 7,100—to be assigned.

Frequency: On occasion.

Reporters: Individuals, households, nonprofits, community development organizations, consumer groups, financial institutions and other financial companies offering consumer financial products and services, other for profit companies, state or local agencies, and researchers from academic, government, policy and other institutions.

Estimated annual reporting hours: 2,300 hours.

Estimated average hours per response:

Consumer surveys: quantitative surveys, 0.25 hours; qualitative surveys, 1.5 hours.

Stakeholder surveys: quantitative surveys, 0.25 hours; qualitative surveys, 1.5 hours.

Number of respondents:

Consumer surveys: quantitative surveys, 1,000; qualitative surveys, 50.

Stakeholder surveys: quantitative surveys, 800; qualitative surveys, 50.

General description of report: This information collection is generally authorized under sections 2A and 12A of the Federal Reserve Act. Section 2A requires that the Board of Governors of the Federal Reserve System and the Federal Open Market Committee (FOMC) maintain long run growth of the monetary and credit aggregates commensurate with the economy's long run potential to increase production, so as to promote effectively the goals of maximum employment, stable prices, and moderate long-term interest rates. 12 U.S.C. 225a. In addition, under section 12A of the Federal Reserve Act, the FOMC is required to implement regulations relating to the open market operations conducted by Federal Reserve Banks with a view to accommodating commerce and business and with regard to the regulations' bearing upon the general credit situation of the country. 12 U.S.C. 263. The authority of the Federal Reserve to collect information to carry out the requirements of these provisions is implicit. Accordingly, the Federal Reserve is authorized to collect the information called for by the FR 1378 by sections 2A and 12A of the Federal Reserve Act.

In addition, the Board is responsible for implementing and drafting regulations and interpretations for various consumer protection laws. The information obtained from the FR 1378 may be used in support of the Board's development and implementation of regulatory provisions for these laws. Therefore, depending on the survey questions asked, the FR1378 may be authorized pursuant to the Board's authority under one or more of the following consumer protection statutes:

- Community Reinvestment Act, (12 U.S.C. 2905);
- Competitive Equality Banking Act, (12 U.S.C. 3806);
- Expedited Funds Availability Act, (12 U.S.C. 4008);
- Truth in Lending Act, (15 U.S.C. 1604); [1]
- Fair Credit Reporting Act, (15 U.S.C. 1681s(e)); [2]
- Equal Credit Opportunity Act, (15 U.S.C. 1691b); [3]
- Electronic Funds Transfer Act, (15 U.S.C. 1693b & 1693o–2); [4]
- Gramm-Leach-Bliley Act, (15 U.S.C. 6801(b)); [5] and
- Flood Disaster Protection Act of 1973, Section 102 (42 U.S.C. 4012a).

Participation in the FR 1378 is voluntary and the information collected on these surveys is not considered confidential. Access to contact information which is considered Personally Identifying Information (PII) is typically necessary to recruit respondents for the consumer and stakeholder surveys in this collection. Any PII used in recruiting respondents for these surveys would be handled in accordance with Board procedures.

Abstract: The Federal Reserve Board would use the FR 1378 surveys to seek input from users or potential users of its publications and resources to understand their interests and needs; to inform decisions concerning content, design, and dissemination strategies; to gauge public awareness of its publications and resources; and to assess the effectiveness of its communications with various respondents.

Qualitative surveys would include data gathering methods such as focus groups and individual interviews. Quantitative surveys would include surveys conducted online or via mobile device, by phone, or by mail, or a combination of these methods. The Federal Reserve may choose to contract with an outside vendor to conduct focus groups, interviews, or surveys, or may choose to collect the data directly. The Federal Reserve may also work with outside parties when appropriate to identify potential respondents (e.g. networks of community groups or researchers) and to collect data.

As the Federal Reserve's publications and resources continue to evolve, the Federal Reserve may seek input from users or potential users of our publications on questions such as:

- Was the content relevant and of value?
- Was the length and nature of the discussion appropriate and useful for this topic?
- How did the reader access the publication or other content—in hard copy distributed at an event, online, or using a mobile device? If online or through a mobile device, was the document printed for reading, read on a tablet or other e-reader, or read on a computer screen?
- Could the Federal Reserve improve the format and appearance of the print or electronic presentation? This could include the readability of type size or of charts and graphs; organization of information; and ease of locating information through indexing, search tools, and links.
- Was the reader able to use the information to inform their work?

The frequency of the surveys and content of the questions would vary as needs arise for feedback on different resources and from different audiences.

[1] Although the Dodd-Frank Act (DFA) cut back the Board's authority under the Truth in Lending Act, the Board retains rule writing authority for implementing regulations with respect to auto dealers. DFA § 1100A(7).

[2] Although the DFA cut back the Board's authority under the Fair Credit Reporting Act, the Board retains rule writing authority for red flags, address changes, and disposal of records. DFA §§ 1002(12)(F) and 1088(a)(2)(D).

[3] Although the DFA cut back the Board's authority under the Equal Credit Opportunity Act, the Board retains rule writing authority for implementing regulations with respect to auto dealers. DFA § 1085(3).

[4] Although the DFA cut back the Board's authority under the Electronic Fund Transfers Act, the Board retains rule writing authority for interchange fee regulations and authority to implement regulations with respect to auto dealers. DFA §§ 1075 & 1084.

[5] Although the DFA cut back the Board's authority under the Gramm-Leach-Bliley Act, the Board maintains the authority to establish appropriate standards for the financial institutions relating to administrative, technical and physical safeguards for certain customer records and information. DFA § 1002(12).

2. *Report title:* Consumer and Stakeholder Surveys.

Agency form number: FR 3073.

OMB control number: 7,100—to be assigned.

Frequency: Quarterly, annually, and on occasion.

Reporters: Individuals, households, community groups, community development organizations, non-profit service providers, faith-based service organizations, public sector agencies, small business owners, health care organizations, food banks, K–12 public and private schools, community colleges, community development financial institutions, credit unions, banks, and other financial institutions and companies offering financial products and services.

Estimated annual reporting hours: 10,700 hours.

Estimated average hours per response:

Consumer surveys: Quantitative surveys (medium), 0.25 hours; Quantitative surveys (large), .40 hours; Qualitative surveys, 1.5 hours.

Stakeholder surveys: Quantitative surveys, 0.25 hours; Qualitative surveys, 1.5 hours.

Number of respondents:

Consumer surveys: Quantitative surveys (medium), 2,500; Quantitative surveys (large), 5,000; Qualitative surveys, 50.

Stakeholder surveys: Quantitative surveys, 1,500; Qualitative surveys, 50.

General description of report: This information collection is generally authorized under sections 2A and 12A of the Federal Reserve Act. Section 2A requires that the Board of Governors of the Federal Reserve System and the FOMC maintain long run growth of the monetary and credit aggregates commensurate with the economy's long run potential to increase production, so as to promote effectively the goals of maximum employment, stable prices, and moderate long-term interest rates. 12 U.S.C. 225a. In addition, under section 12A of the Federal Reserve Act, the FOMC is required to implement regulations relating to the open market operations conducted by Federal Reserve Banks with a view to accommodating commerce and business and with regard to the regulations' bearing upon the general credit situation of the country. 12 U.S.C. 263. The authority of the Federal Reserve to collect information to carry out the requirements of these provisions is implicit. Accordingly, the Federal Reserve is authorized to collect the information called for by the FR 3073 by sections 2A and 12A of the Federal Reserve Act.

The Board is responsible for implementing and drafting regulations and interpretations for various consumer protection laws. The information obtained from the FR 3073 may be used in support of the Board's development and implementation of regulatory provisions for these laws. Therefore, depending on the survey questions asked, the FR 3073 may be authorized pursuant to the Board's authority under one or more of the following consumer protection statutes:

- Community Reinvestment Act, (12 U.S.C. 2905);
- Competitive Equality Banking Act, (12 U.S.C. 3806);
- Expedited Funds Availability Act, (12 U.S.C. 4008);
- Truth in Lending Act, (15 U.S.C. 1604); [6]
- Fair Credit Reporting Act, (15 U.S.C. 1681s(e)); [7]
- Equal Credit Opportunity Act, (15 U.S.C. 1691b); [8]
- Electronic Funds Transfer Act, (15 U.S.C. 1693b & 1693o–2); [9]
- Gramm-Leach-Bliley Act, (15 U.S.C. 6801(b)); [10] and
- Flood Disaster Protection Act of 1973, Section 102 (42 U.S.C. 4012a).

Additionally, depending upon the survey respondent, the information collection may be authorized under a more specific statute. Specifically, the Board is authorized to collect information from state member banks under section 9 of the Federal Reserve Act (12 U.S.C. 324); from bank holding companies (and their subsidiaries) under section 5(c) of the Bank Holding Company Act (12 U.S.C. 1844(c)); from Edge and agreement corporations under section 25 and 25A of the Federal Reserve Act (12 U.S.C. 602 and 625); and from U.S. branches and agencies of foreign banks under section 7(c)(2) of the International Banking Act of 1978 (12 U.S.C. 3105(c)(2)) and under section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)).

Participation in the FR 3073 is voluntary. The ability of the Federal Reserve to maintain the confidentiality of information provided by respondents to the FR 3073 surveys will have to be determined on a case by case basis depending on the type of information provided for a particular survey. Some of the information collected on the surveys may be protected from Freedom of Information Act (FOIA) disclosure by FOIA exemptions 4 and 6. Exemption 4 protects from disclosure trade secrets and commercial or financial information, while Exemption 6 protects information ''the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.'' *See* 5 U.S.C. 552(b)(4) and (6).

Access to contact information which is considered PII is typically necessary to recruit respondents for the consumer and stakeholder surveys in this collection. Any PII used in recruiting respondents for these surveys would be handled in accordance with Board procedures. Outside vendors who conduct consumer surveys under contract with the Board remove PII before providing survey data to the Board. Consumer survey data, whether collected by an outside vendor or by the Board, would be collected for research purposes only and any identifying information on respondents would be removed before any data is publicly released.

Abstract: The Federal Reserve would use the FR 3073 surveys to gather quantitative and qualitative information directly from individual consumers or households (consumer surveys) on consumer finance topics. This collection also would be used to gather quantitative and qualitative information on current and emerging community economic issues from stakeholders (stakeholder surveys). The Federal Reserve would use this collection to inform consumer-focused supervision, research, and policy analysis; implement statutory requirements; and facilitate community development. The surveys in this collection would inform the Federal Reserve's work by identifying emerging risks and providing additional data on the issues that affect the well-being of consumers and communities and the function of the market for financial services.

Topics explored in quantitative and qualitative consumer surveys are likely to vary over time, although some topics

[6] Although the Dodd-Frank Act (DFA) cut back the Board's authority under the Truth in Lending Act, the Board retains rule writing authority for implementing regulations with respect to auto dealers. DFA § 1100A(7).

[7] Although the DFA cut back the Board's authority under the Fair Credit Reporting Act, the Board retains rule writing authority for red flags, address changes, and disposal of records. DFA §§ 1002(12)(F) and 1088(a)(2)(D).

[8] Although the DFA cut back the Board's authority under the Equal Credit Opportunity Act, the Board retains rule writing authority for implementing regulations with respect to auto dealers. DFA § 1085(3).

[9] Although the DFA cut back the Board's authority under the Electronic Fund Transfers Act, the Board retains rule writing authority for interchange fee regulations and authority to implement regulations with respect to auto dealers. DFA §§ 1075 & 1084.

[10] Although the DFA cut back the Board's authority under the Gramm-Leach-Bliley Act, the Board maintains the authority to establish appropriate standards for the financial institutions relating to administrative, technical and physical safeguards for certain customer records and information. DFA § 1002(12).

may be repeated. Surveys may relate to various aspects of consumer financial knowledge, attitudes, and behavior, and may inform understanding of changes in the markets for consumer financial services, including changes stemming from regulatory or legislative developments as well as from changes in technology and business practices. Some surveys may be needed to address issues of immediate concern, and such issues may not be anticipated in advance. Examples of topics for consumer surveys may include:

- Use of financial products and services;
- Use of technology and various service delivery channels;
- Ability to notice, comprehend, and use disclosures,
- Ability to comprehend terms of credit or account agreements;
- Preferences about the delivery of information (content, format, timing, and method);
- Comprehension of particular deliveries of information (electronic and paper media);
- Abilities to use a particular method of delivery, such as web-based disclosures;
- Sources and incidence of financial stress, and resources for coping with adverse shocks;
- Behaviors related to searching, shopping, and negotiating for credit or asset purchases;
- Financial planning, borrowing, investment, and insurance decisions;
- Financial knowledge, attitudes, and advice-seeking behaviors; and
- Human capital investment decisions and labor market outcomes.

For the quantitative consumer surveys, the Federal Reserve would typically contract with an outside vendor to collect the data.

For surveys administered via an outside vendor, the Federal Reserve would design the survey and draft the survey questions in consultation with the vendor. The questions asked on any given survey would be specific to the particular topic of interest. Some questions may be repeated in subsequent surveys, but others may be asked on a single survey. The firm would be responsible for testing the survey procedures, following the sampling protocol and conducting the survey as specified by the Federal Reserve, preparing data files containing the responses, computing analysis weights, and documenting all survey procedures. Data editing and analysis of the results may be conducted either solely by the Federal Reserve and any research partner or jointly with the firm depending on the needs of the project.

The number of respondents to any given survey would vary depending on the purpose of the survey and the sample size needed to obtain statistically valid results. The Federal Reserve anticipates fielding up to two large surveys each year and four medium (in sample size and survey time length) surveys focused on particular topics for which data needs have arisen.

Qualitative surveys with consumers such as focus groups and interviews may be conducted on a variety of topics, either as a standalone study or as a complement to a quantitative study as a part of a larger project. Formal or informal qualitative surveys may be conducted by the Federal Reserve and any outside partners collaborating with the Federal Reserve. They also may be conducted through a private contractor, which would be chosen in a competitive bidding process or other acceptable negotiated process. The research instruments may be developed by the Federal Reserve and any research partner or jointly with the contractor working on behalf of the Board. As necessary, the contractor may be responsible for testing the study procedures, following the sampling protocol established by the Federal Reserve, conducting the study as specified by the Federal Reserve, collecting and coding responses, and documenting all procedures. Data editing and analysis of the results may be conducted either by the Federal Reserve and any research partner, by the contractor, or some combination of these depending on the project.

The number of respondents to any given qualitative survey would also vary depending on the purpose of the survey and the number of respondents needed to provide a range of viewpoints. FR 3073 would enable the Federal Reserve to conduct up eight qualitative surveys each year with about 50 respondents per survey. For example, a qualitative survey could include several focus groups on a particular topic for which data needs have arisen.

The stakeholder surveys would be used to gather quantitative and qualitative information directly from stakeholders (stakeholder surveys). Stakeholders may include, for example, such organizations as community groups, community development organizations, non-profit service providers, faith-based service organizations, public sector agencies, small business owners, health care organizations, food banks, K–12 public and private schools, community colleges community development financial institutions, credit unions, banks, and other financial institutions and companies offering financial products and services. Before initiating a new survey, the Federal Reserve would determine if the information to be collected is available by other means or sources within the Federal Reserve System to avoid imposing additional burden on stakeholders.

Quantitative surveys would initially be collected in partnership with an intermediary working with community-based nonprofits to gather responses from their affiliates and grantees on a voluntary basis. Quarterly invitations to complete the survey would be emailed to stakeholders. The surveys would be administered through a web-based platform and capture trends (information over time) as well as geographical dispersion (representative coverage of all 12 Reserve Bank districts). The Federal Reserve would continue to explore other avenues for collecting data from community stakeholders, including building a national stakeholder sampling frame.

The survey questions would include current and emerging community economic issues including job availability, access to affordable rental housing, access to credit, and non-profit organizational capacity to meet community demands for services. Some topics would be covered each quarter, while others may be included less frequently. The Federal Reserve anticipates fielding up to eight quantitative stakeholder surveys each year, although surveys may not be conducted that frequently.

As with the consumer surveys described above, formal or informal qualitative surveys with stakeholders would be conducted by the Federal Reserve and any outside partners collaborating with the Board. Such surveys may also be conducted through a private contractor. Topics for qualitative surveys may vary and may include new issues of concern for stakeholders or communities, or exploring an ongoing area of focus in more depth. Such methods could also be used for testing and developing the wording of survey questions, and complementing a quantitative survey in a mixed method research design.

The number of respondents to any given qualitative stakeholder survey would vary depending on the purpose of the survey and the number of respondents needed to provide a range of viewpoints. FR 3073 would enable the Federal Reserve to conduct up to eight qualitative surveys each year with about 50 respondents per survey. For example, a qualitative survey could include several focus groups with different types of stakeholders or

stakeholders from different areas of the country.

The frequency and content of the questions may change depending on economic conditions, regulatory, or legislative developments, as well as changes in technology, business practices, and other factors affecting consumers, stakeholders, and communities.

Board of Governors of the Federal Reserve System, December 19, 2013.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2013–30641 Filed 12–23–13; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than January 9, 2014.

A. Federal Reserve Bank of Minneapolis (Jacqueline G. King, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Dawn Crane, Fosston, Minnesota, individually and as trustee; Lorri Skeie-Campbell, Rio Rancho, New Mexico, individually and as trustee; Dawn M. Skeie Crane Irrevocable Trust; Dawn Crane, as co-trustee; Lorri J. Skeie-Campbell Irrevocable Trust, Winger, and Lorri Skeie-Campbell, as co-trustee,* all of Winger, Minnesota; to retain and acquire additional voting shares of Financial Services of Winger, Inc., and thereby indirectly retain and acquire additional voting shares of Ultima Bank Minnesota, both in Winger, Minnesota.

Board of Governors of the Federal Reserve System, December 19, 2013.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2013–30616 Filed 12–23–13; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 20, 2014.

A. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street, NE., Atlanta, Georgia 30309:

1. *Independent Bancshares, Inc. Employee Stock Ownership Plan,* Red Bay, Alabama; to acquire at least 48 percent of the voting shares of Independent Bancshares, Inc., and thereby indirectly acquire voting shares of Community Spirit Bank, both in Red Bay, Alabama.

Board of Governors of the Federal Reserve System, December 19, 2013.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2013–30614 Filed 12–23–13; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in or To Acquire Companies Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage *de novo,* or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 9, 2014.

A. Federal Reserve Bank of Minneapolis (Jacqueline G. King, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Duke Financial Group, Inc.,* Minneapolis, Minnesota; to engage *de novo* in extending credit and servicing loans, pursuant to section 225.28(b)(1).

Board of Governors of the Federal Reserve System, December 19, 2013.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2013–30615 Filed 12–23–13; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Extension

AGENCY: Federal Trade Commission (''FTC'' or ''Commission'').

ACTION: Notice.

SUMMARY: The FTC intends to ask the Office of Management and Budget (''OMB'') to extend through February 28, 2017, the current Paperwork Reduction Act (''PRA'') clearance for the FTC's

enforcement of the information collection requirements in its regulation ''Used Motor Vehicle Trade Regulation Rule'' (''Used Car Rule'' or ''Rule''), which applies to used vehicle dealers. That clearance expires on February 28, 2014.

DATES: Comments must be filed by January 23, 2014.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ''Used Car Rule, PRA Comment, P137606'' on your comment and file your comment online at *https://ftcpublic.commentworks.com/ftc/usedcarrulepra2* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex J), 600 Pennsylvania Avenue NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: John C. Hallerud, Attorney, Midwest Region, Federal Trade Commission, 55 West Monroe, Suite 1825, Chicago, IL 60603, 312–960–5634.

SUPPLEMENTARY INFORMATION: On September 25, 2013, the FTC sought public comment on the information collection requirements associated with the Used Car Rule (September 25, 2013 Notice [1]). No comments were received. Pursuant to the OMB regulations, 5 CFR Part 1320, that implement the PRA, 44 U.S.C. 3501 et seq., the FTC is providing this second opportunity for public comment while seeking OMB approval to renew the pre-existing clearance for the Rule. All comments should be filed as prescribed herein, and must be received on or before January 23, 2014.

Comments on the information collection requirements subject to review under the PRA should additionally be submitted to OMB. If sent by U.S. mail, they should be addressed to Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Federal Trade Commission, New Executive Office Building, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503. Comments sent to OMB by U.S. postal mail, however, are subject to delays due to heightened security precautions. Thus, comments instead should be sent by facsimile to (202) 395–5167.

[1] 78 FR 59032.

Burden Statement

As detailed in the September 25, 2013 Notice, the FTC estimates cumulative annual burden on affected entities to be 2,296,227 hours, $32,307,914 in labor costs, and $8,687,400 in non-labor costs.

Request for Comment

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before January 23, 2014. Write ''Used Car Rule, PRA Comment, P137606'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including to the extent practicable, on the public Commission Web site, at *http://www.ftc.gov/os/publiccomments.shtm*. As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any ''[t]rade secret or any commercial or financial information which is . . . privileged or confidential'' as provided in Section 6(f) of the FTC Act 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c).[2] Your comment will be kept confidential only if the FTC General Counsel grants your request in accordance with the law and the public interest.

[2] In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/usedcarrulepra2* by following the instructions on the web-based form. If this Notice appears at *http://www.regulations.gov/#!home*, you also may file a comment through that Web site.

If you file your comment on paper, write ''Used Car Rule, PRA Comment, P137606,'' on your comment and on the envelope, and mail or deliver it to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex J), 600 Pennsylvania Avenue NW., Washington, DC 20580. If possible, submit your paper comment to the Commission by courier or overnight service.

The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before January 23, 2014. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm*.

David C. Shonka,

Principal Deputy General Counsel.

[FR Doc. 2013–30636 Filed 12–23–13; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Designation of a Class of Employees for Addition to the Special Exposure Cohort

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention, Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: HHS gives notice of a decision to designate a class of employees from the Sandia National Laboratories-Livermore in Livermore, California, as an addition to the Special Exposure Cohort (SEC) under the Energy Employees Occupational Illness Compensation Program Act of 2000. On December 7, 2013, the Secretary of HHS designated the following class of employees as an addition to the SEC:

All employees of the Department of Energy, its predecessor agencies, and their contractors and subcontractors who worked in any area at the Sandia National Laboratories-Livermore in Livermore, California, from October 1, 1957, through December 31, 1994, for a number of work days aggregating at least 250 work days, occurring either solely under this employment or in combination with work days within the parameters established for one or more other classes of employees included in the Special Exposure Cohort.

This designation will become effective on January 6, 2014, unless Congress provides otherwise prior to the effective date. After this effective date, HHS will publish a notice in the **Federal Register** reporting the addition of this class to the SEC or the result of any provision by Congress regarding the decision by HHS to add the class to the SEC.

FOR FURTHER INFORMATION CONTACT: Stuart L. Hinnefeld, Director, Division of Compensation Analysis and Support, NIOSH, 4676 Columbia Parkway, MS C–46, Cincinnati, OH 45226, Telephone 1–877–222–7570. Information requests can also be submitted by email to *DCAS@CDC.GOV.*

John Howard,

Director, National Institute for Occupational Safety and Health.

[FR Doc. 2013–30581 Filed 12–23–13; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Designation of a Class of Employees for Addition to the Special Exposure Cohort

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention, Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: HHS gives notice of a decision to designate a class of employees from the Rocky Flats Plant in Golden, Colorado, as an addition to the Special Exposure Cohort (SEC) under the Energy Employees Occupational Illness Compensation Program Act of 2000. On December 7, 2013, the Secretary of HHS designated the following class of employees as an addition to the SEC:

All employees of the Department of Energy, its predecessor agencies, and their contractors and subcontractors who worked at the Rocky Flats Plant in Golden, Colorado, from April 1, 1952, through December 31, 1983, for a number of work days aggregating at least 250 work days, occurring either solely under this employment or in combination with work days within the parameters established for one or more other classes of employees included in the Special Exposure Cohort.

This designation will become effective on January 6, 2014, unless Congress provides otherwise prior to the effective date. After this effective date, HHS will publish a notice in the **Federal Register** reporting the addition of this class to the SEC or the result of any provision by Congress regarding the decision by HHS to add the class to the SEC.

FOR FURTHER INFORMATION CONTACT: Stuart L. Hinnefeld, Director, Division of Compensation Analysis and Support, NIOSH, 4676 Columbia Parkway, MS C–46, Cincinnati, OH 45226, Telephone 1–877–222–7570. Information requests can also be submitted by email to *DCAS@CDC.GOV.*

John Howard,

Director, National Institute for Occupational Safety and Health.

[FR Doc. 2013–30584 Filed 12–23–13; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–1496]

Agency Information Collection Activities; Proposed Collection; Comment Request; Food and Drug Administration Rapid Response Surveys (Generic Clearance)

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the use of rapid response surveys to obtain data on safety information to support quick turnaround decisionmaking about potential safety problems or risk management solutions from health care professionals, hospitals, and other user facilities (e.g., nursing homes, etc.); consumers; manufacturers of biologics, drugs, and medical devices; distributors; and importers, when FDA must quickly determine whether or not a problem with a biologic, drug, or medical device impacts the public health.

DATES: Submit either electronic or written comments on the collection of information by February 24, 2014.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov.* Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use

of automated collection techniques, when appropriate, and other forms of information technology.

FDA Rapid Response Surveys (Generic Clearance)—(OMB Control Number 0910–0500)—Extension

Section 505 of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 355), requires that important safety information relating to all human prescription drug products be made available to FDA so that it can take appropriate action to protect the public health when necessary. Section 702 of the FD&C Act (21 U.S.C. 372) authorizes investigational powers to FDA for enforcement of the FD&C Act. Under section 519 of the FD&C Act (21 U.S.C. 360i), FDA is authorized to require manufacturers to report medical device-related deaths, serious injuries, and malfunctions to FDA; to require user facilities to report device-related deaths directly to FDA and to manufacturers; and to report serious injuries to the manufacturer. Section 522 of the FD&C Act (21 U.S.C. 360*l*) authorizes FDA to require manufacturers to conduct postmarket surveillance of medical devices. Section 705(b) of the FD&C Act (21 U.S.C. 375(b)) authorizes FDA to collect and disseminate information regarding medical products or cosmetics in situations involving imminent danger to health or gross deception of the consumer. Section 903(d)(2) of the FD&C Act (21 U.S.C. 393(d)(2)) authorizes the Commissioner of Food and Drugs to implement general powers (including conducting research) to carry out effectively the mission of FDA. These sections of the FD&C Act enable FDA to enhance consumer protection from risks associated with medical products usage that are not foreseen or apparent during the premarket notification and review process. FDA's regulations governing application for Agency approval to market a new drug (21 CFR part 314) and regulations governing biological products (21 CFR part 600) implement these statutory provisions. Currently, FDA monitors medical product related postmarket adverse events via both the mandatory and voluntary MedWatch reporting systems using FDA Forms 3500 and 3500A (OMB control number 0910–0291) and the vaccine adverse event reporting system.

FDA is seeking OMB clearance to collect vital information via a series of rapid response surveys. Participation in these surveys will be voluntary. This request covers rapid response surveys for community based health care professionals, general type medical facilities, specialized medical facilities (those known for cardiac surgery, obstetrics/gynecology services, pediatric services, etc.), other health care professionals, patients, consumers, and risk managers working in medical facilities. FDA will use the information gathered from these surveys to quickly obtain vital information about medical product risks and interventions to reduce risks so the Agency may take appropriate public health or regulatory action including dissemination of this information as necessary and appropriate.

FDA projects six emergency risk related surveys per year with a sample of between 50 and 10,000 respondents per survey. FDA also projects a response time of 0.5 hours per response. These estimates are based on the maximum sample size per questionnaire that FDA may be able to obtain by working with health care professional organizations. The annual number of surveys was determined by the maximum number of surveys per year FDA has ever conducted under this collection.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
FDA Rapid Response Survey	10,000	6	60,000	0.5	30,000

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: December 18, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–30630 Filed 12–23–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0001]

Science Advisory Board to the National Center for Toxicological Research; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). At least one portion of the meeting will be closed to the public.

Name of Committee: Science Advisory Board (SAB) to the National Center for Toxicological Research (NCTR).

General Function of the Committee: To provide advice and recommendations to the Agency on FDA's regulatory issues.

Date and Time: The meeting will be held on January 29, 2014, from 8:45 a.m. to 5:30 p.m. and on January 30, 2014, from 8 a.m. to 2 p.m.

Location: NCTR SAB Conference Room B–12, 3900 NCTR Rd., Jefferson, AR 72079.

Contact Person: Margaret Miller, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, rm. 2208, Silver Spring, MD 20993–0002, 301–796–8890, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), to find out further information regarding FDA advisory committee information. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

Agenda: On January 29, 2014, the NCTR Director will welcome the participants and provide a Center-wide update on scientific initiatives and accomplishments during the past year. The SAB will be presented with an overview of the Division of Microbiology Subcommittee and the Subcommittee Site Visit Report. Following the public session, the SAB will hear an update from each of NCTR's research Division's the Office of

Science Coordination, followed by a report from the National Toxicology Program of the National Institutes of Environmental Health Sciences on current and future collaboration.

On January 30, 2014, the Arkansas Bioinformatics Consortium will present concepts and ideas on defining and meeting NCTR and FDA's scientific computing needs and discuss how it can partner with FDA to foster the development of collaborative efforts in this area. To facilitate the discussion representatives from each of the product centers will discuss their bioinformatic needs, how those needs are being addressed and areas of possible collaboration.

Following an open discussion of all the information presented, the open session of the meeting will close so that SAB members can discuss personnel issues at NCTR.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: On January 29, 2014, from 8:45 a.m. to 5 p.m., the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before January 21, 2014. Oral presentations from the public will be scheduled between approximately 12 p.m. to 2 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before January 13, 2014. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by January 14, 2014.

Closed Committee Deliberations: On January 30, 2014, from 11 a.m. to 2 p.m., the meeting will be closed to permit discussion where disclosure would constitute a clearly unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)). This portion of the meeting will be closed to permit discussion of information concerning individuals associated with the research programs at NCTR.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Margaret Miller at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: December 17, 2013.

Jill Hartzler Warner,

Acting Associate Commissioner for Special Medical Programs.

[FR Doc. 2013–30578 Filed 12–23–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0001]

Ophthalmic Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Ophthalmic Devices Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the Agency on FDA's regulatory issues.

Date and Time: The meeting will be held on February 14, 2014, from 8 a.m. to 6 p.m.

Location: Gaithersburg Marriott Washingtonian Center, Salons A, B, C and D, 9751 Washingtonian Blvd., Gaithersburg, MD 20878.

Contact Person: James Swink, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm.1609, Silver Spring, MD 20993, *James.Swink@fda.hhs.gov,* 301–796–6313, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

Agenda: On February 14, 2014, the committee will discuss, make recommendations, and vote on information regarding the premarket approval application for the Visian Toric Implantable Collamer Lens (TICL) sponsored by STAAR Surgical Company. ''Visian TICL proposed indications for use:

- For adults 21–45 years of age;
- For correction of myopic astigmatism in adults with spherical equivalent ranging from -3.0D to ≤ -15.0D with cylinder of 1.0D to 4.0D;
- For the reduction of myopic astigmatism in adults with spherical equivalent ranging from greater than -15.0D to -20.0D with cylinder 1.0D to 4.0D;
- With an anterior chamber depth (ACD) of 3.0 mm or greater, when measured from the corneal endothelium to the anterior surface of the crystalline lens and a stable refractive history (within 0.5 Diopter for 1 year prior to implantation); and
- The Visian TICL is intended for placement in the posterior chamber (ciliary sulcus) of the phakic eye.''

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will

be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before February 7, 2014. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. on February 14, 2014. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before January 30, 2014. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by February 3, 2014.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact AnnMarie Williams at *Annmarie.Williams@fda.hhs.gov* or 301–796–5966, at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app.2).

Dated: December 17, 2013.

Jill Hartzler Warner,

Acting Associate Commissioner for Special Medical Programs.

[FR Doc. 2013–30579 Filed 12–23–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0001]

Orthopaedic and Rehabilitation Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Orthopaedic and Rehabilitation Devices Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the Agency on FDA's regulatory issues.

Date and Time: The meeting will be held on February 21, 2014, from 8 a.m. to 3 p.m.

Location: Hilton Washington DC North/Gaithersburg, Salons A, B, C and D, 620 Perry Pkwy., Gaithersburg, MD 20877. The hotel's telephone number is 301–977–8900.

Contact Person: Sara Anderson, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, rm. 1643, Silver Spring, MD 20993–0002, *Sara.Anderson@fda.hhs.gov,* 301–796–7047, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

Agenda: On February 21, 2014, the committee will discuss and make recommendations regarding the 515(i) order issued by FDA on April 9, 2009 [Docket No. FDA–2009–M–0101], relating to the regulatory classification of iontophoresis devices, one of the remaining preamendments class III devices. Iontophoresis is a method of non-invasive transdermal delivery in which a substance bearing a charge is propelled through the skin by an electric current. Iontophoresis devices generally consist of a controller, active and return electrode(s), and power supply used to deliver currents to transport drugs, soluble salts, or ionic solutions across the skin.

The regulation for iontophoresis devices (21 CFR 890.5525) currently has two parts. Part (a) of the regulation classifies iontophoresis devices as class II when indicated to introduce drugs or soluble salts to induce sweating for use in the diagnosis of cystic fibrosis or for other uses if the drug intended for use with the device bears adequate directions for the device's use with that drug. Devices identified in part (a) of the regulation will not be considered in the scope of the committee meeting. Part (b) of the regulation classifies iontophoresis devices as class III when intended to use direct current to introduce soluble salts or other drugs into the body for purposes other than those specified in part (a). Devices identified in part (b) of the regulation are the subject of the committee meeting.

On August 28, 1979, FDA published a proposed rule (44 FR 50520) for classification of iontophoresis devices for specialized uses (for the diagnosis of cystic fibrosis, fluoride uptake acceleration in dentistry, and for local anesthesia of the intact tympanic membrane) into class II and for all other uses into class III. FDA recommended class III for iontophoresis devices when used for purposes other than those specifically considered because such use presents ''a potential unreasonable risk of injury without benefit to the patient because substantial data and clinical investigations do not exist to support the claims made for the devices.'' In addition, the Agency noted that insufficient information exists to determine that general controls would provide reasonable assurance of the safety and effectiveness of the device and that insufficient information exists to establish a performance standard to provide this assurance.

Subsequent to the proposed rule, FDA published a final rule (48 FR 53047) on November 23, 1983, classifying iontophoresis devices for use in the diagnosis of cystic fibrosis or other uses if the labeling of the drug intended for use with the device bears adequate directions for the device's use with that drug as class II (performance standards)

and iontophoresis devices intended for any other purposes as class III (premarket approval). The final rule was issued after consideration of three comments submitted in response to the 1979 proposed rule that disagreed with the proposal classifying into class III iontophoresis devices for uses other than diagnosing cystic fibrosis, application of fluoride in dentistry, or anesthetizing the tympanic membrane. Based on FDA's analysis of the available literature and input from the Physical Medicine; Ear, Nose and Throat; and Dental Device Classification Panels (see the preamble to the proposed rule 44 FR 50520), FDA disagreed with the comments and concluded that insufficient data exist to support uses of the device other than those specifically considered. In addition, the final rule removed the dental application of fluoride and local anesthesia of the intact tympanic membrane uses from the class II definition because it was determined that there were no marketed drugs with adequate instructions for use with an iontophoresis device for these uses. The effect of this change in the identification was to classify into class III iontophoresis devices for these two uses.

In 1987, FDA published a clarification by inserting language in the codified language stating that no effective date had been established for the requirement for premarket approval for iontophoresis devices intended for any other purposes (52 FR 17742, May 11, 1987).

On August 22, 2000, FDA published a proposed rule (65 FR 50949) to amend the iontophoresis device regulation to remove the class III (premarket approval) identification because FDA believed there were no preamendments iontophoresis devices marketed for uses other than those described in the class II identification. The proposed rule stated that manufacturers of iontophoresis devices that had been cleared as class III 510(k)s could revise the labeling of their devices to meet the class II identification.

On November 4, 2004, FDA withdrew the proposed rule issued on August 22, 2000 (65 FR 50949), in response to comments received (69 FR 64266). FDA simultaneously issued a Notice of Intent to reclassify iontophoresis devices currently in class III into class II (special controls) and provided an opportunity for interested persons to submit any new information concerning the safety and effectiveness of iontophoresis devices (69 FR 64313). FDA did not take further regulatory action regarding iontophoresis devices prior to issuing the 2009 515(i) order on April 9, 2009 [Docket No. FDA–2009–M–0101], relating to their regulatory classification.

The discussion at the committee meeting will involve making recommendations regarding regulatory classification to either reconfirm to class III (subject to PMA), or reclassify to class I or class II (subject to 510(k)). The committee will further be asked to comment on whether general and/or special controls are adequate to reasonably ensure the safety and effectiveness of the device and whether, if reclassified to Class II, these devices should be exempt from premarket notification requirements.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before January 31, 2014. Oral presentations from the public will be scheduled between approximately 10:45 a.m. and 11:45 a.m. on February 21, 2014. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before January 23, 2014. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by January 24, 2014.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact AnnMarie Williams at *Annmarie.Williams@fda.hhs.gov,* 301–796–5966, at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: December 17, 2013.

Jill Hartzler Warner,

Acting Associate Commissioner for Special Medical Programs.

[FR Doc. 2013–30580 Filed 12–23–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Administration for Children and Families

Agency Information Collection Activities: Proposed Collection: Public Comment Request

AGENCY: Health Resources and Services Administration, HHS. Administration for Children and Families, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement for opportunity for public comment on proposed data collection projects (Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995), the Health Resources and Services Administration (HRSA) and the Administration for Children and Families (ACF) announce plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA and ACF seek comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on this Information Collection Request must be received within 60 days of this notice.

ADDRESSES: Submit your comments to *paperwork@hrsa.gov* or mail the HRSA Information Collection Clearance Officer, Room 10–29, Parklawn

Building, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call the HRSA Information Collection Clearance Officer at (301) 443–1984.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the information request collection title for reference.

Information Collection Request Title: Maternal, Infant, and Early Childhood Home Visiting Program Information System

OMB No. 0915–0357—Revision

Abstract: On March 23, 2010, the President signed into law the Patient Protection and Affordable Care Act of 2010 (Pub. L. 111–148), historic and transformative legislation designed to make quality, affordable health care available to all Americans, reduce costs, improve health care quality, enhance disease prevention, and strengthen the health care workforce. Through a provision authorizing the creation of the Maternal, Infant, and Early Childhood Home Visiting (MIECHV) Program, the Act responds to the diverse needs of children and families in communities at risk and provides an unprecedented opportunity for collaboration and partnership at the federal, state, and community levels to improve health and development outcomes for at-risk children through voluntary evidence-based home visiting programs. The MIECHV Program is designed: (1) To strengthen and improve the programs and activities carried out under Title V of the Social Security Act; (2) to improve coordination of services for at-risk communities; and (3) to identify and provide comprehensive services to improve outcomes for families who reside in at-risk communities.

The program is jointly administered by HRSA and ACF and includes grants to states, jurisdictions, and eligible non-profits (State MIECHV program) and grants to Tribes (including consortia of tribes), Tribal Organizations, and Urban Indian Organizations (Tribal MIECHV program).

The Social Security Act, Title V, Section 511 (42 U.S.C. 711), as amended by the Patient Protection and Affordable Care Act of 2010, requires that State and Tribal MIECHV grantees collect data to measure improvements for eligible families in six specified areas (referred to as ''benchmark areas'') that encompass the major goals for the program: (1) Improved maternal and newborn health; (2) prevention of child injuries, child abuse, neglect, or maltreatment, and reduction of emergency room visits; (3) improvement in school readiness and achievement; (4) reduction in crime or domestic violence; 5) improvements in family economic self-sufficiency; and (6) improvements in the coordination and referrals for other community resources and supports.

The Supplemental Information Request for the Submission of the Updated State Plan for a State Home Visiting Program, published on February 8, 2011, further listed a variety of constructs under each benchmark area for which State MIECHV grantees were to select and submit relevant performance measures. Per Section 511(d)(1)(B)(i) of the legislation, no later than 30 days after the end of the third year of the program, grantees are required to demonstrate improvement in at least four of the six benchmark areas. Funding opportunity announcements, notices of award, and program guidance documents for competitive, formula, and non-profit grants also require annual reporting on the constructs under each benchmark area, as well as on demographic, service utilization, budgetary, and other administrative data related to program implementation.

Tribal MIECHV grantees must also report annually on demographic, service utilization, budgetary, and other administrative data related to program implementation. In addition, Tribal MIECHV grantees must propose a plan for meeting the benchmark requirements specified in the legislation and must report on improvement on constructs under each benchmark area at the end of Year 4 and Year 5 of their 5-year grants.

Need and Proposed Use of the Information: The data collected from the proposed Home Visiting (HV) forms will be used to track State and Tribal MIECHV grantees' progress in demonstrating improvement under each benchmark area and provide an overall picture of the population being served. The proposed data collection forms are as follows:

Home Visiting Form 1—Demographic and Service Utilization Data for Enrollees and Children—This form requests data to determine the unduplicated number of participants and of participant groups by primary insurance coverage. This form also requests data on the demographic characteristics of program participants such as race, ethnicity, and income. The form is used by both State and Tribal MIECHV grantees. As this form has current approval from OMB and is in use, no changes are proposed.

Home Visiting Form 2—State Grantee Performance Measures: Grantees have already selected relevant performance measures for the legislatively identified benchmark areas. This form provides a template for grantees to report aggregate data on their selected performance measures. This form is used by State MIECHV grantees only. As this form has current approval from OMB and is in use, no changes are proposed.

Home Visiting Form 3—Tribal Grantee Performance Measures: To show quantifiable, measurable improvement in benchmark areas, each Tribal MIECHV grantee must submit data demonstrating improvement on constructs in each of the six benchmark areas. The purpose of the proposed collection on Home Visiting Form 3 will be to track Tribal MIECHV grantees' progress in demonstrating improvement under each benchmark area. This form is used by Tribal MIECHV grantees only. As this form was not included in the previous submission to OMB, this form is new to the information system.

Likely Respondents: Home Visiting Form 1 is used by all MIECHV Program grantees. Home Visiting Form 2 is used by the states, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands, American Samoa, and non-profit organizations providing services within states through the State MIECHV Program. Home Visiting Form 3 will be used by Tribal MIECHV 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 Information Collection Request are summarized in the table below.

Total Estimated Annualized burden hours: (**Note:** We will need to confirm the total number of respondents (grantees) for this table.)

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
HV Form 1: Demographic and Service Utilization Data for Enrollees and Children.	81[1] (All MIECHV grantees *including* Tribal grantees).	1	81 (All MIECHV grantees *including* Tribal grantees).	731	59, 211
HV Form 2: Grantee Performance Measures.	56[2] (State MIECHV grantees)	1	56 (State MIECHV grantees)	313	17, 528
HV Form 3: Tribal-Grantee Performance Measures.	25[3] (Tribal MIECHV grantees).	1	25 (Tribal MIECHV grantees)	475	11,875
Total	81		81		88, 614

[1] In addition to 56 jurisdictions and non-profit organizations, it is estimated that 25 Tribal MIECHV program grantees will utilize Form 1 to report on demographic and service utilization data for all participant families.
[2] This number does not include Tribal MIECHV program grantees.
[3] This number reflects the number of Tribal MIECHV grantees.

HRSA and ACF specifically request comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Dated: December 17, 2013.

Bahar Niakan,

Director, Division of Policy and Information Coordination, Health Resources and Services Administration.

Linda K. Smith,

Deputy Assistant Secretary and Inter-Departmental Liaison for Early Childhood Development, Administration for Children and Families.

[FR Doc. 2013–30613 Filed 12–23–13; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Advisory Mental Health Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The 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 Advisory Mental Health Council.

Date: January 23, 2014.

Closed: 8:00 a.m. to 9:00 a.m.

Agenda: To review and evaluate the NIMH Division of Intramural Research Programs.

Place: National Institutes of Health (NIH), Neuroscience Center, 6001 Executive Boulevard, Conference Room C/D/E, Rockville, MD 20852.

Open: 9:30 a.m. to 2:30 p.m.

Agenda: Presentation of the NIMH Director's Report and discussion of NIMH program and policy issues.

Place: National Institutes of Health (NIH), Neuroscience Center, 6001 Executive Boulevard, Conference Room C/D/E, Rockville, MD 20852.

Closed: 3:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Conference Room C/D/E, Rockville, MD 20852.

Contact Person: Jane A. Steinberg, Ph.D., Director, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6154, MSC 9609, Bethesda, MD 20892–9609, 301–443–5047.

Any member of the public interested in presenting oral comments to the committee may notify the Contact Person listed on this notice at least 10 days in advance of the meeting. Interested individuals and representatives of organizations may submit a letter of intent, a brief description of the organization represented, and a short description of the oral presentation. Only one representative of an organization may be allowed to present oral comments and if accepted by the committee, presentations may be limited to five minutes. Both printed and electronic copies are requested for the record. In addition, any interested person may file written comments with the committee by forwarding their statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http://www.nimh.nih.gov/about/advisory-boards-and-groups/namhc/index.shtml*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS)

Dated: December 18, 2013.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–30599 Filed 12–23–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA

Reports Clearance Officer on (240) 276–1243.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: An Exploration of Peer Recovery Support Services Across State Behavioral Health Systems—NEW

The Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Behavioral Health Statistics and Quality (CBHSQ) is proposing a pilot study to obtain an overview of peer recovery services across state behavioral health systems. In an effort to support behavioral health systems' adoption and management of recovery oriented services, SAMHSA created the Bringing Recovery Supports to Scale Technical Assistance Center Strategy (BRSS TACS). BRSS TACS is a mechanism for implementing SAMHSA's Recovery Support Strategic Initiative. A goal of this initiative is to understand the finance and quality assurance issues that impact the development of peer recovery personnel in the workforce and the services they deliver. A grasp of these complex issues can enable BRSS TACS to advance its work of supporting states by creating policy guidance on best practices for effectively deploying peer recovery support services in integrated healthcare delivery systems as mandated by the Affordable Care Act.

The proposed pilot study will utilize a semi-structured interview questionnaire with state and organizational representatives from mental health and substance abuse agencies. Questions of interest include an (1) examination of how reimbursement of peer support services is linked to peer roles, delivery settings, and funding streams; (2) quality assurance issues such as credentialing and supervision of peer support personnel; (3) procedures for monitoring, evaluating, and sustaining peer support services; and (4) challenges of delivering peer recovery services in the era of Affordable Care Act.

The representatives (n=40) from state and organizational agencies of mental health and substance abuse will represent a state from the 10 public health regions. States are identified by SAMHSA subject matter experts and stakeholders who are familiar with the structure and function of peer recovery support services. The sampling recommended by SAMHSA experts and stakeholders is a selection of states that have a strong history of providing peer led services and have an active peer-based organization.

The total estimated respondent burden is 20 hours for the period from April 2014 through September 2014. Table 1 below indicates the annualized respondent burden estimate.

TABLE 1—ANNUALIZED RESPONDENT BURDEN HOURS, 2014

Form name	Number of respondents	Responses per respondent	Total responses	Hours per response	Total hour burden
Structured Interview Questionnaire	40	1	40	.50	20

Send comments to Summer King, SAMHSA Reports Clearance Officer, Room 2–1057, One Choke Cherry Road, Rockville, MD 20857 *OR* email her a copy at *summer.king@samhsa.hhs.gov.* Written comments should be received by February 24, 2014.

Summer King,

Statistician.

[FR Doc. 2013–30646 Filed 12–23–13; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2013–0896]

Information Collection Requests to Office of Management and Budget

AGENCY: Coast Guard, DHS.

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit Information Collection Requests (ICRs) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting approval of a revision to the following collection of information: 1625–0030, Oil and Hazardous Materials Transfer Procedures. Our ICRs describe the information we seek to collect from the public. Before submitting these ICRs to OIRA, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before February 24, 2014.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2013–0896] to the Docket Management Facility (DMF) at the U.S. Department of Transportation (DOT). To avoid duplicate submissions, please use only one of the following means:

(1) *Online: http://www.regulations.gov.*

(2) *Mail:* DMF (M–30), DOT, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

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

(4) *Fax:* 202–493–2251. To ensure your comments are received in a timely manner, mark the fax, to attention Desk Officer for the Coast Guard.

The DMF maintains the public docket for this Notice. Comments and material received from the public, as well as documents mentioned in this Notice as being available in the docket, will become part of the docket and will be available for inspection or copying at room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find the docket on the Internet at *http://www.regulations.gov.*

Copies of the ICRs are available through the docket on the Internet at *http://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–612), Attn Paperwork Reduction Act Manager, Us Coast Guard, 2703 Martin Luther King Jr. Ave. SE., Stop 7710, Washington DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: Contact Mr. Anthony Smith, Office of Information Management, telephone 202–475–3532, or fax 202–372–8405, for questions on these documents. Contact Ms. Barbara Hairston, Program Manager, Docket Operations, 202–366–9826, for questions on the docket.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collections. There is one ICR for each Collection.

The Coast Guard invites comments on whether these ICRs should be granted based on the Collections being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collections; (2) the accuracy of the estimated burden of the Collections; (3) ways to enhance the quality, utility, and clarity of information subject to the Collections; and (4) ways to minimize the burden of the Collections on respondents, including the use of automated collection techniques or other forms of information technology. In response to your comments, we may revise these ICRs or decide not to seek approval of revisions of the Collections. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, [USCG–2013–0896], and must be received by February 24, 2014. We will post all comments received, without change, to *http://www.regulations.gov.* They will include any personal information you provide. We have an agreement with DOT to use their DMF. Please see the ''Privacy Act'' paragraph below.

Submitting Comments

If you submit a comment, please include the docket number [USCG–2013–0896], indicate the specific section of the document to which each comment applies, providing a reason for each comment. You may submit your comments and material online (*via http://www.regulations.gov*), by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via *www.regulations.gov,* it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the DMF. We recommend you include your name, mailing address, an email address, or other contact information in the body of your document so that we can contact you if we have questions regarding your submission.

You may submit your comments and material by electronic means, mail, fax, or delivery to the DMF at the address under **ADDRESSES**; but please submit them by only one means. To submit your comment online, go to *http://www.regulations.gov,* and type ''USCG–2013–0896'' in the ''Keyword'' box. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and will address them accordingly.

Viewing comments and documents: To view comments, as well as documents mentioned in this Notice as being available in the docket, go to *http://www.regulations.gov,* click on the ''read comments'' box, which will then become highlighted in blue. In the ''Keyword'' box insert ''USCG–2013–0896'' and click ''Search.'' Click the ''Open Docket Folder'' in the ''Actions'' column. You may also visit the DMF in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act

Anyone can search the electronic form of comments received in dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act statement regarding Coast Guard public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Information Collection Request

1. *Title:* Oil and Hazardous Materials Transfer Procedures.

OMB Control Number: 1625–0030.

Summary: Vessels with a cargo capacity of 250 barrels or more of oil or hazardous materials must develop and maintain transfer procedures. Transfer procedures provide basic safety information for operating transfer systems with the goal of pollution prevention.

Need: Title 33 U.S.C. 1231 authorizes the Coast Guard to prescribe regulations related to the prevention of pollution. Title 33 CFR Part 155 prescribes pollution prevention regulations including those related to transfer procedures.

Forms: N/A.

Respondents: Operators of certain vessels.

Frequency: On occasion.

Burden Estimate: The estimated burden has decreased from 164 hours to 160 hours a year due to a decrease in the estimated annual number of responses.

Dated: December 17, 2013.

R. E. Day,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Command, Control, Communications, Computers and Information Technology.

[FR Doc. 2013–30684 Filed 12–23–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2013–0949]

Information Collection Requests to Office of Management and Budget

AGENCY: Coast Guard, DHS.

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit Information Collection Requests (ICRs) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting approval of a revision to the following collection of information: 1625–0002, Application for Vessel Inspection, Waiver, and Continuous Synopsis Record. Our ICRs describe the information we seek to collect from the public. Before submitting these ICRs to OIRA, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before February 24, 2014.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2013–0949] to the Docket Management Facility (DMF) at the U.S. Department of Transportation (DOT). To avoid duplicate submissions, please use only one of the following means:

(1) Online: *http://www.regulations.gov.*

(2) Mail: DMF (M–30), DOT, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

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

(4) Fax: 202–493–2251. To ensure your comments are received in a timely manner, mark the fax, to attention Desk Officer for the Coast Guard.

The DMF maintains the public docket for this Notice. Comments and material received from the public, as well as documents mentioned in this Notice as being available in the docket, will become part of the docket and will be available for inspection or copying at room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find the docket on the Internet at *http://www.regulations.gov.*

Copies of the ICRs are available through the docket on the Internet at *http://www.regulations.gov*. Additionally, copies are available from: COMMANDANT (CG–612), Attn Paperwork Reduction Act Manager, US Coast Guard, 2703 Martin Luther King Jr. Ave. SE., Stop 7710, Washington DC 20593–7710.

FOR FURTHER INFORMATION: Contact Mr. Anthony Smith, Office of Information Management, telephone 202–475–3532, or fax 202–372–8405, for questions on these documents. Contact Ms. Barbara Hairston, Program Manager, Docket Operations, 202–366–9826, for questions on the docket.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collections. There is one ICR for each Collection.

The Coast Guard invites comments on whether these ICRs should be granted based on the Collections being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collections; (2) the accuracy of the estimated burden of the Collections; (3) ways to enhance the quality, utility, and clarity of information subject to the Collections; and (4) ways to minimize the burden of the Collections on respondents, including the use of automated collection techniques or other forms of information technology. In response to your comments, we may revise these ICRs or decide not to seek approval of revisions of the Collections. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, [USCG–2013–0949], and must be received by February 24, 2014. We will post all comments received, without change, to *http://www.regulations.gov*. They will include any personal information you provide. We have an agreement with DOT to use their DMF. Please see the ''Privacy Act'' paragraph below.

Submitting Comments

If you submit a comment, please include the docket number [USCG–2013–0949], indicate the specific section of the document to which each comment applies, providing a reason for each comment. You may submit your comments and material online (*via http://www.regulations.gov*), by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via *www.regulations.gov,* it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the DMF. We recommend you include your name, mailing address, an email address, or other contact information in the body of your document so that we can contact you if we have questions regarding your submission.

You may submit your comments and material by electronic means, mail, fax, or delivery to the DMF at the address under **ADDRESSES**; but please submit them by only one means. To submit your comment online, go to *http://www.regulations.gov*, and type ''USCG–2013–0949'' in the ''Keyword'' box. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and will address them accordingly.

Viewing comments and documents: To view comments, as well as documents mentioned in this Notice as being available in the docket, go to *http://www.regulations.gov,* click on the ''read comments'' box, which will then become highlighted in blue. In the ''Keyword'' box insert ''USCG–2013–0949'' and click ''Search.'' Click the ''Open Docket Folder'' in the ''Actions'' column. You may also visit the DMF in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act

Anyone can search the electronic form of comments received in dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act statement regarding Coast Guard public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Information Collection Request.

1. *Title:* Application for Vessels Inspection, Waiver, and Continuous Synopsis Record.

OMB Control Number: 1625–0002.

Summary: The collection of information requires the owner, operator, agent, or master of a vessel to apply in writing to the Coast Guard before the commencement of an inspection for certification, when a waiver is desired from the requirements of navigation and vessel inspection, or to request a Continuous Synopsis Record.

Need: Title 46 United States Code (U.S.C.) 3306 authorize the Coast Guard to establish regulations to protect life, property, and the environment. These reporting requirements are part of the Coast Guard's Marine Safety Program.

Forms: CG–2633, CG–3752, CG–3752A, CG–6039.

Respondents: Vessel owner, operator, agent, master or interested U.S. Government agency.

Frequency: On occasion, annually, or on a 5-year cycle.

Burden Estimate: The estimated burden has decreased from 1,315 hours to 1,172 hours per year due to a decrease in the estimated annual number of respondents.

Dated: December 17, 2013.

R.E. Day,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Command, Control, Communications, Computers and Information Technology.

[FR Doc. 2013–30689 Filed 12–23–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0018]

Agency Information Collection Activities: Application for Permission To Reapply for Admission into the United States After Deportation or Removal, Form I–212; Extension, Without Change, of a Currently Approved Collection

ACTION: 30-Day Notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection notice was previously published in the **Federal Register** on October 22, 2013, at 78 FR 62645, allowing for a 60-day public comment period. USCIS did receive one comment in connection with the 60-day notice.

DATES: The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until January 23, 2014. This process is conducted in accordance with 5 CFR 1320.10.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be directed to the OMB USCIS Desk Officer via email at *oira_submission@omb.eop.gov.* The comments submitted to the OMB USCIS Desk Officer may also be submitted to DHS via the Federal eRulemaking Portal Web site at *http://www.regulations.gov* under e-Docket ID number USCIS-[2008–0068] or via email at *uscisfrcomment@uscis.dhs.gov.* All submissions received must include the agency name and the OMB Control Number [1615–0018].

Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. For additional information please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Note: The address listed in this notice should only be used to submit comments concerning this information collection. Please do not submit requests for individual case status inquiries to this address. If you are seeking information about the status of your individual case, please check ''My Case Status'' online at: *https://egov.uscis.gov/cris/Dashboard.do,* or call the USCIS National Customer Service Center at 1–800–375–5283.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection Request:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application for Permission to Reapply for Admission into the United States after Deportation or Removal.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–212; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. The information provided on Form I–212 is used by USCIS to adjudicate applications filed by aliens requesting consent to reapply for admission to the United States after deportation, removal or departure, as provided under section 212 of the Immigration and Nationality Act.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 5,160 responses at 2 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 10,320 annual burden hours.

If you need a copy of the information collection instrument with supplementary documents, or need additional information, please visit *http://www.regulations.gov.* We may also be contacted at: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2140; Telephone 202–272–8377.

Dated: December 19, 2013.

Laura Dawkins,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2013–30849 Filed 12–23–13; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0124]

Agency Information Collection Activities: Consideration of Deferred Action for Childhood Arrivals, Form I–821D, OMB Control No. 1615–0124; Correction

ACTION: 60-Day Notice of Proposed Information Collection; Correction.

On December 18, 2013, the Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) published a 60-day Notice of Information Collection in the **Federal Register** at 78 FR 76636, requesting public comments in connection with Consideration of Deferred Action for

Childhood Arrivals, Form I–821D in accordance with the Paperwork Reduction Act of 1995.

USCIS inadvertently reported in the ''**ADDRESSES**'' section that the Docket ID is ''USCIS–2012–0124''. The correct Docket ID is USCIS–2012–0012. The corrected section now reads:

ADDRESSES: All submissions received must include the OMB Control Number 1615–0124 in the subject box, the agency name and Docket ID USCIS–2012–0012. To avoid duplicate submissions, please use only one of the following methods to submit comments:

The remainder of the published Notice is correct as presented and no changes have been made. The comment period as listed in the original Notice publication remains unchanged and closes as posted.

Dated: December 18, 2013.

Samantha Deshommes,

Acting Chief Regulatory Coordinator, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2013–30586 Filed 12–23–13; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5681–N–50]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Juanita Perry, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7266, Washington, DC 20410; telephone (202) 402–3970; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, and suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where property is described as for ''off-site use only'' recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Theresa Ritta, Office of Enterprise Support Programs, Program Support Center, HHS, room 12–07, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Ann Marie Oliva at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (i.e., acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: *Agriculture:* Ms. Debra Kerr, Department of Agriculture, Reporters Building, 300 7th Street SW., Room 300, Washington, DC 20024, (202) 720–8873; *Air Force:* Ms. Connie Lotfi, Air Force Real Property Agency, 2261 Hughes Avenue, Suite 156, Lackland AFB, TX, 78236–9852, (210) 395–9512; *Army:* Ms. Veronica Rines, Office of the Assistant Chief of Staff for Installation Management, Department of Army, Room 5A128, 600 Army Pentagon, Washington, DC 20310, (571) 256–8145; *Coast Guard:* Commandant, United States Coast Guard, Attn: Jennifer Stomber, 2100 Second St., SW., Stop 7901, Washington, DC 20593–0001; (202) 475–5609; *Energy:* Mr. David Steinau, Department of Energy, Real Estate Division (MA–651), Office of Property Management, 1000 Independence Ave., SW., Washington, DC, 20585, (202) 287–1503; *GSA:* Mr. Flavio Peres, General Services Administration, Office of Real Property Utilization and Disposal, 1800 F Street NW., Room 7040 Washington, DC 20405, (202) 501–0084; *Interior:* Mr. Michael Wright, Acquisition & Property Management, Department of the Interior, MS–4262, 1849 C Street, Washington, DC, 20240, (202) 513–0795 *Navy:* Mr. Steve Matteo, Department of the Navy, Asset Management Division, Naval Facilities Engineering Command, Washington Navy Yard, 1330 Patterson Ave., SW., Suite 1000, Washington, DC 20374; (202) 685–9426 (There are not toll-free numbers).

Dated: December 19, 2013.

Mark Johnston,

Deputy Assistant Secretary for Special Needs.

TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM, FEDERAL REGISTER REPORT FOR 12/27/2013

Suitable/Available Properties

Building

Arizona

Old Ehrenberg Office
49354 Ehrenberg-Poston Hwy.
Ehrenberg AZ
Landholding Agency: Interior
Property Number: 61201340009
Status: Unutilized
Comments: Off-site removal only; no future agency need; 800 sq. ft.; office; significant water damage; repairs a must; asbestos/lead; contact Interior for more info.

California

Los Banos Field Office
745 West J Street
Los Banos CA 93635
Landholding Agency: GSA
Property Number: 54201340006
Status: Surplus
GSA Number: 9–I–CA–0450–AC–3
Directions: (Landholding-Agric.; Disposal & GSA) 2 Bldgs. 5, 375 sq.; bldgs. sits on 0.41 acres
Comments: Significant fire damage to Admin. bldg.; bathroom; major repairs required; contamination; asbestos; contact GSA for more info.

Siphon Drop Caretaker's Reside
(RPUI #00350000600B)
Yuma Main Canal
Winterhaven CA
Landholding Agency: Interior
Property Number: 61201340010
Status: Unutilized
Comments: Off-site removal only; no future agency USE; 1,014 sq. ft.; 108+ months vacant; extensive termite damage; asbestos; mold, lead; escort required; contact Interior for more info.

Illinois

Site 50, Building A
Fermi National Accelerator Laboratory
Batavia IL 60510
Landholding Agency: Energy
Property Number: 41201340002
Status: Excess
Comments: Off-site removal only; 367 sq. ft.; storage; 108 years old; secured area; contact Energy for more information.

37 Shabbona Material Dev. Lab
Fermi National Accelerator Lab
Batavia IL 60510
Landholding Agency: Energy
Property Number: 41201340003
Status: Excess
Comments: Off-site removal only; 1,097 sq. ft.; office; 44 yrs.-old; secured area; contact Energy for more info.

37a Shabbona-Component Storage
Fermi National Accelerator Laboratory
Batavia IL 60510
Landholding Agency: Energy
Property Number: 41201340004
Status: Excess
Comments: Off-site removal only; 2,079 sq. ft.; storage; 44 years old; secured area; contact Energy for more information.

Site 50 Barn
Fermi National Accelerator Lab
Fermilab IL 60510
Landholding Agency: Energy
Property Number: 41201340005
Status: Excess
Comments: Off-site removal only; 2,952 sq. ft.; storage; 108 yrs.-old; secured area; contact Energy for more info.

33 Blackhark—Lab 8 House
Fermi National Accelerator Laboratory
Batavia IL 60510
Landholding Agency: Energy
Property Number: 41201340006
Status: Excess
Comments: Off-site removal only; 1,092 sq. ft.; office; 50 years old; secured area; contact Energy for more information.

31 Blackhawk—Lab 8 House
Fermi National Accelerator Laboratory
Batavia IL 60510
Landholding Agency: Energy
Property Number: 41201340009
Status: Excess
Comments: Off-site removal only; 1,092 sq. ft.; office; 50 years old; secured area; contact Energy for more information.

Mississippi

Modular #2; 640400B028; RPUID
13762 Small Fruits Research Station
Poplarville MS 39470
Landholding Agency: Agriculture
Property Number: 15201340003
Status: Unutilized
Comments: 1,440 sq. ft.; lab; 12+ months vacant; fair conditions; contact Agriculture for more info.

Modular #1; 640400B027; RPUID: 03.804
13762 Small Fruits Research Station
Poplarville MS 39470
Landholding Agency: Agriculture
Property Number: 15201340005
Status: Unutilized
Comments: 1,440 sq. ft.; 12+ months vacant; fair conditions; contact Agriculture for more information.

Lab/Support 2; 640400B002;
RPUID 03.54463
13762 Small Fruits Research Station
Poplarville MS 39470
Landholding Agency: Agriculture
Property Number: 15201340006
Status: Unutilized
Comments: 1,215 sq. ft.; Lab: 12+ months vacant; fair condition; need new roof; mold present; contact Agriculture for more information.

Office/Lab 1; 640400B001;
RPUD 03.54462
13762 Small Fruits Research Station
Poplarville MS 39470
Landholding Agency: Agriculture
Property Number: 15201340007
Status: Unutilized
Comments: 2,800 sq. ft.; 12+ months vacant; fair conditions; need new roof; mold present; contact Agriculture for more information.

New York

Former TSG Harold Lockwood US
Army Reserves Center
111 Finney Boulevard
Malone NY 12953
Landholding Agency: GSA
Property Number: 54201340007
Status: Excess
GSA Number: 1–D–NY–0966–AA
Comments: 29960 Sq. Ft.: office/administrative/garage; sits on 4.82+/-acres; age 1961–1983; entry by appointment with USAR/GSA; asbestos and lead based paint; contact GSA for more information.

Tennessee

Building 2250
Indiana Ave; Ft. Campbell
Ft. Campbell TN 42223
Landholding Agency: Army
Property Number: 21201340001
Status: Unutilized
Directions: originally published under 21200330094 as 'unsuitable'
Comments: 2,500 sq. ft.; office; 36+ months vacant; poor conditions; need repairs; secured area; strict accessibility requirements; contact Army for more info.

Texas

#1658 Training Lodge Support
Building
219 K Avenue
Sheppard AFB TX 76311
Landholding Agency: Air Force
Property Number: 18201340042
Status: Underutilized
Comments: 11,743 sq. ft.; 5+months vacant; 60+years old; secured area; escort required to access property; contact Air Force for more information.

#1919 Technical Training
Support
921 Missile Road
Sheppard AFB TX 76311
Landholding Agency: Air Force
Property Number: 18201340043
Status: Unutilized
Comments: 10,493 sq. ft.; 7+months vacant; 52+years old; secured area; escort required to access property; contact Air Force for more information.

#1023 Compressed Air Plant
Building
507 10th Street
Sheppard AFB TX 76311
Landholding Agency: Air Force
Property Number: 18201340044
Status: Underutilized
Comments: 572 sq. ft.; storage; 52+ years old secured area; escort required to access property; contact Air Force for more information.

#2017 Petroleum Operations
Building
1402 K Avenue
Sheppard AFB TX 76311
Landholding Agency: Air Force
Property Number: 18201340045
Status: Underutilized
Comments: 1,811 sq. ft.; storage; 47 years old; secured area; escort required to gain access to property; contact Air Force for more information.

#1641 Be Maint Shop
Sheppard AFB
Sheppard TX 76311
Landholding Agency: Air Force

Property Number: 18201340046
Status: Underutilized
Comments: 1,546 sq. ft., storage; 40+yrs.-old; secured area; escort required to access property; contact AF for more info.

Utah

Building 11; Hill AFB
5923 C Ave.
Layton UT 84056
Landholding Agency: Air Force
Property Number: 18201340047
Status: Excess
Comments: off-site removal only; 18,898 sq. ft.; office/maint. shop; 72+ yrs.-old; deteriorated; asbestos; secured area; contact Air Force for more info.

LAND

Alabama

(Former) Huntsville
International Airport (HSV) Outer Market
1390 Browns Ferry Road
Madison AL 35758
Landholding Agency: GSA
Property Number: 54201340008
Status: Excess
GSA Number: 4–U–AL–0787AA
Comments: 0.6 acres; outer marker; property can be accessed from Browns Ferry Road; contact GSA for more information.

Suitable/Unavailable Properties

Building

Oregon

Crescent Lehman Building, FS
Crescent Admin Site
Crescent OR
Landholding Agency: Agriculture
Property Number: 15201330017
Status: Excess
Comments: 518 sf. Conference room 81 yrs.-old; poor conditions; existing federal need Crescent Storage (Pumphouse)

Crescent Admin. Site
Crescent OR
Landholding Agency: Agriculture
Property Number: 15201330026
Status: Excess
Comments: 323 sf.; 46 yrs.-old; good condition; existing Federal need.

Unsuitable Properties

Building

Florida

MWR Rental Accommodation
Naval Air Station
Key West FL 33040
Landholding Agency: Navy
Property Number: 77201340011
Status: Unutilized
Comments: Public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

RV Park Office
Naval Air Station
Key West FL 33040
Landholding Agency: Navy
Property Number: 77201340012
Status: Unutilized
Comments: Public access denied & no alternative method to gain access w/out compromising national security.
Reasons: Secured Area

Illinois

39 Shabbona-Material Dev. Lab
Fermi National Accelerator Lab
Batavia IL 60510
Landholding Agency: Energy
Property Number: 41201340008
Status: Excess
Comments: Public access denied & no alternative method to gain access w/out compromising national security
Reasons: Secured Area

North Carolina

Building 21452
Ft. Bragg
Ft. Bragg NC 28310
Landholding Agency: Army
Property Number: 21201340039
Status: Underutilized
Comments: Public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

Wisconsin

Coast Guard Cutter Mobile Bay
26 Neenah Avenue
Sturgeon Bay WI
Landholding Agency: Coast Guard
Property Number: 88201340005
Status: Excess
Comments: Active military facility; public access denied & no alternative method to gain access w/out compromising national security
Reasons: Secured Area

[FR Doc. 2013–30637 Filed 12–23–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–WSR–2013–N292]; [FVWF941009000007B–XXX–FF09W10000; FVWF51100900000–XXX–FF09W10000]

Information Collection Request Sent to the Office of Management and Budget (OMB) for Approval; Application and Performance Reporting for Wildlife and Sport Fish Restoration Grants and Cooperative Agreements

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (U.S. Fish and Wildlife Service) have sent an Information Collection Request (ICR) to OMB for review and approval. We summarize the ICR below and describe the nature of the collection and the estimated burden and cost. We 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.

DATES: You must submit comments on or before January 23, 2014.

ADDRESSES: Send your comments and suggestions on this information collection to the Desk Officer for the Department of the Interior at OMB–OIRA at (202) 395–5806 (fax) or *OIRA_Submission@omb.eop.gov* (email). Please provide a copy of your comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 2042–PDM, 4401 North Fairfax Drive, Arlington, VA 22203 (mail), or *hope_grey@fws.gov (*email). Please include ''1018–TRACS'' in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Hope Grey at *hope_grey@fws.gov* (email) or 703–358–2482 (telephone). You may review the ICR online at *http://www.reginfo.gov.* Follow the instructions to review Department of the Interior collections under review by OMB.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 1018–XXXX.

Title: Application and Performance Reporting for Wildlife and Sport Fish Restoration Grants and Cooperative Agreements.

Service Form Number: None.

Type of Request: Request for a new OMB control number.

Description of Respondents: Primarily States; the Commonwealths of Puerto Rico and the Northern Mariana Islands; the District of Columbia; the territories of Guam, U.S. Virgin Islands, and American Samoa; and federally-recognized tribal governments. For certain grant programs, institutions of higher education and nongovernmental organizations.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: We require applications annually for new grants or as needed for multi-year grants. We require amendments on occasion when key elements of a project change. We require quarterly and final performance reports in the National Outreach and Communication Program and annual and final performance reports in the other programs. We may require more frequent reports under the conditions stated at 43 CFR 12.52 and 43 CFR 12.914.

Activity	Number of respondents	Number of responses	Completion time per response (in hours)	Total annual burden hours
Application (Mandatory program)—collect and enter information	56	625	4	2,500
Amendment—collect and enter information	150	1,500	.5	750
Performance Reports—collect and enter additional information	200	3,500	2	7,000
Totals	406	5,625		10,250

Abstract: The Wildlife and Sport Fish Restoration Program (WSFR), U.S. Fish and Wildlife Service, administers financial assistance programs (see 77 FR 47864, August 10, 2012). You can find a description of most programs in the Catalog of Federal Domestic Assistance (CFDA) or on our Web site at *http://wsfrprograms.fws.gov.*

Some grants are mandatory and receive funds according to a formula set by law or policy. Other grants are discretionary, and we award them based on a competitive process. Mandatory grant recipients must give us specific, detailed project information during the application process so that we may ensure that projects are eligible for the mandatory funding, are substantial in character and design, and comply with all applicable Federal laws. All grantees must submit financial and performance reports that contain information necessary for us to track costs and accomplishments and according to schedules and rules in 43 CFR 12. The Office of Management and Budget has approved our collection of information for applications and performance reports for these programs and assigned OMB Control Numbers 1018–0109 and 1018–0147.

In past years, grantees sent paper or emailed applications and performance reports to the Service. The process to send applications to the Service has moved to the electronic system at *http://www.grants.gov* for competitive programs and some mandatory programs. When processing performance reports, we received the paper reports, reviewed the reports and extracted information, and then entered data into the Federal Assistance Information Management System (FAIMS). FAIMS was decommissioned on October 1, 2012, and has been replaced with a new electronic system for data collection (Wildlife Tracking and Reporting Actions for the Conservation of Species (Wildlife TRACS)). Wildlife TRACS allows us to take advantage of newer technology and give grantees direct access to enter application data that can be used to submit through *http://www.grants.gov* and report performance accomplishments. We have trained State, tribal, commonwealth, territory, and District of Columbia personnel to use the new system, and will provide technical and administrative support as needed. Allowing applicants and grantees to enter information directly into Wildlife TRACS will provide more accurate reporting and allow us to process grants more efficiently. We will continue to enter information in Wildlife TRACS for some grantees or programs based on needs, resource limitations, and program size and requirements.

While replacing FAIMS with Wildlife TRACS and updating our process to a more efficient and effective electronic method, we have the opportunity to make improvements that will create more consistent and robust reporting that will better help guide the future of conservation. We plan to collect additional information not covered by our current OMB approvals. We will use Wildlife TRACS to collect information approved under our existing OMB control numbers as well as the new information we are asking approval to collect. Data input will be completed by applicants and grantees. We have requested that OMB assign a new control number to cover these actions.

For mandatory grant program applications and amendments, we plan to collect:

- Geospatial entry of project location.
- Project status (active, completed, etc.).
- Project leader contact information.
- Partner information.
- Objectives, including output measures and desired future values.
- Plan information (for projects connected to plans).

For all WSFR grant program projects and reports, we plan to collect:

- The information above, as applicable to the approved grant.
- Public description.
- Action status (active, completed, etc.).
- Summary trend information, as applicable.
- Estimated costs, by action. (non-auditable).
- Effectiveness measures (initially for State Wildlife Grants).

For real property acquisition projects, we plan to collect information related to:

- Transactions, such as dates, method of transfer, who will own or hold the real property, and seller.
- Identifiers, such as State and Federal Record ID, parcel number, and property name.
- Values such as appraised value, purchase price and other cost information, and acres or acre feet.
- Encumbrances (yes or no).
- Partners.

The table above shows only the time that will be required to obtain and enter the new information when we implement Wildlife TRACS. We expect that this time will decrease as grantees become familiar with the system. We also expect to reduce the burden currently approved under OMB Control Numbers 1018–0109 and 1018–0147 for reports, amendments, and grants that remain virtually the same from year to year. When grantees directly enter reporting information into Wildlife TRACS, they will not be required to submit written reports.

Comments: On August 10, 2012, we published in the **Federal Register** (77 FR 47864) a notice of our intent to request that OMB approve this information collection. In that notice, we solicited comments for 60 days, ending on October 9, 2012. In addition to asking for comments on the additional information we plan to collect, we also asked for comments on the new electronic method and process for collection of all information. We received comments from nine States and one member of the general public.

State Comments

Comment: Three respondents were supportive of the electronic collection system, Wildlife TRACS, and its ability to demonstrate program accomplishments, as long as the data collection requirements are kept at the level of current approval by OMB.

Response: The current OMB approval for WSFR grant programs gives performance information, but is not standardized and specific enough to create an effective national grant accomplishment database. Through the

electronic collection States and other grantees will be prompted to give information from drop-down options in data fields, will be led through the steps of data entry, and will be giving standardized information that will produce robust reports to demonstrate program accomplishments.

Comment: Two respondents commented that information beyond that necessary to demonstrate program accomplishments should not be required.

Response: We agree with this comment. We continue to work with several groups of Federal and State staff at various levels of involvement as we identify information needed and plan for future needs. We have received many suggestions and have been responsive to comments to limit data collection to that needed to responsibly assess grant accomplishments and respond to information requests from a variety of audiences. We are also using electronic models and tools within the electronic database that make it more user-friendly, more intuitive, and easier to enter data.

Comment: One respondent was not supportive of the collection of additional information and argued that we have not demonstrated evidence of inadequacy of the existing performance reporting requirements.

Response: As of October 2012, the existing reporting system (FAIMS) was decommissioned, so we must use a new method of collecting information. We are obligated by Federal guidance, such as the Government Paperwork Elimination Act and other directives, to use electronic systems. We will do this through Wildlife TRACS, the system designed to replace FAIMS. We have listened to Congress, Federal and State staff, other grantees, and stakeholders to assess needs. We have considered the needs that FAIMS was unable to fulfill, information routinely needed, and how performance reporting helps plan for conservation into the future, and have developed Wildlife TRACS to address all of these needs. Most of the information requested in Wildlife TRACS is not new information and is covered by our approved OMB control numbers, but we organize the information so it is more consistent and easier to report. We limit additional information to that needed to improve the ability to report program accomplishments and to help assure continued grant program funding.

Comment: Two respondents commented that effectiveness measures for State Wildlife Grants (SWG) should be recommended, not mandatory.

Response: The Office of Management and Budget has repeatedly called for Federal agencies to document outcomes, not just outputs, of their work and the work they fund. Unlike other WSFR grant programs, SWG is subject to the annual appropriations process, increasing the need to be able to adequately demonstrate outcomes. The Association of Fish and Wildlife Agencies, in their report ''Measuring the Effectiveness of Wildlife Grants, April 2011,'' demonstrates the need for States to provide more meaningful results and establishes effectiveness measures as a means to support State conservation work. If the expectation to complete the effectiveness measures allowed grantees to choose if they would respond or not, it would jeopardize the completeness of the national effectiveness measures data set. We will address effectiveness measures by guiding SWG grantees in our electronic system through a list of questions and responses designed to make the collection of information flow easier for the user. The amount of effort to complete this information is minimal compared to the benefits of the information available to decisionmakers.

Comment: One respondent commented that Statewide projects do not fit the Wildlife TRACS model well.

Response: Statewide projects will fit well into the electronic mapping used in Wildlife TRACS. The mapping tool is designed to allow users to select projects at a State level, or any level above or below that. Some geospatial advantages of the system may not be fully utilized at the State-scale level, but accomplishments can be captured easily and rolled up accurately in regional and national reports.

Comment: Six respondents commented that burden hours were underestimated.

Response: When determining the burden hours for the additional information and also accounting for applicants and grantees entering data into an electronic system directly, we compared Wildlife TRACS to a similar database, Habitat Information Tracking System (HabITS). HabITS has a similar approach to collecting data and has been in use long enough to know how long data entry takes from novice users, as well as experienced users. We used information from HabITS users as a baseline while considering other factors, such as the fact that we are only estimating burden for additional information and not for total information. Collection of information already covered by OMB Control Numbers 1018–0109 and 1018–0147 is not included in this request. We also consider that work savings will be accomplished under certain circumstances, such as projects that remain the same from year to year which will be extended annually through a simple process.

Comment: Six respondents stated that it was difficult to comment effectively on burden hours because Wildlife TRACS was not yet completed and available for use. As a result, potential impacts on State staff were unknown.

Response: We agree that without Wildlife TRACS being completed and available to use, we are not able to fully understand the burden of the system. However, the information from HabITS users gives us a good estimate of burden. The previous performance reporting system, FAIMS, is decommissioned, and we must move forward with Wildlife TRACS in order to have a system in place.

Comment: Three respondents stated that it was difficult to comment on the estimates of burden hours due to the limited State agency access to Wildlife TRACS.

Response: We agree that when we issued the 60-day notice there were only a few States that had access to Wildlife TRACS. We could only give limited access during the development process because of technology constraints. We expanded to a cloud-computing environment in October 2012, and, effective January 2013, we expanded the number of States with access to the Wildlife TRACS training environment. No State will be asked to enter information into Wildlife TRACS until their staffs receive training.

Comment: One respondent stated that the burden hour estimates did not consider the time it takes to develop project proposals.

Response: The burden hours estimated are only for the new information we will ask respondents to provide. The burden hours incurred to develop a project are already captured in the current approval under OMB Control Numbers 1018–0109 and 1018–0147.

Comment: One respondent commented that four additional hours to complete a grant application and two additional hours to complete a performance report is significant and will reduce staff productivity.

Response: We expect these estimated burden hours to decrease as grantees become familiar with the process and use of electronic systems for reporting all information. We are continuing to review the electronic system as we train Federal and State staffs and will continue to implement suggested methods to streamline and simplify

functions. Using an electronic system will replace written performance reports and produce documents and reports that can be used for other tasks, such as submitting grant applications on *http://www.grants.gov,* further reducing overall workload.

Comment: Two respondents commented that the quality, utility, and clarity of the information to be collected will be enhanced through the use of Wildlife TRACS.

Response: We agree.

Comment: One respondent commented that Wildlife TRACS does not serve as a grant management system and that States must go to two systems, one for financial reporting and one for performance reporting.

Response: The Department of the Interior retired FAIMS and transferred the financial reporting functions to the Federal Business Management System (FBMS). We were granted permission to temporarily keep FAIMS open for performance reporting, but it is now closed permanently. We cannot bring all of the information in FBMS over to Wildlife TRACS, but there are some fields that will be populated by FBMS with daily updates. Wildlife TRACS is not designed to be a grant management system, but we expect the improvements will assist grant managers and give consistent reporting information. We will continue to make improvements as we gain knowledge and improved technology.

Comment: Two respondents stated they do not see any value added by Wildlife TRACS for grants management.

Response: We disagree. There will be a transition period for learning the system, but, over the long term, State grantees should see the benefits of streamlined grants processes, improved performance information, and the benefits of newer technology. We will continue to accept comments for ways to improve the electronic systems and be responsive to suggestions for improvement.

Comment: One respondent stated that we did not provide details on the additional information required for land acquisition projects and their usage.

Response: We agree. WSFR and State grant managers that work with lands have developed a list of anticipated information and it is included in general terms. Many States have told us that they prefer to enter the information for accuracy and the extra information asked for real property actions is easily available. We will help States to enter complete information.

Comment: One respondent commented that a trend line was not practical for survey projects that focus on general distribution of species.

Response: We agree. This information is intended for ongoing survey projects with objectives used to track measures used to estimate the annual status of species or habitats. The outputs of survey projects will be uploaded as attachments.

Comment: One respondent stated that they currently estimate costs for projects and not actions and expressed concern about how the change will be accomplished in their State.

Response: We will ask for costs only at the broadest action level. There are 13 Action categories that are designed to match typical WSFR grant actions; for example, education or technical guidance. The costs to be entered are estimated and are not auditable. They are entered to help grant managers link expected costs to their projects to help in planning, project review, and performance reporting. This information may be useful in the future to demonstrate approximate funds leveraged from other sources to accomplish conservation work.

Comment: One respondent recommended that WSFR staff work with States through at least one complete grant cycle in implementing Wildlife TRACS.

Response: We agree. WSFR has completed most of the Service and State training. Further training will continue via e–training venues. The trained Service staff will assist States as needed. No State will be expected to enter information into Wildlife TRACS until their staff has received training. WSFR staff will be engaged with State staff to assist in the transition for, at minimum, a full year.

Comment: Two respondents stated that performance reports need to be written prior to Wildlife TRACS data entry and this duplicates effort.

Response: We will not require grantees to submit written reports. Instead, States will directly enter performance reporting information into Wildlife TRACS.

Comment: Three respondents stated that detailed project proposals need to be written prior to Wildlife TRACS data entry and this duplicates effort.

Response: This has been addressed in the current structure of Wildlife TRACS. There are fields available in the system that will accommodate all of the required elements of a project statement as per 50 CFR 80.82 and as required in other grant programs. Once entered into Wildlife TRACS, a document may be downloaded and saved that serves as a project narrative and used in *http://www.grants.gov* or other application processes. A separate project proposal does not need to be written for the WSFR grant approval process.

Comment: Four respondents commented that using Wildlife TRACS for grant applications duplicates information submitted through *http://www.grants.gov.*

Response: Wildlife TRACS is designed to collect information at the project and action levels, so most grant level information submitted through *http://www.grants.gov* is not applicable unless the grant only consists of a single project. If the grant only consists of a single project, the only duplicate information is a few fields on the SF–424 (Application for Financial Assistance). Wildlife TRACS is designed to allow users to enter information into electronic fields and produce documents that the applicant may use when they submit applications through *http://www.grants.gov,* reducing user efforts.

Comment: Two respondents commented that increased reporting requirements will result in increased staff workload.

Response: We agree there will be an initial increase in staff workload as State staff learn the new system and enter new information. This is one reason why we will help enter information for the first year. After a 1-year grant cycle for continuing grants, information already entered can simply be updated with much less effort. Performance reporting though Wildlife TRACS will eliminate the need to prepare traditional written performance reports. Electronic workflow will reduce delays and allow for more efficient project approval and reporting.

Comment: Two respondents stated that no additional resources are going to be provided to States to enter information into Wildlife TRACS.

Response: State administrative costs are eligible for funding under both the Wildlife Restoration (WR) and Sport Fish Restoration (SFR) grant programs. Receipts in the trust funds for both programs increased over 2012, resulting in an increase in funding for both WR and SFR for fiscal year 2013. This makes additional funds available if a State chooses to use them to provide additional resources to implement Wildlife TRACS. Training, technical assistance, and Service staff assistance are also being given to States as resources to help in using the electronic system for performance reporting.

Comment: Two respondents commented that Wildlife TRACS geospatial data entry will require adding staff with this expertise.

Response: Entering geospatial information into Wildlife TRACS will not require any specialized Geographic Information System (GIS) expertise.

Comment: One respondent commented that we must make additional efforts to minimize State burdens when implementing Wildlife TRACS.

Response: We are reviewing the fields, mechanisms, and benefits of Wildlife TRACS to examine ways, within reason, to minimize State burdens for Wildlife TRACS data entry and use.

Comment: One respondent recommended that WSFR staff should enter all data into Wildlife TRACS, with States performing quality assurance and control.

Response: State staffs have first-hand knowledge of the projects and can enter better data. It would be more than a duplication of effort for the States to give the information to WSFR, have WSFR enter the information, then have State staff go back into the system and verify, clarify, and continue to revise incorrect information. Ultimately, State staffs need to be engaged in electronic data entry so that the quality of information is improved over that entered into FAIMS and so the performance information they are reporting is efficient and accurate.

Comment: Three respondents recommended that Wildlife TRACS should only be used for accomplishment reporting, and not for applying for grants.

Response: States will only enter data related to applying for a grant for mandatory (formula) grants. States will not be required to enter information into Wildlife TRACS for competitive grants until after a grant is awarded. If WSFR staff were responsible for entering project proposal information into Wildlife TRACS, they would be making decisions on the work, structure of the work as projects, and actions that they cannot make as these are State decisions. If WSFR were to add information that is not the way a State wants it structured, it would cause a greater burden on both parties. It would also make it hard for States to enter accomplishments, if grants were not structured by WSFR staff in a way that States would want them. WSFR has responded to concerns by designing Wildlife TRACS to create documents that can be used by States as attachments to an *http://www.grants.gov* application, reducing workload on the States.

Comment: One respondent commented that proposed project information entered into Wildlife TRACS by States would be subject to revision during the grant approval process. This would mean more work in going back and forth to reach a final version.

Response: If changes are needed during the grant approval process, it will create some type of workload regardless of what system is used. This is part of grants management. Changes made using an electronic system should be less of a burden and easier to manage with electronic workflow tools than changes made through other methods. Making the changes during the grant approval process reduces the workload during the accomplishment reporting period.

Comment: One respondent commented that it would be inefficient for ''placeholder'' geospatial data to be entered into Wildlife TRACS before work is completed and exact locations are known.

Response: Geospatial information is central to the accurate reporting of conservation information and that is why it is incorporated into the structure of Wildlife TRACS. The electronic system requires that at least a basic map be entered as the first data entry step in order to set a general location for the work and the map will be altered later, as needed, for the specific project or action location. There will be tools given on the electronic system that will help users easily adjust the mapped areas as more information is received and projects and actions are better defined. We will give guidance on the easiest ways to use the electronic mapping tools that any typical user can understand.

Comment: One respondent noted that Wildlife TRACS deployment lags FAIMS decommissioning by 3 months.

Response: It was longer than 3 months, but was unavoidable due to development delays. However, this is not relevant to this information collection request.

Comment: One respondent commented that revising project information in Wildlife TRACS will be burdensome because of the many times some projects are amended.

Response: States need to submit appropriate paperwork each time they substantially amend projects according to existing grants processes. This will be done through the electronic system, with very little change in workload.

Comment: One respondent asked exactly how Wildlife TRACS will allow more efficient grant processing.

Response: When starting the grant process, all required elements of the project statement can be entered into Wildlife TRACS instead of a two-step process of submitting a file or paper copy of a narrative that would have to be entered later. Some information entered will be available as a report that can be attached to an *http://www.grants.gov* application. WSFR is exploring additions to this feature. Entering accomplishment information into the electronic system will fulfill performance reporting requirements, so written reports will no longer be needed. WSFR is exploring other efficiencies.

Comment: States have not been properly trained nor had enough time to use the electronic system prior to publishing the notice asking for comments.

Response: We agree the timing was unfortunate, but it was needed to get the process started for OMB approval for information collection. The States are now more familiar and this notice serves as a second chance for the public to comment.

Comment: The additional information requested is really only for State Wildlife Grants.

Response: The additional information we wish to collect is for all programs in WSFR except where described as an exception.

Comment: Additional information beyond what is already approved and the additional listed in the 60-day notice will be collected through the electronic system, Wildlife TRACS.

Response: It may appear that extra information is being collected beyond our current information collection approvals and that listed in the 60-day notice, but that is because the method of collection is different. For example, we would expect to see project purpose, need, and objectives in a written project statement, but this information will now be captured by entering information into prescribed data fields instead of in a paper narrative. Some of the fields in the electronic system replace hard-copy work flow processes, but the information is the same. We have thoroughly reviewed the existing application and performance reporting and identified the additional information we will ask for that is outside of the approval we have through OMB Control Numbers 1018–0109 and 1018–0147.

Comment: Additional pieces of information such as: project location, contact information, real property information, workflow, and habitat information, are not needed to report to Congress.

Response: Project location and habitat information are often important for requests we receive from Congress and others. Some of the information we will

collect will not be reported to Congress specifically as that information, but may be rolled-up to build the level of reporting that we need not only for Congress, but also for industry, the public, and other partners. Other information we will collect is required by policy or regulation and was collected differently prior to this, but is not new information. Some pieces of information are part of the system management process and are not expected to be used for that type of report.

Comment: The States should be given training, technical support, a system for collecting ongoing comments and suggestions, and definitions to help guide the consistency of entries.

Response: We have been conducting training during 2013. We have developed Best Management Practices guidance, e–learning, examples of projects from various types of grants, instructions for how to enter the data, and other learning and use tools. We will post information on a Wiki that will allow users to search for specific information and easily find guidance. We will give technical assistance and answer questions through a Help Desk that will be supported indefinitely.

Comment: There is concern that too much money will be spent on administration leaving less money for on-the-ground projects.

Response: We expect there will be an increase in administrative burden for the first year or so using the electronic system. The electronic system will be used regardless of whether we add more information or not, as it is part of the application and reporting requirements for States to give the Service certain information in order to voluntarily receive grant funds. Especially with the increase in funds given to States in 2013 for Sport Fish Restoration and Wildlife Restoration, and the expected trend for continued increase in at least Wildlife Restoration funding to States, we expect no significant reduction in funding that can be used for direct conservation projects. Ultimately, however, it is a State decision on how they divide their WSFR funding between projects and administration.

Comment: The Service should be responsible for all historical data entry.

Response: We will bring as much historical information over from FAIMS as possible using the current technology. We will not expect users to enter information from past years.

Comment: Instead of having to draw a point or polygon on a map, we need an option of entering GPS coordinates.

Response: Users will have the option to enter mapping information several different ways, including using GPS coordinates. We have trained users on how to make the desired changes.

Comment: The Service should divide the training up so that one class talks about how to do part of the data entry and another class something else.

Response: We enlisted our professional WSFR trainers to organize and present initial training. They will continue to build tools and add components as needed for additional training as requested or as needed.

Comment: States should not have to send in interim reports when a final report is due shortly after.

Response: The reporting frequency and process is required by 43 CFR 12 and is not part of the additional burden.

Comment: Some projects affect over 200 species. How can we efficiently enter all of that information into the electronic system?

Response: Entering species information is not required. A recommended best practice is to identify species that are directly benefitted by a specific action. Users will have the option to build customized groups of species that can then be applied to many different actions. We will continue to improve the process of working with species information to minimize the workload.

Comment: Although it is a good idea for States to enter more information for the public to see, it will mean an extra workload and cost more money.

Response: Any additions that States make to the electronic system beyond those we request are a decision of the State.

General Public Comment

Comment: The commenter stated that members of the public should have the opportunity to review and approve projects in their State, and should have a say on how the State uses the funds.

Response: Members of the public will be able to access grant information as a report in Wildlife TRACS. The commenter did not address the information collection, and we did not make any changes to our requirements as a result of this comment.

We have consulted with States, organizations, other agencies, and other Federal staff when preparing the burden information, when determining the information we need for reporting actions, and when developing and implementing the new electronic system. We have formed several teams over the last 2 years during the development of the electronic system and have organized several more teams to assist in managing the system and responding to States and others into the future.

We again invite comments concerning this information collection on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of our estimate of the burden for this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on respondents.

Comments that you submit in response to this notice are a matter of public record. 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 OMB in your comment to withhold your personal identifying information from public review, we cannot guarantee that it will be done.

Dated: December 19, 2013.

Tina A. Campbell,

Chief, Division of Policy and Directives Management, U.S. Fish and Wildlife Service.

[FR Doc. 2013–30623 Filed 12–23–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

U.S. Geological Survey

[GX14LR000F60100]

Agency Information Collection Activities: Request for Comments

AGENCY: U.S. Geological Survey (USGS), Interior.

ACTION: Notice of an extension of a currently approved information collection (1028–0070).

SUMMARY: We (the U.S. Geological Survey) will ask the Office of Management and Budget (OMB) to approve the information collection (IC) described below. This collection consists of one form, '9–4117–MA, Consolidated Consumers' Report'. As required by the Paperwork Reduction Act (PRA) of 1995, and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this IC. This collection is scheduled to expire on April 30, 2014.

DATES: To ensure that your comments are considered, we must receive them on or before February 24, 2014.

ADDRESSES: Please submit a copy of your comments to the Information Collection Clearance Officer, U.S. Geological Survey, 807 National Center, 12201 Sunrise Valley Drive, Reston, VA 20192 (mail); 703–648–7195 (fax); or *dgovoni@usgs.gov* (email). Please reference 'Information Collection 1028–0070, Consolidated Consumers' Report' in all correspondence.

FOR FURTHER INFORMATION CONTACT: Michael J. Magyar at 703–648–4910 (telephone); *mmagyar@usgs.gov* (email); or by mail at U.S. Geological Survey, 988 National Center, 12201 Sunrise Valley Drive, Reston, VA 20192.

SUPPLEMENTARY INFORMATION:

I. Abstract

Respondents to this form supply the USGS with domestic consumption data for 12 metals and ferroalloys, some of which are considered strategic and critical to assist in determining stockpile goals. These data and derived information will be published as chapters in Minerals Yearbooks, monthly Mineral Industry Surveys, annual Mineral Commodity Summaries, and special publications, for use by Government agencies, industry, education programs, and the general public.

II. Data

OMB Control Number: 1028–0070.

Form Number: 9–4117–MA.

Title: Consolidated Consumers' Report.

Type of Request: Extension of a currently approved collection.

Affected Public: Business or Other-for-Profit Institutions: U.S. nonfuel minerals consumers of ferrous and related metals.

Respondent Obligation: None. Participation is voluntary.

Frequency of Collection: Monthly and Annually.

Estimated Number of Annual Responses: 1,904.

Annual Burden Hours: 1,428 hours, based on an estimated average of 45 minutes per response.

Estimated Reporting and Recordkeeping ''Non-Hour Cost'' Burden: There are no ''non-hour cost'' burdens associated with this collection of information.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, et seq.) provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number and current expiration date.

III. Request for Comments

We are soliciting comments as to: (a) Whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) the accuracy of the agency's estimate of the burden time to the proposed collection of information; (c) how to enhance the quality, usefulness, and clarity of the information to be collected; and (d) how to minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

Please note that the comments submitted in response to this notice are a matter of public record. Before including your street 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 view, we cannot guarantee that we will be able to do so.

Dated: December 6, 2013.

W. David Menzie,

Acting Director, National Minerals Information Center, U.S. Geological Survey.

[FR Doc. 2013–30566 Filed 12–23–13; 8:45 am]

BILLING CODE 4311–AM–P

DEPARTMENT OF THE INTERIOR

U.S. Geological Survey

[GX14MB00FG3B100]

Proposed Agency Information Collection Activity: Nonindigenous Aquatic Species Sighting Reporting Form

AGENCY: United States Geological Survey (USGS), Interior.

ACTION: Notice of an extension of a currently approved information collection (1028–0098).

SUMMARY: We (the U.S. Geological Survey) have sent an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. The ICR, which is summarized below, describes the nature of the collection and the estimated burden on the public. As required by the Paperwork Reduction Act (PRA) of 1995, and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other federal agencies to take this opportunity to comment on this ICR. This collection is scheduled to expire on December 31, 2013.

DATES: To ensure that your comments on this ICR are considered, you must submit them on or before January 23, 2014.

ADDRESSES: Please submit your written comments on this ICR directly to the OMB Office of Information and Regulatory Affairs, Attention: Desk Officer for the Department of the Interior, at *OIRA_SUBMISSION@omb.eop.gov* (email); or (202) 395–5806 (fax). Please also submit a duplicate copy of your comments to the Information Collection Clearance Officer, U.S. Geological Survey, 12201 Sunrise Valley Drive, 807 National Center, 12201 Sunrise Valley Drive, Reston, VA 20192 (mail); 703–648–7195 (fax); or *dgovoni@usgs.gov* (email). Reference 'OMB Information Collection 1028–0098' in all correspondence.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, please contact Pam Fuller at (352) 264–3481 (telephone); *pfuller@usgs.gov* (email); or by mail at U.S. Geological Survey, 7920 NW 71st Street, Gainesville, Florida 32653. You may also find information about this ICR at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

America is under siege by many harmful non-native species of plants, animals, and microorganisms. More than 6,500 nonindigenous species are now established in the United States, posing risks to native species, valued ecosystems, and human and wildlife health. These invaders extract a huge cost, an estimated 120 billion dollars per year, to mitigate their harmful impacts. The current annual environmental, economic, and health-related costs of invasive species exceed those of all other natural disasters combined.

Through its Invasive Species Program (*http://www.usgs.gov/ecosystems/invasive_species/*), the USGS plays an important role in federal efforts to combat invasive species in natural and semi-natural areas through early detection and assessment of newly established invaders; monitoring of invading populations; and improving understanding of the ecology of invaders and factors in the resistance of habitats to invasion. The USGS provides the tools, technology, and information supporting efforts to prevent, contain, control, and manage invasive species nationwide. To meet user needs, the USGS also develops methods for

compiling and synthesizing accurate and reliable data and information on invasive species for inclusion in a distributed and integrated web-based information system.

As part of the USGS Invasive Species Program, the Nonindigenous Aquatic Species (NAS) database (*http://nas.er.usgs.gov/*) functions as a repository and clearinghouse for occurrence information on nonindigenous aquatic species from across the United States. It contains locality information on more than 900 species of vertebrates, invertebrates, and vascular plants introduced since 1850. Taxa include foreign species as well as those native to North America that have been transported outside of their natural range. The NAS Web site provides immediate access to new occurrence records through a real-time interface with the NAS database. Visitors to the Web site can use a set of predefined queries to obtain lists of species according to state or hydrologic basin of interest. Fact sheets, distribution maps, and information on new occurrences are continually posted and updated. Dynamically generated species distribution maps show the spatial accuracy of the locations reported, population status, and links to more information about each report.

Information is collected from the public regarding the local occurrences of nonindigenous aquatic species, primarily fish, in open waters of the United States. This is vital information for early detection and rapid response for the possible eradication of organisms that may be considered invasive in a natural environment such as a lake, river, stream, or pond. Because it is not possible for USGS scientists to monitor all open waters for harmful nonindigenous organisms, the public can help by serving as the ''eyes and ears'' for the USGS's Nonindigenous Aquatic Species Program.

The USGS does not actively solicit or require this observation information from the public. Participation in the reporting process is completely voluntary. Members of the public who wish to report the occurrence of a suspected nonindigenous aquatic species, usually encountered through fishing or some other outdoor recreational activity, may fill out and submit a form (*http://nas.er.usgs.gov/SightingReport.aspx*) posted on our Web site. The information requested includes type of organism, date and location of sighting, photograph(s) if available, and basic observer contact information (to allow the USGS to contact the observer in the event additional information, such as the color markings and size of the specimen collected or observed, is needed to verify its identity).

II. Data

OMB Control Number: 1028–0098.

Title: Nonindigenous Aquatic Species Sighting Reporting Form.

Type of Request: Extension of a currently approved collection.

Affected Public: State and local government employees and private individuals.

Respondent's Obligation: None; voluntary.

Frequency of Collection: Occasional.

Estimated Annual Number of Respondents: 400.

Estimated Total Annual Responses: 400.

Estimated Time per Response: 10 minutes.

Estimated Total Annual Burden Hours: 67 hours.

III. Request for Comments

Comments: We are soliciting comments as to: (a) Whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) the accuracy of the agency's estimate of the burden time to the proposed collection of information; (c) how to enhance the quality, usefulness, and clarity of the information to be collected; and (d) how to minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology. Please note that the comments submitted in response to this notice are a matter of public record. 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 the OMB in your comment to withhold your personal identifying information from public review, we cannot guarantee they will do so.

Dated: December 17, 2013.

Anne Kinsinger,

Associate Director for Biology, U.S. Geological Survey.

[FR Doc. 2013–30565 Filed 12–23–13; 8:45 am]

BILLING CODE 4311–AM–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVB02000 L71220000.EX0000.LVTFF1201490; N–91038, 14–08807; MO# 4500059743]

Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Gemfield Mine Project, Esmeralda County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent.

SUMMARY: In compliance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976, as amended, the Bureau of Land Management (BLM) Tonopah Field Office, Tonopah, Nevada, intends to prepare an Environmental Impact Statement (EIS) to analyze and disclose impacts associated with the Gemfield Mine Project, a proposed open pit gold mine and associated processing and ancillary facilities. The project would be located on public and private land in Esmeralda County, Nevada. This notice announces the beginning of the scoping process to solicit public comments and identify issues.

DATES: This notice initiates the public scoping process for the EIS. Comments on issues may be submitted in writing until January 23, 2014. The date(s) and location(s) of any scoping meetings will be announced at least 15 days in advance through local media, newspapers and the BLM Web site at: *http://www.blm.gov/nv/st/en/fo/battle_mountain_field.html.* In order to be considered during the preparation of the Draft EIS, all comments must be received prior to the close of the 30-day scoping period or 15 days after the last public meeting, whichever is later. The BLM will provide additional opportunities for public participation upon publication of the Draft EIS.

ADDRESSES: You may submit comments related to the proposed Gemfield Mine Project by any of the following methods:

- *Email: BLM_NV_BMDO_GemfieldProject@blm.gov*
- *Fax:* 775–482–7810
- *Mail:* BLM, Tonopah Field Office, 1553 S. Main Street/P.O. Box 911, Tonopah, NV 89049

Documents pertinent to this proposal may be examined at the Tonopah Field Office.

FOR FURTHER INFORMATION CONTACT: Mark J. Ennes, Assistant Field Manager, telephone: 775–482–7835; address: 1553 S. Main Street/P.O. Box 911, Tonopah,

NV 89049; email: *mennes@blm.gov.* Contact Mr. Ennes if you wish to add your name to our mailing list. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: Metallic Goldfield, Inc. proposes to construct, operate, reclaim, and close an open pit, heap leach, gold mining operation known as the Gemfield Mine Project.

The proposed project would be located 1.5 miles north of Goldfield, Nevada, in Esmeralda County. The proposed project area contains approximately 660 acres of public land managed by the Tonopah Field Office and 414 acres of private land for a total of approximately 1,074 acres of proposed disturbance.

Approximately 10 million tons of ore and waste rock would be mined annually and extracted using conventional open pit mining methods of drilling and blasting over the approximately 10-year production phase of the mine. An estimated 600,000 ounces is expected to be extracted from the ore. The life of the mine would be approximately 13 years including reclamation and closure activities.

The primary facilities associated with the proposed project would include the open pit, waste rock dump facility, mine office and facilities, crushing facilities and stockpile, heap leach pad, process facility, various process and make up water ponds, mine and access roads, and storm water diversion channels.

There are 14 rights-of-way (ROW) associated with the Gemfield Mining Project Plan of Operations. Of these ROWs, there are 20 actions which consist of relinquishment and closure of ROW case files, amendments of ROWs, and the addition of new ROWs. Major ROW actions would include the relocation of U.S. Highway 95; the relocation of a major fiber optic line known as the Defense Bypass Route that serves military installations along U.S. Highway 95; the Nevada Hospital Association fiber optic line connecting major hospitals along the U.S. Highway 95 corridor with Reno and Las Vegas; and the existing Goldfield waterline that serves the residents of the Town of Goldfield.

Metallic Goldfield, Inc. would employ up to 200 employees for the construction of the proposed project and approximately 150 employees during mine operations, including contractors.

An interdisciplinary approach will be used to develop the EIS in order to consider the variety of resource issues and concerns identified during the scoping period. Potential direct, indirect, and cumulative impacts from the proposed action will be analyzed in the EIS.

The purpose of the public scoping process is to determine relevant issues that will influence the scope of the environmental analysis, including potential alternatives, and the extent to which those issues and impacts will be analyzed in the EIS. At present, the BLM has identified the following preliminary issues: (1) Closure of the cyanide heap leach pad; (2) The relocation of 2.5 miles of U.S. Highway 95 and several associated ROWs and their impact on wildlife and vegetation; and (3) Socioeconomic concerns associated with the influx of workers expected to be employed by the mine.

The BLM will use the NEPA commenting process to help fulfill the public participation requirements of Section 106 of the National Historic Preservation Act (NHPA) (16 U.S.C. 470(f)) as provided for in 36 CFR 800.2(d)(3). Any information about historic and cultural resources within the area potentially affected by the proposed project will assist the BLM in identifying and evaluating impacts to such resources in the context of both NEPA and Section 106 of the NHPA.

The BLM will consult with Indian tribes on a government-to-government basis in accordance with Executive Order 13175 and other policies. Tribal concerns, including potential impacts to cultural resources, will be given due consideration. Federal, State, and local agencies, along with tribes and other stakeholders that may be interested in or affected by the proposed Gemfield Mine Project are invited to participate in the scoping process and, if eligible, may request or be requested by the BLM to participate in the development of the environmental analysis as a cooperating agency.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 40 CFR part 1501.

Timothy J. Coward,

Field Manager, Tonopah Field Office.

[FR Doc. 2013–30618 Filed 12–23–13; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLOR957000–L63100000–HD0000–14XL1116AF: HAG14–0038]

Filing of Plats of Survey: Oregon/Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Bureau of Land Management, Oregon State Office, Portland, Oregon, 30 days from the date of this publication.

Willamette Meridian

Oregon

T. 28 S., R. 11 W., accepted October 28, 2013
T. 27 S., R. 11 W., accepted October 28, 2013
T. 24 S., R. 4 W., accepted November 19, 2013
T. 24 S., R. 3 W., accepted November 19, 2013
T. 15 S., R. 12 E., accepted November 21, 2013
T. 29 S., R. 3 W., accepted November 21, 2013
T. 39 S., R. 6 E., accepted November 21, 2013
T. 26 S., R. 14 W., accepted November 21, 2013
T. 34 S., R. 6 W., accepted December 4, 2013
T. 15 S., R. 1 W., accepted December 4, 2013
T. 7 S., R. 6 W., accepted December 4, 2013

Washington

Tps. 31 & 32 N., Rs. 15 & 16 W., accepted November 19, 2013

ADDRESSES: A copy of the plats may be obtained from the Public Room at the Bureau of Land Management, Oregon State Office, 1220 SW., 3rd Avenue, Portland, Oregon 97204, upon required payment.

FOR FURTHER INFORMATION CONTACT: Kyle Hensley, (503) 808–6132, Branch of Geographic Sciences, Bureau of Land Management, 1220 SW., 3rd Avenue, Portland, Oregon 97204. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: A person or party who wishes to protest against this survey must file a written notice with the Oregon State Director, Bureau of Land Management, stating that they wish to protest. A statement of reasons for a protest may be filed with the notice of protest and must be filed with the Oregon State Director within thirty days after the protest is filed. If a protest against the survey is received prior to the date of official filing, the filing will be stayed pending consideration of the protest. A plat will not be officially filed until the day after all protests have been dismissed or otherwise resolved.

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.

Mary J.M. Hartel,

Chief Cadastral Surveyor of Oregon/Washington.

[FR Doc. 2013–30621 Filed 12–23–13; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–CONC–ABSV–14348; PPWOBSADC0, PPMVSCS1Y.Y00000]

Notice of Continuation of Visitor Services

AGENCY: National Park Service, Interior.

ACTION: Public Notice.

SUMMARY: Pursuant to the terms of existing concession contracts, public notice is hereby given that the National Park Service intends to request a continuation of visitor services for the periods specified below.

DATES: *Effective Date:* January 1, 2014.

FOR FURTHER INFORMATION CONTACT: Ben Erichsen, Chief, Commercial Services Program, National Park Service, 1201 Eye Street NW., 11th Floor, Washington, DC 20005, Telephone, (202) 513–7156.

SUPPLEMENTARY INFORMATION: The contracts listed below have been extended to the maximum allowable under 36 CFR 51.23. Under the provisions of current concession contracts and pending the completion of the public solicitation of a prospectus for a new concession contract, the National Park Service authorizes continuation of visitor services for a period not-to-exceed 1 year under the terms and conditions of the current contract as amended. The continuation of operations does not affect any rights with respect to selection for award of a new concession contract.

CONCID	Concessioner	Park unit
NACE001–89	Golf Course Specialists, Inc	National Mall and Memorial Parks.
NACE003–86	Guest Services, Inc	National Mall and Memorial Parks.
BLRI001–93	Southern Highland Handicraft Guild, Inc	Blue Ridge Parkway.
CAHA001–98	Avon-Thornton Limited Partnership	Cape Hatteras National Seashore.
CAHA004–98	Oregon Inlet Fishing Center, Inc	Cape Hatteras National Seashore.
MACA002–82	Forever NPC Resorts, LLC	Mammoth Cave National Park.
VIIS001–71	CBI Acquisitions, LLC	Virgin Islands National Park.
OZAR012–88	Akers Ferry Canoe Rental, Inc	Ozark National Scenic Riverways.
GLAC002–81	Glacier Park, Inc	Glacier National Park.
GLCA002–88	ARAMARK Sports and Entertainment Services, Inc	Glen Canyon National Recreation Area.
GLCA003–69	ARAMARK Sports and Entertainment Services, Inc	Glen Canyon National Recreation Area.
GRCA003–97	D.N.C. Parks and Resorts at Grand Canyon, Inc	Grand Canyon National Park.
MEVE001–82	ARAMARK Mesa Verde Company, Inc	Mesa Verde National Park.
PEFO001–85	Xanterra Parks & Resorts, Inc	Petrified Forest National Park.
LAKE001–73	Rex G. Maughan & Ruth G. Maughan	Lake Mead National Recreation Area.
LAKE002–82	Lake Mead RV Village, LLC	Lake Mead National Recreation Area.
LAKE004–88	Lake Mead Cruises	Lake Mead National Recreation Area.
LAKE005–97	Rex G. Maughan	Lake Mead National Recreation Area.
LAKE006–74	Las Vegas Boat Harbor, Inc	Lake Mead National Recreation Area.
LAKE007–84	Seven Resorts, Inc	Lake Mead National Recreation Area.
LAKE009–88	Temple Bar Marina, LLC	Lake Mead National Recreation Area.

Under the provisions of current concession contracts and pending the completion of the public solicitation of a prospectus for a new concession contract, the National Park Service authorizes continuation of visitor services until the dates shown under the terms and conditions of the current contract as amended. The continuation of operations does not affect any rights with respect to selection for award of a new concession contract.

CONCID	Concessioner	Extend until
INDE001–94	Concepts by Staib, Ltd	December 31, 2014.
LARO001–92	Dakota Columbia Rentals, LLC	March 31, 2014.

Dated: December 5, 2013.

Lena McDowall,

Associate Director, Business Services.

[FR Doc. 2013–30574 Filed 12–23–13; 8:45 am]

BILLING CODE 4312–53–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–CONC–14349; PPWOBSADC0, PPMVSCS1Y.Y00000]

Notice of Extension of Concession Contracts

AGENCY: National Park Service, Interior.

ACTION: Public notice.

SUMMARY: The National Park Service hereby gives public notice that it proposes to extend the following expiring concession contracts for a period of up to 1 (one) year, or until the effective date of a new contract, whichever occurs sooner.

DATES: *Effective Date:* January 1, 2014.

FOR FURTHER INFORMATION CONTACT: Ben Erichsen, Chief, Commercial Services Program, National Park Service, 1201 Eye Street NW., 11th Floor, Washington, DC 20005, Telephone (202) 513–7156.

SUPPLEMENTARY INFORMATION: All of the listed concession authorizations will expire by their terms on or before December 31, 2013. Pursuant to 36 CFR 51.23, the National Park Service has determined that the proposed short-term extensions are necessary in order to avoid interruption of visitor services and has taken all reasonable and appropriate steps to consider alternatives to avoid such interruption.

CONCID	Concessioner	Park unit
GLBA035–04	Glacier Bay Sea Kayaks, Inc	Glacier Bay National Park and Preserve.
ACAD001–03	The Acadia Corporation	Acadia National Park.
ACAD010–04	National Park Tours and Transport, Inc	Acadia National Park.
ACAD011–04	Oli's Trolley	Acadia National Park.
CACO003–02	The Town of Truro	Cape Cod National Seashore.
COLO006–03	Debi A. Helseth	Colonial National Historical Park.
DEWA001–04	Teresa A. Toomer and Walter D. Toomer	Delaware Water Gap National Recreation Area.
GATE001–02	Jamaica Bay Riding Academy, Inc	Gateway National Recreation Area.
GATE017–03	JEN Marine Development, LLC	Gateway National Recreation Area.
GATE020–04	Global Golf Services, Inc	Gateway National Recreation Area.
HOSP001–04	Hot Springs Advertising and Promotion Commission	Hot Springs National Park.
ISRO006–04	Jon S. Safstrom	Isle Royale National Park.
OZAR015–04	Kim Smith	Ozark National Scenic Riverways.
BICA007–09	LuCon Corporation	Bighorn Canyon National Recreation Area.
CANY022–04	OARS Canyonlands, Inc	Canyonlands National Park.
CANY024–04	Niskanen and Jones, Inc	Canyonlands National Park.
CANY025–04	NAVTEC Expeditions, Inc	Canyonlands National Park.
CANY026–04	Niskanen and Jones, Inc	Canyonlands National Park.
CANY027–04	3–D River Visions, Inc	Canyonlands National Park.
DINO001–04	Adventure Bound, Inc	Dinosaur National Monument.
DINO002–04	American River Touring Association, Inc	Dinosaur National Monument.
DINO003–04	Outward Bound West	Dinosaur National Monument.
DINO005–04	Holiday River Expeditions, Inc	Dinosaur National Monument.
DINO006–04	Don Hatch River Expeditions, Inc	Dinosaur National Monument.
DINO008–04	Tyler Callantine	Dinosaur National Monument.
DINO009–04	OARS Canyonlands, Inc	Dinosaur National Monument.
DINO0011–04	National Outdoor Leadership School	Dinosaur National Monument.
DINO0012–04	Sheri Griffith Expeditions, Inc	Dinosaur National Monument.
DINO0014–04	Eagle Outdoor Sports, Inc	Dinosaur National Monument.
DINO0016–04	AA, LLC	Dinosaur National Monument.
GRCA001–02	Xanterra Parks and Resorts, LLC	Grand Canyon National Park.
GRTE046–03	Gros Ventre River Ranch	Grand Teton National Park.
ROMO003–04	Andrews, Bicknell, and Crothers, LLC	Rocky Mountain National Park.
WHSA001–05	White Sands Trading, LLC	White Sands National Monument.
YELL102–04	Adventures Outfitting, LLC	Yellowstone National Park.
YELL103–04	Triangle X Ranch	Yellowstone National Park.
YELL104–04	Stillwater Outfitters, LLC	Yellowstone National Park.
YELL105–04	Bear Paw Outfitters	Yellowstone National Park.
YELL106–04	Jackson Hole Llamas	Yellowstone National Park.
YELL107–04	Wyoming Backcountry Adventures, Inc	Yellowstone National Park.
YELL108–04	Sunrise Pack Station, LLC	Yellowstone National Park.
YELL110–04	Mountain Sky Guest Ranch, LLC	Yellowstone National Park.
YELL113–04	7D Ranch, LLC	Yellowstone National Park.
YELL115–04	Gary Fales Outfitting, Inc	Yellowstone National Park.
YELL117–04	Scott Sallee	Yellowstone National Park.
YELL118–04	Yellowstone Mountain Guides, Inc	Yellowstone National Park.
YELL120–04	Slough Creek Outfitters, Inc	Yellowstone National Park.
YELL121–04	Yellowstone Llamas	Yellowstone National Park.
YELL122–04	Sheep Mesa Outfitters	Yellowstone National Park.
YELL123–04	Castle Creek Outfitters and Guide Service	Yellowstone National Park.
YELL124–04	Jake's Horses, Inc	Yellowstone National Park.
YELL125–04	Big Bear Outfitters	Yellowstone National Park.
YELL126–04	Yellowstone Wilderness Outfitters	Yellowstone National Park.
YELL127–04	Medicine Lake Outfitters	Yellowstone National Park.
YELL130–04	Skyline Guest Ranch and Guide Service, Inc	Yellowstone National Park.

CONCID	Concessioner	Park unit
YELL131–04	Hell's A-Roarin' Outfitters, Inc	Yellowstone National Park.
YELL132–04	Nine Quarter Circle Ranch, Inc	Yellowstone National Park.
YELL134–04	Dave Hettinger Outfitting	Yellowstone National Park.
YELL137–04	R.K. Miller's Wilderness Pack Trips, Inc	Yellowstone National Park.
YELL138–04	Yellowstone Roughriders, LLC	Yellowstone National Park.
YELL139–04	Hoof Beat Recreational Services	Yellowstone National Park.
YELL140–04	Black Otter, Inc	Yellowstone National Park.
YELL141–04	Lost Fork Ranch	Yellowstone National Park.
YELL144–04	Lone Mountain Ranch, Inc	Yellowstone National Park.
YELL145–04	Dollar, Inc	Yellowstone National Park.
YELL146–04	K Bar Z Guest Ranch and Outfitters, LLC	Yellowstone National Park.
YELL147–04	Yellowstone Outfitters	Yellowstone National Park.
YELL148–04	Kevin V. & Deborah A. Little	Yellowstone National Park.
YELL156–04	Two Ocean Pass Outfitting	Yellowstone National Park.
YELL157–04	Beartooth Plateau Outfitters, Inc	Yellowstone National Park.
YELL158–04	Wilderness Trails, Inc	Yellowstone National Park.
YELL159–04	Colby Gines' Wilderness Adventures, LLC	Yellowstone National Park.
YELL162–04	Grizzly Ranch	Yellowstone National Park.
YELL164–04	TNT Ranch, LLC	Yellowstone National Park.
YELL165–04	Gunsel Horse Adventures	Yellowstone National Park.
YELL166–04	ER Ranch Corporation	Yellowstone National Park.
YELL168–04	Llama Trips in Yellowstone	Yellowstone National Park.
YELL170–04	Rockin' HK Outfitters, Inc	Yellowstone National Park.
ZION001–03	Bryce-Zion Trail Rides, Inc	Zion National Park.
MORA002–88	Guest Services, Inc	Mount Rainier National Park.
YOSE003–08	Kirstie Dunbar-Kari	Yosemite National Park.

Under the provisions of current concession contracts and pending the completion of the public solicitation of a prospectus for a new concession contract, the National Park Service authorizes extension of visitor services for the contracts below until the dates shown under the terms and conditions of the current contract as amended. The extension of operations does not affect any rights with respect to selection for award of a new concession contract.

CONCID	Concessioner	Extend until
GLBA001–04	Glacier Bay National Park and Preserve Concessions, LLC	September 30, 2015.
STLI001–07	Statue Cruises, LLC	September 30, 2015.
BLRI003–04	Parkway Inn, Inc	December 31, 2014.
AMIS002–12	Southwest Lake Resorts, LLC	December 31, 2014.
JODR003–04	ARAMARK Togwotee, LLC	March 31, 2015.
JODR013–04	Rocky Mountain Snowmobile Tours	March 31, 2015.
JODR015–04	Jackson Hole Adventure Center, LLC	March 31, 2015.
YELL300–04	Yellowstone Expeditions	March 31, 2015.
YELL301–04	Loomis Recreational, Inc	March 31, 2015.
YELL302–04	See Yellowstone Tours, Inc	March 31, 2015.
YELL303–04	Yellowstone Winter Guides, Inc	March 31, 2015.
YELL304–04	Triangle C Ranch, LLC	March 31, 2015.
YELL305–04	Loomis Recreational, Inc	March 31, 2015.
YELL306–04	Buffalo Bus Touring Company	March 31, 2015.
YELL307–04	Buffalo Bus Touring Company	March 31, 2015.
YELL308–04	Buffalo Bus Touring Company	March 31, 2015.
YELL402–04	Backcountry Adventure, Inc	March 31, 2015.

Dated: December 5, 2013.

Lena McDowall,

Associate Director, Business Services.

[FR Doc. 2013–30577 Filed 12–23–13; 8:45 am]

BILLING CODE 4312–53–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–14587; 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 23, 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 January 8, 2014. 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: December 2, 2013.

J. Paul Loether,

Chief, National Register of Historic Places/National Historic Landmarks Program.

Alabama

Dallas County

Jackson, Sullivan & Richie Jean, House, (Civil Rights Movement in Selma, Alabama MPS) 1416 Lapsley Ave., Selma, 13001033

California

Alameda County

University Art Museum, 2626 Bancroft Way, Berkeley, 13001034

Colorado

Gilpin County

Winks Panorama (Boundary Increase), 213 Winks Way, Pinecliffe, 13001035

Kansas

Allen County

City Square Park Bandstand, 100 S. 9th St., Humboldt, 13001036

Douglas County

Clearfield School—District 58, (Public Schools of Kansas MPS) 2162 N. 600 Rd., Baldwin City, 13001037

University of Kansas East Historic District, Roughly bounded by Oread & Sunnyside Aves., Jayhawk Blvd., Lilac Ln., Pearson Pl., Louisiana & W. 13th Sts., Lawrence, 13001038

Upper Wakarusa River Crossing, 1180 E. 1400 Rd., Lawrence, 13001039

Marshall County

Oregon and California Trail—Pacha Ruts, Address Restricted, Bremen, 13001040

Montgomery County

Cedar Manor Farm, (Agriculture-Related Resources of Kansas MPS) 2326 Cty. Rd. 6400, Fredonia, 13001041

Pottawatomie County

Trout, George and Virginia, House, 615 Elm St., Wamego, 13001043

Riley County

Bluemont Youth Cabin, (New Deal-Era Resources of Kansas MPS) NE. of 5th & Bertrand Sts. in Goodnow Park, Manhattan, 13001044

Ingraham, Jesse, House, (Late 19th Century Vernacular Stone Houses in Manhattan, Kansas MPS) 1724 Fairchild Ave., Manhattan, 13001045

Wyandotte County

Simmons Funeral Home, 1404 S. 37th St., Kansas City, 13001046

Kentucky

Boyle County Goodall Building, (Boyle MPS) 470 Stanford Rd., Danville, 13001047

Fayette County

Southeast Greyhound Line Building, 101 W. Loudon St., Lexington, 13001048

Franklin County

Bridgeport School, 555 Bridgeport Rd., Bridgeport, 13001049

Brown—Henry House, 818 Fields Ave., Frankfort, 13001050

Point Breeze, 219 Riverview St., Frankfort, 13001051

Graves County

St. Jerome's Catholic Church Complex, 20 KY 339, 10225 KY 80 W., Fancy Farm, 13001052

Knott County

Stamper, Hiram and Art, House, 864 Stamper Branch Rd., Hindman, 13001053

Madison County

Churchill Weavers, 100 Churchill Dr., Berea, 13001054

Trimble County

Norfolk Farm Tenant Log House, Address Restricted, Bedford, 13001055

Massachusetts

Essex County

Beverly Depot—Odell Park Historic District, Roughly bounded by River, Rantoul & Pleasant Sts., Broadway, Beverly, 13001056

New York

Monroe County

Sibley's, Lindsay and Curr Building, (Inner Loop MRA; Department Store TR) 228 E. Main St., Rochester, 84003945

Suffolk County

Carrington House, Lewis Walk, Fire Island Pines, 13001057

Oregon

Clatsop County

Astoria Marine Construction Company Historic District, 92134 Front Rd., Astoria, 13001058

Rhode Island

Providence County

Mechanical Fabric Company, 55 Cromwell St., 40, 40R, 50, 50R Sprague St., Providence, 13001059

Washington

Pierce County

Point Defiance Streetcar Station, 5801 Trolley Ln., Tacoma, 13001060

Spokane County

Finch, John A., School, N. 3717 Milton St., Spokane, 13001061

Germond Block, 830 W. Sprague Ave., Spokane, 13001062

Hill—Hilscher House, 1638 S. Cedar St., Spokane, 13001063

Wyoming

Johnson County

Beaver Creek Ranch, 2333 Beaver Creek, Buffalo, 13001064

Park County

Clay Butte Lookout, Approx. ½ mi. N. of jct. of US 212 and FS Rd. 142, Clark, 13001065

A request for removal has been made for the following resource:

Kansas

Kingman County

Doney—Clark House, 817 W. Sherman St., Kingman, 94000409

[FR Doc. 2013–30588 Filed 12–23–13; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–14541; 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 16, 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 January 8, 2014. 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 25, 2013.

J. Paul Loether,

Chief, National Register of Historic Places/ National Historic Landmarks Program.

Illinois

Cook County

Bush Temple of Music, 100 W. Chicago Ave., 800 N. Clark St., Chicago, 13001001

Stony Island Trust and Savings Bank Building, 6760 S. Stony Island Ave., Chicago, 13001002

Lake County

Waukegan Public Library, (Illinois Carnegie Libraries MPS) 1 N. Sheridan Rd., Waukegan, 13001003

Madison County

Salem Baptist Church, 2001 Seiler Rd., Alton, 13001004

Peoria County

Kickapoo Building, 726 W. Main St., Peoria, 13001005

St. Clair County

Broadview Hotel, 415 E. Broadway, East St. Louis, 13001006

Indiana

Clark County

Howes', Mitchell P., Lime Kiln and Quarry, (Lime Manufacturing Resources of Utica, Indiana MPS) Address Restricted, Utica, 13001007

Starkweather's, Samuel, Lime Kiln and Quarry, (Lime Manufacturing Resources of Utica, Indiana MPS) Address Restricted, Utica, 13001008

Tyler, Moses H., Company Lime Kiln and Quarry No. 1, (Lime Manufacturing Resources of Utica, Indiana MPS) Address Restricted, Utica, 13001009

Dearborn County

River View Cemetery, 3635 E. Laughery Creek Rd., Aurora, 13001011

La Porte County

Franklin Street Commercial Historic District, Bounded by Pine, 4th & 11th Sts., alley between Franklin & Washington Sts., Michigan City, 13001013

Lake County

Lincoln Street Historic District, Roughly bounded by Fillmore & Hayes Sts., 6th & 8th Aves., Gary, 13001012

Marshall County

Plymouth Southside Historic District, S. Michigan St. roughly bounded by Pennsylvania RR. & Oakhill Ave., Plymouth, 13001016

Noble County

Albion Courthouse Square Historic District, Roughly bounded by Highland, Oak & Hazel Sts., & alley E. of Orange St., Albion, 13001014

St. Joseph County

St. Patrick's Farm, 50651 Laurel Rd., South Bend, 13001015

Union County

Liberty Courthouse Square Historic District, Courthouse Sq, & adjacent blks. along Union & Market Sts., Liberty, 13001018

Liberty Residential Historic District, 28, 103–403 E. Union, 4–8 W. Seminary, 2–124 E. Seminary & 1–7 S. Fairground Sts., 2 & 102 College Corner Ave., Liberty, 13001017

Iowa

Johnson County

Sigma Pi Fraternity House, 108 McLean St., Iowa City, 13001019

Maryland

Baltimore Independent city

Waverly Main Street Historic District, Roughly bounded by E. 29th & E. 35th Sts., Old York Rd., Greenmount Ave., Baltimore (Independent City), 13001020

Nebraska

Madison County

Stubbs—Ballah House, 1000 Prospect Ave., Norfolk, 13001021

Phelps County

Farmers State Bank, 307 Commercial St., Loomis, 13001022

Richardson County

Falls City Commercial Historic District, Roughly Stone St. from 15th to 19th Sts., Falls City, 13001023

New Jersey

Sussex County

Lafayette Village Historic District, NJ 15, Morris Farm Rd. & Meadows Rd., Lafayette Township, 13001024

North Carolina

Brunswick County

Fort Caswell Historic District, 100 Caswell Beach Rd., Caswell Beach, 13001025

Durham County

Hillside Park High School, (Durham MRA) 200 E. Ulmstead St., Durham, 13001026

Mecklenburg County

Louise Cotton Mill, 1101 Hawthorne Ln., Charlotte, 13001027

Nash County

Valintine—Wilder House, 8194 Webb's Mill Rd., Spring Hope, 13001028

Vermont

Chittenden County

Duplex at 73–75 Sherman Street, (Burlington, Vermont MPS) 73–75 Sherman St., Burlington, 13001029

Washington

Spokane County

Anderson, Louise Chandler, House, 3003 S. Manito Blvd., Spokane, 13001030

Bauer, Harvey and Mary, House, 420 W. 22nd St., Spokane, 13001031

Whatcom County

Bellingham Herald Building, 1155 N. State St., Bellingham, 13001032

A request to move has been made for the following resource:

Illinois

Cook County

Rees, Harriet F., House, 2110 S. Prairie Ave., Chicago, 07000458

A request for removal has been made for the following resources:

Indiana

Allen County

Byron, Irene, Tuberculosis Sanatorium—Physicians' Residences, 12371 and 12407 Lima Rd., Fort Wayne, 04001316

Nebraska

Cheyenne County

Brownson Viaduct, NE Spur 17A over US 30 and UPRR tracks, .8 mi. NW of Brownson, Brownson, 92000747

Lancaster County

Ehlers Round Barn, S of NE 2, NE of Roca, Roca, 95000799

Olive Branch Bridge, W. Stagecoach Rd. over Olive Br., 1.7 mi. SW. of Sprague, Sprague, 92000739

Merrick County

Merrick County Courthouse, 18th St. between 15th & 16th Aves., Central City, 89002211

[FR Doc. 2013–30587 Filed 12–23–13; 8:45 am]

BILLING CODE 4312–51–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–510 and 731–TA–1245 (Preliminary)]

Calcium Hypochlorite From China: Institution of Antidumping and Countervailing Duty Investigations and Scheduling of Preliminary Phase Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase antidumping and countervailing duty investigation Nos. 701–TA–510 and 731–TA–1245 (Preliminary) under sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from China of calcium

hypochlorite, provided for in subheading 2828.10.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value and alleged to be subsidized by the Government of China. Unless the Department of Commerce extends the time for initiation pursuant to sections 702(c)(1)(B) or 732(c)(1)(B) of the Act (19 U.S.C. 1671a(c)(1)(B) or 1673a(c)(1)(B)), the Commission must reach a preliminary determination in antidumping and countervailing duty investigations in 45 days, or in this case by Monday, February 03, 2014. The Commission's views must be transmitted to Commerce within five business days thereafter, or by Monday, February 10, 2014.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

DATES: *Effective Date:* Wednesday, December 18, 2013.

FOR FURTHER INFORMATION CONTACT: Joanna Lo (202–205–1888), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted in response to a petition filed on Wednesday, December 18, 2013, by Arch Chemicals, Inc., Atlanta, GA.

Participation in the investigation and public service list.—Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—The Commission's Director of Investigations has scheduled a conference in connection with these investigations for 9:30 a.m. on Wednesday, January 08, 2014, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Requests to appear at the conference should be emailed to *William.bishop@usitc.gov* and *Sharon.bellamy@usitc.gov* (DO NOT FILE ON EDIS) on or before Monday, January 06, 2014. Parties in support of the imposition of countervailing and antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions.—As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before Monday, January 13, 2014, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. Please consult the Commission's rules, as amended, 76 FR 61937 (Oct. 6, 2011) and the Commission's Handbook on Filing Procedures, 76 FR 62092 (Oct. 6, 2011), available on the Commission's Web site at *http://edis.usitc.gov.*

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

By order of the Commission.

Issued: December 19, 2013.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2013–30612 Filed 12–23–13; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Wireless Devices, Including Mobile Phones and Tablets II,* DN 2992; the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing under section 210.8(b) of the Commission's Rules of Practice and Procedure (19 CFR 210.8(b)).

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Acting Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at EDIS,[1] and 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

[1] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

Street, SW., Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server at United States International Trade Commission (USITC) at USITC.[2] The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at EDIS.[3] Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to section 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Pragmatus Mobile, LLC on December 18, 2013. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain wireless devices, including mobile phones and tablets II. The complaint names as respondents Nokia Corporation (Nokia Oyj) of Finland; Nokia, Inc. of Sunnyvale, CA; Samsung Electronics Co., Ltd of South Korea; Samsung Electronics America, Inc. of Ridgefield Park, NJ; Samsung Telecommunications America, L.L.C. of Richardson, TX; Sony Corporation of Japan; Sony Mobile Communications AB of Sweden; Sony Mobile Communications (USA), Inc. of Atlanta, GA; ZTE Corporation of China and ZTE (USA) Inc. of Richardson, TX. The complainant requests that the Commission issue a limited exclusion order, cease and desist orders, and a bond upon respondents' alleged infringing products during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or section 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number (''Docket No. 2990'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, *Electronic Filing Procedures*[4]). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on *EDIS*.[5]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of sections 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: December 19, 2013.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2013–30642 Filed 12–23–13; 8:45 am]

BILLING CODE 7020–02–P

[2] United States International Trade Commission (USITC): *http://edis.usitc.gov.*

[3] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

[4] Handbook for Electronic Filing Procedures: *http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf.*

[5] Electronic Document Information System (EDIS): *http://edis.usitc.gov*

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–891]

Certain Laundry and Household Cleaning Products and Related Packaging Commission Determination Not To Review an Initial Determination Granting a Joint Motion To Terminate the Investigation In Its Entirety; Termination of 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 presiding administrative law judge's (''ALJ'') initial determination (''ID'') (Order No. 10) granting a joint motion by complainant and respondents to terminate the investigation in its entirety based upon a settlement agreement.

FOR FURTHER INFORMATION CONTACT: Panyin A. Hughes, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–3042. 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) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on August 29, 2013, based on a complaint filed by The Clorox Company of Oakland, California (''Clorox''). 78 FR 53479 (Aug. 29, 2013). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain laundry and household cleaning products and packaging thereof by reason of trademark infringement and trademark dilution. The notice of investigation named Industrias AIEn, S.A. de C.V. of Sta. Catarina, Mexico and AIEn USA, LLC of Houston, Texas (collectively, ''AIEn'') as respondents.

On November 27, 2013, Clorox and AIEn filed a joint motion to terminate the investigation in its entirety based upon a settlement agreement. On December 3, 2013, the Commission investigative attorney filed a response in support of the motion. No other responses to the motion were filed.

On December 3, 2013, the ALJ issued the subject ID, granting the joint motion to terminate the investigation in its entirety. The ALJ found that the settlement agreement complies with the requirements of Commission Rule 210.21(b) (19 CFR 210.21(b)) and that terminating AIEn from the investigation would not be contrary to the public interest. None of the parties petitioned for review of the ID.

The Commission has determined not to review the ID.

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).

Issued: December 19, 2013.

By order of the Commission.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2013–30640 Filed 12–23–13; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Access to Employee Exposure and Medical Records

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Occupational Safety and Health Administration (OSHA) sponsored information collection request (ICR) titled, ''Access to Employee Exposure and Medical Records'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 et seq.

DATES: Submit comments on or before January 23, 2014.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201311-1218-008* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OSHA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–6881 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks to maintain PRA approval for the information collection requirements contained in regulations 29 CFR 1910.1020 that require a covered employer to preserve and to provide access to records associated with workers' exposure to toxic chemicals and harmful physical agents. The Occupational Safety and Health Act authorizes this information collection. *See* 29 U.S.C. 651, 655, and 657.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1218–0065.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on December 31, 2013. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on September 9, 2013 (78 FR 55114).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1218–0065. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL–OSHA.

Title of Collection: Access to Employee Exposure and Medical Records.

OMB Control Number: 1218–0065.

Affected Public: Private sector—business or other for-profits.

Total Estimated Number of Respondents: 759,668.

Total Estimated Number of Responses: 6,548,554.

Total Estimated Annual Burden Hours: 730,515.

Total Estimated Annual Other Costs Burden: $0.

Dated: December 18, 2013.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2013–30564 Filed 12–23–13; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Prohibited Transaction Class Exemption 1992–6: Sale of Individual Life Insurance or Annuity Contracts by a Plan

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Employee Benefits Security Administration (EBSA) sponsored information collection request (ICR) titled, ''Prohibited Transaction Class Exemption 1992–6: Sale of Individual Life Insurance or Annuity Contracts by a Plan,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.*

DATES: Submit comments on or before January 23, 2014.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201311-1210-002* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–EBSA, Office of Management and Budget, Room 10235, 725 17th Street, NW., Washington, DC 20503; by Fax: 202–395–6881 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue, NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION: Contact Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks to maintain PRA authorization for the information collection requirements contained in the Prohibited Transaction Class Exemption (PTE) applicable to the sale of individual life insurance or annuity contracts by a plan (PTE 1992–6). More specifically, PTE 1992–6 exempts from the prohibited transaction restrictions of the Employee Retirement Income Security Act (ERISA), 29 U.S.C. 1101 *et seq.,* the sale of individual life insurance or annuity contracts by a plan to participants, relatives of participants, employers any of whose employees are covered by the plan, other employee benefit plans, owner-employees or shareholder-employees; provided that certain conditions are met. In the absence of this exemption, certain aspects of these transactions might be prohibited by ERISA section 406. Among other conditions, PTE 1992–6 requires that a pension plan inform the insured participant of a proposed sale of a life insurance or annuity policy to the employer, a relative, another plan, an owner-employee, or a shareholder-employee. The ERISA authorizes this information collection. *See* 29 U.S.C. 1108(a).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1210–0063.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on December 31, 2013. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on May 22, 2013 (78 FR 30333).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1210–0063. The OMB is particularly interested in comments that:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL–EBSA.

Title of Collection: Prohibited Transaction Class Exemption 1992–6:

Sale of Individual Life Insurance or Annuity Contracts by a Plan.

OMB Control Number: 1210–0063.

Affected Public: Private Sector—businesses or other for-profits.

Total Estimated Number of Respondents: 10,600.

Total Estimated Number of Responses: 10,600.

Total Estimated Annual Burden Hours: 2,100.

Total Estimated Annual Other Costs Burden: $5,500.

Dated: December 18, 2013.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2013–30638 Filed 12–23–13; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Default Investment Alternatives under Participant Directed Individual Account Plans

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Employee Benefits Security Administration (EBSA) sponsored information collection request (ICR) titled, ''Default Investment Alternatives under Participant Directed Individual Account Plans,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.*

DATES: Submit comments on or before January 23, 2014.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201311-1210-004* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–EBSA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–6881 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov*. Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov*.

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov*. *Authority:* 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks to maintain PRA authority for the information collection requirements specified in regulations 29 CFR 2520.104b–1 and 2550.404c–5. More specifically, Employee Retirement Income Security Act of 1974 (ERISA) section 404(c), 29 U.S.C. 1104(c), provides that a participant or beneficiary who can hold an individual account under his or her pension plan and who can exercise control over account assets, as determined in DOL regulations, will not be treated as a plan fiduciary. Moreover, no other plan fiduciary will be liable for any loss, or due to any breach, resulting from the participant's or beneficiary's exercise of control over the individual account assets. The Pension Protection Act, Public Law 109–280, amended the ERISA by adding section 404(c)(5)(A), 29 U.S.C. 1104(c)(5)(A), which provides that a participant in an individual account plan who fails to make investment elections regarding his or her account assets will nevertheless be treated as having exercised control over those assets, so long as the plan provides appropriate notice and invests the assets in accordance with DOL regulations. The DOL, accordingly, has promulgated a regulation to offer guidance on the types of investment vehicles that a plan may choose as its qualified default investment alternative (QDIA). The regulation also outlines two information collection requirements. First, it implements the statutory requirement that a plan provide an annual notice to each participant and beneficiary whose account assets could be invested in a QDIA. Second, the regulation requires a plan to pass any pertinent materials it receives from a QDIA to any participant or beneficiary with assets invested in the QDIA, as well to provide certain information on request. These information collections inform participants and beneficiaries who do not make investment elections of the consequences of the failure to elect investments, the ways in which account assets will be invested through the QDIA, and of the continuing opportunity to make other investment elections, including options available under the plan.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1210–0132.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on December 31, 2013. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on May 22, 2013 (78 FR 3033).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1210–0132. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL–EBSA.

Title of Collection: Default Investment Alternatives under Participant Directed Individual Account Plans.

OMB Control Number: 1210–0132.

Affected Public: Private Sector—businesses or other for-profits and not-for profit institutions.

Total Estimated Number of Respondents: 239,000.

Total Estimated Number of Responses: 31,100,000.

Total Estimated Annual Burden Hours: 201,000.

Total Estimated Annual Other Costs Burden: $10,800,000.

Dated: December 13, 2013.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2013–30634 Filed 12–23–13; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Employment and Training Administration

Comment Request for Information Collection for Information Collection for the Data Validation Requirement for Employment and Training Programs; Extension Without Revisions

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (Department), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 [44 U.S.C. 3506(c)(2)(A)]. This program helps ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, ETA is soliciting comments concerning the collection of data validation information for the following employment and training programs: Workforce Investment Act (WIA) Title IB, Wagner-Peyser, Trade Adjustment Assistance (TAA), National Farmworkers Jobs Program (NFJP), and Senior Community Service Employment Program (SCSEP). The current expiration date is May 31, 2014.

Please note that the data submission processes within the new data validation software for Wagner-Peyser and WIA Title IB were implemented in Program Year (PY) 2012 and PY 2013 for reporting and the underlying data validation methodology is not being modified. However, the system is still coming online and the data element validation functionality in the new enterprise data validation and reporting system will not be implemented by the current expiration date for this data collection (May 31, 2014). ETA believes the software will be completed and states will have experience with using it by the end of 2014. At that time, ETA will report to the Office of Management and Budget (OMB) on the results, per the OMB Notice of Action in 2012 approving the implementation of the software.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before February 24, 2014.

ADDRESSES: Submit written comments to the U.S. Department of Labor, Employment and Training Administration, Office of Policy Development and Research, 200 Constitution Avenue NW., Room N–5641, Washington, DC 20210, *Attention:* Karen A. Staha. Telephone number: (202) 693–2917 (this is not a toll-free number). Fax: (202) 693–3490. Email: *staha.karen@dol.gov* A copy of the proposed information collection request (ICR) can be obtained by contacting the person listed above.

SUPPLEMENTARY INFORMATION:

I. Background

The accuracy and reliability of program reports submitted by States and grantees using Federal funds are fundamental elements of good public administration and are necessary tools for maintaining and demonstrating system integrity. States and grantees receiving funding under WIA Title IB, Wagner-Peyser Act, TAA, and the Older Americans Act are required to maintain and report accurate program and financial information (WIA section 185 (29 U.S.C. 2935) and WIA Regulations 20 CFR 667.300(e)(2); Wagner-Peyser Act section 10 (29 U.S.C. 49i), Older Americans Act section 503(f)(3) and (4) (42 U.S.C. 3056a(f)(3) and (4)), and TAA Regulations 20 CFR 617.57).

Data Validation. The data validation requirement for employment and training programs strengthens the workforce system by ensuring that accurate and reliable information on program activities and outcomes is available. Data validation is intended to accomplish the following goals:

• Ensure that critical performance data are valid and accurate.

• Detect and identify specific problems with a State's or grantee's reporting processes, including the software used for compiling this information, to enable the State or grantee to correct any problems.

• Help States and grantees analyze the causes of performance successes and failures by displaying participant data organized by performance outcomes. In addition, the process enables States and grantees to calculate error rates by means of randomly selected validation subsamples of the complete set of records.

Data validation consists of two parts:

1. Report validation ensures the validity of aggregate reports submitted to ETA by requiring that States use the data validation software to calculate the reports in a uniform and consistent manner. Report validation is conducted by processing each State's complete file of participant records and automatically generating the reports submitted by the State or grantee. States and grantees are required to certify the accuracy of the reports generated by the software before they can be accepted by ETA.

2. Data element validation assesses the accuracy of participant data records. Data element validation is conducted via comprehensive manual reviews of sampled participant records against source documentation in order to ensure accuracy and compliance with Federal definitions.

II. Review Focus

The Department is particularly interested in comments which:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Actions

Type of Review: Extension without revisions.

Title: Data Validation Requirement for Employment and Training Programs.

OMB Number: 1205–0448.

Affected Public: State, local and tribal government entities and private non-profit organizations.

Form(s): Workforce Investment Act Enterprise Data Reporting and Validation System (EDRVS) User Handbook, Labor Exchange EDRVS Software Users Guide, NFJP Data Validation Handbook, TAA Data Validation Handbook.

Total Annual Respondents: 179 (53 states, 52 NFJP and 74 SCSEP grantees).

Annual Frequency: Complete data validation annually.

Total Annual Responses: 285 (3 responses each for the 53 states, 1 response for each of the 52 NFJP grantees, and 1 response for each of the 74 SCSEP grantees).

Average Time per Response: 218 hours.

Estimated Total Annual Burden Hours: 62,174.

Total Additional Annual Burden Cost for Respondents: $0.

Total Estimated Additional Annual Other Costs Burden: $0.

Comments submitted in response to this comment request will be summarized and/or included in the request for OMB approval of the ICR; they will also become a matter of public record.

Signed at Washington, DC, this 12th day of December, 2013

Eric Seleznow,

Acting Assistant Secretary, Employment and Training, Labor.

[FR Doc. 2013–30639 Filed 12–23–13; 8:45 am]

BILLING CODE 4510–FN–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 13–156]

NASA Advisory Council; Science Committee; Planetary Science Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Planetary Science Subcommittee of the NASA Advisory Council (NAC). This Subcommittee reports to the Science Committee of the NAC. The meeting will be held for the purpose of soliciting, from the scientific community and other persons, scientific and technical information relevant to program planning.

DATES: Wednesday, January 22, 2014, 8:30 a.m. to 5:30 p.m., Local Time.

ADDRESSES: NASA Headquarters, Room 3H42, 300 E Street SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Ann Delo, Science Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–0750, fax (202) 358–2779, or *ann.b.delo@nasa.gov.*

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. The meeting will be available telephonically and by WebEx. Any interested person may call the USA toll free conference call number 800–857–2613, passcode 64849, to participate in this meeting by telephone. The WebEx link is *https://nasa.webex.com/*; the meeting number is 998 550 736, password is PSS@Jan22. The agenda for the meeting includes the following topics:

—Planetary Science Division Update

—Planetary Science Division Research and Analysis Program restructuring

Attendees will be requested to sign a register and to comply with NASA security requirements, including the presentation of a valid picture ID to Security before access to NASA Headquarters. Foreign nationals attending this meeting will be required to provide a copy of their passport and visa in addition to providing the following information no less than 10 working days prior to the meeting: full name; gender; date/place of birth; citizenship; visa information (number, type, expiration date); passport information (number, country, expiration date); employer/affiliation information (name of institution, address, country, telephone); title/position of attendee; and home address to Ann Delo via email at *ann.b.delo@nasa.gov* or by fax at (202) 358–2779. U.S. citizens and Permanent Residents (green card holders) are requested to submit their name and affiliation 3 working days prior to the meeting to Ann Delo.

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Patricia D. Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2013–30632 Filed 12–23–13; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 13–150]

Privacy Act of 1974; Privacy Act System of Records

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of Privacy Act system of records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), the National Aeronautics and Space Administration is issuing public notice of its proposal to modify its existing system of records entitled Exchange Records on Individuals. System modifications are set forth below under the caption **SUPPLEMENTARY INFORMATION**.

DATES: Submit comments on or before 30 calendar days from the date of this publication.

ADDRESSES: Patti F. Stockman, NASA Privacy Act Officer, Office of the Chief Information Officer, NASA Headquarters, Washington, DC 20546–0001, 202–358–4787, *NASA–PAOfficer@nasa.gov.*

FOR FURTHER INFORMATION CONTACT: NASA Privacy Act Officer, Patti F. Stockman, 202–358–4787, *NASA–PAOfficer@nasa.gov.*

SUPPLEMENTARY INFORMATION: NASA system of records entitled Exchange Records on Individuals/NASA 10XROI is being modified to (1) broaden the Categories of Individuals covered by, and Categories of Records maintained in, the system of records to cover individuals associated with childcare facilities, (2) update Authority for Maintenance, (3) elaborate Safeguards, and (4) update and expand both Routine Uses and Irretrievability to reflect the childcare facility records.

Submitted by:

Larry N. Sweet,

NASA Chief Information Officer.

NASA 10XROI

SYSTEM NAME:

Exchange Records on Individuals.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Locations 1–9, 11, 12, 18, and 19, as set forth in Appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system maintains information on present and former employees of, and applicants for employment with, NASA Exchanges, recreational associations, and employees' clubs at NASA Centers, and civil servant and contractor members of or participants in NASA Exchange programs, activities, clubs and/or recreational associations. Finally, the system maintains information on children, and their parents or guardians, who participate in Exchange-operated child care and educational development programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

For present and former employees of NASA Exchange entities including child care and educational development center programs, records in the system relate to personnel actions and determinations during their application to and employment by the NASA Exchange. Records contain information about individuals and their employment such as name, birth date, Social Security Number, home contact information, marital status, references, veteran preference, tenure, disabilities, position description, unemployment claims; salary, leave and payroll deduction information; and job performance and personnel actions.

For civil servants, contractors, and others who apply for and participate in Exchange-sponsored programs, activities, clubs and/or recreational associations, records include employee or contractor identification number, organization, location, telephone number, and other information directly related to status or interest in participation in such activities.

For current or former participants in Exchange-operated child care and development centers, records in the system include identification and other information facilitating enrollment in the entity and proper care of the children. Records include information such as home and work addresses, email addresses, and telephone numbers; financial payment information; emergency contact names, addresses and telephone numbers; children's names and pictures as well as their health care and insurance providers; medical histories; physical, emotional, or other special care requirements; and child care and educational development center correspondence with parents/guardians such as authorizations to release the child to another person or field trip permission slips.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

51 U.S.C. 20113(a); 44 U.S.C. 3101; and 40 U.S.C. 590.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Any disclosures of information will be compatible with the purpose for which the Agency collected the information. The following are routine uses: (1) To provide information to insurance carriers with regard to worker's compensation, health and accident, and retirement insurance coverages; (2) to provide employment or credit information to third parties as requested by a current or former Exchange employee to whom the records pertain; (3) to provide various Federal, State, and local taxing authorities itemized listing of withholdings for individual income taxes; (4) to respond to State employment compensation requests for wage and separation data on former employees; (5) to report previous job injuries to worker's compensation organizations; (6) for person to notify in an emergency; (7) to report unemployment records to appropriate State and local authorities; and (8) NASA standard routine uses as set forth in Appendix B.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM: STORAGE:

Records in this system are maintained on electronic media and/or as hard-copy documents.

RETRIEVABILITY:

All records are retrieved from the system by the individual's name. For children or parents/guardians associated with child care facilities, records may be retrieved by either the child's or parent's/guardian's name.

SAFEGUARDS:

Records are maintained on secure NASA servers and protected in accordance with all Federal standards and those established in NASA regulations at 14 CFR 1212.605. Additionally, server and data management environments employ infrastructure encryption technologies both in data transmission and at rest on servers. Approved security plans are in place for systems containing the records in accordance with OMB Circular A–130, Management of Federal Information Resources. Only authorized personnel requiring information in the official discharge of their duties are authorized access to records through approved access or authentication methods. Access to electronic records is achieved only from workstations within the NASA Intranet or via a secure Virtual Private Network (VPN) connection that requires two-factor hardware token authentication. Non-electronic records are secured in locked rooms or files.

RETENTION AND DISPOSAL:

Records are maintained in Agency files and destroyed in accordance with NASA Records Retention Schedules, Schedule 9 Item 6/D.

SYSTEM MANAGERS AND ADDRESSES:

Contractor Industrial Relations Officer, Location 1.

Subsystem Managers: Exchange Store Operations Manager, Location 1; Exchange Council Chair, Location 2, Exchange Operations Manager, Locations 3–5; Chairperson, Exchange Council, Location 6 and 7; Treasurer, NASA Exchange, Location 8; Exchange Operations Manager, Locations 9, 12, and 19; President, NASA Exchange, Location 11; and NSSC Exchange Counsel, Location 18. Locations are as set forth in Appendix A.

NOTIFICATION PROCEDURE:

Individuals may obtain information from the cognizant subsystem managers listed above.

RECORD ACCESS PROCEDURES:

Information on oneself or one's child may be obtained by submitting a written request to the appropriate system or subsystem manager listed above.

CONTESTING RECORD PROCEDURES:

The NASA rules for access to records and for contesting contents and appealing initial determinations by the individual concerned appear in the NASA rules at 14 CFR part 1212.

RECORD SOURCE CATEGORIES:

Information is obtained directly from the individual on whom the record is maintained and the individual's supervisor, or from parents/guardians of children enrolled in the child care and educational development centers.

EXEMPTIONS:

None.

[FR Doc. 2013–30597 Filed 12–23–13; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL CREDIT UNION ADMINISTRATION

Office of Small Credit Unions (OSCUI) Grant Program Access for Credit Unions

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice of Funding Opportunity.

SUMMARY: The National Credit Union Administration (NCUA) is issuing a Notice of Funding Opportunity (NOFO) to invite eligible credit unions to submit applications for participation in the OSCUI Grant Program (a.k.a. Community Development Revolving Loan Fund (CDRLF)), subject to funding availability. The OSCUI Grant Program serves as a source of financial support, in the form of technical assistance grants, for credit unions serving predominantly low-income members. It also serves as a source of funding to help low-income designated credit unions (LICUs) respond to emergencies arising in their communities.

DATES: There will be various application open periods from January 1, 2014 thru December 31, 2014 for different grant initiatives offered thoughout the year. For each initiative funds may be exhausted prior to the deadlines, at which time the programs/funds will no longer be available.

ADDRESSES: Applications must be submitted online at *www.cybergrants.com/ncua/applications.*

FOR FURTHER INFORMATION CONTACT: Further information can be found at: *www.ncua.gov/OSCUI/grantsandloans.* For questions email: National Credit Union Administration, Office of Small Credit Union Initiatives at *OSCUIAPPS@ncua.gov.*

SUPPLEMENTARY INFORMATION:

I. Description of Funding Opportunity

The purpose of the OSCUI Grant Program is to assist specially designated credit unions in providing basic financial services to their low-income members to stimulate economic activities in their communities. Through the OSCUI Grant Program, NCUA provides financial support in the form of technical assistance grants to LICUs. These funds help improve and expand the availability of financial services to these members. The OSCUI Grant Program also serves as a source of funding to help LICUs respond to emergencies. The Grant Program consists of Congressional appropriations that are administered by OSCUI, an office of the NCUA.

From February 3, 2014 to February 14, 2014 OSCUI will accept applications from credit unions under the first 2014 grant round. The first grant round will include initiatives for student interns, new products & services, and Community Development Financial Institution (CDFI) certification applications.

OSCUI intends to offer additional grant round funding throughout the year under this NOFO. Information about the OSCUI Grant Program, including more details regarding the first 2014 grant round, other funding initiatives, amount of funds available, funding priorities, permissible uses of funds, funding limits, deadlines and other pertinent details, are periodically published in NCUA Letters to Credit Unions, in the OSCUI e-newsletter and on the NCUA Web site at *www.ncua.gov/OSCUI/GrantsandLoans.*

A. *Program Regulation:* Part 705 of NCUA's regulations implements the OSCUI Grant and Loan Program. 12 CFR 705. A revised Part 705 was published on November 2, 2011. 76 FR 67583. Additional requirements are found at 12 CFR Parts 701 and 741. Applicants should review these regulations in addition to this NOFO. Each capitalized term in this NOFO is more fully defined in the regulations and grant guidelines. For the purposes of this NOFO, an Applicant is a Qualifying Credit Union that submits a complete Application to NCUA under the OSCUI Grant Program.

B. *Funds Availability:* Congress has not made an appropriation to the OSCUI Grant Program for Fiscal Years 2014–2015. NCUA expects to award the entire amount appropriated under this NOFO. NCUA reserves the right to: (i) Award more or less than the amount appropriated; (ii) fund, in whole or in part, any, all, or none of the applications submitted in response to this NOFO; and (iii) reallocate funds from the amount that is anticipated to be available under this NOFO to other programs, particularly if NCUA determines that the number of awards made under this NOFO is fewer than projected.

II. Description of Grant Program

OSCUI grants are made to LICUs that meet the requirements in the program regulation and this NOFO, subject to funds availability.

A. *Eligibility Requirements:* The regulations specify the requirements a credit union must meet in order to be eligible to apply for assistance under this NOFO. See 12 CFR 705. A credit union must be a LICU, or equivalent in the case of a Qualifying State-Chartered Credit Union, in order to participate in the OSCUI Grant Program. Requirements for obtaining the designation are found at 12 CFR § 701.34.

B. *Permissible Uses of Funds:* NCUA will consider requests for funds consistent with the purpose of the OSCUI Grant Program. 12 CFR 705.1. Per § 705.10 of the regulation permissible uses for the grant fund include: (i) Development of new products or services for members including new or expanded share draft or credit card programs; (ii) Partnership arrangements with community based service organizations or government agencies; (iii) Enhancement and support credit union internal capacity to serve its members and better enable it to provide financial services to the community in which the credit union is located.

NCUA will consider other proposed uses of funds that in its sole discretion it determines are consistent with the purpose of the OSCUI Grant Program, the requirements of the regulations, and this NOFO.

C. *Terms:* The specific terms and conditions governing a grant will be established in the grant guidelines for each initiative.

III. Application Requirements

A. *Application Form:* The application and related documents can be found on NCUA's Web site at *www.ncua.gov/OSCUI/GrantsandLoans.*

B. *Minimum Application Content:* Each Applicant must complete and submit information regarding the applicant and requested funding. In addition, applicants will be required to certify applications prior to submission.

1. *DUNS Number:* Based on an Office of Management and Budget (OMB) policy directive effective October 31, 2003, credit unions must have a Data Universal Numbering System (DUNS) number issued by Dun and Bradstreet (D&B) in order to be eligible to receive funding from the OSCUI Grant Program. NCUA will not consider an Application that does not include a valid DUNS number. Such an Application will be deemed incomplete and will be declined. Information on how to obtain a DUNS number may be found on D&B's Web site at *http://fedgov.dnb.com/webform* or by calling D&B, toll-free, at 1–866–705–5711.

2. *Employer Identification Number:* Each Application must include a valid

and current Employer Identification Number (EIN) issued by the U.S. Internal Revenue Service (IRS). NCUA will not consider an application that does not include a valid and current EIN. Such an Application will be deemed incomplete and will be declined. Information on how to obtain a EIN may be found on the IRS's Web site at *www.irs.gov.*

3. *Application:* An Applicant requesting a grant must complete an online grant application form which includes required responses. The required responses will address the proposed use of funds and how the credit union will assess the impact of the funding.

C. *Submission of Application:* Under this NOFO, Applications must be submitted online at *www.cybergrants.com/ncua/applications.*

IV. Application Review

A. Review Process

1. *Eligibility and Completeness Review:* NCUA will review each Application to determine whether it is complete and that the Applicant meets the eligibility requirements described in the Regulations, Section II of this NOFO, and the grant guidelines. An incomplete Application or one that does not meet the eligibility requirements will be declined without further consideration.

2. *Substantive Review:* After an Applicant is determined eligible and its Application is determined complete, NCUA will conduct a substantive review in accordance with the criteria and procedures described in the Regulations, this NOFO, and the grant guidelines. NCUA reserves the right to contact the Applicant during its review for the purpose of clarifying or confirming information contained in the Application. If so contacted, the Applicant must respond within the time specified by NCUA or NCUA, in its sole discretion, may decline the application without further consideration.

3. *Evaluation and Scoring:* The evaluation criteria for each initiative will be more fully described in the grant guidelines.

4. *Input from Examiners:* NCUA will not approve an award to a credit union for which its NCUA regional examining office or State Supervisory Agency (SSA), if applicable, indicates it has safety and soundness concerns. If the NCUA regional office or SSA identifies a safety and soundness concern, OSCUI, in conjunction with the regional office or SSA, will assess whether the condition of the Applicant is adequate to undertake the activities for which funding is requested, and the obligations of the loan and its conditions. NCUA, in its sole discretion, may defer decision on funding an Application until the credit union's safety and soundness conditions improve.

V. Award Process

A. *Award Selection:* In general, NCUA will make its award selections based on a consistent scoring system where each applicant will receive an individual score. NCUA will consider the impact of the funding. When grant demand is high applications may be ranked based on the aforementioned in addition to factors listed in the grant guidelines.

B. *Notice of Award:* NCUA will notify each Applicant of its funding decision. Notification will generally be by email. Applicants that are approved for funding will also receive instructions on how to proceed with the reimbursement request for disbursement of funds.

VI. Post-Award Requirements

A. *Reporting Requirements:* Each awarded credit union must submit a reimbursement request in order to receive the awarded funds. The reimbursement requirements are specific to each initiative. In general, the reimbursement request will require an explanation of the impact of funding and any success or failure to meet objectives for use of proceeds, outcome, or impact. NCUA, in its sole discretion, may modify these requirements.

VII. Agency Contacts

A. *Methods of Contact:* For further information, contact NCUA by email at *OSCUIAPPS@ncua.gov.*

B. *Information Technology Support:* People who have visual or mobility impairments that prevent them from using NCUA's Web site should call (703) 518–6610 for guidance (this is not a toll free number).

Authority: 12 U.S.C. 1756, 1757(5)(D), and (7)(I), 1766, 1782, 1784, 1785 and 1786; 12 CFR 705.

By the National Credit Union Administration Board on December 17, 2013.

Gerard Poliquin,

Secretary of the Board.

[FR Doc. 2013–30554 Filed 12–23–13; 8:45 am]

BILLING CODE 7535–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2013–0184; Docket No. 70–0036]

Environmental Assessment and Finding of No Significant Impact Related to an Alternative Disposal Request of Westinghouse Electric Company, LLC; Hematite Decommissioning Project; Festus, Missouri

AGENCY: Nuclear Regulatory Commission.

ACTION: Environmental assessment and finding of no significant impact; availability.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of a license amendment to special nuclear material (SNM) license number SNM–33 issued to Westinghouse Electric Company, LLC for the former Hematite Fuel Cycle Facility in Festus, Missouri authorizing alternative disposal of soil and soil-like wastes at the US Ecology Idaho, Inc. (USEI) disposal facility located near Grand View, Idaho. In addition, the NRC is considering the issuance of an exemption to USEI so that it may accept the waste for disposal. This exemption is required so that USEI may accept NRC regulated material under its Idaho Department of Environmental Quality license. The NRC has prepared an Environmental Assessment (EA) for this proposed action and has concluded that a Finding of No Significant Impact is appropriate with respect to the proposed action.

ADDRESSES: Please refer to Docket ID NRC–2013–0184 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–2013–0184. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select *''ADAMS Public Documents''* and then select *''Begin Web-based ADAMS Search.''* For problems with ADAMS,

please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: John J. Hayes, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–5928; email: *John.Hayes@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC received a license amendment application from Westinghouse Electric Company, LLC (WEC or the licensee), dated May 28, 2013 (ADAMS Accession No. ML13149A291). The licensee requests: (1) NRC authorization for disposal, pursuant to § 20.2002 of Title 10 of the *Code of Federal Regulations* (10 CFR), of an additional 22,000 m^3 (cubic meters) of soil and soil-like material containing NRC-licensed source, byproduct, and special nuclear materials from its former fuel cycle facility located in Festus, Missouri; (2) NRC approval for the treatment, as needed, for removal of chemical contaminants from the 22,000 m^3 or from the material associated with the previous approvals of approximately 46,000 m^3 of Hematite waste for alternate disposal; and (3) NRC authorization for disposal of dewatered sanitary sludge as soil-like material. The licensee holds NRC License No. SNM–33 and is authorized to conduct decommissioning activities at the facility. The amendment requests authorization for WEC to transfer decommissioning waste from the facility to US Ecology Idaho, Inc. (USEI), a Resource Conservation and Recovery Act Subtitle C disposal facility located near Grand View, Idaho. The USEI facility is regulated by the Idaho Department of Environmental Quality and is not an NRC-licensed facility. Pursuant to 10 CFR 30.11 and 70.17, WEC's application provided information to support the grant of exemptions from the licensing requirements of 10 CFR 30.3 and 70.3 for byproduct and special nuclear material, respectively, to USEI so that USEI may accept the material under the terms of its facility permits. In a letter dated June 5, 2013, USEI also formally requested an exemption from the requirements of 10 CFR 30.3 and 70.3 (ADAMS Accession No. ML13227A016).

An NRC administrative review, documented in a letter to WEC dated June 11, 2013 (ADAMS Accession No. ML13161A067), found the application acceptable to begin a technical review. On August 23, 2013 (78 FR 52574), the NRC published in the **Federal Register**, a Notice of Opportunity for Hearing on the May 28, 2013 (ADAMS Accession No. ML13170A434), WEC license amendment request. The NRC relied upon the information provided in the May 28, 2013, license amendment request, supporting documentation and other sources as noted in the EA references section, in preparing the EA.

II. Environmental Assessment Summary

The WEC Hematite Decommissioning Project (HDP) is a decommissioning and environmental restoration project that will generate low-activity, low-level radioactive waste (LLRW) in the form of concrete/asphalt, piping, miscellaneous equipment, soil and soil-like wastes containing low concentrations of source, byproduct and special nuclear material (SNM). There is also the potential that this LLRW will contain hazardous constituents, such as metals and volatile organics, that exceed the levels identified in 40 CFR Part 261 for classification as hazardous waste and will require treatment at USEI prior to disposal. The need for the proposed action is the safe and permanent disposal of HDP's LLRW.

Under 10 CFR 20.2002, WEC proposes to dispose of this LLRW at the USEI hazardous waste disposal facility near Grand View, Idaho. The facility occupies Section 19 (2.59 square kilometers or 640 acres) of Township 4 South and Range 2 East in Owyhee County Idaho. This disposal is in addition to the approximately 23,000 m^3 (30,000 yd^3) of LLRW which was approved for alternate disposal by Hematite License Amendment 58 and the 23,000 m^3 (30,000 yd^3) of LLRW that was approved for Hematite License Amendment 60. As such, the cumulative impacts on the USEI facility and surrounding environment resulting from the receipt of the waste material described in the May 2009 request, the January 2012 request, and the waste material contained in the May 2013 request were considered.

In 2002, WEC and the Missouri Department of Natural Resources (MDNR) entered into a Letter Agreement, which, among other things, provided for MDNR oversight of certain studies and response actions in accordance with the National Oil and Hazardous Substances Pollution Contingency Plan under the requirements of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9601 et seq. (Westinghouse MDNR Review Draft Remedial Design Work Plan, 2002 (ADAMS Accession No. ML020880266)).

Subsequently, Missouri and WEC entered into a Consent Decree, and the Letter Agreement was terminated. The Consent Decree provides for MDNR oversight of those portions of the investigation and selection of the remedy for Operable Units at the site that are not preempted by the Atomic Energy Act of 1954, as amended. The Selected Remedy for Operable Unit 1 at the HDP is Alternative 4: Removal, Treatment of Volatile Organic Compound Waste, and Off-site Disposal of Low-Level Radioactive Waste and Non-Hazardous Treatment Residues.

The no-action alternative involves discontinuing ongoing decommissioning activities at the HDP and leaving soil and soil-like waste at the HDP site. This action would require an exemption from the requirement in 10 CFR 70.38(d) that decommissioning of facilities specifically licensed for possession and use of special nuclear material be completed and approved by the NRC after licensed activities cease. The no-action alternative would result in leaving approximately 22,000 m^3 of total waste volume onsite.

As was previously noted, the radiologically contaminated remediation waste, regulated by the NRC is co-mingled with chemically contaminated waste regulated under CERCLA. The ''no-action alternative'' would not be in accordance with the July 2009 CERCLA Record of Decision (*http://www.dnr.mo.gov/env/hwp/docs/20090721HRSFINALROD.pdf*) for removal and subsequent treatment of the chemically contaminated waste.

The no-action alternative would not allow WEC to meet the requirements of 10 CFR 20.1402 for unrestricted release. Selection of this alternative would require WEC to continue environmental monitoring/surveillance and to maintain administrative and engineered controls to ensure facility safety and security. The environmental impacts of the no-action alternative would include continued contamination of soil and water, which could further escalate over time if groundwater contamination spreads and material such as Technicium–99 (Tc–99), continues to

leach into the soil. The continued monitoring required at the site would result in environmental impacts due to the emissions from vehicular traffic associated with workers traversing to and from the site and entities providing services and supplies to the Hematite facility. Additional vehicular traffic could also impact public and occupational health with the potential for vehicle accidents.

Another alternative to the proposed action is to dispose of the LLRW in a facility licensed by an NRC Agreement State for the storage and/or disposal of LLRW. For this EA, the NRC evaluated the Energy*Solutions,* LLC (Energy*Solutions*) Clive Utah facility as the alternative disposal site for the radioactive and chemically hazardous waste.

The Energy*Solutions* LLRW disposal facility at Clive, Utah is located 128 kilometers (80 miles) west of Salt Lake City, Utah and 70 kilometers (45 miles) east of Wendover, Nevada. The site is arid with an annual precipitation of approximately 20 centimeters (8 inches). The facility is licensed by the State of Utah to dispose of Class A radioactive waste only (Utah License 2300249) and 11e.(2) byproduct material (UT2300478) and holds a Part B Resource Conservation and Recovery Act (RCRA) solid waste permit (Environmental Protection Agency ID No. UTD982598898).

The selection of this alternative would allow WEC to meet the requirements of 10 CFR 20.1402 for unrestricted release. In addition, this site is environmentally similar to USEI. However, this alternative was not selected by the licensee.

III. Finding of No Significant Impact

On the basis of the EA (ADAMS Accession No. ML13269A308), the NRC has concluded that there are no significant environmental impacts from the proposed actions and the issuance of a license amendment and the associated exemptions does not warrant the preparation of an Environmental Impact Statement. Accordingly, it has been determined that a Finding of No Significant Impact is appropriate.

Dated at Rockville, Maryland, this 29th day of November, 2013.

For The Nuclear Regulatory Commission.

Andrew Persinko,

Deputy Director, Decommissioning and Uranium Recovery Licensing Directorate, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs.

[FR Doc. 2013–30532 Filed 12–23–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 52–039; NRC–2008–0603]

PPL Bell Bend, LLC; Bell Bend Nuclear Power Plant; Exemption From the Requirement To Submit an Annual Update to the Final Safety Analysis Report Included in a Combined License Application

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an exemption in response to an October 18, 2013 request from PPL Bell Bend, LLC (PPL). PPL requested an exemption from certain regulatory requirements that require them to submit updates to the Final Safety Analysis Report (FSAR) included in their COL application. The NRC staff reviewed this request and determined that it is appropriate to grant the exemption, but stipulated that the updates to the FSAR must be submitted by December 31, 2014.

ADDRESSES: Please refer to Docket ID NRC–2008–0603 when contacting the NRC about the availability of information regarding this document. You may access publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2008–0603. 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 document (if that document is available in ADAMS) is provided the first time that a document is referenced.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Michael Takacs, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC, 20555–0001; telephone: 301–415–7871; email: *Michael.Takacs@nrc.gov*.

SUPPLEMENTARY INFORMATION: The following sections include the text of the exemption in its entirety as issued to PPL.

1.0 Background

On October 10, 2008, PPL Bell Bend, LLC (PPL) submitted to the U.S. Nuclear Regulatory Commission (NRC) a Combined License (COL) application for a single unit of AREVA NP's U.S. EPR to be constructed and operated as Bell Bend Nuclear Power Plant (BBNPP), in Luzerne County, Pennsylvania (Agencywide Documents Access and Management System (ADAMS) Accession No. ML082890663). The NRC docketed the BBNPP COL application on December 19, 2008 (Docket Number 52–039). Additionally, the BBNPP COL application is based upon the U.S. EPR reference COL (RCOL) application for UniStar's Calvert Cliffs Nuclear Power Plant, Unit 3 (CCNPP3). The NRC is currently performing the detailed reviews of the CCNPP3 RCOL application, and AREVA NP's application for design certification of the U.S. EPR. On April 12, 2013, PPL submitted Revision 4 to the COL application (ADAMS Accession No. ML13120A374), including updates to the Final Safety Analysis Report (FSAR), per Title 10 of the *Code of Federal Regulations* (10 CFR) Subsection 50.71(e)(3)(iii), consistent with the NRC approved exemption for late filing of the calendar year 2012 FSAR update. On October 18, 2013, PPL requested an exemption from the 10 CFR 50.71(e)(3)(iii) requirements to submit the BBNPP COL application FSAR update in calendar year 2013 (ADAMS Accession No. ML13304A574).

2.0 Request/Action

10 CFR 50.71(e)(3)(iii) requires that an applicant for a COL, under Subpart C of 10 CFR Part 52, must update their FSAR annually during the period from docketing the application to the Commission making its 52.103(g) finding.

Pursuant to 10 CFR 50.71(e)(3)(iii), the next annual update of the FSAR included in the BBNPP COL application would be due by December 31, 2013. On November 2, 2012, PPL previously requested an exemption, pursuant to 10 CFR 50.71(e)(3)(iii) to allow for late filing of their required application revision for calendar year 2012 (ADAMS Accession No. ML12321A037). The NRC

granted the exemption as described in 78 FR 4465 (January 22, 2013). On April 12, 2013, PPL submitted Revision 4 to the COL application, including updates to the FSAR. Since this submittal was provided to satisfy their approved exemption for late filing of calendar year 2012, the next annual update is due by the end of calendar year 2013. PPL has again requested a one-time exemption from the 10 CFR 50.71(e)(3)(iii) requirements to submit its scheduled 2013 update while work is being completed on the generic aspects of the safety review for the U.S. EPR Design Certification and the CCNPP3 RCOL application. In addition, since Revision 5 of the U.S. EPR FSAR was submitted to the NRC on July 19, 2013 (ADAMS Accession No. ML13220B020), the corresponding 2013 update of the CCNPP3 RCOL application, which will have incorporated applicable changes from the U.S. EPR FSAR Revision 5, has not yet been submitted to the NRC. Therefore, the exemption would allow PPL to submit the FSAR update in an orderly and efficient manner, without undue burden on their resources, after the CCNPP3 RCOL application has been updated to reflect the current version to the U.S. EPR FSAR.

PPL's requested exemption is interpreted as a one-time schedule change from the requirements of 10 CFR 50.71(e)(3)(iii). In its request, PPL asked the NRC to grant the exemption from 10 CFR 50.71(e)(3)(iii) for calendar year 2013 for reasons cited above. The exemption would allow PPL to submit the next FSAR update at a later date but no later than December 31, 2014. The current requirement to submit an FSAR update could not be changed, absent the exemption.

3.0 Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50, including Section 50.71(e)(3)(iii) when: (1) the exemption(s) are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) special circumstances are present. As relevant to the requested exemption, special circumstances exist if: ''[a]pplication of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule'' (10 CFR 50.12(a)(2)(ii)), and if ''[t]he exemption would provide only temporary relief from the applicable regulation and the licensee or applicant has made good faith efforts to comply with the regulation'' (10 CFR 50.12(a)(2)(v)).

The purpose of 10 CFR 50.71(e)(3)(iii) is to ensure that the NRC has the most up-to-date information regarding the COL application, in order to perform an efficient and effective review. The rule targeted those applications that are being actively reviewed by the NRC. Since the CCNPP3 RCOL application has not yet been updated to the most recent revision of the U.S. EPR FSAR, nor has CCNPP3 incorporated all FSAR changes resulting from its responses to NRC Requests for Additional Information, updating the BBNPP FSAR cannot be accomplished prior to the end of 2013. Requiring the update would only cause undue hardship on PPL, and the purpose of 50.71(e)(3)(iii) would still be achieved so long as the next update is submitted by December 31, 2014.

The requested exemption to defer submittal of the next update to the FSAR included in the BBNPP COL application would provide only temporary relief from the regulations of 10 CFR 50.71(e)(3)(iii). As evidenced by the April 12, 2013, submittal of Revision 4 to the COL application (ADAMS Accession No. ML13120A374), PPL has made good faith efforts to comply with 10 CFR 50.71(e)(3)(iii).

For the reasons stated above, the application of 10 CFR 50.71(e)(3)(iii) in this particular circumstance can be deemed unnecessary and the granting of the exemption would allow only temporary relief from a rule that the applicant had made good faith efforts to comply with, therefore, special circumstances are present.

Authorized by Law

The exemption is a one-time schedule exemption from the requirements of 10 CFR 50.71(e)(3)(iii). The exemption would allow PPL to submit the next BBNPP COL application FSAR update on or before December 31, 2014. As stated above, 10 CFR 50.12 allows the NRC to grant exemptions from the requirements of 10 CFR Part 50. The NRC staff has determined that granting PPL the requested one-time exemption from the requirements of 10 CFR 50.71(e)(3)(iii) will provide only temporary relief from this regulation and will not result in a violation of the Atomic Energy Act of 1954, as amended, or the NRC's regulations. Therefore, the exemption is authorized by law.

No Undue Risk to Public Health and Safety

The underlying purposes of 10 CFR 50.71(e)(3)(iii), is to provide for a timely and comprehensive update of the FSAR associated with a COL application in order to support an effective and efficient review by the NRC staff and issuance of the NRC staff's safety evaluation report. The requested exemption is solely administrative in nature in that it pertains to the schedule for submittal, to the NRC, the revisions to an application under 10 CFR Part 52, for which a license has not been granted. Since plant construction cannot proceed until the NRC review of the application is completed, a mandatory hearing is completed, and a license is issued, the probability of postulated accidents is not increased. Additionally, based on the nature of the requested exemption as described above, no new accident precursors are created by the exemption; thus neither the probability, nor the consequences of postulated accidents are increased. Therefore, there is no undue risk to public health and safety.

Consistent With Common Defense and Security

The requested exemption would allow PPL to submit the next FSAR update on or before December 31, 2014. This schedule change has no relation to security issues. Therefore, the common defense and security is not impacted.

Special Circumstances

Special circumstances, in accordance with 10 CFR 50.12(a)(2)(ii), are present in that the ''[a]pplication of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule'' (10 CFR 50.12(a)(2)(ii)). The underlying purpose of 10 CFR 50.71(e)(3)(iii) is to ensure that the NRC has the most up-to-date information in order to perform its review of a COL application efficiently and effectively. Because the CCNPP3 RCOL application has not yet been updated to the most recent revision of the U.S. EPR FSAR, nor has it incorporated all RCOL application responses to NRC Requests for Additional Information, the application of this regulation in this particular circumstance is unnecessary in order to achieve its underlying purpose. If the NRC were to grant this exemption, and PPL were then required to update its FSAR by December 31, 2014, the purpose of the rule would still be achieved.

Special circumstances in accordance with 10 CFR 50.12(a)(2)(v) are present whenever the exemption would provide only temporary relief from the regulation and the applicant has made

good faith efforts to comply with this regulation. Because of the assumed and imposed new deadline of December 31, 2014, PPL's exemption request seeks only temporary relief from the requirement that it file an update to the FSAR included in the BBNPP COL application.

Therefore, since the relief from the requirements of 10 CFR 50.71(e)(3)(iii) would be temporary and the applicant has made good faith efforts to comply with the rule, and the underlying purpose of the rule is not served by application of the rule in this circumstance, the special circumstances required by 10 CFR 50.12(a)(2)(ii) and 10 50.12(a)(2)(v) for the granting of an exemption from 10 CFR 50.71(e)(3)(iii) exist.

Eligibility for Categorical Exclusion From Environmental Review

With respect to the exemption's impact on the quality of the human environment, the NRC has determined that this specific exemption request is eligible for categorical exclusion as identified in 10 CFR 51.22(c)(25) and justified by the NRC staff as follows:

(c) The following categories of actions are categorical exclusions:

(25) Granting of an exemption from the requirements of any regulation of this chapter, provided that—

(i) There is no significant hazards consideration;

The criteria for determining whether there is no significant hazards consideration are found in 10 CFR 50.92. The proposed action involves only a schedule change regarding the submission of an update to the application. Therefore, there is no significant hazards consideration because granting the proposed exemption would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or

(3) Involve a significant reduction in a margin of safety.

(ii) There is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite;

The proposed action involves only a schedule change which is administrative in nature and does not involve any changes to be made in the types or significant increase in the amounts of effluents that may be released offsite.

(iii) There is no significant increase in individual or cumulative public or occupational radiation exposure;

Since the proposed action involves only a schedule change which is administrative in nature, it does not contribute to any significant increase in occupational or public radiation exposure.

(iv) There is no significant construction impact;

The proposed action involves only a schedule change which is administrative in nature. There is no consideration of any construction at this time, and hence the proposed action does not involve any construction impact.

(v) There is no significant increase in the potential for or consequences from radiological accidents; and

The proposed action involves only a schedule change which is administrative in nature, and does not impact the probability or consequences of accidents.

(vi) The requirements from which an exemption is sought involve:

(B) Reporting requirements;

The exemption request involves submitting an updated FSAR by PPL and

(G) Scheduling requirements;

The proposed exemption relates to the schedule for submitting FSAR updates to the NRC.

4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a)(1) and (2), the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also special circumstances are present. Therefore, the Commission hereby grants PPL a one-time exemption from the requirements of 10 CFR 50.71(e)(3)(iii) pertaining to the Bell Bend Nuclear Power Plant COL application to allow submittal of the next FSAR update on or before December 31, 2014.

Pursuant to 10 CFR 51.22, the Commission has determined that the exemption request meets the applicable categorical exclusion criteria set forth in 10 CFR 51.22(c)(25), and the granting of this exemption will not have a significant effect on the quality of the human environment.

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 18th day of December 2013.

For The Nuclear Regulatory Commission.

John Segala,

Chief, Licensing Branch 1, Division of New Reactor Licensing, Office of New Reactors.

[FR Doc. 2013–30752 Filed 12–23–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–289; NRC–2013–0274]

Exelon Generation Company, LLC Three Mile Island Nuclear Station, Unit 1

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption.

SUMMARY: Exelon Generation Company, LLC (Exelon, the licensee) is the holder of Renewed Facility Operating License No. DPR–50, which authorizes operation of the Three Mile Island Nuclear Station, Unit 1 (TMI–1). The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the Nuclear Regulatory Commission (NRC) now or hereafter in effect.

ADDRESSES: Please refer to Docket ID NRC–2013–0274 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–2013–0274. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.*
- *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.

SUPPLEMENTARY INFORMATION:

1.0 Background

Exelon Generation Company, LLC (Exelon, the licensee) is the holder of Renewed Facility Operating License No. DPR–50, which authorizes operation of the Three Mile Island Nuclear Station, Unit 1 (TMI–1). The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the NRC now or hereafter in effect.

The facility consists of a single pressurized-water reactor located in Dauphin County, Pennsylvania.

2.0 Request/Action

Part 50, Appendix G of Title 10 of the *Code of Federal Regulations* (10 CFR),

''Fracture Toughness Requirements,'' specifies fracture toughness requirements for ferritic materials of pressure-retaining components of the reactor coolant pressure boundary of light water nuclear power reactors to provide adequate margins of safety during any condition of normal operation, including anticipated operational occurrences and system hydrostatic tests, to which the pressure boundary may be subjected over its service lifetime. Section 50.61, ''Fracture toughness requirements for protection against pressurized thermal shock [PTS] events,'' provides fracture toughness requirements for protection against PTS events. By letter dated December 14, 2012, (ADAMS) Accession No. ML12353A319), as supplemented by letters dated January 31, 2013, and August 13, 2013, (ADAMS Accession Nos. ML13032A312 and ML13232A214, respectively), Exelon proposed exemptions from portions of the requirements of 10 CFR Part 50, Appendix G and 10 CFR 50.61, to revise certain TMI–1 reactor pressure vessel (RPV) initial (unirradiated) properties using AREVA Non-Proprietary Topical Report (TR) BAW–2308, Revisions 1A and 2A, ''Initial RT_{NDT} [nil-ductility reference temperature] of Linde 80 Weld Materials.''

The licensee requested an exemption from portions of 10 CFR Part 50, Appendix G, to replace the required use of the existing Charpy V-notch (C_v) and drop weight-based methodology and allow the use of an alternate methodology to incorporate the use of fracture toughness test data for evaluating the integrity of the TMI–1 Linde 80 weld materials in the RPV beltline. This request for exemption is based on the use of the 1997 and 2002, editions of American Society for Testing and Materials (ASTM) Standard Test Method E 1921 (ASTM E 1921), ''Standard Test Method for Determination of Reference Temperature T_0, for Ferritic Steels in the Transition Range,'' and American Society for Mechanical Engineering (ASME), *Boiler and Pressure Vessel Code* (Code), Code Case N–629, ''Use of Fracture Toughness Test Data to Establish Reference Temperature for Pressure Retaining Materials, Section III, Division 1, Class 1.'' Specifically, 10 CFR Part 50, Appendix G(II)(D)(i), requires that the nil-ductility reference temperature (RT_{NDT}) be evaluated according to the procedures in the ASME Code, Section III, Division 1, ''Rules for Construction of Nuclear Power Plant Components,'' Paragraph NB–2331, ''Material for Vessels.'' These procedures require the use of a methodology based on drop weight tests (NB–2331(a)(1)) and C_v test data (NB–2331(a)(2)). In addition, 10 CFR Part 50, Appendix G,(I)(A) requires the use of methods equivalent to Appendix G to ASME Section XI, Division 1, ''Rules for Inservice Inspection of Nuclear Power Plant Components,'' which specifies the use of values that have been determined using C_v and drop weight tests described above. Therefore, an exemption from portions of 10 CFR Part 50, Appendix G, is required.

The licensee also requested an exemption from portions of 10 CFR 50.61 to use an alternate methodology to allow the use of fracture toughness test data for evaluating the integrity of the TMI–1 RPV Linde 80 beltline welds based on the use of the 1997 and 2002, editions of ASTM E 1921 and ASME Code Case N–629. Similar to the above, 10 CFR 50.61(a)(5) requires that the initial (unirradiated) RT_{NDT}, be evaluated according to the procedures in the ASME Code, Section III, Division 1, Paragraph NB–2331. As stated previously, these procedures require the use of a methodology based on drop weight tests (NB–2331(a)(1)) and C_v test data (NB–2331(a)(2)). Therefore, the exemption is required since the methodology for evaluating RPV material fracture toughness in 10 CFR 50.61 requires the use of the C_v and drop weight data to determine the initial RT_{NDT} for establishing the PTS reference temperature (RT_{PTS}).

3.0 Discussion

Pursuant to 10 CFR 50.12(a), the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50 when: (1) The exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) special circumstances are present. The special circumstance that applies to these exemptions is consistent with 10 CFR 50.12(a)(2)(ii) in that the application of the regulations in this circumstance is not necessary to achieve the underlying purpose of the rules. This special circumstance allows the licensee an exemption from the use of the C_v and drop weight-based methodology required by 10 CFR Part 50, Appendix G and 10 CFR 50.61. These exemptions only modify the methodology to be used by the licensee for demonstrating compliance with the requirements of 10 CFR Part 50, Appendix G and 10 CFR 50.61, and do not exempt the licensee from meeting any other requirement of 10 CFR Part 50, Appendix G and 10 CFR 50.61.

Authorized by Law

These exemptions would allow the licensee to use an alternate methodology to make use of fracture toughness test data for evaluating the integrity of the TMI–1 RPV Linde 80 beltline materials, and would not result in changes to operation of the plant. Section 50.60(b) allows the use of proposed alternatives to the described requirements in 10 CFR Part 50, Appendix G, or portions thereof, when an exemption is granted by the Commission under 10 CFR 50.12. As stated above, 10 CFR 50.12(a) allows the NRC to grant exemptions from portions of the requirements of 10 CFR Part 50, Appendix G and 10 CFR 50.61. The NRC staff has determined that granting of the licensee's proposed exemptions will not result in a violation of the Atomic Energy Act of 1954, as amended, or the Commission's regulations. Therefore, the exemptions are authorized by law.

No Undue Risk to Public Health and Safety

The underlying purpose of Appendix G to 10 CFR Part 50 is to set forth fracture toughness requirements for ferritic materials of pressure-retaining components of the reactor coolant pressure boundary of light water nuclear power reactors to provide adequate margins of safety during any condition of normal operation, including anticipated operational occurrences and system hydrostatic tests, to which the pressure boundary may be subjected over its service lifetime. The methodology underlying the requirements of Appendix G to 10 CFR Part 50 is based on the use of C_v and drop weight data because of reference to the ASME Code, as previously described. The licensee proposes to replace the use of the existing C_v and drop weight-based methodology by a fracture toughness-based methodology to demonstrate compliance with Appendix G to 10 CFR Part 50.

The NRC staff has concluded that the requested exemption to Appendix G to 10 CFR Part 50 is justified based on the licensee utilizing the fracture toughness methodology specified in TR BAW–2308, Revisions 1A and 2A, within the conditions and limitations delineated in the NRC staff's safety evaluations (SEs), dated August 4, 2005, and March 24, 2008 (ADAMS Accession Nos. ML052070408 and ML080770349, respectively). The use of the methodology specified in the NRC staff's SEs will ensure that pressure-temperature limits developed for the

TMI–1 RPV will continue to be based on an adequately conservative estimate of RPV material properties and ensure that the pressure-retaining components of the reactor coolant pressure boundary retain adequate margins of safety during any condition of normal operation, including anticipated operational occurrences. This exemption only modifies the methodology to be used by the licensee for demonstrating compliance with the requirements of 10 CFR Part 50, Appendix G(II)(D)(i) and 10 CFR Part 50, Appendix G(I)(A), and does not exempt the licensee from meeting any other requirement of Appendix G to 10 CFR Part 50.

Based on the above information, no new accident precursors are created by allowing an exemption from the use of the existing C_v and drop weight-based methodology and the use of an alternative fracture toughness-based methodology to demonstrate compliance with Appendix G to 10 CFR Part 50; thus, the probability of postulated accidents is not increased. Also, based on the above information, the consequences of postulated accidents are not increased. Therefore, there is no undue risk to public health and safety associated with the proposed exemption to Appendix G to 10 CFR Part 50.

The underlying purpose of 10 CFR 50.61 is to establish requirements for evaluating the fracture toughness of RPV materials to ensure that a licensee's RPV will be protected from failure during a PTS event. The licensee seeks an exemption from portions of 10 CFR 50.61 to use a methodology for the determination of adjusted/indexing reference temperatures. The licensee proposes to use ASME Code Case N–629 and the methodology outlined in its submittal, which are based on the use of fracture toughness data, as an alternative to the C_v and drop weight-based methodology required by 10 CFR 50.61 for establishing the initial, unirradiated properties when calculating RT_{PTS} values. The NRC staff has concluded that the exemption is justified based on the licensee utilizing the methodology specified in the NRC staff's SEs regarding TR BAW–2308, Revisions 1A and 2A, dated August 4, 2005, and March 24, 2008, respectively. This TR established an alternative method for determining initial (unirradiated) material reference temperatures for RPV welds manufactured using Linde 80 weld flux (i.e., ''Linde 80 welds'') and established weld wire heat-specific and Linde 80 weld generic values of this reference temperature. These weld wire heat-specific and Linde 80 weld generic values may be used in lieu of the RT_{NDT} parameter, the determination of which is specified by paragraph NB–2331 of Section III of the ASME Code. Regulations associated with the determination of RPV material properties involving protection of the RPV from brittle failure or ductile rupture include Appendix G to 10 CFR Part 50 and 10 CFR 50.61, the PTS rule. These regulations require that the initial (unirradiated) material reference temperature, RT_{NDT}, be determined in accordance with the provisions of the ASME Code, and provide the process for determination of RT_{PTS}, the reference temperature RT_{NDT}, evaluated for the end of license neutron fluence.

In TR BAW–2308, Revision 1, the Babcock and Wilcox Owners Group proposed to perform fracture toughness testing based on the application of the Master Curve evaluation procedure, which permits data obtained from sample sets tested at different temperatures to be combined, as the basis for redefining the initial (unirradiated) material properties of Linde 80 welds. The NRC staff evaluated this methodology for determining Linde 80 weld initial (unirradiated) material properties and uncertainty in those properties, as well as the overall method for combining unirradiated material property measurements based on T_0 (initial temperature) values (i.e., initial, unirradiated nil-ductility reference temperature (IRT_{T_0})), with property shifts from models in Regulatory Guide (RG) 1.99, Revision 2, ''Radiation Embrittlement of Reactor Vessel Materials,'' which are based on C_v testing and a defined margin term to account for uncertainties in the NRC staff SE. Table 3 in the staff's SE of BAW–2308, Revision 1, dated August 4, 2005, contains the NRC staff-accepted IRT_{T_0} and initial margin (denoted as σ_i) for specific Linde 80 weld wire heat numbers.

In accordance with the limitations and conditions outlined in the NRC staff's SE of TR BAW–2308, Revision 1, dated August 4, 2005, for utilizing the values in Table 3: (1) The licensee has utilized the appropriate NRC staff-accepted IRT_{T_0} and σ_i values for applicable Linde 80 weld wire heat numbers; (2) applied chemistry factors greater than 167 °F (the weld wire heat-specific chemical composition, via the methodology of RG 1.99, Revision 2, indicated that chemistry factors higher than 167 °F are applicable); (3) applied a value of 28 °F for $\sigma\Delta$ (i.e., shift margin) in the margin term; and (4) submitted values for ΔRT_{NDT} and the margin term for each Linde 80 weld in the RPV through the end of the current operating license. Additionally, the NRC's SE for TR BAW–2308, Revision 2, concludes that the revised IRT_{T_0} and σ_i values for Linde 80 weld materials are acceptable for referencing in plant-specific licensing applications as delineated in TR BAW–2308, Revision 2, and to the extent specified under Section 4.0, ''Limitations and Conditions,'' of the SE, which states: ''Future plant-specific applications for RPVs containing weld wire heat 72105, and weld wire heat 299L44, of Linde 80 welds must use the revised IRT_{T_0} and σ_i, values in TR BAW–2308, Revision 2.'' The TMI–1 RPV beltline lower nozzle belt to upper shell circumferential weld contains weld heat 72105. The following TMI–1 RPV beltline welds contain weld heat 299L44: Lower shell longitudinal weld (inner diameter 37 percent), and upper shell to lower shell circumferential weld. The licensee used the staff-accepted IRT_{T_0} and σ_i values for Linde 80 weld materials containing weld wire heats 299L44 and 72105. The NRC staff concludes that all conditions and limitations outlined in the NRC staff SEs for TR BAW–2308, Revisions 1A and 2A, have been met for TMI–1.

The use of the methodology in TR BAW–2308, Revisions 1A and 2A, will ensure the PTS evaluation developed for the TMI–1 RPV will continue to be based on an adequately conservative estimate of RPV material properties and ensure the RPV will be protected from failure during a PTS event. The NRC staff's SEs dated August 4, 2005, and March 24, 2008, stipulate that licensees utilize the fracture toughness methodology, specified in TR BAW–2308, Revisions 1A and 2A, within the conditions and limitations delineated in the SEs.

Based on the above information, no new accident precursors are created by allowing an exemption to use an alternate methodology to comply with the requirements of 10 CFR 50.61 in determining adjusted/indexing reference temperatures; thus, the probability of postulated accidents is not increased. Also, based on the above information, the consequences of postulated accidents are not increased. Therefore, there is no undue risk to public health and safety.

Consistent With Common Defense and Security

The proposed exemptions would allow the licensee to use alternate methodologies from those specified in 10 CFR Part 50, Appendix G, and 10 CFR 50.61, to allow the use of fracture toughness test data for evaluating the integrity of the TMI–1 RPV beltline

welds. This change has no relation to security issues. Therefore, the common defense and security is not impacted by these exemptions.

Special Circumstances

Special circumstances, in accordance with 10 CFR 50.12(a)(2)(ii), are present whenever application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule. The underlying purpose of 10 CFR Part 50, Appendix G and 10 CFR 50.61 is to protect the integrity of the reactor coolant pressure boundary by ensuring that each RPV material has adequate fracture toughness. Therefore, since the underlying purpose of 10 CFR Part 50, Appendix G and 10 CFR 50.61 is achieved by an alternative methodology for evaluating RPV material fracture toughness, the special circumstances required by 10 CFR 50(a)(2)(ii) for the granting of an exemption from portions of the requirements of 10 CFR Part 50, Appendix G and 10 CFR 50.61 exist.

4.0 Environmental Consideration

The exemptions would authorize exemptions from portions of the requirements of 10 CFR Part 50, Appendix G and 10 CFR 50.61 to allow the licensee to use an alternate methodology to incorporate fracture toughness test data for evaluating the integrity of the TMI–1 Linde 80 weld materials in the TMI–1 RPV beltline based on the use of the 1997 and 2002 editions of ASTM E 1921 and ASME Code Case N–629. Using the standard set forth in 10 CFR 50.92 for amendments to operating licenses, the NRC staff determined that the subject exemptions sought involve use of an alternate methodology to evaluate the integrity of the TMI–1 RPV Linde 80 beltline materials. The NRC has determined that these exemptions involve no significant hazards considerations:

(1) The proposed exemptions are limited to allowing the licensee to use an alternative to the C_v and drop weight-based methodology required by 10 CFR Part 50, Appendix G and 10 CFR 50.61 to evaluate the integrity of the TMI–1 Linde 80 weld materials in the TMI–1 RPV beltline. The alternate methodology does not involve any physical changes to the facility and does not alter the design, function or operation of any plant equipment. Therefore, issuance of this exemption does not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) The proposed exemption does not make any changes to the facility and would not create any new accident initiators. Therefore, this exemption does not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) The proposed exemption does not alter the design, function or operation of any plant equipment. Therefore, this exemption does not involve a significant reduction in a margin of safety.

Based on the above, the NRC has concluded that the proposed exemptions do not involve significant hazards considerations under the standards set forth in 10 CFR 50.92, and accordingly, a finding of ''no significant hazards consideration'' is justified.

The NRC staff has also determined that the exemptions involve no significant increase in the amounts, and no significant change in the types, of any effluents that may be released offsite; that there is no significant increase in individual or cumulative occupational radiation exposure; that there is no significant construction impact; and there is no significant increase in the potential for or consequences from a radiological accident.

The NRC staff has further determined that the requirements from which the exemptions are sought involve the factors associated with 10 CFR 51.22(c)(25)(vi)(C)—inspection or surveillance requirements. Specifically, the exemptions address the methodology used to develop the allowable pressure and temperature criteria for determining reactor coolant system heatup/cooldown and inservice leak and hydrostatic testing in accordance with Technical Specification 3.1.2, ''Pressurization Heatup and Cooldown Limitations.'' Therefore, the criteria specified in 51.22(c)(25)(vi)(C) is satisfied and, accordingly, the exemption meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(25). Pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment is required to be prepared in connection with the issuance of the exemption.

5.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemptions are authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security. Also, special circumstances are present. Therefore, the Commission hereby grants Exelon exemptions from the requirements of Appendix G to 10 CFR Part 50 and 10 CFR 50.61, to allow an alternative methodology that is based on using fracture toughness test data to determine initial, unirradiated properties for evaluating the integrity of the TMI–1 RPV beltline welds.

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 13th day of December 2013.

For The Nuclear Regulatory Commission.

Michele G. Evans,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2013–30545 Filed 12–23–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2013–0273]

Biweekly Notice: Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No Significant Hazards Considerations

Background

Pursuant to Section 189a. (2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (NRC) is publishing this regular biweekly notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from November 28, 2013 to December 11, 2013. The last biweekly notice was published on December 10, 2013 (78 FR 74176).

ADDRESSES: You may submit comment 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–2013–0273. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov*.
- *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.

SUPPLEMENTARY INFORMATION:

I. Accessing Information and Submitting Comments

A. Accessing Information

Please refer to Docket ID NRC–2013–0273 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–2013–0273.
- *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*. Documents may be viewed in ADAMS by performing a search on the document date and docket number.
- *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–2013–0273 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC posts all comment submissions at *http://www.regulations.gov* as well as entering 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.

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in § 50.92 of Title 10 of the *Code of Federal Regulations* (10 CFR), this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license or combined license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR Part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. The NRC regulations are accessible electronically from the NRC Library on the NRC's Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also identify the specific contentions which the requestor/petitioner seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the requestor/petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on

which the requestor/petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of any amendment.

All documents filed in the NRC's adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the Internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.* System requirements for accessing the E-Submittal server are detailed in the NRC's ''Guidance for Electronic Submission,'' which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with the NRC's guidance available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC's Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/ehd/,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. However, a request to intervene will require including information on local residence in order to demonstrate a proximity assertion of interest in the proceeding. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Petitions for leave to intervene must be filed no later than 60 days from the date of publication of this notice. Requests for hearing, petitions for leave to intervene, and motions for leave to file new or amended contentions that are filed after the 60-day deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i)–(iii).

For further details with respect to this license amendment application, see the application for amendment which is available for public inspection at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available documents created or received at the NRC are accessible electronically through ADAMS in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC's PDR Reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.*

Exelon Generation Company, LLC, Docket Nos. STN 50–456 and STN 50–457, Braidwood Station, Units 1 and 2, Will County, Illinois

Exelon Generation Company, LLC, Docket Nos. STN 50–454 and STN 50–455, Byron Station, Units 1 and 2, Ogle County, Illinois

Exelon Generation Company, LLC, Docket No. 50–461, Clinton Power Station, Unit 1, DeWitt County, Illinois

Exelon Generation Company, LLC, Docket Nos. 50–237 and 50–249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois

Exelon Generation Company, LLC, Docket Nos. 50–373 and 50–374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Exelon Generation Company, LLC, Docket Nos. 50–254 and 50–265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of amendment request: September 3, 2013.

Description of amendment request: The proposed amendment would modify technical specification requirements to operate ventilation systems with charcoal filters for 10 hours, at a frequency specified in the Surveillance Frequency Control Program, in accordance with Technical Specification Task Force (TSTF)–522, Revision 0, ''Revise Ventilation System Surveillance Requirements to Operate for 10 hours per Month.'' The model safety evaluation for TSTF–522 was published as part of the **Federal Register** Notice for Availability dated September 20, 2012 (77 FR 58421).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change replaces an existing Surveillance Requirement to operate the [Standby Gas Treatment] SGT, [Control Room Ventilation] VC, [Control Room Area Filtration] CRAF, and Control Room Emergency Ventilation] CREV Systems equipped with electric heaters for a continuous 10-hour period at a frequency specified in the [Surveilance Frequency Control Program] SFCP with a requirement to operate the systems for 15 continuous minutes with heaters operating.

These systems are not accident initiators and therefore, these changes do not involve a significant increase in the probability of an accident. The proposed system and filter testing changes are consistent with current regulatory guidance for these systems and will continue to assure that these systems perform their design function which may include mitigating accidents. Thus the change does not involve a significant increase in the consequences of an accident.

Therefore, it is concluded that this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change replaces an existing Surveillance Requirement to operate the SGT, VC, CRAF, and CREV Systems equipped with electric heaters for a continuous 10-hour period at a frequency specified in the SFCP with a requirement to operate the systems for 15 continuous minutes with heaters operating. The change proposed for these ventilation systems does not change any system operations or maintenance activities. Testing requirements will be revised and will continue to demonstrate that the Limiting Conditions for Operation are met and the system components are capable of performing their intended safety functions. The change does not create new failure modes or mechanisms and no new accident precursors are generated.

Therefore, it is concluded that this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change replaces an existing Surveillance Requirement to operate the SGT, VC, CRAF, and CREV Systems equipped with electric heaters for a continuous 10-hour period at a frequency specified in the SFCP with a requirement to operate the systems for 15 continuous minutes with heaters operating.

The design basis for the ventilation systems' heaters is to heat the incoming air which reduces the relative humidity. The heater testing change proposed will continue to demonstrate that the heaters are capable of heating the air and will perform their design function. The proposed change is consistent with regulatory guidance.

Therefore, it is concluded that this change does not involve a significant reduction in a margin of safety. Based on the above, EGC concludes that the proposed change presents no significant hazards consideration under the standards set forth in 10 CFR 50.92(c), and, accordingly, a finding of ''no significant hazards consideration'' is justified.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Attorney for licensee: Mr. Bradley Fewell, Associate General Counsel, Exelon Generation Company, LLC, 4300 Winfield Road, Warrenville, IL 60555.

NRC Branch Chief: Travis L. Tate.

NextEra Energy Duane Arnold, LLC, Docket No. 50–331, Duane Arnold Energy Center, Linn County, Iowa

Date of amendment request: August 29, 2013.

Description of amendment request: The proposed license amendment would revise the Duane Arnold Energy

Center Technical Specifications by modifying existing Surveillance Requirements regarding the battery terminal and charger voltages and amperage provided in SR 3.8.4.1 and SR 3.8.4.6 to account for the new 60 cell batteries being placed in during the fall 2014 refueling outage.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes modify Surveillance Requirements (SRs) regarding the battery terminal and charger voltages and amperage provided in SR 3.8.4.1 and SR 3.8.4.6. Accidents are initiated by the malfunction of plant equipment, or the catastrophic failure of plant structures, systems, or components. The performance of battery testing is not a precursor to any accident previously evaluated and does not change the manner in which the batteries are operated. The proposed testing requirements will not contribute to the failure of the batteries nor any plant structure, system, or component. NextEra Energy Duane Arnold has determined that the proposed change in testing provides an equivalent level of assurance that the batteries are capable of performing their intended safety functions. Thus, the proposed changes do not affect the probability of an accident previously evaluated.

Verifying battery terminal voltage while on float charge for the batteries helps to ensure the effectiveness of the charging system and the ability of the batteries to perform their intended function. The proposed changes involve the manner in which the subject batteries are tested or maintained, and have no effect on the types or amounts of radiation released or the predicted offsite doses in the event of an accident. The proposed testing requirements are sufficient to provide confidence that these batteries are capable of performing their intended safety functions.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

This TS SR change for the batteries is based upon the installation of new DAEC 125 VDC Safety Related Station Batteries (1D1 & 1D2). The new 60-cell batteries are at least equivalent to the existing 58-cell batteries. The new 60-cell batteries provide an acceptable design margin to the existing batteries. Battery circuit coordination is not adversely affected by the addition of the new batteries with 60-cells. The proposed changes to these TS SRs do not introduce any new accident initiators or precursors, or any new design assumptions for those components used to mitigate the consequences of an accident.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The replacement of the existing 58-cell batteries with new 60-cell batteries and the subsequent TS SR changes that verify higher minimum terminal voltage on float charge in SR 3.8.4.1 and higher 125 VDC battery charger voltage with lower amperage in SR 3.4.3.6, and, the requirements associated with verifying their design functionality will not involve a significant reduction in the margin of safety. The new batteries are at least equivalent to the existing batteries. The two additional cells in the proposed new batteries provide an acceptable design margin. The increase in the number of cells from 58 to 60 will result in a small increase in battery terminal voltage on float charge. These proposed TS SRs simply document the verification of the new minimum voltage and amperage values. Accordingly, there is no significant reduction in the margin of safety.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. James Petro, P.O. Box 14000, Juno Beach, FL 33408–0420.

NRC Branch Chief: Robert D. Carlson.

Southern California Edison Company (SCE), et al., Docket Nos. 50–361 and 50–362, San Onofre Nuclear Generating Station (SONGS), Units 2 and 3, San Diego County, California

Date of amendment request: October 21, 2013.

Description of amendment request: The amendment would revise Sections 5.1, 5.2, and 5.3 of the Technical Specifications to reflect the permanently shutdown status of SONGS, Units 2 and 3. Specifically, the proposed changes reflect new staffing and training requirements for operating staff.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes would allow SCE to replace reliance on operators licensed pursuant to 10 CFR Part 55 at SONGS, with certified fuel handlers and non-licensed operators, to comport to the permanently defueled condition of the station. The proposed changes have no effect on plant systems structures and components (SSCs) and no effect on the capability of any plant SSC to perform its design function. The proposed changes would not increase the likelihood of the malfunction of any plant SSC. Revised dose calculations were completed to support the changes to the Updated Final Safety Analysis Report (UFSAR) Chapter 15 Accident Analysis, and the UFSAR was revised to reflect the new analysis. The proposed changes would have no adverse effect on any of the previously evaluated accidents in the SONGS UFSAR. Reliance on certified fuel handlers and non-licensed operators allowed under the exemption will not affect the probability of occurrence of any previously analyzed accident.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Do the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes do not involve a physical alteration of the plant. No new or different type of equipment will be installed and there are no physical modifications to existing equipment associated with the proposed changes. Similarly, the proposed changes would not physically change any structures, systems or components involved in the mitigation of any accidents. Thus, no new initiators or precursors of a new or different kind of accident are created. Furthermore, the proposed changes do not create the possibility of a new accident as a result of new failure modes associated with any equipment or personnel failures. No changes are being made to parameters within which the plant is normally operated, or in the setpoints which initiate protective or mitigative actions, and no new failure modes are being introduced.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. Do the proposed changes involve a significant reduction in a margin of safety?

Response: No.

The proposed changes do not alter the design basis or any safety limits for the plant. The proposed changes do not impact station operation or any plant SSC that is relied upon for accident mitigation.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three

standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Attorney for licensee: Douglas K. Porter, Esquire, Southern California Edison Company, 2244 Walnut Grove Avenue, Rosemead, California 91770.

NRC Branch Chief: Douglas A. Broaddus.

Southern Nuclear Operating Company, Inc., Docket Nos. 52–025 and 52–026, Vogtle Electric Generating Plant, Units 3 and 4, Burke County, Georgia

Date of amendment request: November 4, 2013.

Description of amendment request: The proposed change would amend Combined License Nos. NPF–91 and NPF–92 for the Vogtle Electric Generating Plant (VEGP) Units 3 and 4 by departing from the Combined License Appendix C information. The changes correct editorial errors and promote consistency with the Updated Final Safety Analysis Report Tier 2 information.

Because, this proposed change requires a departure from Tier 1 information in the Westinghouse Advanced Passive 1000 DCD, the licensee also requested an exemption from the requirements of the Generic DCD Tier 1 in accordance with 52.63(b)(1).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No

The proposed editorial and consistency Combined License (COL) Appendix C update does not involve a technical change, e.g., there is no design parameter or requirement, calculation, analysis, function, or qualification change. No structure, system, component (SSC) design or function would be affected. No design or safety analysis would be affected. The proposed changes do not affect any accident initiating event or component failure, thus the probabilities of the accidents previously evaluated are not affected. No function used to mitigate a radioactive material release and no radioactive material release source term is involved, thus the radiological releases in the accident analyses are not affected.

Therefore, the proposed amendment does not involve an increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed editorial and consistency COL Appendix C update would not affect the design or function of any SSC, but will instead provide consistency between the SSC designs and functions currently presented in the Updated Final Safety Analysis Report (UFSAR) and the COL Appendix C information. The proposed (non-technical) changes would not introduce a new failure mode, fault, or sequence of events that could result in a radioactive material release.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No

The proposed editorial and COL Appendix C update is nontechnical, thus would not affect any design parameter, function, or analysis. There would be no change to an existing design basis, design function, regulatory criterion, or analysis. No safety analysis or design basis acceptance limit/criterion is involved.

Therefore, the proposed amendment does not reduce the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Mr. M. Stanford Blanton, Balch & Bingham LLP, 1710 Sixth Avenue North, Birmingham, AL 35203–2015.

NRC Branch Chief: Lawrence J. Burkhart.

Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or combined license, as applicable, proposed no significant hazards consideration determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the NRC's Public Document Room (PDR), located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available documents created or received at the NRC are accessible electronically through the Agencywide Documents Access and Management System (ADAMS) in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR's Reference staff at 1–800–397–4209, 301–415–4737 or by email to *pdr.resource@nrc.gov*.

NextEra Energy Duane Arnold, LLC, Docket No. 50–331, Duane Arnold Energy Center, Linn County, Iowa

Date of application for amendment: March 14, 2013.

Brief description of amendment: The amendment allows the licensee to adopt the NRC-approved Technical Specifications Task Force (TSTF) Standard Technical Specifications Change Traveler TSTF–535, ''Revise Shutdown Margin Definition to Address Advanced Fuel Designs'' (ADAMS Accession No. ML112200436, dated August 8, 2011). The amendment modifies the technical specification definition of ''shutdown margin'' (SDM) to require calculation of the SDM at a reactor moderator temperature of 68 °F or a higher temperature that represents the most reactive state throughout the operating cycle. This change addressed new boiling-water reactor fuel designs which may be more reactive at shutdown temperatures above 68 °F.

Date of issuance: November 27, 2013.

Effective Date: As of the date of issuance and shall be implemented within 30 days.

Amendment No.: 288.

Renewed Facility Operating License No. DPR–49: The amendment revised the Technical Specifications.

*Date of initial notice in **Federal Register**:* May 28, 2013 (78 FR 31983).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 27, 2013.

No significant hazards consideration comments received: No.

South Carolina Electric and Gas. Docket Nos. 52–027 and 52–028, Virgil C. Summer Nuclear Station, Units 3 and 4, Fairfield County, South Carolina

Date of amendment request: July 17, 2013.

Brief description of amendment: The amendment authorizes a departure from the Virgil C. Summer Nuclear Station Units 2 and 3 plant-specific Design Control Document (DCD) material incorporated into the Updated Final Safety Analysis Report (UFSAR) to revise requirements for design spacing of shear studs and the design of structural elements in order to address interferences and obstructions other than wall openings.

Date of issuance: November 18, 2013.

Effective Date: As of the date of issuance and shall be implemented within 30 days of issuance.

Amendment No.: Unit 2–9, and Unit 3–9.

Facility Combined Licenses No. NPF–93 and NPF–94: Amendment revised the Facility Combined Licenses.

*Date of initial notice in **Federal Register**:* September 3, 2013 (78 FR 54280).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 18, 2013.

No significant hazards consideration comments received: No.

Southern Nuclear Operating Company, Inc., Docket Nos. 52–025 and 52–026, Vogtle Electric Generating Plant (VEGP) Units 3 and 4, Burke County, Georgia

Date of amendment request:

- February 15, 2013 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML13050A214), and supplemented by letters dated May 21, 2013 (ADAMS Accession No. ML13144A125), August 22, 2013 (ADAMS Accession No. ML13235A224), and September 27, 2013 (ADAMS Accession No. ML13275A181).
- March 25, 2013 (ADAMS Accession Nos. ML13087A403 and ML13087A404), and supplemented by letters dated May 21, 2013 (ADAMS Accession No. ML13144A125), August 22, 2013 (ADAMS Accession No. ML13234A457).
- March 25, 2013 (ADAMS Accession Nos. ML13087A351 and ML13087A352), and supplemented by letters dated May 21, 2013 (ADAMS Accession No. ML13144A125), August 22, 2013 (ADAMS Accession No. ML13235A173), and September 26, 2013 (ADAMS Accession No. ML13270A057).
- April 5, 2013 (ADAMS Accession No. ML13098A727), and supplemented by letters dated May 21, 2013 (ADAMS Accession No. ML13144A125), August 22, 2013 (ADAMS Accession No. ML13235A175), and September 27, 2013 (ADAMS Accession No. ML13275A182).
- May 10, 2013 (ADAMS Accession No. ML13133A084), and supplemented by letters dated August 23, 2013 (ADAMS Accession No. ML13235A226), and September 27, 2013 (ADAMS Accession No. ML13275A181).

Brief description of amendment: The proposed amendment involves changes to the five Human Factors Engineering (HFE) Reports (prepared by Westinghouse and the NRC reviewed these reports as part of the AP1000 design certification rule) that are incorporated by reference in the VEGP UFSAR. These are:

- HFE Integrated System Validation (APP–OCS–GEH–320) (LAR 13–001)
- HFE Design Verification Plan (APP–OCS–GEH–120) (LAR 13–010)
- HFE Task Support Verification Plan (APP–OCS–GEH–220) (LAR 13–011)
- Human Engineering Discrepancy Resolution Process (APP–OCS–GEH–420) (LAR 13–012)
- Plant Startup HFE Design Verification Plan (APP–OCS–GEH–520) (LAR 13–013)

Date of issuance: December 6, 2013.

Effective Date: As of the date of issuance and shall be implemented within 30 days of issuance.

Amendment No.: Unit 3—15, and Unit 4—15.

Facility Combined Licenses No. NPF–91 and NPF–92: Amendment revised the Facility Combined Licenses.

*Date of initial notice in **Federal Register**:* March 19, 2013 (78 FR 16885 for LAR 13–001), May 14, 2013 (78 FR 28254 for LAR 13–010, 78 FR 28255 for LAR 13–011, and 78 FR 28256 for LAR 13–012), and June 25, 2013 (78 FR 38084 for LAR 13–013).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 6, 2013.

No significant hazards consideration comments received: No.

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: September 19, 2012, as supplemented by letter dated July 15, 2013.

Brief description of amendment: The amendment revised the voltage limit for the emergency diesel generator full load rejection test specified by Technical Specification 3.8.1, ''AC [Alternating Current] Sources—Operating,'' Surveillance Requirement 3.8.1.10.

Date of issuance: December 2, 2013.

Effective Date: As of its date of issuance and shall be implemented within 90 days of the date of issuance.

Amendment No.: 206.

Renewed Facility Operating License No. NPF–42: The amendment revised the Operating License and Technical Specifications.

*Date of initial notice in **Federal Register**:* October 30, 2012 (77 FR 65726). The supplemental letter dated July 15, 2013, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 2, 2013.

No significant hazards consideration comments received: No.

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: November 21, 2012, as supplemented by letters dated February 25, and May 28, 2013.

Brief description of amendment: The amendment revised Technical Specification (TS) 3.4.12, ''Low Temperature Overpressure Protection (LTOP) System,'' to reflect the mass input transient analysis that assumes an emergency core cooling system centrifugal charging pump and the normal charging pump capable of injecting into the reactor coolant system during the TS 3.4.12 Applicability.

Date of issuance: December 6, 2013.

Effective Date: As of its date of issuance and shall be implemented within 90 days of the date of issuance.

Amendment No.: 207.

Renewed Facility Operating License No. NPF–42: The amendment revised the Operating License and Technical Specifications.

*Date of initial notice in **Federal Register**:* February 5, 2013 (78 FR 8200). The supplemental letters dated February 25, and May 28, 2013, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a

Safety Evaluation dated December 6, 2013.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland, this 16th day of December, 2013.

For the Nuclear Regulatory Commission.

Michele G. Evans,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2013–30540 Filed 12–23–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2013–0001]

Sunshine Act Meetings

DATE: Weeks of December 23, 30, 2013, January 6, 13, 20, 27, 2014.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of December 23, 2013

There are no meetings scheduled for the week of December 23, 2013.

Week of December 30, 2013—Tentative

There are no meetings scheduled for the week of December 30, 2013.

Week of January 6, 2014—Tentative

Monday, January 6, 2014

9:00 a.m. Briefing on Spent Fuel Pool Safety and Consideration of Expedited Transfer of Spent Fuel to Dry Casks (Public Meeting); (Contact: Kevin Witt, 301–415–2145)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

1:30 p.m. Briefing on Flooding and Other Extreme Weather Events (Public Meeting); (Contact: George Wilson, 301–415–1711)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Friday, January 10, 2014

9:00 a.m. Briefing on the NRC Staff's Recommendations to Disposition Fukushima Near-Term Task Force (NTTF) Recommendation 1 on Improving NRC's Regulatory Framework (Public Meeting); (Contact: Dick Dudley, 301–415–1116)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Week of January 13, 2014—Tentative

There are no meetings scheduled for the week of January 13, 2014.

Week of January 20, 2014—Tentative

There are no meetings scheduled for the week of January 20, 2014.

Week of January 27, 2014—Tentative

Wednesday, January 29, 2014

9:30 a.m. Briefing on Equal Employment Opportunity and Civil Rights Outreach (Public Meeting); (Contact: Larniece McKoy Moore, 301–415–1942)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

* * * * *

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings, call (recording)—301–415–1292. Contact person for more information: Rochelle Bavol, 301–415–1651.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

* * * * *

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g. braille, large print), please notify Kimberly Meyer, NRC Disability Program Manager, at 301–287–0727, or by email at *Kimberly.Meyer-Chambers@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969), or send an email to *Darlene.Wright@nrc.gov.*

Dated: December 19, 2013.

Rochelle C. Bavol,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2013–30848 Filed 12–20–13; 4:15 pm]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71129; File No. SR–BATS–2013–062]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Modify BATS Options Market Maker Continuous Quoting Obligation Rules

December 18, 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 December 5, 2013, BATS Exchange, Inc. (the ''Exchange'' or ''BATS'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend Rule 22.6(d) with respect to the continuous quoting requirement applicable to Market Makers (as defined below) registered with the Exchange.

The text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.com,* at the principal office of the Exchange, at the Commission's Public Reference Room, and on the Commission's Web site at *http://www.sec.gov.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6)(iii).

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 is proposing to amend Rule 22.6(d), which is applicable to the Exchange's options platform (''BATS Options''). A ''Market Maker'' on BATS Options is an Options Member registered as a Market Maker. Options Market Makers have obligations beyond those of other Options Members.[5] One of these obligations is the requirement to maintain a two-sided market in those options series in which a Market Maker is registered to trade in a manner that enhances the depth, liquidity, and competitiveness of the market.[6] Pursuant to this obligation and existing Rule 22.6(d), Market Makers must enter ''continuous bids and offers for the options series to which it is registered.''

The Exchange proposes to add Rule 22.6(d)(3), which would specify numerically the meaning of ''continuous'' with respect to Market Makers' obligation to maintain continuous, two-sided quotes. For the purposes of Rule 22.6, the Exchange will consider the continuous quoting requirement fulfilled if a Market Maker provides two-sided quotes for 90% of the time the Market Maker is required to provide quotes in an appointed options series on a given trading day, or such higher percentage as the Exchange may announce in advance.

Proposed Rule 22.6(d)(3) would also provide that the continuous quoting requirement will be applied to all options classes collectively, rather than on a [sic] issue-by-issue basis and that compliance will be determined on a monthly basis. The Exchange believes that applying the quoting requirements for Market Makers collectively across all options classes and reviewing such compliance over a monthly basis is a fair and more efficient way for the Exchange and market participants to evaluate compliance with the continuous quoting requirements. Applying the continuous quoting requirement collectively across all option classes rather than on an issue-by-issue basis, is beneficial to Market Makers by providing some flexibility to choose which series in their appointed classes they will continuously quote—increasing the continuous quoting obligation in the series of one class to allow for a decrease in the continuous quoting obligation in the series of another class. This flexibility, however, does not diminish the Market Maker's obligation to continuously quote a significant part of the trading day in a significant percentage of series. This flexibility is especially important for classes that have relatively few series and may prevent the Market Maker, in particular, from breaching the continuous quoting requirement when failing to quote 90% of the trading day (as proposed) in more than one series in an appointed class. In addition, determining compliance with the continuous quoting requirement on a monthly basis does not relieve the Market Maker of the obligation to provide continuous two-sided quotes on a daily basis, nor will it prohibit the Exchange from taking disciplinary action against a Market Maker for failing to meet the continuous quoting obligation each trading day. Compliance on a monthly basis allows the Exchange to review the Market Maker's daily compliance in the aggregate and determine the appropriate disciplinary action for single or multiple failures to comply with the continuous quoting requirement during the month period. The Exchange believes that the proposal will not diminish, and in fact may increase, market making activity on the Exchange, by establishing quoting compliance standards that are reasonable and are already in place on other options exchanges.[7]

As proposed, pursuant to Rule 22.6(d)(4) if there is a technical failure or limitation of an Exchange system that prevents a Market Maker from maintaining or communicating to the Exchange timely and accurate quotes in an options series, the Exchange will not consider the duration of such failure in determining whether the Market Maker has satisfied the 90% quoting standard with respect to the affected options series.

The Exchange also proposes to add paragraph (d)(6) to Rule 22.6, which would specify that Market Makers would not be required to make two-sided markets pursuant to Rule 22.6 in any Quarterly Option Series, any adjusted option series, and any option series until the time to expiration for such series is less than nine months. Accordingly, the continuous quotation obligations set forth in the Rule will not apply to Market Makers respecting Quarterly Option Series, adjusted option series, and series with an expiration of nine months or greater. For purposes of paragraph (d)(6), an adjusted option series would be defined as an option series wherein, as a result of a corporate action by the issuer of the underlying security, one option contract in the series represents the delivery of other than 100 shares of underlying stock or Exchange-Traded Fund Shares.

The Exchange will also reserve the right to consider other exceptions to the continuous quoting obligation based on demonstrated legal or regulatory requirements or other mitigating circumstances. As explained below, the proposed changes will provide a specific numerical threshold that Market Makers will need to meet, which is consistent with the rules of several other options exchanges.[8]

In addition to the changes described above, the Exchange proposes to number an existing paragraph currently contained within Rule 22.6(d)(2) as a separate paragraph, paragraph (d)(5).

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[9] Specifically, the proposal is consistent with Section 6(b)(5) of the Act,[10] which requires exchange rules to promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest. The Exchange believes the proposed rule change fulfills these requirements because it provides a specific standard to which the Exchange will hold Market Makers regarding their obligation to maintain a two-sided market in specified options series. By numerically specifying this obligation, the Exchange will enhance the quality of its market and avoid unnecessary investor confusion. Moreover, the Exchange again notes that the proposed rule change is substantially similar to the rules of other options exchanges.[11]

Furthermore, the Exchange believes this proposed rule change promotes just and equitable principles of trade because it reduces a burden and unnecessary restrictiveness on Market Makers. The Exchange still imposes many obligations on all Market Makers

[5] *See* BATS Rule 22.2, 22.5.

[6] BATS Rule 22.5(a).

[7] *See* NYSE MKT Rule 925.1NY; *see also,* CBOE Rule 1.1(ccc); ISE Rule 804(e); ISE Gemini Rule 804(e); MIAX Rule 604(e); NASDAQ OMX PHLX Rule 1014(b)(ii)(D)(1); NOM Rules, Chapter VII, Sec. 6(d); NYSE Arca Rule 6.37B(b).

[8] *See id.*

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] *See supra* note 7.

to maintain a fair and orderly market in their appointed classes, which the Exchange believes eliminates the risk of a material decrease in liquidity. Accordingly, the proposal supports the quality of the Exchange's market by helping to ensure that Market Makers will continue to be obligated to quote in series when necessary. The benefit provided to the Market Maker from the proposed definition of continuous quoting is offset by the required percentage of series in which the Market Maker must provide continuous quotes. Ultimately, the benefit the proposed rule change confers upon Market Makers is offset by the continued responsibilities to provide significant liquidity to the market to the benefit of market participants.

The proposed rule change also protects investors and the public interest by creating more uniformity and consistency among the Exchange's rules related to Market-Maker quoting obligations. The proposed rule change allows the Exchange to require Market Makers to provide continuous quotes in a percentage of series in their appointed classes for a portion of the trading day that is the same as that of market-makers at other exchanges, which the Exchange believes will ultimately make the Exchange more competitive and help remove impediments to and promote a free and open market. For the foregoing reasons, the Exchange believes that the balance between the benefits provided to Market-Makers and the obligations imposed upon Market-Makers by the proposed rule change is appropriate.

Further, providing Market Makers with flexibility by providing the continuous quoting obligation collectively across all option classes will not diminish the Market Maker's obligation to continuously quote a significant part of the trading day in a significant percentage of series. Additionally, with respect to compliance standards, the Exchange believes that adopting the proposed standards will enhance compliance efforts by Market Makers and the Exchange, and are consistent with the requirement [sic] currently in place on other exchanges. The proposal ensures that compliance standards for continuous quoting will be the same on the Exchange as on other options exchanges. The Exchange believes that the proposal will not diminish and in fact may increase, market making activity on the Exchange, by establishing a quoting compliance standard that is reasonable and is already in place on other options exchanges.

The Exchange notes that its Market Makers are subject to many obligations, including the obligation to maintain a fair and orderly market in their appointed classes, which the Exchange believes eliminates the risk of a material decrease in liquidity. The Exchange continues to believe the balance of obligations and benefits is appropriate given the following: (i) although the percentage of the trading day Market Makers will be required to quote will be numerically set at 90%, Market Makers will continue to have heightened quoting requirements based on the significant percentage of series Market Makers are required to quote; (ii) the proposed clarification in the rule text of which series the continuous quoting obligations apply to does not diminish the continuous quoting obligation and is consistent with requirements in place at other option exchanges; (iii) the flexibility being provided by the proposal to apply the continuous quoting obligation collectively across all option classes also does not diminish the Market Maker's obligations; and (iv) the proposed changes are all consistent with requirements in place at other options exchanges. The Exchange believes that its proposal is consistent with the Act in that providing clarification and flexibility does not detract from the overall market making obligations of Market Makers. The requirement that a market maker hold itself out as willing to buy and sell options for its own account on a regular or continuous basis is better supported by these proposed revisions and clarifications. Accordingly, the benefits the proposed rule change confers upon Market Makers are offset by the continued responsibilities to provide significant liquidity to the market to the benefit of all market participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposal is consistent with Section 6(b)(8) of the Act [12] in that it does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes the proposed rule change will provide specificity in Exchange rules as they relate to Market Maker's [sic] obligation to maintain continuous, two-sided quotes in specific options series. Moreover, as previously noted, the proposed rule change is substantially similar to the rules of other options exchanges.[13] As such, the Exchange believes the proposed rule changes will enhance, rather than diminish, competition among the options exchanges.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A) 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 [16] and Rule 19b–4(f)(6) thereunder.[17]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal 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

[12] 15 U.S.C. 78f(b)(8).

[13] *See supra* note 7.

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(6).

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 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.

Send an email to *rule-comments@sec.gov*. Please include File No. SR–BATS–2013–062 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 No. SR–BATS–2013–062. 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 changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing 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 No. SR–BATS–2013–062 and should be submitted on or before January 14, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–30592 Filed 12–23–13; 8:45 am]

BILLING CODE 8011–01–P

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71122; File No. SR–NYSE–2013–81]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Offer Partial Cabinets and Cabinet Upgrades as Part of its Co-location Services and to Amend its Price List to Reflect the New Services

December 18, 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 December 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 offer partial cabinets and cabinet upgrades as part of its co-location services and to amend its Price List to reflect the new services. The Exchange proposes to implement the fee change effective December 16, 2013. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to offer partial cabinets and cabinet upgrades as part of its co-location services and to amend its Price List to reflect the new services.[4] The Exchange proposes to implement the fee change effective December 16, 2013.

Partial Cabinets

A User is able to request a physical cabinet to house its servers and other equipment in the data center.[5] Currently, a User only has the option of receiving an entire cabinet that is dedicated solely to that User (''dedicated cabinet''). The Exchange proposes to expand its co-location services to offer a partial cabinet alternative (''partial cabinet''). Partial cabinets would be made available in increments of eight-rack units of space.[6] The Exchange would allocate each eight-rack unit up to two kilowatts (''kWs'') of power.[7] Consistent with existing pricing for dedicated cabinets, the Exchange would charge Users an

[4] The Securities and Exchange Commission (''Commission'') initially approved the Exchange's co-location services in Securities Exchange Act Release No. 62960 (September 21, 2010), 75 FR 59310 (September 27, 2010) (SR–NYSE–2010–56) (the ''Original Co-location Approval''). The Exchange operates a data center in Mahwah, New Jersey (the ''data center'') from which it provides co-location services to Users. The Exchange's co-location services allow Users to rent space in the data center so they may locate their electronic servers in close physical proximity to the Exchange's trading and execution system. *See id.* at 59310.

[5] For purposes of the Exchange's co-location services, the term ''User'' includes (i) member organizations, as that term is defined in NYSE Rule 2(b); (ii) Sponsored Participants, as that term is defined in NYSE Rule 123B.30(a)(ii)(B); and (iii) non-member organization broker-dealers and vendors that request to receive co-location services directly from the Exchange. *See, e.g.,* Securities Exchange Act Release No. 65973 (December 15, 2011), 76 FR 79232 (December 21, 2011) (SR–NYSE–2011–53). As specified in the Price List, a User that incurs co-location fees for a particular co-location service pursuant thereto would not be subject to co-location fees for the same co-location service charged by the Exchange's affiliates NYSE MKT LLC and NYSE Arca, Inc. *See* Securities Exchange Act Release No. 70206 (August 15, 2013), 78 FR 51765 (August 21, 2013) (SR–NYSE–2013–59).

[6] A full cabinet includes enough space for approximately four separate eight-rack units. The Exchange would submit a separate proposed rule change if it decided to change the manner in which space is allocated within a partial cabinet (e.g., six-rack units instead of eight-rack units).

[7] The Exchange would submit a separate proposed rule change if it decided to change the manner in which power is allocated to partial cabinets (e.g., more than two kWs of power allocated per eight-rack unit).

initial fee and a monthly recurring fee for partial cabinets. The initial fee would be $2,500 per eight-rack unit. The monthly recurring fee would be $1,500 for one kW of allocated power and $2,700 for two kWs of allocated power.[8]

The Exchange is proposing this partial cabinet alternative in order to assist Users that do not need a dedicated cabinet in the data center, such as those Users with minimal power or cabinet space demands, including those Users for which the costs attendant with a dedicated cabinet are too burdensome. However, Users that do require a dedicated cabinet could continue to request them.[9] This proposed alternative would not impact current pricing for dedicated cabinets. The Exchange would amend the existing table in the Price List to reflect the pricing options.

Users that have several cabinets within the data center that wish to enhance privacy around their cabinets are able to purchase cages. Because more than one User could be using a partial cabinet, partial cabinets could not be located in a User's cage.

Initial Install Services Fee

In conjunction with the proposed offering of partial cabinets, the Exchange also proposes to charge a lower Initial Install Services fee for a partial cabinet. The proposed fee would be lower because the services required of the Exchange for the installation of an eight-rack unit in a partial cabinet would be less than the services required for the installation of a dedicated cabinet. The current Initial Install Services fee is $800 per dedicated cabinet, which includes initial racking of equipment in the dedicated cabinet and provision of up to 10 cables and four hours of labor. The Exchange proposes to charge a $400 Initial Install Services fee for an eight-rack unit in a partial cabinet, which would include initial racking of equipment and provision of up to five cables and two hours of labor.

Cabinet Upgrades

The Exchange makes dedicated cabinets available with standard power allocation of either four or eight kWs.[10] However, Users that require additional power allocation may prefer to maintain their hardware within a particular dedicated cabinet rather than add an additional dedicated cabinet. Specifically, Users may develop their hardware infrastructure within a particular dedicated cabinet in such a way that, if expansion of such hardware is needed, it can be accomplished within the space constraints of that particular dedicated cabinet. If this type of User requires additional power allocation, it would likely want to so modify its existing cabinet rather than taking an additional dedicated cabinet due to the expense of re-developing its infrastructure within such additional dedicated cabinet. A $5,000 initial dedicated cabinet fee would also apply if the User received an additional dedicated cabinet.

The Exchange proposes to offer a new ''Cabinet Upgrade'' alternative and related fee in order to accommodate requests for additional power allocation beyond the typical amount that the Exchange allocates per dedicated cabinet, at which point the Exchange must upgrade the cabinet's power capacity. These Cabinet Upgrades typically entail overhauling wiring, circuitry and hardware for the dedicated cabinet so that it can handle the increased power. Cabinet Upgrades require additional Exchange resources beyond those covered under the initial dedicated cabinet fee or the Initial Install Services fee, including with respect to labor and equipment.

The Exchange proposes to charge a one-time Cabinet Upgrade fee of $9,200 when a User requests additional power allocation for its dedicated cabinet such that the Exchange must upgrade the dedicated cabinet's capacity. A Cabinet Upgrade would be required when power allocation demands exceed 11 kWs.[11] However, in order to incentivize Users to upgrade their dedicated cabinets, the Exchange proposes that the Cabinet Upgrade fee would be $4,600 for a User that submits a written order for a Cabinet Upgrade by January 31, 2014, provided that the Cabinet Upgrade becomes fully operational by March 31, 2014.

General

As is the case with all Exchange co-location arrangements, (i) neither a User nor any of the User's customers would be permitted to submit orders directly to the Exchange unless such User or customer is a member organization, a Sponsored Participant or an agent thereof (e.g., a service bureau providing order entry services); (ii) use of the co-location services proposed herein would be completely voluntary and available to all Users on a non-discriminatory basis;[12] and (iii) a User would only

[8] The second kW would therefore cost $1,200. Power allocated to a User of a partial cabinet would be considered separate from power allocated to the same User if it also has dedicated cabinets in the data center.

[9] For purposes of comparison, if a User ordered a single eight-rack unit in a partial cabinet with two kWs of power allocation, such User would be charged $2,500 in initial cabinet fees (compared to $5,000 for a dedicated cabinet) and $2,700 in recurring monthly fees (compared to $4,800 for a dedicated cabinet with the minimum power allocation of four kWs) for total charges of $34,900 within the first year (compared to $62,600 for a dedicated cabinet). A partial cabinet would therefore be a more economical option. If a User ordered two separate eight-rack units in a partial cabinet with two kWs of power allocation each (four kWs total), such User would be charged $5,000 in initial cabinet fees (identical to the $5,000 for a dedicated cabinet) and $5,400 in recurring monthly fees (compared to $4,800 for a dedicated cabinet with the minimum power allocation of four kWs) for total charges of $69,800 within the first year (compared to $62,600 for a dedicated cabinet). A dedicated cabinet would therefore be a more economical option. Based on the proposed pricing, the Exchange believes that the partial cabinet option would be selected by Users with power demands of three kWs or less. If a User's power demands are four kWs or greater it would likely choose the dedicated cabinet option. Accordingly, if a User ordered two separate eight-rack units in a partial cabinet with two kWs of power allocation for one of the units and one kW of power allocation for the other unit (three kWs total), such User would be charged $5,000 in initial cabinet fees (identical to the $5,000 for a dedicated cabinet) and $4,200 in recurring monthly fees (compared to $4,800 for a dedicated cabinet with the minimum power allocation of four kWs) for total charges of $55,400 within the first year (compared to $62,600 for a dedicated cabinet). A fourth incremental kW would add an additional $14,400 in cost (i.e., $1,200 × 12), at which point a dedicated cabinet would be a more economical option.

[10] A User is generally able to determine an approximate amount of power that it will typically consume in its dedicated cabinet. A User would request either a four or eight kW dedicated cabinet based on its anticipated peak power consumption. A User's typical power consumption would be expected to be less than this anticipated peak power consumption, but could also rise above this anticipated peak power consumption during certain times of the day or certain periods of the month when equipment in the cabinet consumes additional power.

The Exchange allocates power in circuits with ''baseline'' capacity of either four or eight kWs. A circuit could trip when power consumption exceeds capacity. To avoid this, the Exchange allocates ''buffer'' capacity in addition to the baseline capacity. When combined, this ''total'' allocation is approximately 80% of the amount of power consumption that would trip a circuit. The ''total'' power capacity allocated to a four kW dedicated cabinet is slightly more than five kWs. The ''total'' power capacity allocated to an eight kW dedicated cabinet is between 10 and 11 kWs. The Exchange charges Users for the full baseline amount of power allocated to dedicated cabinets (i.e., either four or eight kWs) regardless of whether such allocated power is consumed and, if any of the buffer is used, for that power consumption as well on a per kW basis. For example, if a User consumes its four kWs of baseline allocation and a fraction of an additional kW, the Exchange would charge the User for five kWs total.

[11] A dedicated cabinet could be upgraded to accommodate a total allocation of up to approximately 20 kWs of power, after which a User would require an additional dedicated cabinet.

[12] As is currently the case, Users that receive co-location services from the Exchange will not receive any means of access to the Exchange's trading and execution systems that is separate from, or superior to, that of other Users. In this regard, all orders sent to the Exchange enter the Exchange's trading and execution systems through the same order gateway,

incur one charge for the particular co-location service described herein, regardless of whether the User connects only to the Exchange or to the Exchange and one or both of its affiliates.[13]

The proposed change is not otherwise intended to address any other issues relating to co-location services and/or related fees, and the Exchange is not aware of any problems that Users would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[14] in general, and furthers the objectives of Sections 6(b)(5) of the Act,[15] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposal is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. First, the proposed partial cabinets would make an alternative available to Users that do not need a dedicated cabinet in the data center, such as those Users with minimal power or cabinet space demands, including those Users for which the costs attendant with a dedicated cabinet are too burdensome. However, Users that do require a dedicated cabinet could continue to request them. Second, the proposed Cabinet Upgrades would make an alternative available to Users that have already invested in hardware infrastructure within a particular dedicated cabinet and that require additional power allocation, but do not want an additional dedicated cabinet due to the expense of re-developing infrastructure within such additional dedicated cabinet. The Exchange believes that the proposal would remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, protect investors and the public interest because it would provide Users with additional choices with respect to the optimal size of their cabinets and the number of cabinets they utilize, which could therefore lead to cost savings that Users may choose to pass on to their customers.

The Exchange also believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,[16] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers. Overall, the Exchange believes that the proposed change is consistent with the Act because the Exchange offers the co-location services described herein (i.e., the proposed partial cabinets and Cabinet Upgrades) as a convenience to Users, but in doing so will incur certain costs, including costs related to the data center facility, hardware and equipment and costs related to personnel required for initial installation and ongoing monitoring, support and maintenance of such services. Additionally, the proposed fees relate to the level of services provided by the Exchange and, in turn, received by the User.

The Exchange believes that the proposed pricing for partial cabinets is reasonable because a partial cabinet would be a more economical option for certain Users that require only limited power or limited cabinet space, as compared to pricing for a dedicated cabinet, whereas a dedicated cabinet would be a more economical option for certain Users that have higher power or space demands.[17] The proposed pricing for partial cabinets and the Cabinet Upgrade fee is also reasonable because it would allow Users to select options that are better suited for their needs (e.g., a dedicated cabinet compared to a partial cabinet and a Cabinet Upgrade compared to an additional dedicated cabinet).

The proposed pricing for partial cabinets is also reasonable because it is comparable to pricing for ''shared cabinet space'' available to users of co-location facilities of The NASDAQ Stock Market LLC (''NASDAQ'').[18] Specifically, NASDAQ charges $600 for 500 watts (''Ws'') of power allocation in shared cabinet space. If a NASDAQ co-location user were to request up to two kWs of allocated power in shared cabinet space it would be charged $2,400 per month (one kW is equal to 1,000 Ws and two kWs is therefore equal to 2,000 Ws), which is comparable to the proposed $2,700 monthly recurring charge for the same power allocation in an eight-rack unit in a partial cabinet in the data center. However, the Exchange understands that each unit of NASDAQ shared cabinet space is smaller in space than the partial cabinets proposed by the Exchange (e.g., four-rack units on NASDAQ compared to eight-rack units in the Exchange's data center).[19] The Exchange also believes that the proposed Initial Install Services fee for a partial cabinet is reasonable because it is 50% of the dedicated cabinet Initial Install Services fee and likewise provides for 50% of the resources (i.e., two hours of labor instead of four hours and five cables instead of 10 cables) associated with the dedicated cabinet Initial Install Services fee.

The Exchange also believes that the Cabinet Upgrade fee is reasonable because it would function similar to the NASDAQ charges for comparable services. In particular, NASDAQ charges a premium initial installation fee of $7,000 for a ''Super High Density Cabinet'' (between 10 kWs and 17.3 kWs) compared to $3,500 for other types of cabinets with less power.[20] The Exchange charges only one flat rate for its initial cabinet fees ($5,000), regardless of the amount of power allocation. NASDAQ also charges an additional $7,000 for a Super High Density Cabinet Kit in relation to the additional customized equipment required to adequately cool a Super High Density Cabinet.[21] The Exchange understands that NASDAQ therefore charges at least $10,500 in additional initial costs for a Super High Density Cabinet compared to other cabinets (compared to the proposed $9,200 Cabinet Upgrade fee). The Exchange also believes that the proposed Cabinet Upgrade fee is reasonable because it would permit the Exchange to recover

regardless of whether the sender is co-located in the data center or not. In addition, co-located Users do not receive any market data or data service product that is not available to all Users, although Users that receive co-location services normally would expect reduced latencies in sending orders to, and receiving market data from, the Exchange.

[13] *See* SR–NYSE–2013–59, *supra* note 5 at 51766. The Exchange's affiliates have also submitted the same proposed rule change to provide for partial cabinets, Cabinet Upgrades and related fees. *See* SR–NYSEMKT–2013–103 and SR–NYSEArca–2013–143.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

[16] 15 U.S.C. 78f(b)(4).

[17] *See, e.g., supra* note 9.

[18] *See* NASDAQ Rule 7034.

[19] NASDAQ's initial fee for shared cabinet space is charged on an hourly basis and is therefore difficult to compare to the proposed initial fee for partial cabinets in the Exchange's data center, which is fixed.

[20] *See supra* note 18.

[21] *Id.*

its expenses related to Cabinet Upgrades.

The proposed 50% reduced Cabinet Upgrade fee for a User that submits a written order for a Cabinet Upgrade by January 31, 2014, provided that the Cabinet Upgrade becomes fully operational by March 31, 2014, is reasonable because it would provide an incentive for Users to upgrade the capacity of their dedicated cabinets.

As with fees for existing co-location services, the fees proposed herein would be charged only to those Users that voluntarily select the related services, which would be available to all Users. The Exchange therefore believes that the proposed change is equitable and not unfairly discriminatory because it would result in fees being charged only to Users that voluntarily select to receive the corresponding services and because those services would be available to all Users. Furthermore, the Exchange believes that the services and fees proposed herein are not unfairly discriminatory and are equitably allocated because, in addition to the services being completely voluntary, they are available to all Users on an equal basis (i.e., the same products and services are available to all Users).

For the reasons above, the proposed change would not unfairly discriminate between or among market participants that are otherwise capable of satisfying any applicable co-location fees, requirements, terms and conditions established from time to time by the Exchange.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[22] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because any market participants that are otherwise capable of satisfying any applicable co-location fees, requirements, terms and conditions established from time to time by the Exchange could have access to the co-location services provided in the data center. This is also true because, in addition to the services being completely voluntary, they are available to all Users on an equal basis (i.e., the same range of products and services are available to all Users).

The Exchange believes that the proposed partial cabinet and Cabinet Upgrade alternatives would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because they would enhance competition by making additional choices in services available to Users and thereby satisfy User demand for partial cabinets and for dedicated cabinets with increased power capacity. The proposed change would also enhance competition because it would help Users meet the growing needs of their business operations. Moreover, the Exchange believes that the proposed change would enhance competition between competing marketplaces by enabling the Exchange to provide services to Users that are similar to services available on other markets. In this regard, the Exchange notes that NASDAQ also makes a shared cabinet space option and a ''Super High Density Cabinet'' option available to users of its co-location facilities.[23]

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if, for example, they deem fee levels at a particular venue to be excessive or if they determine that another venue's products and services are more competitive than on the Exchange. In such an environment, the Exchange must continually review, and consider adjusting, the services it offers as well as any corresponding fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

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[24] and Rule 19b–4(f)(6) thereunder.[25] Because the foregoing proposed rule change does not: (1) Significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, 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[26] and Rule 19b–4(f)(6) thereunder.[27]

A proposed rule change filed under Rule 19b–4(f)(6)[28] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[29] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange requested waiver of the 30-day operative delay in order to immediately implement the proposed rule change so that Users may experience the benefits of such proposed change as soon as possible. The Exchange stated that the proposal would merely make smaller increments of a standard, dedicated cabinet available on a voluntary basis to Users that do not require a full, dedicated cabinet. Users that do require full, dedicated cabinets could continue to request them. The Exchange also stated that the proposal would provide greater flexibility to Users that prefer to increase power allocation in a particular dedicated cabinet rather than incurring the cost of maintaining an additional dedicated cabinet. The Exchange further represented that it operates in a highly competitive market in which several competing exchanges already offer similar co-location services. For the above reasons, the Commission believes waiver of the operative delay is appropriate and hereby grants the Exchange's request and designates the proposal operative upon filing.[30]

At any time within 60 days of the filing of such proposed rule change, the

[22] 15 U.S.C. 78f(b)(8).

[23] *See supra* note 18.

[24] 15 U.S.C. 78s(b)(3)(A)(iii).

[25] 17 CFR 240.19b–4(f)(6).

[26] 15 U.S.C. 78s(b)(3)(A).

[27] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has met this requirement.

[28] 17 CFR 240.19b–4(f)(6).

[29] 17 CFR 240.19b–4(f)(6)(iii).

[30] 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).

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) [31] 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–2013–81 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–2013–81. 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–NYSE–2013–81 and should be submitted on or before January 14, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[32]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–30589 Filed 12–23–13; 8:45 am]

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[31] 15 U.S.C. 78s(b)(2)(B).

[32] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71125; File No. SR–NYSEArca–2013–106]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Approval of Proposed Rule Change, as Modified by Amendment No. 1 Thereto, Relating to Listing and Trading of Shares of PIMCO Diversified Income Exchange-Traded Fund, PIMCO Low Duration Exchange-Traded Fund and PIMCO Real Return Exchange-Traded Fund under NYSE Arca Equities Rule 8.600

December 18, 2013.

I. Introduction

On October 15, 2013, NYSE Arca, Inc. (''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares (''Shares'') of the PIMCO Diversified Income Exchange-Traded Fund, PIMCO Low Duration Exchange-Traded Fund, and PIMCO Real Return Exchange-Traded Fund (individually, ''Fund'' and, collectively, ''Funds'') under NYSE Arca Equities Rule 8.600. On October 29, 2013, the Exchange filed Amendment No. 1 to the proposal.[3] The proposed rule change, as modified by Amendment No. 1 thereto, was published for comment in the **Federal Register** on November 5, 2013.[4] The Commission received no comments on the proposal. This order grants approval of the proposed rule change, as modified by Amendment No. 1 thereto.

II. Description of the Proposed Rule Change

The Exchange proposes to list and trade the Shares of the Funds pursuant to NYSE Arca Equities Rule 8.600, which governs the listing and trading of Managed Fund Shares on the Exchange. The Shares will be offered by PIMCO ETF Trust (''Trust''), a statutory trust organized under the laws of the State of Delaware and registered with the Commission as an open-end management investment company.[5] The investment manager to the Funds will be Pacific Investment Management Company LLC (''PIMCO'' or ''Adviser''). PIMCO Investments LLC will serve as the distributor for the Funds. State Street Bank & Trust Co. will serve as the custodian and transfer agent for the Funds. The Exchange represents that the Adviser is not a registered broker-dealer but is affiliated with a broker-dealer and has implemented a fire wall with respect to its broker-dealer affiliate regarding access to information concerning the composition and/or changes to a Fund's respective portfolio.[6] The Exchange makes the following representations and statements in describing the Funds and their respective investment strategies, including other portfolio holdings and investment limitations.

PIMCO Diversified Income Exchange-Traded Fund

The Fund's investment objective will be to seek maximum total return, consistent with preservation of capital and prudent investment management. The Fund will seek to achieve its investment objective by investing under normal circumstances [7] at least 65% of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 replaced and superseded the proposal in its entirety.

[4] *See* Securities Exchange Act Release No. 70774 (October 30, 2013), 78 FR 66396 (''Notice'').

[5] The Trust is registered under the Investment Company Act of 1940 (''1940 Act''). On April 22, 2013, the Trust filed with the Commission an amendment to the Trust's registration statement on Form N–1A under the Securities Act of 1933 (''Securities Act'') and under the 1940 Act relating to the Funds (File Nos. 333–155395 and 811–22250) (''Registration Statement'').

[6] *See* Commentary .06 to NYSE Arca Equities Rule 8.600. The Exchange represents that in the event (a) the Adviser or any sub-adviser is 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 a portfolio, and will be subject to procedures designed to prevent the use and dissemination of material, non-public information regarding such portfolio.

[7] The term ''under normal circumstances'' includes, but is not limited to, the absence of extreme volatility or trading halts in the fixed

Continued

its total assets in a diversified portfolio of ''Fixed Income Instruments'' of varying maturities and forward contracts on Fixed Income Instruments.

Fixed Income Instruments include bonds, debt securities and other similar instruments issued by various U.S. and non-U.S. public- or private-sector entities. Specifically, with respect to each of the Funds (except as noted below), the term ''Fixed Income Instruments'' includes: securities issued or guaranteed by the U.S. Government, its agencies or government-sponsored enterprises; corporate debt securities of U.S. and non-U.S. issuers, including convertible securities and corporate commercial paper; mortgage-backed and other asset-backed securities; inflation-indexed bonds issued both by governments and corporations; event-linked bonds; bank capital and trust preferred securities; loan participations and assignments; delayed funding loans and revolving credit facilities; bank certificates of deposit, fixed time deposits, and bankers' acceptances; repurchase agreements on Fixed Income Instruments and reverse repurchase agreements on Fixed Income Instruments; debt securities issued by states or local governments and their agencies, authorities, and other government-sponsored enterprises; obligations of non-U.S. governments or their subdivisions, agencies, and government-sponsored enterprises; and obligations of international agencies or supranational entities.[8]

Forwards on securities are contracts to purchase or sell securities for a fixed price at a future date beyond normal settlement time. Forwards on Fixed Income Instruments are contracts to purchase or sell Fixed Income Instruments for a fixed price at a future date beyond normal settlement time. The Adviser represents that a forward will be a useful tool for gaining exposure across markets, particularly in the U.S. Treasury, U.S. agency, non-U.S. government, and mortgage markets when a Fund seeks exposure to a particular issue or maturity.[9] In general, forwards can be an economically attractive substitute for an underlying physical security that a Fund would otherwise purchase. Economic benefits include potentially lower transaction costs or attractive relative valuation of a forward versus a physical security (*e.g.,* differences in yields).

A common forward commitment is a mortgage ''to be announced'' (''TBA''), which is an important vehicle for gaining exposure to the mortgage pass-through market. Mortgage TBAs provide exposure to new mortgage pools, issued by the Government National Mortgage Association, Federal National Mortgage Association, or Federal Home Loan Mortgage Corporation, which have a regular, once-a-month settlement. When a fund purchases a mortgage TBA, the underlying mortgage-related securities are delivered in the next settlement cycle (unless settlement is ''rolled'' to a future date).

The Adviser believes that liquidity of a forward settling transaction depends on the underlying issue or exposure (*e.g.,* greater liquidity for Treasuries as compared to a particular collateralized mortgage obligation). For example, the mortgage TBA market is highly liquid and positions can be easily added, rolled, or closed. According to Financial Industry Regulatory Authority (''FINRA'') Trade Reporting and Compliance Engine (''TRACE'') data, TBAs represented approximately 94% of total agency trading volume in the month of April 2013.

Forwards are marked to market daily and can be priced intraday based on the underlying issue or exposure. Intraday pricing of securities to be settled on a forward basis is often available on quotation services such as Bloomberg. The visibility of intraday prices of forwards is related to the visibility of prices of the underlying asset. Market participants can efficiently value forward settling securities as long as they have access to the relevant information, such as the underlying exposure.

On behalf of the funds it manages, PIMCO maintains standardized Master Forward Agreements in place with various counterparties. These standardized agreements include procedures for periodic collateral movement between a fund and the applicable counterparty to reflect changes in the value of forwards held by a fund.

In selecting individual Fixed Income Instruments, or in making broader sector allocations for the Fund, PIMCO will develop an outlook for interest rates, currency exchange rates and the economy, analyze credit and call risks, and use other investment selection techniques. The proportion of the Fund's assets committed to an individual investment, or investments with particular characteristics (such as quality, sector, interest rate, or maturity), will vary based on PIMCO's outlook for the U.S. economy and the economies of other countries in the world, the financial markets, and other factors. PIMCO will attempt to identify areas of the bond market that are undervalued relative to the rest of the market. PIMCO may identify these areas by grouping Fixed Income Instruments into sectors such as money markets, governments, corporates,[10] mortgages, asset-backed, and international. Once investment opportunities are identified, PIMCO will shift assets among individual Fixed Income Instruments, or among sectors, depending upon changes

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.

[8] Securities issued by U.S. Government agencies or government-sponsored enterprises may not be guaranteed by the U.S. Treasury. With respect to the Funds' investments in bank capital securities, there are two common types: Tier I and Tier II. Bank capital is generally, but not always, of investment grade quality. Tier I securities are typically exchange-traded and often take the form of trust preferred securities. Tier II securities are commonly thought of as hybrids of debt and preferred stock. Tier II securities are typically traded over-the-counter, are often perpetual (with no maturity date), are callable, and have a cumulative interest deferral feature. This means that under certain conditions, the issuer bank can withhold payment of interest until a later date. However, such deferred interest payments generally earn interest. With respect to the PIMCO Real Return Exchange-Traded Fund, the term ''Fixed Income Instruments'' does not include: event-linked bonds; bank capital and trust preferred securities; loan participations and assignments; and debt securities issued by states or local governments and their agencies, authorities, and other government-sponsored enterprises.

[9] Investments in forwards will be made in accordance with the 1940 Act and consistent with each Fund's investment objectives and policies. With respect to each of the Funds, the Adviser represents that each Fund will typically use forwards as a substitute for taking a position in the underlying asset and/or as part of a strategy designed to reduce exposure to other risks, such as interest rate or currency risk. A Fund may also use forwards to enhance returns. To limit the potential risk associated with such transactions, each Fund will segregate or ''earmark'' assets determined to be liquid by PIMCO in accordance with procedures established by the Trust's Board of Trustees and in accordance with the 1940 Act (or, as permitted by applicable regulation, enter into certain offsetting positions) to cover its obligations arising from its use of forwards. These procedures have been adopted consistent with Section 18 of the 1940 Act and related Commission guidance. In addition, each Fund will include appropriate risk disclosure in its offering documents, including leveraging risk. Leveraging risk is the risk that certain transactions of a Fund, including a Fund's use of derivatives, may give rise to leverage, causing a Fund to be more volatile than if it had not been leveraged. To mitigate leveraging risk, the Adviser will segregate or ''earmark'' liquid assets or otherwise cover the transactions that may give rise to such risk.

[10] While non-emerging markets corporate debt securities (excluding commercial paper) generally must have $100 million or more par amount outstanding and significant par value traded to be considered as an eligible investment for each of the Funds, at least 80% of issues of such securities held by a Fund must have $100 million or more par amount outstanding at the time of investment. *See also infra* note 13, regarding emerging market corporate debt securities.

in relative valuations, credit spreads, and other factors.

In managing the Fund, PIMCO may employ both a bottom-up and top-down approach to investment selection. PIMCO's bottom-up value investment style will attempt to identify Fixed Income Instruments or sectors that are undervalued by the market in comparison to PIMCO's own determination of value. Using a top-down value investment style, PIMCO also will consider various qualitative and quantitative factors relating to the U.S. and non-U.S. economies and financial markets. These factors may include the outlook and projected growth of various sectors, projected growth trends in the U.S. and non-U.S. economies, forecasts for interest rates and the relationship between short- and long-term interest rates (yield curve), relative valuation levels in the financial markets and various segments within those markets, information relating to business cycles, borrowing needs and the cost of capital, political trends data relating to trade balances, and labor information. PIMCO has the flexibility to reallocate the Fund's assets among individual investments or sectors based on its ongoing analyses.

The average portfolio duration of the Fund normally will vary from three to eight years, based on PIMCO's forecast for interest rates.[11] The Fund may invest in both investment grade debt securities and high yield debt securities (''junk bonds''), subject to a maximum of 10% of its total assets in debt securities rated below B by Moody's Investors Service, Inc. (''Moody's''), or equivalently rated by Standard & Poor's Rating Services (''S&P'') or Fitch, Inc. (''Fitch''), or, if unrated, determined by PIMCO to be of comparable quality.[12] The Fund may invest in securities and instruments that are economically tied to emerging market countries.[13] The Fund may invest in securities and instruments denominated in foreign currencies and in U.S. dollar-denominated securities or instruments of foreign issuers. Subject to the Fund's investment limitations relating to high yield debt securities generally, the Fund may invest up to 20% of its assets in mortgage-backed securities or in other asset-backed securities, although this 20% limitation does not apply to securities issued or guaranteed by Federal agencies and/or U.S. government sponsored instrumentalities.

The Fund's portfolio or the Fund's broad-based securities market index (as defined in Form N–1A) will include a minimum of 13 non-affiliated issuers (excluding a portfolio or broad-based securities market index consisting entirely of exempted securities).[14] The Fund may purchase or sell securities on a when-issued, delayed delivery, or forward commitment basis and may engage in short sales.[15] The Fund may, without limitation, seek to obtain market exposure to the securities in which it invests by entering into a series of purchase and sale contracts or by using other investment techniques (such as buy backs or dollar rolls). The ''total return'' sought by the Fund will consist of income earned on the Fund's investments, plus capital appreciation, if any, which generally arises from decreases in interest rates, foreign currency appreciation, or improving credit fundamentals for a particular sector or security.

PIMCO Low Duration Exchange-Traded Fund

The Fund's investment objective will be to seek maximum total return, consistent with preservation of capital and prudent investment management. The Fund will seek to achieve its investment objective by investing under normal circumstances at least 65% of its total assets in a diversified portfolio of Fixed Income Instruments of varying maturities and forward contracts on such Fixed Income Instruments.[16] The average portfolio duration of the Fund normally will vary from one to three years based on PIMCO's forecast for interest rates. In selecting individual Fixed Income Instruments, or in making broader sector allocations for the Fund, PIMCO will develop an outlook for interest rates, currency exchange rates and the economy, analyze credit and call risks, and use other investment selection techniques.

The Fund will invest primarily in investment grade debt securities, but may invest up to 10% of its total assets in high yield debt securities rated B to Ba by Moody's, or equivalently rated by S&P or Fitch, or, if unrated, determined by PIMCO to be of comparable quality.[17] The Fund may invest up to 30% of its total assets in securities and instruments denominated in foreign currencies, and may invest beyond this limit in U.S. dollar-denominated securities and instruments of foreign issuers, subject to the Fund's investment limitations relating to particular asset classes set forth herein. The Fund may invest up to 10% of its total assets in securities and instruments that are economically tied to emerging market countries, subject to the Fund's investment limitations relating to particular asset classes set forth herein.[18] The Fund will normally limit its foreign currency exposure (from non-U.S. dollar-denominated securities or currencies) to 20% of its total assets.

The Fund's portfolio or the Fund's broad-based securities market index (as defined in Form N–1A) will include a minimum of 13 non-affiliated issuers (excluding a portfolio or broad-based securities market index consisting entirely of exempted securities).[19] Subject to the Fund's 10% investment limitations relating to high yield debt securities, the Fund may invest up to 20% of its assets in mortgage-backed securities or in other asset-backed

[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.

[12] PIMCO utilizes sophisticated proprietary techniques in its creditworthiness analysis of unrated securities similar to the processes utilized by Moody's, S&P, and Fitch in their respective analyses of rated securities. For example, in making a ''comparable quality'' determination for an unrated security, PIMCO may evaluate the likelihood of payment by the obligor, the nature and provisions of the debt obligation, and/or the protection afforded by, and relative position of, the debt obligation in the event of bankruptcy, reorganization, or other arrangement under laws affecting creditors' rights. Upon consideration of these and other factors, PIMCO may determine that an unrated security is of comparable quality to rated securities in which the Fund may invest consistent with the Fund's credit quality guidelines described above.

[13] PIMCO will have broad discretion to identify countries that it considers to qualify as emerging markets. In making investments in emerging market securities, the Fund will emphasize those countries with relatively low gross national product per capita and with the potential for rapid economic growth. Emerging market countries are generally located in Asia, Africa, the Middle East, Latin America, and Eastern Europe. PIMCO will select the country and currency composition based on its evaluation of relative interest rates, inflation rates, exchange rates, monetary and fiscal policies, trade and current account balances, legal and political developments, and any other specific factors it believes to be relevant. While emerging markets corporate debt securities (excluding commercial paper) generally must have $200 million or more par amount outstanding and significant par value traded to be considered as an eligible investment for each of the Funds, at least 80% of issues of such securities held by a Fund must have $200 million or more par amount outstanding at the time of investment.

[14] The Fund's broad-based securities market index will be identified in a future amendment to the Registration Statement following the Fund's first full calendar year of performance.

[15] Each of the Funds may make short sales of securities to: offset potential declines in long positions in similar securities; to increase the flexibility of the Fund; for investment return; and as part of a risk arbitrage strategy.

[16] *See supra* discussion regarding forwards.

[17] *See supra* note 12.

[18] *See supra* note 13.

[19] The Fund's broad-based securities market index will be identified in a future amendment to the Registration Statement following the Fund's first full calendar year of performance.

securities, although this 20% limitation does not apply to securities issued or guaranteed by Federal agencies and/or U.S. government sponsored instrumentalities. The Fund may purchase or sell securities on a when-issued, delayed delivery, or forward commitment basis and may engage in short sales.[20] The Fund may, without limitation, seek to obtain market exposure to the securities in which it invests by entering into a series of purchase and sale contracts or by using other investment techniques (such as buy backs or dollar rolls). The ''total return'' sought by the Fund will consist of income earned on the Fund's investments, plus capital appreciation, if any, which generally arises from decreases in interest rates, foreign currency appreciation, or improving credit fundamentals for a particular sector or security.

PIMCO Real Return Exchange-Traded Fund

The Fund's investment objective will be to seek maximum real return, consistent with preservation of capital and prudent investment management. The Fund will seek its investment objective by investing under normal circumstances at least 80% of its net assets in inflation-indexed bonds of varying maturities issued by U.S. and non-U.S. governments, their agencies or instrumentalities, and corporations, and forward contracts on such Fixed Income Instruments.[21] Assets not invested in inflation-indexed bonds may be invested in other types of Fixed Income Instruments. Inflation-indexed bonds are fixed income securities that are structured to provide protection against inflation. The value of the bond's principal or the interest income paid on the bond is adjusted to track changes in an official inflation measure. The U.S. Treasury uses the Consumer Price Index for Urban Consumers as the inflation measure. Inflation-indexed bonds issued by a foreign government are generally adjusted to reflect a comparable inflation index, calculated by that government. ''Real return'' equals total return less the estimated cost of inflation, which is typically measured by the change in an official inflation measure.

Because market convention for bonds is to use nominal yields to measure duration, duration for real return bonds, which are based on real yields, are converted to nominal durations through a conversion factor. The resulting nominal duration typically can range from 20% and 90% of the respective real duration. All security holdings will be measured in effective (nominal) duration terms.[22] The effective duration of the Fund normally will vary within three years (plus or minus) of the effective portfolio duration of the securities comprising the Barclays Capital U.S. TIPS Index, as calculated by PIMCO, which as of January 31, 2013, as converted, was 6.16 years.

The Fund will invest primarily in investment grade debt securities, but may invest up to 10% of its total assets in high yield debt securities rated B to Ba by Moody's, or equivalently rated by S&P or Fitch, or, if unrated, determined by PIMCO to be of comparable quality.[23]

The Fund also may invest up to 30% of its total assets in securities denominated in foreign currencies, and may invest beyond this limit in U.S. dollar-denominated securities of foreign issuers, subject to the Fund's investment limitations relating to particular asset classes set forth herein. The Fund may invest up to 10% of its total assets in securities and instruments that are economically tied to emerging market countries, subject to the Fund's investment limitations relating to particular asset classes set forth herein.[24] The Fund will normally limit its foreign currency exposure (from non-U.S. dollar-denominated securities or currencies) to 20% of its total assets.

The Fund's portfolio or the Fund's broad-based securities market index (as defined in Form N–1A) will include a minimum of 13 non-affiliated issuers (excluding a portfolio or broad-based securities market index consisting entirely of exempted securities).[25] Subject to the Fund's 10% investment limitations relating to high yield debt securities, the Fund may invest up to 20% of its assets in mortgage-backed securities or in other asset-backed securities, although this 20% limitation does not apply to securities issued or guaranteed by Federal agencies and/or U.S. government sponsored instrumentalities. The Fund may purchase or sell securities on a when-issued, delayed delivery, or forward commitment basis and may engage in short sales.[26] The Fund may, without limitation, seek to obtain market exposure to the securities in which it invests by entering into a series of purchase and sale contracts or by using other investment techniques (such as buy backs or dollar rolls).

Other Portfolio Holdings

If PIMCO believes that economic or market conditions are unfavorable to investors, PIMCO may temporarily invest up to 100% of a Fund's assets in certain defensive strategies, including holding a substantial portion of a Fund's assets in cash, cash equivalents, or other highly rated short-term securities, including securities issued or guaranteed by the U.S. government, its agencies, or instrumentalities, and affiliated money market and/or short-term bond funds.

While the debt securities in which the Funds primarily intend to invest are expected to consist of Fixed Income Instruments, as described above, the Funds may invest their respective remaining net assets in other securities and financial instruments, as described below.

Each of the Funds may engage in foreign currency transactions through forward currency contracts. A forward foreign currency exchange contract, which involves an obligation to purchase or sell a specific currency at a future date at a price set at the time of the contract, reduces the Fund's exposure to changes in the value of the currency it will deliver and increases its exposure to changes in the value of the currency it will receive for the duration of the contract. A Fund's investments in foreign currency forwards will be subject to the limit on a Fund's foreign currency exposure. For each of the PIMCO Low Duration Exchange-Traded Fund and PIMCO Real Return Exchange-Traded Fund, foreign currency exposure will not exceed 20% of the Fund's total assets. There is no limit on the PIMCO Diversified Income Fund's foreign currency exposure.

The Funds may invest in equity securities. The Funds will invest only in U.S. and non-U.S. equity securities that trade in markets that are members of the Intermarket Surveillance Group (''ISG''), which includes all U.S. national securities exchanges and certain foreign exchanges, or are parties to a comprehensive surveillance sharing agreement with the Exchange. The Funds each may invest up to 10% of its total assets in preferred stock,

[20] *See supra* note 15.

[21] *See supra* discussion regarding forwards.

[22] Effective duration takes into account that for certain bonds expected cash flows will fluctuate as interest rates change and is defined in nominal yield terms, which is market convention for most bond investors and managers. The effective duration of the Barclays Capital U.S. TIPS Index (referenced below) will be calculated using the same conversion factors as the Fund.

[23] *See supra* note 12.

[24] *See supra* note 13.

[25] The Fund's broad-based securities market index will be identified in a future amendment to the Registration Statement following the Fund's first full calendar year of performance.

[26] *See supra* note 15.

convertible securities,[27] and other equity-related securities.

The Funds may invest in, to the extent permitted by Section 12(d)(1) of the 1940 Act and rules thereunder, other affiliated and unaffiliated funds, such as open-end or closed-end management investment companies, including other exchange-traded funds.

Each Fund may hold up to an aggregate amount of 15% of its respective net assets in illiquid securities (calculated at the time of investment), including Rule 144A securities deemed illiquid by the Adviser, consistent with Commission guidance.[28] The Funds will monitor their 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 a 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.

Investment Limitations

The Funds will be subject to the following investment limitations:

The Funds may not concentrate their investments in a particular industry, as that term is used in the 1940 Act, and as interpreted, modified, or otherwise permitted by regulatory authority having jurisdiction from time to time.

With respect to the PIMCO Diversified Income Exchange-Traded Fund and PIMCO Low Duration Exchange-Traded Fund, the Funds may not, with respect to 75% of each Fund's total assets, purchase the securities of any issuer, except securities issued or guaranteed by the U.S. government or any of its agencies or instrumentalities, if, as a result (i) more than 5% of a Fund's total assets would be invested in the securities of that issuer, or (ii) a Fund would hold more than 10% of the outstanding voting securities of that issuer. For purposes of this restriction, each state and each separate political subdivision, agency, authority, or instrumentality of such state, each multi-state agency or authority, and each guarantor, if any, will be treated as separate issuers of municipal bonds. The PIMCO Real Return Exchange-Traded Fund will be non-diversified, which means that it may invest its assets in a smaller number of issuers than a diversified fund.

Each Fund intends to qualify annually and elect to be treated as a regulated investment company under Subchapter M of the Internal Revenue Code.

The Funds will not invest in options contracts, futures contracts, or swap agreements.

Additional information regarding the Trust, the Funds, and the Shares, including investment strategies, risks, net asset value (''NAV'') calculation, creation and redemption procedures, fees, portfolio holdings, disclosure policies, distributions and taxes is included in the Notice and the Registration Statement, as applicable.[29]

III. Discussion and Commission's Findings

The Commission has carefully reviewed the proposed rule change and finds that it is consistent with the requirements of Section 6 of the Act[30] and the rules and regulations thereunder applicable to a national securities exchange.[31] In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,[32] which requires, among other things, that the Exchange's rules 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 facilitating transactions in securities, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission notes that the Funds and the Shares must comply with the requirements of NYSE Arca Equities Rule 8.600 to be listed and traded on the Exchange.

The Commission finds that the proposal to list and trade the Shares on the Exchange is consistent with Section 11A(a)(1)(C)(iii) of the Act,[33] which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for, and transactions in, securities. Quotation and last-sale information for the Shares of each Fund will be available via the Consolidated Tape Association (''CTA'') high-speed line. In addition, the Portfolio Indicative Value (''PIV''), as defined in NYSE Arca Equities Rule 8.600(c)(3), for each Fund will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Exchange's Core Trading Session.[34] On each business day, before commencement of trading in Shares in the Core Trading Session (9:30 a.m., E.T. to 4:00 p.m., E.T.) on the Exchange, each Fund will disclose on the Trust's Web site the Disclosed Portfolio, as defined in NYSE Arca Equities Rule 8.600(c)(2), that will form the basis for a Fund's calculation of NAV at the end of the business day.[35] The NAV of each Fund's Shares will be determined as of the close of regular trading (normally 4:00 p.m., E.T.) on each day the Exchange is open. In addition, information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services, and 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. The Trust's Web site will include a form of the prospectus for the Funds and additional data relating to NAV and other applicable quantitative information. Intra-day and closing price information regarding equity securities traded on a national securities exchange, including common stocks,

[27] A convertible security is a bond, debenture, note, preferred stock, or other security that entitles the holder to acquire common stock or other equity securities of the same or a different issuer. A convertible security generally entitles the holder to receive interest paid or accrued until the convertible security matures or is redeemed, converted, or exchanged.

[28] In reaching liquidity decisions, the 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] *See supra* notes 4 and 5, respectively.

[30] 15 U.S.C. 78f.

[31] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[32] 15 U.S.C. 78f(b)(5).

[33] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[34] According to the Exchange, several major market data vendors display or make widely available PIVs taken from CTA or other data feeds.

[35] On a daily basis, each Fund will disclose for each portfolio security and other financial instrument of a Fund the following information: ticker symbol (if applicable), name of security and 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. Each Fund's disclosure of forward positions will include information that market participants can use to value these positions intraday, and this information may include tickers or other identifiers, or the underlying asset or index. The Web site information will be publicly available at no charge.

preferred stocks, securities convertible into stocks, closed-end funds, exchange traded funds, and other equity-related securities, will be available from the exchange on which such securities are traded. Price information regarding non-exchange-traded open-end or closed-end management investment companies will be available from major market data vendors. Intra-day and closing price information regarding Fixed Income Instruments also will be available from major market data vendors. Price information relating to forwards will be available from major market data vendors. Further, a basket composition file, which will include the security names and quantities of securities required to be delivered in exchange for a Fund's Shares, together with estimates and actual cash components, will be publicly disseminated daily prior to the opening of the New York Stock Exchange via the National Securities Clearing Corporation. The basket will represent one ''Creation Unit'' of the Fund.

The Commission further believes that the proposal to list and trade the Shares is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately and to prevent trading when a reasonable degree of transparency cannot be assured. The Commission notes that the Exchange will obtain a representation from the issuer of the Shares for each Fund 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.[36] In addition, the Exchange will halt trading in the Shares under the specific circumstances set forth in NYSE Arca Equities Rule 8.600(d)(2)(D), and may halt trading in the Shares if trading is not occurring in the securities or the financial instruments constituting the Disclosed Portfolio of a Fund, or if other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.[37] The Exchange will consider the suspension of trading in or removal from listing of the Shares if the PIV is no longer calculated or available or the Disclosed Portfolio is not made available to all market participants at the same time.[38] The Exchange represents that the Adviser is affiliated with a broker-dealer and has implemented a fire wall with respect to its broker-dealer affiliate regarding access to information concerning the composition and/or changes to a portfolio.[39] The Commission notes that the Adviser's personnel who make decisions on a Fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material, non-public information regarding a Fund's portfolio.[40] Further, the Commission notes that the Reporting Authority that provides the Disclosed Portfolio must 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 a portfolio.[41] The Exchange states that it has a general policy prohibiting the distribution of material, non-public information by its employees. The Commission also notes that, with respect to equity securities, the Funds will invest only in U.S. and non-U.S. equity securities that trade in markets that are members of the ISG, which includes all U.S. national securities exchanges and certain foreign exchanges, or are parties to a comprehensive surveillance sharing agreement with the Exchange.

The Exchange further represents that the Shares are deemed to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. In support of this proposal, the Exchange has made representations, including:

(1) The Shares will conform to the initial and continued listing criteria under NYSE Arca Equities Rule 8.600.

(2) The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions.

(3) 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.

(4) FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares and exchange-traded securities held by the Funds 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 and exchange-traded securities held by the Funds from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and exchange-traded securities held by the Funds from markets and other entities that are members of 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 Instruments reported to TRACE. The Funds will invest only in U.S. and non-U.S. equity securities that trade in markets that are members of the ISG. The Exchange would be able to obtain surveillance information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement.

(5) 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: (a) The procedures for purchases and redemptions of Shares in Creation Unit aggregations (and that Shares are not individually redeemable); (b) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (c) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated PIV will not be calculated or publicly disseminated; (d) how information regarding the PIV is

[36] *See* NYSE Arca Equities Rule 8.600(d)(1)(B).

[37] 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 a Fund. Trading in Shares of a 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.

[38] *See* NYSE Arca Equities Rule 8.600(d)(2)(C)(ii).

[39] *See supra* note 6 and accompanying text. The Commission notes that an investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (''Advisers Act''). As a result, the Adviser and its related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

[40] *See* Commentary .06 to NYSE Arca Equities Rule 8.600.

[41] *See* NYSE Arca Equities Rule 8.600(d)(2)(B)(ii).

disseminated; (e) 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 (f) trading information.

(6) For initial and continued listing, each Fund will be in compliance with Rule 10A–3 under the Act,[42] as provided by NYSE Arca Equities Rule 5.3.

(7) Each Fund may hold up to an aggregate amount of 15% of its respective net assets in illiquid securities (calculated at the time of investment), including Rule 144A securities deemed illiquid by the Adviser, consistent with Commission guidance. The Funds will monitor their 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 a Fund's net assets are held in illiquid securities.

(8) Investments in forwards will be made in accordance with the 1940 Act and consistent with each Fund's investment objectives and policies. To limit the potential risk associated with forwards, each Fund will segregate or ''earmark'' liquid assets to cover its obligations arising from its use of forwards. In addition, each Fund will include appropriate risk disclosure in its offering documents, including leveraging risk.

(9) While non-emerging markets corporate debt securities (excluding commercial paper) generally must have $100 million or more par amount outstanding and significant par value traded to be considered as an eligible investment for each of the Funds, at least 80% of issues of such securities held by a Fund must have $100 million or more par amount outstanding at the time of investment.

(10) While emerging markets corporate debt securities (excluding commercial paper) generally must have $200 million or more par amount outstanding and significant par value traded to be considered as an eligible investment for each of the Funds, at least 80% of issues of such securities held by a Fund must have $200 million or more par amount outstanding at the time of investment.

(11) Subject to each Fund's investment limitations relating to high yield debt securities generally, each Fund may invest up to 20% of its assets in mortgage-backed securities or in other asset-backed securities, although this 20% limitation does not apply to securities issued or guaranteed by Federal agencies and/or U.S. government sponsored instrumentalities.

(12) The PIMCO Diversified Income Exchange-Traded Fund is subject to a maximum of 10% of its total assets in debt securities rated below B by Moody's, or equivalently rated by S&P or Fitch, or, if unrated, determined by PIMCO to be of comparable quality.

(13) With respect to the PIMCO Low Duration Exchange-Traded Fund and the PIMCO Real Return Exchange-Traded Fund, each Fund will normally limit its foreign currency exposure (from non-U.S. dollar-denominated securities or currencies) to 20% of its total assets. Each Fund will invest primarily in investment grade debt securities, although it may invest up to 10% of its total assets in high yield debt securities rated B to Ba by Moody's, or equivalently rated by S&P or Fitch, or, if unrated, determined by PIMCO to be of comparable quality.

(14) For purposes of calculating NAV, portfolio securities and other assets for which market quotes are readily available will be valued at market value. Market value will generally be determined on the basis of last reported sales prices, or if no sales are reported, as is the case for most securities traded over-the-counter, based on quotes obtained from a quotation reporting system, established market makers, or independent pricing services. For exchange-traded securities, including common stocks, preferred stocks, securities convertible into stocks, closed-end funds, exchange traded funds, and other equity-related securities, market value also may be determined on the day that the valuation is made based on the applicable exchange's official closing price or last-reported sales price. Shares of non-exchange-traded open-end or closed-end management investment companies normally will be valued at their most recently calculated NAV. Fixed Income Instruments, including those to be purchased under firm commitment agreements (other than obligations having a maturity of 60 days or less), will be normally valued on the basis of quotes obtained from brokers and dealers or independent pricing services, which take into account appropriate factors such as institutional-sized trading in similar groups of securities, yield, quality, coupon rate, maturity, type of issue, trading characteristics, and other market data. In addition, Fixed Income Instruments will normally be valued using data reflecting the earlier closing of the principal markets for those assets. Forwards for which market quotes are readily available will be valued at market value. Local closing prices will be used for all instrument valuation purposes. Typically, forwards on Fixed Income Instruments will be marked to market daily.

(15) There will be minimal, if any, impact to the arbitrage mechanism as a result of the use of forwards. Market makers and participants should be able to value forwards as long as the positions are disclosed with relevant information. The price at which Shares will trade will be disciplined by arbitrage opportunities created by the ability to purchase or redeem creation Shares at their NAV, which should ensure that Shares will not trade at a material discount or premium in relation to their NAV. There will not be any significant impacts to the settlement or operational aspects of a Fund's arbitrage mechanism due to the use of forwards. To the extent forwards are not eligible for in-kind transfer, they will typically be substituted with a ''cash in lieu'' amount when a Fund processes purchases or redemptions of creation units in-kind.

(16) The Funds will not invest in options contracts, futures contracts, or swap agreements.

(17) A minimum of 100,000 Shares of each Fund will be outstanding at the commencement of trading on the Exchange.

This approval order is based on the Exchange's representations and description of the Funds, including those set forth above and in the Notice. For the foregoing reasons, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act[43] and the rules and regulations thereunder applicable to a national securities exchange.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[44] that the proposed rule change (SR–NYSEArca–2013–106), as modified by Amendment No. 1 thereto, be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[45]

Kevin M. O'Neill,

Deputy Secretary.

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[42] *See* 17 CFR 240.10A–3.

[43] 15 U.S.C. 78f(b)(5).

[44] 15 U.S.C. 78s(b)(2).

[45] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71131; File No. SR–NYSEMKT–2013–103]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Offer Partial Cabinets and Cabinet Upgrades As Part of Its Co-location Services and To Amend the NYSE MKT Equities Price List and the NYSE Amex Options Fee Schedule To Reflect the New Services

December 18, 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 December 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 offer partial cabinets and cabinet upgrades as part of its co-location services and to amend the NYSE MKT Equities Price List (''Price List'') and the NYSE Amex Options Fee Schedule (''Fee Schedule'') to reflect the new services. The Exchange proposes to implement the fee change effective December 16, 2013. 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to offer partial cabinets and cabinet upgrades as part of its co-location services and to amend the Price List and the Fee Schedule to reflect the new services.[4] The Exchange proposes to implement the fee change effective December 16, 2013.

Partial Cabinets

A User is able to request a physical cabinet to house its servers and other equipment in the data center.[5] Currently, a User only has the option of receiving an entire cabinet that is dedicated solely to that User (''dedicated cabinet''). The Exchange proposes to expand its co-location services to offer a partial cabinet alternative (''partial cabinet''). Partial cabinets would be made available in increments of eight-rack units of space.[6] The Exchange would allocate each eight-rack unit up to two kilowatts (''kWs'') of power.[7] Consistent with existing pricing for dedicated cabinets, the Exchange would charge Users an initial fee and a monthly recurring fee for partial cabinets. The initial fee would be $2,500 per eight-rack unit. The monthly recurring fee would be $1,500 for one kW of allocated power and $2,700 for two kWs of allocated power.[8]

The Exchange is proposing this partial cabinet alternative in order to assist Users that do not need a dedicated cabinet in the data center, such as those Users with minimal power or cabinet space demands, including those Users for which the costs attendant with a dedicated cabinet are too burdensome. However, Users that do require a dedicated cabinet could continue to request them.[9] This proposed alternative would not impact current pricing for dedicated cabinets. The Exchange would amend the existing

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The Securities and Exchange Commission (''Commission'') initially approved the Exchange's co-location services in Securities Exchange Act Release No. 62961 (September 21, 2010), 75 FR 59299 (September 27, 2010) (SR–NYSEAmex–2010–80) (the ''Original Co-location Approval''). The Exchange operates a data center in Mahwah, New Jersey (the ''data center'') from which it provides co-location services to Users. The Exchange's co-location services allow Users to rent space in the data center so they may locate their electronic servers in close physical proximity to the Exchange's trading and execution system. *See id.* at 59299.

[5] For purposes of the Exchange's co-location services, the term ''User'' includes (i) member organizations, as that term is defined in the definitions section of the General and Floor Rules of the NYSE MKT Equities Rules, and ATP Holders, as that term is defined in NYSE Amex Options Rule 900.2NY(5); (ii) Sponsored Participants, as that term is defined in Rule 123B.30(a)(ii)(B)—Equities and NYSE Amex Options Rule 900.2NY(77); and (iii) non-member organization and non-ATP Holder broker-dealers and vendors that request to receive co-location services directly from the Exchange. *See, e.g.,* Securities Exchange Act Release Nos. 65974 (December 15, 2011), 76 FR 79249 (December 21, 2011) (SR–NYSEAmex–2011–81) and 65975 (December 15, 2011), 76 FR 79233 (December 21, 2011) (SR–NYSEAmex–2011–82). As specified in the Price List and the Fee Schedule, a User that incurs co-location fees for a particular co-location service pursuant thereto would not be subject to co-location fees for the same co-location service charged by the Exchange's affiliates New York Stock Exchange LLC and NYSE Arca, Inc. *See* Securities Exchange Act Release No. 70176 (August 13, 2013), 78 FR 50471 (August 19, 2013) (SR–NYSEMKT–2013–67).

[6] A full cabinet includes enough space for approximately four separate eight-rack units. The Exchange would submit a separate proposed rule change if it decided to change the manner in which space is allocated within a partial cabinet (e.g., six-rack units instead of eight-rack units).

[7] The Exchange would submit a separate proposed rule change if it decided to change the manner in which power is allocated to partial cabinets (e.g., more than two kWs of power allocated per eight-rack unit).

[8] The second kW would therefore cost $1,200. Power allocated to a User of a partial cabinet would be considered separate from power allocated to the same User if it also has dedicated cabinets in the data center.

[9] For purposes of comparison, if a User ordered a single eight-rack unit in a partial cabinet with two kWs of power allocation, such User would be charged $2,500 in initial cabinet fees (compared to $5,000 for a dedicated cabinet) and $2,700 in recurring monthly fees (compared to $4,800 for a dedicated cabinet with the minimum power allocation of four kWs) for total charges of $34,900 within the first year (compared to $62,600 for a dedicated cabinet). A partial cabinet would therefore be a more economical option. If a User ordered two separate eight-rack units in a partial cabinet with two kWs of power allocation each (four kWs total), such User would be charged $5,000 in initial cabinet fees (identical to the $5,000 for a dedicated cabinet) and $5,400 in recurring monthly fees (compared to $4,800 for a dedicated cabinet with the minimum power allocation of four kWs) for total charges of $69,800 within the first year (compared to $62,600 for a dedicated cabinet). A dedicated cabinet would therefore be a more economical option. Based on the proposed pricing, the Exchange believes that the partial cabinet option would be selected by Users with power demands of three kWs or less. If a User's power demands are four kWs or greater it would likely choose the dedicated cabinet option. Accordingly, if a User ordered two separate eight-rack units in a partial cabinet with two kWs of power allocation for one of the units and one kW of power allocation for the other unit (three kWs total), such User would be charged $5,000 in initial cabinet fees (identical to the $5,000 for a dedicated cabinet) and $4,200 in recurring monthly fees (compared to $4,800 for a dedicated cabinet with the minimum power allocation of four kWs) for total charges of $55,400 within the first year (compared to $62,600 for a dedicated cabinet). A fourth incremental kW would add an additional $14,400 in cost (i.e., $1,200 × 12), at which point a dedicated cabinet would be a more economical option.

table in the Price List and the Fee Schedule to reflect the pricing options.

Users that have several cabinets within the data center that wish to enhance privacy around their cabinets are able to purchase cages. Because more than one User could be using a partial cabinet, partial cabinets could not be located in a User's cage.

Initial Install Services Fee

In conjunction with the proposed offering of partial cabinets, the Exchange also proposes to charge a lower Initial Install Services fee for a partial cabinet. The proposed fee would be lower because the services required of the Exchange for the installation of an eight-rack unit in a partial cabinet would be less than the services required for the installation of a dedicated cabinet. The current Initial Install Services fee is $800 per dedicated cabinet, which includes initial racking of equipment in the dedicated cabinet and provision of up to 10 cables and four hours of labor. The Exchange proposes to charge a $400 Initial Install Services fee for an eight-rack unit in a partial cabinet, which would include initial racking of equipment and provision of up to five cables and two hours of labor.

Cabinet Upgrades

The Exchange makes dedicated cabinets available with standard power allocation of either four or eight kWs.[10] However, Users that require additional power allocation may prefer to maintain their hardware within a particular dedicated cabinet rather than add an additional dedicated cabinet. Specifically, Users may develop their hardware infrastructure within a particular dedicated cabinet in such a way that, if expansion of such hardware is needed, it can be accomplished within the space constraints of that particular dedicated cabinet. If this type of User requires additional power allocation, it would likely want to so modify its existing cabinet rather than taking an additional dedicated cabinet due to the expense of re-developing its infrastructure within such additional dedicated cabinet. A $5,000 initial dedicated cabinet fee would also apply if the User received an additional dedicated cabinet.

The Exchange proposes to offer a new ''Cabinet Upgrade'' alternative and related fee in order to accommodate requests for additional power allocation beyond the typical amount that the Exchange allocates per dedicated cabinet, at which point the Exchange must upgrade the cabinet's power capacity. These Cabinet Upgrades typically entail overhauling wiring, circuitry and hardware for the dedicated cabinet so that it can handle the increased power. Cabinet Upgrades require additional Exchange resources beyond those covered under the initial dedicated cabinet fee or the Initial Install Services fee, including with respect to labor and equipment.

The Exchange proposes to charge a one-time Cabinet Upgrade fee of $9,200 when a User requests additional power allocation for its dedicated cabinet such that the Exchange must upgrade the dedicated cabinet's capacity. A Cabinet Upgrade would be required when power allocation demands exceed 11 kWs.[11] However, in order to incentivize Users to upgrade their dedicated cabinets, the Exchange proposes that the Cabinet Upgrade fee would be $4,600 for a User that submits a written order for a Cabinet Upgrade by January 31, 2014, provided that the Cabinet Upgrade becomes fully operational by March 31, 2014.

General

As is the case with all Exchange co-location arrangements, (i) neither a User nor any of the User's customers would be permitted to submit orders directly to the Exchange unless such User or customer is a member organization, an ATP Holder, a Sponsored Participant or an agent thereof (e.g., a service bureau providing order entry services); (ii) use of the co-location services proposed herein would be completely voluntary and available to all Users on a non-discriminatory basis;[12] and (iii) a User would only incur one charge for the particular co-location service described herein, regardless of whether the User connects only to the Exchange or to the Exchange and one or both of its affiliates.[13]

The proposed change is not otherwise intended to address any other issues relating to co-location services and/or related fees, and the Exchange is not aware of any problems that Users would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[14] in general, and furthers the objectives of Sections 6(b)(5) of the Act,[15] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposal is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. First, the proposed partial cabinets would make an alternative available to Users that do not need a dedicated cabinet in the data center, such as those Users with minimal power or cabinet

[10] A User is generally able to determine an approximate amount of power that it will typically consume in its dedicated cabinet. A User would request either a four or eight kW dedicated cabinet based on its anticipated peak power consumption. A User's typical power consumption would be expected to be less than this anticipated peak power consumption, but could also rise above this anticipated peak power consumption during certain times of the day or certain periods of the month when equipment in the cabinet consumes additional power.

The Exchange allocates power in circuits with ''baseline'' capacity of either four or eight kWs. A circuit could trip when power consumption exceeds capacity. To avoid this, the Exchange allocates ''buffer'' capacity in addition to the baseline capacity. When combined, this ''total'' allocation is approximately 80% of the amount of power consumption that would trip a circuit. The ''total'' power capacity allocated to a four kW dedicated cabinet is slightly more than five kWs. The ''total'' power capacity allocated to an eight kW dedicated cabinet is between 10 and 11 kWs. The Exchange charges Users for the full baseline amount of power allocated to dedicated cabinets (i.e., either four or eight kWs) regardless of whether such allocated power is consumed and, if any of the buffer is used, for that power consumption as well on a per kW basis. For example, if a User consumes its four kWs of baseline allocation and a fraction of an additional kW, the Exchange would charge the User for five kWs total.

[11] A dedicated cabinet could be upgraded to accommodate a total allocation of up to approximately 20 kWs of power, after which a User would require an additional dedicated cabinet.

[12] As is currently the case, Users that receive co-location services from the Exchange will not receive any means of access to the Exchange's trading and execution systems that is separate from, or superior to, that of other Users. In this regard, all orders sent to the Exchange enter the Exchange's trading and execution systems through the same order gateway, regardless of whether the sender is co-located in the data center or not. In addition, co-located Users do not receive any market data or data service product that is not available to all Users, although Users that receive co-location services normally would expect reduced latencies in sending orders to, and receiving market data from, the Exchange.

[13] *See* SR–NYSEMKT–2013–67, *supra* note 5 at 50471. The Exchange's affiliates have also submitted the same proposed rule change to provide for partial cabinets, Cabinet Upgrades and related fees. *See* SR–NYSE–2013–81 and SR–NYSEArca–2013–143.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

space demands, including those Users for which the costs attendant with a dedicated cabinet are too burdensome. However, Users that do require a dedicated cabinet could continue to request them. Second, the proposed Cabinet Upgrades would make an alternative available to Users that have already invested in hardware infrastructure within a particular dedicated cabinet and that require additional power allocation, but do not want an additional dedicated cabinet due to the expense of re-developing infrastructure within such additional dedicated cabinet. The Exchange believes that the proposal would remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, protect investors and the public interest because it would provide Users with additional choices with respect to the optimal size of their cabinets and the number of cabinets they utilize, which could therefore lead to cost savings that Users may choose to pass on to their customers.

The Exchange also believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,[16] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers. Overall, the Exchange believes that the proposed change is consistent with the Act because the Exchange offers the co-location services described herein (i.e., the proposed partial cabinets and Cabinet Upgrades) as a convenience to Users, but in doing so will incur certain costs, including costs related to the data center facility, hardware and equipment and costs related to personnel required for initial installation and ongoing monitoring, support and maintenance of such services. Additionally, the proposed fees relate to the level of services provided by the Exchange and, in turn, received by the User.

The Exchange believes that the proposed pricing for partial cabinets is reasonable because a partial cabinet would be a more economical option for certain Users that require only limited power or limited cabinet space, as compared to pricing for a dedicated cabinet, whereas a dedicated cabinet would be a more economical option for certain Users that have higher power or space demands.[17] The proposed pricing for partial cabinets and the Cabinet Upgrade fee is also reasonable because it would allow Users to select options that are better suited for their needs (e.g., a dedicated cabinet compared to a partial cabinet and a Cabinet Upgrade compared to an additional dedicated cabinet).

The proposed pricing for partial cabinets is also reasonable because it is comparable to pricing for ''shared cabinet space'' available to users of co-location facilities of The NASDAQ Stock Market LLC (''NASDAQ'').[18] Specifically, NASDAQ charges $600 for 500 watts (''Ws'') of power allocation in shared cabinet space. If a NASDAQ co-location user were to request up to two kWs of allocated power in shared cabinet space it would be charged $2,400 per month (one kW is equal to 1,000 Ws and two kWs is therefore equal to 2,000 Ws), which is comparable to the proposed $2,700 monthly recurring charge for the same power allocation in an eight-rack unit in a partial cabinet in the data center. However, the Exchange understands that each unit of NASDAQ shared cabinet space is smaller in space than the partial cabinets proposed by the Exchange (e.g., four-rack units on NASDAQ compared to eight-rack units in the Exchange's data center).[19] The Exchange also believes that the proposed Initial Install Services fee for a partial cabinet is reasonable because it is 50% of the dedicated cabinet Initial Install Services fee and likewise provides for 50% of the resources (i.e., two hours of labor instead of four hours and five cables instead of 10 cables) associated with the dedicated cabinet Initial Install Services fee.

The Exchange also believes that the Cabinet Upgrade fee is reasonable because it would function similar to the NASDAQ charges for comparable services. In particular, NASDAQ charges a premium initial installation fee of $7,000 for a ''Super High Density Cabinet'' (between 10 kWs and 17.3 kWs) compared to $3,500 for other types of cabinets with less power.[20] The Exchange charges only one flat rate for its initial cabinet fees ($5,000), regardless of the amount of power allocation. NASDAQ also charges an additional $7,000 for a Super High Density Cabinet Kit in relation to the additional customized equipment required to adequately cool a Super High Density Cabinet.[21] The Exchange understands that NASDAQ therefore charges at least $10,500 in additional initial costs for a Super High Density Cabinet compared to other cabinets (compared to the proposed $9,200 Cabinet Upgrade fee). The Exchange also believes that the proposed Cabinet Upgrade fee is reasonable because it would permit the Exchange to recover its expenses related to Cabinet Upgrades.

The proposed 50% reduced Cabinet Upgrade fee for a User that submits a written order for a Cabinet Upgrade by January 31, 2014, provided that the Cabinet Upgrade becomes fully operational by March 31, 2014, is reasonable because it would provide an incentive for Users to upgrade the capacity of their dedicated cabinets.

As with fees for existing co-location services, the fees proposed herein would be charged only to those Users that voluntarily select the related services, which would be available to all Users. The Exchange therefore believes that the proposed change is equitable and not unfairly discriminatory because it would result in fees being charged only to Users that voluntarily select to receive the corresponding services and because those services would be available to all Users. Furthermore, the Exchange believes that the services and fees proposed herein are not unfairly discriminatory and are equitably allocated because, in addition to the services being completely voluntary, they are available to all Users on an equal basis (i.e., the same products and services are available to all Users).

For the reasons above, the proposed change would not unfairly discriminate between or among market participants that are otherwise capable of satisfying any applicable co-location fees, requirements, terms and conditions established from time to time by the Exchange.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[22] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance

[16] 15 U.S.C. 78f(b)(4).

[17] *See, e.g., supra* note 9.

[18] *See* NASDAQ Rule 7034.

[19] NASDAQ's initial fee for shared cabinet space is charged on an hourly basis and is therefore difficult to compare to the proposed initial fee for partial cabinets in the Exchange's data center, which is fixed.

[20] *See supra* note 18.

[21] *Id.*

[22] 15 U.S.C. 78f(b)(8).

of the purposes of the Act because any market participants that are otherwise capable of satisfying any applicable co-location fees, requirements, terms and conditions established from time to time by the Exchange could have access to the co-location services provided in the data center. This is also true because, in addition to the services being completely voluntary, they are available to all Users on an equal basis (i.e., the same range of products and services are available to all Users).

The Exchange believes that the proposed partial cabinet and Cabinet Upgrade alternatives would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because they would enhance competition by making additional choices in services available to Users and thereby satisfy User demand for partial cabinets and for dedicated cabinets with increased power capacity. The proposed change would also enhance competition because it would help Users meet the growing needs of their business operations. Moreover, the Exchange believes that the proposed change would enhance competition between competing marketplaces by enabling the Exchange to provide services to Users that are similar to services available on other markets. In this regard, the Exchange notes that NASDAQ also makes a shared cabinet space option and a ''Super High Density Cabinet'' option available to users of its co-location facilities.[23]

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if, for example, they deem fee levels at a particular venue to be excessive or if they determine that another venue's products and services are more competitive than on the Exchange. In such an environment, the Exchange must continually review, and consider adjusting, the services it offers as well as any corresponding fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

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.

[23] *See supra* note 18.

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 [24] and Rule 19b–4(f)(6) thereunder.[25] Because the foregoing proposed rule change does not: (1) Significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, 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 [26] and Rule 19b–4(f)(6) thereunder.[27]

A proposed rule change filed under Rule 19b–4(f)(6) [28] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[29] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange requested waiver of the 30-day operative delay in order to immediately implement the proposed rule change so that Users may experience the benefits of such proposed change as soon as possible. The Exchange stated that the proposal would merely make smaller increments of a standard, dedicated cabinet available on a voluntary basis to Users that do not require a full, dedicated cabinet. Users that do require full, dedicated cabinets could continue to request them. The Exchange also stated that the proposal would provide greater flexibility to Users that prefer to increase power allocation in a particular dedicated cabinet rather than incurring the cost of maintaining an additional dedicated cabinet. The Exchange further represented that it operates in a highly competitive market in which several competing exchanges already offer similar co-location services. For the above reasons, the Commission believes waiver of the operative delay is appropriate and hereby grants the Exchange's request and designates the proposal operative upon filing.[30]

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) [31] 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–2013–103 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–2013–103. 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

[24] 15 U.S.C. 78s(b)(3)(A)(iii).

[25] 17 CFR 240.19b–4(f)(6).

[26] 15 U.S.C. 78s(b)(3)(A).

[27] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has met this requirement.

[28] 17 CFR 240.19b–4(f)(6).

[29] 17 CFR 240.19b–4(f)(6)(iii).

[30] 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).

[31] 15 U.S.C. 78s(b)(2)(B).

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–NYSEMKT–2013–103 and should be submitted on or before January 14, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[32]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–30594 Filed 12–23–13; 8:45 am]

BILLING CODE 8011–01–P

[32] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71124; File No. SR–CBOE–2013–123]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Credit Option Margin Pilot Program

December 18, 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 December 12, 2013, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') 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 Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend its Credit Option Margin Pilot Program through January 16, 2015. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On February 2, 2011, the Commission approved the Exchange's proposal to establish a Credit Option Margin Pilot Program (''Program'').[3] The proposal became effective on a pilot basis to run on a parallel track with Financial Industry Regulatory Authority (''FINRA'') Rule 4240 that similarly operates on an interim pilot basis.[4]

On January 17, 2012, the Exchange filed a rule change to, among other things, decouple the Program with the FINRA program and to extend the expiration date of the Program to January 17, 2013.[5] The Program, however, continues to be substantially similar to the provisions of the FINRA program. Subsequently, the Exchange filed a rule change to extend the program until January 17, 2014.[6] The Exchange believes that extending the expiration date of the Program further will allow for further analysis of the Program and a determination of how the Program should be structured in the future. Thus, the Exchange is now currently proposing to extend the duration of the Program until January 16, 2015.

The Exchange notes that there are currently Credit Options listed for trading on the Exchange that have open interest. As a result, the Exchange believes that is in the public interest for the Program to continue uninterrupted. In the future, if the Exchange proposes an additional extension of the Credit Option Margin Pilot Program or proposes to make the Program permanent, then the Exchange will submit a filing proposing such amendments to the Program.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[7] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[8] 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 facilitation 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)[9] 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 the proposed rule change will further the purposes of the Act because, consistent with the goals of the Commission at the initial adoption of the program, the margin requirements set forth by the proposed rule change will help to stabilize the financial markets. In addition, the proposed rule

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 63819 (February 2, 2011), 76 FR 6838 (February 8, 2011) order approving (SR–CBOE–2010–106). To implement the Program, the Exchange amended Rule 12.3(l), *Margin Requirements,* to make CBOE's margin requirements for Credit Options consistent with Financial Industry Regulatory Authority (''FINRA'') Rule 4240, *Margin Requirements for Credit Default Swaps.* CBOE's Credit Options (*i.e.,* Credit Default Options and Credit Default Basket Options) are analogous to credit default swaps.

[4] *See* Securities Exchange Act Release No. 59955 (May 22, 2009), 74 FR 25586 (May 28, 2009) (Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change; SR–FINRA–2009–012).

[5] *See* Securities and Exchange Act Release No. 66163 (January 17, 2012), 77 FR 3318 (January 23, 2012) (SR–CBOE–2012–007).

[6] *See* Securities and Exchange Act Release No. 68539 (December 27, 2012), 78 FR 138 (January 2, 2013) (SR–CBOE–2012–125).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] *Id.*

change is substantially similar to existing FINRA Rule 4240.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that, by extending the expiration of the Program, the proposed rule change will allow for further analysis of the Program and a determination of how the Program shall be structured in the future. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

A. Significantly affect the protection of investors or the public interest;

B. impose any significant burden on competition; and

C. become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [10] and Rule 19b–4(f)(6) [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. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the 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.

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–CBOE–2013–123 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–CBOE–2013–123. 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–CBOE–2013–123 and should be submitted on or before January 14, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–30590 Filed 12–23–13; 8:45 am]

BILLING CODE 8011–01–P

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71132; File No. SR–DTC–2013–11]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of Proposed Rule Change To Specify Procedures Available to Issuers of Securities Deposited at DTC for Book Entry Services When DTC Imposes or Intends To Impose Restrictions on the Further Deposit and/or Book Entry Transfer of Those Securities

December 18, 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 December 5, 2013, The Depository Trust Company (''DTC'') 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 by DTC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change modifies DTC's Rules & Procedures (''Rules'') to specify procedures available to issuers of securities deposited at DTC for book entry services when DTC imposes or intends to impose restrictions on the further deposit and/or book entry transfer of those securities, as more fully described below.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC 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. DTC has prepared summaries, set forth in sections (A), (B),

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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

Purpose

A. Background: DTC's Role Under Section 17A of the Securities Exchange Act of 1934, as amended (captioned ''National System for Clearance and Settlement of Securities Transactions'')

DTC is the nation's central securities depository, registered as a clearing agency under Section 17A of the Exchange Act (''Section 17A'').[3] DTC performs services and maintains securities accounts for its participants, primarily banks and broker dealers (''Participants'').[4] Among the services DTC provides to its Participants, a Participant may present a Security (as defined in Rule 1, Section 1 of the DTC Rules) to be made eligible for DTC's depository and book-entry services and, if the Security is accepted by DTC as eligible for those services and is deposited with DTC for credit to the securities account of a Participant, it becomes an ''Eligible Security'' (as defined in Rule 1, Section 1 of the DTC Rules). (The determination of eligibility is described more fully in Section 3.B., below.) Thereafter, other Participants may deposit that Eligible Security into their respective DTC accounts. Once the Eligible Security is credited to the account of one or more Participants, interests in that Eligible Security may be transferred among Participants by book-entry in accordance with the DTC Rules and Procedures.

As provided in the DTC Rules and Procedures, DTC processes the transfer of interests in Eligible Securities among DTC Participants by credits and debits to Participant accounts in accordance with the instructions of delivering and receiving Participants who are parties to the transaction. Participants in DTC agree to be bound by the Rules and Procedures of DTC as a condition of membership.

To facilitate book-entry transfer and other services that DTC provides for its Participants with respect to Deposited Securities (as defined in Rule 1, Section 1 of the DTC Rules), Eligible Securities are registered on the books of the issuer (typically, in a register maintained by a transfer agent) in DTC's nominee name, Cede & Co. Eligible Securities of an issue deposited at DTC are maintained in ''fungible bulk;'' *i.e.,* each Participant to whose DTC account securities of that issue have been credited has a *pro rata* (proportionate) interest in DTC's entire inventory of that issue, but none of the securities on deposit is identifiable to or ''owned'' by any particular Participant.[5]

DTC's deposit and book-entry transfer services facilitate the operation of the nation's securities markets. By serving as registered holder of trillions of dollars of securities, DTC processes the enormous volume of daily securities transactions by the book-entry movement of interests, without the need to transfer physical certificates.

The Commission has recognized that DTC plays a ''critical function'' in the national system for securities clearance and settlement.[6] More recently, the federal Financial Stability Oversight Council, which was established pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act, designated DTC as a Systemically Important Financial Market Utility (as defined therein).[7]

B. Eligibility Standards for Securities are Set Forth in DTC Rules and Procedures

In furtherance of Section 17A's requirement that DTC's Rules be ''designed to promote the prompt and accurate clearance and settlement of securities transactions . . . and, in general, to protect investors and the public interest,'' DTC's Rules and Procedures provide standards for determining eligibility.[8]

DTC Rule 5 authorizes DTC to determine whether to accept a security as an Eligible Security and when an Eligible Security will cease to be such. DTC Rule 6 provides that DTC ''may limit certain services to particular issues of Eligible Securities.''

DTC's Operational Arrangements, Section I.A.2., addresses specific standards for making a security an Eligible Security:

Generally, the issues that may be made eligible for DTC's book-entry delivery, settlement and depository services are those that have been issued in a transaction that: (i) Has been registered with the Commission pursuant to the Securities Act of 1933 (''Securities Act''); (ii) was exempt from registration pursuant to a Securities Act exemption that does not involve (or, at the time of the request for eligibility no longer involves) transfer or ownership restrictions; or (iii) permits resale of the securities pursuant to Rule 144A or Regulation S and in all cases such securities otherwise meet DTC's eligibility criteria.

Thus, an essential element of DTC eligibility is that the securities are ''freely tradeable'' or, if restricted by Rule 144A or Reg S, are processed through a separate program in which Participants acknowledge and agree to comply with the applicable restrictions.

In determining whether deposited securities satisfy DTC's eligibility requirements, Section I.B.2. of DTC's Operational Arrangements provides that DTC may require an issuer to provide an opinion from outside counsel in order ''to substantiate the legal basis for eligibility.''[9] Additionally, DTC may require legal opinions, *inter alia,* otherwise ''. . . to protect DTC and its Participants from risk.''[10] That is, DTC may require the issuer's outside counsel to provide a legal opinion in support of the eligibility determination.

C. DTC's Compliance Monitoring Program and Imposition of Deposit Chills and Global Locks

DTC maintains a robust system for monitoring its compliance with governing law including, without limitation, the AML requirements of the BSA, and OFAC sanctions.[11]

Where such monitoring raises concerns as to whether securities held at DTC have been distributed in violation of federal law including, without limitation, the requirements of Section 5

[3] *See* Securities Exchange Act Release No. 20221 (Sept. 23, 1983), 48 FR 45167 (Oct. 3, 1983).

[4] *See* 15 U.S.C. 78c(a)(24).

[5] *See* Securities Exchange Act Release No. 19678 (Apr. 15, 1983), 48 FR 17603, 17605, n.5 (Apr. 25, 1983) (describing fungible bulk); *see also* N.Y. Uniform Commercial Code, § 8–503, Off. Cmt 1 (''. . . all entitlement holders have a pro rata interest in whatever positions in that financial asset the [financial] intermediary holds'').

[6] *See* Securities Exchange Act Release No. 47978, Order Granting Approval of a Proposed Rule Change Concerning Requests for Withdrawal of Certificates by Issuers, 68 Fed. Reg. 35037, 35041 (Jun. 4, 2003).

[7] *See http://www.treasury.gov/initiatives/fsoc/designations/Pages/default.aspx.*

[8] *See* DTC Rule 5, *http://www.dtcc.com/legal/rules_proc/dtc_rules.pdf; see also* Operational Arrangements (Jan. 2012), Section I.A., *available at http://www.dtcc.com/downloads/legal/rules_proc/eligibility/operational-arrangements.pdf.*

[9] Section I.A.1 of the Operational Arrangements further specifies that such counsel must be ''an experienced securities practitioner, licensed to practice law in the relevant jurisdiction and in good standing in any bar to which such practitioner is admitted. Such counsel must be engaged in an independent private practice (i.e., not in-house counsel) and may not have a beneficial ownership interest in the security for which the opinion is being provided or be an officer, director or employee of the Issuer. ''

[10] *Id.*

[11] *See* 31 U.S.C. 5318 (authorizing Secretary of the Treasury to require financial institutions to establish AML procedures); 31 CFR 1020.210 (AML standards for certain financial institutions); 31 CFR 500.202 (prohibiting, *inter alia,* dealing in a security registered in the name of a person subject to OFAC sanctions).

of the Securities Act,[12] DTC may impose a Deposit Chill or Global Lock.

There are two principal scenarios under which DTC imposes these restrictions, as described in more detail below.

(1) Deposit Chills: Large Volume Deposits

DTC is mindful that various regulatory agencies have identified unusually large volumes of deposits of unregistered shares of low priced or thinly-traded securities as a ''red flag'' for possible unlawful distribution of securities.

For instance, in pursuing an enforcement action with respect to illegal sales of penny stocks, the Commission has highlighted as problematical ''sales that represented a high percentage of trading volume or of an issuer's public float.'' [13]

Similarly, the Financial Industry Regulatory Authority, Inc. (''FINRA'') has advised broker-dealers to be on alert for ''red flags'' of possible illegal distribution of unregistered securities. Although DTC is not subject to FINRA oversight, DTC has nonetheless taken account of FINRA's ''red flags'' in considering if Deposited Securities continue to comply with DTC's eligibility requirements. As stated by FINRA:

Recently, FINRA has investigated and brought several enforcement actions concerning unregistered distributions of securities. A common theme in these cases was that firms resold large amounts of low-priced equity securities in over-the-counter transactions.

The following are examples of red flags of unlawful unregistered distributions . . .;

- A customer of the broker opens a new account and delivers physical certificates representing a large block of thinly traded or low-priced securities;
- A customer of the broker deposits share certificates that are recently issued or represent a large percentage of the float for the security;
- The company was a shell company when it issued the shares;
- A customer of the broker with limited or no other assets under management at the firm receives an electronic transfer or journal transactions of large amounts of low-priced, unlisted securities;
- The issuer has been through several recent name changes, business combinations or recapitalizations, or the company's officers are also officers of numerous similar companies;
- The issuer's SEC filings are not current, are incomplete, or nonexistent.[14]

The federal Financial Crimes Enforcement Network (''FinCen''), which is responsible for enforcing the AML provisions of the BSA, has similarly recognized that ''substantial deposit, transfer or journal of very low-priced and thinly traded securities'' implicates anti-money laundering monitoring concerns.[15]

When DTC detects large volume deposits of a low-priced or thinly-traded security, and its monitoring otherwise suggests that an issue may not be freely-tradeable, it imposes a Deposit Chill on that issue. The Deposit Chill blocks the deposit of further securities of the issue, although other services, including book-entry transfer movements, continue to be provided with respect to the Eligible Securities deposited at DTC before the Deposit Chill.

Section 2 of proposed Rule 22(A) addresses the procedures by which DTC gives affected issuers notice of a Deposit Chill and the procedures they may follow to object to the restriction, under the standards discussed in Section D(1), below.

Section 2 also provides that if an issuer fails to respond to a notice of a Deposit Chill as required, or if DTC determines that the response is insufficient to establish that Deposited Securities satisfy DTC's eligibility requirements, a Global Lock will be instituted. Under such circumstances, an issuer would be given notice of the impending Global Lock and an opportunity to demonstrate that a response to the Deposit Chill notice had, in fact, been submitted or that in reviewing the response, DTC had made a clerical mistake or oversight.

(2) Global Locks: Enforcement Proceedings

When DTC becomes aware of a law-enforcement or regulatory proceeding alleging violations of federal law or regulations (an ''Enforcement Proceeding''), particularly those alleging any violation of Section 5 of the Securities Act, relating to securities of an issue on deposit at DTC, DTC imposes a Global Lock on that issue. A Global Lock prevents additional deposits and restricts all book-entry and related depository services with respect to the issue.[16]

Sections 2, 3 and 4 of proposed Rule 22(B) address the procedures by which DTC gives affected issuers notice of the Global Lock and the procedures they may follow to object to the restriction, under the standards discussed in Section D(2), below.

D. Grounds for Releasing Deposit Chills and Global Locks

The fair procedures set forth in proposed Rules 22(A) and (B) are designed to enable issuers to object to a Deposit Chill or Global Lock prior to imposition of the restriction by DTC or

[12] *See* 15 U.S.C. 77e (prohibiting sales of unregistered securities, subject to 15 U.S.C. 77(d)).

[13] *See e.g.* Order Making Finding and Imposing Remedial Sanctions, *In the Matter of Ronald S. Bloomfield, et al.,* SEC Rel. No. 62750 (Aug 20, 2010), *available at http://www.sec.gov/litigation/admin/2010/34-62750.pdf* (enumerating red flags relating to how penny stocks were sold, including (a) repeated delivery in and selling to the public of privately obtained shares of penny stocks; (b) selling within weeks of receipt; (c) selling while promotional activity was occurring; and (d) sales that represented a high percentage of trading volume or of an issuer's public float).

[14] *See* Financial Industry Regulatory Authority, Inc., *Regulatory Notice 09–05, available at http://www.finra.org/web/groups/industry/@ip/@reg/@notice/documents/notices/p117716.pdf* (footnotes omitted); *see also* Review of Disciplinary Action Taken by FINRA, *In the Matter of the Application of World Trade Financial Corp., et al.,* Securities Exchange Act Release No. 66114, Jan. 6, 2012, *available at http://sec.gov/litigation/opinions/2012/34-66114.pdf* (sustaining FINRA violations and sanctions, where customers deposited large blocks of recently issued, little known stock into firm accounts and directed registered representative to sell shortly thereafter, and registered representative failed to inquire whether proposed sales qualified for exemption from registration and were part of an unlawful distribution.); Order Accepting Settlement, *Dept. of Enforcement v. NevWest Securities Corp et al.,* NASD Case No. E0220040112–01 (Mar. 13, 2007), *available at http://wwv.sec.gov/about/offices/ocie/am12007/nasdnev-nevwest.pdf* (finding that NevWest failed to adequately implement anti-money laundering procedures by failing adequately to perform due diligence, file Suspicious Activity Reports, or cease trading in multiple accounts owned and controlled by customer, regarding over 500 transactions involving more than 250 billion shares of sub-penny stock.)

[15] Financial Crimes Enforcement Network, *The SAR Activity Review: Trends Tips & Issues,* Issue 15, pp. 23–25 (BSA Advisory Group, May 2009), *available at http://fincen.gov/news_room/rp/files/sar_tti_15.pdf,* citing Financial Industry Regulatory Authority, Inc., *Regulatory Notice 09–05, available at http://www.finra.org/Industry/Regulation/Notices/2009/P117713; see also* Financial Crimes Enforcement Network, *The Role of Domestic Shell Companies in Financial Crime and Money Laundering* (2006), *available at http://www.fincen.gov/LLCAssessment_FINAL.pdf* (''These 'pump and dump' schemes often involve shell companies with low market capitalization whose stock trades at pennies per share on the 'pink sheets' (*www.pinksheets.com*), OTC Bulletin Board, or other over-the-counter trading and information systems. One indicator of this scheme is concentrated trading in normally thinly traded stocks.'').

[16] Globally Locked Eligible Securities continue to be Eligible Securities unless and until DTC makes a determination under its Rules to terminate eligibility, as to which DTC Rule 22, Right to Contest Decisions, would apply; alternatively, those securities may be held in custody only at DTC, as provided in the DTC Rules and Procedures applicable to custody only, i.e., not for book-entry transfer and asset services applicable to Eligible Securities. *See generally http://www.dtcc.com/products/asset/services/custody.php#overview.*

to cause DTC to release Deposit Chills and Global Locks imposed without such prior notice or at any time during the continuance of any such restriction, pursuant to the standards set forth below.

(1) Release of Deposit Chills

In order to challenge a Deposit Chill, proposed Rule 22(A) provides the affected issuer with the opportunity to establish that the issue meets DTC's eligibility requirements, including by submitting an opinion from independent legal counsel establishing that the securities deposited at DTC are freely tradeable. DTC's reliance on legal opinions for this purpose is authorized by DTC's Operational Arrangements, which expressly authorize DTC to require opinions ''to substantiate the legal basis for eligibility,'' or otherwise ''. . . to protect DTC and its Participants from risk.'' [17] If the issuer successfully demonstrates that the deposited securities continue to satisfy DTC's eligibility requirements, DTC would not impose the Deposit Chill or, if already in effect, would release it.

(2) Release of Global Locks

In order to challenge a Global Lock, proposed Rule 22(B)(2)(b) provides the affected issuer with the opportunity to establish that (i) DTC has made a mistake in associating the issuer's Eligible Securities with the specified Enforcement Proceeding or (ii) that the Enforcement Proceeding has been has been withdrawn or dismissed on the merits with prejudice or otherwise resolved in a final, non-appealable judgment in favor of the defendants allegedly responsible for the alleged violations of Section 5 of the Securities Act relating to the Eligible Securities. If the issuer successfully demonstrates either factor, DTC would not impose the Global Lock or, if already in effect, DTC would release it.

Otherwise, proposed Rule 22(B)(3) provides that DTC will release a Global Lock within either one year or six months, as the case may be,[18] after the final disposition of the Enforcement Proceeding with respect to those defendants alleged to have been responsible for the illegal distribution of the Eligible Securities that were subject to the Global Lock. Similarly, pursuant to proposed Rule 22(B)(4), where a Global Lock has been imposed because an issuer has failed to satisfy DTC's concerns that led to a Deposit Chill,[19] the one year/six month waiting period also applies, but runs from the date of the imposition of the Global Lock.

The proposed standard to release a Global Lock after the passage of six months or one year (from the appropriate starting date) was developed by analogy to the safe harbor provision of the Securities Act, Rule 144, which, under certain circumstances, permits the unregistered resale of restricted securities (as defined under paragraph (a)(3) of the Rule) after expiration of the relevant holding period. However, again by reference to Rule 144, this approach is not applicable to an issuer that is, or was, a shell company as defined in Rule 144(i)(1), unless the issuer has filed the specified disclosure required by Rule 144(i)(2).

E. Legal Principles Underlying Fair Procedures Challenging Deposit Chills and Global Locks

(1) Section 17A(b)(3) and (5)

Under Section 17A, where a registered clearing agency denies or limits access to the agency's services to a ''person,'' it must employ ''fair procedures.'' [20] Such procedures require the clearing agency to give the person notice and an opportunity to address the specific grounds for denial or prohibition or limitation and to keep a record.[21]

In its decision in *IPWG,* the Commission ruled, *inter alia,* that issuers are ''persons'' for the purposes of Section 17(a)(b)(3).

(i) Fair Procedures in Advance of the Imposition of a Deposit Chill or Global Lock

Section 17A does not specify the nature of the fair procedures DTC must provide to ''persons,'' including issuers. In *IPWG,* the Commission observed that:

> ''Exchange Act Section 17A(b)(5)(B) states that, when a registered clearing agency determines that ''a person shall be . . . prohibited or limited with respect to access to services offered by the clearing agency, the clearing agency shall notify such person of, and give him an opportunity to be heard upon, the specific grounds for . . . prohibition or limitation under consideration and keep a record.'' [22]

The Commission further ruled in *IPWG* that DTC ''should adopt procedures that accord with the fairness requirements of Section 17A(b)(3)(H), which may be applied uniformly'' in the cases where DTC denies or limits services with respect to an issuer's securities. Consistent with the Commission's broad directive, and as set forth below in Sections 3F(1) and (2), proposed Rules 22(A) and 22(B) encompass uniform fair procedures for issuers whose securities may be or are subject to a Deposit Chill or Global Lock. These procedures include:

- Advance notice (except as provided in the following section) that a Deposit Chill or Global Lock will be imposed;
- An explanation of the specific grounds upon which the restrictions are being or have been imposed;
- The actions that the issuer must take in order to prevent or remove the restriction;
- The process DTC will undertake to review written submissions of the issuer and to render a final decision concerning the restriction; and
- Maintaining a complete record for submission to the Commission in the event an issuer appeals.

(ii) Fair Procedures Where a Deposit Chill or Global Lock Is Imposed Without Advance Notice

In *IPWG*, the Commission opined that, when faced with justifiable circumstances, DTC may design fair procedures ''in accordance with its own internal needs and circumstances,'' [23] recognizing that:

If DTC believes that circumstances exist that justify imposing a suspension of services with respect to an issuer's securities in advance of being able to provide the issuer with notice and an opportunity to be heard on the suspension, it may do so. However, in such circumstances, these processes should balance the identifiable need for emergency action with the issuer's right to fair procedures under the Exchange Act. Under such procedures, DTC would be authorized to act to avert an imminent harm, but it could not maintain such a suspension indefinitely without providing expedited fair process to the affected issuer.[24]

For example, where DTC's monitoring suggests that marketplace actors are

[17] *See,* supra, n.11; *see also* DTC Rule 5 (providing that DTC ''shall accept a Security as an Eligible Security only . . . upon such inquiry, or based upon such criteria, as the Corporation may, in its sole discretion, determine from time to time.'').

[18] Six months applies to issuers that are required to file, and have filed, all reports pursuant to Sections 13(a) or 15(d) of the Exchange Act, and one year applies to issuers that are not publicly reporting.

[19] *See* proposed Rule 22(A)(2)(c); *see also* Section 3.F.1. *infra.*

[20] *See* Exchange Act, Section 17A(b)(3)(H); 15 U.S.C. 78q–1(b)(3)(H).

[21] *See* Exchange Act, Section 17A(b)(5)(B); 15 U.S.C. 78q–1(b)(5)(B).

[22] IPWG at *http://www.sec.gov/litigation/opinions/2012/34-66611.pdf.*

[23] *Id.* at 12, fn. 36.

[24] *Id.* at 12–13 (footnote omitted); *see also ATIG* at 3, fn. 5 (affirming that DTC may, consistent with *IPWG*, impose a Deposit Chill or Global Lock without advance notice in order to avert an imminent harm).

continuing to cause the deposit of Eligible Securities that are not freely-tradeable, DTC would need to act quickly to stop further improper deposits, and thus may impose a restriction without prior notice. Otherwise, if DTC were to provide prior notice, marketplace actors would have additional time to make such deposits and accelerate the deposit volume during the notice period. In these cases, the risk of harm to the national clearance and settlement system stemming from comingling or further comingling of non-freely tradeable securities with DTC's fungible bulk for that issue outweighs any potential impact on the issuer as a result of not giving it advance notice of the restriction.

As described below in Sections 3.F(1) and (2), where a restriction is imposed before notice in order to forestall, among other things, imminent harm, injury or other such consequence, DTC will provide notice to the affected issuer within three business days from the imposition of the restriction. After DTC has provided such notice, the affected issuer is afforded the same fair procedures as issuers that received advance of a restriction.

F. Fair Procedures: Summary of Proposed Rule Changes

DTC proposes to: (i) Adopt a new Rule 22(A) that provides specific fair procedures for issuers in connection with imposition and release of Deposit Chills; and (ii) adopt a new Rule 22(B) that provides specific fair procedures for issuers in connection with imposition and release of Global Locks. DTC additionally proposes to amend Rule 1, Section 1 in the definition of ''Procedures'' to include, expressly, the Operational Arrangements.[25]

The substantive elements of the proposed rules are as follows:

(1) Proposed Rule 22(A)

Section 1 provides that Rule 22(A) sets forth the fair procedures available to issuers where DTC intends to impose or has imposed a Deposit Chill as a result of DTC having detected large volume deposits with respect to the issuer's Eligible Securities.

Section 2 provides that issuers will be given twenty business days' advance notice that DTC intends to impose a Deposit Chill or, if DTC reasonably determines that it is faced with, among other things, imminent harm, injury or other such consequence, to DTC or its Participants, or where the Corporation otherwise reasonably determines that such action is necessary to protect the prompt and accurate clearance and settlement of securities transactions through the Corporation, whether or not such circumstances are otherwise specified by Rule 22(A), notice will be given within three business days after the Deposit Chill has been imposed. In addition to setting forth the contents of the notice, Section 2(a) sets forth the issuer's right to contest the action by submitting a response to the notice and the time frame for doing so.

Section 2(b) requires, consistent with DTC's Operational Arrangements, that the issuer support the response with a legal opinion, prepared by independent counsel, confirming that the issuer's securities deposited at DTC satisfy DTC's eligibility requirements. As guidance for the issuer and its counsel, DTC will provide a template legal opinion. DTC will accept, from counsel to the issuer reasonably acceptable to DTC,[26] an opinion that includes the material opinions and other matters set forth in the template.

Section 2(b)(i) provides that, in response to the Deposit Chill Response, DTC may present the issuer with a request for additional information (the ''Additional Request''), to which the issuer shall submit a response to the Corporation (the ''Additional Response'') in a time frame set by the Corporation, which shall not be less than 10 business days from the date of the Additional Request.

Section 2(c) establishes the time frame in which DTC will provide the issuer with a written decision in connection with the issuer's timely response to notice of the Deposit Chill. Specifically, DTC will provide each issuer that submits a Deposit Chill Response or Additional Response with a written decision within twenty business days after DTC receives the Deposit Chill Response or the Additional Response or, in the case of a Deposit Chill imposed before issuance of the Deposit Chill Notice, within ten business days after receipt by DTC of the Deposit Chill Response or Additional Response.

Section 2(c) also provides that if the issuer does not submit a response to the notice or does not do so in a timely matter, or if DTC reasonably determines that the response does not establish that the issuer's securities on deposit at DTC satisfy DTC's eligibility requirements, DTC will impose a Global Lock on the issue. An officer of DTC who did not play any role in the determination regarding the Deposit Chill notice will review the issuer's response and decide whether the response has satisfied DTC's eligibility standards. Once the officer has made a decision: (i) If the decision is in favor of the issuer, DTC will not impose or will release the Global Lock, as the case may be; or (ii) if the decision is that the issuer's response is not satisfactory, DTC will nevertheless not impose the Global Lock until DTC has given the issuer notice of the adverse decision and the opportunity to demonstrate that DTC's determination was the result of DTC's clerical mistake or a mistake arising from an oversight or omission in reviewing the issuer's response. This added process will not constitute a substantive review. It will be limited to DTC making a determination whether, as the issuer has asserted, there was a clerical mistake or mistake arising from an oversight or omission. Absent such a showing, the Global Lock will be imposed.

Section 2(d) specifies the contents of the ''record'' in the event that the issuer appeals to the Commission from an adverse decision.

Section 3(a) provides that the issuer's right to respond to the notice is dependent on compliance with the time periods specified for making submissions.

Section 3(b)(i) reserves to DTC the right: (x) To lift a Deposit Chill, or (y) to impose a Deposit Chill after it has provided a Deposit Chill Notice but before it has received or resolved a Deposit Chill Response (including after any Additional Request when an Additional Response is pending) without waiting for the applicable notice periods to run, in either case, in order to prevent imminent harm, injury or other such consequences to DTC or its Participants or where DTC reasonably determines that such action is necessary to protect the prompt and accurate clearance and settlement of securities transactions through it, irrespective of whether Rule 22(A) provides specific grounds for doing so. Section 3(b)(ii) specifically provides that Rule 22(A) does not apply to processing interruptions based upon ordinary course operational requirements such as those in

[25] DTC's *existing* Rule 22 is primarily focused on procedures applicable to DTC's Participants that are facing disciplinary actions as a result of violating DTC's Rules. Rule 22, however, also sets forth the fair procedures available to issuers where DTC determines that an issuer's Eligible Securities should no longer be deemed to be such or, as provided by Rule 5, where DTC determines not to approve a security as an Eligible Security. Rule 22 does not address the fair procedures applicable to issuers stemming from Deposit Chills or Global Locks. DTC has determined to set forth such procedures in the two proposed rules.

[26] In determining whether counsel is acceptable for this purpose DTC refers to the relevant provisions set forth in the Operational Arrangements. *See, supra,* n.12.

connection with corporate actions and reorganization events that may occur at the request of the issuer or its representatives, or other such processing interruptions specifically set forth in the Procedures.

Section 3(b)(iii) recognizes that Rule 22(A) shall not displace any legal or regulatory requirements that DTC is subject to under applicable law, rule or regulation. This could conceivably include imposing a Deposit Chill where required by applicable law, rule or regulation and for reasons that may not include large volume deposits of low value or thinly traded securities. If, however, DTC imposed a Deposit Chill under such circumstances, DTC would afford the affected issuer the fair procedures set forth in proposed Rule 22(A) (except if prohibited by law, rule or regulation). Section 3(b)(iv) emphasizes that while DTC may freely communicate with the issuer or its representative, substantive communications must be in writing in order to provide the Commission with a complete record in the event of an appeal.

Section 3(c) provides that in the event that the Corporation shall impose a Deposit Chill pursuant to Section 3(b)(i) of Rule 22(A), the procedures contained in Section 2(c) of Rule 22(A) shall apply, including that the Corporation shall provide the Deposit Chill Response within ten (10) business days after the Corporation receives the Deposit Chill Response or the Additional Response.

Section 3(d) sets forth the means by which DTC shall send notice to the issuer.

(2) Proposed Rule 22(B)

Section 1 provides that Rule 22(B) sets forth the fair procedures available to issuers where DTC imposes a Global Lock with respect to an issuer's Eligible Securities, in two situations. Section 1(a) refers to a Global Lock based upon an Enforcement Proceeding with respect to an issue of securities that DTC determines were deposited at DTC. Section 1(b) refers to a Global Lock where an issuer has failed to satisfy the requirements to object to the imposition of, or for lifting, a Deposit Chill pursuant to Rule 22(A).

Section 2(a) provides that issuers will be given twenty business days' advance notice that DTC intends to impose a Global Lock or if DTC reasonably determines that it is faced with, among other things, imminent harm, injury or other such consequence to itself or its Participants, or where the Corporation otherwise reasonably determines that such action is necessary to protect the prompt and accurate clearance and settlement of securities transactions through the Corporation, whether or not such circumstances are otherwise specified by Rule 22(B), notice will be given within three business days after the Global Lock has been imposed. In addition to setting forth the contents of the notice, Section 2(a) sets forth the issuer's right to contest the action by submitting a response to the notice and the time frame for doing so.

Pursuant to Section 2(b)(i), if the issuer is able to demonstrate that an error had been made in identifying its securities as the subject of the underlying Enforcement Proceeding, the Global Lock would not be imposed or, had it already been imposed (whether by virtue of being imposed without notice or at any time after the imposition of a Global Lock), it would be released. Pursuant to Section 2(b)(ii), if, at any time, the Enforcement Proceeding has been withdrawn or dismissed on the merits with prejudice or otherwise resolved in a final, non-appealable judgment in favor of the Defendants allegedly responsible for the violations of Section 5 of the Securities Act relating to the Eligible Securities, the Global Lock would not be imposed or, had if it had already been imposed, it would be released. In reviewing the issuer's response, DTC will not provide a forum for litigating or re-litigating the allegations or findings in the Enforcement Proceeding, provided, however, that the issuer's response may include a demonstration that the allegations or findings in the Enforcement Proceeding have been rejected by a court or that the issuer can otherwise satisfy the criteria set forth in Section 3 of proposed Rule 22(B).

Section 2(c) sets forth the time frame in which DTC will provide the issuer with a written decision responsive to the Global Lock Response. Specifically, DTC will provide each issuer that submits a Global Lock Response with a written decision within twenty business days after DTC receives Global Lock Response or, in the case of a Global Lock imposed before issuance of the Global Lock Notice, within ten business days of its imposition.

Section 2(d) specifies the contents of the ''record'' in the event that the issuer appeals to the Commission from a determination by DTC.

Section 3 provides for the release of Global Locks. In the case of Global Locks imposed pursuant to Section 1(a), the restriction will be lifted either six months or one year, as the case may be, after the Enforcement Proceeding has been withdrawn or dismissed on the merits with prejudice or otherwise resolved in a final, non-appealable judgment in favor of the Defendants allegedly responsible for the violations of Section 5 of the Securities Act relating to the Eligible Securities. The six-month period applies to affected issuers that file periodic reports pursuant to Section 13(a) and 15(d) of the Exchange Act) and the one-year period applies to issuers that are not public reporting companies. In support of the foregoing: (i) The Issuer may be required to submit a legal opinion, in form and substance satisfactory to the Corporation, from independent securities counsel to the issuer, reasonably acceptable to the Corporation, and/or (ii) such other evidence or other documentation as the Corporation may reasonably require. Companies defined in Securities Act Rule 144(i)(1) are not entitled to take advantage of this procedure and the Global Lock will remain in effect for any shell company issuer, unless it complies, or has complied, with the requirements of Securities Act Rule 144(i)(2).

Section 4 is similar to Section 3, except that the one-year and six-month time frames are measured from the date of the imposition of the Global Lock pursuant to Section 1(b).

Section 5(a) provides that the issuer's right to respond to the notice is dependent on compliance with the time periods for making submissions.

Section 5(b)(i) reserves to DTC the right: (x) To lift a Global Lock, or (y) to impose a Global Lock after DTC has provided a Global Lock Notice but before it has received or resolved a Global Lock Response without waiting for the applicable notice periods to run, in either case, in order to prevent imminent harm, injury or other such consequences to DTC or its Participants or where DTC reasonably determines that such action is necessary to protect the prompt and accurate clearance and settlement of securities transactions through it, irrespective of whether Rule 22(B) provides specific grounds for doing so. Section 5(b)(ii) specifically provides that Rule 22(B) does not apply to processing interruptions based upon ordinary course operational requirements such as those in connection with corporate actions and reorganization events that may occur at the request of the issuer or its representatives, or other such processing interruptions set forth in the Procedures.

Section 5(b)(iii) recognizes that Rule 22(B) shall not displace any legal or regulatory requirements that DTC is subject to under applicable law, rule or regulation. This could conceivably

include imposing a Global Lock where required by applicable law, rule or regulation and for reasons that may not include an Enforcement Proceeding. If, however, DTC imposed a Global Lock under such circumstances, DTC would afford the affected issuer the fair procedures set forth in proposed Rule 22(B) (except if prohibited by law, rule or regulation). Section 5(b)(iv) provides that while DTC may freely communicate with the issuer or its representative, substantive communications must be in writing in order to provide the Commission with a complete record in the event of an appeal.

Section 5(c) sets forth the means by which DTC shall send notice to the issuer.

Statutory Basis

The proposed Rules 22(A) and (B) establish a procedure which provides for: (a) criteria for notice to an issuer that a Deposit Chill or Global Lock will be imposed, (b) an explanation of the specific grounds upon which the restrictions are being or have been imposed, (c) the actions that the issuer must take in order to prevent or remove the restriction, (d) the process DTC will undertake to review written submissions of the issuer and to render a final decision concerning the restriction, and (e) maintenance of a complete record for submission to the Commission in the event an issuer appeals. As such the proposed rule change is in accordance with Section 17A(b)(5)(B) of the Act [27] and encompasses a uniform procedure for issuers whose securities may be or are subject to a Deposit Chill or Global Lock. Therefore, the proposed rule change is consistent with the requirements of the Section 17A(b)(3)(H) of the Act,[28] which requires that the rules of a registered clearing agency are in accordance with the provisions of Section 17A(b)(5)(B) of the Act, and in general provide a fair procedure with respect to the prohibition or limitation by the clearing agency of any person with respect to access to services offered by the clearing agency.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule changes will have any impact on, or impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act, because the proposed procedures as described above will apply to all issues that may subject to Deposit Chill or Global Lock.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments relating to the proposed rule change have not yet been solicited or received with respect to this filing. To the extent DTC receives written comments on the proposed Rule change DTC will forward such comments to the Commission.

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 (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 such 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–DTC–2013–11 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–DTC–2013–11. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings also will be available for inspection and copying at the principal office of DTC and on DTC's Web site at *http://dtcc.com/en/legal/sec-rule-filings.aspx.* 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–DTC–2013–11 and should be submitted on or before January 14, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[29]

Kevin M. O'Neill,

Deputy Secretary.

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BILLING CODE 8011–01–P

[27] *See* 15 U.S.C. 78q–1(b)(5)(B) which provides: ''In any proceeding by a registered clearing agency to determine whether a person shall be denied participation or prohibited or limited with respect to access to services offered by the clearing agency, the clearing agency shall notify such person of, and give him an opportunity to be heard upon, the specific grounds for denial or prohibition or limitation under consideration and keep a record. A determination by the clearing agency to deny participation or prohibit or limit a person with respect to access to services offered by the clearing agency shall be supported by a statement setting forth the specific grounds on which the denial or prohibition or limitation is based.

[28] 15 U.S.C. 78q–1(b)(3)(H).

[29] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71133; File No. SR–NYSEArca–2013–111]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Approving a Proposed Rule Change To List and Trade Shares of Manna Core Equity Enhanced Dividend Income Fund Under NYSE Arca Equities Rule 8.600

December 18, 2013.

I. Introduction

On October 23, 2013, NYSE Arca, Inc. (''Exchange'' or ''NYSE Arca'') filed

with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Exchange Act'') [2] and Rule 19b–4 thereunder,[3] a proposed rule change to list and trade shares (''Shares'') of the Manna Core Equity Enhanced Dividend Income Fund (''Fund''). The proposed rule change was published for comment in the **Federal Register** on November 7, 2013.[4] The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of the Proposed Rule Change

The Exchange proposes to list and trade the Shares under NYSE Arca Equities Rule 8.600, which governs the listing and trading of Managed Fund Shares on the Exchange. The Exchange makes the following representations and statements in describing the Fund and its investment strategies, including portfolio holdings and limitations. The Shares will be offered by ETF Actively Managed Trust (''Trust''). The Trust will be registered with the Commission as an open-end management investment company.[5] ETF Issuer Solutions, Inc. will serve as the investment adviser to the Fund (''Adviser''). ETF Distributors LLC will be the principal distributor of the Fund's Shares. Manna ETFs Management LLC (the ''Sub-Adviser'') will serve as sub-adviser for the Fund. The Bank of New York Mellon will serve as the administrator, accountant, custodian, and transfer agent for the Fund. The Exchange represents that the Adviser and Sub-Adviser are each not registered as a broker-dealer, but the Adviser is affiliated with a broker-dealer and has implemented a fire wall with respect to its broker-dealer affiliate regarding access to information concerning the composition of and changes to the Fund's portfolio.[6]

The Fund will seek long-term capital appreciation and income primarily through purchases and short sales of U.S. and international equity securities. To achieve its investment objective, normally [7] the Fund will invest up to 100% (but not less than 80%) of its net assets between its Core Position, Dividend Position and Short Position (each as defined below). The Fund expects to invest in a portfolio of U.S. common stocks or exchange traded funds (''ETFs'') selected by the Sub-Adviser to reflect a broad spectrum (*i.e.,* positions in companies of different market capitalizations) of the U.S. equity market (the ''Core Position''). The Fund also expects to invest in a portfolio that may contain U.S. and non-U.S. common stocks, American Depositary Receipts (''ADRs''), participation notes, or other equity securities listed on U.S. or non-U.S. exchanges or traded over the counter that the Sub-Adviser expects to generate dividend income to the Fund (the ''Dividend Position''). The Fund also expects to sell short a portfolio of common stocks, index- or sector-based ETFs, other investment companies, exchange traded notes (''ETNs'') and other exchange traded products (''ETPs''),[8] other securities or index- or sector-based futures contracts all of which trade on U.S. and non-U.S. exchanges selected for the purpose of hedging against country or currency risk associated with the investments in the Dividend Position, or because they are likely to underperform the market or lose value in the near term (the ''Short Position'').

The Fund will be an actively managed ETF and thus does not seek to replicate the performance of a specific index. Instead, the Fund will use an active investment strategy to meet its investment objective. The Sub-Adviser, subject to the oversight of the Adviser and the Board of Trustees of the Trust, will have discretion on a daily basis to manage the Fund's portfolio in accordance with the Fund's investment objective and investment policies.

The Sub-Adviser will typically seek to invest the Core Position in a portfolio of common stocks and ETPs selected by the Sub-Adviser to reflect a broad spectrum (*i.e.,* positions in companies of different market capitalizations) of the U.S. equity market. The Core Position may invest in the common stock of issuers of any market capitalization and there are no requirements as to the number of securities the Core Position must hold.

The Fund may invest in any type of ETF, including index based ETFs, sector based ETFs, and fixed-income ETFs. The Fund may hold ETFs with portfolios comprised of domestic or foreign stocks or bonds or any combination thereof. However, due to legal limitations, the Fund will be prevented from purchasing more than 3% of an ETF's outstanding shares unless: (i) the ETF or the Fund has received an order for exemptive relief from the 3% limitation from the Commission that is applicable to the Fund; and (ii) the ETF and the Fund take appropriate steps to comply with any conditions in such order.

According to the Exchange, to implement the Dividend Position's strategy, the Sub-Adviser will seek to maximize the level of dividend income that the Dividend Position receives,

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 70798 (November 1, 2013), 78 FR 66973 (''Notice'').

[5] The Trust is registered under the 1940 Act. On April 2, 2013, the Trust filed a registration statement on Form N–1A under the Securities Act of 1933 (the ''1933 Act'') (15 U.S.C. 77a), and under the 1940 Act relating to the Fund (File Nos. 333–187668 and 811–22819) (the ''Registration Statement''). The Trust filed an Amended and Restated Application for an Order under Section 6(c) of the 1940 Act for exemptions from various provisions of the 1940 Act and rules thereunder (File No. 812–14080), dated June 19, 2013 (''Exemptive Application''). The Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. *See* Investment Company Act Release No. 30607 (July 23, 2013) (''Exemptive Order''). Investments made by the Fund will comply with the conditions set forth in the Exemptive Application and the Exemptive Order.

[6] *See* Commentary .06 to NYSE Arca Equities Rule 8.600. The Exchange represents that in the event (a) the Adviser or any Sub-Adviser registers as a 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 of or changes to the Fund's portfolio, and will be subject to procedures designed to prevent the misuse of material, non-public information regarding the Fund's portfolio.

[7] The term ''normally'' includes, but is not limited to, the absence of extreme volatility or trading halts in the equity markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance. According to the Registration Statement, in certain adverse market, economic, political, or other conditions, the Fund may temporarily depart from its normal investment policies and strategies provided that the alternative is consistent with the Fund's investment objective and is in the best interest of the Fund. The Fund may determine that market conditions warrant investing in cash or cash equivalents, such as money market instruments, and to the extent permitted by applicable law and the Fund's investment restrictions, shares of other investment companies. Under such circumstances, the Fund may invest up to 100% of its assets in these investments.

[8] For purposes of this proposed rule change, ETPs include Investment Company Units (as described in NYSE Arca Equities Rule 5.2(j)(3)); Index-Linked Securities (as described in NYSE Arca Equities Rule 5.2(j)(6)); Portfolio Depositary Receipts (as described in NYSE Arca Equities Rule 8.100); 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); Trust Units (as described in NYSE Arca Equities Rule 8.500); Managed Fund Shares (as described in NYSE Arca Equities Rule 8.600). The ETPs all will be listed and traded in the U.S. on registered exchanges. While the Funds may invest in inverse ETPs, the Funds will not invest in leveraged or inverse leveraged ETPs (e.g., 2X or 3X).

through the purchase of U.S. and non-U.S. securities that the Sub-Adviser expects to generate dividend income for the Dividend Position. To participate in non-U.S. developed or emerging markets, the Dividend Position may invest in debt or equity securities, ADRs, participation notes, and other securities listed on U.S. or non-U.S. exchanges or U.S. securities traded over the counter. The Fund will invest only in foreign securities and ADRs that are traded on an exchange that is a member of the Intermarket Surveillance Group (''ISG'') or with which the Exchange has in place a comprehensive surveillance sharing agreement.

The Sub-Adviser expects to seek to participate in special dividend situations and engage in dividend capture trading. Special dividend situations may include those where issuers decide to return large cash balances to shareholders as one-time dividend payments.

The Fund expects to establish Short Positions, representing up to 30% of the Fund's principal investments, in securities selected by the Sub-Adviser for the purpose of hedging against country, currency, sector or other risk associated with the investments in the Dividend Position, in an attempt to establish, between the Dividend Position and the Short Positions, a market neutral position with respect to the countries and currency in which the Dividend Position is invested. The Fund may also invest in Short Positions in securities that the Sub-Adviser believes are likely to underperform the market or lose value in the near term. To implement the Short Positions, the Sub-Adviser expects to typically sell short a portfolio of equities, index- or sector-based ETF's, other investment companies, index- or sector-based futures contracts or other securities that trade on U.S. and non-U.S. exchanges.[9] According to the Registration Statement, the proceeds from the Short Positions (*i.e.,* cash received from selling securities short) will typically be used to fund the acquisition of the Fund's investments in the Dividend Position.

Although the Fund expects to invest not less than 80% of its assets as described above, the Fund has flexibility to invest in other types of securities when the Sub-Adviser believes they offer more attractive opportunities or to meet liquidity, redemption, and short term investing needs. The Fund may invest up to 20% of its assets in securities convertible into common stock. Convertible securities eligible for purchase by the Fund include convertible bonds, convertible preferred stocks, and warrants. The Fund will not invest directly in real estate, but may invest in readily marketable securities issued by companies that invest in real estate or interests therein. The Fund may also invest in readily marketable interests in real estate investment trusts.

Investment Limitations

The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), including Rule 144A securities deemed to be illiquid by the Sub-Adviser. 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 assets. Illiquid assets include assets subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.

The Fund may lend portfolio securities in an amount equal to up to 33% of its total assets to broker-dealers, major banks, or other recognized domestic institutional borrowers of securities that the Sub-Adviser has determined are creditworthy under guidelines established by the Board of Trustees. The Fund may not lend securities to any company affiliated with the Sub-Adviser. Each loan of securities will be collateralized by cash, securities, or letters of credit.

The Fund will not purchase the securities of issuers conducting their principal business activity in the same industry if, immediately after the purchase and as a result thereof, the value of the Fund's investments in that industry would equal or exceed 25% of the current value of the Fund's total assets, provided that this restriction does not limit the Fund's: (i) Investments in securities of other investment companies, (ii) investments in securities issued or guaranteed by the U.S. government, its agencies or instrumentalities, or (iii) investments in repurchase agreements collateralized by U.S. government securities.

The Fund will not invest in swaps, and no more than 10% of the net assets of the Fund will be invested in unsponsored ADRs. Additional information regarding the Fund; the Shares; the Fund's investment objective, strategies, methodology, and restrictions; the Adviser; the distributor; the administrator; the custodian; the transfer agent; risks; fees and expenses; creations and redemptions of Shares; availability of information; trading rules and halts; and surveillance procedures, among other things, can be found in the Notice and Registration Statement, as applicable.[10]

III. Discussion and Commission Findings

After careful review, the Commission finds that the Exchange's proposal to list and trade the Shares is consistent with the Exchange Act and the rules and regulations thereunder applicable to a national securities exchange.[11] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Exchange Act,[12] which requires, among other things, that the Exchange's rules be 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 a national market system, and, in general, to protect investors and the public interest. The Commission notes that the Fund and the Shares must comply with the requirements of NYSE Arca Equities Rule 8.600 to be listed and traded on the Exchange.

The Commission finds that the proposal to list and trade the Shares on the Exchange is consistent with Section 11A(a)(1)(C)(iii) of the Exchange Act,[13] which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities. Quotation and last-sale information for the Shares and any underlying ETPs, sponsored ADRs, and common stock will be available via the Consolidated Tape Association high-speed line, and price information for futures and non-exchange traded securities held by the Fund will be available from publicly-available pricing

[9] To participate in non-U.S. developed or emerging markets, the Fund may invest in ETFs, ADRs, futures contracts and other securities listed on U.S. or non-U.S. exchanges or traded over the counter that are intended to track the non-U.S. equity markets or market sectors in which the Sub-Adviser seeks exposure.

[10] *See supra* notes 4 and 5 respectively.

[11] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. *See* 15 U.S.C. 78c(f).

[12] 15 U.S.C. 78f(b)(5).

[13] 15 U.S.C. 78k–1(a)(1)(C)(iii).

sources, including Bloomberg, IDC, and Reuters. The Exchange will disseminate the Indicative Optimized Portfolio Value (''IOPV''), which is the Portfolio Indicative Value as defined in NYSE Arca Equities Rule 8.600(c)(3), at least every 15 seconds during the Core Trading Session through one or more major market data vendors.[14] The net asset value (''NAV'') of the Fund will be determined as of the close of the regular trading session on the Exchange (ordinarily 4:00 p.m., Eastern time) on each day that the Exchange is open. The Fund's Web site will include a form of the prospectus for the Fund and additional quantitative information updated on a daily basis, including, (1) 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 (''Bid/Ask Price''),[15] 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.[16] 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.[17] NYSE Arca expects that 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.[18]

Further, the Commission believes that the proposal to list and trade the Shares is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately and to prevent trading when a reasonable degree of transparency cannot be assured. The Fund will make available on its Web site on each business day before commencement of the Core Trading Session the Disclosed Portfolio, as defined in NYSE Arca Equities Rule 8.600(c)(2), that will form the basis for the Fund's calculation of NAV at the end of the business day.[19] The Commission notes that the Exchange will obtain a representation from the Fund 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.[20] In addition, a basket composition file, which will include the security names and share quantities required to be delivered in exchange for the Fund's Shares, together with estimates and actual cash components, will be publicly disseminated daily prior to the opening of the New York Stock Exchange via the National Securities Clearing Corporation.[21] The basket will represent one Creation Unit of Shares of the Fund. The Exchange will halt trading in the Shares under the specific circumstances set forth in NYSE Arca Equities Rule 8.600(d)(2)(D), and may halt trading in the Shares if trading is not occurring in the securities or financial instruments constituting the Disclosed Portfolio of the Fund, or if other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.[22] Further, if the IOPV is not being disseminated as required, the Exchange may halt trading during the day in which the interruption occurs; if the interruption persists past the day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption.[23] The Exchange will consider the suspension of trading in or removal from listing of the Shares if the IOPV is no longer calculated or available or the Disclosed Portfolio is not made available to all market participants at the same time.[24] Further, the Commission notes that the Reporting Authority that provides the Disclosed Portfolio must 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 portfolio.[25] The Exchange represents that the Adviser is affiliated with a broker-dealer and has implemented a fire wall with respect to such broker-dealer 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 the portfolio.[26] The Exchange has a general policy prohibiting the distribution of material, non-public information by its employees. Finally, the Exchange states that, on its behalf, the Financial Industry Regulatory Authority (''FINRA'') will communicate as needed with other markets that are members of the ISG regarding trading in the Shares and exchange-traded securities held by the Fund.[27]

The Exchange has represented that the Shares are equity securities subject to the Exchange's rules governing the trading of equity securities.[28] In support of this proposal, the Exchange has made representations, including:

(1) The Shares will conform to the initial and continuing listing criteria under NYSE Arca Equities Rule 8.600.

(2) The Exchange's surveillance 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.[29]

(3) FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares and exchange-traded securities held by the Fund with other markets that are members of the ISG and FINRA, on behalf of the Exchange, may obtain trading information regarding trading in the Shares and exchange-traded securities held by the Fund from such markets or

[14] *See* Notice, *supra* note 4, 78 FR at 66977. The IOPV calculations will be estimates of the value of the Fund's NAV per Share using market data converted into U.S. dollars at the current currency rates. The IOPV price will be based on quotes and closing prices from the securities' local market and may not reflect events that occur subsequent to the local market's close. The quotations of certain Fund holdings may not be updated during U.S. trading hours if such holdings do not trade in the United States. *See id.*

[15] 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. *See id.*

[16] *See id.*

[17] *See id.*

[18] *See id.*

[19] *See id.* On a daily basis, the Adviser will disclose for each portfolio security or other financial instrument of the Fund the following information on the Fund's Web site: ticker symbol (if applicable), name of security and financial instrument, number of shares or dollar value of 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. Under accounting procedures to be followed by the Fund, trades made on the prior business day (''T'') will be booked and reflected in NAV on the current business day (''T+1''). Accordingly, the Fund will be able to disclose at the beginning of the business day the portfolio that will form the basis for the NAV calculation at the end of the business day. *See id.*

[20] *See id.* at 66978.

[21] *See id.* at 66977.

[22] 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 a Fund. Trading in Shares of a Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached. Trading may also be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable.

[23] *See* NYSE Arca Equities Rule 8.600(d)(2)(D).

[24] *See* NYSE Arca Equities Rule 8.600(d)(2)(C)(ii).

[25] *See* NYSE Arca Equities Rule 8.600(d)(2)(B)(ii).

[26] *See supra* note 6 and accompanying text.

[27] *See* Notice, *supra* note 4, 78 FR at 66979.

[28] *See id.* at 66978.

[29] 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.

other entities. In addition, the Exchange may obtain information regarding trading in the Shares and exchange-traded securities held by the Fund from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.[30] The Fund will invest only in foreign securities and ADRs that are traded on an exchange that is a member of the ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

(4) The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions.

(5) Prior to the commencement of trading, the Exchange will inform its Equity Trading Permit Holders (''ETP Holders'') in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Information Bulletin will discuss the following: (a) The procedures for purchases and redemptions of Creation Unit Aggregations and that Shares are not individually redeemable; (b) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (c) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated IOPV will not be calculated or publicly disseminated; (d) how information regarding the IOPV is disseminated; (e) 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 (f) trading information.

(6) For initial and continued listing, the Fund will be in compliance with Rule 10A–3 under the Exchange Act,[31] as provided by NYSE Arca Equities Rule 5.3.[32]

(7) The Fund will not invest in swaps.

(8) The Fund's investments will be consistent with its investment objective and will not be used to enhance leverage.

(9) The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), including Rule 144A securities. 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 assets.

(10) A minimum of 100,000 Shares for the Fund will be outstanding at the commencement of trading on the Exchange.

This order is based on the Exchange's representations.

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with the Exchange Act.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,[33] that the proposed rule change (SR–NYSEArca–2013–111), be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[34]

Kevin M. O'Neill,

Deputy Secretary.

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[30] 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.

[31] 17 CFR 240.10A–3.

[32] *See* Notice, *supra* note 4, 78 FR at 66978.

[33] 15 U.S.C. 78s(b)(2).

[34] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71130; File No. SR–NYSEArca–2013–143]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Offer Partial Cabinets and Cabinet Upgrades As Part of Its Co-location Services and to Amend the NYSE Arca Options Fee Schedule and the NYSE Arca Equities Schedule of Fees and Charges for Exchange Services to Reflect the New Services

December 18, 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 December 12, 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 to offer partial cabinets and cabinet upgrades as part of its co-location services and to amend the NYSE Arca Options Fee Schedule (''Options Fee Schedule'') and the NYSE Arca Equities Schedule of Fees and Charges for Exchange Services (''Equities Fee Schedule'' and, together with the Options Fee Schedule, ''Fee Schedules'') to reflect the new services. The Exchange proposes to implement the fee change effective December 16, 2013. 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to offer partial cabinets and cabinet upgrades as part of its co-location services and to amend the Fee Schedules to reflect the new services.[4] The Exchange proposes to

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The Securities and Exchange Commission (''Commission'') initially approved the Exchange's co-location services in Securities Exchange Act Release No. 63275 (November 8, 2010), 75 FR 70048 (November 16, 2010) (SR–NYSEArca–2010–100) (the ''Original Co-location Approval''). The Exchange operates a data center in Mahwah, New Jersey (the ''data center'') from which it provides co-location services to Users. The Exchange's co-location services allow Users to rent space in the data center so they may locate their electronic servers in close physical proximity to the Exchange's trading and execution system. *See id.* at 70049.

implement the fee change effective December 16, 2013.

Partial Cabinets

A User is able to request a physical cabinet to house its servers and other equipment in the data center.[5] Currently, a User only has the option of receiving an entire cabinet that is dedicated solely to that User (''dedicated cabinet''). The Exchange proposes to expand its co-location services to offer a partial cabinet alternative (''partial cabinet''). Partial cabinets would be made available in increments of eight-rack units of space.[6] The Exchange would allocate each eight-rack unit up to two kilowatts (''kWs'') of power.[7] Consistent with existing pricing for dedicated cabinets, the Exchange would charge Users an initial fee and a monthly recurring fee for partial cabinets. The initial fee would be $2,500 per eight-rack unit. The monthly recurring fee would be $1,500 for one kW of allocated power and $2,700 for two kWs of allocated power.[8]

The Exchange is proposing this partial cabinet alternative in order to assist Users that do not need a dedicated cabinet in the data center, such as those Users with minimal power or cabinet space demands, including those Users for which the costs attendant with a dedicated cabinet are too burdensome. However, Users that do require a dedicated cabinet could continue to request them.[9] This proposed alternative would not impact current pricing for dedicated cabinets. The Exchange would amend the existing table in the Fee Schedules to reflect the pricing options.

Users that have several cabinets within the data center that wish to enhance privacy around their cabinets are able to purchase cages. Because more than one User could be using a partial cabinet, partial cabinets could not be located in a User's cage.

Initial Install Services Fee

In conjunction with the proposed offering of partial cabinets, the Exchange also proposes to charge a lower Initial Install Services fee for a partial cabinet. The proposed fee would be lower because the services required of the Exchange for the installation of an eight-rack unit in a partial cabinet would be less than the services required for the installation of a dedicated cabinet. The current Initial Install Services fee is $800 per dedicated cabinet, which includes initial racking of equipment in the dedicated cabinet and provision of up to 10 cables and four hours of labor. The Exchange proposes to charge a $400 Initial Install Services fee for an eight-rack unit in a partial cabinet, which would include initial racking of equipment and provision of up to five cables and two hours of labor.

Cabinet Upgrades

The Exchange makes dedicated cabinets available with standard power allocation of either four or eight kWs.[10] However, Users that require additional power allocation may prefer to maintain their hardware within a particular dedicated cabinet rather than add an additional dedicated cabinet. Specifically, Users may develop their hardware infrastructure within a particular dedicated cabinet in such a way that, if expansion of such hardware is needed, it can be accomplished within the space constraints of that particular dedicated cabinet. If this type of User requires additional power allocation, it would likely want to so modify its existing cabinet rather than taking an additional dedicated cabinet due to the expense of re-developing its infrastructure within such additional dedicated cabinet. A $5,000 initial dedicated cabinet fee would also apply if the User received an additional dedicated cabinet.

The Exchange proposes to offer a new ''Cabinet Upgrade'' alternative and related fee in order to accommodate requests for additional power allocation beyond the typical amount that the Exchange allocates per dedicated cabinet, at which point the Exchange must upgrade the cabinet's power

[5] For purposes of the Exchange's co-location services, the term ''User'' includes (i) ETP Holders and Sponsored Participants that are authorized to obtain access to the NYSE Arca Marketplace pursuant to NYSE Arca Equities Rule 7.29 (*see* NYSE Arca Equities Rule 1.1(yy)); (ii) OTP Holders, OTP Firms and Sponsored Participants that are authorized to obtain access to the NYSE Arca System pursuant to NYSE Arca Options Rule 6.2A (*see* NYSE Arca Options Rule 6.1A(a)(19)); and (iii) non-ETP Holder, non-OTP Holder and non-OTP Firm broker-dealers and vendors that request to receive co-location services directly from the Exchange. *See, e.g.,* Securities Exchange Act Release Nos. 65970 (December 15, 2011), 76 FR 79242 (December 21, 2011) (SR–NYSEArca–2011–74) and 65971 (December 15, 2011), 76 FR 79267 (December 21, 2011) (SR–NYSEArca–2011–75). As specified in the Fee Schedules, a User that incurs co-location fees for a particular co-location service pursuant thereto would not be subject to co-location fees for the same co-location service charged by the Exchange's affiliates NYSE MKT LLC and New York Stock Exchange LLC. *See* Securities Exchange Act Release No. 70173 (August 13, 2013), 78 FR 50459 (August 19, 2013) (SR–NYSEArca–2013–80).

[6] A full cabinet includes enough space for approximately four separate eight-rack units. The Exchange would submit a separate proposed rule change if it decided to change the manner in which space is allocated within a partial cabinet (e.g., six-rack units instead of eight-rack units).

[7] The Exchange would submit a separate proposed rule change if it decided to change the manner in which power is allocated to partial cabinets (e.g., more than two kWs of power allocated per eight-rack unit).

[8] The second kW would therefore cost $1,200. Power allocated to a User of a partial cabinet would be considered separate from power allocated to the same User if it also has dedicated cabinets in the data center.

[9] For purposes of comparison, if a User ordered a single eight-rack unit in a partial cabinet with two kWs of power allocation, such User would be charged $2,500 in initial cabinet fees (compared to $5,000 for a dedicated cabinet) and $2,700 in recurring monthly fees (compared to $4,800 for a dedicated cabinet with the minimum power allocation of four kWs) for total charges of $34,900 within the first year (compared to $62,600 for a dedicated cabinet). A partial cabinet would therefore be a more economical option. If a User ordered two separate eight-rack units in a partial cabinet with two kWs of power allocation each (four kWs total), such User would be charged $5,000 in initial cabinet fees (identical to the $5,000 for a dedicated cabinet) and $5,400 in recurring monthly fees (compared to $4,800 for a dedicated cabinet with the minimum power allocation of four kWs) for total charges of $69,800 within the first year (compared to $62,600 for a dedicated cabinet). A dedicated cabinet would therefore be a more economical option. Based on the proposed pricing, the Exchange believes that the partial cabinet option would be selected by Users with power demands of three kWs or less. If a User's power demands are four kWs or greater it would likely choose the dedicated cabinet option. Accordingly, if a User ordered two separate eight-rack units in a partial cabinet with two kWs of power allocation for one of the units and one kW of power allocation for the other unit (three kWs total), such User would be charged $5,000 in initial cabinet fees (identical to the $5,000 for a dedicated cabinet) and $4,200 in recurring monthly fees (compared to $4,800 for a dedicated cabinet with the minimum power allocation of four kWs) for total charges of $55,400 within the first year (compared to $62,600 for a dedicated cabinet). A fourth incremental kW would add an additional $14,400 in cost (i.e., $1,200 × 12), at which point a dedicated cabinet would be a more economical option.

[10] A User is generally able to determine an approximate amount of power that it will typically consume in its dedicated cabinet. A User would request either a four or eight kW dedicated cabinet based on its anticipated peak power consumption. A User's typical power consumption would be expected to be less than this anticipated peak power consumption, but could also rise above this anticipated peak power consumption during certain times of the day or certain periods of the month when equipment in the cabinet consumes additional power.

The Exchange allocates power in circuits with ''baseline'' capacity of either four or eight kWs. A circuit could trip when power consumption exceeds capacity. To avoid this, the Exchange allocates ''buffer'' capacity in addition to the baseline capacity. When combined, this ''total'' allocation is approximately 80% of the amount of power consumption that would trip a circuit. The ''total'' power capacity allocated to a four kW dedicated cabinet is slightly more than five kWs. The ''total'' power capacity allocated to an eight kW dedicated cabinet is between 10 and 11 kWs. The Exchange charges Users for the full baseline amount of power allocated to dedicated cabinets (i.e., either four or eight kWs) regardless of whether such allocated power is consumed and, if any of the buffer is used, for that power consumption as well on a per kW basis. For example, if a User consumes its four kWs of baseline allocation and a fraction of an additional kW, the Exchange would charge the User for five kWs total.

capacity. These Cabinet Upgrades typically entail overhauling wiring, circuitry and hardware for the dedicated cabinet so that it can handle the increased power. Cabinet Upgrades require additional Exchange resources beyond those covered under the initial dedicated cabinet fee or the Initial Install Services fee, including with respect to labor and equipment.

The Exchange proposes to charge a one-time Cabinet Upgrade fee of $9,200 when a User requests additional power allocation for its dedicated cabinet such that the Exchange must upgrade the dedicated cabinet's capacity. A Cabinet Upgrade would be required when power allocation demands exceed 11 kWs.[11] However, in order to incentivize Users to upgrade their dedicated cabinets, the Exchange proposes that the Cabinet Upgrade fee would be $4,600 for a User that submits a written order for a Cabinet Upgrade by January 31, 2014, provided that the Cabinet Upgrade becomes fully operational by March 31, 2014.

General

As is the case with all Exchange co-location arrangements, (i) neither a User nor any of the User's customers would be permitted to submit orders directly to the Exchange unless such User or customer is an ETP Holder, an OTP Holder or OTP Firm, a Sponsored Participant or an agent thereof (e.g., a service bureau providing order entry services); (ii) use of the co-location services proposed herein would be completely voluntary and available to all Users on a non-discriminatory basis; [12] and (iii) a User would only incur one charge for the particular co-location service described herein, regardless of whether the User connects only to the Exchange or to the Exchange and one or both of its affiliates.[13]

The proposed change is not otherwise intended to address any other issues relating to co-location services and/or related fees, and the Exchange is not aware of any problems that Users would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[14] in general, and furthers the objectives of Sections 6(b)(5) of the Act,[15] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposal is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. First, the proposed partial cabinets would make an alternative available to Users that do not need a dedicated cabinet in the data center, such as those Users with minimal power or cabinet space demands, including those Users for which the costs attendant with a dedicated cabinet are too burdensome. However, Users that do require a dedicated cabinet could continue to request them. Second, the proposed Cabinet Upgrades would make an alternative available to Users that have already invested in hardware infrastructure within a particular dedicated cabinet and that require additional power allocation, but do not want an additional dedicated cabinet due to the expense of re-developing infrastructure within such additional dedicated cabinet. The Exchange believes that the proposal would remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, protect investors and the public interest because it would provide Users with additional choices with respect to the optimal size of their cabinets and the number of cabinets they utilize, which could therefore lead to cost savings that Users may choose to pass on to their customers.

The Exchange also believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,[16] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers. Overall, the Exchange believes that the proposed change is consistent with the Act because the Exchange offers the co-location services described herein (i.e., the proposed partial cabinets and Cabinet Upgrades) as a convenience to Users, but in doing so will incur certain costs, including costs related to the data center facility, hardware and equipment and costs related to personnel required for initial installation and ongoing monitoring, support and maintenance of such services. Additionally, the proposed fees relate to the level of services provided by the Exchange and, in turn, received by the User.

The Exchange believes that the proposed pricing for partial cabinets is reasonable because a partial cabinet would be a more economical option for certain Users that require only limited power or limited cabinet space, as compared to pricing for a dedicated cabinet, whereas a dedicated cabinet would be a more economical option for certain Users that have higher power or space demands.[17] The proposed pricing for partial cabinets and the Cabinet Upgrade fee is also reasonable because it would allow Users to select options that are better suited for their needs (e.g., a dedicated cabinet compared to a partial cabinet and a Cabinet Upgrade compared to an additional dedicated cabinet).

The proposed pricing for partial cabinets is also reasonable because it is comparable to pricing for ''shared cabinet space'' available to users of co-location facilities of The NASDAQ Stock Market LLC (''NASDAQ'').[18] Specifically, NASDAQ charges $600 for 500 watts (''Ws'') of power allocation in shared cabinet space. If a NASDAQ co-location user were to request up to two kWs of allocated power in shared cabinet space it would be charged $2,400 per month (one kW is equal to 1,000 Ws and two kWs is therefore equal to 2,000 Ws), which is comparable to the proposed $2,700 monthly recurring charge for the same power allocation in an eight-rack unit in a

[11] A dedicated cabinet could be upgraded to accommodate a total allocation of up to approximately 20 kWs of power, after which a User would require an additional dedicated cabinet.

[12] As is currently the case, Users that receive co-location services from the Exchange will not receive any means of access to the Exchange's trading and execution systems that is separate from, or superior to, that of other Users. In this regard, all orders sent to the Exchange enter the Exchange's trading and execution systems through the same order gateway, regardless of whether the sender is co-located in the data center or not. In addition, co-located Users do not receive any market data or data service product that is not available to all Users, although Users that receive co-location services normally would expect reduced latencies in sending orders to, and receiving market data from, the Exchange.

[13] *See* SR–NYSEArca–2013–80, *supra* note 5 at 50459. The Exchange's affiliates have also submitted the same proposed rule change to provide for partial cabinets, Cabinet Upgrades and related fees. *See* SR–NYSEMKT–2013–103 and SR–NYSE–2013–81.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

[16] 15 U.S.C. 78f(b)(4).

[17] *See, e.g., supra* note 9.

[18] *See* NASDAQ Rule 7034.

partial cabinet in the data center. However, the Exchange understands that each unit of NASDAQ shared cabinet space is smaller in space than the partial cabinets proposed by the Exchange (e.g., four-rack units on NASDAQ compared to eight-rack units in the Exchange's data center).[19] The Exchange also believes that the proposed Initial Install Services fee for a partial cabinet is reasonable because it is 50% of the dedicated cabinet Initial Install Services fee and likewise provides for 50% of the resources (i.e., two hours of labor instead of four hours and five cables instead of 10 cables) associated with the dedicated cabinet Initial Install Services fee.

The Exchange also believes that the Cabinet Upgrade fee is reasonable because it would function similar to the NASDAQ charges for comparable services. In particular, NASDAQ charges a premium initial installation fee of $7,000 for a ''Super High Density Cabinet'' (between 10 kWs and 17.3 kWs) compared to $3,500 for other types of cabinets with less power.[20] The Exchange charges only one flat rate for its initial cabinet fees ($5,000), regardless of the amount of power allocation. NASDAQ also charges an additional $7,000 for a Super High Density Cabinet Kit in relation to the additional customized equipment required to adequately cool a Super High Density Cabinet.[21] The Exchange understands that NASDAQ therefore charges at least $10,500 in additional initial costs for a Super High Density Cabinet compared to other cabinets (compared to the proposed $9,200 Cabinet Upgrade fee). The Exchange also believes that the proposed Cabinet Upgrade fee is reasonable because it would permit the Exchange to recover its expenses related to Cabinet Upgrades.

The proposed 50% reduced Cabinet Upgrade fee for a User that submits a written order for a Cabinet Upgrade by January 31, 2014, provided that the Cabinet Upgrade becomes fully operational by March 31, 2014, is reasonable because it would provide an incentive for Users to upgrade the capacity of their dedicated cabinets.

As with fees for existing co-location services, the fees proposed herein would be charged only to those Users that voluntarily select the related services, which would be available to all Users. The Exchange therefore believes that the proposed change is equitable and not unfairly discriminatory because it would result in fees being charged only to Users that voluntarily select to receive the corresponding services and because those services would be available to all Users. Furthermore, the Exchange believes that the services and fees proposed herein are not unfairly discriminatory and are equitably allocated because, in addition to the services being completely voluntary, they are available to all Users on an equal basis (i.e., the same products and services are available to all Users).

For the reasons above, the proposed change would not unfairly discriminate between or among market participants that are otherwise capable of satisfying any applicable co-location fees, requirements, terms and conditions established from time to time by the Exchange.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[22] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because any market participants that are otherwise capable of satisfying any applicable co-location fees, requirements, terms and conditions established from time to time by the Exchange could have access to the co-location services provided in the data center. This is also true because, in addition to the services being completely voluntary, they are available to all Users on an equal basis (i.e., the same range of products and services are available to all Users).

The Exchange believes that the proposed partial cabinet and Cabinet Upgrade alternatives would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because they would enhance competition by making additional choices in services available to Users and thereby satisfy User demand for partial cabinets and for dedicated cabinets with increased power capacity. The proposed change would also enhance competition because it would help Users meet the growing needs of their business operations. Moreover, the Exchange believes that the proposed change would enhance competition between competing marketplaces by enabling the Exchange to provide services to Users that are similar to services available on other markets. In this regard, the Exchange notes that NASDAQ also makes a shared cabinet space option and a ''Super High Density Cabinet'' option available to users of its co-location facilities.[23]

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if, for example, they deem fee levels at a particular venue to be excessive or if they determine that another venue's products and services are more competitive than on the Exchange. In such an environment, the Exchange must continually review, and consider adjusting, the services it offers as well as any corresponding fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

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[24] and Rule 19b–4(f)(6) thereunder.[25] Because the foregoing proposed rule change does not: (1) Significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this filing, 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[26] and Rule 19b–4(f)(6) thereunder.[27]

[19] NASDAQ's initial fee for shared cabinet space is charged on an hourly basis and is therefore difficult to compare to the proposed initial fee for partial cabinets in the Exchange's data center, which is fixed.

[20] *See supra* note 18.

[21] *Id.*

[22] 15 U.S.C. 78f(b)(8).

[23] *See supra* note 18.

[24] 15 U.S.C. 78s(b)(3)(A)(iii).

[25] 17 CFR 240.19b–4(f)(6).

[26] 15 U.S.C. 78s(b)(3)(A).

[27] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its intent to file the proposed rule change, along with

A proposed rule change filed under Rule 19b–4(f)(6) [28] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[29] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange requested waiver of the 30-day operative delay in order to immediately implement the proposed rule change so that Users may experience the benefits of such proposed change as soon as possible. The Exchange stated that the proposal would merely make smaller increments of a standard, dedicated cabinet available on a voluntary basis to Users that do not require a full, dedicated cabinet. Users that do require full, dedicated cabinets could continue to request them. The Exchange also stated that the proposal would provide greater flexibility to Users that prefer to increase power allocation in a particular dedicated cabinet rather than incurring the cost of maintaining an additional dedicated cabinet. The Exchange further represented that it operates in a highly competitive market in which several competing exchanges already offer similar co-location services. For the above reasons, the Commission believes waiver of the operative delay is appropriate and hereby grants the Exchange's request and designates the proposal operative upon filing.[30]

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) [31] of the Act to determine whether the proposed rule change should be approved or disapproved.

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 met this requirement.

[28] 17 CFR 240.19b–4(f)(6).

[29] 17 CFR 240.19b–4(f)(6)(iii).

[30] 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).

[31] 15 U.S.C. 78s(b)(2)(B).

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–2013–143 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–2013–143. 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–2013–143 and should be submitted on or before January 14, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[32]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–30593 Filed 12–23–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

CompuSonics Video Corporation, Order of Suspension of Trading

December 20, 2013.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of CompuSonics Video Corporation because it has not filed any periodic reports since the period ended April 30, 2006.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company. Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed company is suspended for the period from 9:30 a.m. EST on December 20, 2013, through 11:59 p.m. EST on January 6, 2014.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2013–30796 Filed 12–20–13; 4:15 pm]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments

ACTION: 60-day notice and request for comments.

SUMMARY: The Small Business Administration (SBA) intends to request approval, from the Office of Management and Budget (OMB) for the collection of information described below. The Paperwork Reduction Act (PRA) of 1995, 44 U.S.C. Chapter 35 requires federal agencies to publish a notice in the **Federal Register** concerning each proposed collection of information before submission to OMB, and to allow 60 days for public comment in response to the notice. This notice complies with that requirement.

[32] 17 CFR 200.30–3(a)(12).

DATES: Submit comments on or before February 24, 2014.

ADDRESSES: Send all comments to Amy Garcia, Program Analyst, Office of Government Contracting, Small Business Administration, 409 3rd Street, 7th Floor, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Amy Garcia, Program Analyst, 202–205–6842, *amy.garcia@sba.gov*, or Curtis B. Rich, Management Analyst, 202–205–7030, *curtis.rich@sba.gov;*

SUPPLEMENTARY INFORMATION: This form is used by SBA Government Contracting Area Office for size protest and size determinations, and program offices to assist in determining eligibility for small business programs.

Title: Information for Small Business Size Determination

Description of Respondents: Size Standards Determination requirements for Small Business Eligible Companies.

SBA Form No: 355.

Total Estimated Annual Responses: 575.

Total Estimated Annual Hour Burden: 2,300.

Curtis Rich,

Management Analyst.

[FR Doc. 2013–30605 Filed 12–23–13; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments

ACTION: 60-day notice and request for comments

SUMMARY: The Small Business Administration (SBA) intends to request approval, from the Office of Management and Budget (OMB) for the collection of information described below. The Paperwork Reduction Act (PRA) of 1995, 44 U.S.C. Chapter 35 requires federal agencies to publish a notice in the **Federal Register** concerning each proposed collection of information before submission to OMB, and to allow 60 days for public comment in response to the notice. This notice complies with that requirement.

DATES: Submit comments on or before February 24, 2014.

ADDRESSES: Send all comments to Andrienne Johnson, Staff Assistant, Office of Administrator, Small Business Administration, 409 3rd Street, 7th Floor, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Andrienne Johnson, Staff Assistant, 202–205–6685, *andrienne.johnson@sba.gov*, or Curtis B. Rich, Management Analyst, 202–205–7030, *curtis.rich@sba.gov;*

SUPPLEMENTARY INFORMATION: This form is used to collect information from candidates for advisory councils. This form is needed to determine eligibility, potential conflict-of-interest and mailing data.

Title: U.S. Small Business Advisory Committee Membership—Nominee Information.

Description of Respondents: Candidates for Advisory Councils.

SBA Form No: 898.

Total Estimated Annual Responses: 100.

Total Estimated Annual Hour Burden: 100.

Curtis Rich,

Management Analyst.

[FR Doc. 2013–30602 Filed 12–23–13; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[License No. 01171–0406]

Ironwood Equity Fund, LP; Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that Ironwood Equity Fund, LP, 45 Nod Road, Avon, CT 06001, a Federal Licensee under the Small Business Investment Act of 1958, as amended (''the Act''), in connection with the financing of a small concern, has sought an exemption under Section 312 of the Act and Section 107.730, Financings which Constitute Conflicts of Interest of the Small Business Administration (''SBA'') Rules and Regulations (13 CFR 107.730). Ironwood Equity Fund, LP proposes to make a convertible debt investment in Action Environmental Group, Inc., a portfolio company of its Associate Ironwood Mezzan jne Fund II, LP.

The financing is brought within the purview of § 107.730(a) of the Regulations because Ironwood Equity Fund, LP proposes to Finance a small business in which its Associate Ironwood Mezzanine Fund II, LP has an equity interest of at least ten percent, so the transaction that will effect the proposed Financing requires prior SBA exemption.

Notice is hereby given that any interested person may submit written comments on the transaction, within fifteen days of the date of this publication, to the Associate Administrator for Investment, U.S. Small Business Administration, 409 Third Street SW., Washington, DC 20416.

December 18, 2013.

Javier Saade,

Associate Administrator for Investment and Innovation.

[FR Doc. 2013–30601 Filed 12–23–13; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

[License No. 05/05–0310]

Aldine Capital Fund II, L.P.; Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that Aldine Capital Fund II, L.P., 30 West Monroe Street, Suite 710, Chicago, IL 60603, a Federal Licensee under the Small Business Investment Act of 1958, as amended (''the Act''), in connection with the financing of a small concern, has sought an exemption under Section 312 of the Act and Section 107.730, Financings which Constitute Conflicts of Interest of the Small Business Administration (''SBA'') Rules and Regulations (13 CFR 107.730). Aldine Capital Fund II, L.P. proposes to provide debt and equity financing to Koontz-Wagner Maintenance Services, LLC., 3801 Voorde Drive, South Bend, IN 46628.

The financing is brought within the purview of § 107.730(a)(l) of the Regulations because Aldine SBIC Fund, L.P. is an Associate of Aldine Capital Fund II, L.P. and owns more than ten percent of Koontz-Wagner Maintenance Services, LLC. Therefore this transaction is considered a financing of an Associate requiring prior SBA exemption.

Notice is hereby given that any interested person may submit written comments on the transaction, within fifteen days of the date of this publication, to the Associate Administrator for Investment, U.S. Small Business Administration, 409 Third Street SW., Washington, DC 20416.

Dated: December 18, 2013.

Javier E. Saade,

Associate Administrator for Office of Investment and Innovation.

[FR Doc. 2013–30607 Filed 12–23–13; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[License No. 02/02–0663]

PennantPark SBIC II, LP; Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that PennantPark SBIC II, LP, 1590 Madison Avenue, 15th Floor, New York, NY 10022, a Federal Licensee under the Small Business Investment Act of 1958, as amended (''the Act''), in connection with the financing of a small concern, has sought an exemption under Section 312 of the Act and Section 107.730, Financings which Constitute Conflicts of Interest of the Small Business Administration (''SBA'') Rules and Regulations (13 CFR 107.730). PennantPark SBIC Il, LP proposes to provide debt financing to Randall-Reilly Publishing Company, LLC, 3200 Rice Mine Rd NE., Tuscaloosa, AL 35406.

The financing is brought within the purview of § 107.730(a)(4) of the Regulations because the proceeds will be used to discharge an obligation to PennantPark Investment Corporation, an Associate of PennantPark SBIC II, LP. Therefore this transaction requires prior SBA exemption.

Notice is hereby given that any interested person may submit written comments on the transaction, within fifteen days of the date of this publication, to the Associate Administrator for Investment, U.S. Small Business Administration, 409 Third Street SW., Washington, DC 20416.

Dated: December 18, 2013.

Javier E. Saade,

Associate Administrator for Office of Investment and Innovation.

[FR Doc. 2013–30598 Filed 12–23–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF STATE

[Public Notice 8568]

60-Day Notice of Proposed Information Collection: Nonimmigrant Visa Application

ACTION: Notice of request for public comment.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this notice is to allow 60 days for public comment preceding submission of the collection to OMB.

DATES: The Department will accept comments from the public up to *February 24, 2014.*

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

- *Web:* Persons with access to the Internet may use the Federal Docket Management System (FDMS) to comment on this notice by going to *www.Regulations.gov.* You can search for the document by entering ''Public Notice 8568'' in the Search bar. If necessary, use the Narrow by Agency filter option on the Results page.
- *Email: PRA_BurdenComments@state.gov.*

You must include the DS form number (if applicable), information collection title, and the OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Sydney Taylor, who may be reached at *PRA_BurdenComments@state.gov.*

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Nonimmigrant Visa Application
- *OMB Control Number:* 1405–0018
- *Type of Request:* Extension of Currently Approved Collection
- *Originating Office:* CA/VO/L/R
- *Form Number:* DS–156
- *Respondents:* All Nonimmigrant Visa Applicants
- *Estimated Number of Respondents:* 111,000
- *Estimated Number of Responses:* 111,000
- *Average Time Per Response:* 1 hour
- *Total Estimated Burden Time:* 111,000
- *Frequency:* Once per respondent
- *Obligation to Respond:* Required to Obtain or Retain a Benefit

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

Form DS–156 is required by regulation of all nonimmigrant visa applicants who do not use the Online Application for Nonimmigrant Visa (Form DS–160). Posts will use the DS–156 to elicit information necessary to determine an applicant's visa eligibility.

Methodology

The DS–156, Nonimmigrant Visa Application is available online at *https://evisaforms.state.gov/ds156.asp.* The applicant must fill out the form online and print out the 2–D Barcode. This form will only be used if applicants cannot access the DS–160, Electronic Application for Nonimmigrant Visa.

Dated: December 13, 2013.

Edward Ramotowski,

Deputy Assistant Secretary, Bureau of Consular Affairs, Department of State.

[FR Doc. 2013–30692 Filed 12–23–13; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

[Public Notice 8571]

Culturally Significant Object Imported for Exhibition Determinations: ''Love and Play: A Pair of Paintings by Fragonard—Toledo Museum of Art and Thyssen-Bornemisza Museum, Madrid, Works Reunited''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000, I hereby determine that the object to be included in the exhibition ''Love and Play: A Pair of Paintings by Fragonard—Toledo Museum of Art and Thyssen-Bornemisza Museum, Madrid, Works Reunited,'' imported from abroad for temporary exhibition within the United States, is of cultural significance. The object is imported pursuant to a loan agreement with the foreign owner or

custodian. I also determine that the exhibition or display of the exhibit object at the Toledo Museum of Art, Toledo, Ohio, from on or about January 24, 2014, until on or about May 4, 2014, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a description of the object, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6469). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: December 16, 2013.

Evan M. Ryan,

Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2013–30683 Filed 12–23–13; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 8570]

Culturally Significant Objects Imported for Exhibition Determinations: ''A Royal Passion: Queen Victoria and Photography''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000, I hereby determine that the objects to be included in the exhibition ''A Royal Passion: Queen Victoria and Photography,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the J. Paul Getty Museum, Los Angeles, California, from on or about February 4, 2014, until on or about June 8, 2014, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6469). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: December 16, 2013.

Evan Ryan,

Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2013–30687 Filed 12–23–13; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 8569]

Culturally Significant Objects Imported for Exhibition Determinations: ''Georges Braque: 1882–1963''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000, I hereby determine that the objects to be included in the exhibition, ''Georges Braque: 1882–1963,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Museum of Fine Arts, Houston, Houston, Texas, from on or about February 16, 2014, until on or about May 11, 2014, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6469). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: December 16, 2013.

Evan Ryan,

Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2013–30688 Filed 12–23–13; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 8572]

Shipping Coordinating Committee; Notice of Committee Meeting

The Shipping Coordinating Committee (SHC) will conduct an open meeting at 9:30 a.m. on Tuesday, January 21, 2014 in the Alexander Hamilton Room (AHR), 9th floor, of the United States Coast Guard (USCG) Personnel Service Center (PSC), 4200 Wilson Boulevard, Suite 1100, Arlington, VA 20598–7200. The primary purpose of the meeting is to prepare for the first Session of the International Maritime Organization's (IMO) Sub-Committee on Pollution Prevention and Response (PPR) to be held at the IMO Headquarters, United Kingdom, February 03–07, 2014.

The agenda items to be considered include:

—Adoption of the agenda
—Decisions of other IMO bodies
—Evaluation of safety and pollution hazards of liquid chemicals and preparation of consequential amendments to the IBC Code
—Development of a code for the transport and handling of limited amounts of hazardous and noxious liquid substances in bulk on offshore support vessels
—Additional guidelines for implementation of the BWM Convention
—Production of a manual entitled ''Ballast Water Management—How to do it''
—Improved and new technologies approved for ballast water management systems and reduction of atmospheric pollution
—Consideration of the impact on the Arctic of emissions of Black Carbon from international shipping
—Review of relevant non-mandatory instruments as a consequence of the amended MARPOL Annex VI and the NO_X Technical Code
—Implementation of the OPRC Convention and the OPRC–HNS Protocol and relevant Conference resolutions
—Consideration of IACS unified interpretations
—Casualty analysis
—Biennial agenda and provisional agenda for PPR 2
—Election of Chairman and Vice-Chairman for 2015
—Any other business
—Report to the Marine Environment Protection 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, Mr. Timothy Brown, by email at *timothy.m.brown@uscg.mil*, by phone at 202–372–2358, by fax at (202) 372–8383, or in writing at Commandant (CG–5PS), U.S. Coast Guard, 2703 Martin Luther King Jr. Ave. SE., Stop 7509, Washington, DC 20593–7509 not later than January 10, 2014, 7 days prior to the meeting. Requests made after January 10, 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 the building. The USCG Offices in the Ballston Commons Plaza are located above the Ballston Common Mall in Arlington, VA. It can be reached by driving and is conveniently located next to the Ballston Metro Station. Additional information regarding this and other IMO SHC public meetings may be found at: *www.uscg.mil/imo.*

Dated: December 17, 2013.

Marc Zlomek,

Executive Secretary, Shipping Coordinating Committee, Department of State.

[FR Doc. 2013–30675 Filed 12–23–13; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF STATE

[Public Notice 8573]

Shipping Coordinating Committee; Notice of Committee Meeting

The Shipping Coordinating Committee (SHC) will conduct an open meeting at 9:30 a.m. on Tuesday February 11, 2014, in Room 5 of the DOT Conference Center which is in the West building, 1200 New Jersey Ave. SE., Washington DC 20590. The primary purpose of the meeting is to prepare for the first Session of the International Maritime Organization's (IMO) Sub-Committee on Human Element, Training and Watchkeeping (HTW) to be held at the IMO Headquarters, United Kingdom, February 17–21, 2014.

The agenda items to be considered include:

—Decisions of other IMO bodies
—Validation of model training courses
—Unlawful practices associated with certificates of competency
—Development of guidance for the implementation of the 2010 Manila Amendments
—Follow-up action to the STCW–F Conference resolutions 6 and 7
—Development of guidelines for wing-in-ground craft
—Role of the human element
—Development of guidance for personnel involved with tug-barge operations
—Revision of guidance for model course development, updating and validation processes
—Development of a mandatory Code for ships operating in polar waters
—Review and modernization of the Global Maritime Distress and Safety System (GMDSS)
—Proposed review of STCW passenger ship specific safety training
—Training in hot work procedures on crude oil tankers
—Develop guidelines for shipowners and seafarers for proper implementation of relevant IMO instruments in relation to the carriage of dangerous goods in packaged form by sea
—Development of a globally-consistent format for the certificate of training and education issued under the STCW Convention
—Development of the International Code of safety for ships using gases or low flash-point fuels (IGF Code)

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, Mr. Davis J. Breyer, by email at *davis.j.breyer@uscg.mil*, by phone at (202) 372–1445, by fax at (202) 372–8283, or in writing at Commandant (CG–OES–1), U.S. Coast Guard Stop 7509, 2703 Martin Luther King Jr. Ave. SE., Washington, DC 20593–7509 not later than February 4, 2014, 7 days prior to the meeting. Requests made after February 4, 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 the DOT Conference Center. The building is accessible by taxi and public transportation. However, parking in the vicinity of the building is extremely limited. Additional information regarding this and other IMO SHC public meetings may be found at: *www.uscg.mil/imo.*

Dated: December 17, 2013.

Marc Zlomek,

Executive Secretary, Shipping Coordinating Committee, Department of State.

[FR Doc. 2013–30673 Filed 12–23–13; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 8567]

In the Matter of the Designation of Usamah Amin al-Shihabi Also Known as Abu Dajanah Also Known as Ossama Amin al-Shouhabi Also Known as Usama Amin al-Shihabi Also Known as Abu Abdallah as a Specially Designated Global Terrorist Pursuant to Section 1(b) of Executive Order 13224, as Amended.

Acting under the authority of and in accordance with section 1(b) of Executive Order 13224 of September 23, 2001, as amended by Executive Order 13268 of July 2, 2002, and Executive Order 13284 of January 23, 2003, I hereby determine that the individual known as Usamah Amin al-Shihabi, also known as Abu Dajanah, also known as Ossama Amin al-Shouhabi, also known as Usama Amin al-Shihabi, committed, or poses a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States.

Consistent with the determination in Section 10 of Executive Order 13224 that ''prior notice to persons determined to be subject to the Order who might have a constitutional presence in the United States would render ineffectual the blocking and other measures authorized in the Order because of the ability to transfer funds instantaneously,'' I determine that no prior notice needs to be provided to any person subject to this determination who might have a constitutional presence in the United States, because to do so would render ineffectual the measures authorized in the Order.

This notice shall be published in the **Federal Register**.

Dated: December 17, 2013.

John F. Kerry,

Secretary of State.

[FR Doc. 2013–30678 Filed 12–23–13; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

Sunshine Act Meetings; Unified Carrier Registration Plan Board of Directors

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of Unified Carrier Registration Plan Board of Directors meeting.

TIME AND DATE: The meeting will be held on January 16, 2014, from 12 noon to 3 p.m., Eastern Standard Time.

PLACE: This meeting will be open to the public via conference call. Any interested person may call 1–877–442–1931, passcode, 2855443940 to listen and participate in this meeting.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: The Unified Carrier Registration Plan Board of Directors (the Board) will continue its work in developing and implementing the Unified Carrier Registration Plan and Agreement and to that end, may consider matters properly before the Board.

FOR FURTHER INFORMATION CONTACT: Mr. Avelino Gutierrez, Chair, Unified Carrier Registration Board of Directors at (505) 827–4565.

Issued on: December 20, 2013.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2013–30846 Filed 12–20–13; 4:15 pm]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2006–25854; FMCSA–2013–0107; FMCSA–2013–0108]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to grant requests from seven individuals for exemptions from the regulatory requirement that interstate commercial motor vehicle (CMV) drivers have ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.'' The regulation and the associated advisory criteria published in the Code of Federal Regulations as the ''Instructions for Performing and Recording Physical Examinations'' have resulted in numerous drivers being prohibited from operating CMVs in interstate commerce based on the fact that they have had one or more seizures and are taking anti-seizure medication, rather than an individual analysis of their circumstances by a qualified medical examiner. The Agency concluded that granting exemptions for these CMV drivers will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions. FMCSA grants exemptions that will allow these seven individuals to operate CMVs in interstate commerce for a 2-year period. The exemptions preempt State laws and regulations and may be renewed.

DATES: The exemptions are effective December 24, 2013. The exemptions expire on December 24, 2015.

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Division Chief, Physical Qualifications, Office of Medical Programs, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

A. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Privacy Act: Anyone may search the electronic form of all comments received into any of DOT's dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, or other entity). You may review DOT's complete Privacy Act Statement in the **Federal Register** (73 FR 3316, January 17, 2008). This statement is also available at *http://Docketinfo.dot.gov.*

B. Background

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the safety regulations for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period.

FMCSA grants seven individuals an exemption from the regulatory requirement in § 391.41(b)(8), to allow these individuals who take anti-seizure medication to operate CMVs in interstate commerce for a 2-year period. The Agency's decision on these exemption applications is based on an individualized assessment of each applicant's medical information, including the root cause of the respective seizure(s), the length of time elapsed since the individual's last seizure, and each individual's treatment regimen. In addition, the Agency reviewed each applicant's driving record found in the Commercial Driver's License Information System (CDLIS) [1] for commercial driver's license (CDL) holders, and interstate and intrastate inspections recorded in Motor Carrier Management Information System (MCMIS).[2] For non-CDL holders, the Agency reviewed the driving records from the State licensing agency. The Agency acknowledges the potential consequences of a driver experiencing a seizure while operating a CMV. However, the Agency believes the drivers covered by the exemptions granted here have demonstrated that they are unlikely to have a seizure and their medical condition does not pose a risk to public safety.

In reaching the decision to grant these exemption requests, the Agency considered both current medical literature and information and the 2007 recommendations of the Agency's Medical Expert Panel (MEP). The Agency previously gathered evidence for potential changes to the regulation at 49 CFR 391.41(b)(8) by conducting a comprehensive review of scientific literature that was compiled into the ''*Evidence Report on Seizure Disorders and Commercial Vehicle Driving*'' (*Evidence Report*) [CD–ROM HD TL230.3 .E95 2007]. The Agency then convened a panel of medical experts in the field of neurology (the MEP) on May 14–15, 2007, to review 49 CFR 391.41(b)(8) and the advisory criteria regarding individuals who have experienced a seizure, and the 2007 *Evidence Report.* The *Evidence Report* and the MEP recommendations are published on-line at *http://www.fmcsa.dot.gov/rules-regulations/topics/mep/mep-reports.htm,* under Seizure Disorders, and are in the docket for this notice.

[1] *Commercial Driver License Information System* (CDLIS) is an information system that allows the exchange of commercial driver licensing information among all the States. CDLIS includes the databases of fifty-one licensing jurisdictions and the CDLIS Central Site, all connected by a telecommunications network.

[2] *Motor Carrier Management Information System* (MCMIS) is an information system that captures data from field offices through SAFETYNET, CAPRI, and other sources. It is a source for FMCSA inspection, crash, compliance review, safety audit, and registration data.

MEP Criteria for Evaluation

On October 15, 2007, the MEP issued the following recommended criteria for evaluating whether an individual with epilepsy or a seizure disorder should be allowed to operate a CMV.[3] The MEP recommendations are included in previously published dockets.

Epilepsy diagnosis. If there is an *epilepsy diagnosis,* the applicant should be seizure-free for *8 years, on or off medication.* If the individual is taking anti-seizure medication(s), the plan for medication should be stable for *2 years.* Stable means no changes in medication, dosage, or frequency of medication administration. Recertification for drivers with an epilepsy diagnosis should be performed every year.

Single unprovoked seizure. If there is a *single unprovoked seizure* (i.e., there is no known trigger for the seizure), the individual should be seizure-free for *4 years, on or off medication.* If the individual is taking anti-seizure medication(s), the plan for medication should be stable for *2 years.* Stable means no changes in medication, dosage, or frequency of medication administration. Recertification for drivers with a single unprovoked seizure should be performed every 2 years.

Single provoked seizure. If there is a *single provoked seizure* (i.e., there is a known reason for the seizure), the Agency should consider specific criteria that fall into the following two categories: low-risk factors for recurrence and moderate-to-high risk factors for recurrence.

- *Examples of low-risk factors for recurrence* include seizures that were caused by a medication; by non-penetrating head injury with loss of consciousness less than or equal to 30 minutes; by a brief loss of consciousness not likely to recur while driving; by metabolic derangement not likely to recur; and by alcohol or illicit drug withdrawal.
- *Examples of moderate-to-high-risk factors for recurrence* include seizures caused by non-penetrating head injury with loss of consciousness or amnesia greater than 30 minutes, or penetrating head injury; intracerebral hemorrhage associated with a stroke or trauma; infections; intracranial hemorrhage; post-operative complications from brain surgery with significant brain hemorrhage; brain tumor; or stroke.

The MEP report indicates individuals with moderate to high-risk conditions should not be certified. Drivers with a history of a single provoked seizure with low risk factors for recurrence should be recertified every year.

Medical Review Board Recommendations and Agency Decision

FMCSA presented the MEP's findings and the *Evidence Report* to the Medical Review Board (MRB) for consideration. The MRB reviewed and considered the 2007 ''Seizure Disorders and Commercial Driver Safety'' evidence report and the 2007 MEP recommendations. The MRB recommended maintaining the current advisory criteria, which provide that ''drivers with a history of epilepsy/seizures off anti-seizure medication and seizure-free for 10 years may be qualified to drive a CMV in interstate commerce. Interstate drivers with a history of a single unprovoked seizure may be qualified to drive a CMV in interstate commerce if seizure-free and off anti-seizure medication for a 5 year period or more'' [Advisory criteria to 49 CFR 391.43(f)].

The Agency acknowledges the MRB's position on the issue but believes relevant current medical evidence supports a less conservative approach. The medical advisory criteria for epilepsy and other seizure or loss of consciousness episodes was based on the 1988 ''Conference on Neurological Disorders and Commercial Drivers'' (NITS Accession No. PB89–158950/AS). A copy of the report can be found in the docket referenced in this notice.

The MRB's recommendation treats all drivers who have experienced a seizure the same, regardless of individual medical conditions and circumstances. In addition, the recommendation to continue prohibiting drivers who are taking anti-seizure medication from operating a CMV in interstate commerce does not consider a driver's actual seizure history and time since the last seizure. The Agency has decided to use the 2007 MEP recommendations as the basis for evaluating applications for an exemption from the seizure regulation on an individual, case-by-case basis.

C. Exemptions

Following individualized assessments of the exemption applications, including a review of detailed follow-up information requested from each applicant, FMCSA is granting exemptions from 49 CFR 391.41(b)(8) to seven individuals. Under current FMCSA regulations, all of the seven drivers receiving exemptions from 49 CFR 391.41(b)(8) would have been considered physically qualified to drive a CMV in interstate commerce except that they presently take or have recently stopped taking anti-seizure medication. For these seven drivers, the primary obstacle to medical qualification was the FMCSA Advisory Criteria for Medical Examiners, based on the 1988 ''Conference on Neurological Disorders and Commercial Drivers,'' stating that a driver should be off anti-seizure medication in order to drive in interstate commerce. In fact, the Advisory Criteria have little if anything to do with the actual risk of a seizure and more to do with assumptions about individuals who are taking anti-seizure medication.

In addition to evaluating the medical status of each applicant, FMCSA evaluated the crash and violation data for the seven drivers, some of whom currently drive a CMV in intrastate commerce. The CDLIS and MCMIS were searched for crash and violation data on the seven applicants. For non-CDL holders, the Agency reviewed the driving records from the State licensing agency.

These exemptions are contingent on the driver maintaining a stable treatment regimen and remaining seizure-free during the 2-year exemption period. The exempted drivers must submit annual reports from their treating physicians attesting to the stability of treatment and that the driver has remained seizure-free. The driver must undergo an annual medical examination by a medical examiner, as defined by 49 CFR 390.5, following the FCMSA's regulations for the physical qualifications for CMV drivers.

FMCSA published a notice of receipt of application and requested public comment during a 30-day public comment period in a **Federal Register** notice for each of the applicants. A short summary of the applicants' qualifications and a discussion of the comments received follows this section. For applicants who were denied an exemption, a notice will be published at a later date.

D. Comments

Docket # FMCSA–2006–25854

On August 9, 2007, FMCSA published a notice of receipt of exemption applications and requested public comments on nine individuals (72 FR 44916). The comment period ended on September 10, 2007. Five commenters responded to the **Federal Register** Notice. A discussion of these comments and a decision was made on four applicants in (72 FR 3069). FMCSA has determined that one of these applicants

[3] Engel, J., Fisher, R.S., Krauss, G.L., Krumholz, A., and Quigg, M.S., ''Expert Panel Recommendations: Seizure Disorders and Commercial Motor Vehicle Driver Safety,'' FMCSA, October 15, 2007.

should be granted an exemption. The Agency will issue a decision on the other drivers at a later date.

Docket # FMCSA–2013–0107

On July 12, 2013, FMCSA published a notice of receipt of exemption applications and requested public comment on nine individuals (78 FR 41988). The comment period ended on August 12, 2013. Seven commenters responded to the **Federal Register** notice. All commenters support the idea of granting an exemption. FMCSA has determined that one of these applicants should be granted an exemption. The Agency will issue a decision on the other drivers at a later date.

Docket # FMCSA–2013–0108

On September 16, 2013, FMCSA published a notice of receipt of exemption applications and requested public comment on six individuals (78 FR 56984). The comment period ended on October 16, 2013. One commenter responded to the **Federal Register** notice. This commenter expressed his safety concerns about permitting drivers with a history of seizure to drive commercially, and stated it does not make sense to allow these drivers to drive 80,000 lb. trucks up and down our highways.

FMCSA Response: The Agency believes that evaluating each individual's medical history on a case-by-case basis and investigating the past driving/violation record ensures an acceptable level of safety for a driver who has not experienced a seizure for an extended period of time. Drivers, who have been seizure-free, on or off medication for at least four years, pose a minimal risk to public safety. The Agency considered the 2007 Evidence Report and the 2007 MEP recommendations to determine the driver's level of risk for recurrence of seizure. The Agency believes this data and information addresses this commenter's concerns.

FMCSA has determined that five of these applicants should be granted an exemption. The Agency will issue a decision on the other driver at a later date.

Stephen Amell, Sr.

Mr. Amell is a 55 year-old driver in Vermont. He has a history of a single seizure in 2004 and has remained seizure free since that time. He takes anti-seizure medication with the dosage and frequency remaining the same for six years. If granted the exemption, he would like to drive a CMV. His physician states that he is supportive of Mr. Amell receiving an exemption.

Erik Fleiner

Mr. Fleiner is a 25 year-old class A commercial driver's license holder in Nevada. He has a history of seizures and has remained seizure free for at least 10 years. He takes anti-seizure medication with the dosage and frequency remaining the same for 10 years. If granted the exemption, he would like to continue to drive a CMV. His physician states that he is supportive of Mr. Fleiner receiving an exemption.

Gary Freeman

Mr. Freeman is a 48 year-old class A commercial driver's license holder in Wisconsin. He has a history of seizures and has remained seizure free for at least 10 years. He takes anti-seizure medication with the dosage and frequency remaining the same for over seven years. His physician states that he is supportive of Mr. Freeman receiving an exemption.

Aaron Gillette

Mr. Gillette is a 42 year-old driver in South Dakota. He has a history of epilepsy and has remained seizure free for over eight years. He takes anti-seizure medication with the dosage and frequency remaining the same for seven years. His physician states that he is supportive of Mr. Gillette receiving an exemption.

David Kestner

Mr. Kestner is a 28 year-old driver in Virginia. He has a history of epilepsy and has remained seizure free for nine years. He takes anti-seizure medication with the dosage and frequency remaining the same for five years. His physician states that he is supportive of Mr. Kestner receiving an exemption.

Michael Kramer

Mr. Kramer is a 46 year-old driver in Kansas. He had a seizure due to a brain tumor which was removed in 2009. He has remained seizure-free since that time. He does not require anti-seizure medication. His physician is supportive of Mr. Kramer receiving an exemption.

Chad Smith

Mr. Smith is a 36 year-old driver in Massachusetts. He has a history of seizures and has remained seizure free for at least 15 years. He takes anti-seizure medication with the dosage and frequency remaining the same for six years. His physician states that he is supportive of Mr. Smith receiving an exemption.

E. Basis For Exemption

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the epilepsy/seizure standard in 49 CFR 391.41(b)(8) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, the Agency's analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting each of these drivers to drive in interstate commerce as opposed to restricting the driver to driving in intrastate commerce.

Conclusion

The Agency is granting exemptions from the epilepsy standard, 49 CFR 391.41(b)(8), to seven individuals based on a thorough evaluation of each driver's qualifications, safety experience, and medical condition. Safety analysis of information relating to these seven applicants meets the burden of showing that granting the exemptions would achieve a level of safety that is equivalent to or greater than the level that would be achieved without the exemption. By granting the exemptions, the interstate CMV industry will gain seven highly trained and experienced drivers. In accordance with 49 U.S.C. 31315(b)(1), each exemption will be valid for 2 years, with annual recertification required unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) the person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

FMCSA exempts the following seven drivers from the prohibition of CMV operations by persons with a clinical diagnosis of epilepsy or seizures for a period of 2 years with annual medical certification required: Stephen Amell, Sr. (VT); Erik Fleiner (NV); Gary Freeman (WI); Aaron Gillette (SD); David Kestner (VA); Michael Kramer (KS); and Chad Smith (MA). If the exemption is still in effect at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: December 16, 2013.

Anne S. Ferro,

Administrator.

[FR Doc. 2013–30662 Filed 12–23–13; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA–2013–0171]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of denials.

SUMMARY: FMCSA announces its denial of 91 applications from individuals who requested an exemption from the Federal vision standard applicable to interstate truck and bus drivers and the reasons for the denials. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions. The Agency has concluded that granting these individuals an exemption would not achieve the required level of safety.

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, 202–366–4001, U.S. Department of Transportation, FMCSA, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal vision standard for a renewable 2-year period if it finds ''such an exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such an exemption.'' The procedures for requesting an exemption are set forth in 49 CFR part 381.

Accordingly, FMCSA evaluated 91 individual exemption requests on their merit and made a determination that these applicants do not satisfy the criteria eligibility or meet the terms and conditions of the Federal exemption program. Each applicant has, prior to this notice, received a letter of final disposition on the exemption request. Those decision letters fully outlined the basis for the denial and constitute final Agency action. The list published in this notice summarizes the Agency's recent denials as required under 49 U.S.C. 31315(b)(4) by periodically publishing names and reasons for denial.

The following 15 applicants had no experience operating a CMV:

Daniel S. Billig
Christopher Delo
Alan Dorantes
Deborah S. Ford
Rebecca L. Jenson
Christopher M. Kelly
Alex M. Long
Charles McDonald
Kenneth C. Mead
Abdelkhaleq R. Muhammad
Eduardo Nunez
Michael J. Sawlville
Richard Seidel
Kyle Smith
Kirk C. Ward

The following 23 applicants did not have 3 years of experience driving a CMV on public highways with their vision deficiencies:

Gordon T. Anderson
Amanuel W. Behon
John Bertelle
Devon W. Bivens
Vernie W. Bochmann
Larry Brown
Larry E. Carter
Eric Cherry
Donald Darling
David Dibbs
Everett H. Fuller
Tom Gibson
Joshua A. Holcombe
Christopher A. Johnson
Thomas R. Lease
Collin C. Longacre
Jason McKinney
Michael L. Mueting
Steven D. Nelson
Steven S. Smith, Jr.
Kyle L. Souza
Kyle M. Wallace
Ricky W. Woods

The following 3 applicants did not have 3 years of recent experience driving a CMV with the vision deficiency:

Roy Duncan
Edmond Harold
John M. Munroe

The following applicant, Dawson Smith, did not have sufficient driving experience during the past 3 years under normal highway operating conditions.

The following 2 applicants had their commercial driver's license suspended during the 3-year review period for moving violations. Applicants do not qualify for an exemption with a suspension during the 3-year period:

Buck J. Barney
Charles R. Edwards

The following applicant, Victor A. Jorge, did not have verifiable proof of commercial driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

The following applicant, James C. Reed, Jr., was unable to obtain a statement from an optometrist or ophthalmologist stating that he was able to operate a commercial vehicle from a vision standpoint.

The following 15 applicants were denied for miscellaneous/multiple reasons:

Anthony Bartel
Ricky A. Bruens
DeAndre Bryan
Robert S. Buckwalter
John R. Freeman
George H. Harrison
Tim Hollenback
Darrel J. Karpowicz
Jason S. Klepp
Mark H. Schneewind
Brian R. Smith
Glenn Snowberger
Drake M. Vendsel
James E. Wilkes, III
Willard C. Wilson

The following applicant, Don R. Alexander, was denied because he never submitted the required documents.

The following 11 applicants met the current federal vision standards. Exemptions are not required for applicants who meet the current regulations for vision:

Bryan L. Adkins
Charles J. Clay, Jr.
Michael W. Doig
Jonathan E. Edwards
Shane B. Henninger
Kevin Hesson
Aldric L. Jones
Fernando Polanco
Francisca M. Rhodes
Ronald F. Simpson
Russel P. Worl

The following 12 applicants were denied because they will not be driving interstate, interstate commerce, or not required to carry a DOT medical card:

Pasco Anderson
Steven K. Bain
William C. Braaten
Stanley Chaskey
Keith Dowty
Richard B. Grove
Richard Hazelwood
Wilton F. Marine
James B. McCullough
Gary D. Morgan
Michael Nishida-Llanes
Dennis C. Welpe

Finally, the following 6 applicants perform transportation for the federal government, state, or any political sub-division of the state.

Michael Newhouse
Donald C. Schmitt
Ronnie L. Pruitt
Denish L. McQueen
Jimmy J. Thornton
Sharon McDaniel

Issued on: December 16, 2013.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2013–30720 Filed 12–23–13; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2013–0169]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 48 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs). They are unable to meet the vision requirement in one eye for various reasons. The exemptions will enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision requirement in one eye. The Agency has concluded that granting these exemptions will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these CMV drivers.

DATES: The exemptions are effective December 24, 2013. The exemptions expire on December 24, 2015.

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, (202)–366–4001, *fmcsamedical@dot.gov*, FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at *http://www.regulations.gov*.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgement that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

Background

On October 28, 2013, FMCSA published a notice of receipt of exemption applications from certain individuals, and requested comments from the public (78 FR 64274). That notice listed 48 applicants' case histories. The 48 individuals applied for exemptions from the vision requirement in 49 CFR 391.41(b)(10), for drivers who operate CMVs in interstate commerce.

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. Accordingly, FMCSA has evaluated the 48 applications on their merits and made a determination to grant exemptions to each of them.

Vision and Driving Experience of the Applicants

The vision requirement in the FMCSRs provides:

A person is physically qualified to drive a commercial motor vehicle if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of a least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing requirement red, green, and amber (49 CFR 391.41(b)(10)).

FMCSA recognizes that some drivers do not meet the vision requirement but have adapted their driving to accommodate their vision limitation and demonstrated their ability to drive safely. The 48 exemption applicants listed in this notice are in this category. They are unable to meet the vision requirement in one eye for various reasons, including complete loss of vision, anophthalmos, amblyopia, anisometropic amblyopia, penetration trauma, refractive amblyopia, enucleation, exotropia, prosthetic eye, corneal scar, retinal damage, macular scar, esotropia, macular hole, visual acuity loss, cataract, chronic angle closure glaucoma, central retinal artery occlusion, and idiopathic ischemic event. In most cases, their eye conditions were not recently developed. Thirty-three of the applicants were either born with their vision impairments or have had them since childhood.

The fifteen individuals that sustained their vision conditions as adults have had it for a period of 3 to 32 years.

Although each applicant has one eye which does not meet the vision requirement in 49 CFR 391.41(b)(10), each has at least 20/40 corrected vision in the other eye, and in a doctor's opinion, has sufficient vision to perform all the tasks necessary to operate a CMV. Doctors' opinions are supported by the applicants' possession of valid commercial driver's licenses (CDLs) or non-CDLs to operate CMVs. Before issuing CDLs, States subject drivers to knowledge and skills tests designed to evaluate their qualifications to operate a CMV.

All of these applicants satisfied the testing requirements for their State of residence. By meeting State licensing requirements, the applicants demonstrated their ability to operate a CMV, with their limited vision, to the satisfaction of the State.

While possessing a valid CDL or non-CDL, these 48 drivers have been authorized to drive a CMV in intrastate commerce, even though their vision disqualified them from driving in interstate commerce. They have driven CMVs with their limited vision of careers ranging from 3 to 50 years. In the past 3 years, two of the drivers were involved in crashes and three were convicted for moving violations in a CMV.

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the October 28, 2013 notice (78 FR 64274).

Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the vision requirement in 49 CFR 391.41(b)(10) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, our analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting each of these drivers to drive in interstate commerce as opposed to restricting him or her to driving in intrastate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered the medical reports about the applicants' vision as well as their driving records and experience with the vision deficiency.

To qualify for an exemption from the vision requirement, FMCSA requires a person to present verifiable evidence that he/she has driven a commercial vehicle safely with the vision deficiency for the past 3 years. Recent driving performance is especially important in evaluating future safety, according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of crashes and traffic violations. Copies of the studies may be found at Docket Number FMCSA–1998–3637.

We believe we can properly apply the principle to monocular drivers, because data from the Federal Highway Administration's (FHWA) former waiver study program clearly demonstrate the driving performance of experienced monocular drivers in the program is better than that of all CMV drivers collectively (See 61 FR 13338, 13345, March 26, 1996). The fact that experienced monocular drivers demonstrated safe driving records in the waiver program supports a conclusion that other monocular drivers, meeting the same qualifying conditions as those required by the waiver program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that crash rates for the same individual exposed to certain risks for two different time periods vary only slightly (See Bates and Neyman, University of California Publications in Statistics, April 1952). Other studies demonstrated theories of predicting crash proneness from crash history coupled with other factors. These factors—such as age, sex, geographic location, mileage driven and conviction history—are used every day by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future crashes (See Weber, Donald C., ''Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process,'' Journal of American Statistical Association, June 1971). A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall crash predictor for both concurrent and nonconcurrent events is the number of single convictions. This study used 3 consecutive years of data, comparing the experiences of drivers in the first 2 years with their experiences in the final year.

Applying principles from these studies to the past 3-year record of the 48 applicants, two of the drivers were involved in crashes and three were convicted of moving violations in a CMV. All the applicants achieved a record of safety while driving with their vision impairment, demonstrating the likelihood that they have adapted their driving skills to accommodate their condition. As the applicants' ample driving histories with their vision deficiencies are good predictors of future performance, FMCSA concludes their ability to drive safely can be projected into the future.

We believe that the applicants' intrastate driving experience and history provide an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian and vehicular traffic than exists on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances between them are more compact. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions. The veteran drivers in this proceeding have operated CMVs safely under those conditions for at least 3 years, most for much longer. Their experience and driving records lead us to believe that each applicant is capable of operating in interstate commerce as safely as he/she has been performing in intrastate commerce. Consequently, FMCSA finds that exempting these applicants from the vision requirement in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption. For this reason, the Agency is granting the exemptions for the 2-year period allowed by 49 U.S.C. 31136(e) and 31315 to the 48 applicants listed in the notice of October 28, 2013 (78 FR 64274).

We recognize that the vision of an applicant may change and affect his/her ability to operate a CMV as safely as in the past. As a condition of the exemption, therefore, FMCSA will impose requirements on the 48 individuals consistent with the grandfathering provisions applied to drivers who participated in the Agency's vision waiver program.

Those requirements are found at 49 CFR 391.64(b) and include the following: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirement in 49 CFR 391.41(b)(10) and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

Discussion of Comments

FMCSA received one comment in this proceeding.

Conclusion

Based upon its evaluation of the 48 exemption applications, FMCSA exempts Lawrence A. Angle (MO), Alois K. Asche (IN), John P. Bails (IA), Craig J. Belles (NY), John E. Bellosi, Jr. (MD), Thomas A. Black (MO), Eugene R. Briggs (MI), Matthew S. Burns (OH), Ryan J. Burnworth (MO), Dennis W. Burrage II (OR), Freddie A. Carrasquillo (TX), Luis Castelleon-Berrios (NY), Michael D. Champion (VT), Kevin J. Cobb (PA), Walter F. Crean III (CT), Lee A. DeHaan (SD), Vincent DeMedici (PA), Bradley R. Dishman (KY), Christopher T. Faber (FL), Frederick E. Foster (VA), Gregory K. Frazier (GA), John E. Gannon, Jr. (NV), Thomas G.

Gholston (MS), Thomas J. Grant (MI), Donald Latozke (ND), Michael R. Leftwich (GA), Luther D. Long (GA), George Malivuk (WI), Humberto Mendoza (TX), Chad Miller (IA), Calvin Nesbitt (GA), Vincent R. Neville (MN), William L. Paschall (MD), Emiterio M. Pena (NM), Daniel F. Perez (CA), Kerry R. Powers (IN), Jonathan Pryor (OK), Nick A. Reed (OH), Joe W. Restine (OK), Noel S. Robbins (PA), Steven T. Ross (MS), Charles E. Schmitz (MO), Raymond C. Schultz (OH), James A. Shepard (NY), Timothy R. Steckman (IL), Mark P. Thiboutot (NH), Herman D. Truewell (FL), and Jason M. Wolf (CO) from the vision requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above (49 CFR 391.64(b)).

In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for 2 years unless revoked earlier by FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: December 16, 2013.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2013–30719 Filed 12–23–13; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2013–0168]

[4910–EX–P]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 38 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs). They are unable to meet the vision requirement in one eye for various reasons. The exemptions will enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision requirement in one eye. The Agency has concluded that granting these exemptions will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these CMV drivers.

DATES: The exemptions are effective December 24, 2013. The exemptions expire on December 24, 2015.

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, (202)-366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgement that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

Background

On October 23, 2013, FMCSA published a notice of receipt of exemption applications from certain individuals, and requested comments from the public (78 FR 63302). That notice listed 38 applicants' case histories. The 38 individuals applied for exemptions from the vision requirement in 49 CFR 391.41(b)(10), for drivers who operate CMVs in interstate commerce.

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. Accordingly, FMCSA has evaluated the 38 applications on their merits and made a determination to grant exemptions to each of them.

Vision and Driving Experience of the Applicants

The vision requirement in the FMCSRs provides:

> A person is physically qualified to drive a commercial motor vehicle if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of a least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing requirement red, green, and amber (49 CFR 391.41(b)(10)).

FMCSA recognizes that some drivers do not meet the vision requirement but have adapted their driving to accommodate their vision limitation and demonstrated their ability to drive safely. The 38 exemption applicants listed in this notice are in this category. They are unable to meet the vision requirement in one eye for various reasons, including complete loss of vision, retinal detachment, vascular occlusion, Coat's disease, central vein occlusion, anisometropic amblyopia, amblyopia, strabismic amblyopia, prosthetic eye, glaucoma, hemorrhage, nearsightedness, maculopathy, aphakia, corneal scar, branch retinal vein occlusion, ocular toxoplasmosis, macular hole, central serous retinopathy, macular scar, chorioretinal scar, traumatic cataract, Commotio Retinae, and ocular histoplasmosis. In most cases, their eye conditions were not recently developed. Twenty-five of the applicants were either born with their vision impairments or have had them since childhood.

The thirteen individuals that sustained their vision conditions as adults have had it for a period of 3 to 40 years.

Although each applicant has one eye which does not meet the vision requirement in 49 CFR 391.41(b)(10), each has at least 20/40 corrected vision in the other eye, and in a doctor's opinion, has sufficient vision to perform all the tasks necessary to operate a CMV. Doctors' opinions are supported by the

applicants' possession of valid commercial driver's licenses (CDLs) or non-CDLs to operate CMVs. Before issuing CDLs, States subject drivers to knowledge and skills tests designed to evaluate their qualifications to operate a CMV.

All of these applicants satisfied the testing requirements for their State of residence. By meeting State licensing requirements, the applicants demonstrated their ability to operate a CMV, with their limited vision, to the satisfaction of the State.

While possessing a valid CDL or non-CDL, these 38 drivers have been authorized to drive a CMV in intrastate commerce, even though their vision disqualified them from driving in interstate commerce. They have driven CMVs with their limited vision for careers ranging from 2 to 40 years. In the past 3 years, one of the drivers was involved in a crash and three were convicted of moving violations in a CMV.

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the October 23, 2013 notice (78 FR 63302).

Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the vision requirement in 49 CFR 391.41(b)(10) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, our analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting each of these drivers to drive in interstate commerce as opposed to restricting him or her to driving in intrastate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered the medical reports about the applicants' vision as well as their driving records and experience with the vision deficiency.

To qualify for an exemption from the vision requirement, FMCSA requires a person to present verifiable evidence that he/she has driven a commercial vehicle safely with the vision deficiency for the past 3 years. Recent driving performance is especially important in evaluating future safety, according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of crashes and traffic violations. Copies of the studies may be found at Docket Number FMCSA–1998–3637.

We believe we can properly apply the principle to monocular drivers, because data from the Federal Highway Administration's (FHWA) former waiver study program clearly demonstrate the driving performance of experienced monocular drivers in the program is better than that of all CMV drivers collectively (See 61 FR 13338, 13345, March 26, 1996). The fact that experienced monocular drivers demonstrated safe driving records in the waiver program supports a conclusion that other monocular drivers, meeting the same qualifying conditions as those required by the waiver program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that crash rates for the same individual exposed to certain risks for two different time periods vary only slightly (See Bates and Neyman, University of California Publications in Statistics, April 1952). Other studies demonstrated theories of predicting crash proneness from crash history coupled with other factors. These factors—such as age, sex, geographic location, mileage driven and conviction history—are used every day by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future crashes (See Weber, Donald C., ''Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process,'' Journal of American Statistical Association, June 1971). A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall crash predictor for both concurrent and nonconcurrent events is the number of single convictions. This study used 3 consecutive years of data, comparing the experiences of drivers in the first 2 years with their experiences in the final year.

Applying principles from these studies to the past 3-year record of the 38 applicants, one of the drivers was involved in a crash and three were convicted of moving violations in a CMV. All the applicants achieved a record of safety while driving with their vision impairment, demonstrating the likelihood that they have adapted their driving skills to accommodate their condition. As the applicants' ample driving histories with their vision deficiencies are good predictors of future performance, FMCSA concludes their ability to drive safely can be projected into the future.

We believe that the applicants' intrastate driving experience and history provide an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian and vehicular traffic than exists on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances between them are more compact. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions. The veteran drivers in this proceeding have operated CMVs safely under those conditions for at least 3 years, most for much longer. Their experience and driving records lead us to believe that each applicant is capable of operating in interstate commerce as safely as he/she has been performing in intrastate commerce. Consequently, FMCSA finds that exempting these applicants from the vision requirement in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption. For this reason, the Agency is granting the exemptions for the 2-year period allowed by 49 U.S.C. 31136(e) and 31315 to the 38 applicants listed in the notice of October 23, 2013 (78 FR 63302).

We recognize that the vision of an applicant may change and affect his/her ability to operate a CMV as safely as in the past. As a condition of the exemption, therefore, FMCSA will impose requirements on the 38 individuals consistent with the grandfathering provisions applied to drivers who participated in the Agency's vision waiver program.

Those requirements are found at 49 CFR 391.64(b) and include the following: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirement in 49 CFR 391.41(b)(10) and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for

retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

Discussion of Comments

FMCSA received one comment in this proceeding. The comment is discussed below.

Pam Johnson is in favor of granting Darryl Johnson an exemption.

Conclusion

Based upon its evaluation of the 38 exemption applications, FMCSA exempts Ernest J. Bachman (PA), A. Wayne Barker (OK), Edgar G. Baxter (FL), Jason W. Bowers (OR), Scott Brady (FL), Ronald A. Cleaver, Jr. (SC), Eric V. DeFrancesco (PA), Matthew A. Eck (PA), David E. Ferris (PA), George M. Hapchuk (PA), James L. Hawthorne (TX), Johnny D. Ivey (NC), Darryl H. Johnson (WV), David Jones (FL), Thomas L. Kitchen (VA), Wayne C. Knighton (NV), Brandon C. Koopman (NE), David G. Lamborn (ND), Robert A. Marks (WV), Stephen R. Marshall (MS), Edgar H. Meraz (NM), Ralph Reno (NJ), Glennis R. Reynolds (KY), Joseph B. Saladino (FL), Carlos M. Saravia (MD), Glen M. Schulz (IA), Steve W. Scott (SC), Eugene D. Self, Jr. (NC), Darren B. Shields (NV), Roye T. Skelton (MS), Robert D. Smienski (OH), Justin T. Swires (WY), Robert Thomas (PA), Clifford B. Thompson, Jr. (SC), Donald L. Urmston (OH), Steven M. Veloz (CA), Stephen H. Ward (MO), Janusz K. Wis (IL) from the vision requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above (49 CFR 391.64(b)).

In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for 2 years unless revoked earlier by FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: December 16, 2013.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2013–30718 Filed 12–23–13; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–1999–5748; FMCSA–2001–9561; FMCSA–2003–15268; FMCSA–2003–15892; FMCSA–2005–20560; FMCSA–2005–21254; FMCSA–2005–21711; FMCSA–2006–24783; FMCSA–2006–26653; FMCSA–2007–27897; FMCSA–2009–0054; FMCSA–2009–0121; FMCSA–2009–0154; FMCSA–2009–0206; FMCSA–2010–0354; FMCSA–2011–0092; FMCSA–2011–0124; FMCSA–2011–0141; FMCSA–2011–0142; FMCSA–2011–0189]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 74 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective January 31, 2014. Comments must be received on or before January 23, 2014.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) numbers: Docket No. [Docket No. FMCSA–1999–5748; FMCSA–2001–9561; FMCSA–2003–15268; FMCSA–2003–15892; FMCSA–2005–20560; FMCSA–2005–21254; FMCSA–2005–21711; FMCSA–2006–24783; FMCSA–2006–26653; FMCSA–2007–27897; FMCSA–2009–0054; FMCSA–2009–0121; FMCSA–2009–0154; FMCSA–2009–0206; FMCSA–2010–0354; FMCSA–2011–0092; FMCSA–2011–0124; FMCSA–2011–0141; FMCSA–2011–0142; FMCSA–2011–0189], using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved

absent such exemption.'' The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

Exemption Decision

This notice addresses 74 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 74 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Stephan P. Adamczyk (ME)
Martin R. Anaya (NM)
Calvin D. Atwood (NM)
Anthony D. Buck (TX)
Shaun E. Burnett (IA)
Kevin W. Cannon (TX)
James J. Doan (PA)
Shennan E. Dorsey (GA)
Michael M. Edleston (MA)
Kenneth J. Fisk (MI)
Richard L. Gagnebin (KS)
Jonathan M. Gentry (TN)
James P. Greene (NY)
Vincent E. Hardin (AL)
Bradley O. Hart (UT)
Robert W. Healey, Jr. (NJ)
Daniel F. Albers (CA)
Darrell G. Anthony (TX)
Gregory W. Babington (MA)
Stacey J. Buckingham (ID)
Gary E. Butler (MT)
Andrew B. Clayton (TN)
William P. Doolittle (MO)
Steve E. Duran (NM)
Daniel W. Eynon (OH)
James E. Fix (SC)
Steven A. Garrity (MA)
Mark E. Gessner (FL)
Matthew K. Hagge (ND)
Larry L. Harris (OH)
Benny D. Hatton, Jr. (NY)
Dennis H. Heller (KS)
Nathaniel H. Herbert, Jr. (PA)
Volga Kirkwood (MO)
James E. Knarr, Sr. (NY)
Michael A. Lawson (KY)
Everett H. Logan (OH)
Joseph L. Mast (OR)
Jesse R. McClary, Sr. (MO)
Kevin L. Moody (OH)
Marvin L. Motes (FL)
Charles W. Mullenix (GA)
Richard W. O'Neill (WA)
Harold L. Pearsall (PA)
John N. Poland (IL)
James B. Prunty (WV)
Garry L. Rogers (CO)
Benjamin R. Sauder (PA)
Robert E. Smith (CT)
Gerald D. Stidham (CO)
Scott C. Teich (MN)
Virgil E. Walker (TX)
John C. Young (VA)
Randy L. Huelster (OK)
Roger D. Kloss (IL)
Mark D. Kraft (IL)
Steven R. Lechtenberg (NE)
Thomas W. Markham (MN)
Paul G. Mathes (WA)
John T. McWilliams (IA)
Terry W. Moore (LA)
Jeffrey A. Mueller (IL)
Steven D. O'Donnell (NJ)
Jerry R. Orndorff (WV)
Robert M. Pickett II (MI)
Phillip M. Pridgen, Sr. (MD)
Eligio M. Ramirez (TX)
Jason W. Rupp (PA)
Eric W. Schmidt (MO)
Jerry W. Stanfill (AR)
Wilfred E. Sweatt (NH)
Roger L. Unser (OR)
Gary M. Wolff (IL)
John F. Zalar (NY)

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirements in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 74 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (64 FR 27027; 64 FR 40404; 64 FR 51568; 64 FR 66962; 66 FR 30502; 66 FR 41654; 66 FR 48504; 67 FR 17102; 68 FR 37197; 68 FR 44837; 68 FR 48989; 68 FR 52811; 68 FR 54775; 68 FR 61860; 69 FR 51346; 70 FR 17504; 70 FR 30997; 70 FR 30999; 70 FR 41811; 70 FR 42615; 70 FR 46567; 70 FR 48797; 70 FR 50799; 70 FR 53412; 70 FR 61165; 70 FR 61493; 71 FR 32183; 71 FR 41310; 71 FR 50970; 72 FR 8417; 72 FR 36099; 72 FR 39879; 72 FR 40359; 72 FR 40360; 72 FR 40362; 72 FR 52419; 72 FR 52421; 72 FR 54971; 72 FR 58359; 72 FR 62896; 73 FR 48269; 73 FR 60398; 74 FR 11988; 74 FR 21427; 74 FR 26461; 74 FR 34074; 74 FR 34394; 74 FR 34395; 74 FR 34630; 74 FR 37295; 74 FR 41971; 74 FR 43217; 74 FR 43221; 74 FR 48343; 74 FR 46069; 74 FR 53581; 74 FR 57551; 75 FR 72863; 76 FR 2190; 76 FR 21796; 76 FR 25766; 76 FR 34135; 76 FR 34136; 76 FR 37168; 76 FR 37885; 76 FR 40445; 76 FR 44652; 76 FR 49528; 76 FR 53708; 76 FR 53710; 76 FR 54530; 76 FR 55463; 76 FR 55465; 76 FR 55467; 76 FR 55469; 76 FR 61143; 76 FR 62143; 76 FR 64171; 76 FR 66123; 76 FR 67246). Each of these 74 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the requirement specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption requirements.

These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

Request for Comments

FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31136(e) and 31315. However, FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by January 23, 2014.

FMCSA believes that the requirements for a renewal of an exemption under 49 U.S.C. 31136(e) and 31315 can be satisfied by initially granting the renewal and then requesting and evaluating, if needed, subsequent comments submitted by interested parties. As indicated above, the Agency previously published notices of final disposition announcing its decision to exempt these 74 individuals from the vision requirement

in 49 CFR 391.41(b)(10). The final decision to grant an exemption to each of these individuals was made on the merits of each case and made only after careful consideration of the comments received to its notices of applications. The notices of applications stated in detail the qualifications, experience, and medical condition of each applicant for an exemption from the vision requirements. That information is available by consulting the above cited **Federal Register** publications.

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket numbers FMCSA–1999–5748; FMCSA–2001–9561; FMCSA–2003–15268; FMCSA–2003–15892; FMCSA–2005–20560; FMCSA–2005–21254; FMCSA–2005–21711; FMCSA–2006–24783; FMCSA–2007–26653; FMCSA–2007–27897; FMCSA–2009–0054; FMCSA–2009–0121; FMCSA–2009–0154; FMCSA–2009–0206; FMCSA–2010–0354; FMCSA–2011–0092; FMCSA–2011–0124; FMCSA–2011–0141; FMCSA–2011–0142; FMCSA–2011–0189 and click the search button. When the new screen appears, click on the blue ''Comment Now!'' button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period and may change this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, to submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–1999–5748; FMCSA–2001–9561; FMCSA–2003–15268; FMCSA–2003–15892; FMCSA–2005–20560; FMCSA–2005–21254; FMCSA–2005–21711; FMCSA–2006–24783; FMCSA–2007–26653; FMCSA–2007–27897; FMCSA–2009–0054; FMCSA–2009–0121; FMCSA–2009–0154; FMCSA–2009–0206; FMCSA–2010–0354; FMCSA–2011–0092; FMCSA–2011–0124; FMCSA–2011–0141; FMCSA–2011–0142; FMCSA–2011–0189 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to the proposed rulemaking.

Issued on: December 17, 2013.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2013–30715 Filed 12–23–13; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–2013–0184] [4910–EX–P]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 26 individuals from its rule prohibiting persons with insulin-treated diabetes mellitus (ITDM) from operating commercial motor vehicles (CMVs) in interstate commerce. The exemptions will enable these individuals to operate CMVs in interstate commerce.

DATES: The exemptions are effective December 24, 2013. The exemptions expire on December 24, 2015.

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Room W64–224, Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone may search the electronic form of all comments received into any of DOT's dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, or other entity). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

Background

On October 28, 2013, FMCSA published a notice of receipt of Federal diabetes exemption applications from 26 individuals and requested comments from the public (78 FR 64267). The public comment period closed on November 27, 2013, and one comment was received.

FMCSA has evaluated the eligibility of the 26 applicants and determined that granting the exemptions to these individuals would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(3).

Diabetes Mellitus and Driving Experience of the Applicants

The Agency established the current requirement for diabetes in 1970 because several risk studies indicated that drivers with diabetes had a higher rate of crash involvement than the general population. The diabetes rule provides that ''A person is physically qualified to drive a commercial motor vehicle if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control'' (49 CFR 391.41(b)(3)).

FMCSA established its diabetes exemption program, based on the Agency's July 2000 study entitled ''A Report to Congress on the Feasibility of a Program to Qualify Individuals with Insulin-Treated Diabetes Mellitus to Operate in Interstate Commerce as Directed by the Transportation Act for the 21st Century.'' The report concluded that a safe and practicable protocol to allow some drivers with ITDM to operate CMVs is feasible. The September 3, 2003 (68 FR 52441), **Federal Register** notice in conjunction with the November 8, 2005 (70 FR 67777), **Federal Register** notice provides the current protocol for allowing such drivers to operate CMVs in interstate commerce.

These 26 applicants have had ITDM over a range of 1 to 37 years. These applicants report no severe hypoglycemic reactions resulting in loss of consciousness or seizure, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning symptoms, in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the past 5 years. In each case, an endocrinologist verified that the driver has demonstrated a willingness to properly monitor and manage his/her diabetes mellitus, received education related to diabetes management, and is on a stable insulin regimen. These drivers report no other disqualifying conditions, including diabetes-related complications. Each meets the vision requirement at 49 CFR 391.41(b)(10).

The qualifications and medical condition of each applicant were stated and discussed in detail in the October 28, 2013, **Federal Register** notice and they will not be repeated in this notice.

Discussion of Comments

FMCSA received one comment in this proceeding. The comment is considered and discussed below.

Ted Whitish is in favor of granting an exemption to Sean T. McMahon.

Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the diabetes requirement in 49 CFR 391.41(b)(3) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered medical reports about the applicants' ITDM and vision, and reviewed the treating endocrinologists' medical opinion related to the ability of the driver to safely operate a CMV while using insulin.

Consequently, FMCSA finds that in each case exempting these applicants from the diabetes requirement in 49 CFR 391.41(b)(3) is likely to achieve a level of safety equal to that existing without the exemption.

Conditions and Requirements

The terms and conditions of the exemption will be provided to the applicants in the exemption document and they include the following: (1) That each individual submit a quarterly monitoring checklist completed by the treating endocrinologist as well as an annual checklist with a comprehensive medical evaluation; (2) that each individual reports within 2 business days of occurrence, all episodes of severe hypoglycemia, significant complications, or inability to manage diabetes; also, any involvement in an accident or any other adverse event in a CMV or personal vehicle, whether or not it is related to an episode of hypoglycemia; (3) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (4) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

Conclusion

Based upon its evaluation of the 26 exemption applications, FMCSA exempts Daniel L. Alcaraz (IL), John Baltich (PA), Rodney G. Bell (IA), John D. Clark, 4th (NJ), Theeir L. Coleman (VA), Michael W. Denney (KY), Charles G. Garabedian (NH), William I. Harbolt (MT), Ryan L. Harrier (MI), John D. Heffington (KS), Matthew L. Herscowitz (CA), Larry W. Hines (NM), Mark G. Kahler (TX), Roger B. Larson (MN), Michael W. McCrary (GA), Sean T. McMahon (MN), David S. Monroe (KS), Steven M. Oliver (AZ), John E. Parker (KS), Thomas B. Quirk (CT), Michael R. Shields (ND), David G. Shultz (PA), Donald A. Spivey (TN), James S. Tracy (ID), James S. Wolfe (IA), and Jerry D. Zimmerman (ND) from the ITDM requirement in 49 CFR 391.41(b)(3), subject to the conditions listed under ''Conditions and Requirements'' above.

In accordance with 49 U.S.C. 31136(e) and 31315 each exemption will be valid for two years unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the 1/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. If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: December 16, 2013.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2013–30716 Filed 12–23–13; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2013–0125]

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System

In accordance with Part 235 of Title 49 Code of Federal Regulations and 49 U.S.C. 20502(a), this document provides the public notice that by a document dated September 3, 2013, Union Pacific Railroad (UP) and BNSF Railway (BNSF) jointly petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of a signal system. FRA assigned the petition Docket Number FRA–2013–0125.

Applicants:

Union Pacific Railroad, Mr. Phillip A. Danner, AVP Engineering–Signal, 1400 Douglas Street, MS 0910, Omaha, NE 68179

BNSF Railway, Mr. James G. Levere, AVP Signal, 2600 Lou Menk Drive, OOB–3, Fort Worth, TX 76131

UP and BNSF jointly seek approval of the proposed temporary discontinuance of the signal system at Tower 55 in Fort Worth, TX. The limits of the temporary discontinuance are as follows:

- Fort Worth Subdivision from Milepost (MP) 249.5 to MP 251.0
- Fort Worth Subdivision Ney Bypass from MP 248.84 to MP 250.50
- Dallas Subdivision from MP 247.8 to MP 244.20
- Choctaw Subdivision #1 Track and Gauntlet Track from MP 754.20 to MP 755.50
- Choctaw Subdivision #2 Track and North Yard Siding from MP 752.20 to MP 754.40

- Duncan Subdivision from MP 611.90 to MP 612.90

The purpose of the temporary discontinuance is to support the installation of new track and a revised signal system. UP and BNSF estimate the discontinuance to be no more than 120 consecutive days, within a time period starting after July 1, 2014, and ending before April 1, 2015. During the discontinuance, trains will operate through the area via Form ''C'' rules, under the direction of the Employee-In-Charge.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- Web site: *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- Fax: 202–493–2251.
- Mail: Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- Hand Delivery: 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Communications received by February 7, 2014 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

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 comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). See *http://www.regulations.gov/#!privacyNotice* for the privacy notice of regulations.gov or interested parties may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477).

Issued in Washington, DC.

Robert C. Lauby,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2013–30535 Filed 12–23–13; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2013–0135]

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System

In accordance with Part 235 of Title 49 Code of Federal Regulations and 49 U.S.C. 20502(a), this document provides the public notice that by a document dated November 22, 2013, NJ Transit Rail Operations, Inc. (NJTRO), Norfolk Southern Corporation (NS), and Morristown and Erie Railway (ME) jointly petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of a signal system. FRA assigned the petition Docket Number FRA–2013–0135.

Applicants:

NJ Transit Rail Operations, Inc., Mr. Timothy P. Purcell, Acting Chief Engineer—Signals, One Penn Plaza East, Newark, NJ 07105–2246

Norfolk Southern Corporation, Mr. Brian Sykes, Chief Engineer C&S Engineering, 1200 Peachtree Street NE, Atlanta, GA 30309

Morristown and Erie Railway, Mr. Wesley R. Weis, President and Chief Executive Officer, P.O. Box 2206, 49 Abbett Avenue, Morristown, NJ 07962

NJTRO, NS, and ME jointly seek approval of the proposed discontinuance of the automatic block signal (ABS) system on Track Number 2; the installation of a traffic control system (TCS) on Track Number 2; the discontinuance of automatic signals within TCS territory; and the retention of a cab signal system without wayside automatic signals on Track Numbers 1 and 2, between Control Point (CP) Wharton, Milepost (MP) 39.4 and Morris Junction Interlocking, MP 45.2 on NJTRO's Morristown Line, Hoboken Division, Morris County, NJ. Provisions will be made for absolute blocking to protect any train that may experience a failed cab signal after leaving its initial terminal. The discontinuance will include automatic signals: M 408–1, M 408–2, M 409–1, M 424–1, M 424–2, M 423–1, M 438–1, M 438–2, and M 439–1.

The reasons given for the proposed changes are to improve reliability and safety, expedite train movements, and retire facilities no longer required for present train operations.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- Web site: *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- Fax: 202–493–2251.
- Mail: Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- Hand Delivery: 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by February 7, 2014 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

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 comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). See *http://www.regulations.gov/#!privacyNotice* for the privacy notice of regulations.gov or interested parties may review DOT's complete Privacy Act Statement in the

Federal Register published on April 11, 2000 (65 FR 19477).

Robert C. Lauby,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2013–30538 Filed 12–23–13; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2013–0136]

Notice of Joint Application for Approval of Discontinuance or Modification of a Railroad Signal System

In accordance with Part 235 of Title 49 Code of Federal Regulations (CFR) and 49 U.S.C. 20502(a), this document provides the public notice that by a document dated July 16, 2013, the Commuter Rail Division of the Regional Transportation Authority (Metra) and its operating company, the Northeast Illinois Regional Commuter Railroad Corporation (NIRCRC), and CSX Transportation, Inc. (CSX) have jointly petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of a signal system. FRA assigned the petition Docket Number FRA–2013–0136.

Applicants:

Northeast Illinois Regional Commuter Railroad Corporation, Mr. Justin Vonaskek, Director, Regulatory Compliance, 547 West Jackson Boulevard, Chicago, IL 60661

CSX Transportation, Inc., Mr. David B. Olson, Chief Engineer Communication and Signals, 500 Water Street, Speed Code J–350, Jacksonville, FL 32202

Metra and CSX seek joint approval of the proposed discontinuance and removal of the power derail Number 8, on Metra's MT track, at Milepost (MP) 10.0, Southwest Subdistrict, at Chicago, IL. The location is referred to as Forest Hill Interlocking by Metra and as the 75th Street Interlocking by CSX.

The reason given for the proposed changes by Metra and CSX is to improve fluidity through the interlocking. The interlocking is controlled by CSX. The Metra dispatcher must communicate with the CSX Blue Island dispatcher, advising route and direction prior to arranging movement through the interlocking.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- Web site: *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- Fax: 202–493–2251.
- Mail: Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- Hand Delivery: 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by February 7, 2014 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

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 comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). See *http://www.regulations.gov/#!privacyNotice* for the privacy notice of regulations.gov or interested parties may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477).

Robert C. Lauby,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2013–30539 Filed 12–23–13; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2013–0130]

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System

In accordance with Part 235 of Title 49 Code of Federal Regulations (CFR) and 49 U.S.C. 20502(a), this document provides the public notice that by a document dated November 1, 2013, Union Pacific Railroad (UP) petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of a signal system. FRA assigned the petition Docket Number FRA–2013–0130.

Applicant: Union Pacific Railroad, Mr. Phillip A. Danner, AVP Engineering–Signal, 1400 Douglas Street, MS 0910, Omaha, NE 68179.

UP seeks approval of the proposed temporary discontinuance of the signal system between Milepost (MP) 359.7 to MP 361.7 on the Terminal Subdivision in Houston, TX. The purpose of the temporary discontinuance is to support the installation of a new signal system in support of the Hardy Toll Road project. UP estimates the discontinuance to be no more than 30 consecutive days, within a time period starting after January 1, 2014, and ending before April 1, 2014.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulatons.gov* and in person at the U. S. Department of Transportation's Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.

• *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.

• *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by February 7, 2014 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

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 comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). See *http://www.regulations.gov/#!privacyNotice* for the privacy notice of regulations.gov or interested parties may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477).

Issued in Washington, DC.

Robert C. Lauby,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2013–30537 Filed 12–23–13; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2009–0078]

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations, this document provides the public notice that by a document dated November 25, 2013, the American Short Line and Regional Railroad Association (ASLRRA), on behalf of the Conecuh Valley Railway, LLC; the Three Notch Railway, LLC; and the Wiregrass Central Railway, LLC, has petitioned the Federal Railroad Administration (FRA) for an amended waiver of compliance from certain provisions of the Federal hours of service laws contained at 49 U.S.C. 21103(a)(4), which, in part, require a train employee to receive 48 hours off duty after initiating an on-duty period for 6 consecutive days. FRA assigned the petition Docket Number FRA–2009–0078.

In its petition, ASLRRA seeks to amend its previously filed petition for extension of the waiver to add the three railroads referenced above, which did not participate in ASLRRA's original petition for a waiver extension, to Exhibit A of ASLRRA's waiver. FRA granted ASLRRA's petition for a waiver extension in a letter dated February 27, 2012. The waiver allows a train employee to initiate an on-duty period each day for 6 consecutive days followed by 24 hours, rather than 48 hours, off duty.

Each railroad that seeks to be added to the waiver has executed a compliance letter that attests that it has complied with all of the employee consent requirements that FRA originally set forth in its initial decision letter, dated March 5, 2010. Additionally, each railroad will maintain in its files for FRA inspection the underlying employee consent or employee representative consent documents.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

• Web site: *http://www.regulations.gov.* Follow the online instructions for submitting comments.

• Fax: 202–493–2251.

• Mail: Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.

• Hand Delivery: 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by February 7, 2014 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

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 comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). See *http://www.regulations.gov/#!privacyNotice* for the privacy notice of regulations.gov or interested parties may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477).

Robert C. Lauby,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2013–30533 Filed 12–23–13; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2013–0104]

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document dated September 13, 2013, the New York and Lake Erie Railroad (NYLE) petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR 223.11, *Requirements for existing locomotives.* FRA assigned the petition Docket Number FRA–2013–0104.

This petition relates to operation of Montreal Locomotive Works (MLW) Locomotive FPA–2U, Reporting Marks NYLE 6758, and Locomotive FPA–4, Reporting Marks NYLE 6764, that are prohibited from operation on the general system of railroads without window glazing that meets the requirements of 49 CFR 223.11. These locomotives are in tourist/excursion service and operate on approximately 31 miles of track in rural Cattaraugus and Chautauqua Counties in western New York State. The locomotives were previously covered under Waiver FRA–1998–4822 when they were in biweekly service on NYLE's sister railroad, the Oil Creek and Titusville Lines (OCTL) in rural northwestern Pennsylvania. OCTL never had problems with window breakage due to vandalism and never had to replace glass due to breakage from flying objects. Maximum authorized speed on NYLE is 25 mph, the same as it was on OCTL. The cost of installing compliant glazing on these historic locomotives remains prohibitively expensive.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- Web site: *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- Fax: 202–493–2251.
- Mail: Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- Hand Delivery: 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by February 7, 2014 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

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 comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). See *http://www.regulations.gov/#!privacyNotice* for the privacy notice of regulations.gov or interested parties may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477).

Issued in Washington, DC.

Robert C. Lauby,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2013–30534 Filed 12–23–13; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2013–0129]

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document dated September 13, 2013, the Union Pacific Railroad (UP) petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 236, Rules, Standards, and Instructions Governing the Installation, Inspection, Maintenance, and Repair of Signal and Train Control Systems, Devices, and Appliances. FRA assigned the petition Docket Number FRA–2013–0129.

UP seeks a waiver from compliance with the cab signal system requirements found in 49 CFR 236.566, *Locomotive of each train operating in train stop, train control, or cab signal territory; equipped.* Specifically, UP seeks relief to operate: Non-equipped engines used in switching and transfer service, with or without cars; work trains; wreck trains; ballast cleaners to and from work; and engines and rail diesel cars moving to and from shops at the following locations:

1. Operations on the Chicago Service Unit, Geneva Subdivision, from Control Point (CP) Y901 and Kedzie may be made in accordance with signal indication and at restricted speed:

- With engines not equipped with automatic train control (ATC) with or without cars; or,
- To and from the CP Y901 with the ATC cut out and back-up moves; or,
- With the ATC cut out due to failure.

2. Operations on the Chicago Service Unit, Geneva Subdivision, from Kedzie and Park CP Y015, engines not equipped with ATC and foreign crews operating UP trains may be operated at a speed not exceeding 40 mph when a block signal displays an indication more favorable than Approach. An Approach or more favorable indication establishes an absolute block to the next block signal. If block signal displays a Stop, Restricted Proceed, or Restricting indication, the train must stop and not proceed until authorized by the train dispatcher. However, the train may pass a signal indicating Restricting to leave the main track immediately past the signal.

3. Operations on the Chicago Service Unit, Geneva Subdivision, non-equipped engines in switching service may be operated on the main track between CP Y901 and Elmhurst; between Dixon and Nelson; between Nelson and Sterling; between East Clinton and Clinton; and at West Chicago, De Kalb, Dixon, Nelson, Sterling, and Clinton within switching limits, in accordance with signal indication, not exceeding restricted speed.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by February 7, 2014 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

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 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), or online at *http://www.dot.gov/#!privacy.html.*

Issued in Washington, DC.

Robert C. Lauby,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2013–30536 Filed 12–23–13; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition for Exemption From the Federal Motor Vehicle Theft Prevention Standard; General Motors Corporation

AGENCY: National Highway Traffic Safety Administration, Department of Transportation (DOT).

ACTION: Grant of petition for exemption.

SUMMARY: This document grants in full General Motors Corporation's (GM) petition for an exemption of the Cadillac SRX vehicle line in accordance with 49 CFR part 543, *Exemption from Vehicle Theft Prevention Standard.* This petition is granted because the agency has determined that the antitheft device to be placed on the line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of 49 CFR Part 541, *Federal Motor Vehicle Theft Prevention Standard* (Theft Prevention Standard).

DATES: The exemption granted by this notice is effective beginning with the 2015 model year (MY).

FOR FURTHER INFORMATION CONTACT: Ms. Deborah Mazyck, Office of International Policy, Fuel Economy, and Consumer Standards, NHTSA, W43–443, 1200 New Jersey Avenue SE., Washington, DC 20590. Ms. Mazyck's phone number is (202) 366–4139. Her fax number is (202) 493–2990.

SUPPLEMENTARY INFORMATION: In a petition dated August 16, 2013, GM requested an exemption from the parts-marking requirements of the Theft Prevention Standard for the Cadillac SRX vehicle line beginning with MY 2015. The petition requested an exemption from parts-marking pursuant to 49 CFR 543, *Exemption from Vehicle Theft Prevention Standard,* based on the installation of an antitheft device as standard equipment for the entire vehicle line.

Under 49 CFR Part 543.5(a), a manufacturer may petition NHTSA to grant an exemption for one vehicle line per model year. In its petition, GM provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for the Cadillac SRX vehicle line. GM will install the PASS-Key III+ antitheft device as standard equipment on the vehicle line. The PASS-Key III+ is a passive, transponder-based, electronic immobilizer device. The major components of the device consist of the PASS-Key III+ controller module, engine control module, electronically-coded ignition key, radio frequency receiver and passive antenna module. GM stated that the device will provide protection against unauthorized use (i.e., starting and engine fueling), but will not provide any visible or audible indication of unauthorized vehicle entry (i.e., flashing lights or horn alarm). GM's submission is considered a complete petition as required by 49 CFR 543.7 in that it meets the general requirements contained in 543.5 and the specific content requirements of 543.6.

The PASS-Key III+ device is designed to be active at all times without direct intervention by the vehicle operator. The device is fully armed immediately after the ignition has been turned off and the key removed.

GM stated that the PASS-Key III+ uses a special ignition key and decoder module. The ignition key contains electronics molded into the key head, providing billions of possible electronic combinations. The electronics receive energy and data from the antenna module. Upon receipt of the data, the key will calculate a response to the data using an internal encryption algorithm and transmit the response back to the vehicle. The antenna module translates the radio frequency signal received from the key into a digital signal and passes the signal on to the controller module. The controller module compares the received response to an internally calculated value. If the values match, the key is recognized as valid and a password is then transmitted through a serial data link to the engine control module to enable fueling and vehicle starting. A secondary data challenge and response process using another encryption algorithm must be validated by the engine controller to allow continued operation. If an invalid key code is received, the PASS-Key III+ controller module will send a ''Disable Password'' to the engine control module and starting, ignition, and fuel will be inhibited.

In addressing the specific content requirements of 543.6, GM provided information on the reliability and durability of its proposed device. To ensure reliability and durability of the device, GM conducted tests based on its own specified standards. GM provided information on the specific tests it uses to validate the integrity, durability and reliability of the PASS-Key III+ device and believes that the device is reliable and durable since the components must operate as designed after each test. GM also stated that the design and assembly processes of the PASS-Key III+ subsystem and components are validated for 10 years of vehicle life and 150,000 miles of performance.

GM stated that the PASS-Key III+ device has been designed to enhance the functionality and theft protection provided by its first, second and third generation PASS-Key, PASS-Key II, and PASS-Key III devices. GM also referenced data provided by the American Automobile Manufacturers Association (AAMA) in support of the effectiveness of GM's PASS-Key devices in reducing and deterring motor vehicle theft. Specifically, GM stated that the AAMA's comments referencing the agency's Preliminary Report on ''Auto Theft and Recovery Effects of the Anti-Car Theft Act of 1992 and the Motor Vehicle Theft Law Enforcement Act of 1984'', (Docket 97–042; Notice 1), showed that between MYs 1987 and 1993, the Chevrolet Camaro and Pontiac Firebird vehicle lines experienced a significant theft rate reduction after installation of a Pass-Key like antitheft device as standard equipment on the vehicle lines.

GM also noted that theft data have indicated a decline in theft rates for vehicle lines equipped with comparable devices that have received full exemptions from the parts-marking requirements. GM stated that the theft data, as provided by the Federal Bureau of Investigation's National Crime Information Center and compiled by the agency, show that theft rates are lower for exempted GM models equipped with the PASS-Key like systems than the theft rates for earlier models with similar appearance and construction that were parts-marked. Based on the performance of the PASS-Key, PASS-Key II, and PASS-Key III devices on other GM models, and the advanced technology utilized in PASS-Key III+, GM believes that the PASS-Key III+ device will be more effective in deterring theft than the parts-marking requirements of 49 CFR Part 541.

Additionally, GM stated that the PASS-Key III+ is installed as standard equipment on the Cadillac CTS vehicle line. GM informed the agency that its Cadillac CTS vehicle line has been equipped with the device since introduction of its MY 2003 vehicles. GM was granted an exemption from the parts-marking requirements by the agency for the Cadillac CTS vehicle line beginning with the 2011 MY (See 74 FR

62385, November 27, 2009). The average theft rate for the Cadillac CTS vehicle line, based on NHTSA's theft data, using 3 MYs theft data (MYs 2009-Preliminary 2011) is 1.3508.

GM further stated that it believes that PASS-Key III+ devices will be more effective in deterring theft than the parts-marking requirements and that the agency should find that inclusion of the PASS-Key III+ device on the Cadillac SRX vehicle line is sufficient to qualify it for full exemption from the parts-marking requirements.

Pursuant to 49 U.S.C. 33106 and 49 CFR 543.7(b), the agency grants a petition for exemption from the parts-marking requirements of Part 541, either in whole or in part, if it determines that, based upon substantial evidence, the standard equipment antitheft device is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of Part 541. The agency finds that GM has provided adequate reasons for its belief that the antitheft device for the Cadillac SRX vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard. This conclusion is based on the information GM provided about its device.

The agency concludes that the device will provide four of the five types of performance listed in § 543.6(a)(3): promoting activation; preventing defeat or circumvention of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

GM's proposed device lacks an audible or visible alarm. Therefore, this device cannot perform one of the functions listed in 49 CFR Part 543.6(a)(3), that is, to call attention to unauthorized attempts to enter or move the vehicle. Based on comparison of the reduction in the theft rates of Chevrolet Corvettes using a passive antitheft device along with an audible/visible alarm system to the reduction in theft rates for the Chevrolet Camaro and the Pontiac Firebird models equipped with a passive antitheft device without an alarm, GM finds that the lack of an alarm or attention-attracting device does not compromise the theft deterrent performance of a device such as the PASS-Key III+ device. In these instances, the agency has concluded that the lack of an audible or visible alarm has not prevented these antitheft devices from being effective protection against theft.

Based on the evidence submitted by GM, the agency believes that the antitheft device for the Cadillac SRX vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard.

For the foregoing reasons, the agency hereby grants in full GM's petition for exemption for the Cadillac SRX vehicle line from the parts-marking requirements of 49 CFR Part 541, beginning with the 2015 model year vehicles. The agency notes that 49 CFR Part 541, Appendix A–1, identifies those lines that are exempted from the Theft Prevention Standard for a given model year. 49 CFR part 543.7(f) contains publication requirements incident to the disposition of all Part 543 petitions. Advanced listing, including the release of future product nameplates, the beginning model year for which the petition is granted and a general description of the antitheft device is necessary in order to notify law enforcement agencies of new vehicle lines exempted from the parts marking requirements of the Theft Prevention Standard.

If GM decides not to use the exemption for this line, it must formally notify the agency. If such a decision is made, the line must be fully marked according to the requirements under 49 CFR parts 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if GM wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. Part 543.7(d) states that a Part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the antitheft device on which the line's exemption is based. Further, Part 543.9(c)(2) provides for the submission of petitions ''to modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption.''

The agency wishes to minimize the administrative burden that Part 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend in drafting Part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be *de minimis.* Therefore, NHTSA suggests that if the manufacturer contemplates making any changes, the effects of which might be characterized as *de minimis,* it should consult the agency before preparing and submitting a petition to modify.

Authority: 49 U.S.C. 33106; delegation of authority at 49 CFR 1.50.

Christopher J. Bonanti,

Associate Administrator for Rulemaking.

[FR Doc. 2013–30596 Filed 12–23–13; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 337 (Sub-No. 7X)]

Dakota, Minnesota & Eastern Railroad Corporation—Abandonment Exemption—in Scott County, Iowa

Dakota, Minnesota & Eastern Railroad Corporation d/b/a Canadian Pacific (DM&E) has filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments* to abandon a 0.66-mile line of railroad referred to as Blackhawk Spur, between milepost 0.33+/− and milepost 0.99 +/− in Scott County, Iowa (the Line). The Line traverses United States Postal Service Zip Code 52802.

DM&E has certified that: (1) No local traffic has moved over the Line for at least two years; (2) any overhead traffic on the Line can be and has been rerouted over other lines; (3) no formal complaint has been filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line and no such complaint is either pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the two-year period; and (4) the requirements at 49 CFR 1105.7(c) (environmental report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on January 23, 2014, unless stayed pending

reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by January 3, 2014. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by January 13, 2014, with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to DM&E's representative: W. Karl Hansen, Leonard, Street and Deinard, 150 South Fifth Street, Suite 2300, Minneapolis, MN 55402.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

DM&E has filed a combined environmental and historic report that addresses the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by December 27, 2013. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423–0001) or by calling OEA at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Information Relay Service at 1–800–877–8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), DM&E shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line. If consummation has not been effected by DM&E's filing of a notice of consummation by December 24, 2014, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Serv. Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each OFA must be accompanied by the filing fee, which is currently set at $1,600. *See* 49 CFR 1002.2(f)(25).

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: December 19, 2013.

By the Board.

Rachel D. Campbell,

Director, Office of Proceedings.

Raina S. White,

Clearance Clerk.

[FR Doc. 2013–30635 Filed 12–23–13; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

[Docket ID OCC–2013–0014]

FEDERAL RESERVE SYSTEM

[Docket No. OP–1465]

FEDERAL DEPOSIT INSURANCE CORPORATION

NATIONAL CREDIT UNION ADMINISTRATION

BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No. CFPB–2013–0029]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71134; File No. S7–08–13]

Extension of Comment Period for Proposed Interagency Policy Statement Establishing Joint Standards for Assessing the Diversity Policies and Practices of Entities Regulated by the Agencies

AGENCIES: Office of the Comptroller of the Currency (''OCC''); Board of Governors of the Federal Reserve System (''Board''); Federal Deposit Insurance Corporation (''FDIC''); National Credit Union Administration (''NCUA''); Bureau of Consumer Financial Protection (''CFPB''); and Securities and Exchange Commission (''SEC'').

ACTION: Proposed interagency policy statement; extension of comment period.

SUMMARY: On October 25, 2013, the OCC, Board, FDIC, NCUA, CFPB, and SEC (collectively, the ''Agencies'') published in the **Federal Register** a joint notice of a proposed interagency policy statement establishing standards for assessing the diversity policies and practices of the entities they regulate.[1] To allow the public more time to consider the proposed assessment standards, the Agencies have determined that an extension of the comment period to February 7, 2014, is appropriate. This action will allow interested persons additional time to analyze the interagency policy statement and prepare their comments.

[1] 78 FR 64052 (October 25, 2013).

DATES: Comments must be received on or before February 7, 2014.

ADDRESSES: You may submit comments by any of the methods identified in the proposed interagency policy statement. To avoid duplication, the Agencies request that commenters not submit the same comment to more than one Agency. The Agencies will share comments with each other, as appropriate.

FOR FURTHER INFORMATION CONTACT:

OCC: Joyce Cofield, Executive Director, Office of Minority and Women Inclusion, at (202) 649–6460 or Karen McSweeney, Counsel, Law Department, at (202) 649–6295, Office of the Comptroller of the Currency, 400 7th Street SW., Washington, DC 20219.

BOARD: Sheila Clark, Director, Office of Diversity and Inclusion, at (202) 452–2883; or Katherine Wheatley, Associate General Counsel, Legal Division, at (202) 452–3779.

FDIC: Melodee Brooks, Senior Deputy Director, Office of Minority and Women Inclusion, (703) 562–6090; Henry R.F. Griffin, Assistant General Counsel, (703) 562–6404; or Michelle M. Borzillo, Senior Counsel, (703) 562–6083; or Robert Lee, Counsel, (703) 562–2020, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429–0002.

NCUA: Tawana James, Director, Office of Minority and Women Inclusion, at (703) 518–1650, or Cynthia Vaughn, Diversity Outreach Program Analyst, Office of Minority and Women Inclusion, at (703) 518–1653, or Steven W. Widerman, Senior Staff Attorney, Office of General Counsel, at (703) 518–6540.

CFPB: Stuart Ishimaru, Director, Office of Minority and Women Inclusion, at (202) 435–9012, or To-Quyen Truong, Deputy General Counsel, Legal Division at (202) 435–7434, Bureau of Consumer Financial Protection, 1700 G Street NW., Washington, DC 20552.

SEC: Pamela A. Gibbs, Director, Office of Minority and Women Inclusion, (202) 551–6046, or Tracey L. McNeil, Counsel, Office of Minority and Women Inclusion, (202) 551–3392, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: On October 25, 2013, the proposed

interagency policy statement was published in the **Federal Register**, 78 FR 64052 (October 25, 2013). The proposed interagency policy statement would establish joint standards for assessing the diversity policies and practices of entities regulated by the Agencies. The Agencies sought comment on all aspects of the proposed policy statement and requested that commenters respond to numerous questions. The proposed policy statement stated that the public comment period would close after 60 days, on December 24, 2013.

The Agencies have received requests from the public for an extension of the comment period. The Agencies believe that the additional time will facilitate public comment on the policy statement and the questions posed by the Agencies. Therefore, the Agencies are extending the comment period for the proposed interagency policy statement by 45 days, from December 24, 2013 to February 7, 2014.

Thomas J. Curry,

Comptroller of the Currency.

By order of the Board of Governors of the Federal Reserve System, acting through the Secretary under delegated authority, December 5, 2013.

Robert deV. Frierson,

Secretary of the Board.

Valerie J. Best,

Assistant Executive Secretary.

By the National Credit Union Administration Board on December 16, 2013.

Gerard Poliquin,

Secretary of the Board.

Richard Cordray,

Director, Bureau of Consumer Financial Protection.

By the Securities and Exchange Commission.

Dated: December 19, 2013.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–30629 Filed 12–23–13; 8:45 am]

BILLING CODE 4810–33–P; 6210–01–P; 6741–01–P; 7590–01–P; 4810–AM–P; 8011–01–P

FEDERAL REGISTER

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Part II

Department of Homeland Security

Coast Guard

46 CFR Parts 1, 10, 11, et al.

Implementation of the Amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, and Changes to National Endorsements; Final Rule

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Parts 1, 10, 11, 12, 13, 14, and 15

[Docket No. USCG–2004–17914]

RIN 1625–AA16

Implementation of the Amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, and Changes to National Endorsements

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard issues this final rule to implement the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended (STCW Convention), as well as the Seafarers' Training, Certification and Watchkeeping Code (STCW Code), to address the comments received from the public in response to the supplemental notice of proposed rulemaking (SNPRM), and to incorporate the 2010 amendments to the STCW Convention that came into force on January 1, 2012. In addition, this final rule makes other changes not required by the STCW Convention or Code, but necessary to reorganize, clarify, and update these regulations.

DATES: This final rule is effective March 24, 2014 except for 46 CFR part 10, subpart C, which is effective January 23, 2014. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register on March 24, 2014.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2004–17914 and are available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, D.C. 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet by going to *http://www.regulations.gov*, inserting USCG–2004–17914 in the ''Keyword'' box, and then clicking ''Search.''

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Mark C. Gould, Maritime Personnel Qualifications Division, Coast Guard; phone (202) 372–1409; email *mark.c.gould@uscg.mil*. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

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I. Executive Summary

A. Basis and purpose

The United States has a well-established program for credentialing personnel serving on U.S. vessels that is governed by domestic law in United States Code, titles 5, 14, 33 and 46, and Code of Federal Regulations, title 46, subchapter B. Through these domestic statutes and regulations, the United States also implements the provisions of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended.

The STCW Convention and Code set forth minimum training and certification requirements for merchant mariners. The IMO adopted amendments to the STCW in 1995. Those amendments entered into force on February 1, 1997. The Coast Guard implemented those amendments through an interim rule revising 46 CFR subchapter B, which published on June 26, 1997 (62 FR 34505). The Convention was subsequently amended in 2002 and 2007.

In 2008, the IMO embarked on a comprehensive review of the entire STCW Convention and the STCW Code, which sets forth provisions for implementing the STCW Convention. Five meetings were held at IMO headquarters in London on the comprehensive review, at which the Coast Guard represented the U.S. and the draft 2010 amendments to the Convention were developed. The Coast Guard held public meetings prior to each one of the IMO review meetings to determine what positions U.S. delegations should advocate and to exchange views about amendments to STCW that were under discussion. In addition, the Coast Guard also obtained input from MERPAC on developments and implementation of the requirements relating to the 2010 amendments. After completing its review, the IMO adopted these amendments on June 25, 2010, at the STCW Diplomatic Conference in Manila, Philippines. They entered into force for all ratifying countries on January 1, 2012.

The STCW Convention is not self-implementing; therefore, the United States, as a signatory to the STCW Convention, must initiate regulatory changes to ensure compliance with its treaty obligations through full implementation of the amendments to the STCW Convention and STCW Code. Accordingly, the Coast Guard is amending 46 CFR subchapter B to: Fully harmonize and incorporate the requirements for national licenses with those of the STCW Convention; to incorporate the 2010 amendments to the STCW Convention that came into force on January 1, 2012; and to make other changes not required by the STCW Convention that are necessary to reorganize, clarify, and update those regulations. A discussion of the 2010 amendments implemented in this final rule is available in the preamble of the SNPRM (76 FR 45908).

All signatories to the STCW Convention are presumed to be fulfilling their obligations under the Convention and, by publishing and implementing this final rule, the U.S. is joining the other signatories, including, but not limited to, Australia, Canada, France, Germany, Norway, Russia, Sweden, and the United Kingdom. The U.S. is also ensuring that the U.S. remains on the IMO ''White List'' of countries giving the Convention full and complete effect. Inclusion on this list entitles U.S.-flag vessels to equal treatment under foreign nation port state control procedures, and enables U.S. mariners to compete in the global workforce. This final rule also

ensures that U.S. mariner credentialing requirements are consistent with international standards. Additionally, the rule strengthens U.S. authority to enforce the STCW Convention and STCW Code against foreign flag vessels in U.S. waters.

Parties to the STCW Convention have port state control authority to detain vessels that do not comply with the Convention. If U.S. regulations are non-compliant with the STCW Convention and STCW Code, there is a risk that U.S. vessels will be detained in foreign ports and that U.S. mariners not in compliance with the STCW Convention would be ineligible to serve on foreign flag vessels.

Over 90 percent of ships visiting U.S. waters are foreign-flag carrying multinational crews, and are subject to STCW. Additionally, approximately 1044 U.S. documented commercial vessels operate on ocean or near coastal voyages and are subject to the provisions of STCW. Implementation and enforcement of the STCW requirements promote shipboard practices that reduce the risk of human errors that could potentially lead to an accident in U.S. waters.

B. Summary of Major Provisions

This section lists the major provisions in this final rule. Both a summary and a detailed explanation of the reasons for changes from the SNPRM can be found in Section VI of this preamble, Discussion of Comments. All of the changes below were made to the rule as proposed in the SNPRM in response to comments from the public, MERPAC, or MEDMAC.

The Coast Guard is publishing this final rule to implement amendments to the STCW Code, including the 2010 amendments, and ensure that the U.S. is meeting its obligations under the Convention. In addition, the Coast Guard is issuing this final rule to respond to the comments, feedback, and concerns received from the public in response to the SNPRM. In order to address those comments and concerns, the final rule will: Clarify transitional provisions for STCW endorsements and for the issuance of medical certificates; provide additional training topics for STCW endorsements as part of approved formal training; remove the new apprentice mate (steersman) of towing (utility), master of towing (utility) and master of towing (harbor assist) endorsements; clarify the application of security requirements; grant sea service credit towards STCW endorsements for mariners who hold a national endorsement but serve on STCW compliant vessels; provide additional means for mariners holding a domestic tankerman endorsement to qualify for STCW tankerman endorsements; clarify the course approval provisions; and include compliance with industry-wide systems, such as International Organization for Standardization (ISO) and International Safety Management (ISM), as an alternate means of compliance with the Quality Standards System (QSS) provisions.

C. Costs and Benefits

The changes between the SNPRM and this final rule do not result in additional impacts to the maritime industry except for the transitional provision that delays the implementation of the QSS requirements until January 1, 2017. This provision was included in this final rule based on the public comments received on the SNPRM and will delay the cost impact of QSS requirements to training providers. For a detailed discussion of comments, the changes, and their additional impacts, please see ''Regulatory Analyses,'' section VIII, of the preamble.

TABLE 1—SUMMARY OF AFFECTED POPULATION, COSTS AND BENEFITS

Category	Final rule
Affected Population	60,000 U.S. mariners [1]; 316 owners and operators of 1,044 U.S. flag vessels; and 141 STCW training providers.
Costs ($ millions, 7-percent discount rate).	$32.6 (annualized). $230.3 (10-year)
Benefits	• Increase in vessel safety and a resulting decrease in the risk of shipping casualties and their consequences (fatalities, injuries, property loss and environmental damage). • Prevention and mitigation of accidents on STCW Convention-compliant foreign vessels in U.S. waters due to increased ability of the Coast Guard to enforce requirements. See Executive Summary for additional information. • Increase in mariners' situational awareness and situational assessment. • Reduction of potential impacts of medical conditions on human error. • Earlier detection and treatment of medical conditions. • Fulfillment of U.S. obligations under the STCW Convention. • Maintenance of U.S. status on the IMO ''White List'' and avoidance of detention of U.S. flagged vessels in foreign ports due to noncompliance with the STCW Convention. • Assurance that U.S. mariners can compete in the global workforce market. • Assurance that U.S. credentialing regulations are consistent with international performance standards based on international consensus and the IMO convention, which minimizes variation in standards of training and watchkeeping.

[1] Includes all mariners to which STCW applies, which is limited to voyages beyond the boundary line.

II. Abbreviations

ABET Accreditation Board for Engineering and Technology
A/B Able seaman
ATB Articulated tug barge vessel
AGT Any gross tons
BRM Bridge resource management
BST Basic safety training
BT Basic training
COI Certificate of inspection
CPR Cardiopulmonary resuscitation
DDE Designated duty engineer
DE Designated examiner
DHS Department of Homeland Security
DME Designated medical examiner
DOT U.S. Department of Transportation
DP Dynamic positioning
DPO Dynamic positioning officer
ECDIS Electronic chart display and information system
EOOW Engineering officer of the watch
ERM Engineroom resource management
ETO Electro-technical officer
FR Federal Register
FSD Functional speech discrimination
FWT Fireman/Watertender
GMDSS Global maritime distress and safety system
GRT Gross register tonnage
GT Gross tonnage
HP Horsepower
HSC High-speed craft
ILO International Labour Organization
IMO International Maritime Organization
IR Interim rule
ISM International Safety Management

ISPS International Ship and Port Facility Security
ISO International Organization for Standardization
ITB Integrated tug-barge
ITC International Tonnage Convention
KUPs Knowledge, understanding, and proficiencies
MARAD U.S. Department of Transportation Maritime Administration
MERPAC Merchant Marine Personnel Advisory Committee
MMC Merchant mariner credential
MMD Merchant mariner's document
MEDMAC Merchant Mariner Medical Advisory Committee
MODU Mobile offshore drilling unit
NMC National Maritime Center
NPRM Notice of proposed rulemaking
NVIC Navigation Vessel Inspection Circular
OCMI Officer in charge, marine inspection
OICEW Officer in charge of an engineering watch
OICNW Officer in charge of a navigational watch
OIM Offshore installation manager
OPA 90 Oil Pollution Act of 1990
OSRV Oil spill response vessel
OSV Offshore supply vessel
PIC Person in charge
PSC Proficiency in survival craft
QA Qualified assessor
QMED Qualified member of the engine department
QSS Quality Standards System
RFPEW Rating forming part of an engineering watch
RFPNW Rating forming part of a navigational watch
Ro-Ro Roll-on/roll-off
SMCP Standard marine communication phrases
SNPRM Supplemental notice of proposed rulemaking
STCW Convention International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978
STCW Code Seafarers' Training, Certification and Watchkeeping Code
TRC Type rating certificate
TSAC Towing safety advisory committee
TOAR Towing officer assessment record
TWIC Transportation worker identification credential
U.S.C. United States Code
USCG United States Coast Guard
VSO Vessel security officer

III. Regulatory History

The Coast Guard published changes to the regulations governing the credentialing of merchant mariners serving on U.S. flag vessels with an interim rule (IR) on June 26, 1997 (62 FR 34505). The 1997 IR ensured that credentials issued by the U.S. met International Maritime Organization (IMO) standards, thereby reducing the possibility of U.S. vessels being detained in a foreign port for non-compliance.

In 2009, the Coast Guard proposed to update the changes made by the 1997 IR to reflect experience gained during the implementation of that rule. The Coast Guard published a notice of proposed rulemaking (NPRM) on November 17, 2009 (74 FR 59354). The NPRM sought to incorporate all effective amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW Convention) and Seafarers' Training, Certification and Watchkeeping Code (STCW Code) as of that publication date. Five public meetings were held to receive comments on the NPRM. These meetings were announced in the **Federal Register** on November 18, 2009 (74 FR 59502).

The public comment period for the NPRM ended on February 17, 2010. After considering comments, feedback, and concerns received from the public in response to the NPRM, and due to the adoption of the 2010 amendments to the STCW Convention and Code, the Coast Guard recognized a need to make substantial changes to the merchant mariner credentialing program and regulations beyond those proposed in the NPRM. Because of these substantial changes, the Coast Guard recognized the necessity of developing a more comprehensive rule, and of providing additional opportunity, through a supplemental notice of proposed rulemaking (SNPRM), for the public to comment on these changes.

The Coast Guard published a notice on March 23, 2010 (75 FR 13715), announcing that we were revisiting the approach proposed in the NPRM and considering publishing an SNPRM as a next step. The notice further explained that the review of the approach was based on feedback received on the NPRM and because of the adoption of the 2010 amendments to the STCW Convention. The IMO approved the 2010 amendments at the June Diplomatic Conference, where it was agreed that all provisions of the STCW Convention, including the 2010 amendments, would enter into force by January 1, 2012.

The Coast Guard published an SNPRM on August 1, 2011 (76 FR 45908), providing 2 months for public comment. The SNPRM proposed to make changes to the implementation of the STCW Convention and Code to incorporate the 2010 amendments to the STCW Convention that came into force on January 1, 2012, and address the comments received from the public in response to the NPRM. In addition, the SNPRM proposed to make other changes not required by the STCW Convention or Code, but necessary to reorganize, clarify, and update these regulations. Four public meetings were held to receive comments on the SNPRM. These meetings were announced in the **Federal Register** on August 2, 2011 (76 FR 46217). The comments received during these four meetings are discussed in the ''Discussion of Comments'' section of this preamble.

On November 3, 2011, the Coast Guard publicly announced the availability of recommendations from MERPAC and the Merchant Mariner Medical Advisory Committee (MEDMAC) concerning the SNPRM and invited public comment (76 FR 68202). The 30-day public comment period closed on December 5, 2011. The comments received in response to these recommendations are also discussed in the ''Discussion of Comments'' section of this preamble.

On January 4, 2012, the Coast Guard published a notice of policy informing the public that the 2010 amendments to the STCW Convention entered into force for all ratifying nations on January 1, 2012 (77 FR 232). The notice also encouraged vessels operating in foreign ports to implement provisions of the 2010 amendments concerning hours of rest and security training to minimize potential port state control detentions.

IV. Overview

This final rule is intended to ensure that U.S. mariners comply with the standards set forth in the STCW Convention and Code and to clarify and update the regulations in 46 CFR subchapter B, Merchant Marine Officers and Seamen. As a result of the comments, feedback, and concerns received from the public in response to the SNPRM, the Coast Guard made changes to the proposed regulations.

Most seagoing merchant mariners must comply with the requirements of the STCW Convention and STCW Code. The Coast Guard recognizes that the CFR regulations implementing the STCW Convention and STCW Code requirements have been the subject of different interpretations and that the requirements reflected in the CFR are not currently organized in a manner that is easy to read and understand.

This final rule also revises other sections of 46 CFR subchapter B in order to clarify, address omissions in, and update those regulations.

V. Tables of Changes

The following table provides a crosswalk showing changes from the existing regulations to this final rule.

Current cite	Cite under final rule	Summary of changes
Subchapter B	Subchapter B	Changes *Domestic* to *National* when used to describe endorsements. The use of ''domestic'' to describe endorsements that are restricted to United States waters inside the STCW boundary line has been replaced by ''national'' to avoid confusion when discussing the domestic endorsements of other countries.
§ 10.107	N/A	Removes the definition of *Apprentice mate (steersman) of towing vessels (utility).* *Endorsement has been removed from regulations.*
§ 10.107	N/A	Removes definition of *Competent Person.* Moved relevant information into part 13 to ensure consistency, because ''competent person'' applies only to endorsements covered in that part.
§ 10.107	N/A	Removes the definition of *Limited.* Definition is not needed because it has the same meaning as in standard English language usage.
§ 10.107	N/A	Removes the definition of *Restricted.* Definition is not needed because it has the same meaning as in standard English language usage.
§ 10.107	N/A	Removes definition for *self-propelled tank vessel.* Eliminates redundancy with the definition of *tankship.*
§ 10.107	§ 10.107	Revises the definition for *Coast Guard-accepted.* The definition is being revised to provide clarification on the instances where something may be approved by the Coast Guard for use in meeting a particular requirement.
§ 10.107	§ 10.107	Revises definition of *Day.* This revised definition will link the definition to the U.S. Code and provide further clarification regarding service on MODUs and cadet service on a maritime training ship within the regulations.
§ 10.107	§ 10.107	Revises definition of *Designated Examiner (DE).* The definition was revised to ensure that a DE applies to the Towing Officer Assessment Record only, as DE previously applied to all qualification processes.
§ 10.107	§ 10.107	Revises definition of *Endorsement.* The definition was revised to clarify that all endorsements are listed in § 10.109.
§ 10.107	§ 10.107	Revises definition of *Inland waters.* The definition was revised to allow sea service credit towards STCW on certain inland vessels.
§ 10.107	§ 10.107	Revises the definition of *Near-coastal.* Amends to include exceptions for operator of uninspected passenger vessels (OUPVs) in order to formalize a pre-existing exception for OUPVs. Includes near-coastal waters identified by another country's Administration when entering into a treaty or an agreement with that country.
§ 10.107	§ 10.107	Revises definition for *Qualified Assessor.* Clarifies this person's role and professional development.
§ 10.109	§ 10.109	Revises list of endorsements. Adds new endorsements in accordance with parts 11 and 12 to ensure that the lists of endorsements are consistent throughout the regulations.
§ 10.205	§ 10.205	Revises postdating. Clarifies and simplifies the postdating process. Postdating will occur unless the applicant specifies otherwise.
§ 10.209, 10.231	§ 10.209, 10.231	Adds required documentation for medical examinations. Adds a medical certificate issued by the Coast Guard. This serves as documentary proof of passing the medical examination.
§ 10.209, 11.480	§ 10.209, 10.480	Electronic submission of required documents. Allows course completion certificates, including radar observer, to be submitted electronically.
§ 10.215	Part 10, subpart C	Transfers medical requirements to a new subpart. Revises the physical requirements for mariners applying for a Coast Guard-issued credential. These changes include: annual submission of physicals by pilots, revision of vision standard, revision of hearing standard, clarification regarding demonstration of physical ability. Provides the Coast Guard some flexibility in the acceptance of other tests. The requirement to demonstrate physical ability provides information required for those mariners serving on vessels to which STCW applies.
§ 10.215	§ 10.301	Revises medical certificate validity period. Adds issuance of the new medical certificates with the following period of validity: (1) 2 years for STCW-endorsed mariners, unless the mariner is under the age of 18, in which case the maximum period of validity would be 1 year; (2) 2 years for a mariner who is serving as a first-class pilot, or acting as a pilot under § 15.812; and (3) 5 years for all other mariners, consistent with the current practice and requirements.
§ 10.215	§ 10.305	Revises vision requirements. The 2010 amendments have expanded the applicability of vision standards from one eye to both eyes for deck personnel with STCW endorsements.
§ 10.217	§ 10.217	Removes reference to temporary permits. Formalizes long-standing Coast Guard practice of no longer issuing temporary permits.
§§ 10.227, 10.231	§§ 10.227, 10.231	Revises renewal requirements for credentials. Removes the requirement to submit an old, original credential in an application for renewal. This permits mariners to retain their previous credentials.

Current cite	Cite under final rule	Summary of changes
§ 10.303	§ 10.410	Removed Quality Standards System (QSS) requirements from § 10.303 and moved them into a new § 10.410. Adds QSS information into a new section and adds requirement for training providers to develop a QSS. This reflects the STCW requirement to use a QSS. Includes ISM, which is an industry-wide system, as alternate means of compliance for the QSS provision. Adds implementation date (January 1, 2017) for QSS requirements in accordance with the STCW Convention.
N/A	§ 10.107	Adds the definition of *Able-seafarer deck.* Provides consistency with the STCW Convention.
N/A	§ 10.107	Adds the definition of *Able-seafarer engine.* Provides consistency with the STCW Convention.
N/A	§ 10.107	Adds the definition of *Boundary line.* Adding the definition will assist applicants in understanding the limits of the STCW Convention.
N/A	§ 10.107	Adds definition of *Ceremonial license.* Provides mariners an MMC endorsement suitable for framing. This is in response to mariner demand for a ceremonial license.
N/A	§ 10.107	Adds definition of *Chemical tanker.* Adds definition for the differentiation of dangerous liquids into two endorsements under STCW. Clarifies the type of vessel on which mariners must serve to qualify for an STCW endorsement for advanced chemical tanker cargo operations.
N/A	§ 10.107	Adds the definition of a *Coast Guard-accepted Quality Standards System (QSS) organization.* Adds definition regarding those organizations that may conduct QSS activities in regard to training, consistent with STCW requirements.
N/A	§ 10.107	Adds definition of *Coastwise Voyage.* To clarify the boundaries of these types of voyages.
N/A	§ 10.107	Adds the definition of *Communicable disease.* Clarifies what a physician should look for when conducting medical examinations.
N/A	§ 10.107	Adds definition of *Deck department.* To clarify the functions of this department.
N/A	§ 10.107	Adds definition of *Designated medical examiner.* To clarify who can give medical examinations to mariners, establishing a network of medical examiners who have demonstrated an understanding of mariner fitness.
N/A	§ 10.107	Adds the definition of *Domestic voyage.* To clarify that domestic service does not include entering foreign waters. This will assist those operating small passenger vessels in waters close to or adjacent to foreign waters in determining whether the operator would be required to hold an STCW endorsement. The definition was revised to include voyages beginning and ending at a U.S. port and passing through the waters of another country if the U.S. has entered into a treaty or agreement with that country.
N/A	§ 10.107	Adds definition of *Dual-mode integrated tug barge (ITB).* To clarify what is included in the operations and configuration of this type of ITB.
N/A	§ 10.107	Adds the definition of *Electro-technical officer.* Provides consistency with the STCW Convention.
N/A	§ 10.107	Adds the definition of *Electro-technical rating.* Provides consistency with the STCW Convention.
N/A	§ 10.107	Adds definition of *Engine department.* To clarify the functions of this department.
N/A	§ 10.107	Adds definition of *Gross register tons (GRT).* Provides definition for term used in the proposed rule and establishes an abbreviation for the use of this term throughout this subchapter. This will help the mariner to readily distinguish between GRT and gross tonnage.
N/A	§ 10.107	Adds the definition of *Gross tonnage (GT).* This will provide consistency with the STCW Convention and simplify the regulations by establishing an abbreviation for use throughout this subchapter.
N/A	§ 10.107	Adds the definition of *High-speed craft type rating.* Adds a definition and requirement for a high-speed craft type rating to be compliant with the high-speed craft code. This puts into regulations existing processes that had previously been completed through Navigation Vessel Inspection Circular (NVIC) and policy letter.
N/A	§ 10.107	Adds the definition of *ILO.* Establishes an abbreviation for the use of this term throughout this subchapter.
N/A	§ 10.107	Adds definition of *Integrated tug barge.* To specify and make clear the features and capabilities of this type of tug barge combination.
N/A	§ 10.107	Adds the definition of *International Safety Management Code.* This term is referenced in part 10.
N/A	§ 10.107	Adds the definition of *Kilowatt (kW).* To provide clarity and consistency, as the term is used in conjunction with the implementation of the STCW Convention and STCW Code.

Current cite	Cite under final rule	Summary of changes
N/A	§ 10.107	Adds definition of *Lifeboatman-Limited.* To provide for a new endorsement for persons serving in a position similar to Lifeboatman but on a vessel without a lifeboat.
N/A	§ 10.107	Adds definition of *Liquefied gas tanker.* Adds definition for the change in STCW tanker cargo operations endorsements.
N/A	§ 10.107	Adds the definition of *Management level.* To explain that master, chief mate, chief engineer and first assistant engineer (second engineer officer) are considered management level under the STCW Convention.
N/A	§ 10.107	Adds definition of *Medical certificate.* To describe a new document that serves as proof that a mariner meets the required medical and physical standards.
N/A	§ 10.107	Adds definition of Officer in Charge of an Engineering Watch (*OICEW).* To clarify that this endorsement is at the operational level.
N/A	§ 10.107	Adds definition of Officer in Charge of a Navigational Watch (*OICNW).* To clarify that this endorsement is at the operational level.
N/A	§ 10.107	Adds definition of *Oil tanker.* Adds definition for the differentiation of dangerous liquids into two STCW endorsements.
N/A	§ 10.107	Adds the definition of *Operational level.* Provides that officer endorsements other than management level are considered operational level under the STCW Convention. This will provide consistency with STCW Convention/Code.
N/A	§ 10.107	Adds the definition of *Periodically unattended engine room.* Provides clarity in the application of the service requirements for engineers.
N/A	§ 10.107	Adds the definition of *Propulsion power.* To provide consistency with the use of the term ''propulsion power'' in STCW and to encompass methods of measurement, such as horsepower (HP) and kilowatts (kW).
N/A	§ 10.107	Adds definition of *Push-mode ITBs.* To specify what is included in the configuration of this tug barge unit.
N/A	§ 10.107	Adds definition of *Qualified Assessor.* To clarify the qualifications for this type of evaluator.
N/A	§ 10.107	Adds the definition of *Quality Standard System (QSS).* To ensure conformity with STCW requirements for use of a QSS and provide clarification of what is intended by this term when used in this subchapter.
N/A	§ 10.107	Adds definition of *Seagoing service.* Clarify for the mariner what is included in this type of service, including Great Lakes and inland service.
N/A	§ 10.107	Adds the definition of *Seagoing vessel.* To ensure the definition captures all vessels to which STCW Convention and Code apply. There is no commercial vessels restriction, as appears in the current definition in § 15.1101, because that would have excluded vessels such as yachts and government-owned vessels, which are required to be operated by mariners holding an STCW endorsement.
N/A	§ 10.107	Adds the definition of *Ship.* To provide clarity regarding the types of propulsion modes for these vessels.
N/A	§ 10.107	Adds the definition of *Training program.* To provide clarity regarding what is encompassed within training programs.
N/A	§ 10.107	Adds the definition of *Unlimited.* Clarifies the annotation on an MMC authorizing service on vessels of any tonnage or any propulsion power.
N/A	§ 10.205(h)	Adds provision regarding Document of Continuity. To explain the process of replacing a Document of Continuity with an MMC.
N/A	§ 10.209	Adds ceremonial license. Allows mariners to request a ceremonial license when renewing his or her credential.
N/A	§§ 10.232, 11.401, 11.404, 11.405, and 11.406.	Expands provisions granting sea service credit towards STCW endorsements to include those mariners who hold a national endorsement and provide proof of service on vessels to which STCW applies, whether on inland or coastwise service. Service on vessels to which STCW applies, whether inland or coastwise, will be credited on a day-for-day basis.
N/A	§ 10.405	Adds requirements for qualification as a qualified assessor or designated examiner. To ensure that qualified individuals conduct evaluations of mariners in conformity with the STCW Convention. See Section A–I/6 of the STCW Code. Adds a provision requiring qualified assessors who renew their qualifications to provide evidence of experience, training, or instruction within the past 5 years. To ensure that qualified assessors are trained in proper assessment techniques and have completed an ''assessor training'' course as part of an accepted training program.
N/A	§ 10.409	Adds requirements for approval as a Coast Guard-accepted QSS organization. Requires organizations wishing to accept and monitor training to submit application for approval. Coast Guard-accepted QSS organizations will be audited once every five years. This is to ensure compliance with STCW Convention/Code and to provide oversight of these organizations.
N/A	§ 10.411	Adds simulator performance standards. To provide consistency with existing requirements and Section A–I/12 of the STCW Code.
N/A	§ 10.412	Adds distance and e-learning, Adds a provision that will allow mariners to complete certain approved training via distance or e-learning courses.

Current cite	Cite under final rule	Summary of changes
		This will allow more options for obtaining training.
§§ 11.201, 11.205	§ 11.201	Re-organizes and consolidates all general requirements applicable to all domestic and STCW officer endorsements.
		Consolidates all endorsement requirements from the various sections (including §§ 11.201, 11.205) into a general section with sub-titles to allow for easy reference.
§ 11.202	§ 15.817	Moves section for Global Maritime Distress and Safety System (GMDSS) competency without substantive change.
		Requires that all deck officers serving on vessels equipped with GMDSS provide an endorsement for GMDSS.
		This re-organizes the regulations to make them easier to access and follow.
§ 11.202	§ 15.816	Moves section for Automatic Radar Plotting Aids (ARPA) competency without substantive change.
		Requires that all deck officers serving on vessels equipped with ARPA prove competency.
		This re-organizes the regulations to make them easier to access and follow.
§ § 11.202, 11.205	§§ 11.301, 11.302 and 11.303.	Re-organizes and consolidates all requirements applicable to all STCW officer endorsements.
		Title changes from Basic safety training (BST) to Basic Training (BT) to be consistent with the STCW Convention.
		Consolidates all endorsement requirements from various sections (including §§ 11.202 and 11.205) into a general section with sub-titles to allow for easy reference. General requirements (§ 11.301), Basic training (§ 11.302) and Advanced firefighting (§ 11.303).
§ 11.202(c)	§§ 11.305 to 11.321	Moves the requirement for ARPA from the general section.
		To place the requirement in the appropriate operational-level and management-level certificate.
§ 11.202(d)	§§ 11.305 to 11.321	Moves the requirement for the training and assessment on GMDSS from the general section.
		Incorporates the GMDSS requirement with the requirement for the appropriate operational-level and management-level certificate to simplify and clarify the GMDSS requirement.
§ 11.202(e)	§§ 11.305 to 11.321	Changes the name of Procedures for Bridge Team Work to Bridge Resource Management (BRM).
		The BRM will be required for the operational level credential and leadership and managerial skills will be required for the management level credential.
		This will provide consistency with STCW.
§ 11.202(e)	§§ 11.305 to 11.321	Moves the requirement for Bridge Resource Management.
		Moves the BRM requirement to the appropriate operational-level certificate in order to clarify and simplify the requirement.
§ 11.202(b)	§ 11.302	Moves requirements for Basic Training.
		Adds requirements for BT, including the requirement to maintain the standard of competence every 5 years through a combination of drills and onboard training and experience with shore-side assessments.
		This will ensure mariners maintain knowledge of BT.
§ 11.202(f)	§ 11.301(h) and (i)	Moves exemptions and relaxations for vessels that are not subject to any obligation under STCW.
		Moves exemption and relaxation requirements applicable to vessels that are exempt from the requirements or that are applicable because of their special operating condition as small vessels in domestic voyages.
		This was done to simplify the regulations by placing all STCW requirements in one subpart.
§ 11.205(c)	N/A	Removes letters of reference requirement.
		Removes the requirement to submit letters of reference because of the depth of new background investigation procedures by both the Coast Guard and the Transportation Security Administration.
§ 11.205(d)	§ 11.201(h)	Reduces firefighting training requirements for certain endorsements.
		Reduces the training from basic and advanced firefighting to basic firefighting training for vessels of less than 200 GRT in ocean services.
		This will reduce the burden on mariners serving on these vessels.
§ 11.205(d)	§ 11.201(h)	Adds firefighting training requirements for certain endorsements.
		Mandates basic firefighting training for some endorsements on non-ocean services.
		This is to ensure that mariners with those endorsements have basic firefighting skills and to improve overall maritime safety.
§ 11.211	§ 11.211	Adds provisions to accept certain towing vessel service, including service in inland tug-barge combinations such as ATBs and integrated tug barges (ITBs), based on the aggregate tonnage of the tug and barge(s) when greater than 1,600 GRT.
		Grants credit for service on towing vessels using the aggregate tonnage on a 1-for-2 basis (2 days experience equals 1 day of creditable service) for up to 50 percent of the total service on vessels of 1,600 GRT or more.
§§ 11.211 (a) and (b), 11.213.	§ 10.232	Creates new section for sea service.
		Inserts new section to discuss sea service issues applicable to all credentials, including foreign sea service, documentation to show proof of sea service, and sea service as a member of the armed forces.
		This is in response to public comments requesting further clarification on sea service requirements.
		Expands list of items applicants must provide as documentary evidence of sea service.

Current cite	Cite under final rule	Summary of changes
		Revises to include sea service credit for cadets serving onboard academy training ships where sea service is part of an approved training program.
		Will grant ½ days of sea service credit for each day a cadet serves aboard an academy training ship where sea service is part of an approved training program.
§ 11.211(d)	§ 11.211(c)	Expands sea service credit on Articulated Tug Barges (ATBs).
		The Coast Guard will allow the service on ATBs to qualify for unlimited tonnage officer endorsements.
		This will reduce the burden on the mariner seeking to qualify for these endorsements.
§ 11.301	§ 11.301	Revises to provide mariners the opportunity to use the new STCW training requirements when applying for credentials.
		Provides that persons who hold or have held an STCW operational-level endorsement issued prior to the effective date of this final rule, and are seeking to upgrade to an STCW management-level endorsement, will not be required to do the assessments for STCW operational-level endorsements.
§ 11.301	§ 10.401	Revises the applicability to include training programs.
		Clarifies that the STCW Convention covers all training used to pursue certification, whether or not it is part of an approved course or training program. See Regulation I/6 of the STCW Convention and Section A–I/6 of the STCW Code.
§ 11.302	§ 10.402	Revises the credit that can be provided by course approval to allow for multiple purposes.
		Provides industry more flexibility to complete the requirements as current regulations are too confining.
§ 11.302	§ 10.402	Revises the requirements for the request for course approval.
		Incorporates previously issued guidance documents.
		This is to assist industry in understanding otherwise vague requirements.
		Revises course approvals to implement the IMO model course format and terminology.
§ 11.302	§ 10.402	Clarifies the circumstances that could lead to the suspension of course approval for a training course.
		Organizes the requirements for suspension of course approvals.
		This is being done in response to public comments regarding course approval suspensions.
§ 11.302	§ 10.402	Revises the reasons for withdrawal of course approval.
		Clarifies reasons for withdrawal of course approval.
§ 11.302	§ 10.407	Revises the requirements for the request for program approval.
§ 11.303	§ 10.403	Revises section to require that each student demonstrate practical skills appropriate for the course.
		Ensures that the training provided meets the requirements of the STCW Convention, i.e., not only ensuring applicant knowledge, understanding and proficiency (KUP), but also requiring a demonstration of skills. See STCW Regulation I/6 of the STCW Convention.
§ 11.303	§ 10.403	Revises the records and reports required for each approved course.
		Provides the Coast Guard the ability to be consistent with obligations under the STCW Convention to validate the training received by merchant mariners. See Regulation I/8 of the STCW Convention.
§ 11.303	§ 10.403	Adds QSS requirements for an approved course.
		Provides consistency with the obligation under the STCW Convention for approved training to be part of a QSS. See Regulation I/8 of the STCW Convention.
§ 11.304	§ 10.404	Revises the requirement to substitute all sea service for successful completion of an approved training program.
		Provides service credit for training programs, because they regularly provide more extensive training situations and broader opportunities to demonstrate proficiency.
§ 11.305	N/A	Removes specific requirements regarding radar-observer certificates and qualifying courses.
		Removes requirements now unnecessary due to other proposed changes throughout this subpart.
§ 11.309	§ 10.409	Revises section to reduce redundant language from other sections of this subpart.
		Provides clarification with reference to § 10.402 for collecting the necessary information.
§ 11.309	§ 10.409	Adds QSS requirements for accepted training.
		Provides consistency with the STCW Convention for approved training to be part of a QSS. See Regulation I/8 of the STCW Convention.
§ 11.401	N/A	Removes the requirement for deck officers to obtain a qualification as able seaman.
		Provides consistency with the STCW Convention that does not require a qualification as able seaman for seagoing deck officers.
§ 11.402	§ 11.402	Revises tonnage limitations for an unlimited officer endorsement by setting the minimum to 2,000 GRT.
		Establishes a revised minimum tonnage limitation. It was previously possible to obtain a limitation of less than 2,000 GRT.
		This requirement eases the burden on mariners seeking removal of tonnage limitations on their licenses.
§ 11.400 et seq.	§ 11.400 et seq.	Establishes a link between national and STCW deck officer endorsements.
		Provides better organization and clarification by linking the endorsements.
§ 11.463	§ 11.463(g)	Adds a restriction to a specific type of towing vessel and/or towing operation. Adds the requirement for towing vessel officers serving on seagoing vessels to comply with the STCW Convention.
		Adds provision for a towing vessel restriction such as articulated tug barge (ATB) vessels that do not routinely perform all of the tasks in the Towing Officer Assessment Record (TOAR).
		Clarifies the regulations and policy for officers on towing vessels.

Current cite	Cite under final rule	Summary of changes
§ 11.463	§ 11.463	Re-opens grandfathering provision. Minimizes the burden on mariners by re-opening grandfathering provision for those who met training and service requirements prior to May 21, 2001.
§ 11.465	§ 11.465	Adds a time limit for acceptance of TOARs. The TOAR must be completed within 5 years of application for license to be consistent with the continued proficiency requirements for the renewal of a towing endorsement.
§ 11.467	§ 11.467	Adds the limitation to the endorsement as operator of uninspected passenger vessels to not more than 100 nautical miles offshore. Clarifies that this endorsement is limited to domestic near-coastal waters not more than 100 nautical miles offshore. This makes clear that this endorsement authorizes only domestic voyages.
§ 11.482	§ 11.482	Clarifies limitations for assistance towing endorsements. Clarifies and simplifies the application of the assistance towing endorsement.
§ 11.491	§ 11.491	Raises the tonnage limitations on national Offshore Supply Vessel (OSV) endorsements. Raises the tonnage limitation for officers with a 500 GRT limitation to 1,600 GRT.
§ 11.493	§ 11.493	Revises language for Master (OSV). Eliminates unnecessary language and ensures consistency with STCW Convention and Code requirements by expanding the sea service requirements for this endorsement.
§ 11.495	§ 11.495	Revises language for Chief Mate (OSV). Eliminates unnecessary language and ensures consistency with STCW Convention and Code requirements.
§ 11.497	§ 11.497	Revises language for Mate (OSV). Eliminates unnecessary language and ensures consistency with STCW Convention and Code requirements.
§ 11.500 et seq.	§ 11.500 et seq.	Establishes a link between national and STCW engineer officer endorsements. Simplifies the regulations by providing link to appropriate section to add engineer STCW endorsement to existing national endorsement.
§ 11.501(d)	§ 11.501(d)	Adds Gas Turbine Propulsion. Clarifies propulsion mode limitations to engineer's licenses.
§ 11.518	§ 11.518	Removes oceans restriction from chief engineer (limited) endorsement. Simplifies the regulations by removing the geographical restriction. To sail beyond the boundary line, the holder of this endorsement must hold the appropriate STCW endorsement.
§ 11.520	§ 11.520	Removes chief engineer (limited near-coastal) endorsement. Allows all engineers who currently hold a license as chief engineer (limited near-coastal) to be upgraded to chief engineer (limited) without further sea service or testing requirements.
§ 11.522	§ 11.522	Removes oceans restriction from assistant engineer (limited) endorsement. Simplifies the regulations by removing the geographical restriction. To sail beyond the boundary line, the holder of this endorsement must hold the appropriate STCW endorsement.
§ 11.553	§ 11.553	Revises language for Chief Engineer (OSV). Eliminates unnecessary language and ensures consistency with STCW Convention and Code requirements by expanding the sea service requirements for this endorsement.
§ 11.555	§ 11.555	Revises language for Assistant Engineer (OSV). Eliminates unnecessary language and ensures consistency with STCW Convention and Code requirements.
§ 11.709	§ 11.709	Revises language for first-class pilot annual physical examinations. Integrates the first-class pilot's annual physical into the biennial medical certificate system.
§ 11.811	§ 11.337	Moves requirements for Vessel Security Officer (VSO) to STCW officer endorsement requirements without substantive change. Groups all STCW officer endorsements together.
§ 11.821	§ 11.821	Defines the applicability of the High-speed craft type rating. Limits the requirement to hold High-speed craft type rating to mariners operating vessels to which the High speed craft code applies.
§ 11.901	§ 11.901	Removes the list of endorsements requiring STCW endorsement. Amends section because the list of endorsements was redundant and unnecessary in this location.
§ 11.903	§ 11.903	Revises the list of endorsements requiring examination. Removes the endorsements that do not require an examination, based on a change in policy and progression consistent with the STCW Convention, i.e., master and second mate. Adds endorsements that require an examination, based on a change in policy and progression consistent with the STCW Convention (mate of near-coastal vessels of less than 200 GRT, master of near-coastal vessels of less than 100 GRT, and mate of Great Lakes and inland/river vessels of less than 200 GRT).
§ 11.910	§ 11.910	Revises table 1 to 11.910. Clarifies and simplifies the regulations by reflecting the combined endorsements at the management and operational levels.
§ 11.910	§ 11.910	Revises table 2 to 11.910. To revise the table of subjects in order to reflect combined examinations at the operational and management levels and the STCW Convention.
§§ 11.1001 to 11.1005	N/A	Deletes requirements for roll-on/roll-off passenger ships. To reflect the 2010 STCW amendment changes to include requirements for passenger ships. This also simplifies the regulations by merging requirements from subparts J and K.

Current cite	Cite under final rule	Summary of changes
§ 11.1105	§ 11.1105	Amends requirements for officers on passenger ships when in international voyages. Reflects the 2010 STCW amendment changes to include requirements for passenger ships. Expands the 2010 STCW amendment changes to include training in crowd management, passenger ship safety training, crisis management and human behavior, and training in passenger safety, cargo safety, and hull integrity. This also simplifies the regulations by merging requirements from subparts J and K.
N/A	§ 11.301(a)	Adds alternative methods for Standard of Competence. Adds alternative methods of demonstrating competence to provide mariners with multiple options, where allowed by the STCW Convention.
N/A	§ 11.301(b)	Revises Great Lakes and inland service. Grants day-for-day equivalency for Great Lakes service up to 100 percent and one- for-one up to 50 percent for inland service. This is in response to public comments requesting equivalency for Great Lakes service. Service accrued on vessels with dual tonnages. Service will be credited using the international tonnage. This ensures consistency with the STCW Convention.
N/A	§ 11.301(d)	Rating service for management-level endorsements. Service as a rating is not acceptable for management-level STCW endorsements. This ensures consistency with the STCW Convention.
N/A	§ 11.301(g)	Grandfathering provisions. These provisions will ease the transition for mariners with existing endorsements. Ensure consistency with the 2010 amendments to the STCW Convention and Code.
N/A	§ 11.303	Requirements for Advanced Firefighting. Adds requirements for Advanced Firefighting including the requirement to maintain the standard of competence every 5 years through a combination of drills and onboard training and experience with shore-side assessments. This ensures consistency with the STCW Convention.
N/A	§ 11.304	List of STCW deck officer endorsements. List of endorsements included in the applicable subsequent sections. This re-organizes the regulations to make them easier for the mariner to access.
N/A	§ 11.323	List of STCW engineer officer endorsements. List of endorsements included in the applicable subsequent sections. This re-organizes the regulations to make them easier for the mariner to access.
N/A	§§ 11.303 to 11.321; §§ 11.323 to 11.335.	Requirements for STCW deck and engineer officer endorsements. Includes the STCW Convention list of requirements in order to obtain the endorsement. This re-organizes the regulations to make them easier for the mariner to access.
N/A	§§ 11.305 to 11.321; §§ 11.325 to 11.335.	Sea service requirements for STCW deck and engineer officer endorsements. Includes STCW Convention language providing various alternatives for sea service. This re-organizes the regulations to make them easier for the mariner to access. This also provides for acceptance of various modes of sea service.
N/A	§§ 11.305 to 11.321; §§ 11.325 to 11.335.	Standard of competence from the STCW Code. Provides a specific requirement to meet the standard of competence from the appropriate tables in the STCW Code. This ensures consistency with the STCW Convention.
N/A	§§ 11.305 to 11.325; §§ 11.323 to 11.335.	Requirement for training. Includes STCW Convention mandatory training. Adds classroom or formal training topics required for STCW endorsements. This ensures consistency with the STCW Convention.
N/A	§§ 11.305 to 11.321; §§ 11.325 to 11.335.	Gap closing measures from the 2010 amendments. Includes training necessary to comply with the 2010 amendments. This ensures consistency with the STCW Convention.
N/A	§§ 11.305 to 11.321; §§ 11.325 to 11.335.	Exemptions from the standard of competence. Provides for exemptions from the tables of competence based on vessel type.
N/A	§§ 11.305 to 11.321; §§ 11.325 to 11.335.	Inserts tables specifying entry paths from national endorsements to STCW endorsements. Describes various entry points to obtain an equivalent STCW endorsement. This provides a method of determining which STCW endorsements are attainable for each national endorsement.
N/A	§ 11.335	Adds a new section providing the requirements for STCW officer endorsement as electro-technical officer. This ensures consistency with the STCW Convention. See regulation III/6 of the STCW Convention and Section A–III/6 of the STCW Code.
N/A	§ 11.335	Provides equivalency accepted for personnel serving in a similar capacity. Allows for the issuance of the STCW officer endorsement as electro-technical officer to personnel with equivalent credentials and sea service. This makes it easier for an applicant to obtain this endorsement. Adds classroom or formal training topics required for STCW endorsements. Clarifies grandfathering provisions for Electro-Technical Officer.

Current cite	Cite under final rule	Summary of changes
N/A	§ 11.335	Provides equivalency accepted for engineer officers. Allows for the issuance of the STCW officer endorsement as electro-technical officer to OICEW, second engineer officer and chief engineer officer. This makes it easier for an applicant to obtain this endorsement.
N/A	§ 11.425	Adds a new section for mate of ocean, self-propelled vessels of less than 200 GRT. Allows for the issuance of this national endorsement. Provides a path of progression to master of oceans self-propelled vessels of less than 200 GRT, and in accordance with Regulation II/3 of the STCW Convention.
N/A	§ 11.821	Adds high-speed craft qualifications. Establishes qualifications for operating high-speed craft. This ensures consistency with the STCW Convention.
N/A	Subpart J	Revises subpart to add new provisions on recognition of STCW officer endorsements issued by a foreign government. Establishes requirements for the recognition of STCW Certificates issued by foreign governments. Recognition is restricted to non-U.S. licensed officers and mariners with officer endorsements (except masters) found in § 15.720(b). Application for a recognition certificate via the employer. This ensures consistency with the STCW Convention.
§ 12.02–7	§ 15.401	Moves this requirement to § 15.401. Moves section to part 15 as it is a manning requirement. This re-organizes the regulations to make them easier to understand. Adds implementation date (January 1, 2017) for medical certificates in accordance with STCW Convention.
§ 12.02–17	§ 12.205(c)	Amends provisions for re-testing. Amends waiting period after third failed examination. Deletes maximum waiting period of 30 days after initial failure. This allows applicants to re-test earlier than the current time period.
§ 12.03	Subpart D (§ 10.400 series).	Consolidates Coast Guard-accepted and approved training into one subpart. Streamlines the regulations.
§ 12.05–1	§ 12.401	Adds able seaman endorsements. Adds able seaman-fish, and able seaman-sail. This codifies Coast Guard policy into the regulations.
§ 12.05–1(a) and (b)	§ 15.401	Moves this requirement to § 15.401 without substantive change. Moves paragraphs to part 15 as it is a manning requirement. This re-organizes the regulations to make them easier to understand.
§ 12.05–3	§ 12.401	Revises the general requirements to obtain an endorsement as able seaman (A/B) to include holding or qualified to hold an endorsement as lifeboatman. Clarifies the A/B requirement to allow being qualified for lifeboatman, and removes the requirement to pass the lifeboatman exam if the individual already holds the appropriate endorsement. This eases the burden on mariners seeking to obtain this endorsement.
§ 12.05–3(a)(2), 12.15–5, 12.25–20.	§ 12.401	Moves requirement to § 12.401 without substantive change. Consolidates general requirements for certification. This re-organizes the regulations to make them easier for the mariner to access.
§ 12.05–3(b)	§ 12.602	Moves requirements for Basic Safety Training (BST). Title changes from BST to Basic Training (BT). Adds requirements for BT, including the requirement to maintain the standard of competence every 5 years through a combination of drills and onboard training and experience with shore-side assessments. This ensures consistency with the STCW Convention.
§ 12.05–3(c)	§ 12.605	Adds a new section to provide the requirements for ratings forming part of a navigational watch (RFPNW). Provides requirements for RFPNW, required by the STCW Convention, in one location. This ensures consistency with the STCW Convention.
§ 12.05–7	§ 12.403	Adds service and training requirements for new rating endorsements. Adds service and training requirements for able seaman-fish, and able seaman-sail. This codifies Coast Guard policy into the regulations.
§ 12.05–9	§ 12.405	Adds requirement in paragraphs (a) and (c) to show that the listed demonstrations have been performed in a Coast Guard-approved course. This consolidates existing policy into the regulations.
§ 12.10	§ 12.407	Moves this requirement to § 12.407 from § 12.10. Moves requirement to STCW section. This re-organizes the regulations to make them easier to understand without substantive change.
§ 12.10–1	§ 15.401	Moves this requirement to § 15.401 without substantive change. Moves section to part 15 as it is a manning requirement. This re-organizes the regulations to make them easier to understand.
§ 12.10–3	§ 12.609	Moves requirements to qualify for an STCW endorsement as a rating forming part of an engineering watch (RFPEW) without substantive change. Moves requirement to STCW section. This re-organizes the regulations to make them easier to understand.
§ 12.10–7	§ 15.404	Moves this requirement to § 15.404 without substantive change.

Current cite	Cite under final rule	Summary of changes
		Moves section to part 15 as it is a manning requirement. This re-organizes the regulations to make them easier to understand.
§ 12.10–9	§ 12.617	Revises the requirements for certificates of proficiency in fast rescue boats, adding the specific areas of competence the STCW Convention requires. Provides additional information clarifying the STCW Convention requirements to obtain an endorsement for proficiency in fast rescue boats. This ensures consistency with the STCW Convention.
§ 12.13–3	§ 12.619	Revises the requirements for certificates of proficiency for medical first-aid provider, adding the specific areas of competence the STCW Convention requires. Provides additional information clarifying the STCW Convention requirements to obtain an endorsement for medical first-aid provider. This ensures consistency with the STCW Convention.
§ 12.13–3	§ 12.619	Revises this basis-of-documentary-evidence section to include those persons who have alternative qualifications. Adds the additional process to meet this requirement through the possession of a professional license or alternative professional qualification. This opens up additional options for mariners to utilize in obtaining this endorsement.
§ 12.13–3	§ 12.621	Revises the requirements for certificates of proficiency for person-in-charge of medical care, adding the specific areas of competence the STCW Convention requires. Provides additional information clarifying the STCW Convention requirements to obtain an endorsement for person-in-charge of medical care. This ensures consistency with the STCW Convention.
§ 12.13–3	§ 12.621	Revises this basis-of-documentary-evidence section to include those persons who have alternative qualifications. Adds the additional process to meet this requirement through the possession of a professional license or alternative professional qualification. This opens up additional options for mariners to utilize in obtaining this endorsement.
§ 12.15–1	§ 15.401	Moves this requirement to § 15.401 without substantive change. Moves section to part 15 as it is a manning requirement. This re-organizes the regulations to make them easier to understand.
§ 12.15–3(e)	§ 12.501	Revises the RFPEW requirement for Qualified Member of the Engineering Department (QMED). Removes the specific requirement for the STCW endorsement as RFPEW associated with QMED and moves it to its own section. This re-organizes the regulations to make them easier to understand.
§ 12.15–3(e)	§ 12.609	Adds a new section to provide the requirements for RFPEW. Provides requirements for RFPEW, required by the STCW Convention, in one location. This re-organizes the regulations to make them easier to understand.
§ 12.15–7	§ 12.501	Revises the requirement to provide a more general requirement that a QMED endorsement applicant must complete an appropriate training program. There is no need to provide specific information regarding the training programs and courses; this information is included in the course approval letters provided to each training provider. This makes the regulations easier to follow.
§ 12.15–9	§ 12.501	Reduces the number of QMED ratings from 10 to 5. This simplifies the regulations by removing several endorsements that are no longer used and combines several others.
§ 12.15–11	§ 12.505	QMED rating endorsement list. Revises the list of QMED rating endorsements to make the regulations easier to follow.
§ 12.15–13	N/A	Deletes deck engine mechanic rating as an MMC endorsement. Deletes this rating for new applicants; however, companies that wish to continue to employ mariners in this rating may do so. This simplifies the regulations by removing several endorsements that are rarely used and combines several others.
§ 12.15–15	N/A	Deletes engineman rating as an MMC endorsement. Deletes this rating for new applicants; however, companies that wish to continue to employ mariners in this rating may do so. This simplifies the regulations by removing several endorsements that are rarely used and combines several others.
§ 12.25–1	§ 12.701	Changes section title from ''Credentials required'' to ''Credentials required for entry-level and miscellaneous ratings''. Revises for clarity; no substantive change.
§ 12.25–10	§ 12.703	Moves general requirements. Consolidates general requirements for entry-level ratings. This makes the regulations easier to follow.
§ 12.25–45	§ 15.818	Moves section for GMDSS at-sea maintainer. Requires that anyone serving as at-sea maintainers on vessels equipped with GMDSS must provide documentary evidence of competency. This re-organizes the regulations to make them easier to access and follow.
§ 12.25–45	§ 12.623	Revises section to provide more specific information regarding the qualification requirements for an endorsement as GMDSS at-sea maintainer. Specifies the methods of qualification allowed to obtain the endorsement. This ensures consistency with the STCW Convention and makes the regulations easier to follow.

Current cite	Cite under final rule	Summary of changes
§ 12.30	N/A	Deletes requirements for ro-ro passenger ships. Reflects the 2010 STCW amendment changes to include requirements for passenger ships, including ro-ro passenger ships.
§ 12.35	§ 12.905	Amends requirements for ratings on passenger ships when in international voyages. Reflects the 2010 amendment changes to include requirements for passenger ships. Merges requirements from subparts 12.30 and 12.35. This ensures consistency with the STCW Convention.
N/A	§ 12.201	Adds section with general requirements for national and STCW rating endorsements. Consolidates all requirements applicable to all rating endorsements contained in this part. This makes the regulations easier to follow.
N/A	§ 12.203	Adds section with documentation of sea service for ratings. Provides information on where to find the requirements for documentation and proof of sea service for ratings. This makes the regulations easier to follow.
N/A	§ 12.409	Adds new section with requirements for lifeboatman-limited endorsement. This endorsement is for mariners who serve on vessels without installed lifeboats. Mariners serving on vessels without lifeboats could not qualify for the lifeboatman endorsement under current regulations.
N/A	§ 12.601	Adds section with general requirements applicable to STCW rating endorsements. Adds provisions to provide mariners the opportunity to use the new STCW training requirements when applying for credentials. Consolidates all requirements applicable to STCW endorsements in this subpart. Establishes list of STCW rating endorsements. Establishes that the mariner with an STCW endorsement must also hold the equivalent national endorsement. This makes the regulations easier to follow.
N/A	§ 12.601	Adds section with standard of competence. Adds alternative methods of demonstrating competence. This provides mariners with multiple options, where allowed by the STCW Convention.
N/A	§ 12.601	Adds section with grandfathering provisions. Adds provisions for the implementation of the amendments to the requirements, including the 2010 amendments to the STCW Convention and Code. This eases the burden on mariners with existing endorsements.
N/A	§§ 12.603–12.609	Insert tables specifying entry paths from national endorsements to STCW endorsements. Describes various entry points to obtain an equivalent STCW endorsement. This provides a method of determining which STCW endorsements are attainable for each national endorsement.
N/A	§ 12.603	Adds new section with requirements for STCW rating endorsement as able seafarer-deck. Includes the STCW Convention requirements in order to obtain the endorsement. Includes grandfathering provisions. This ensures consistency with the STCW Convention.
N/A	§ 12.605	Adds new section providing the requirements for RFPNW. Provides specific requirements for this STCW endorsement. This ensures consistency with the STCW Convention.
N/A	§ 12.607	Adds a new section with requirements for STCW endorsement as able seafarer-engine. Includes the STCW Convention requirements in order to obtain the endorsement. Includes grandfathering provisions. This ensures consistency with the STCW Convention.
N/A	§ 12.609	Adds new section providing the requirements for RFPEW. Provides specific requirements for this STCW endorsement. This ensures consistency with the STCW Convention.
N/A	§ 12.609(d)	Adds a new section to provide the requirements for RFPEW. Limits RFPEW endorsement to propulsion mode if all STCW competencies are not completed.
N/A	§ 12.611	Adds a new section providing the requirements for STCW officer endorsement as electro-technical rating. Includes the STCW Convention requirements in order to obtain the endorsement. See regulation III/7 of the STCW Convention and Section A–III/7 of the STCW Code. This ensures consistency with the STCW Convention. Adds classroom or formal training topics required for STCW endorsements. Clarifies grandfathering provisions for Electro-Technical Rating.
N/A	§ 12.611	Equivalent arrangements for personnel serving in a similar capacity. Allows for the issuance of the STCW endorsement as electro-technical rating to personnel with equivalent credentials and sea service. This provides applicants with multiple paths to obtain this endorsement.
N/A	§ 12.613	Adds new section with requirements for Proficiency in survival craft and rescue boats other than fast rescue boats (PSC). Adds requirements to maintain the standard of competence every 5 years through a combination of drills and onboard training and experience with shore-side assessments. This ensures consistency with the STCW Convention.
N/A	§ 12.615	Adds new section to provide a new endorsement for proficiency in survival craft and rescue boats other than lifeboats and fast rescue boats (PSC-limited).

Current cite	Cite under final rule	Summary of changes
		Adds new section because there are individuals assigned to vessels without lifeboats who do not need to meet the full requirements for proficiency in survival craft and rescue boats other than fast rescue boats (PSC), but must still meet the proficiency in the survival craft installed on their vessels. This ensures consistency with the STCW Convention.
N/A	§ 12.615	Adds new section with requirements for Proficiency in survival craft and rescue boats other than lifeboats and fast rescue boats (PSC). Adds requirements to maintain the standard of competence every 5 years through a combination of drills and onboard training and experience with shore-side assessments. This ensures consistency with the STCW Convention.
N/A	§ 12.617	Adds new section with requirements for Proficiency in fast rescue boats. Adds requirements to maintain the standard of competence every 5 years through a combination of drills and onboard training and experience with shore-side assessments. This ensures consistency with the STCW Convention.
N/A	§ 12.625	Adds new section with requirements to qualify for an STCW endorsement as vessel personnel with designated security duties. Adds requirement for certification of personnel with security duties (except VSOs) in accordance with the 2010 amendments. This ensures consistency with the STCW Convention. Adds the STCW transitional provisions for seafarers with designated security duties that allow existing mariners who took a course and/or can document service on board vessels to obtain an endorsement.
N/A	§ 12.627	Adds new section with requirements to qualify for an STCW endorsement in security awareness. Adds requirement for all other personnel working onboard the vessels, in accordance with the 2010 amendments. This ensures consistency with the STCW Convention. Adds the STCW transitional provisions for security awareness that allows existing mariners who took a course and/or can document service onboard vessels to obtain an endorsement.
§ 13.120	§ 13.120	Amends the requirements for transfers for the renewal of tankerman endorsements. Also adds requirements for STCW certification valid for tank vessels. Clarifies the types of transfers required according to the type of endorsement being renewed.
§ 13.121	§ 13.121	Includes tables of topics for each tanker course. Clarifies and updates list of subjects that the tanker courses must cover.
§ 13.127	§ 13.127	Revises service requirements for tankerman-engineer. Clarifies information that must be included in the service letter for tankerman-engineer.
§ 13.127	§ 13.127	Amends sea service credit for service onboard ATBs on a case-by-case basis.
§ 13.201	§ 13.121	Moves the cargo course and firefighting course requirements of this section to § 13.121. Clarifies existing requirements and makes the regulations easier to read.
§ 13.301	§ 13.121	Moves the cargo course and firefighting course requirements of this section to § 13.121. Clarifies existing requirements and makes the regulations easier to read.
§ 13.307, § 13.309	§ 13.121	Moves the firefighting and cargo course requirements of this section to § 13.121. Provides firefighting and cargo training course subjects in the appropriate table.
§ 13.401	§ 13.401	Amends Tankerman-Assistant requirements. Adds an examination requirement for mariners who qualify for the endorsement on sea service alone. This ensures that an applicant has the necessary knowledge to obtain this endorsement.
§ 13.407, § 13.409	§ 13.121	Moves the firefighting and cargo course requirements of this section to § 13.121. Provides firefighting and cargo training course subjects in the appropriate table. This makes the regulations easier to follow.
§ 13.501	§ 13.121	Moves the cargo course and firefighting course requirements of this section to § 13.121. Clarifies existing requirements and makes the regulations easier to read.
N/A	§ 13.601	Adds new section with alternative methods of demonstrating competence to provide mariners with multiple options, where allowed by the STCW Convention. This opens additional paths of demonstrating competence.
N/A	§ 13.603	Adds requirements for an STCW endorsement as advanced oil tanker cargo operations. Allows mariners serving on tank barges as tankerman-PIC (barge) to qualify for this STCW endorsement with a limitation to non-self-propelled vessels. Allows engineer officers serving as tankerman engineer to qualify for this STCW endorsement for certain tanker operations with a limitation to maintenance and repair of cargo equipment. Adds the effective date for new mariners to obtain original STCW tanker endorsements of March 24, 2014, in accordance with the provisions of the 2010 amendments. This ensures consistency with the STCW Convention.
N/A	§ 13.605	Adds requirements for an STCW endorsement as advanced chemical tanker cargo operations. Allows mariners serving on tank barges as tankerman-PIC (barge) to qualify for this STCW endorsement with a limitation to non-self-propelled vessels. Allows engineer officers serving as tankerman engineer to qualify for this STCW endorsement for certain tanker operations with a limitation to maintenance and repair of cargo equipment.

Current cite	Cite under final rule	Summary of changes
		Adds the effective date for new mariners to obtain original STCW tanker endorsements of March 24, 2014, in accordance with the provisions of the 2010 amendments. This ensures consistency with the STCW Convention.
N/A	§ 13.607	Adds requirements for an STCW endorsement as advanced liquefied gas tanker cargo operations. Allows mariners serving on tank barges as tankerman-PIC (barge) to qualify for this STCW endorsement with a limitation to non-self-propelled vessels. Allows engineer officers serving as tankerman engineer to qualify for this STCW endorsement for certain tanker operations with a limitation to maintenance and repair of cargo equipment. Adds the effective date for new mariners to obtain original STCW tanker endorsements of March 24, 2014, in accordance with the provisions of the 2010 amendments. This ensures consistency with the STCW Convention.
N/A	§ 13.609	Adds requirements for an STCW endorsement as basic oil and chemical tanker cargo operations. Adds the effective date for new mariners to obtain original STCW tanker endorsements of March 24, 2014, in accordance with the provisions of the 2010 amendments. This ensures consistency with the STCW Convention.
N/A	§ 13.611	Adds section to include requirements for an STCW endorsement as basic liquefied gas tanker cargo operations. Adds the effective date for new mariners to obtain original STCW tanker endorsements of March 24, 2014, in accordance with the provisions of the 2010 amendments.
§ 14.309	§ 14.309	Expands options for payment of wages upon discharge of a mariner. In order to reflect current practices for electronic fund transfer for payment of wages, the Coast Guard will allow companies to provide, instead of payment, a statement of wages due and when wages will be deposited.
§ 15.103	§ 15.105	Adds clarification that a safe manning certificate may be issued to uninspected vessels on an international voyage. Provides uninspected vessels on international voyages the necessary information they will need to provide port state control Officers in foreign ports. Adds pilot vessels on pilotage duty to the list of vessels not subject to STCW. This ensures consistency with the STCW Convention.
§ 15.515	§ 15.515	Clarifies the requirement regarding passenger vessels. Provides clarification to assist in understanding manning requirements because existing language is confusing.
§ 15.605	§ 15.605	Adds the requirement that individuals serving on uninspected passenger vessels (UPVs) on international voyages must comply with the STCW Convention. UPVs operating on near-coastal domestic voyages are held to be substantially in compliance with the STCW Convention. However, the STCW Convention requires all individuals to be in compliance with the STCW Convention when on international voyages. This ensures consistency with the STCW Convention. This also makes it clear that operators on UPVs on international voyages must obtain the appropriate STCW endorsement.
§§ 15.805, 15.810, 15.820, 15.825, 15.840, 15.845, 15.850, and 15.860.	§§ 15.805, 15.810, 15.820, 15.825, 15.840, 15.845, 15.850, and 15.860.	Adds provisions requiring mariners who serve on vessels subject to STCW to also hold an STCW endorsement appropriate to the tonnage/propulsion power for the vessel upon which he or she is operating.
§ 15.805	§ 15.805	Provides for all UPVs on international voyages to be under the control of an individual holding a license or endorsement as master. Provides consistency with the STCW Convention, which requires that all vessels on an international voyage, including UPVs, must be operated by an individual who complies with the STCW Convention.
§ 15.845	§ 15.845	Adds manning provision for new lifeboatman-limited rating. Provides an alternative for those vessels without lifeboats and sets the provisions to use the lifeboatman-limited endorsement instead of the lifeboatman endorsement.
§ 15.915	§ 15.915	Removes chief engineer (limited near-coastal) endorsement. Allows all engineers who currently hold a license as chief engineer (limited near-coastal) to be upgraded to chief engineer (limited) 1,600 GRT without further sea service or testing requirements.
§ 15.1101	§ 15.1101	Moves definitions of this section to § 10.107, and this section now provides a list of vessels exempt from having to comply with the STCW Convention. Also provides for certificates for a single international voyage for persons serving on vessels exempted under this section. Complies with STCW requirements and makes the regulations easier to read.
§ 15.1103	§ 15.1103	Adds requirement for medical certificate as a condition of employment. In addition, provides an extension, not to exceed 90 days, if the certificate expires during a voyage. All mariners must have a medical certificate. The 2010 amendments to the STCW Convention require a 2-year medical certificate for all seafarers holding STCW endorsements. Adds provisions requiring mariners who serve as able seafarer-deck or able seafarer-engine on vessels subject to STCW to also hold an STCW endorsement appropriate to the tonnage/propulsion power for the vessel upon which he or she is operating.

Current cite	Cite under final rule	Summary of changes
		Adds implementation date (January 1, 2017) for medical certificates and for endorsements as able seafarer-deck and able seafarer-engine in accordance with the STCW Convention. This ensures consistency with the STCW Convention.
§ 15.1111	§ 15.1111	Revises hours of work and rest periods for mariners. The following changes are included as part of the 2010 amendments: (1) Expanded the application for hours of rest periods for mariners; (2) amended the weekly rest hour requirements from 70 hours to 77 hours; (3) recording of hours of rest and (4) included flexibility from the rest hour requirements in exceptional circumstances. Revises provision regarding records of daily hours of rest for mariners so that mariners must receive a copy of the records pertaining to them. This ensures consistency with the STCW Convention.
§ 15.1113	§ 15.1113	Adds requirements for persons to hold an STCW endorsement for personnel with security duties. This requirement has already been implemented with regards to VSOs. This ensures consistency with the STCW Convention.
§ 15.1113	§ 15.1113	Adds requirements for persons to hold an STCW endorsement in security awareness. Adds requirement for all other personnel working onboard the vessels to hold an STCW endorsement in security awareness, in accordance with the 2010 amendments. This ensures consistency with the STCW Convention.
§ 15.1113	§ 15.1113	Adds requirements for contractors to receive security familiarization and that records be maintained onboard. This ensures consistency with the STCW Convention.
§ 15.1113	§ 15.1113	Adds implementation date for security personnel to effective date of final rule. Clarifies the progression for security-related training from ''security awareness'' as the lowest level of training, to ''vessel personnel with designated security duties'' as the next-higher level of training, to ''vessel security officer'' as the highest level of training.
N/A	§ 15.403	Adds new section to establish when credentials for ratings are required. Requires mariners serving on vessels over 100 GRT to produce the appropriate credential for the position sought. This ensures consistency with the U.S. Code.
N/A	§ 15.404	Adds new section to provide the various endorsements required for service. Explains specific endorsements required and covered under these manning requirements. This makes the regulations easier to follow.
N/A	§ 15.865	Adds manning provision for qualified member of the engine department (QMED). Explains that QMEDs are required and covered under these manning requirements This ensures consistency with the STCW Convention.

The following table provides a crosswalk showing changes from the SNPRM to this final rule.

Cite	Summary of changes
Subchapter B	Tonnage limitation format for endorsements has been returned to the current format. The tonnage limit format that was proposed in the SNPRM created limitations that were not consistent with vessel documented tonnages.
Subchapter B	Changes *domestic* to *national* when used to describe endorsements. The use of ''domestic'' to describe endorsements that are restricted to United States waters inside the STCW boundary line has been replaced by ''national'' for greater clarity when discussing the domestic endorsements of other countries. An MMC endorsement will not use either the word domestic or national.
§ 10.107	Adds the definition of *able-seafarer deck.* Provides consistency with the STCW Convention.
§ 10.107	Adds the definition of *able-seafarer engine.* Provides consistency with the STCW Convention.
§ 10.107	Removes the definition of *apprentice mate (steersman) of towing vessels (utility).* *Endorsement has been removed from regulations.*
§ 10.107	Adds definition of *chemical tanker.* Adds definition for the differentiation of dangerous liquids into two endorsements under STCW. Clarifies the type of vessel on which mariners must serve to qualify for an STCW endorsement for advanced chemical tanker cargo operations.
§ 10.107	Adds the definition of *communicable disease.* Clarifies what a physician should look for when conducting medical examinations.
§ 10.107	Revises definition of *day.* Adds clarification on cadet service on a maritime training ship.
§ 10.107	Revises definition of *disabled vessel.* The definition was revised to provide greater clarity regarding the scope of the assistance towing endorsement.
§ 10.107	Changes definition of *domestic officer endorsement* to *national officer endorsement.*

Cite	Summary of changes
	The use of ''domestic'' to describe endorsements that are restricted to United States waters inside the STCW boundary line has been replaced by ''national'' for greater clarity when discussing the domestic endorsements of other countries.
	This change has been made throughout subchapter B.
§ 10.107	Changes definition of *domestic rating endorsement* to *national rating endorsement.*
	The use of ''domestic'' to describe endorsements that are restricted to United States waters inside the STCW boundary line has been replaced by ''national'' for greater clarity when discussing the domestic endorsements of other countries.
	This change has been made throughout subchapter B.
§ 10.107	Revises definition of *domestic voyage.*
	The definition was revised to include voyages beginning and ending at a U.S. port and passing through the waters of another country if the U.S. has entered into a treaty or agreement with that country.
§ 10.107	Adds the definition of *electro-technical officer.*
	Provides consistency with the STCW Convention.
§ 10.107	Adds the definition of *electro-technical rating.*
	Provides consistency with the STCW Convention.
§ 10.107	Revises definition of *Endorsement.*
	The definition was revised to clarify that all endorsements are listed in § 10.109.
§ 10.107	Adds the definition of *high-speed craft type rating.*
	Adds a definition and requirement for a high-speed craft type rating to be compliant with the high-speed craft code. This puts into regulations existing processes that had previously been completed through Navigation Vessel Inspection Circular and policy letter.
§ 10.107	Adds the definition of *International Labor Organization.*
	This will provide clarification regarding information incorporated by reference.
§ 10.107	Adds the definition of *International Safety Management Code.*
	This term is referenced in part 10.
§ 10.107	Revises definition of *inland waters.*
	The definition was revised to allow sea service credit towards STCW on certain inland vessels.
§ 10.107	Removes the definition of *limited.*
	Definition is not needed because it has the same meaning as in standard English language usage.
§ 10.107	Adds definition of *liquefied gas tanker.*
	Adds definition for the change in STCW tanker cargo operations endorsements.
§ 10.107	Adds definition of *medical certificate.*
	To describe a new document that serves as proof that a mariner meets the required medical and physical standards.
§ 10.107	Revises definition for *near-coastal.*
	Includes near-coastal waters identified by another country's Administration when entering into a treaty or an agreement with that country.
§ 10.107	Adds definition of *oil tanker.*
	Adds definition for the differentiation of dangerous liquids into two STCW endorsements.
§ 10.107	Revises definition for *qualified assessor.*
	Clarifies this person's role and professional development.
§ 10.107	Removes the definition of *restricted.*
	Definition is not needed because it has the same meaning as in standard English language usage.
§ 10.107	Revises definition of *seagoing vessel.*
	To ensure the definition captures all vessels to which STCW Convention and Code apply.
§ 10.107	Revises the definition of *self-propelled.*
	Reverts back to existing language regarding self-propelled vessels that are fitted with both sails and mechanical propulsion.
§ 10.107	Removes definition for *self-propelled tank vessel.*
	Eliminates redundancy with the definition of *tankship.*
§ 10.107	Revises the definition of *ship.*
	To provide clarity regarding the types of propulsion modes for these vessels.
§ 10.107	Adds the definition of *unlimited.*
	Clarifies the annotation on an MMC authorizing service on vessels of any tonnage or any propulsion power.
§ 10.205	Revises postdating.
	Clarifies and simplifies the postdating process. Postdating will occur unless the applicant specifies otherwise.
§§ 10.209, 10.480	Electronic submission of required documents.
	Allows course completion certificates, including radar observer, to be submitted electronically.
§ 10.219	Removes proposed amendments in the SNPRM that limited user fee payment options to credit card or electronic payment only. This change gives mariners the ability to pay by cash, by attaching a check or money order to their application package, or by electronic means.
§ 10.301	Revises medical certificate validity period.
	Adds issuance of the new medical certificates with the following period of validity: 2 years for a mariner who is serving as a first-class pilot, or acting as a pilot under § 15.812.
§ 10.232	Revises to include sea service credit for cadets serving onboard academy training ships where sea service is part of an approved training program.
	Will grant 1½ days of sea service credit for each day a cadet serves aboard an academy training ship where sea service is part of an approved training program.
	Expands list of items applicants must provide as documentary evidence of sea service.

Cite	Summary of changes
§§ 10.232, 11.401, 11.404, 11.405, and 11.406.	Expands provisions granting sea service credit towards STCW endorsements to include those mariners who hold a national endorsement and provide proof of service on vessels to which STCW applies, whether on inland or coastwise service. Service on vessels to which STCW applies, whether inland or coastwise, will be credited on a day-for-day basis.
§ 10.402	Revises course approvals to implement the International Maritime Organization model course format and terminology.
§ 10.405	Adds a provision requiring qualified assessors who renew their qualifications to provide evidence of experience, training, or instruction within the past 5 years. Ensures that qualified assessors are trained in proper assessment techniques and have completed an ''assessor training'' course as part of an accepted training program.
§ 10.407	Revises the requirements for the request for program approval.
§ 10.410	Adds a new paragraph (g) to include International Safety Management, which is an industry-wide system, as alternate means of compliance for the Quality Standards System (QSS) provision. Adds implementation date (January 1, 2017) for QSS requirements in accordance with the STCW Convention.
§ 11.211	Revises to accept certain towing vessel service, including service in inland tug-barge combinations such as articulated tug barges (ATBs) and integrated tug barges (ITBs), based on the aggregate tonnage of the tug and barge(s) when greater than 1,600 GRT. Grants credit for service on towing vessels using the aggregate tonnage on a 1-for-2 basis (2 days experience equals 1 day of creditable service) for up to 50 percent of the total service on vessels of 1,600 GRT or more.
§ 11.301	Revises to provide mariners the opportunity to use the new STCW training requirements when applying for credentials. Provides that persons who hold or have held an STCW operational-level endorsement issued prior to the effective date of this final rule, and are seeking to upgrade to an STCW management-level endorsement, will not be required to do the assessments for STCW operational-level endorsements.
§ 11.301	Separates Basic Safety Training and Advanced Firefighting requirements from the general section (§ 11.301) into new sections (§§ 11.302 and 11.303, respectively). Title changes from Basic Safety training (BST) to Basic Training (BT).
§ 11.304	Moves the list of STCW deck officer endorsements from § 11.303.
§§ 11.305 to 11.321; §§ 11.325 to 11.335.	Increased the number of classroom or formal training topics required for STCW endorsements.
§ 11.335	Adds to the number of classroom or formal training topics required for STCW endorsements. Clarifies grandfathering provisions for Electro-Technical Officer.
§ 11.337	Moves requirements for Vessel Security Officer from § 11.811 to STCW officer endorsement requirements. Groups all STCW officer endorsements together.
§ 11.425	Adds endorsement for mate of ocean self-propelled vessels of less than 200 GRT. Allows for the issuance of this national endorsement. Provides a path of progression to master of oceans self-propelled vessels of less than 200 GRT, and in accordance with Regulation II/3 of the STCW Convention.
§ 11.465	Removes SNPRM proposal for endorsement for master of towing vessels (harbor assist), and removes endorsement for master of towing vessel (utility). Coast Guard is currently considering moving these issues to another rulemaking or seeking additional input from the Towing Safety Advisory Committee (TSAC), which would give the public additional time to comment on this matter.
§ 11.466	Removes SNPRM proposal for endorsement as apprentice mate (steersman) of towing vessels (utility). Coast Guard is currently considering moving this issue to another rulemaking or seeking additional input from the TSAC, which would give the public additional time to comment on this matter.
§ 11.491	Raises the tonnage limitations on national Offshore Supply Vessel endorsements. Raises the tonnage limitation for officers with a 500 GRT limitation to 1,600 GRT.
§ 11.493	Revises language for Master (OSV). Expands the sea service requirements for this endorsement.
§ 11.495	Revises language for Chief Mate (OSV). Expands the sea service requirements for this endorsement.
§ 11.497	Revises language for Mate (OSV). Eliminates unnecessary language and ensures consistency with STCW Convention and Code requirements. Expands the sea service requirements for this endorsement.
§ 11.518	Removes oceans restriction from chief engineer (limited) endorsement. Simplifies the regulations by removing the geographical restriction. To sail beyond the boundary line, the holder of this endorsement must hold the appropriate STCW endorsement.
§ 11.520	Removes chief engineer (limited near-coastal) endorsement. Allows all engineers who currently hold a license as chief engineer (limited near-coastal) to be upgraded to chief engineer (limited) without further sea service or testing requirements.
§ 11.522	Removes oceans restriction from assistant engineer (limited) endorsement. Simplifies the regulations by removing the geographical restriction. To sail beyond the boundary line, the holder of this endorsement must hold the appropriate STCW endorsement.
§ 11.553	Revises language for Chief Engineer (OSV). Expands the sea service requirements for this endorsement.
§ 11.555	Revises language for Assistant Engineer (OSV). Expands the sea service requirements for this endorsement.

Cite	Summary of changes
§ 11.709	Revises language for first-class pilot annual physical examinations. Integrates the first-class pilot's annual physical into the biennial medical certificate system.
§ 11.821	Defines the applicability of the High-speed craft type rating. Limits the requirement to hold High-speed craft type rating to mariners operating vessels to which the High-speed craft code applies.
§ 11.903	Revises the list of endorsements requiring examination. Adds endorsements (that were removed in the SNPRM) that require an examination, based on a change in policy and progression consistent with the STCW Convention (offshore installation manager, barge supervisor, ballast control operator, chief engineer (MODU), assistant engineer (MODU). Adds endorsements that require an examination, based on a change in policy and progression consistent with the STCW Convention (mate of near-coastal vessels of less than 200 GRT, master of near-coastal vessels of less than 100 GRT, and mate of Great Lakes and inland/river vessels of less than 200 GRT).
§ 11.1105	Expands the 2010 STCW amendment changes to include training in crowd management, passenger ship safety training, crisis management and human behavior, and training in passenger safety, cargo safety, and hull integrity.
§ 12.601	Separates Basic Safety Training from the general section (§ 12.601) into a new section (§ 12.602). Title changes from Basic Safety training to Basic Training.
§ 12.601	Establishes that the mariner with an STCW endorsement must also hold the equivalent national endorsement.
§ 12.601	Revises to provide mariners the opportunity to use the new STCW training requirements when applying for credentials.
§ 12.603	Includes grandfathering provisions that will be accepted for STCW rating endorsement as able seafarer-deck. This ensures consistency with the STCW Convention.
§ 12.607	Includes grandfathering provisions that will be accepted for STCW rating endorsement as able seafarer-engine. Includes all domestic Qualified Member of the Engine Department endorsements that will be eligible for the STCW endorsement as able seafarer-engine. Provides an alternate path with a reduced sea service requirement to the able seafarer-engine endorsement that will facilitate the transition from domestic to STCW endorsements. This ensures consistency with the STCW Convention.
§ 12.611	Adds to the number of classroom or formal training topics required for STCW endorsements. Clarifies grandfathering provisions for Electro-Technical Rating.
§ 12.625	Revises to include the STCW transitional provisions for seafarers with designated security duties that allow existing mariners who took a course and/or can document service on board vessels to obtain an endorsement.
§ 12.627	Revises to include the STCW transitional provisions for security awareness that allows existing mariners who took a course and/or can document service onboard vessels to obtain an endorsement.
§ 13.127	Amends sea service credit for service onboard ATBs on a case-by-case basis.
§ 13.603	Revises to include only requirements for an STCW endorsement as advanced oil tanker cargo operations. This endorsement was combined with advanced chemical tanker cargo operations in the SNPRM and is now located in § 13.605. Allows mariners serving on tank barges as tankerman-PIC (barge) to qualify for this STCW endorsement with a limitation to non-self-propelled vessels. Allows engineer officers serving as tankerman engineer to qualify for this STCW endorsement for certain tanker operations with a limitation to maintenance and repair of cargo equipment. Revises the effective date for new mariners to obtain original STCW tanker endorsements from January 1, 2017, to March 24, 2014, in accordance with the provisions of the 2010 amendments.
§ 13.605	Revises to include only requirements for an STCW endorsement as advanced chemical tanker cargo operations. Allows mariners serving on tank barges as tankerman-PIC (barge) to qualify for this STCW endorsement with a limitation to non-self-propelled vessels. Allows engineer officers serving as tankerman engineer to qualify for this STCW endorsement for certain tanker operations with a limitation to maintenance and repair of cargo equipment. Revises the effective date for new mariners to obtain original STCW tanker endorsements from January 1, 2017, to March 24, 2014, in accordance with the provisions of the 2010 amendments.
§ 13.607	Revises to include only requirements for an STCW endorsement as advanced liquefied gas tanker cargo operations. Allows mariners serving on tank barges as tankerman-PIC (barge) to qualify for this STCW endorsement with a limitation to non-self-propelled vessels. Allows engineer officers serving as tankerman engineer to qualify for this STCW endorsement for certain tanker operations with a limitation to maintenance and repair of cargo equipment. Revises the effective date for new mariners to obtain original STCW tanker endorsements from January 1, 2017, to March 24, 2014, in accordance with the provisions of the 2010 amendments.
§ 13.609	Revises to include only requirements for an STCW endorsement as basic oil and chemical tanker cargo operations. Revises the effective date for new mariners to obtain original STCW tanker endorsements from January 1, 2017, to March 24, 2014, in accordance with the provisions of the 2010 amendments.
§ 13.611	Adds section to include requirements for an STCW endorsement as basic liquefied gas tanker cargo operations. Adds the effective date for new mariners to obtain original STCW tanker endorsements from January 1, 2017, to March 24, 2014, in accordance with the provisions of the 2010 amendments.
§§ 15.105, 15.403, 15.1101	Adds pilot vessels on pilotage duty to the list of vessels not subject to STCW. Pilots are exempt from STCW requirements.

Cite	Summary of changes
§ 15.401	Adds implementation date (January 1, 2017) for medical certificates in accordance with STCW Convention.
§§ 15.805, 15.810, 15.820, 15.825, 15.840, 15.845, 15.850, and 15.860.	Includes provisions requiring mariners who serve on vessels subject to STCW to also hold an STCW endorsement appropriate to the tonnage/propulsion power for the vessel upon which he or she is operating.
§ 15.865	Adds manning provision for qualified member of the engine department (QMED). Explains that QMEDs are required and covered under these manning requirements This ensures consistency with the STCW Convention.
§ 15.915	Removes chief engineer (limited near-coastal) endorsement. Allows all engineers who currently hold a license as chief engineer (limited near-coastal) to be upgraded to chief engineer (limited) 1,600 GRT without further sea service or testing requirements.
§ 15.1103	Includes provisions requiring mariners who serve as able seafarer-deck or able seafarer-engine on vessels subject to STCW to also hold an STCW endorsement appropriate to the tonnage/propulsion power for the vessel upon which he or she is operating. Adds implementation date (January 1, 2017) for medical certificates and for endorsements as able seafarer-deck and able seafarer-engine in accordance with the STCW Convention.
§ 15.1111	Revises provision regarding records of daily hours of rest for mariners so that mariners must receive a copy of the records pertaining to them.
§ 15.1113	Adds requirements for contractors to receive security familiarization and that records be maintained onboard. Revises implementation date for security personnel to the effective date of this final rule. Clarifies the progression for security-related training from ''security awareness'' as the lowest level of training, to ''vessel personnel with designated security duties'' as the next-higher level of training, to ''vessel security officer'' as the highest level of training. This ensures consistency with the STCW Convention.

VI. Discussion of Comments and Explanation of Changes

In this section, we discuss comments on the SNPRM and changes made in response to them. The section consists of four subsections, the first of which contains a summary of the changes made from the SNPRM. Subsection B follows with a more in-depth discussion of comments and recommendations received from the public, MERPAC, and MEDMAC, together with associated changes. MERPAC and MEDMAC recommendations are discussed in separate groups that appear at the end of the subsection. Subsection C contains a discussion of public comments in response to the MERPAC and the MEDMAC recommendations. The Coast Guard announced the availability of those recommendations in a notice published in the **Federal Register** on November 3, 2011 (76 FR 68202). Subsection D, entitled ''Additional Request for Comments'', contains a discussion of public comments solicited by the Coast Guard on six specific issues in the SNPRM (76 FR 45909).

A. Summary of Changes From the SNPRM

The following list provides a brief description of the major provisions in this final rule, including changes to the provisions proposed in the SNPRM. A detailed explanation of the reasons for these and other changes can be found in subsection B of this section, Public comments on the SNPRM. All of the changes to the SNPRM described in the summary below were made in response to comments from the public, MERPAC, or MEDMAC.

1. Medical

The Coast Guard is changing the validity period of a medical certificate issued to a mariner who is serving as a first-class pilot from 1 year, as proposed in the SNPRM, to a maximum period of 2 years. The Coast Guard is making this change in response to comments from the public, MEDMAC, and MERPAC. The comments raised concerns that the Coast Guard would not be able conduct medical evaluations and issue medical endorsements in a reasonable amount of time with a 1-year validity period. Aligning the validity period of a medical certificate issued to a first-class pilot with the validity period of STCW medical certificates will help to minimize the numbers of mariners who will require more frequent medical evaluation. This change should decrease the workload on the medical evaluation staff and help to reduce the possibility of unreasonable time delays. The requirement for pilots to obtain annual physical examinations remains unchanged.

Additionally, the Coast Guard received comments requesting clear direction on implementation of the 2-year medical certificate. The 2010 STCW amendments require that issuance of medical certificates with 2-year validity periods be fully implemented by January 1, 2017. Accordingly, the Coast Guard is including that implementation date in this final rule. To facilitate implementation, the Coast Guard will start issuing 2-year medical certificates 30 days after the publication of this final rule.

2. STCW Training

The Coast Guard received comments opposing the increase in on-the-job training permitted as an alternative to current implementing policy on classroom training. Commenters cited many reasons, including concerns that the proposed increase would result in degradation of the competence and proficiency of U.S. mariners. Commenters also worried that the proposed increase might not be practical because many vessels are currently minimally manned, and personnel may not have time to provide more on-the-job training.

The Coast Guard recognizes that the STCW Convention is competence-based and not training-based. For this reason, each administration bears the responsibility of establishing the appropriate combination of training and experience necessary to achieve the necessary level of competence, and to establish when and how training must be accomplished.

The Coast Guard agrees that a more appropriate balance between on-the-job training and formal training is required. Accordingly, the Coast Guard increased the number of classroom or formal training topics required for STCW endorsements in this final rule. These additional training topics were part of the extensive list of topics proposed in the NPRM, which were omitted from the SNPRM in response to comments requesting greater opportunities for on-the-job training. This final rule strikes

an appropriate balance between the two proposals. This increase in the number of classroom or formal training topics does not change the overall cost estimates presented in the regulatory analyses because those cost estimates reflect the costs if all of the training were formal or classroom training.

Parts 11 and 12 of 46 CFR are amended to include a combination of training and in-service requirements and assessments, to provide mariners with flexibility, and ensure that seafarers achieve the level of competence required for STCW endorsements. This final rule generally increases required classroom training compared to the SNPRM, but the overall amount of training of all kinds has not changed. At the same time, this rulemaking increases flexibility compared to the SNPRM by providing for the use of onboard training programs, approved individual company training programs, approved workshop skills training, approved laboratory training, and where appropriate, approved simulator training. We also added an opportunity for a candidate to complete an approved program by taking individual courses offered by different providers. This change also addresses the concerns that shipboard factors, including reduced manning, higher mariner workload, and mariner fatigue issues, could make it a challenge for seafarers onboard vessels to train others.

3. Utility and Harbor Assist Towing

The Coast Guard is not including the endorsements for apprentice mate (steersman) of towing (utility), master of towing (utility), and master of towing (harbor assist) that were proposed in the SNPRM. Public comment raised sufficient concerns with these provisions, as discussed below in ''Discussion of Public Comments,'' that the Coast Guard wants to seek additional comment from the industry. We are currently considering moving the issue to another rulemaking or seeking additional input from the Towing Safety Advisory Committee (TSAC), which would give the public additional time to comment on this matter.

4. Transitional Provisions

Unless specified otherwise, STCW provisions in this final rule will be phased in beginning on the effective date of this final rule with full compliance required by January 1, 2017.

Additionally, unless specified otherwise, national endorsement provisions in this final rule will be phased in beginning on the effective date of this final rule. Individuals seeking an original credential or raise-of-grade to an existing credential during this period, who began training or service before the effective date of this final rule, need only meet the requirements in place when they began training or service. Those individuals who start training or service on or after the effective date of this final rule must meet all provisions described in this final rule. Changes in terminology on national endorsements will be made at the first renewal or raise-of-grade following the effective date of this final rule.

Other transitional provisions for STCW and national endorsement provisions are discussed below in the applicable sections of this summary.

5. Chief Engineer (limited near-coastal)

The Coast Guard is removing the endorsement for chief engineer (limited near-coastal) currently found in § 11.520. We have also removed the word ''oceans'' from the remaining chief engineer (limited) and assistant engineer (limited) titles in response to recommendations from the public and MERPAC that all engineers who currently hold a license as chief engineer (limited near-coastal) should be upgraded to chief engineer (limited) without further testing requirements.

New applicants for chief engineer (limited) are required to provide proof of 2 years of sea service in accordance with § 11.518 and take the appropriate examination. Further, we are keeping the 2-year sea service requirement to upgrade from assistant engineer (limited) to chief engineer (limited). Since the written examination for both chief engineer (limited) categories are identical, those mariners going from chief engineer (limited near-coastal) to chief engineer (limited) will not be required to take an examination. However, a chief engineer (limited near-coastal) upgrading to chief engineer (limited) must present at least 1 year of sea service either as chief engineer (limited near-coastal), or in combination with assistant engineer (limited). Current mariners who hold a chief engineer (limited near-coastal) credential may continue to renew that credential.

6. Articulated Tug Barges (ATBs)

The Coast Guard is making changes in accepting certain towing vessel service, including service in inland tug-barge combinations such as ATBs and integrated tug barges (ITBs), based on the aggregate tonnage of the tug and barge(s) when greater than 1,600 GRT. We made this change in response to comments from the public and MERPAC, who recommended that the Coast Guard reconsider its position of not granting service credit on ATBs toward an STCW endorsement without limitation, and adopt a regulation or policy whereby inland tug-barge combinations are accepted in computing license tonnage ratings as they presently are for ITB and ATB service.

This change will facilitate the towing industry's need for career paths to retain highly-skilled personnel. This service will be accepted only when properly documented by the towing company.

7. STCW Applicability

The Coast Guard is exempting pilot vessels engaged on pilotage duty from STCW requirements. The Coast Guard made this change in response to comments from the public and MERPAC, who recommended that the Coast Guard interpret the STCW Convention to regard pilot vessels as not being seagoing ships because they operate ''in waters within, or closely adjacent to, sheltered waters or areas where port regulations apply'' in accordance with Article II of the STCW Convention.

We agree that pilot vessels should not be considered seagoing vessels, and that persons serving aboard them while engaged in pilotage duty are exempt from application of the STCW Convention. This position is consistent with the U.S. interpretation of the STCW Convention, and stating it explicitly in regulations clarifies the proper treatment of such vessels and personnel for mariners and marine inspectors.

8. Able Seafarer-Deck and Able Seafarer-Engine

The Coast Guard is clarifying the STCW transitional provisions for able seafarer-deck and able seafarer-engine endorsements by adding grandfathering provisions and deadlines for compliance. We made this change in response to comments from the public and MERPAC, who recommended that the Coast Guard set an effective date for compliance with those endorsement requirements that afford affected mariners and the National Maritime Center (NMC) enough time to process the necessary applications. This change will help facilitate an orderly transition to full compliance with the new requirements of the 2010 amendments by January 1, 2017.

9. STCW Assessments of Competence

The Coast Guard is changing the STCW endorsement requirements in §§ 11.301 and 12.601, which will

provide mariners the opportunity to use the new STCW training requirements when applying for credentials. The Coast Guard made these changes in response to comments from the public requesting that onboard and on-the-job training remain available as an option to demonstrate proficiency for the credentialing of mariners.

In addition, the Coast Guard is adding a new paragraph, § 11.301(g)(4), providing that persons who hold or have held an STCW operational-level endorsement issued prior to the effective date of this final rule, and are seeking to upgrade to an STCW management-level endorsement, will not be required to do the assessments for STCW operational-level endorsements. The Coast Guard made this change in response to commenters who were concerned that the SNPRM would require applicants for management-level STCW endorsements who hold domestic management-level endorsements to provide evidence of operational-level training and assessments. The Coast Guard agrees that these mariners should not be required to do assessments for STCW operational-level endorsements because they will be deemed to have completed these assessments under the STCW Convention.

10. Sea Service Credit for Mariners Holding National Endorsements on STCW Vessels

The Coast Guard is further expanding provisions granting sea service credit towards STCW endorsements to include those mariners who hold a national endorsement and provide proof of service on vessels to which STCW applies, whether on inland or coastwise service. We made this change in response to comments from the public and MERPAC, who recommended that mariners serving on vessels to which STCW applies, and that engage in coastwise voyages and inland waters, should be granted day-for-day service credit.

This change is applicable to vessels operating on the Inside Passage between Puget Sound and Cape Spencer, Alaska. Service on vessels to which STCW applies, whether inland or coastwise, will be credited on a day-for-day basis.

11. STCW Tanker Endorsements

The Coast Guard is including provisions to allow mariners serving on tank barges to qualify for an STCW endorsement with a limitation to non-self-propelled vessels. The Coast Guard made this change in response to comments from the public and MERPAC, who requested that mariners who hold an endorsement as tankerman-PIC (barge) be allowed to qualify for an STCW endorsement for advanced oil tanker cargo operations, advanced chemical tanker cargo operations, or advanced liquefied gas tanker cargo operations.

This change is necessary because these barges operate beyond the boundary line and are, consequently, subject to the STCW Code and Convention. Mariners serving on them must hold STCW endorsements, and this change will allow mariners who hold an endorsement as tankerman-PIC (barge) to qualify for an STCW endorsement for advanced oil tanker cargo operations, advanced chemical tanker cargo operations, or advanced liquefied gas tanker cargo operations provided that they meet the appropriate sea service requirements and the standards of competence of the STCW Code.

The Coast Guard is also including provisions to allow engineer officers to qualify for an STCW endorsement for certain tanker operations with a limitation to maintenance and repair of cargo equipment. The Coast Guard made this change in response to comments from the public and MERPAC, who requested that mariners who hold a national endorsement as tankerman-engineer be allowed to qualify for an STCW endorsement for advanced oil tanker cargo operations, advanced chemical tanker cargo operations, or advanced liquefied gas tanker cargo operations. The limitation to maintenance and repair of cargo equipment is necessary because it aligns with the duties of a national tankerman-engineer endorsement.

Engineers serving onboard tank vessels subject to STCW are required to hold a tankerman endorsement. This change will allow engineer officers serving on such vessels, who hold or qualify for a national tankerman-engineer endorsement, to qualify for an STCW endorsement for advanced oil tanker cargo operations, advanced chemical tanker cargo operations, or advanced liquefied gas tanker cargo operations without having to complete the onboard assessment requirements for tankerman-PIC.

In addition, the Coast Guard will accept service onboard some ATBs toward the national and STCW tankerman endorsements, provided the ATB equipment is equivalent to comparable tankship equipment. The Coast Guard made this change in response to comments from the public and MERPAC, who requested that mariners receive credit for service onboard ATBs, taking into account that new ATBs have cargo-handling equipment identical to the equipment on tankships. This change is necessary to ensure career paths remain available and to facilitate the use of new ATBs as qualifying platforms for tankerman endorsements.

The Coast Guard is amending applicable sections in 46 CFR part 13 to correct the date by which mariners must meet the new STCW requirements to obtain original tanker endorsements from January 1, 2017, to the effective date of this final rule, in accordance with the provisions of the STCW 2010 amendments. After the effective date of this final rule, all seafarers applying for an original tankerman endorsement must meet those requirements. These corrections are necessary to maintain consistency with 46 CFR parts 11 and 12, and we made them in response to comments requesting clarification of effective dates.

12. Offshore Supply Vessel (OSV) Endorsements

The Coast Guard is making changes to the national OSV endorsements for both deck and engineer officers in response to comments from the public objecting to inconsistencies between national and STCW endorsements. We are changing the OSV endorsements for both deck and engineer officers by separating the national and STCW credentials to ensure consistency with other requirements. The exemption from meeting the STCW requirements in the existing regulations remains unchanged. Additional changes to national OSV endorsements include: (1) Revisions to sea service requirements for OSV endorsements to make those requirements comparable to other credentials; (2) the option to complete an approved course for a mate or assistant engineer to meet the sea service requirements; and (3) the progression from vessels less than 1,600 GRT/3,000 GT to more than 1,600 GRT/3,000 GT for chief mate and master.

The change described in (3) above addresses Section 617 of the Coast Guard Authorization Act of 2010 (Pub. L. 111–281) and its removal of the 500 GRT tonnage limits on OSVs. These amendments will ensure that mariners with existing licenses or MMCs can progress to higher credentials.

13. Security

The Coast Guard is making changes to the security requirements in parts 12 and 15 in response to comments expressing concern that the SNPRM did not include all of the requirements and different means of compliance, commonly referred to as ''flexibilities'',

contained in the Convention. The Coast Guard agrees. Based on comments to the SNPRM, the Coast Guard included additional security provisions in this rulemaking, which are described below, to better facilitate an orderly transition.

In addition, after the development of the SNPRM, the IMO published Circular STCW.7/Circ.17 in June 2011, advising administrations and port state control authorities that mariners may comply with section 13 of the International Ship and Port Facility Security (ISPS) Code instead of Regulation VI/6 of the STCW Convention until January 1, 2014. The Coast Guard has added a provision in this final rule consistent with the circular, but amended the date to the effective date of this final rule, to facilitate mariner compliance with the new requirements.

The Coast Guard is making changes to the security provisions in part 15 to clarify that all contractors, whether part-time, full-time, temporary, or permanent are required to have knowledge of the security topics listed in 33 CFR 104.225, either through training or equivalent job experience. The Coast Guard is making this change in response to comments from the public and MERPAC indicating a potential for misinterpreting this requirement as not covering contractors or passenger vessels. The 2010 amendments to the STCW Convention (Section A–VI/6) require that all persons employed or engaged on a seagoing ship receive security familiarization. The term ''all persons'' includes seafarers and other personnel, including contractors, whether part-time, full-time, temporary, or permanent.

In addition, the Coast Guard is making changes to the security application requirements in order to clarify that Regulations VI/5 and VI/6 of the 2010 amendments apply only to vessels of 500 GT or more. The STCW security requirements only apply to vessels subject to the STCW Convention—which are vessels operating beyond the boundary line—except for those vessels listed in § 15.1101 of this final rule. The Coast Guard is making this change in response to comments from the public and MERPAC questioning the proper application of the tonnage limitation required by the STCW Convention. The security requirements in the STCW Convention are meant to support the requirements of the ISPS Code, which applies to vessels of 500 GT or more.

Additionally, the Coast Guard is changing transitional provisions for security awareness and for seafarers with designated security duties by adding grandfathering provisions and deadlines for compliance. The Coast Guard is making this change in response to comments from the public and MERPAC requesting greater clarity on the subject. This change will help mariners meet the implementation date requirements of the 2010 amendments, and will provide mariners further flexibility by allowing them to obtain an STCW endorsement when they have completed a Coast Guard-approved course and/or can provide proof of service onboard vessels. In accordance with Section A–VI/6 of the STCW Convention, these transitional provisions will only be available until March 24, 2014.

The Coast Guard also added a provision permitting mariners to satisfy the security-related training requirements in Regulation VI/6 of the 2010 amendments by complying with 33 CFR 104.220 and 104.225. The Coast Guard made this change in response to a recommendation from IMO Circular STCW.7/Circ.17, published in June 2011, advising Administrations and port state control authorities that mariners may comply with section 13 of the ISPS Code instead of Regulation VI/6 until January 1, 2014. However, the Coast Guard has amended the date to the effective date of this final rule. The Coast Guard has determined that requirements in 33 CFR 104.220 and 104.225 meet the requirements of section 13 of the ISPS Code and is amending § 15.1113 accordingly. This change will promote an orderly transition and help ensure that mariners meet the implementation date requirements.

The Coast Guard is making changes to clarify that the security training requirements in the STCW Convention and Code were developed as a progression where ''security awareness'' is the lowest level of training, ''vessel personnel with designated security duties'' is the next-higher level of training, and ''vessel security officer'' (VSO) is the highest level of training. The Coast Guard agrees with comments from the public and MERPAC suggesting that mariners with a higher level of training should be allowed to serve in positions that require a lower level of training. Under this system, for example, mariners who completed VSO training would be eligible for any position with a security training requirement at the VSO level or lower.

14. Course Approvals

The Coast Guard is changing § 10.402 regarding course approvals in order to implement the IMO model course format and terminology. We made this change in response to comments from the public and MERPAC, who recommended that the Coast Guard minimize administrative burden and cost on training providers by requiring only the information currently required for IMO model courses.

This change will retain an existing industry practice to use the IMO model course format and terminology for the submission of requests for Coast Guard-approved courses. This change will also allow minor modifications to courses to be submitted to the Coast Guard for review without requiring training providers to resubmit the entire course.

15. Quality Standards System (QSS)

In response to comments from MERPAC and the public, the Coast Guard is amending the proposed QSS requirements to include ISM, which is an additional industry-wide system, as an alternate means of compliance with one or more of the QSS provisions. The Coast Guard agrees with these comments because it recognizes that overlapping ISM and QSS requirements allow use of ISM as an alternative to certain corresponding QSS requirements.

Additionally, the Coast Guard is including a deadline for implementation of the QSS requirements. We made this change in response to a commenter who requested clarification of the implementation deadline. This transitional provision will help ensure that all courses, programs, and training creditable towards STCW will meet the requirements of a QSS by January 1, 2017.[2]

16. Post-Dating of Credentials

The Coast Guard is changing § 10.205 regarding post-dating of credentials, by reducing the permissible post-dating of an MMC renewal from 12 months to 8 months after the date that the Coast Guard accepts a complete application. This change is in accordance with § 614 of the Coast Guard Authorization Act of 2010 (Pub. L. 111–281) (as codified in 46 U.S.C. 7302), which only allows post-dating of credentials for up to 8 months.

In addition, the Coast Guard has amended § 10.205 to require automatic post-dating with the option for immediate issuance. The Coast Guard made this change in response to commenters who requested that the Coast Guard ensure that post-dating is automatically completed for every renewal.

[2] We are aligning this deadline with the implementation of the training requirements in this rulemaking in order to provide industry with ample opportunity to implement the change.

17. Retention of Cash Payment for User Fees

The Coast Guard is not including the provisions proposed in § 10.219 of the SNPRM, which would have required user fees to be paid by credit card or electronic payment only. This proposed change would have eliminated the ability for mariners to pay user fees by cash or to attach a check or money order to their application package. Public comment raised concerns that mariners should not be forced to pay by credit card and that not all mariners have credit cards.

The Coast Guard agrees, is not including this proposed requirement, and will continue to accept cash, checks, and money orders, as well as credit cards and electronic payments for MMCs and associated endorsements. The Coast Guard has amended § 10.219 accordingly.

18. Academy Sea-Service Equivalency

The Coast Guard is amending § 10.232 to include sea service credit for cadets serving onboard academy training ships where sea service is part of an approved training program. The Coast Guard made this change based on a comment recommending that the Coast Guard grant 1½ days of sea service credit for each day a cadet serves aboard an academy training ship where sea service is part of an approved training program.

This change is consistent with the Coast Guard's existing practice of crediting academy training ship sea service reported to the International Maritime Organization. To maintain consistency, the Coast Guard is making a similar revision to the definition of ''day'' in § 10.107.

19. Qualified Assessor (QA) Approval

The Coast Guard is amending the definition of ''Qualified Assessor'' in § 10.107 in order to clarify this person's role and professional development. We made this change in response to comments from the public and MERPAC, who requested clarification of QA training requirements and approval. This change ensures that any person serving as an assessor for STCW endorsements has demonstrated the requisite level of competence in the task for which the assessment is being made, and has been individually approved by the Coast Guard.

For the same reasons, the Coast Guard is also adding a provision requiring QAs who renew their qualifications to provide evidence of experience, training, or instruction within the past 5 years.

In response to the same comment, the Coast Guard is also amending § 10.405 to ensure that QAs are trained in proper assessment techniques and have completed an ''assessor training'' course as part of an accepted training program. This topic will be further discussed in the guidance the Coast Guard is developing concerning QAs.

20. Endorsement for Mate of Ocean Self-Propelled Vessels of Less Than 200 GRT

In response to a commenter's request, the Coast Guard is including an endorsement in § 11.425 for mate of ocean self-propelled vessels of less than 200 GRT. We made this change to provide a path of progression to master of oceans self-propelled vessels of less than 200 GRT, and in accordance with Regulation II/3 of the STCW Convention.

21. Electro-Technical Officer/Rating

The Coast Guard is amending § 11.335 and § 12.611 to include additional training topics appropriate for an STCW endorsement for an electro-technical officer and electro-technical rating. We made this change in response to commenters who requested clarification of STCW training and grandfathering requirements applicable to these endorsements. In addition, § 11.335 and § 12.611 are amended to clarify the grandfathering provisions applicable to these endorsements in accordance with the 2010 amendments of the STCW Convention.

22. Manning

In response to commenters' requests, the Coast Guard has included provisions in 46 CFR part 15, subpart H, requiring mariners who serve on vessels subject to STCW to also hold an STCW endorsement appropriate to the tonnage/propulsion power for the vessel upon which he or she is operating. This change ensures consistency with domestic manning requirements and avoids confusion or disagreement with port state inspectors regarding which mariners on U.S. vessels must hold STCW endorsements.

B. Public Comments on the SNPRM

The Coast Guard received more than 900 comments in response to the SNPRM published on August 1, 2011. These comments consist of letters to the docket, remarks at the public meetings in Miami, New Orleans, Seattle, and Washington, DC, comments submitted by MERPAC, and comments submitted by MEDMAC. The following discussion contains an analysis of comments received and an explanation of any changes made to the rule as proposed in the SNPRM.

Several comments note grammatical and non-substantive errors in the SNPRM. The Coast Guard has incorporated these comments, where appropriate, without further discussion.

1. Comment Period

Thirty-two commenters request that due to the complexity and broad ranging impacts of this rulemaking, the Coast Guard extend the comment period beyond the 60 days given in the SNRPM to permit the necessary comprehensive review of the provisions.

The Coast Guard disagrees. The 2010 amendments to the STCW Convention came into force on January 1, 2012. As a signatory State to the Convention, the U.S. needed to demonstrate by that date, or as soon as possible thereafter, that it remains in compliance with its requirements to minimize the risk of U.S. flag vessels being detained in foreign ports. However, while we did not extend the original comment period, we provided an additional 30-day comment period that closed on December 5, 2011 to respond to MERPAC and MEDMAC recommendations (76 FR 68202).

2. Definitions

Two commenters recommend that the Coast Guard amend the definition of ''Coast Guard-accepted'' because the commenters believe the proposed definition does not take into account Coast Guard-accepted training for instructors, supervisors, or assessors (i.e., Train-The-Trainer courses) or other types of training that are accepted by the Coast Guard to meet the familiarization training requirements of the STCW Convention.

The Coast Guard disagrees. The definition in § 10.107 would include this training even though particular types of training are not explicitly set out in the definition.

Five commenters recommend that the Coast Guard amend the definition of ''day.'' In their view, the definition for a day should be the same for vessels of every tonnage. If it is a condition of employment to work 12 hours a day, then the mariner should receive 1½ days of sea service even if working on a vessel less than 100 gross tons.

The Coast Guard agrees in part. The definition of day already includes language that vessels allowed to work 12-hour days as defined in the U.S. Code will receive 1½ days sea service credit. However, changes to regulations on this subject are limited by statutory restrictions on the type and tonnage of vessels and the number of watches that may be run. Accordingly, the definition of day permits mariners who work 12-

hour days to receive 1½ days of sea-service credit, to the extent permitted by statute.

One commenter recommends that the Coast Guard amend the definition for ''domestic officer endorsement'' to provide that the holder of an MMC with this endorsement will be restricted to service on vessels on domestic voyages only.

The Coast Guard disagrees. Vessel manning requirements are specified in part 15 and it would be inappropriate to include them in the definition of the endorsements.

Two commenters recommend that the Coast Guard change the term ''domestic officer endorsement'' to ''national officer endorsement'' and ''domestic rating endorsement'' to ''national rating endorsement'' to avoid confusion with usage of the term ''domestic'' in other phrases used throughout the SNPRM.

The Coast Guard agrees, and has changed ''domestic endorsement'' to ''national endorsement'' to eliminate confusion.

Thirteen commenters recommend that the Coast Guard amend the definition of ''domestic voyage'' to include voyages between Washington State and Alaska through the Inside Passage or Mexico and the United States.

The Coast Guard agrees, and has amended the definition to include voyages beginning and ending at a U.S. port and passing through the waters of another country if the U.S. has entered into a treaty or agreement with that country.

One commenter recommends that the Coast Guard amend the definition of ''increase in scope'' by citing a few examples. The commenter states that this would help avoid confusion between this term and ''raise of grade.''

The Coast Guard agrees. The key distinction between the two definitions is ''existing credential.'' The Coast Guard has amended both definitions for clarity by adding examples.

Two commenters state that the definitions of ''limited'' and ''restricted'' are very similar and should each be more clearly defined to avoid confusion.

The Coast Guard agrees in part. The Coast Guard recognizes that the two terms have been used interchangeably in the past and that there is no consistency in the use of the terms in relation to the title of the credential. The Coast Guard is of the opinion that all limited endorsements or credentials have inherent in their qualifications some sort of constraint which reduces the authority of the credential. Therefore, to avoid confusion, the Coast Guard is deleting, rather than further defining, the two definitions because the terms have the same meaning as in standard English language usage. Five commenters recommend that the Coast Guard amend the definition of ''near-coastal'' by adding the following sentence: ''While a near-coastal endorsement does not preclude its use in another Administration's waters, that endorsement is limited to the near-coastal waters as determined and accepted by the local administration.''

The Coast Guard agrees in part. Amending the definition of ''near-coastal'' is not necessary because a foreign administration would not be bound to honor such a provision in the Coast Guard's regulations absent an agreement with the United States. The Coast Guard, however, has amended the definition of ''domestic voyage'' to include voyages beginning and ending at a U.S. port and passing through the waters of another country if the U.S. has entered into a treaty or agreement with that country.

Two commenters recommend that the Coast Guard amend the definition of ''overriding operational condition'' so that the intent and its use are not abused or over applied.

The Coast Guard disagrees. Because the definition comes directly from the STCW Convention and the meaning of the phrase is straightforward, adopting it in U.S. regulations is not discretionary. Additionally, the definition was written with the flexibility necessary to embrace unforeseen circumstances, which cannot all be listed in this final rule.

Three commenters recommend that the Coast Guard amend the definition of ''passenger vessel'' in § 11.1103. The commenters expressed concern that all provisions of Regulation V/2 of the STCW Convention and A–V/2 of the STCW Code will be imposed on passenger vessels, when some of the provisions are clearly applicable only to roll-on/roll-off (Ro-Ro) passenger vessels.

The Coast Guard agrees in part. The 2010 amendments to the STCW Convention and Code consolidated passenger vessel requirements, which are applicable to seafarers serving on Ro-Ro passenger vessels. The 2010 amendments also consolidated the requirements applicable to seafarers serving on passenger vessels other than a Ro-Ro passenger vessel. The application of the 2010 amendments is based on the responsibilities of the seafarer onboard the vessels and the type of vessel they served on: (1) Personnel assisting passengers in emergency situations must complete crowd management training; (2) personnel providing direct service to passengers in passenger spaces onboard passenger vessels shall have completed the safety training; (3) personnel with designated responsibility for the safety of passengers in emergency situations onboard passenger vessels must have completed approved training in crisis management and human behavior; and (4) personnel assigned immediate responsibility for embarking and disembarking passengers, loading, discharging or securing cargo, or closing hull openings onboard Ro-Ro passenger vessels shall have completed approved training in passenger safety, cargo safety and hull integrity. To avoid confusion and facilitate the implementation, the Coast Guard has amended § 11.1105 to specify the types of training necessary.

One commenter recommends that the Coast Guard amend the definition of ''Quality Standard Systems or QSS'' as it is too vague.

The Coast Guard disagrees. The QSS definition derives from established quality system practices. The provisions in § 10.410 provide further information on the specific elements of the QSS. The Coast Guard will be developing additional guidance on the implementation of the QSS.

Three commenters recommend that the Coast Guard amend the definition of ''rest.'' In their view, the requirement to record periods of rest either should be placed on the mariner, or be removed in its entirety because employers cannot assure that their mariners actually rest when they are away from the workplace.

The Coast Guard disagrees, and is retaining the existing definition for ''rest'' in § 10.107. The definition for ''rest'' is consistent with the STCW convention. The phrase ''and is allowed to sleep without interruptions'' in the definition does not imply that the master needs to force the mariner to sleep, but that the mariner is afforded time for rest and allowed to sleep. The 2010 amendments to the STCW Convention, specifically Section A–VIII/1, paragraph 7, require that records of daily hours of rest be maintained onboard the vessel. This final rule does not specify who is responsible for recording rest periods because that determination is within the discretion of each vessel master.

One commenter recommends that the term ''sailor'' be defined in § 10.107 rather than in a portion of a specific regulation (§ 15.705).

The Coast Guard disagrees. Because the Coast Guard's reference to ''sailor'' is clarified solely for the purpose of part 15, inclusion of the definition in § 10.107 would be inappropriate.

One commenter recommends that the Coast Guard amend the definition of

''seagoing service'' to include service on the Great Lakes and inland waters.

The Coast Guard disagrees. The definition is intentionally a general one. The specific requirements for sea service, which may be earned on the Great Lakes and inland waters, and the individual requirements for each credential, are detailed in § 10.232.

One commenter asks for clarification of the definition of ''seagoing service.'' The commenter asks if it is the Coast Guard's intent that a mariner serving on a vessel that is crewed-up, capable, and occasionally operates outside the boundary line, will receive all seagoing service.

The Coast Guard has expanded the sea service credit requirements in § 10.232 to ensure mariners operating on inland and Great Lakes waters can get credit toward an STCW credential. Therefore, even if the vessel has time on both ocean-going and inland waters, credit will be awarded accordingly.

One commenter recommends that the Coast Guard amend the definition of ''senior company official'' by replacing the phrase ''a lower level employee'' with ''a person designated.''

The Coast Guard agrees and has changed ''lower level employee'' to ''another employee.''

One commenter recommends that the Coast Guard define the term ''training ship'' in § 10.109.

The Coast Guard disagrees. A ''training ship'' as used in § 12.601(b)(1)(ii) is determined by whether or not, and to what extent, the vessel is used as part of an approved program.

Twenty-seven commenters recommend that the Coast Guard delete part (2) of the proposed definition of ''utility towing.'' They pointed out that TSAC did not recommend part (2), and the proposed definition appears to conflict with the Coast Guard Commandant's ruling in a 2009 USCG District 7 Appeal.

The Coast Guard agrees that further consideration is necessary. Therefore, the Coast Guard is not including the proposed new endorsements for utility towing and harbor assist, and the definition for ''utility towing.'' Instead, we are retaining the existing definition of ''disabled vessel.''

Two commenters recommend that the Coast Guard amend the term ''vessel personnel with security duties'' to ''vessel personnel with designated security duties,'' saying that using the latter phrase as it will appear on the MMC endorsement will add consistency and clarity.

The Coast Guard agrees and has added ''designated'' to the definition. The amended definition is consistent with the 2010 amendments to the STCW Convention.

Two commenters recommend that the definition of ''vessel personnel with security duties'' should state ''those with duties as defined in the vessel's security plan or Alternate Security Program.'' In their view, clarification is needed so that the skills and abilities an employee brings to the job may be recognized as equivalent to training.

The Coast Guard agrees. The Coast Guard is revising the definition ''vessel personnel with designated security duties'' to harmonize it with the guidance in Section B–VI/6 of the STCW Code and to ensure consistency with the requirements in 33 CFR 104.220 and 104.225. The expression ''with designated security duties'' denotes those having specific security duties and responsibilities in accordance with the vessel security plan. The Coast Guard has also amended the requirements in §§ 12.625 and 15.1113 to ensure that the term ''vessel personnel with designated security duties'' is used throughout.

One commenter recommends that the definition of ''Vessel Security Officer or VSO'' be amended to ''Vessel Security Officer or VSO means a person onboard the vessel accountable to the master, designated by the Company as responsible for security of the vessel, including implementation and maintenance of the Vessel Security Plan, and for liaison with the Facility Security Officer and the vessel's Company Security Officer.''

The Coast Guard disagrees. The requirements for VSOs in § 11.352 are intended to meet the requirements of the STCW Convention. The definition provided in § 10.107 is consistent with the definition in the STCW Convention.

One commenter objects to the Coast Guard changing the format of the definition of ''Western Rivers.''

The Coast Guard disagrees. Although the format of the definition was changed from a single paragraph of text to a numbered list, there was no substantive change to the current definition.

3. Medical

One commenter notes that MMCs are valid for 5 years, yet the medical certificates for STCW endorsements are to be updated every 2 years. The commenter poses five questions:

(1) Will the mariner be required to renew his or her STCW endorsements with the Coast Guard every 2 years when the medical certificate is renewed?

No, the medical certificate will be managed as a separate stand-alone document.

(2) Will there be an expiration date within the MMC under the international pages for their physical every 2 years?

No, the medical certificate will be managed as a separate stand-alone document.

(3) Who will track this information if it is not indicated in the MMC?

As with all credentials, it is incumbent upon the mariner to track whether his or her credential is valid. Additionally, it is the responsibility of the company, operator, or master to ensure that persons serving on a vessel hold valid documents, see § 15.401.

(4) How will the requirement be enforced?

This will be enforced through regular inspections, boardings, and company/master verification. It is the responsibility of the company, operator, or master to ensure that persons serving on a vessel hold valid documents, in accordance with § 15.401.

(5) Will the National Maritime Center (NMC) be able to handle the additional work load associated with a 2-year physical as required by the STCW [3]?

It is expected that the NMC will be able to handle the additional workload through a clarification of medical guidelines. Additionally, with more frequent exams there should be the ability to have additional flexibility with certain medical conditions. Although additional funding to support personnel and credentialing activities at the NMC is one of the Coast Guard's many budget priorities, in the absence of additional funding the Coast Guard will continue to evaluate its limited resources and seek efficiencies to best handle the additional workload.

One commenter notes that the requirement for ''Medical certificates/endorsements issued to a mariner who is serving as a first-class pilot, or acting as a pilot under § 15.812 of this subchapter, to be issued for a maximum period of 1 year'' is inconsistent with Navigation Vessel Inspection Circular (NVIC) 8–94 which indicates that the annual physical exam is only required if serving on vessels greater than 1,600 GRT.

To ensure consistency with 46 U.S.C. 7101(e)(3) and to avoid any ambiguity, the Coast Guard has amended

[3] Mariners with significant medical conditions are encouraged to submit documentation at least 6 months in advance in order to obtain a credential prior to expiration. Other mariners may submit as late as two weeks prior to expiration of the certificate. 46 U.S.C. 7507 and 7508 (see Public Law 112–213, § 306) authorizes the extension of credentials and medical certificates for up to 1 year.

§§ 11.709(b), 11.709(d), and 15.812 for clarity as recommended by the commenter.

One commenter recommends that the Coast Guard amend the proposed regulations to provide that pilots be issued 2-year, rather than 1-year, medical certificates. In the commenter's view, such a change would not impact public or navigation safety and would provide much needed administrative and workload relief to the Coast Guard's medical review program staff at the NMC.

The Coast Guard agrees and has amended § 10.301(b)(2) accordingly.

One commenter believes that this rulemaking is an opportunity to improve marine safety, if implemented effectively. In the commenter's view, 5 years between medical certifications among an aging workforce is not practical. While the direct impact from incidents that are due to medical conditions is unclear from Coast Guard and National Transportation Safety Board statistics, most operators know it is a major concern, the commenter says, and if established effectively, a new system that better tracks mariner fitness will have major positive effects on keeping mariners and the public safe. Additionally, two commenters believe that additional clarification is required regarding the extent of training, the approval process, and the bodies that would be accepted for the licensing of these designated medical examiners (DME) by the Coast Guard.

The Coast Guard disagrees that more frequent medical certificates for all mariners are needed. The Coast Guard is establishing within this rule the process to issue limitations, restrictions, and waivers for medical conditions, which will allow the Coast Guard to track mariner fitness where necessary. Provisions in this final rule will allow for the use of DMEs in the future. Plans are underway for the development of a DME Program, which will address the information sought by this commenter, and the Coast Guard will issue future guidance on this program. During the development of that guidance, the public will be invited to participate to ensure the creation of the best possible system.

One commenter requests that cadets issued endorsements as ''cadet (deck) or cadet (engine)'' who are enrolled in an approved 4-year academy training program and who have obtained a medical certificate, not be required to obtain another medical certificate until they complete their training and apply for their original MMC as Officer in Charge of a Navigational Watch (OICNW) or Officer in Charge of an Engineering Watch (OICEW).

There are no medical requirements for the ''cadet'' endorsement in parts 10 or 12 of this final rule. Cadets will not be entitled to receive an STCW endorsement until successful completion of the training program.

Six commenters support the inclusion of the ''designated medical examiner'' to the list of those who can complete a mariner's physical exam, but do so with concern. They caution not to develop a system that relies too heavily on these designated personnel, which may require a mariner to travel great distances for a physical examination.

The Coast Guard agrees. As previously noted, plans for the development of a DME Program are underway. Changes in this rulemaking will allow for the use of DMEs in the future. The Coast Guard will issue future guidance for the DME Program.

One commenter states that, due to the complexity of the mariner's physical exam, he would not be in favor of the DME being anything other than a licensed medical doctor or licensed nurse practitioner.

The Coast Guard agrees in part. We believe that the physician's assistant has the necessary training and knowledge to conduct a physical examination. Mid-level provider utilization for fitness examinations has been previously implemented with other transportation agencies, such as the Federal Motor Carrier Safety Administration.

Furthermore, the DME program has not been developed. During the development process, the public will be invited to participate to ensure the creation of the best possible system.

Three commenters note that in § 15.401(c), the proposed regulation fails to specify an effective date. As it will take mariners and the Coast Guard time to process the required medical examinations and to issue these certificates/endorsements, the commenters recommend a phase-in period be specified in the final rule as recommended by STCW 7/Circ.16.

The Coast Guard has included an implementation date in §§ 15.401 and 15.1103. Compliance with the 2010 amendments to the STCW Convention and Code requires that full implementation of the issuance of medical certificates is achieved by 2017. To facilitate implementation, the Coast Guard will start issuing 2-year medical certificates 30 days after the publication of this final rule.

Three commenters state that, with regard to § 15.401(f), this is an improvement over current practice and is strongly supported.

The Coast Guard agrees, and this section remains unchanged from the SNPRM.

Three commenters state that, with regard to the demonstration of physical ability, the Coast Guard has removed the section which allows those applying for entry level positions to demonstrate physical ability, rather than undergo a complete physical examination. The commenters recommend that this section be reinserted.

The Coast Guard agrees, and the text is now included in § 10.304(d)(1)(ii).

Two commenters recommend that the Coast Guard consider publishing a list of acceptable eye tests for Engineers that meet the four-color standard.

The Coast Guard agrees, and has added a new sentence at the end of § 10.305: ''The Coast Guard will accept Farnsworth D–15 Hue Test as a color vision test to meet the requirements of this subparagraph.'' This test is part of Commission Internationale de l'Eclarage Color Vision Report as part of the recommended testing to qualify for Standard 3. Additionally, the Coast Guard will publish guidance on additional acceptable tests.

One commenter requests that the Coast Guard consider working with the U.S. Department of Transportation (DOT) to develop common medical certificate standards. He also recommends that the Coast Guard accept the results of medical tests conducted in accordance with other agency regulations.

There are no current plans for the Coast Guard to combine medical credentialing with the other transportation agencies. We are currently working with other agencies on a limited basis to improve our medical credentialing process and guidelines.

Thirteen commenters recommend that, with regard to Medical Certification—subpart C, the Coast Guard delay implementation of issuing medical certificates/endorsements for a maximum period of 2 years until the NMC can be properly staffed with trained medical doctors for reviewing medical documents.

The Coast Guard disagrees. Immediate implementation of the STCW 2-year medical certificate is a requirement set by the 2010 amendments to the STCW.

One commenter states that, with regard to § 10.231(c)(8), the Coast Guard must clarify that physicals are still valid for 3 years on a license upgrade.

The Coast Guard agrees in part. The 3-year validity of the physical for license upgrade is only applicable to national endorsements. This is no longer applicable for the issuance of

STCW credentials, since the medical certificate is valid for only 2 years. The Coast Guard has amended § 10.231 accordingly to ensure clarity.

One commenter notes that § 10.301(b)(1) states that medical certificates/endorsements issued to a mariner serving under the authority of an STCW endorsement will be issued for a maximum period of 2 years unless the mariner is under the age of 18, in which case the maximum period of validity will be 1 year. The commenter asks what policy and/or procedures will be implemented to ensure that those sailing on the Great Lakes will not have their renewal applications delayed because the evaluators will be unaware that Great Lakes service will not require a biennial physical, in accordance with § 10.301(b)(3).

The STCW Convention does not apply to the Great Lakes; therefore, mariners applying for a medical certificate to serve on these vessels will be issued a 5-year medical certificate. The Coast Guard will develop guidance for the medical evaluators to ensure that the correct requirement is applied to the mariner's application.

Twelve commenters note that the term ''medical certificate,'' used throughout the rulemaking, is not defined. If it is envisioned that this would be a document separate from a mariner's credential issued by the NMC, the commenters recommend that the item be removed until it can be fully defined.

The Coast Guard agrees in part. Implementation of a 2-year medical certificate is a requirement set by the 2010 amendments to the STCW. A new definition has been added in § 10.107.

Two commenters believe that it is wrong to determine the medical fitness of mariners remotely, based upon the submission of medical records and tests to an evaluator who has not physically examined the mariner. The commenters believe that a process which isolates the evaluator from the mariner results in excessive and expensive medical testing, and lengthy time delays in processing licenses that can interfere with the mariner's ability to rejoin their vessels for scheduled assignments.

Two other commenters state that the new requirement on medical examiners to be Coast Guard certified raises concerns with accessibility, since many mariners live in isolated Alaskan communities and currently use local health care professionals for merchant marine physicals. The commenters expect additional expenses for crewmembers from small coastal communities who will need to travel farther for the new biennially required Coast Guard physicals. The commenters recommend that the Coast Guard either remove the Coast Guard certification requirement from this definition or make a simple, fair, and cost-effective certification process for the limited number of Alaskan medical providers.

Plans for the development of a DME program are underway. Provisions in this final rule allow for the use of DMEs in the future. The Coast Guard is reviewing programs used by other agencies and foreign administrations when developing the maritime model. The Coast Guard will issue future guidance for the DME program. Additionally, it is envisioned that mariners will retain the option to use personal medical providers qualified under § 10.302, which is expected to mitigate the impacts on mariners in remote locations.

One commenter recommends that, with regard to § 10.301, the Coast Guard define what exam requirements IMO and the International Labour Organization (ILO) deem necessary for the 2-year medical exam and consider a modified or limited exam focused on these specific requirements, along with significant changes in health history and medications. This limited exam would be conducted as an interval exam in between the 4- or 5-year complete (Coast Guard Form CG–719K) physical exam.

The Coast Guard disagrees. The examination and reporting requirements in the rule match those from STCW, which requires medical exams every 2 years. The Coast Guard will continue to use one set of forms, the CG–719K and CG–719K/E forms, which contain the exam requirements for all U.S. medical examinations irrespective of the validity dates.

One commenter notes that proposed § 10.304(b) (current § 10.215(d)(2)) states that applicants for food-handler endorsement must obtain a statement from a licensed physician, physician assistant, or nurse practitioner attesting that they are free of ''communicable diseases.'' The commenter notes that, aside from the fact that there is no definition provided in 46 CFR part 10 for communicable diseases, this requirement is way too broad and makes it very unclear as to what the physician needs to be looking for.

The Coast Guard agrees and has added a definition of ''communicable diseases''.

Twelve commenters note that when a mariner submits an application for examination or renewal and a medical condition requires a review, the time required to complete the review is excessive. The commenters recommend that the Coast Guard provide prescriptive guidance for a mariner's physician to make the sole determination as to whether or not a condition will disqualify a mariner from successfully completing the credentialing process.

The Coast Guard will continue to review determinations of medical disqualification to ensure consistency, oversight, and provide mariners the ability to appeal adverse determinations. Plans for the development of a DME program are underway. Provisions in this final rule will allow for the use of DMEs in the future. The Coast Guard will issue future guidance for the DME program. The Coast Guard is also working with MEDMAC to develop guidance on medical conditions.[4]

One commenter recommends that the Coast Guard retain the existing 5-year rule for validity of medical endorsements.

The Coast Guard disagrees. Implementation of the STCW 2-year medical certificate is required by the 2010 amendments to the STCW and is not discretionary. The United States is obligated, as a signatory to the Convention, to implement the 2-year certificate.

The same commenter suggested, alternatively, that the Coast Guard increase manning at the NMC so that applications for medical endorsements can be completed within a specified time period. The commenter suggests that this evaluation period should be something on the order of 2 weeks from receipt of the application by the NMC. If the application cannot be completed in time, the mariner should be provided with a temporary or conditional medical endorsement. Regarding the determination of fitness for duty, the commenter states that the Coast Guard should adopt language stating that in no case should the medical opinion of any generalist be of a higher priority than

[4] The DME program was proposed consistent with public comments on the SNPRM to increase the availability of medical personnel for examinations. The program is based on broad statutory authority to ensure mariners are physically and mentally fit (14 U.S.C. 2 and 633 authorize the Coast Guard to issue regulations for the promotion of life and safety on waters under the jurisdiction of the United States; 46 U.S.C. 2103 provides the Coast Guard broad authority over merchant marine personnel; and 46 U.S.C. Chapters 71 and 73 include requirements that mariners be physically qualified for endorsements). Because of the extent of the training and administration needed to establish and run a DME program, it is best to develop guidance for those areas. Subsequently, the Coast Guard will consider revising the medical evaluation regulations in §§ 10.301 through 10.306 of this final rule, and converting DME program guidance to regulations. Existing medical evaluation regulations can be found in 46 CFR 10.215.

the medical opinion of a specialist in their field of specialty practice.

With regard to the commenter's suggestion on the evaluation period, the Coast Guard disagrees. While the average time for evaluating medical fitness is less than 2 weeks, the evaluation may take longer for those with more complex medical conditions. Where a mariner has made a timely application or the Coast Guard has a backlog, his/her credential may be extended. With regard to the comment on fitness for duty, the Coast Guard partially agrees and will continue to review determinations of medical disqualification to ensure consistency, oversight, and provide mariners the ability to appeal adverse determinations. Furthermore, the development of a DME program, including interim authority issues, is underway and should provide some relief to the medical evaluation program. Provisions in this final rule allow for the use of designated medical examiners in the future. The Coast Guard is reviewing programs used by other agencies to assist in developing the maritime model. We intend to work with stakeholders in the development of the DME program and will issue future guidance on this subject. Under the DME program the Coast Guard will ensure these physicians receive training on the maritime industry and the identification of medical conditions that they must refer to the Coast Guard for evaluation.

One commenter stated that a 2-year limit for deep-sea medical examinations seems a bit harsh and could become expensive. Could there be a minimum period of validity of 2 years and a maximum of 3 years? The commenter also suggested that better controls for tracking the pilot submittal for their annual physical should be given some thought.

As discussed above, the Coast Guard disagrees. Implementation of the STCW 2-year medical certificate is a requirement set by the 2010 amendments to the STCW and is not discretionary. The Coast Guard has implemented controls to track submittals from pilots as well as medical waivers. Additionally, with the establishment of medical certificates, it will be easier to track all medical evaluations.

Two commenters are concerned that the NMC Medical Evaluations Division will not be able conduct medical evaluations and issue medical endorsements in a reasonable time frame under its current structure and staffing. Furthermore, the commenters say, the Coast Guard did not include the cost for review and issuance in the proposal. They recommend that the Coast Guard set aside this proposal until it can ensure an efficient, accurate, and timely review of Medical Endorsement applications. Additionally, the commenters believe, the current practice of medical vetting must be revised. This should include the acceptance of reports from medical specialists at ''face value.'' The commenters believe the Coast Guard should not presume to have general practitioners and/or physician's assistants vetting and ''second guessing'' the evaluations and reports from medical specialists holding the requisite credentials. The commenters recommend that the Coast Guard put a hold on proposed § 10.301(b)(1) until NVIC 04–08 can be rewritten for a realistic 2-year STCW schedule that will not place a large financial burden on the mariner. They also recommend a suspension until the medical review process can be vastly improved to handle a timely 2-year review process.

The Coast Guard disagrees. Implementation of the STCW 2-year medical certificate is a requirement set by the 2010 amendments to the STCW and is not discretionary. Any delay in implementation will fail to meet the requirements of these amendments, and will subject mariners and vessels on which they serve to an increased risk of port-state detention.

The Coast Guard is taking action in this final rule to minimize the number of mariners who will require more frequent medical evaluation. The Coast Guard also has limited authority to grant interim operating authorization to mariners serving under the authority of an STCW endorsement. The Coast Guard has amended § 15.1103(h)(3) to allow mariners to continue to operate if the mariner's medical certificate expires during a voyage, provided the period after expiration does not exceed 90 days. This is consistent with the STCW 2010 amendments. Additionally, the Coast Guard Authorization Act of 2010 provides the Coast Guard with the authority to grant extensions of up to 12 months for national endorsements when the Coast Guard experiences a backlog.

Furthermore, the Coast Guard will be working to develop the DME program to help mitigate any workload issues. Plans for the development of a DME program, including interim authorities, are underway. The Coast Guard is reviewing programs used by other agencies when developing the maritime model, and the Coast Guard intends to work with its stakeholders in the development of the DME program.

The Coast Guard will issue future guidance for the DME program. The use of DMEs will also require the Coast Guard to ensure these physicians receive training on the maritime industry and the medical conditions that must be evaluated by the Coast Guard, using training methods similar to those already employed by other federal agencies. The Coast Guard is also working with the MEDMAC to review and improve policy in this area.

The Coast Guard did not factor in any potential reduction in the cost for review and issuance of medical certificates in the proposal as the degree to which DME will alleviate burden and the timing of a DME program being up and running is still under development. Furthermore, the Coast Guard is seeking and will continue to seek to improve efficiencies in the use of our limited resources, as noted in our response to comment 5 above. The Coast Guard estimated that the costs of implementing the new STCW requirements, including medical, will be less than $4 million on a recurring basis.

Finally, mariners are not paying any fees to the Coast Guard for the review of their medical records and the issuance of their medical certificates, and will not pay any fees associated with the review and issuance of medical certificates. Provisions in this final rule will allow for the use of DMEs in the future.

One commenter notes that the Coast Guard is incorporating STCW revisions to its regulations pertaining to medical standards and that the revisions will increase the frequency of required medical evaluations of mariners from once every 5 years to once every 2 years. However, the commenter believes the 2-year interval will not alert the Coast Guard to significant changes in a mariner's health that might develop within even shorter periods. The commenter recommends that the Coast Guard require mariners to report to the Coast Guard, in a timely manner, any substantive changes in their medical status or medication use that occur between required medical evaluations.

The Coast Guard disagrees. As discussed above, the 2-year reporting interval is consistent with the 2010 amendments. Moreover, there are valid concerns that requiring more frequent medical reporting could overload available medical evaluation staff and heighten the possibility of undesirable processing delays.

One commenter requests that the Coast Guard use the term medical ''waivers'' appropriately. In the commenter's view, by any common or generally accepted definition, a

''waiver'' should only be used to describe a situation in which a mariner does not meet the applicable medical fitness standards. Because of mitigating circumstances, however, the NMC ''waives'' the medical standard or standards and grants the credential or endorsement. To clarify this point, the commenter recommends that the Coast Guard include specific language from NVIC 04–08 dealing with NMC credential issuing actions/options, and that proposed regulation § 10.303(b) be amended.

The Coast Guard agrees. The use of the term ''waivers'' has caused confusion; therefore the Coast Guard is clarifying the meaning of medical waivers to avoid ambiguity and to improve consistency. A ''waiver'' will be used to describe a situation in which a mariner does not meet the applicable medical fitness standards. Operational limitations will be issued on medical and physical conditions and restrictions will be issued based upon medical and physical conditions. The operational limitations and restrictions will be reflected in the medical certificate.

The same commenter argues that the distinction between Great Lakes pilots' physical exams and those for other mariners should be eliminated. The commenter recommends that proposed regulations in § 10.302(b) be amended by striking the last sentence of this subparagraph (i.e., ''Medical examinations for Great Lakes pilots must be conducted by a licensed medical doctor in accordance with the physical exam requirements in 46 CFR 402.210.''). The commenter states that there is no statutory requirement or policy justification to require Great Lakes pilots to see a ''licensed medical doctor'' when all other mariners have the option of seeing other types/classes of medical professionals.

The Coast Guard disagrees. The Coast Guard did not propose in this rulemaking any changes to the physical examination requirements for Great Lakes pilots contained in 46 CFR 402.210, but may consider such changes in a future rulemaking. The existing requirement in § 10.215(a)(2) has been moved to § 10.302, but otherwise remains unchanged to ensure that mariners are not confused when applying for a medical certificate.

Two commenters feel that proposed §§ 11.709(b) and (d) are not clear and should be amended to remove ambiguity as to Coast Guard authority with respect to credential invalidation. According to these commenters, amending this proposed regulation would also ensure that the regulation accurately reflects the reality of pilot submission of annual physical examinations.

The Coast Guard agrees, and has amended those sections accordingly.

One commenter states that the Coast Guard/NMC should be given flexibility from the Department of Homeland Security (DHS) Secretary to utilize existing resources as interim approved DMEs. Most major shipping companies already require annual physicals, so they have developed a network of providers, utilizing both union physicians and private companies, that has been effective in determining mariners' fitness for duty.

The Coast Guard intends to work with its stakeholders in the development of the DME program, and interim authority issues would be addressed in that future DME proposal.

One commenter asks, with regard to § 10.301, why a Coast Guard medical review is required every 2 years for a STCW medical certificate if the mariner is getting a medical review every 5 years for a renewal.

The implementation of the STCW 2-year medical certificate is required by the 2010 amendments to the STCW, and is not discretionary. The United States is obligated, as a signatory to the Convention, to implement the 2-year certificate. This final rule implements the 2-year certificate, which will help ensure the Coast Guard and mariners meet the requirements of these amendments. Mariners to whom STCW applies seeking to renew their MMC may either submit a valid medical certificate or a new form CG–719K.

Five commenters note that the proposed amendments would require endorsement or notation on an MMC every 2 years following a mandatory medical certification. Presently, MMCs are re-issued every 5 years. By requiring medical recertification to be noted on the MMC, this will increase the burden on crewmembers to obtain a new MMC every 2 years. The commenters believe this would result in a waste of resources when crewmembers will not only have to obtain medical certification, but also a new MMC.

The MMC will remain valid for a 5-year period. The Coast Guard has amended § 10.301 and will issue a separate medical certificate with the appropriate validity date through the NMC to avoid overburdening the system and the application process.

Five commenters recommend that the Coast Guard establish a process to grant ''interim operating authorization'' to mariners who submit their medical information in a timely manner but whose medical certificates cannot be processed by the NMC before expiration of the MMC.

The Coast Guard partially agrees. The Coast Guard has limited authority to grant interim operating authorization to mariners serving under the authority of an STCW endorsement and has amended § 15.1103(h)(3) to allow mariners to continue to operate if the mariner's medical certificate expires during a voyage, provided the period after expiration does not exceed 90 days.[5] This is consistent with the STCW 2010 amendments to the STCW Convention. Additionally, the Coast Guard Authorization Act of 2010 provides the Coast Guard with authority to grant limited extensions for national endorsements when the Coast Guard experiences a backlog.[6]

One commenter asks whether the medical certificate is separate from, or part of, a person's Merchant Mariners Document (MMD). If it is a separate certificate, would there be fees for the review and issuance? The commenter notes that there is no mention of this in the rulemaking.

The Coast Guard will issue a separate medical certificate through the NMC. This approach will impose less burden on mariners and the Coast Guard than the production of medical endorsements to be added to the MMC. This final rule does not include additional fees associated with the medical certificate because the Coast Guard will not collect any fees from the mariners for the review of medical records and issuance of medical certificates to mariners.

The same commenter asks if a mariner would be required to pay for and obtain an MMD if the medical certificate is part of a person's MMD, and the mariner was serving on small passenger vessels and not currently required to have an MMD.

The Coast Guard plans to continue the existing practice for personnel who do not hold an MMC or MMD. They will not be required to apply for a separate medical certificate.

One commenter states that the proposed medical document system is overly burdensome to the industry in view of the very small gain in safety that might possibly be achieved.

The Coast Guard disagrees. Implementation of the STCW 2-year medical certificate is a requirement set

[5] A mariner not engaged on a voyage on the expiration date of the medical certificate wouldn't receive an extension under this provision. The Coast Guard may grant an extension, however, to a mariner who has made timely application, or if the issuance of the credential is delayed due to backlog, or due to natural catastrophe.

[6] For all activities at NMC a backlog is considered to be more than 9,000 pending applications. For the appeals process, a backlog occurs when the average processing time for appeals exceeds 90 days.

by the 2010 amendments to the STCW, and is only applicable to seafarers serving on vessels to which STCW applies. The Coast Guard is taking action in this final rule to minimize the number of mariners who will require more frequent medical evaluation by not requiring 2-year medical certificates for mariners seeking only national endorsements. Medical certificates for such endorsements will be valid for 5 years unless the mariner has a limitation, restriction, or waiver for a medical condition. The Coast Guard also has limited authority to grant interim operating authorization to mariners serving under the authority of an STCW endorsement. The Coast Guard has amended § 15.1103(h)(3) to allow mariners to continue to operate if the mariner's medical certificate expires during a voyage, provided the period after expiration does not exceed 90 days. This is consistent with the 2010 amendments. The Coast Guard will also be working to develop the DME program to help mitigate any workload issues, and the Coast Guard Authorization Act of 2010 provides the Coast Guard with the authority to grant limited extensions for national endorsements when the Coast Guard experiences a backlog.

Additionally, unidentified medical conditions can impair a mariner's ability to perform tasks and respond, thus contributing to the human element of casualties. This final rule will require more frequent medical exams for STCW mariners, thus reducing the potential impacts of medical conditions on human error. In combination, the provisions of this final rule are expected to reduce potential for vessel accidents.

In summary, the 2-year medical certificate requirement is consistent with the STCW Convention requirement for seagoing mariners, and strikes an appropriate balance between maritime safety and the administrative processing burden.

One commenter recommends that the Coast Guard update its medical reporting systems, to take advantage of computer interface capabilities, make it more secure and Health Insurance Portability and Accountability Act compliant, prior to requiring mandatory medical certification at a minimum of every other year. Additionally, the commenter believes common sense would dictate scaling frequency of these renewals to a mariner's age. For instance, it's currently 5 years; at age 50, it becomes annual.

The Coast Guard disagrees. We are currently working on improving our medical credentialing process and guidelines and will issue future guidance on this subject. However, we are not planning on delaying implementation of the medical certificate. The 2010 amendments to the STCW Convention and Code requires that full implementation of the issuance of medical certificates be achieved by January 1, 2017. To facilitate implementation, the Coast Guard will start issuing 2-year medical certificates 30 days after the publication of this final rule. In addition, the STCW Convention does not base the frequency of medical examinations on the age of the seafarer. Therefore, there are no plans for age-based examinations at this time.

4. Training

One commenter supports the way the Coast Guard has adopted the STCW standards of competence at the management and operational levels for deck officer endorsements in § 11.301(a). The commenter believes that, by publishing them in the rules, mariners can see the options available to them under STCW. By adhering to the terms of the Convention rather than reflecting the assumed intent of delegates to the IMO, the commenter says, the Coast Guard is meeting its obligations to the international maritime community and U.S. mariners in a responsible, reasonable fashion.

The same commenter stated that the Coast Guard's proposed revision of § 12.605 in response to the comments of MERPAC is laudable. In view of the anticipated changes, the commenter recommends revision of the provisions of NMC Policy Letter 14–02 to reflect these standards.

The Coast Guard is currently reviewing guidance in this area and will consider future revisions to the Policy Letter that might be necessary as a result of this rulemaking.

Thirty-three commenters oppose the introduction of onboard assessments as an alternative to the current regime of structured training. The reasons cited include concerns that this alternative method would result in the degradation of the competency and proficiency of the U.S. mariner, potentially shift the overall training responsibilities to vessel's personnel onboard minimally manned vessels, possibly conflict with STCW Section A–I/6, allow the conduct of assessments that cannot be safely done onboard the vessels, and fail to allow for competencies that are not conducive to self-learning and must be supplemented with formal training.

Thirteen commenters agree with the Coast Guard moving away from only accepting classroom training as demonstration of proficiency for the credentialing of mariners. The commenters state that onboard and on-the-job training should remain an important part of the industry, and support this change.

The Coast Guard responds that the STCW Convention is a competence-based Convention and not a training-based Convention. Further, approved classroom training is not the only means of acquiring knowledge; on the contrary, on-the-job training conveys certain knowledge, understanding and proficiencies more thoroughly and efficiently. The STCW Convention does not specify what competencies (including knowledge, understanding, and proficiencies) require approved, formal training. It is up to the Administration to establish the required training and/or experience necessary to achieve the level of competence, and to establish when and how the training should be obtained.

The Coast Guard recognizes commenters' concerns that shipboard operations might make it challenging for seafarers onboard vessels to train others, particularly when reduced manning, higher mariner workload, and mariner fatigue issues are taken into account. The Coast Guard also recognizes that not all STCW competencies and individual knowledge, understanding, and proficiencies must be accomplished as part of a formal structured, training as there are areas where in-service experience may fulfill the competency requirement. Taking this into account, the Coast Guard reviewed the tables of competencies and identified the training topics that must be accomplished as part of approved formal training.

The increased number of training topics that must be covered by approved training will strike an appropriate balance between providing flexibility and ensuring mariners achieve a sufficient level of competence for STCW endorsements. These training topics in the final rule were part of the extensive list of topics proposed in the NPRM, as well as those listed in the SNPRM. Parts 11 and 12 of this final rule are amended to include a combination of training and in-service requirements, validated through assessments, to ensure that seafarers achieve the necessary level of competence. However, these changes do not prohibit companies and organizations from developing approved in-service training.

One commenter recommends that e-learning not be proctored.

The Coast Guard agrees. E-learning is optional under § 10.412 and Section B–I/6 of the STCW Code, and neither require proctoring of e-learning courses. However, all testing must be proctored to ensure secure procedures for the examination system to prevent cheating.

Additionally, all assessments must be monitored by qualified assessors.

One commenter notes that deck officers are spending time with cadets and teaching and assessing them on required tasks, after the cadet learns the material in the classroom. The commenter specifically noted that we can hardly expect an officer to teach a three-star fix, explain a mid-latitude sailing, work an amplitude and do his job, the commenter says. In the commenter's view, not only might a deck officer feel uncomfortable teaching those elements (which are no longer a daily part of his job), there simply may not be the time to do so.

The Coast Guard agrees in part. The SNPRM did not propose to require deck officers to teach cadets onboard. We agree, however, that the development of onboard assessments is not intended as the wholesale transfer of the training of seafarers from shoreside educational establishments to the shipboard personnel responsible for the oversight of the vessel's operation. The Coast Guard recognizes that onboard duties can preclude the time needed to provide a comprehensive training program for subordinates, but that there is still a burden to ensure that they are competent to perform their duties, which include assisting supervisors and other shipboard personnel with their duties. The Coast Guard also recognizes that STCW is a competency-based system and that by differing combinations of exposure, training and self-study each mariner may independently acquire individual STCW competencies while onboard vessels. Therefore, onboard assessments do not contain a training component beyond the feedback needed by the candidates to further develop themselves and should reasonably be within the scope of the duties of an assessor. The Coast Guard will be developing guidance that includes the development of qualified assessors, pertinent guidelines and other standards that will be needed for the successful use of onboard assessments.

A training institution asks the reasons for the Coast Guard's decision to eliminate most of the existing approved education/training and assessor qualifications (§ 11.301(a)(1)) for certification as an OICNW, chief officer, and master on unlimited tonnage vessels. They asked ''what prompted the Coast Guard to change its interpretation after 10 years of precedence?''

The 1997 interim rule, implementing the 1995 amendments to STCW with changes to 46 CFR parts 10 and 12, did not limit the permissible means of demonstrating required competencies to formal training. Since the publication of the interim rule, mariners have pointed out the benefit of permitting greater flexibility in demonstrating competence through the many methods allowed by the Code. Further, the SNPRM reflected the more flexible approach to demonstrating competence in the 2010 amendments.

The same commenter asks if the Coast Guard knows of any other flag state that shares this interpretation of STCW competence and training requirements, and if, from a public policy perspective, the Coast Guard believes this change is a reduction in the safety standards for the industry.

The Coast Guard is aware of a number of countries that share parts or all of the interpretations of the flexibilities that exist within the STCW Convention and Code. These flexibilities are the basis for these regulations, which do not represent a reduction in safety standards for the industry. This rulemaking will ensure a consistent implementation of the Convention requirements throughout the industry. A consistent implementation of the proper combination of training, assessment and sea service will further increase safety, security and environmental protection.

One commenter requests that current § 10.404(a)(3), which addresses the use of sea service that is credited as a result of completing an approved course, be clarified.

The Coast Guard agrees in part. We did not propose a change to the existing requirements in this section. However, we included new language in § 10.404(a)(4) to clarify the applicability of this provision to STCW endorsements.

One commenter states that the sections of this SNPRM regarding the training and assessment for OICNW operational level and for chief mate/master at the management level represent a circumvention of the intent and spirit of IMO's Resolution 7—Promotion of technical knowledge, skills and professionalism of seafarers; In particular paragraphs .1 through .4 and .6 of the Resolution.

The Coast Guard disagrees. The use of on-board-training supports the intent of Resolution 7, to ensure that mariners are involved in the development of junior officers to ensure qualified professionals.

One commenter stated that the low level of understanding of basic meteorology exhibited by candidates for endorsement as OICNW extends, to a lesser degree, to sailing Masters ''grandfathered before STCW.'' The commenter recommends that the Coast Guard review the Detailed Teaching Syllabus from IMO model course Section 11 and require that OICNW candidates be required to complete this course.

The Coast Guard agrees. Meteorology was added to the list of training subjects that must be completed as part of structured training at the operational level.

Two commenters like the option of using alternate methods of demonstrating competence.

One commenter states that the Coast Guard should task MERPAC with reviewing the training areas for all ratings/licenses to ensure developing technologies and operations are incorporated into the requirements in a timely manner. The commenter states that a comprehensive review by MERPAC relative to these concerns is warranted and will be valuable in assuring the necessary competencies are required for mariners holding specific endorsements.

The Coast Guard agrees, and asked MERPAC, in task statement 75, to review the STCW SNPRM and provide comments and recommendations to the Coast Guard, including: (1) Developing a list of training elements (in addition to those in the proposed SNPRM) for operational and management level deck and engineer officers, where and if appropriate, that should be completed as part of a structured program/training course to address the knowledge, understanding, and proficiencies (KUPs) in the competence tables; and (2) identifying which of the training elements can be accomplished onboard vessels, and which could better be accomplished ashore in a formal classroom setting.

During its October 5, 2011, meeting, MERPAC recommended the competencies that must be subject to formal training and also recommended that the content of the training should be appropriate to the tonnage, route and/or type of vessel. The Coast Guard agrees with some of the areas identified by MERPAC concerning formal training and has amended part 11, subpart C, and part 12, subpart F, of this final rule to include a combination of training and in-service requirements (validated through assessments) to ensure that the seafarers achieve the level of competence. These formal training topics were part of the NPRM published in 2009.

One commenter recommends that consideration be given to authorizing approved training facilities that meet Coast Guard and STCW quality system standards to issue certificates of proficiency on completion of an approved course and assessment that

would be accepted by the Coast Guard as meeting the requirements for STCW endorsement.

The Coast Guard disagrees. The STCW Convention authorizes the issuance of ''certificates of proficiency'' by training institutions for some of the competency requirements. However, authorizing training institutions to issue certificates of proficiency places additional burdens on them, and would create significant oversight difficulties. Training institutions would be required to deal with port state control authorities around the world on confirmations of the validity and authenticity of the document issued by the institution. Authorizing training institutions to issue certificates of proficiency would also require those institutions to be responsible for preventing the issuance of fraudulent certificates and ensuring they meet a standardized format.

One commenter recommends that § 12.623(a)(2)(ii) be deleted as there are currently no approved Global Maritime Distress and Safety System (GMDSS) maintainer courses in the United States and there are no published guidelines for what such a course should contain. Alternatively, the commenter says, the Coast Guard should publish course guidelines/criteria for development of a GMDSS maintainer course.

The Coast Guard agrees in part. Until such time as the Coast Guard establishes criteria for and approves such ''GMDSS at sea maintainer courses,'' § 12.623(a)(2)(ii) will not be a viable option to demonstrate competency. Nonetheless, the Coast Guard has included this option because it intends to soon begin the process of promulgating guidelines for GMDSS course content and approval.

One commenter recommends that, in § 11.305(d), allowance should be made for a mariner to crossover from the 500–1,600-ton master to second mate, then with training and sea service progress to unlimited master, such as the progression in § 11.404.

The Coast Guard disagrees. The Coast Guard is providing this career progression in § 11.305(d) in support of STCW Regulation II/2. The length of qualifying service required for master and chief mate on vessels of 3,000 GT or more in STCW Regulation II/2, paragraph 2, is the same as that required for master and chief mate on vessels of between 500 and 3,000 GT in paragraph 4 of the same regulation. This career progression recognizes that service, and provides a method for mariners holding the lower tonnage credential to obtain the master of vessels of 3,000 GT or more upon completion of additional service and any assessments that have not been completed.

One commenter notes that proposed § 10.404(a)(3) states that: ''Unless otherwise allowed, training obtained before receiving an endorsement may not be used for subsequent raises of grade, increases in scope, or renewals.'' The commenter says that this provision would discourage OICNW candidates from pursuing training beyond the minimum required. If they opt to receive training in higher level professional abilities at the management level, they become more valuable to the safe operation of the vessel, the commenter states, and they can benefit from practical experience by applying those higher abilities at the operational level to assist senior officers.

In addition, one other commenter states that, with regard to § 10.404(a)(3), unless there are provisions made within this section, individuals may need to take the same class twice to receive or to maintain a credential when upgrading or increasing the scope of their license. The commenter states that this is an expensive and unnecessary training requirement.

The Coast Guard partially agrees. The existing requirements in § 10.404(a)(3) apply to national endorsements where the training is used in ''lieu'' of ''service'' or ''exam.'' This requirement is not applicable to STCW provisions, since the Convention allows for the attainment of training and assessment for management level at the operational level. The Coast Guard has added § 10.404(a)(4) to ensure that this does not apply to STCW courses.

One commenter asks if, with regard to §§ 11.309(a)(4)(iii) and 11.319(a)(5)(iii), it would be possible to include Standard Marine Communication Phrases (SMCP) training in the ''Flashing Light'' course requirement for STCW.

The Coast Guard allows training providers broad discretion in determining how to establish their courses and programs, and the course can be approved to meet both requirements. The Coast Guard will allow training providers to include the SMCP training in a ''Flashing Light'' course, but will not require it.

The same commenter asks if the same methods of demonstrating competence will be allowed for chief mates in the future. In other words, will the course requirements for advancing to chief mate no longer be mandatory?

Section 11.307 of this final rule requires the completion of approved training in several subject areas for an endorsement as chief mate on vessels of 3,000 GT or more. That section specifies the acceptable methods of demonstrating competence and the training requirements for this endorsement.

One commenter requests that, with regard to the Towing Officer Assessment Record (TOAR), sections for barge work be allowed on simulators and a DE should be authorized to sign off on them.

The Coast Guard agrees but does not believe a change to the rule is needed. The guidance in NVIC 4–01 allows for the use of simulators in this case.

One commenter asks if consideration has been given to modifying § 11.516(a)(6) to change the present 3-year requirement for an accepted training program for an original unlimited third assistant engineer horse power license to some shorter period of time.

The Coast Guard agrees and has removed the 3-year duration in § 11.516(a)(6) for the training program because each program will be evaluated based upon its individual merits and its ability to provide the theoretical knowledge, understanding and proficiency to enable the candidate to serve as third assistant engineer.

One commenter recommends removal of the requirement in §§ 12.501 and 12.607 for holding/service as a Qualified Member of the Engine Department/able seafarer-engine for engineer officer credentials.

The Coast Guard disagrees. The requirements to become an engineering officer are contained in § 11.516 and not in §§ 12.501 or 12.607. We are keeping the requirement in § 11.516 for service as QMED as part of an option to become a third assistant engineer ''coming up through the hawsepipe.'' There are five classes of QMED listed in § 12.501 through which this service can be met; some stand watch, while others don't. The Coast Guard does not wish to restrict mariners from these choices. Candidates for third mate and rating forming part of a navigational watch need directed watchstanding duty experience, whereas third assistant engineer and ratings forming part of an engineering watch candidates can gain relevant experience sailing in any of the QMED ratings.

One commenter proposes, that because of the burdens imposed by STCW on domestic mariners, that the United States, pursuant to Article XV of the SCTW Convention, advise the IMO that the U.S. domestic credentialing program is ''sufficient for mariners serving on vessels of 200 to 1,600 GRT (500 to 300 tons IRT) in domestic coastwise waters.''

The Coast Guard disagrees. Although Article XV provides for a country's

withdrawal from the entire Convention, it does not allow a country to opt out of certain provisions of the Convention to which it does not agree. Additionally, it is the Coast Guard's view that, overall, the requirements of STCW are justified in the interests of safety, security, and protection of the marine environment. Finally, recognizing that STCW allows a variety of ways for a mariner to demonstrate competence other than formal classroom training, this final rule now includes implementation of assessment-based processes that allow acceptance of these various methods.

One commenter states that the SNPRM preamble, on page 45917, says that § 10.401 revises the applicability to include training programs, but the commenter can't find that in the cited section. Is it someplace else?

The requirements in § 10.401 apply to both approved courses and training programs.

5. Utility and Harbor Assist Towing

One commenter states that he is a Commercial Tow Boat Operator on Lake Washington, and that he typically moves boats (18′ to 40′) to a repair shop, not unlike taking your car to a shop with a flat tire. He asks if someone can tell him why he would need to have any special treatment or license to do this.

Under section 8904 of 46 U.S.C., mariners towing a disabled vessel for compensation must be credentialed by the Coast Guard. Additionally, if the towing vessel is greater than 26 feet in length, the operator must be credentialed by the Coast Guard to operate the vessel in the location.

One commenter states that the practical demonstration required in § 10.227(e)(6) is too vague, that the assessment and its conditions need to be further defined. According to the commenter, ''ongoing participation in training and drills during the validity of the license or MMC may be used to renew but this section does not define what type of training or drills are required. This section should define these issues.''

The Coast Guard disagrees. The Coast Guard has provided the towing industry the documentation being sought for this issue through guidance in NVIC 04–01 revision 1. The review of NVIC 04–01 and the TOARs is ongoing with the TSAC task statement 08–01.

Two commenters recommend that, with regard to the provision for new towing endorsements included in the SNPRM, the Coast Guard remove these provisions and transfer them to the new subchapter M proposed rulemaking dealing with the inspection of towing vessels. In the commenters' view, the creation of the new towing endorsements is unrelated to the STCW, raises serious safety concerns, and should not be fast-tracked as part of a final rule to implement the STCW amendments.

In addition, seven other commenters oppose the creation of the new master of towing (utility) and master of towing (harbor assist) licenses.

The Coast Guard is not including in this final rule the endorsements for apprentice mate (steersman) of towing (utility), master of towing (utility), and master of towing (harbor assist) that were proposed in §§ 11.466(c), 11.464(d), and 11.464(e) of the SNPRM. Public comment raised sufficient concerns with these provisions, as discussed below in ''Discussion of Public Comments,'' that the Coast Guard wants to seek additional comment from the industry. We are currently considering moving the issue to another rulemaking and seeking additional input from TSAC, which would give the public additional time to comment on this matter. However, we are retaining the existing definition of ''disabled vessel.''

One commenter recommends that the Coast Guard look closely at the requirements of the model TOAR in NVIC 4–01 to ensure that they are easily used for all towing vessels without imposing a towing requirement which is inconsistent with a vessel's design or capability.

This issue is outside the scope of this rulemaking. TSAC is currently amending NVIC 4–01—Model TOAR under task statement 08–01.

6. Chief Engineer (Limited Near-Coastal)

One commenter recommends that the Coast Guard amend § 11.512. The minimum service required to qualify an applicant for endorsement as first assistant engineer of steam, motor, and/or gas turbine-propelled vessels is 1 year of service as an assistant engineer while holding a license or MMC endorsement as second assistant engineer. The commenter states that service as a chief engineer (limited-oceans/limited-near-coastal) supersedes that of an assistant engineer (limited). However, the NMC does not recognize this, thereby refusing to accept service as chief engineer (limited-oceans/limited-near-coastal) in the same manner as assistant (limited).

The Coast Guard agrees with including sea service as chief engineer (limited) as an option in the service requirements for first assistant engineer and has amended § 11.512 accordingly. Please note, as discussed below, that the Coast Guard has eliminated the chief engineer (limited near-coastal) endorsement and dropped the ''Ocean'' designation from both chief and assistant engineer (limited). Also included in this rulemaking is a crossover path from assistant engineer (limited) to third assistant engineer.

One commenter recommends that all engineers who hold a license as chief engineer (limited) 1,600 GRT near-coastal or ocean prior to January 1, 2013, should be given an STCW endorsement as chief engineer meeting the requirements of STCW III/2, but with a tonnage limitation to 1,600 GRT. Evidence of meeting the standard of competence for leadership and management skills and for management of electrical and electronic control equipment should be required at the first renewal of such an endorsement, the commenter says.

The Coast Guard disagrees with the suggestion that mariners holding certain national endorsements be ''given'' an STCW endorsement. Most national credential holders qualify in some way for an STCW endorsement; however, they must also meet the additional STCW sea service, training, and/or assessments involved, as appropriate. These mariners are able to apply for a particular STCW endorsement outlined in the relevant crossover table in the STCW sections of the rule (part 11, subpart C, and part 12, subpart E).

The same commenter recommends that all engineers who currently hold a license as chief engineer (limited near-coastal) should be upgraded to chief engineer (limited-ocean) 1,600 GRT without further sea service or testing requirements and given the same STCW III/2 endorsement restricted to vessels less than 1,600 GRT.

The Coast Guard agrees in part and has amended the regulations to remove chief engineer (limited near-coastal). New applicants for chief engineer (limited) and those wishing to upgrade from near-coastal to the new, single credential will have to sail the additional year already specified in the regulations. Current mariners who hold a chief engineer (limited near-coastal) credential may continue to renew that credential. However, since the written examination for both chief engineer (limited) categories are identical, those mariners going from chief engineer (limited near-coastal) to chief engineer (limited) will not be required to take an examination.

Five commenters recommend that the Coast Guard eliminate the chief engineer (limited near-coastal) license and replace it with a chief engineer (limited) license limited to vessels less than 1,600 GRT, unlimited horsepower (HP). Consistent with the corresponding

service requirements for deck licenses, the commenters recommend that the service time required for a chief engineer (limited) license also be reduced from 5 years to 4 years. There are many unlicensed engineers and limited scope licensed engineers who perform duties and have responsibility as engineer aboard vessels sailing internationally. The commenters recommend grandfather provisions for these engineers upon proof of sea service. They feel that these mariners should be granted a limited-scope license and an STCW endorsement that allows them to continue to serve in the capacity in which they have sailed. The commenters state that this limitation could be restricted to a specific type of vessel, tonnage, and/or equipment the Coast Guard finds appropriate, but it is crucial that these qualified mariners are able to continue sailing.

The Coast Guard agrees in part and has amended the regulations to remove chief engineer (limited near-coastal). New applicants for chief engineer (limited) and those wishing to upgrade from near-coastal to the new single oceans credential will have to sail the additional year already specified in the regulations, for a total of 5 years. However, since the written examination for both chief engineer (limited) categories are identical, those mariners going from chief engineer (limited near-coastal) to chief engineer (limited) will not be required to take an examination. The Coast Guard does not agree with the request to reduce service time from 5 years to 4 years as it is inconsistent with the STCW Convention and Code.

One commenter believes that limiting the geographical routes for an engineer's license to anything other than near-coastal or oceans is superfluous. The commenter states that limits of 1,000 HP are also fairly useless since few towing vessels for offshore service are so underpowered, and that a limit of 4,000 HP is more realistic.

The Coast Guard disagrees. Current national standards apply to more than towing vessels and are also applicable to all vessels of less than 1,600 GRT. Further, the Designated Duty Engineer (DDE) endorsements carry not only horsepower restrictions but also tonnage and route restrictions. Industry has demonstrated a use for the 1,000 HP endorsement. Therefore, we are retaining it in subpart E of part 11. Additionally, we have eliminated the chief engineer (limited near-coastal) endorsement from § 11.520. All limited engineers are now authorized to sail upon oceans on vessels of less than 1,600 GRT but are not restricted as to horsepower.

One commenter recommends that the Coast Guard amend § 11.510, which sets out the service requirements for domestic endorsements as chief engineer of steam, motor, and/or gas turbine–propelled vessels. As proposed in the SNPRM, the section accepted service as a first assistant engineer or while holding a license or MMC endorsement for that position. The commenter points out that chief engineer (limited-oceans/limited-near-coastal) and assistant engineer (limited) are recognized as ''management level'' endorsements. Therefore, the commenter says, this section should be amended to include the following: Service as chief engineer (limited oceans/limited near-coastal) or assistant engineer (limited), while holding a license as first assistant engineer, is creditable as first assistant engineer on a two-for-one basis (2 days of service creditable as 1 day) on vessels over 1,600 GRT and over 4,000 HP, applicable to 100 percent of the total required service.

The Coast Guard agrees and has amended § 11.510 to allow creditable sea service as the commenter suggests.

7. Articulated Tug Barges (ATBs)

One commenter recommends that the Coast Guard reconsider its present position in the SNPRM, and adopt a regulation or policy whereby inland tug-barge combinations are accepted in computing license tonnage ratings as they presently are for ITB and ATB service.

In order to facilitate the towing industry's need for career paths to retain highly-skilled personnel, the Coast Guard has amended text in §§ 10.232 and 11.211 to accept certain towing vessel service based on the aggregate tonnage of the tug and barge(s) when greater than 1,600 GRT. This service will be accepted only when properly documented by the towing company.

One commenter notes that § 11.211(d) provides specific sea service credit for ATBs. The commenter asks how far back will the Coast Guard grant sea service credit with proper documentation on an ATB.

Service on ATBs will be accepted subject to the same time considerations as service on other vessels. Generally, the only applicable conditions are that a portion of a mariner's qualifying service must meet the ''recency'' requirements of § 11.201(c).

One commenter notes that § 11.463(g) acknowledges that the Coast Guard will issue a towing endorsement restricted to specific types of vessels, such as ATBs. It has been accepted that not all tasks on a TOAR apply to an ATB and, consequently, someone on an ATB may not be able to obtain a completed TOAR. In the commenter's view, § 11.464(i) should contain a provision to authorize an ATB endorsement for mariners who are unable to complete the TOAR because some requirements in the TOAR do not apply or the equipment is not specifically fitted on an ATB. The same provision should be made in § 11.465(d)(2).

The Coast Guard disagrees. Both sections reference the requirements for a TOAR in § 10.404(c). This section requires mariners to complete a TOAR approved by the Coast Guard. Additionally, the regulations and implementing policy provide mariners the opportunity to revise the TOAR to make it appropriate for the vessel upon which they serve, if they get those changes approved by the Coast Guard. As part of the approval, the Coast Guard will note the routes and/or vessels for which the TOAR is approved. Mariners serving on ATBs will be considered to have met the requirement to hold a completed TOAR if they have completed the Coast Guard-approved TOAR for ATBs on the applicable routes.

Three commenters recommend that if the Coast Guard intends to credit ATB sea time the same as unlimited vessels, the Coast Guard is obligated to ensure that these combined tonnage vessels are manned as ships, inspected as ships, and that the crews and vessels meet all international conventions as ships. Two of the commenters further recommend that sea service credit for ATBs should be limited to no more than one day of sea service credit for every 3 days served, up to a maximum of 6 months credit toward a raise in grade of unlimited level licenses. The third commenter recommends that the Coast Guard award sea service credit for mariners serving on ATBs on a 2 for 1 basis (2 days of service is awarded 1 day of sea service credit).

The Coast Guard disagrees. The proposed standard provides a comparable service credit to the existing regulations, and there is no evidence to demonstrate that it would increase risk in marine transportation.

Three commenters state that, in § 11.211(d), service on ATBs or sophisticated tank barges should be permissible to qualify for a tankerman-PIC endorsement.

The Coast Guard agrees. The Coast Guard has amended § 13.127 to accept service onboard some ATBs toward the national and STCW tankerman endorsements (including tankerman-PIC), provided the ATB equipment is equivalent to comparable tankship

equipment. This change is necessary to ensure career paths and to facilitate the use of new ATBs as qualifying platforms for tankerman endorsements. In addition, the Coast Guard has provided a means for mariners serving on tank barges to qualify for an STCW endorsement with a limitation to non-self-propelled vessels.

8. Manning

Thirty-four commenters were concerned that, as worded, § 15.515(b) would not allow passenger vessels with the minimum crew complement required by the Certificate of Inspection (COI) to conduct drills or shore side operations (like vehicle inspections) requiring crew members to be off the vessel. The commenters recommend that the Coast Guard clarify that the crew complement required by the COI may be off the vessel in rescue boats or shore side as needed to accomplish routine operations or emergency response and drills.

The Coast Guard disagrees. Due to passenger vessels' minimum manning, it is essential for the safety of the passengers to ensure there are sufficient personnel on the vessel to respond to emergencies and passenger needs.

One commenter states that the proposed change to the 4-on-8-off watch schedule would greatly affect working conditions on ships such as his, working in inland waters on a 6-on-6-off watch schedule.

The Coast Guard disagrees. We have not proposed to require a 4-hours-on, 8-off watch schedule in § 15.1111. The section requires that all mariners subject to STCW must receive: (1) A minimum 10 hours of rest in any 24-hour period; and (2) 77 hours of rest in any 7-day period. Mariners subject to STCW, such as the commenter, who work on vessels utilizing a 6-on, 6-off watch schedule, would be given sufficient rest, receiving 12 hours of rest in any 24-hour period, and 84 hours of rest in a 7-day period.

One commenter states that, in § 15.403(c), the phrase ''each person serving as an able seafarer-deck'' could lead to confusion because of the lack of a definition of that individual. The commenter recommends that it be clearly stated that A/B-deck is equivalent to able seaman (A/B), which is consistent with the qualification standards in § 12.603.

The Coast Guard agrees and has amended §§ 15.404(b) and 15.404(d)(3) accordingly.

One commenter states that in § 15.404(b), which sets out certain requirements for serving aboard a vessel, the last sentence makes it sound like all persons on a vessel must comply, not just those serving as a rating as A/B. The commenter recommends that the application of this provision should be clarified to affect just those endorsement holders who are serving to fill a manning standard.

The Coast Guard agrees and has amended the last sentence in § 15.404(b) to read ''Each person serving as a non-watchstanding A/B on vessels must also hold an STCW endorsement as able seafarer-deck.''

One commenter asks, with regard to § 12.603, which sets out requirements to qualify for an STCW endorsement as able seafarer–deck, how the COIs will be worded. Will COIs now list both domestic and STCW endorsements required?

COIs will list both national and STCW endorsements. The Coast Guard will be revising safe manning documents to be consistent with the changes in this final rule.

One commenter notes that § 15.1105 does not reference the STCW-required security familiarization.

At this time, the Coast Guard intends to satisfy the STCW 2010 amendments regarding security familiarization requirements through the regulations in existing 33 CFR subchapter H, subpart B, which require that mariners meet the knowledge requirements via training or equivalent job experience. The requirements in 33 CFR 104.220 and 104.225 meet the requirements for familiarization training. If any changes to 33 CFR 104.220 and 104.225 are needed, the Coast Guard will consider including them in a separate, future rulemaking.

Three commenters believe that the requirements of proposed § 15.1113 are written for a cargo vessel, where the entire vessel is defined as a secure or restricted space, and does not take into account the operation of a typical passenger vessel, on which most spaces are open to the general public.

The Coast Guard agrees in part. The 2010 amendments to the STCW Convention (Section A–VI/6) require that all persons employed or engaged on a seagoing vessel receive security familiarization. The requirements will apply equally to both cargo and passenger vessels. The term ''all persons'' includes seafarers and other personnel, including contractors, whether part-time, full-time, temporary, or permanent.

As discussed above, the Coast Guard intends to meet the STCW 2010 amendments regarding security requirements via the regulations in 33 CFR subchapter H, specifically 33 CFR 104.225, which requires that all contractors, whether part-time, full-time, temporary, or permanent, must have knowledge on a number of topics, through training or equivalent job experience. Accordingly, the Coast Guard has amended § 15.1113 to ensure that all contractors, whether part-time, full-time, temporary, or permanent, must have knowledge of the topics listed in 33 CFR 104.225 through training or equivalent job experience.

One commenter recommends that the Coast Guard amend § 15.1113 to read as follows:

(a) Onboard a seagoing vessel of 200 GRT/500 GT or more:

(1) All persons performing duties as Vessel Security Officer (VSO) must hold a valid endorsement as VSO;

(2) After July 1, 2012, all personnel with designated security duties must hold a valid endorsement as vessel personnel with designated security duties, or a certificate of course completion from an appropriate Coast Guard-accepted course meeting the requirements of 33 CFR 104.220; and

(3) After July 1, 2012, all other vessel personnel, including contractors, whether part-time, full-time, temporary, or permanent, must hold a valid endorsement in security awareness, or a certificate of course completion from an appropriate Coast Guard-accepted course meeting the requirements of 33 CFR 104.225.

The Coast Guard agrees and has amended § 15.1113 to address the following issues: (1) Provide for the appropriate application to vessels over 500 GT; (2) include all transitional provisions from the STCW Convention applicable to existing mariners; (3) include an implementation date of March 24, 2014, for new mariners; (4) amend the requirements applicable to contractors and other personnel to ensure that they do not have to obtain an endorsement; and (5) ensure persons meeting the VSO requirements are considered to have met the requirements of training for personnel with or without security duties.

Two commenters recommend that the Coast Guard review the language in § 15.812(a)(1) to ensure that the intent of this section is not to require ''all coastwise towing vessels,'' which are propelled by machinery and subject to inspection under 46 U.S.C. chapter 33, to carry a pilot irrespective of whether they are actually engaged in towing.

The Coast Guard proposed no changes to existing § 15.812(a)(1), and that provision remains unchanged in this final rule. For that reason, the commenter's request to revise the conditions under which coastwise towing vessels are required to carry a pilot is outside the scope of the

rulemaking. The Coast Guard may consider this matter in a future, separate rulemaking.

Two commenters recommend that, in order to avoid confusion (or disagreement with port state control on what endorsements are required for mariners on towing vessels), the Coast Guard should work with vessel owners to clarify, on a vessel's Safe Manning Document, what STCW requirements must be met (e.g., 1 master (STCW III/2), 2 licensed mates (STCW III/1), etc.).

The Coast Guard agrees and is amending the manning requirements in §§ 15.805 and 15.810 accordingly. Furthermore, the Coast Guard will be revising safe manning documents to be consistent with the changes in this final rule.

Fifteen commenters note that, throughout the current language of Part 10 of title 46 of the Code of Federal Regulations, there remain inaccurate and outdated statements that mariner credentials are valid only when accompanied by a current Transportation Worker Identification Credential (TWIC). Since enactment of the Coast Guard Authorization Act of 2010 (section 809 of Pub. L. 111–281), these are incorrect statements as a matter of law. Section 809 relieved a mariner with a Coast Guard credential who does not need unescorted access to a secure or restricted space on a vessel that has a Coast Guard-approved vessel security plan (as required by the Maritime Transportation Security Act of 2004, as amended) from the requirement of obtaining a TWIC. The commenters recommend that references to TWIC should be altered to state ''if required'' or ''as appropriate.''

The Coast Guard agrees, and is in the process of amending the TWIC requirements in a separate rulemaking (RIN 1625–AB80). Additionally, the Coast Guard recently published CG–CVC Policy Letter 11–15 to revise the credentialing enforcement in regard to TWIC.

One commenter states that the SNPRM creates a de facto manning requirement for any vessel subject to STCW to carry a chief engineer. As the STCW Convention only draws restrictions for chief engineer endorsements by horsepower, and most seagoing towing vessels are well over 4,000 HP, the commenter states that the regulations will effectively make an unlimited chief engineer endorsement required on all towing vessels. The commenter recommends that the Coast Guard take steps to minimize the impact of this rule and assure that the United States meets the requirements of the STCW convention.

The Coast Guard agrees in part. Those mariners sailing with chief engineer (limited) and DDE-unlimited endorsements may obtain a corresponding STCW endorsement at the management level without raising the grade or increasing the scope of their national endorsement under §§ 11.325, 11.327, and 11.331.

One commenter recommends that, with regard to existing mariners, the Coast Guard expand the grandfathering provisions so that chief engineer endorsements may be issued for engineers who are already deemed qualified and currently sail as engineers on seagoing towing vessels over 4,000 HP. Upon appropriate presentation of proof of sea service, the commenter recommends that these mariners be granted a limited-scope license and STCW endorsement that allows them to continue to serve in their current capacity.

The Coast Guard disagrees. Paths for existing mariners with national engineering endorsements to obtain an STCW endorsement are already included in §§ 11.325, 11.327, 11.329, and 11.331.

One commenter notes that developing future mariners for engineering licenses will be more difficult. The engineering department for towing vessels have historically consisted of one-man engine departments, with future engineers being developed by identifying talented and motivated deckhands or mechanics and training them as an extra person under the tutelage of the engineer for several months (and, often augmented by professional classroom training) until they are deemed qualified. One possible solution to this, the commenter says, is to ensure that safe manning certificates for these vessels only require a DDE and OICEW (III/1). The commenter states that this is also appropriate, as from a competency-based evaluation, an operational-level engineer is all that is required to operate these engine rooms due to the level of support from shoreside management in management-level tasks.

The Coast Guard disagrees that a change in the proposed rule is necessary. Under existing regulations, engineers are developed through on-the-job training and formal courses. The commenter's suggested solution is already allowed under current regulations, and the cognizant Officer in Charge, Marine Inspection (OCMI) has the authority to set manning requirements on a vessel's COI.

One commenter recommends that the Coast Guard make the electro-technical officer (ETO) and electro-technical rating positions mandatory on a vessel's COI.

The Coast Guard disagrees. We are not planning to require these two positions at this time in §§ 11.335 and 12.611. Not all vessels require an ETO or rating. There is no identified need at this time.

9. Transitional Provisions

One commenter states that §§ 11.493 through 11.497 seem to be inconsistent with the underlying concept of a domestic credential forming the ''base'' document upon which an individual can receive an STCW endorsement. If the primary requirement for these endorsements is that an individual meet the standard for the STCW endorsement, the commenter asks, why not simply put these sections in Subpart C? In the commenter's view, it seems unsupportable to require an applicant for OSV mate to meet the full requirements for OICNW in § 11.309 and then serve an additional 12 months to cross over to an STCW OICNW as stated in Table 11.309(e).

The Coast Guard partially agrees. The Coast Guard amended §§ 11.491, 11.493, 11.495, and 11.497 to separate the national and STCW credentials to ensure consistency with other endorsement requirements. The Coast Guard made additional changes to the OSV endorsements for both deck and engineer officers to include: (1) Sea service requirements comparable to other credentials; (2) the option to complete an approved course for a mate or assistant engineer to meet the sea service requirements; and (3) the progression from vessels less than 1,600 GRT/3,000 GT to more than 1,600 GRT/3,000 GT for chief mate and master. These changes also address the recent passage of the Coast Guard Authorization Act of 2010 (Section 617) and the removal of the 500 GRT tonnage limits on OSVs. These amendments will ensure that mariners with existing licenses or MMCs will have the opportunity to progress to higher credentials.

One commenter states that the value of the transitional provisions will depend on the date of the requirement to hold an STCW endorsement as able seafarer-Deck in accordance with §§ 15.403(c) and 15.1103(b). If that requirement comes into force on January 1, 2012, the commenter says, it will be impossible for mariners to receive the proper endorsements by the end of this year, even under the transitional qualification requirements. The commenter recommends that the Coast Guard set a date of compliance that will give the affected mariners and the NMC

enough time to process the applications required.

The Coast Guard agrees. To ensure an orderly transition consistent with STCW, full implementation and compliance is expected to be achieved by January 1, 2017. The Coast Guard amended § 15.1103 to reflect full compliance by January 1, 2017.

10. Assessments

One commenter recommends that the Coast Guard amend § 11.323(b)(2) by specifying the reference to ''steam'' distilling plants in proposed § 11.323(b)(2) and also recommends adding ''or completing STCW boiler competencies'' after ''accepted training'' to allow demonstration of proficiency in addition to training.

The Coast Guard disagrees. The common limitations placed on an engineering credential will be for service on vessels without certain equipment, including auxiliary boilers, waste heat boilers, distilling plants, oily water separators, and sewage treatment plants. An applicant may remove any limitation at any time by demonstrating the appropriate competencies. Although the Coast Guard disagrees with the comment, we updated and clarified § 11.323(b)(2) by including oily water separators and sewage treatment plants as additional limitations, and revising the method available to an applicant to remove these restrictions for his or her MMC.

One commenter asks whether, if the Coast Guard allows onboard assessments for meeting portions of the STCW standards of competence, those vessels will be required to meet the same QSS as outlined in § 10.410 since they are in effect acting as a ''training provider.'' Onboard assessments are not training, the commenter states, and therefore, they should not have to meet the requirements for a QSS.

The Coast Guard disagrees. Because onboard assessments are not training, they will not have to meet the requirements for a QSS. However, the Coast Guard will be developing guidance for the training and certification of qualified assessors and will be implementing an oversight process for them as part of that guidance.

One commenter states that requiring the knots to be demonstrated as part of a Coast Guard-approved course (see § 12.405(c)) is unduly restrictive. The commenter recommends accepting this demonstration if it is performed as a Coast Guard-approved assessment without the framework of a course, in the same way as many of the proficiency demonstrations required for an STCW officer endorsement.

The Coast Guard agrees. In general, the Coast Guard will be approving a system of qualified assessors as part of this rulemaking. It is envisioned that this system will allow for the demonstration of assessments via an approved course or separate from an approved course. Any assessment, associated with a course or not, and used to satisfy STCW requirements, must be submitted to the NMC for approval prior to initiation. The Coast Guard agrees that demonstration of the knots is a skill that can be obtained outside an approved course; therefore, a demonstration of competence may be achieved via assessment only.

The same commenter states that it would be extremely helpful to list in §§ 12.613(b)(3), 12.615(b)(3), and 12.617(b)(2) what assessments must be conducted ashore.

The Coast Guard has amended text in §§ 12.613, 12.615, and 12.617 to specify the assessments that must be conducted ashore for proficiency in survival craft, basic safety training, and advanced firefighting.

11. Sea Service

One commenter recommends that mariners serving on the inside waters of southeast Alaska should be granted day-for-day service credit.

The Coast Guard agrees, and has revised § 10.232 to accept service where STCW is applicable on a day-for-day credit.

Two commenters believe that there will be an excess of mariners sailing internationally as RFPNW if they are not restricted to lookout duties until they become able seamen-special in accordance with the CFR. While the RFPNW earns sea time and satisfies the requirements of A/II–5 of the Code, the path to A/B-special remains balanced if the restriction remains in place, the commenters state. Under the 1995 amended STCW Convention, an 11-month program was created from entry to A/B-special to meet the RFPNW/A/B-special training and assessment requirements. Most of the competencies of A/II–5 are accomplished in this program. This existing program can be modified to allow competencies for able seafarer-deck to be added if the NMC will continue to grant sea service credit. Therefore, the commenters recommend that the Coast Guard grant sea service credit and actual sea service time to mariners who are enrolled in an approved program and who have completed all other requirements of able seafarer-deck and are otherwise qualified for the endorsement.

The Coast Guard disagrees. The 2010 amendments to the STCW Convention allow for the reduction of sea service requirements as part of an approved training program. The applicant must also meet the requirements for RFPNW and the standards of competence for able seafarer deck in Section A–II/5 of the STCW Code. Section 12.603 is consistent with the STCW requirements for able seafarer deck. Furthermore, an able seaman special would still need to meet an additional sea service requirement of 6 months.

One commenter asks if, with regard to § 11.305, the holder of a chief mate credential working as the mate on a fishing vessel of more than 1,600 GRT/3,000 GT would receive sea service credit as a chief mate, even though manning does not require he or she to hold this license and the vessel is not subject to STCW.

The Coast Guard replies that where the mariner holds a chief mate credential, and fills the position as mate on the fishing vessel, and the position meets the definition of chief mate found in § 10.107, that service will be credited as chief mate.

Two commenters recommend that the Coast Guard reduce the qualifying time for near-coastal mate on vessels of less than 200 GRT to a more attainable level, perhaps more in line with the domestic requirement of 1 year of sea time.

The Coast Guard agrees. Section 11.321 of the SNPRM and this final rule allows seafarers holding a national endorsement as mate near-coastal of less than 200 GRT with 6 months of sea service to qualify for an STCW endorsement as OICNW of less than 200 GRT/500 GT. This provision is consistent with Regulation II/3, paragraph 4 of the STCW Convention.

One commenter believes that sea service credit should be based on horsepower and tonnage for engineer and unlicensed engine room ratings and that the same should apply to deck license and ratings unless the scope of service is excessively limited. The commenter believes the latter should be evaluated on a case-by-case basis. Also, the commenter suggests that the NMC train or supply their evaluators with specific guidelines to preclude the apparent inconsistencies issuing forth from that office.

The Coast Guard partially agrees with the commenter's first statement, realizing that there are differences in acceptable sea time structure between the deck and engine departments simply because of inherent differences in what deck officers and engineers are responsible for. Skills for masters and mates are relative to conditions, such as

power versus sail propulsion and the routes upon which they sail. Engineers must have training and skills related to the size and type of propulsion units they operate, such as diesel engines, steam boiler and turbines, or gas turbines.

Currently, sea time for a credential for licensed engineers (officer endorsements) is based on both horsepower and tonnage, depending on the credential sought. Service is further restricted to inland vessels only for mariners who hold DDE 1,000 HP credentials. However, we removed the ''near-coastal'' route restriction on chief engineer (limited) endorsements.

Engine unlicensed (rating endorsements) sea time is accepted from any vessel on which such ratings are required. Likewise, sea time for the various categories of able seamen is established in law (46 U.S.C 7306). There has been no proposal to change this practice.

With regard to the commenter's second suggestion, deck endorsements that are excessively limited are currently evaluated on a case-by-case basis.

The NMC receives and measures feedback from its customers, and updates evaluator training. Specific guidance and checklists tailored to the endorsement under review are important parts of all evaluators' tools.

12. Endorsements

Three commenters ask, with regard to the separation of STCW and domestic endorsements, whether a mariner could have a domestic endorsement that is a level up or down from his/her STCW endorsement. If so, and if there is a mismatch, which endorsement is controlling?

The Coast Guard has amended §§ 11.201(a), 12.201(a), and 13.601(a) to ensure alignment between a mariner's national and STCW endorsements. The duties and responsibilities must match. In order to be considered for an STCW endorsement, the applicant must have or be receiving the equivalent national endorsement. Also, the applicant cannot request nor be considered for a lesser or greater STCW endorsement than the equivalent national endorsement that they hold or will be receiving on their MMC.

Two commenters state that, with regard to § 11.422(a), the removal of the 150-ton category will be very helpful to mariners who have been stranded at the 150 GRT limitation.

The Coast Guard agrees and has retained the removal of the 150 ton endorsement.

Two other commenters recommend that the Coast Guard reduce the tonnage requirement for STCW endorsements over 200 GRT/500 GT and less than 1,600 GRT/3,000 GT to 50 GRT.

The Coast Guard disagrees. It would be inappropriate to reduce the tonnage to 50 GRT, because of the differences in equipment requirements on vessels of such limited tonnage. The Coast Guard, however, is revising the lower tonnage to 100 GRT as was proposed in § 11.402 of the SNPRM.

The same commenters recommend that the Coast Guard include OICNW on vessels of less than 200 GRT/500 GT (§ 11.309) in ''may qualify for'' master domestic 500 GRT oceans (§ 11.418(c)).

The Coast Guard agrees to the crossover from master of ocean or near-coastal self-propelled vessel less than 500 GRT to OICNW of vessels 200 GRT/500 GT or more (§ 11.309), and has amended § 11.418 accordingly.

Four commenters recommend that all masters and mates on existing subchapter T/K U.S. flag vessels built prior to July 18, 1982, with dual tonnages be allowed to have their Coast Guard licenses/MMC's endorsed by the Coast Guard to show the vessel's International Tonnage Certificate (ITC) tonnage.

The Coast Guard disagrees. The determination of a vessel's ITC tonnage is between the OCMI and the vessel owner for each vessel. Except as noted for 200 GRT/500 GT and 1,600 GRT/3,000 GT, our credentialing scheme is based on GRT. In addition, this suggestion would inappropriately allow a mariner to raise the tonnage authority of their endorsements without serving on progressively larger vessels. Also, where the ITC tonnage is higher, mariners must meet the higher credentialing requirement to receive the appropriate STCW endorsement.

One commenter notes that § 12.607(c) states:

''Seafarers holding a rating endorsement as QMED before January 1, 2017 will be eligible for this endorsement upon showing evidence of holding an endorsement as an RFPEW.'' The commenter requests that the Coast Guard amend this section so there is no confusion as to which QMED endorsements apply to this section.

The Coast Guard agrees and has amended § 12.607 to distinguish between QMED endorsements.

One commenter does not believe Table 12.607(e) is easy to read and understand. The commenter says the table should be rewritten and reformatted to provide a complete understanding of the requirements to obtain the endorsement of able seafarer-engine.

The Coast Guard agrees and has rewritten and reformatted Table 1 to 12.607(e) to include all domestic QMED endorsements that will be eligible for the STCW endorsement as rating as able seafarer-engine in table 1 to 12.607(e). This table provides an alternate path with a reduced sea service requirement to the able seafarer-engine endorsement that will facilitate the transition from domestic to STCW endorsements. Additionally, the Coast Guard modified all similar tables to avoid confusion.

One commenter recommends that Table 12.609(d) should be rewritten and reformatted to provide a complete understanding of the requirements to obtain the endorsement of electro-technical rating.

The Coast Guard agrees and has corrected the errors in Table 1 to 12.611(c), which was mislabeled as Table 12.609(d).

One commenter recommends that the Coast Guard add the words, ''* * * retain the STCW endorsements and authority in force prior to 7/1/13'' at the end of § 11.301(i)(2) to make the intent clear.

The Coast Guard disagrees that greater clarity is needed. This section, as proposed, already provided for grandfathering, and the commenter's suggestion addresses manning requirements that are addressed in part 15. In addition, in the event that the operating authority of a mariner's STCW endorsement changes, this final rule provides a means for them to qualify for the appropriate endorsements.

One commenter recommends that the Coast Guard reconsider its acceptance of foreign service and experience in § 11.201(c)(4). In the commenter's view, any blanket acceptance of foreign service would be deemed irresponsible in the assurance of marine safety and protecting the marine environment.

The Coast Guard agrees in part, but asserts that no change is needed in proposed § 11.201(c)(4). That section does not provide for a blanket acceptance of foreign service. Rather, it provides for the Coast Guard to determine that the foreign service is fair, reasonable and equivalent to the service acquired on a U.S. vessel. In addition, these mariners will also be required to meet any training and assessment requirements.

One commenter recommends that the Coast Guard establish a single endorsement for Proficiency in Survival Craft as contained in the STCW Convention. The actual proficiencies for this endorsement should cover all commonly used survival craft. The

commenter believes the proposed segregation is unnecessarily burdensome and the multiple layers of certification for such a simple group of proficiencies are pointless.

The Coast Guard disagrees. The endorsement requirements were drafted to ensure that mariners do not have to meet the training requirements for lifeboats if they sail onboard vessels that do not carry lifeboats.

13. Security

Nine commenters object to § 15.1113(b) and (c). The current requirements allow companies to tailor their training to their particular operation and eliminate areas that don't apply. In the commenters' view, the proposed rule would require companies to send all personnel to a school to learn subjects not pertaining to their company's operation, which would be an unacceptable burden.

The Coast Guard disagrees. The 2010 amendments to the STCW Convention require that persons serving onboard STCW-compliant vessels meet a standard of competence specified in the Convention. At this time, the Coast Guard intends to meet the STCW 2010 amendments on security training through the existing regulations in 33 CFR subchapter H, subpart B, which requires that such persons meet the knowledge requirements via training or equivalent job experience. For that reason, paragraphs (b) and (c) of § 15.1113 in this final rule remain unchanged from the SNPRM. If any changes to 33 CFR 104.220 and 104.225 are needed, the Coast Guard will consider including them in a separate, future rulemaking.

Fifteen commenters note that the proposed rule contains requirements regarding training for vessel personnel with security duties and also imposes a responsibility for all other vessel personnel to demonstrate training in security. In the commenter's view, these provisions appear to apply only to mariners serving on vessels subject to the STCW Convention.

The 2010 amendments to the STCW Convention (Section A–VI/6) require all persons employed or engaged on a seagoing vessel to have received security familiarization. The term ''all persons'' includes seafarers and other personnel, including contractors, whether part-time, full-time, temporary, or permanent. At this time, the Coast Guard intends to meet the STCW 2010 amendments regarding this subject through the regulations in 33 CFR 104.225, which requires that all contractors, whether part-time, full-time, temporary, or permanent, must have knowledge on a number of topics, through training or equivalent job experience. The Coast Guard has also amended § 15.1113 to ensure that all contractors have knowledge of the requirements, through training or equivalent job experience, of 33 CFR 104.225.

Eight commenters object to any suggestion in § 15.1113 to extend STCW security training provisions to crew members of vessels in domestic service not subject to STCW.

The Coast Guard agrees. Under § 15.1101, subpart K of part 15 applies only to seagoing vessels subject to the STCW Convention, except vessels in § 15.1101(a)(1) and (a)(2). Accordingly, § 15.1113 applies only to vessels subject to STCW as provided in § 15.1101. The Coast Guard is not applying these requirements to crewmembers on vessels in domestic service that are not subject to STCW. However, 33 CFR 104.220 and 104.225 contain the security personnel requirements for vessels in domestic service.

Seven commenters believe that the requirements of § 15.1113(b) are too stringent and exceed the requirements of the STCW 2010 amendments. In the commenters' view, it fails to take into account the transitional provisions provided in STCW Code A–VI/6(5) and (9).

The Coast Guard agrees. To ensure mariners can meet the implementation date requirements, the Coast Guard has amended the proposed requirements in §§ 12.625 and 12.627. The revised sections will include the STCW transitional provisions for security awareness and for seafarers with designated security duties that would allow existing mariners that took a course and/or can document service onboard vessels to obtain an endorsement. In accordance with Section A–VI/6 of the STCW Convention, this transitional provision will only be available until March 24, 2014.

The same commenter would like confirmation that individuals who complete a Coast Guard-approved VSO course, or those mariners whose MMC is endorsed as VSO, will meet the training and/or endorsement requirements as vessel personnel with designated security duties.

The Coast Guard agrees. The security training requirements in the STCW were developed as a progression where ''security awareness'' is the lowest level of training and ''vessel security officer'' is the highest level of training. Therefore, the VSO training meets the requirements for vessel personnel with security duties, and the vessel personnel with security duties meets the requirements for security awareness. The Coast Guard has added § 11.337 to state the requirements for VSO, amended § 12.625 to clarify requirements for vessel personnel with designated security duties, and amended §§ 15.1113(b) and (d) to establish the hierarchal relationship between the three endorsements. Under this system, for example, mariners who completed VSO training would be eligible for any position with a security training requirement at the VSO level or lower.

One commenter asks how the additional requirements in STCW regarding competencies related to anti-piracy and anti-armed attack will be addressed for existing VSOs and grandfathered vessel personnel with specific security duties and Maritime Security Awareness-certified seafarers. Will their current certifications be grandfathered, will there be ''bridging'' courses covering these additional requirements, or will they have to take a new approved course by a certain date?

At this time, the Coast Guard intends to meet the STCW 2010 amendments on this subject through the regulations in 33 CFR 104.220 and 104.225. The Coast Guard will consider changes to 33 CFR 104.220 and 104.225 as part of a separate rulemaking. Under this final rule, all existing VSOs, vessel personnel with security duties and other personnel will be grandfathered and will not be required to take refresher training on piracy.[7]

One commenter notes § 15.1113(b) states that ''all personnel with security duties'' must hold a valid endorsement as vessel personnel with designated security duties. Unless this section is revised, the commenter says, it could be construed so broadly as to include every person in the crew (except for the VSO), which raises the concern—particularly for cargo vessels with crews of limited size—of placing an unnecessary and unwieldy certification or formal training burden on mariners and vessel operators. The commenter recommends that this section should use the term ''personnel with designated security duties'' throughout.

The Coast Guard agrees. The Coast Guard is revising the definition of

[7] In regard to grandfathering, in general, each STCW endorsement has grandfathering provisions associated with it to accept the credentials issued prior to the effective date of this rule except where STCW imposes additional requirements. The Coast Guard does not expect to add training requirements on piracy for those mariners identified in our response until 33 CFR part 104 is revised as part of a separate rulemaking. A projected effective date of that rule is not yet available.

''Vessel personnel with designated security duties'' to harmonize it with the guidance in Section B–VI/6 of the STCW Code and to ensure consistency with the requirements in 33 CFR 104.220 and 104.225. The expression ''with designated security duties'' denotes those having specific security duties and responsibilities in accordance with the vessel security plan. The Coast Guard amended the requirements in §§ 12.625 and 15.1113 to ensure that the term ''vessel personnel with designated security duties'' is used throughout.

The same commenter recommends minor revisions to §§ 12.625 and 12.627, where STCW endorsements for ''vessel personnel with designated security duties'' and ''security awareness'' are obtained by providing ''satisfactory documentary evidence'' of meeting the requirements in 33 CFR 104.220. Since ''satisfactory documentary evidence'' is not defined, the commenter recommends adding language to read ''Present satisfactory documentary evidence, such as a certificate or letter signed by a company official, or a certificate of completion from an approved training course, of meeting the requirements in 33 CFR 104.220.''

The Coast Guard agrees and has amended the text accordingly. At this time, the Coast Guard intends to meet the STCW 2010 amendments regarding security training via the regulations in 33 CFR 104.220 and 104.225, which require personnel to have knowledge on a number of topics. Documentary evidence may include a certificate or letter signed by a company official or a certificate of course completion from a Coast Guard accepted course.

One commenter states that, with regard to §§ 12.625(a) and 12.627(a), the Coast Guard does not describe or identify the process for obtaining security endorsements or certificates for existing mariners that have already received security awareness, security system and security duties-related training. The ''grandfathering'' of existing mariners who received the appropriate training and are working under a MTSA-required security system prior to July 1, 2012, is not addressed. Neither does the proposal indicate if the organization may issue course completion certificates for existing mariners or define a process for documentation of past training and service under a security system. Previous training needs to be accepted as meeting the requirements for issuance of certification prior to July 1, 2012.

The Coast Guard agrees and has amended the proposed requirements in §§ 12.625 and 12.627. These sections will include the STCW transitional provisions for security awareness and for seafarers with designated security duties that would allow existing mariners who took a course and/or can document service onboard vessels to obtain an endorsement. In accordance with Section A–VI/6 of the STCW Convention, this transitional provision will only be available until March 24, 2014.

One commenter states that these requirements should include the acceptance of approved, non-proctored, eLearning Computer Based Training (CBT) to meet the requirements of § 15.1113.

The Coast Guard agrees. The requirements in 33 CFR 104.220 and 104.225 allow for the use of in-house training, which includes eLearning and distance learning. The Coast Guard will consider a separate, future rulemaking if changes to those sections are needed.

One commenter recommends that the Coast Guard amend § 12.625 to read as follows:

(a) An applicant for an STCW endorsement as vessel personnel with designated security duties must:

(1) Present satisfactory documentary evidence of meeting the requirements in 33 CFR 104.220; and

(2) Meet the physical examination requirements in 46 CFR, part 10, subpart C.

The same commenter recommends that the Coast Guard amend § 12.627 to read as follows:

(a) An applicant for an endorsement for security awareness must:

(1) Present satisfactory documentary evidence of meeting the requirements in 33 CFR 104.225; and

(2) Meet the physical examination requirements in 46 CFR, part 10, subpart C.

The Coast Guard partially agrees. The two requirements proposed by the commenter are included in this final rule in §§ 12.625 and 12.627. However, an additional requirement to meet the safety and suitability requirements and the National Driver Registry review requirements in § 10.209(e) is included in this final rule in accordance with 46 U.S.C. 7101.

One commenter notes that, with regard to § 15.1113, applicants will, in the near term, have to rely on the STCW Code transitional provisions, which permit use of experience, as opposed to approved training, to qualify for these endorsements until January 1, 2014. This will not be an option for new mariners and others without relevant experience. Not only are adequate training resources unlikely to be available, but the commenter states it is also not clear that there will be sufficient time for compliance by those with adequate experience. Presumably mariners cannot apply for, and the Coast Guard cannot issue, endorsements until they are authorized by regulation.

The STCW Convention requires that mariners who commenced service after January 1, 2012, meet the training requirements for vessel personnel with designated security duties and security awareness, as appropriate. In addition, the STCW Convention also provides transitional provisions for mariners who started service prior to January 1, 2012. Recognizing that the implementation date was fast approaching, and that there may be practical difficulties for all seafarers with security related requirements to obtain necessary certifications and/or the necessary endorsements required in accordance with Regulation VI/6 of the 2010 amendments to the STCW Code and Convention, the IMO issued Circular STCW.7/Circ.17 providing advice for port state control officers on transitional arrangements leading up to full implementation of the 2010 amendments to the STCW Code and Convention on January 1, 2017. The circular recommends that administrations should inform their port state control authorities that, until March 24, 2014, even if a seafarer's documentation with regard to the security-related training in regulation VI/6 is not in accordance with the 2010 amendments to the STCW Convention and Code, it would be sufficient to accept compliance with section 13 of the ISPS Code. Taking the information in the circular into account, the Coast Guard has amended § 15.1113 to implement the requirements for ''vessel personnel with designated security duties'' and for ''security awareness.'' The requirements in 33 CFR 104.220 and 104.225 meet the requirements of Section 13 of the ISPS Code.

14. Course approvals

One commenter requests existing guidance on instructor qualification be published immediately and prior to the intended NVIC.

The Coast Guard is working to provide guidance on this subject as soon as practicable with a NVIC within 60 days of publication of this rule or as soon as possible.

Two commenters offered several recommendations for improvement of the course/program approval process through clarification, elimination, or addition of certain requirements. More specifically, the commenters suggested that the Coast Guard provide guidance

on the content of course approval application components, including the cover letter, teaching syllabus, goal statement, assessment tools, and course completion certificates.

The Coast Guard agrees in part with these recommendations and some have been incorporated into this final rule while some will be published in a NVIC. For clarification, the cover letter should contain a general description to clearly describe the request. The goal statement should explain the overall intent of the course or program while the performance objectives should support the goal statement with individual components of the entire course. Assessment instruments include all methods used to measure the abilities of the student to successfully complete the course/program. For both initial and renewed approvals, instructors must have performed the instruction within the previous 5 years or provide evidence of current training in instructional techniques (i.e. Train the Trainer).

One commenter believes the copy of the course completion certificate in the course approval submission is redundant.

The Coast Guard disagrees. The certificates are required to ensure they will contain the necessary information used by professional qualification evaluators at NMC to verify course completion. The Coast Guard hopes to eliminate the need for course completion certificates with a future electronic solution. Until then, the certificates are a required component of the course approval submission package.

One commenter notes that, in § 10.403(a)(2), the phrase ''visual aids for realism'' is vague and unnecessary. He recommends that the item read, ''Have the equipment necessary, including simulators where appropriate. . . .''

The Coast Guard agrees and has changed ''visual aids for realism'' to ''the necessary equipment. . . .'' Necessary equipment encompasses more than just visual aids.

The same commenter notes that § 11.301(a)(1)(xiii) probably should read '' . . . successful completion of an approved course'' because the courses are approved. An approved school could run a non-approved course.

The Coast Guard agrees. This change has been made to ensure consistency with other sections.

One commenter contends that the proposed requirements to obtain course approval in § 10.402 are excessive and exceed the information required in IMO model courses. It is recommended that the Coast Guard minimize the administrative burden and cost on all training providers by requiring only the information currently required for IMO model courses.

The Coast Guard partially agrees. All of the course approval application requirements in § 10.402 are critical components of a curriculum package and are required for review by the regulatory agency granting approval. The IMO model courses are not meant to be the documentation model for approval. They are meant to help organize and present the training course. To ensure consistency in the use of the terminology, the Coast Guard has amended § 10.402 to use the IMO model course terminology.

The same commenter states that § 10.402 for course approval and § 10.403 for general standards for courses appears to have been written with non-academy training institutions in mind, who offer only individual stand-alone courses. The commenter therefore recommends that the Coast Guard consider separating the requirement for approved courses and approved programs by adding a separate section in the regulations that apply only to maritime academies, or other similar institutions that operate under multi-year approved education and training programs.

The Coast Guard agrees and new section § 10.407 has been created to apply solely to training programs. The Coast Guard recognizes that the 4-year academy training programs are subject to standards by state and regional/national accrediting bodies and therefore will accept information from these accrediting bodies to meet one or more of the course approval requirements. Standardization of the requirements for training programs will simplify the regulations and reduce administrative costs, which can be passed on to mariners as a reduction of the cost of training.

The same commenter notes that in the Coast Guard's response to comments on the NPRM, which were published in the SNPRM, concerning the need for greater specificity regarding the qualification requirements for instructors, the Coast Guard states that this beneficial information would be better provided by a NVIC or similar guidance document. The commenter urges the Coast Guard to engage in a dialogue with the public academies before initiating any such policy.

The Coast Guard agrees. Additional details on the qualification for instructors in § 10.402 will be provided by a NVIC or similar guidance document which we plan on issuing after the publication of the final rule. The Coast Guard will gather industry input and comment through MERPAC and/or through notice and comment.

Three commenters object to § 10.403(a)(7), which states that each school with an approved course must not change its approved curricula without approval from the NMC as specified in § 10.402(e) of this subpart. Supplemental material to enhance relevant learning points is regularly used to enhance Coast Guard-approved courses and approved curriculum. This allows students to stay current with industry and regulatory changes between course approval submissions. The commenter recommends that this section be changed to read ''not significantly change its approved curriculum without approval from the NMC''.

Another commenter recommends that the Coast Guard define which significant changes to courses or training programs require approval, including changes in curriculum, classrooms, and new simulators.

The Coast Guard agrees and has amended § 10.403(a)(7) to ensure that only significant changes are submitted for review and approval. We plan to issue additional details on changes to curricula by a NVIC or similar guidance document after the publication of the final rule. The Coast Guard will gather industry input and comment through MERPAC or through notice in the **Federal Register**.

One commenter states that all course providers know and understand that the Coast Guard currently uses internal guidance on instructor qualifications for approval in each course area. This guidance would be beneficial to maritime training providers and would assist them in saving time, effort, and resources. The commenter believes that the Coast Guard should publish the current internal guidance until a NVIC can be published.

The Coast Guard agrees that all guidance on instructor qualification should be made available to the public. The Coast Guard will make available any of the current instructor qualification requirements on the NMC's Web site. Additional details on the qualification for instructors will be provided by a NVIC or similar guidance document, which we plan on issuing after the publication of the final rule. The Coast Guard will gather industry input and comment through MERPAC and/or through notice in the **Federal Register**.

Two commenters recommend that, in § 10.402(b)(5)(iii) the word ''hold'' should be changed to ''has held'' in the requirement that course instructors

''hold a license, endorsement, or other professional credentials . . . .'' There are mariners who have come ashore and, for whatever reason, did not renew their licenses.

Another commenter objects to the requirement in § 10.402(b)(5) that course instructors ''hold a license, endorsement, or other professional credential that provides proof of having attained a level of qualification equal or superior to the relevant level of knowledge, skills, and abilities described in the performance objective.'' Many maritime security instructors come from military or law enforcement backgrounds and have substantial relevant experience, but no piece of paper that proves their qualifications.

The Coast Guard agrees, and has deleted the requirement that the instructor hold a license, endorsement, or other professional credential in proposed § 10.402(b)(5) and broadened the requirement for instructors now found in § 10.402(b)(2)(iii)(C). The instructor must have the level of experience and qualification equal or superior to the relevant level of knowledge, skills, and abilities described in the performance objective.

One commenter notes that training onboard vessels and on-the-job training are critical to a mariner's growth and experience. However, the commenter states that ships' facilities and areas used as ''training rooms'' may not meet the Coast Guard requirements for shore-side facilities. This seems in conflict with the Coast Guard's initial reasoning for establishing such classroom criteria. Additionally, the working environment onboard a continually operating, revenue generating ship may be in conflict with a focused, uninterrupted learning environment for sufficiently rested mariners. Will vessels providing training to meet the onboard assessments (e.g., Basic Safety Training's first aid element) be required to meet the same course requirements, training facility requirements, and serve the Coast Guard the same 21-day advanced notice of training? If not, then the commenter says there is a major discrepancy between shore side and onboard training.

All Coast Guard-approved training will have to meet the requirements in the regulation. The Coast Guard will issue a NVIC with additional information on any departure or any interpretation of these regulations regarding on-the-job training. The option for onboard training and assessments is permitted provided the vessel has the equipment and capabilities necessary for successful execution.

Two commenters object to the requirements in § 10.402(b)(1)(ii) and (b)(6), which require training providers seeking course approval to submit detailed site information. Holding a course at an alternative location already requires approval from the NMC.

This is an integral part of the oversight process and is necessary to prevent the use of spaces unsuitable for classroom purposes. Further, detailed site information is required as part of an application for course approval, which is not redundant with any subsequent request for approval of an alternative location. However, the Coast Guard appreciates the concern and will make efforts to expedite the process. We plan to issue additional details on changes to curricula by a NVIC or similar guidance document after the publication of the Final Rule. The Coast Guard will gather industry input and comment through MERPAC and/or through notice in the **Federal Register**.

15. Quality Standards System (QSS)

One commenter notes that the Coast Guard proposes to add QSS requirements for Coast Guard-approved courses. The commenter states that this proposal is incomplete in that it does not include the standard of performance metrics that are to be applied. Furthermore, it does not provide exemptions for companies that maintain and audit their training programs to ISM or ISO codes. While the proposal does appear to provide for the application of ISM or ISO codes, the commenter says it seems to do so outside of a company's existing ISM safety management system and framework.

The same commenter notes that the Coast Guard proposes to accept documentation from a national academic accreditation body or from a national or international quality standard system as meeting one or more of the QSS requirements. The commenter states that this proposal is superfluous and, if implemented, its application should be limited to maritime training institutions and schools.

Section 10.410(e) as currently written is broad and does not apply only to training institutions and schools. That paragraph of the SNPRM provided that Coast Guard will accept documentation from a training institution certified under ISO as evidence of satisfying one or more of the requirements in § 10.410(c). However, the Coast Guard recognizes that other management systems should be included as a means to comply with the QSS requirement. Therefore, the Coast Guard has added a new paragraph (g) to include ISM, which is an industry-wide system, as an alternate means of compliance for the QSS provision. This will allow schools that currently implement ISM to comply with the new QSS requirements without needing to modify their programs. Regarding the issue of performance metrics, the STCW Convention already specifies the metrics. It is expected that the QSS ensure compliance with the STCW requirements as implemented by the regulations.

One commenter asks for justification and confirmation regarding the QSS requirements contained in § 10.410 as they apply to the state maritime academies. Based on the rigorous standards for accreditation by regional and national organizations, and the ongoing self-assessment review of their licensing programs and individual courses at each of the academies, as well as Coast Guard and U.S. Department of Transportation Maritime Administration (MARAD) oversight of their training programs through the Joint Coast Guard/MARAD/Academy Review Committee Charter utilized since the implementation of the 1995 STCW amendments, the commenter believes the academies already meet the spirit and intent for a QSS as allowed by STCW Sections B–l/8–5 and 7 where ''education quality standards'' and ''government agencies'' are permitted to satisfy the QSS requirements.

The Coast Guard disagrees. The Coast Guard does not have flexibility in whether or not the QSS or the independent evaluation is implemented, since this is a Convention requirement. All courses and programs in support of an STCW certificate must meet the STCW requirements. Section 10.410(e) was included to give the academies credit for their accreditation program. The Coast Guard recognizes that there is some overlap between the oversight provided by the different accreditation bodies and the Coast Guard responsibility for oversight to meet the STCW requirements. While we recognize the Academies' courses are already subject to a review and oversight process, it does not assess compliance with STCW, nor does this process ensure a quality system oversight of those STCW items. It is envisioned that the academies can use documentation from the academy accreditation process to meet the requirements for a QSS. Consequently, the manual may take the form of a reference document for those areas that are part of the Academies' accreditation program, and detailed information will be required to fill gaps between the QSS requirements and the Academies' accreditation information.

One commenter recommends that, with regard to § 11.410, the Coast Guard consider a transitional provision, which would approve stand-alone courses containing any new training or assessments mandated by the 2010 STCW amendments, and would be required for mariners who begin their service or training on or after July 1, 2013. This provision would allow training providers until January 1, 2017, to implement a QSS for all stand-alone Continuing Education courses offered after that date.

The Coast Guard agrees that a transitional provision is necessary to ensure course providers are afforded time for implementation. The Coast Guard has amended § 10.410(f) to ensure that all courses, programs and training creditable towards STCW meet the requirements of a QSS by January 1, 2017. Furthermore, during this transitional period, the Coast Guard will accept course completion certificates submitted with mariner applications in order to ensure mariners are not impacted while the course providers are in the process of coming into compliance with the QSS requirements.

One commenter notes that the Coast Guard proposes to add QSS requirements for training schools offering Coast Guard-approved STCW courses. According to the commenter, bona fide training schools will have few issues with this if done in a reasonable and cost-effective manner. However, in the commenter's view, there has been a lack of any substantive or realistic oversight by the Coast Guard of training schools. If the Coast Guard does not engage itself in meaningful and practical training school oversight, it's not clear how a QSS will solve this issue.

The Coast Guard agrees with the need for robust oversight. The QSS requirements are meant to work with the new oversight provisions in §§ 10.409 and 10.410. The Coast Guard continues to work to improve its oversight responsibilities over the training schools.

One commenter notes that, with regard to § 10.410, course providers have not actually ''arranged'' for any Coast Guard audits. The commenter expects that the Coast Guard will continue to notify training providers of the dates of intended administrative visits.

The Coast Guard agrees and has amended the text in § 10.410 to clarify this point.

One commenter believes, with regard to § 10.410, that the Coast Guard must retain oversight and provide a no-cost option for a QSS.

The Coast Guard agrees. The Coast Guard is not mandating the third-party auditor. The Coast Guard is providing two alternatives for the QSS in § 10.410(b): (1) Third party quality system oversight through a Coast Guard-accepted QSS organization; or (2) where the organization develops their own QSS and the Coast Guard does the oversight.

One commenter asks why, in § 10.409(f), in the information to be submitted by the QSS Organization related to approved courses, a one-paragraph description of course content is required. Wouldn't it be better to have a standard course code, developed by Coast Guard/NMC, to which the QSS Organization refers in the submission document?

The Coast Guard disagrees. We allow training providers discretion to tailor their courses or programs to meet their unique needs, and the Coast Guard will approve such courses and programs for any requirements the training may satisfy. Accordingly, we consider it infeasible to require the use of standard, ''one size fits all'' course codes because such a step would significantly reduce flexibility for training providers.

One commenter asks whether the reference to certification of international quality management systems standards acceptable for training providers in § 10.410 includes maritime education and training standards such as ones being used internationally by the commenter's QSS organization, which are based on ISO 9001, and are designed especially for maritime training providers and courses.

Yes. The Coast Guard has provided for the use of other nationally and internationally-accepted quality management systems standards (e.g., ISO 9001) in § 10.410(e).

One commenter asks if the applicability of the requirement for approval of training courses and programs in § 10.401 include courses and programs put on by ship owners and operators for their own seafarers or others. If so, must these ship owners/operators have their own QSS? And if so, will the QSS system need approval?

The requirements in § 10.401 do not differentiate between courses provided at a training institution or onboard a vessel. Therefore, all courses which may be accepted instead of service experience or examination required by the Coast Guard must meet the requirements in § 10.401. Courses offered by vessel owners/operators will also need to meet the QSS requirements. The Coast Guard recognizes that vessels subject to STCW are also subject to the ISM and that there is some overlap between the QSS requirements in § 10.410 and the ISM requirements. To address this overlap the Coast Guard has included a new subparagraph § 10.410(g). It is envisioned that the vessel owners and operators will use ISM documentation to meet the requirements for a QSS.

One commenter is concerned that the proposed requirement to participate with a QSS is not clear. It is unclear whether or not Coast Guard approval of a training course is an alternative to using a QSS. Nonetheless, it is important that a course provider, having Coast Guard approval for one or two courses, be allowed to continue to submit these courses directly to the Coast Guard for approval. For small companies that have one or two courses, a relationship with a QSS is impractical, burdensome and unnecessarily expensive.

Section 10.410(a) requires that all providers of Coast-Guard approved courses, programs, training and Coast Guard-accepted training towards an STCW endorsement maintain a QSS. The Coast Guard is providing two alternatives for the QSS in § 10.410(b): (1) Third-party quality system oversight through a Coast Guard-accepted QSS organization; or (2) where the organization develops their own QSS and the Coast Guard does the oversight. Furthermore, the Coast Guard is accepting documentation from equivalent standards as meeting one or more of the QSS requirements: (1) A national academic accreditation body; (2) a national or international quality management system standard (e.g., ISO 9001); and/or (3) ISM.

Three commenters ask if the QSS requirements apply only to STCW courses. If it applies to all courses, this is a huge expansion, the commenters said, and doesn't add any benefit to non-STCW courses compared to the pain imposed on small maritime educators.

The QSS requirements in § 10.410 only apply to Coast-Guard approved courses, programs, training and Coast Guard-accepted training leading towards an STCW endorsement.

One commenter agrees with the QSS proposal as written. However, the commenter says there needs to be further explanation of the ''National Academic accreditation body'' the Coast Guard is proposing. Who, what, and where is the organization based, what are their credentials, and how do they apply to the maritime industry?

The Coast Guard agrees in part. Because of the large volume of academic accreditation bodies in the U.S., the Coast Guard is not including them in

the rulemaking. The Coast Guard will publish guidance on those accreditation bodies accepted by the Coast Guard. The accreditation bodies include: (a) The New England Association of Schools and Colleges; (b) Middle States Association of Schools and Colleges; (c) Southern Association of Schools and Colleges; (d) North Central Association of Schools and Colleges; (e) Western Association of Schools and Colleges; and (f) American Council on Education.

One commenter asks, with regard to § 10.409, if there will be user fees associated with conducting audits, reviewing programs, and issuing letters of acceptance to QSS.

The Coast Guard may consider establishing such fees as part of a separate, future rulemaking.

16. Applicability

Four commenters state that a lot of the regulations start out with the phrase ''all personnel.'' However, STCW mainly applies only to self-propelled vessels. The commenters ask the Coast Guard to differentiate the application of the regulations.

The Coast Guard agrees in part. The Coast Guard has made some additional changes to the text to ensure clarity. Section 15.1101 specifies that the regulations in subpart K apply only to vessels subject to the STCW Convention. The requirements apply to self-propelled vessels that operate beyond the boundary line specified in 46 CFR part 7, except for those vessels exempted from the application under § 15.1101(a)(1), and small vessels engaged exclusively on domestic voyages that are not subject to any obligations under the STCW Convention under § 15.1101(a)(2).

One commenter recommends that the Coast Guard should interpret the STCW Convention to regard pilot vessels as not being considered seagoing ships because they operate ''in waters within, or closely adjacent to, sheltered waters or areas where port regulations apply'' in accordance with Article II of the STCW Convention.

The Coast Guard agrees and has revised §§ 15.105(f) and 15.1101(a) to exclude pilot vessels engaged on pilotage duties from the application of STCW.

One commenter asks how the A/B–Mobile Offshore Drilling Unit (MODU) endorsement, which is recognized in the Marine Safety Manual, will be affected by the proposed rulemaking.

The rating of A/B–MODU is not affected by this rulemaking. Unlike the other A/B ratings established pursuant to 46 U.S.C. 7306–7311a, A/B–MODU is not a rating authorized by statute or regulation. The A/B–MODU endorsements for ratings were issued to address a perceived deficit of seaman qualified for the unique requirements of serving onboard a MODU. However, it is likely that the Coast Guard will work to phase out this endorsement, providing transitional procedures that will allow those currently holding this rating to continue to serve aboard MODUs.

Two commenters state that proposed § 12.409(a) requires every person serving onboard vessels fitted with liferafts, but not fitted with lifeboats, to hold an endorsement as lifeboatman-limited. The commenter recommends that the Coast Guard amend this section to read that ''those serving under the authority of this rating endorsement'' must hold the endorsement.

The Coast Guard agrees and has amended § 12.409(a) to clarify that persons fulfilling the manning requirements for lifeboatman must hold a lifeboatman-limited endorsement.

One commenter states that proposed § 15.520(e) would exempt a dynamically-positioned drillship from its requirements. As written this section requires that a drillship be under the command of an MMC officer with an endorsement as master when underway, and an endorsement as offshore installation manager (OIM) when on location. Appendix (i) to the Coast Guard-BOEMRE Deepwater Horizon Joint Investigation Final Report concluded that a dynamically-positioned drillship is never on location. Therefore, the commenter concludes that a dynamically-positioned drillship master would not require an OIM endorsement since it is never on location.

The Coast Guard disagrees. The text in § 15.520(e) has been amended to clarify that drillships operating with a dynamic positioning system (DP) must be under the command of a master with an OIM endorsement.

One commenter notes that the proposed rule changes apply to mariners who operate internationally, seaward of the boundary line. The Coast Guard states in the SNPRM that it does not intend to ''apply strict international standards upon our domestic mariners. . . .'' The commenter does not agree that operations on the Great Lakes and in the Inside Passage (extending between Seattle, Washington; British Columbia, Canada; and southeast Alaska) should be exempt from the STCW Code. Those areas are as navigationally complex and operationally challenging as international oceangoing voyages and thus deserve the high safety standards that STCW provides, standards which, the commenter believes, are not met by existing Coast Guard domestic regulations for inland waters.

The Coast Guard partially agrees. The STCW Convention applies to mariners serving on seagoing vessels, except pleasure craft, fishing vessels, and vessels entitled to sovereign immunity such as warships. Article II of the STCW Convention defines a seagoing ship as a ship other than one that ''navigates exclusively in inland waters or in waters within, or closely adjacent to, sheltered waters or areas where port regulations apply.'' The STCW Convention does not apply to vessels operating on the Great Lakes. The provisions in this final rule that would implement amendments to the STCW Convention only apply to commercial vessels operating seaward of the boundary line, as specified in 46 CFR part 7. Vessels on the Inside Passage between Puget Sound and Cape Spencer, Alaska, are not exempted from the application of the STCW Convention. Discretionary application of STCW standards on inland waters is neither necessary nor supported by historical casualty data, which do not demonstrate the need for substantive changes to domestic regulations for inland waters. The Coast Guard does not intend to apply international standards to our domestic mariners in this regard.

One commenter states that the final rule should clearly state that the requirements of STCW do not apply to inland towing operations or to crewmembers who work on inland towing vessels.

The Coast Guard agrees and emphasizes the STCW Convention applies to mariners serving on seagoing vessels, except pleasure craft, fishing vessels, and vessels entitled to sovereign immunity such as warships. Article II of the Convention defines a seagoing ship as a ship other than one that ''navigates exclusively in inland waters or in waters within, or closely adjacent to, sheltered waters or areas where port regulations apply.'' The provisions in this final rule that implement amendments to the STCW Convention only apply to commercial vessels operating seaward of the boundary line, as specified in 46 CFR part 7.

Three commenters state that, since the STCW Convention and Code were written to correct the well-documented lack of competence and professionalism on some large, deep-sea vessels with large and diverse crews, the authors and users of the U.S. MMC regulations need to remember that the U.S. workboat fleet, consisting of tugs, OSVs, crewboats, seismic boats, etc., are NOT small ships. These boats have simplistic

and redundant propulsion systems, wheelhouse engine control, small crew size, and typically operate on nearshore voyages with well-documented competence and an exemplary safety record. As such, a ''one-size-fits-all'' STCW system is unwarranted, unworkable, and unfair to the workboat fleet, say the commenters. They note and appreciate that the SNPRM has shown some flexibility in application to workboats, but say more flexibility is needed to avoid damage to this industry.

The Coast Guard recognizes that one-size-fits-all is not the correct implementation of the STCW Convention to the U.S. industry. Taking this into account, the Coast Guard has included the flexibilities provided by the Convention in this rule. For example, the regulatory text in 46 CFR part 11 includes an allowance for knowledge, understanding and proficiencies that may not be applicable to a certain type of vessel, in which case a limitation would be issued. Such exemptions are consistent with the Convention flexibility that allows for limitations based on size, operational area and vessel type.

Three commenters state that §§ 15.403(c) and 15.404(a) are too broad. They recommend that the Coast Guard replace ''200 GRT/500 GT or more'' with ''500 GRT or more on a domestic voyage or 200 GRT/500 GT or more on an international voyage'' for clarity and accuracy.

The Coast Guard disagrees. The Coast Guard has amended §§ 15.403(c) and 15.404(a) by replacing ''200 GRT/500 GT or more'' with ''500 GT or more'' consistent with the STCW requirements for RFPNW and able seafarer-deck. The STCW is a binding agreement with foreign countries, and these tonnage cutoffs are required by the STCW Convention.

The same commenters feel that the last sentences in §§ 15.404(b) and 15.404(d)(3) are overly broad. They suggest replacing them with ''An Able Seaman filling an A/B billet on the COI and serving onboard a seagoing vessel, except those vessels listed in § 15.105(f) or (g) of this part, must also hold an STCW endorsement as able seafarer-deck.'' They also suggest replacing the last sentence in § 14.404(d)(3) with ''A QMED filling a QMED billet on the Certificate of Inspection and serving onboard a seagoing vessel, except those vessels listed in § 15.105(f) or (g) of this part, must also hold an STCW endorsement as able seafarer-engine.''

The same commenters feel that §§ 15.404(e) and 15.404(f) are inaccurate as drafted. They suggest that ''Persons serving on vessels subject to the STCW Convention'' be replaced with ''Persons serving as Lifeboatman onboard a seagoing vessel, except those vessels listed in § 15.105(f) or (g) of this part''.

The Coast Guard disagrees with adding the proposed text because it would be redundant with the text in § 15.105(f) and (g). Furthermore, to add such a phrase might lead to confusion on those vessels that have a lifeboatman manning requirement without the associated STCW manning requirement. Finally, the exemptions in §§ 15.105(f) and (g) apply to all of 46 CFR part 15, including § 15.404. Vessels listed in § 15.105(f) or (g) are already exempted from STCW compliance.

The same commenters ask if the endorsements in §§ 15.404(i), (j) and (k) are national endorsements, STCW endorsements, or both.

These endorsements are STCW endorsements.

Three commenters recommend that the Coast Guard amend proposed § 15.1103(b) by replacing ''200 GRT/500 GT or more'' with ''over 500 GRT on a domestic voyage or over 200 GRT/500 GT on an international voyage'' for clarity and accuracy.

The Coast Guard disagrees. The Coast Guard amended §§ 15.403(c) and 15.404(a) by replacing ''200 GRT/500 GT or more'' with ''500 GT or more'' consistent with the STCW requirements for RFPNW. STCW is a binding agreement with foreign countries, and these tonnage cutoffs are required by the STCW Convention.

One commenter states that, in § 15.1101(a)(2)(ii), STCW vessel certificates don't apply to vessels of less than 200 GRT/500 GT. However in § 15.1103(c), language is missing which would exempt 200 GRT/500 GT vessels. The commenter recommends that the exclusion language in § 15.1103(b) be included in § 15.1103(c).

The Coast Guard disagrees. The applicability of the entire subpart is identified in § 15.1101. The applicability of endorsements for deck ratings in § 15.1103(b) and (c) is 500 GT or more. The applicability of endorsements for engineering ratings in § 15.1103(d) and (e) is 1,000 HP/750 kW. These applicability requirements are consistent with Chapters II and III of the STCW Convention. Using the deck rating limitations on engineering ratings would be inconsistent with the STCW Convention.

Three commenters recommend that the Coast Guard amend §§ 15.1105(b) and (c) by replacing ''Onboard a seagoing vessel,'' with ''Onboard a seagoing vessel, except those vessels listed in §§ 15.105(f) or (g) of this part.''

The Coast Guard agrees, and has amended §§ 15.1105(b) and (c) to ensure it clearly specifies the applicability of the section.

Three commenters feel that the proposed applicability in proposed § 15.1109 seems overly broad. In place of ''all masters'' they suggest it should say ''all masters, except those serving on the vessels listed in § 15.105(f) or (g) of this part.''

The Coast Guard agrees and has amended § 15.1109 as recommended for clarity.

Three commenters observe that § 15.1109, concerning watchkeeping principles, refers to provisions of the Convention and Code that consist of more than 21 pages. In comparison, proposed § 15.1111 inserted the STCW Code text nearly verbatim. The commenters believe that if the Coast Guard is going to require the master to observe an external standard, it should at least summarize it in this section.

The Coast Guard agrees in part. While the full text of the STCW Convention and STCW Code is not readily available to individuals, the Coast Guard intends to publish NVICs with the relevant text of the Convention and Code, most notably the tables of competency from Part A of the STCW Code, consistent with the copyright held by the IMO. These NVICs will be made available online and will enable the public to view them as necessary.

One commenter is concerned that, on page 45933 of the SNPRM preamble, the Coast Guard notes that individual variances issued to small vessels on international voyages by local Captains of the Port for vessels on short international voyages to Canada, the Bahamas, the British Virgin Islands, and Mexico will be rendered null and void once the proposed rulemaking becomes final. The commenter requests that the Coast Guard clarify the mariner credential, endorsement and manning requirements for small vessels of less than 200 GRT/500 GT, including towing vessels, engaged in international voyages to nearby foreign countries, such as Canada, the Bahamas, the British Virgin Islands, and Mexico.

The Coast Guard disagrees that the proposed regulations are unclear. Existing regulations excepting smaller vessels in § 15.105(e) and (f) remain unchanged. Small vessels are considered to be in compliance with STCW when on domestic voyages. The regulations also provide for issuance of a restricted STCW endorsement for an occasional international voyage for these vessels. This regulatory provision has never provided for these endorsements to be used for routine

international voyages. For those operators that routinely operate on international voyages, we have clarified the requirements for these STCW endorsements consistent with the STCW Convention and Code. Further, those small vessel operators that make routine international voyages have always been responsible for holding the appropriate STCW endorsement or certificate.

Four commenters state that it is the clear intent of 46 U.S.C. Chapter 143 and the IMO to not impose increased regulatory burdens on industry if the Convention measurement were used for applicability determinations of domestic and international rules. Therefore, they feel that any revisions to the regulations should include language to the effect of: ''Existing Subchapter T/K vessels built prior to July 18, 1982 shall be allowed to apply United States regulations and international conventions, including SOLAS, STCW and MARPOL using their respective US regulatory tonnages that were in force prior to coming into force of the International Convention on Tonnage Measurement 1969 (ITC) for the life of the vessel.''

The Coast Guard disagrees. Owners of vessels built prior to the ITC are not required to obtain an ITC tonnage. However, if they do, they must comply with the provisions of STCW and other international conventions that apply GRT.

Four commenters state that all U.S. flag vessels with dual tonnages built prior to July 18, 1982, should have the following statements placed on the COI, International Ship Security Certificate, Safety Management Certificate, and SOLAS Passenger Ship Safety Certificates: (1) ''The gross tonnage according to the measurement system previously in force to the measurement system of the International Convention on Tonnage Measurement, 1969 is {insert U.S. Regulatory Tonnage}, according to the regulations of the United States of America.''; and (2) ''When operating on an International Voyage: All licensed individuals must hold licenses authorizing service on vessels of a tonnage at least equal to the vessel's U.S. Regulatory Tonnage as indicated on this Certificate of Inspection.''

With regard to (1), this recommendation is beyond the scope of this rulemaking. With regard to (2), the Coast Guard disagrees. STCW and the International Tonnage Convention require mariners on international voyages to meet the credentialing requirements applicable to the tonnage indicated for the voyage on which they are engaged.

One commenter states that uninspected fishing industry vessels are currently exempt from STCW. The United States is not currently a signatory party to the STCW–F convention which applies to fishing industry vessels; however, the commenter recommends that the domestic license structure be altered to include the second engineer, similar to the proposed limited, OSV, and MODU engineer license tracks.

The Coast Guard disagrees. The STCW Convention does not apply to fishing vessels. This final rule is intended to implement the STCW Convention, and provisions solely addressing domestic credentialing are outside its scope.

One commenter wants to exempt persons serving on pilot boats from application of the STCW Convention. The commenter recommends that the United States interpret the STCW Convention regarding pilot vessels as follows: Pilot vessels are not considered seagoing ships because they operate ''in waters within, or closely adjacent to, sheltered waters or areas where port regulations apply.'' Consistent with this recommended interpretation of the U.S. obligations under the STCW Convention, persons serving aboard pilot boats should be exempt from application of the STCW. Therefore, the commenter recommends that a new subparagraph (5) be inserted in § 15.105(f) as follows: (5) Pilot boats.

The Coast Guard agrees, and has amended §§ 15.105(f)(5) and 15.1101(a)(1)(v) to exempt pilot vessels engaged in pilotage duty from STCW requirements in those sections.

One commenter states that there is no exclusionary language in § 15.404(c) exempting vessels of less than 200 GRT/500 GT. They request that such an exemption be inserted in this section.

The Coast Guard disagrees. The STCW Convention's RFPEW requirements are based on HP/KW limitations and not tonnage limitation. The change proposed by the commenter would be inconsistent with the Convention.

One commenter states that there is a long history of cooperation between Canada and the United States concerning reciprocity of recognizing domestic licensing schemes. The commenter requests clarification of STCW applicability to vessels on voyages on these waters.

The Coast Guard agrees and has amended text in § 10.232(b)(3) so that seafarers working under national endorsements but who sail on STCW-equipped and -manned vessels inside the boundary line can claim STCW sea service on a one-for-one basis.

17. General requirements

One commenter appreciates the Coast Guard efforts to listen to comments to NPRM. Another commenter appreciates the separation of the domestic and the STCW licensing schemes, and a third commenter states that NMC Policy Letter 11–07 was very beneficial to their company.

The Coast Guard appreciates these comments.

One commenter notes that § 11.301(c)(2) specifies the form for providing evidence of continued competence in fire fighting for STCW endorsements, but the proposal has no similar provision for the fire-fighting training required for domestic endorsements. The commenter recommends that a statement be included to describe the form of acceptable evidence to document continued competence for domestic endorsements.

The Coast Guard disagrees. Changes to fire-fighting training in this final rule are required by the STCW Convention and Code. The requested changes to fire-fighting training for domestic endorsements are outside the scope of this rulemaking because the Coast Guard proposed no changes in that area in the SNPRM. Therefore, we are not extending this requirement to vessels to which STCW does not apply.

One commenter is concerned that the Coast Guard is narrowing the spectrum of jobs that will qualify for sea service credit in § 10.232(f).

The Coast Guard disagrees. The Coast Guard did not change the types of jobs that will receive sea service credit. The change in sea service credit was limited to: (1) Consolidating all requirements in parts 10, 11 and 12 into one section that addresses sea service; and (2) expanding the type of service creditable towards STCW credentials to include near-coastal and Great Lakes service.

One commenter states that the various tables in 46 CFR part 11, subparts C, D, and E are confusing and do not clearly show how someone with a domestic license (e.g., second mate) can enter and qualify for an appropriate STCW endorsement (e.g., chief mate). The commenter recommends that these tables be combined into a single table, or shown as a figure instead of a table.

The Coast Guard disagrees. The separate tables in part 11 describe the endorsement requirements more clearly than a single consolidation would and are co-located with the associated requirements referenced in the tables.

Two commenters recommend that the Coast Guard publish a list of existing policy documents (or portions of policy documents) that it intends to cancel upon publication of the final rule.

The Coast Guard agrees. All policy letters that have been incorporated or overcome by this final rule will be cancelled, and the Coast Guard will notify the public as soon as possible through a notice in the **Federal Register**.

18. Hours of Rest

Fourteen commenters feel that, with regard to § 15.1111(g), requiring records of daily hours of rest for mariners would be redundant with records kept in the official ship's logbook. This will impose an unnecessary administrative burden upon vessel officers, mariners and oversight authorities since the information required by this section should be available for all parties to check in the official ship's logbook. They also recommend that the Coast Guard change the last sentence to read ''A copy of the records shall be provided to the mariner upon request.''

The Coast Guard agrees in part. The Coast Guard will accept entries in the logbook. This section, as drafted, does not preclude the use of the logbook as a means to keep records of rest periods. The Coast Guard will consider developing a consolidated form to capture mandated work/rest information. In response to the commenters' second recommendation, the 2010 amendments to the STCW Convention require that seafarers receive a copy of the records pertaining to them. Although the language of the provision has been altered slightly from what was proposed in the SNPRM, the requirement to provide seafarers with a copy of their records, whether requested or not, has been retained.

One commenter notes that the SNPRM proposes to increase the amount of rest that mariners must be provided in any 7-day period from 70 hours to a minimum of 77 hours. This increase enhances mariners' ability to reduce fatigue. However, the commenter notes that the change still falls short in two areas. First, the commenter believes, it does not apply to mariners in domestic service, including those transiting the Great Lakes and the Inside Passage. Second, it does not address the hours of the day/night during which the rest should be obtained, and thus does not preclude disrupted circadian rhythms or fragmented sleep periods from adversely affecting mariner performance. The commenter believes that the Coast Guard should modify its hours of service rules accordingly. Moreover, the commenter urges the Coast Guard to work with the IMO to change international rules to ensure that mariners worldwide operate under work schedules that, in accordance with the scientific literature on circadian rhythms, provide sufficient rest.

One commenter stated that language should be added to § 15.1111(g) to the effect that if the vessel is a day boat, records of daily hours of rest are not required. Why record the rest period for a crew member if they have left the vessel for home and are returning a different day for another run?

The Coast Guard disagrees. The hours of rest in part 15, subpart K only apply to vessels subject to STCW and not inland vessels. We are unable to modify the hours of rest for vessels to which STCW does not apply as part of this rulemaking because it would require changes to the U.S. Code and is therefore outside the scope of this rulemaking.

Two commenters recommend that, with regard to § 15.1111, the Coast Guard, working with MERPAC, develop a U.S. standard record keeping form or program for the maintenance of daily hours of rest so a uniform system across the U.S. flag fleet can be implemented. This will not only assist port state control oversight but also lessen any additional burden upon the U.S. mariner.

The Coast Guard agrees in part. The Coast Guard will accept entries in the logbook and the use of the standard IMO/ILO record of hours of rest as a means to document hours of rest. The text as currently drafted does not preclude the use of the logbook as a means to keep records of rest periods. The Coast Guard will consider developing a consolidated form to capture mandated work/rest.

One commenter notes that, in § 15.1111, the term ''rest period'' has no real definition. It should be replaced with the term ''off duty period'' for the sake of clarity.

The Coast Guard disagrees and is retaining the existing definition for ''rest'' in § 10.107, which provides, in part, that rest is a period of time during which the person concerned is off duty.

Two commenters state that, with regard to § 15.1111, the proposal is ambiguous and requires amendments to address, or exclude, off-watch work-related hours spent on travel, dead-heads, etc. The proposal fails to outline a method by which crews working a 12-hour watch, commuting to and from the vessel on a daily or nightly basis, are to record so called ''rest periods.'' Lastly, the full definition of a ''rest period'' needs to be presented and clarified.

The Coast Guard disagrees. Rest is defined in 46 U.S.C. 8104 and in § 10.107 of this final rule, as that period when the mariner is off duty, not performing work, and allowed to sleep without interruption. The Coast Guard has previously established policy that traveling to and from the vessel is neutral time, which is neither rest nor work.

Seafarers serving onboard vessels authorized to implement a 12-hour watch under 46 U.S.C. 8104 will be required to document the hours of rest. The Coast Guard will accept entries in the logbook and the use of the standard IMO/ILO record of hours of rest as means to document hours of rest. The Coast Guard will also consider developing a consolidated form to capture mandated work/rest. The Coast Guard plans to retain the definition for ''rest'' in § 10.107, which provides, in part, that rest is a period of time during which the person concerned is off duty.

One commenter asks, with regard to § 15.1111, if the Coast Guard will summarize the impact of this requirement on vessel operations and potentially manning, as it will apply not only to watchkeepers, but also to those with safety, pollution prevention and security responsibilities—this includes the master and chief engineer.

The rest requirements apply to all persons assigned duty as an OICNW or OICEW, or duty as ratings forming part of a navigational or engineering watch, or designated safety, prevention of pollution, and security duties onboard any vessel. It is the company's responsibility to ensure that all persons mentioned above are afforded rest in accordance with § 15.1111.

Three commenters note that § 15.1111(g) requires both the master and each mariner to ''endorse'' the rest schedule. This ''endorsement'' is not required by the STCW Code and will reduce the rest of all vessel personnel, if reporting to a central location to sign the rest schedule after each watch is required. The commenters recommend dropping the proposed endorsement requirement.

The Coast Guard agrees. The copy of the records due to the mariner is what is required to be endorsed, and we have amended § 15.1111(g) to reflect this.

With regard to § 15.1111, one commenter believes that requiring more rest for mariners equates to requiring more crew. Many U.S. shipping companies are at minimum manning due to the high cost of maintaining crews and vessels. Additional regulations will only drive business overseas and deplete the U.S. fleet further.

The Coast Guard disagrees because no commenter has provided, and the Coast Guard is not aware of, any data in support of these arguments. Additionally, the STCW Code and Convention prescribes training, not manning, requirements, and the hours of rest are international requirements that apply to all vessels subject to STCW.

As discussed in the SNPRM and supporting Regulatory Analysis, we believe that the new requirements can be accommodated without changing existing watch rotations or current crew sizes, therefore resulting in no additional cost. According to Coast Guard industry experts, STCW vessels engaged in transoceanic voyages are staffed with a 3-watch crew rotation. Even for STCW vessels staffed with only 2 watches, resulting in an average of 12 hours of rest per day or 84 hours a week, the 77 hours a week rest requirement should be able to be met without change in watch schedules. The Coast Guard will monitor the implementation of rest hour requirements and report any new data it finds on industry costs to implement these requirements.

One commenter notes that offshore petroleum operators are required to meet both the work-hour requirements of the Oil Pollution Act of 1990 (OPA 90) and rest hour requirements of STCW. The SNPRM includes a definition of ''rest'' but not one for ''work.'' This is problematic, as it could be interpreted that a mariner, who is not resting, therefore, must be working. If that were the case, it will be impossible for some operators to meet the requirements of OPA 90, since drills will be considered work. The commenter recommends that a definition of ''work'' be added that explicitly states emergencies and drills will not be considered ''work.'' This will allow petroleum operators the flexibility to track all work/rest/drill hours in one continuous log rather than maintain separate logs for each purpose under unclear guidelines.

The Coast Guard disagrees. Part 15, subpart K applies to vessels subject to STCW, and the Convention does not address work. Therefore, it was not included in this rulemaking. Adding a definition for ''work'' would need to be part of a separate rulemaking subject to public notice and comment.

One commenter believes that the need to track both work and rest hours may be overly burdensome for these mariners. With that said, however, the commenter states that there may be some trends in identifying fatigue, or advantages in tracking rest in lieu of work or vice-versa. The commenter recommends that the Coast Guard examine the efficacy of tracking hours of rest and hours of work.

This is outside the scope of this rulemaking. This rulemaking only made changes related to the hours of rest in the STCW Convention. This rulemaking does not include changes to work-hour requirements. Furthermore, we are unable to modify the hours of service as part of this rulemaking because it would require changes to the U.S. Code.

19. Radar Endorsements

One commenter notes that currently mariners need only carry the radar certificate with them and it does not have to be endorsed on their new credential. The commenter says the Coast Guard has provided no rationale for the change in § 11.480(d), which requires that an applicant for a radar observer endorsement or for renewal of such an endorsement to submit evidence of training to the Coast Guard. The commenter states that this is both time-consuming and an additional expense for mariners, and recommends that the current policy remain in place.

The Coast Guard disagrees. The Coast Guard proposed changes to the radar observer requirements that explicitly permit mariners to submit evidence of training in person, by mail, fax, or other electronic means. The requirement to submit such evidence, however, predates this rulemaking, and was established by a rule published in the **Federal Register** on September 11, 2008, (73 FR 52789).

Two commenters note that § 10.209 states that if the applicant desires a credential with a radar-observer endorsement in accordance with § 11.480 of this subchapter, either the radar-observer certificate or a certified copy must be presented. The commenter notes that current Coast Guard policy is to accept copies of any certificate when submitting the application. The commenters recommend that the current policy be retained and that the Coast Guard continue to accept copies of any training certificates and documents submitted with the application.

The Coast Guard agrees. We currently accept copies of all course-completion certificates, including those for radar, and we have amended § 10.209 accordingly.

20. Ratings

Four commenters note that, in §§ 12.603(b) and 12.607(b), it says ''Until January 1, 2017, seafarers may be considered to have met the requirements of this section.'' The phrase ''may be'' is unclear. The commenters recommend replacing ''may be'' with ''will be'' to improve application and clarity. Assuming the effective date of the final rule will be very soon, this flexibility will be necessary to avoid overwhelming the Coast Guard with able seafarer applications and stripping the U.S. flag fleet of qualified crew members while awaiting thousands of new STCW endorsements.

The Coast Guard agrees and has revised the sections as recommended to ensure clarity.

One commenter notes that, in proposed § 12.701, the paragraph begins with ''Every person employed in a rating other than A/B or QMED aboard U.S. flag vessels requiring such persons.'' As drafted, this paragraph appears intended to apply 46 U.S.C. 8701, but instead expands the requirements of the law. The commenter suggests it say instead ''Every person employed as a rating aboard U.S. flag vessels of 100 GRT/100 GT or more, except as exempted by 46 U.S.C. 8701.''

The Coast Guard agrees in part. As written, the paragraph appears to require MMDs in more situations than envisioned by 46 U.S.C. 8701. Section 12.701 has been revised to clarify: (1) That a rating endorsement on an MMC qualifies as holding an MMD; and (2) that the requirement to hold an MMD only applies to vessels subject to 46 U.S.C. 8701. The MMD requirement in the statute extends beyond those employed as a rating to anyone employed or engaged upon the vessel.

One commenter notes that, in light of STCW standards for able seafarer-deck that go far beyond the U.S. requirements for service and training that have served our mariners well, it is laudable that the Coast Guard has adopted transitional provisions in §§ 12.603(a) and (b) that will delay, if not mitigate, the additional burdens imposed by the Convention. The table in § 12.603(e), however, could be read to ''trump'' those provisions. The commenter recommends changing § 12.603(e) to the effect that, ''Except as provided in (b) and (c), seafarers with the following . . . .''

The Coast Guard agrees in part. The table in § 12.603(e) already accounts for the provisions in § 12.603(a). Additionally, to avoid misinterpretation, the Coast Guard amended footnote ''*'' to link the table to the requirements for certification as a RFPNW in § 12.603(a)(2) and (3). The Coast Guard amended § 12.603(e) to ensure that it does not override the provisions in paragraphs (b) and (c).

Two commenters express concern that the A/B maintenance and watchstander billets will be replaced by the ordinary

seaman, who does not have enough experience to be steering vessels. Therefore, the commenter recommends leaving the RFPNW restricted to lookout duties until he becomes able seaman-special.

The Coast Guard disagrees. RFPNW is a prerequisite for able seaman but requires competence in lookout duties, steering, etc. U.S. Code and existing manning regulations also include provisions on when an ordinary seaman can actually assume the duties of a helmsman as well as standing watches.

Two commenters state it is their understanding that our domestic RFPNW able seaman-special will no longer be able to sail internationally (outside the boundary lines) until he obtains an able seafarer-deck endorsement (§§ 15.404 and 12.603). The commenters ask if a mariner sails as a RFPNW, will this reduce the need for able seafarer-deck onboard. They would like the assurance that entry level mariners will not replace able seamen onboard ships sailing beyond the boundary line.

Entry-level mariners will not replace able seamen onboard vessels sailing beyond the boundary line. The numbers of able seamen are required by regulation. Section 15.404(b) has been amended to clarify the manning of vessels with A/Bs holding either RFPNW or able seafarer-deck.

One commenter states that § 12.607(e) could be misconstrued to take precedence over the transitional provisions in paragraphs (b) and (c).

The Coast Guard agrees in part. The table in § 12.607(e) already accounts for the provisions in § 12.607(a). Additionally, to avoid misinterpretation the Coast Guard amended footnote ''*'' to link the table to the requirements for certification as a RFPNW in § 12.607(a)(2) and (3). The Coast Guard also is amending § 12.607(e) to ensure that it does not override the provisions in paragraphs (b) and (c).

21. Recognition of Certificates

One commenter suggested that the MMCs issued to foreign mariners in recognition of their STCW endorsement contain specific language describing the scope and authority of the MMC.

The Coast Guard agrees with the concerns of the commenter and notes that foreign mariners will not be issued an MMC. Rather, they will be issued a separate document. The Coast Guard has yet to decide upon the specific design of this document, and will consider the recommendations of the commenter when the document is designed. Part 11, subpart J of this final rule contains provisions on recognition of STCW certificates issued by foreign nations.

One commenter disagrees with the proposal to recognize certificates issued by other parties to the STCW Convention. Presently there is a shortage of U.S. merchant mariners, and the commenter says it is incumbent upon our regulatory bodies as well as industry itself to promote the U.S. merchant marine to maintain a strong maritime presence in the U.S. and worldwide.

The Coast Guard disagrees. The U.S. will recognize certificates issued by other parties to the STCW Convention in accordance with existing laws of the United States. Under 46 U.S.C. 8103(b)(3)(A), the citizenship requirements can be waived for mariners other than master on OSVs operating from a foreign port. To ensure compliance with the STCW Convention, in the limited cases of OSVs, the U.S. needs to recognize seafarer competence certificates from other countries that have ratified the STCW Convention.

22. Qualified Assessors (QA)

One commenter notes that, in § 10.405(c), the requirement for a ''Train-the-Trainer'' course to follow IMO model course 6.09 is contrary to the Coast Guard's existing policy of allowing most 40-hour ''Train-the-Trainer'' courses offered by State educational systems. The commenter recommends that the current policy continue to be accepted as meeting ''another Coast Guard-accepted syllabus.''

The Coast Guard agrees and has amended § 10.405(c) to broaden the acceptance of courses based on another Coast Guard-accepted syllabus.

Thirty three commenters feel that, just because a mariner may possess any given rating or license, this does not mean that this mariner is also proficient in teaching and assessment competencies. The commenters believe that any program that includes onboard teaching and assessments should be Coast Guard certified as meeting QSS requirements including ongoing oversight of assessor qualifications including periodic audits consistent with the requirements already imposed on shore based training providers.

The Coast Guard agrees and will be developing guidance for qualified assessors (QAs) and the assessment of STCW proficiencies.

One commenter states that one valuable thing that a well-rounded licensed officer must have is experience on all type of vessels, in all types of waters under all types of conditions. The licenses for third and second mate allow the mariner to ''sail'' on all types of vessels. However, the proposed rules will allow assessments to be made on only one type of vessel. How could a mariner sailing on an OSV gain any knowledge of a container ship, car carrier, tanker, tug boat, etc.? Years of training have given the U.S. airline industry one of the safest records in the world. The commenter believes that the maritime industry needs to follow this plan.

The Coast Guard disagrees. The STCW requirements and the U.S. credentialing system allow for mariners to sail on all types of vessels; however, the average mariner does not have experience on all types of vessels. The competence requirements in the STCW convention and U.S. regulations are supplemented by familiarization requirements onboard the vessel prior to the seafarer taking the responsibilities of his or her assigned duties.

The Coast Guard will be developing guidance for QAs and the assessment of STCW proficiencies. It is important that the U.S. not reduce its commitment to ensuring that its mariners develop according to a high standard of competence. However, the Coast Guard also recognizes that this development of competencies must be flexible and multifaceted to facilitate mariner training. The use of QAs and standardized assessments will provide options for mariner development, as well as providing standards for the training and maritime industries to use in development of required and optional courses and programs. Those courses and programs will also provide other options for mariner training and development.

One commenter recommends that § 10.405(c) become § 10.405(b)(4). The commenter points out that applicants for QA positions may provide documentary evidence of a ''Train–the-Trainer'' course, which seems inappropriate. The commenter recommends that a ''train the assessor'' course be added as an acceptable program.

The Coast Guard agrees and has amended § 10.405 to ensure that the QA is trained in proper assessment techniques, by means of an ''assessor training'' course. In addition, this topic will also be discussed in the guidance that the Coast Guard is developing concerning QAs.

The Coast Guard disagrees, however, with re-designating § 10.405(c) as § 10.405(b)(4). Section 10.405(c) provides specific information applicable to both § 10.405(a) and § 10.405(b), which set out the requirements for QA and DE respectively.

One commenter notes that in § 11.301(a)(1)(i), it says that assessments are signed by a DE, but he believes that it should read ''qualified assessor'' because these provisions are specific to STCW endorsements.

The Coast Guard agrees, and has revised § 11.301(a)(1)(i) as recommended.

23. License Progression

One commenter states that, with regard to § 11.305(e), he strongly supports the crossover paths from domestic to STCW endorsements. These advancement opportunities will not only encourage ambitious individuals to enter the maritime workforce, they will motivate those individuals to obtain the training needed to establish the required competence.

The Coast Guard appreciates this support.

One commenter recommends that the Coast Guard develop career paths for chief engineer (MODU) and assistant engineer (MODU).

The Coast Guard disagrees. The MODU industry has established processes for their personnel and the Coast Guard already has established progression tasks for engineers who wish to transition to a conventional vessel.

Three commenters note that § 11.305 requires evidence of 36 months service as OICNW to qualify for an STCW endorsement as unlimited master oceans without any time required as chief mate. In current § 11.404, the minimum service required to qualify an applicant for an endorsement as master of ocean any gross tons is 1 year of service as chief mate or a minimum of 6 months as chief mate with 12 months as second or third mate. The proposed reduction in experience is a deskilling of the unlimited master ocean license. The commenter recommends retaining the current requirements.

Another commenter notes that proposed § 11.305 has a provision that would permit a master of less than 1,600 GRT/3,000 GT to cross over to master 3,000 GT or more (unlimited) with only 6 months service on vessels of under 1,600 GRT/3,000 GT and no experience on vessels of unlimited size. Under the current regulations, a master 1,600 GRT oceans can cross over to third mate unlimited oceans with 12 months service or second mate unlimited with an examination. The commenter says that permitting the proposed drastic reduction in experience from the current regulation in essence allows an individual with a license that formerly was considered equivalent to third or second mate unlimited to progress to unlimited ocean master with only 6 months experience in ships of limited size. The commenter says this is an astounding reduction of standards, and recommends retaining the current requirements.

The Coast Guard disagrees. This cross over provision, which is consistent with the STCW Convention, is available only to those mariners who have already obtained a national endorsement with authority to operate vessels of unlimited tonnage or offshore support vessels of up to 10,000 GT. Additionally, the STCW competence and training requirements will ensure that those persons seeking to obtain the management-level STCW endorsement have demonstrated competence and achieved the required level of training.

One commenter notes that the definition of ''chief mate'' in § 10.107 clearly characterizes the role and responsibility of a 1,600 GRT mate on a vessel allowed to operate under a two-watch system. Therefore the commenter expects that the use of the term ''chief mate'' in § 11.311 will permit such service (or service while holding a master endorsement) to satisfy the provision allowing for a reduction in service to 24 months provided that 12 months is ''served as chief mate.'' However, the commenter is concerned that the provision will be misconstrued as written and recommend that it be reworded to allow the reduction ''. . . if the applicant served in the capacity of chief mate for not less than 12 months.''

The Coast Guard agrees in part. Where the mariner holds a management-level credential, and fills the position as mate, and the position meets the definition of chief mate found in § 10.107, then that service will be credited as chief mate. However, the Coast Guard does not believe this section is confusing and likely to be misconstrued, nor did the Coast Guard revise this definition as part of this rulemaking project.

One commenter recommends that the Coast Guard consider streamlining ocean, OSV, and Uninspected Vessel qualification training pipelines by utilizing current STCW certifications for their basis rather than the HP rating.

The Coast Guard did not propose a change in the national endorsement scheme. Regulatory changes on that subject would need to be part of a separate rulemaking and subject to public notice and comment.

One commenter notes that, for unlimited tonnage vessels (at least 1,600 GRT), the U.S. domestic license structure provides for four licenses, whereas the STCW convention provides for three licenses. The commenter says that our domestic licensing system works well and is easily adaptable to meet STCW requirements. It supports a three-watch system or periodically unmanned engine rooms.

The Coast Guard has been using the four-license national structure to fit in with the STCW three-license system since the 1997 IR. The national third assistant engineer and second assistant engineer endorsements, as well as the national third and second mate endorsements, fall neatly within the STCW OICNW and OICEW endorsements. Typically, national master and chief mate align with their STCW counterparts, and the national chief engineer and first assistant engineer endorsements also align with theirs.

One commenter notes that, for limited tonnage vessels (at least 500 GT up to 1,600 GT), our domestic license structure provides for only two licenses, whereas the STCW convention provides for three licenses. Currently, the limited assistant engineer license is endorsed for oceans. The restricted limited chief engineer license is endorsed for near-coastal, where the unrestricted limited chief engineer license is endorsed for oceans. Therefore, the commenter recommends that the Coast Guard restructure the domestic license track to mirror STCW and introduce a limited second engineer license. Any restrictions, in terms of routes, would be issued strictly on the basis of STCW certification. Without the appropriate STCW certificate, the domestic license would be restricted to near-coastal, regardless of the level of the license. With the appropriate STCW certificate, the scope of the license would be extended to oceans, again regardless of the level of the license. This proposed license structure would support a two- or three-watch system or a periodically unmanned engine room.

The same commenter proposes that the domestic license tracks for OSV and MODU follow the same pattern as proposed for the limited-license track, introducing a second engineer license. This proposed license structure would support a two- or three-watch system or periodically unmanned engine rooms.

The same commenter also notes that, for limited tonnage vessels less than 500 GT, our domestic license structure provides for three designated duty engineer licenses, although most vessels would carry just one licensed engineer. The restrictions placed on the DDE license are based on horsepower and routes as a function of qualifying sea service in the engine room. The commenter recommends that the horsepower limits be based on

conventional methods used for the other license tracks, rather than sea service requirements.

The Coast Guard agrees in part and has removed the endorsement for chief engineer (limited-near-coastal) in § 11.520. We also amended sections §§ 11.518 and 11.522 to establish new crossover points from limited to unlimited national engineering endorsements. However, the remainder of the commenter's suggested progression paths are unnecessarily complex. The Coast Guard's licensing scheme is clearer and is based upon the Coast Guard's long experience and the maritime industry's needs.

Ten commenters believe that the proposed changes in the engineering training requirements in the SNPRM represent a significant improvement over the NPRM. The commenters believe, though, that additional changes are needed to ensure an engineering career path that meets the twin goals of safety and practicality. The commenters recommend the removal of all route restrictions in § 15.915 so an engineer seeking to sail on an international or ocean voyage will require an STCW endorsement. The commenters believe that the need to obtain an STCW endorsement creates a route restriction.

Additionally, five commenters recommend that the Coast Guard allow direct crossover from lower-level to upper-level licenses where appropriate, including a new crossover from chief engineer (limited) to first assistant engineer (unlimited).

Similarly, five commenters recommend that the Coast Guard provide a direct crossover from third assistant engineer to DDE-unlimited HP and assistant engineer (limited) to vessels under 1,600 GRT, and from second assistant engineer to chief engineer (limited) to vessels under 1,600 GRT.

The Coast Guard agrees with most of these comments. In this final rule, the Coast Guard has provided a crossover from chief engineer (limited) to first assistant engineer. Direct crossover from third assistant engineer and assistant engineer (limited) to DDE is already permitted in current regulations. Additionally, the Coast Guard has added, in figure § 11.505(a) of this final rule, a direct crossover from third assistant engineer to assistant engineer (limited). The Coast Guard does not agree, though, with the need for a crossover from second assistant engineer to chief engineer (limited) because first assistant engineer is the crossover point to chief engineer (limited). Also, removal of the national route restrictions would require a separate rulemaking subject to public notice and comment.

One commenter encourages the Coast Guard to take this opportunity to review engineer endorsements and licenses for the operation of 46 CFR chapter I, subchapter H vessels on inland waters within three miles from land.

The Coast Guard disagrees. The current regulations allow the OCMI to set manning requirements and national credentials already exist to cover this type of operation, and changes to these regulations are outside the scope of this rulemaking.

One commenter states that proposed new language will allow officers serving on vessels subject to 46 CFR chapter I, subchapters T and K to obtain an STCW endorsement, but at the same time will prohibit officers serving on the vessels subject to 46 CFR chapter I, subchapter H from realizing the same benefit. The commenter recommends that the Coast Guard reverse this policy and grant STCW endorsements to those officers serving on 46 CFR chapter I, subchapter H vessels.

The Coast Guard disagrees. STCW applies to seagoing commercial vessels, except fishing vessels. However, special provisions allow for exempting smaller vessels on near-coastal voyages from unreasonable or impracticable requirements. The exemptions for small passenger vessels engaged exclusively on domestic voyages is limited to vessels less than 100 GRT and engaged in domestic trade. In 1997, the Coast Guard determined that an equivalency between STCW requirements and current U.S. laws and industry practice is justified. The revisions to the rules on inspection and certification of small passenger vessels (46 CFR chapter I, subchapters T and K), as well as the fact that the Coast Guard has the opportunity to perform direct oversight of the operational aspects of these vessels, supports such an equivalency. Therefore, this final rule imposes no new requirements either on personnel serving on these vessels or on their owners or operators. In contrast, 46 CFR chapter I, subchapter H applies to vessels of more than 100 GRT. Because these vessels are more complex, and can carry more passengers onboard, STCW regulations require additional training, service, and assessments.

One commenter recommends that Figure 11.403 should include the master of towing vessels progression and appropriate crossover points.

The Coast Guard agrees, but has provided the separate progression paths as well as credentialing crossovers in Figure 11.463 for improved readability.

One commenter recommends that the Coast Guard add to § 11.412 an upgrade from master 500 GRT Oceans (domestic) to 1,600 GRT oceans (domestic) with one additional year of sea service under the authority of the license above 50 GRT. This is congruent with the service requirement in Table 1 to § 11.311(d) for ocean master more than 200 GRT/500 GT and less than 1,600 GRT/3,000 GT.

The Coast Guard agrees in part and has added a paragraph noting that mariners may raise the grade of an officer endorsement as master from less than 500 GRT to less than 1,600 GRT with 1 year of service as a master, mate, or master or mate (pilot) of towing vessels on vessels over 100 GRT.

One commenter disagrees with the route limitation in § 15.915(a)(1) and recommends that the Coast Guard remove it, because there is a lot of towing commerce between the West Coast, Alaska, and Hawaii. The commenter believes insertion of this route restriction will hurt the towing industry.

The Coast Guard disagrees. The Coast Guard did not propose any changes to this paragraph. This final rule provides for a progression to endorsements valid for oceans service. If mariners serve on vessels operating on oceans, they may obtain one of the engineer endorsements authorizing service on oceans.

One commenter notes that § 11.420 requires 1 year of service as mate in order to obtain an original mate 500 GRT Ocean license. This is illogical, the commenter says, as a mate position is an entry level deck officer position. A provision allowing for an original 500 GRT mate license with 3 years of service on ocean or near-coastal routes on vessels greater than 50 GRT should be added.

The Coast Guard disagrees. The Coast Guard did not propose any changes to the service requirements for an endorsement as mate less than 500 GRT in § 11.420. The requirement in that section for an applicant to have at least 1 year service as a master, mate or equivalent supervisory service, of which at least 6 months must be on vessels of more than 50 GRT, to qualify for this endorsement remains unchanged from the current regulation.

One commenter notes that there are currently two paths to master on vessels of less than 200 GRT: 36 months on vessels of greater than 200 GRT; and 1 year acting as master on a towing vessel, but there are no tonnages mentioned in regulation.

The Coast Guard agrees and has deleted the tonnage requirement from § 11.317(a)(1).

Two commenters recommend that the Coast Guard look very closely at the implementation schedule proposed for these credentials, especially for those vessels of less than 200 GRT. There will be a great shortage for engineers on these vessels. The commenters say the Coast Guard should work with industry to develop career paths and a realistic implementation period.

The Coast Guard disagrees. The rule provides an implementation period ending on January 1, 2017. In addition, we have provided multiple progression paths to facilitate engineers operating on tow boats to be able to obtain an STCW endorsement.

Two commenters believe that the new STCW requirements will make it even more challenging for their industry to develop future engineers. The commenters recommend that QMED time be credited on a 2-for-1 basis for up to 50 percent of the service time required for upgrade. They believe that such a provision is necessary in order to allow individuals with significant service time as unlicensed engineer to obtain the STCW endorsement needed to continue their career in the towing industry.

The Coast Guard disagrees. The STCW Convention does not allow for the use of rating time towards management level credentials. We have added new progression paths in part 12, subpart F to ensure engineering ratings can qualify.

24. License Separation Scheme

Four commenters state that separation of the STCW endorsements from the domestic licensing scheme does nothing to make it easier for mariners to read and understand the requirements for each STCW endorsement. By separating the two sides of the existing credentialing scheme, the commenters believe the Coast Guard fails to consider the simplicity of the STCW scheme and the manner in which it accounts for credentialing options limited to near-coastal voyages.

The Coast Guard disagrees. This final rule clarifies endorsement requirements, while being responsive to comments to the SNPRM and NPRM from industry supporting separate schemes. The final rule also provides clearer career progression paths from national to STCW endorsements.

One commenter is in agreement with the proposal to separate the two licensing schemes, but notes that there are many domestic mariners who either have come from the STCW realm and continue to work as mariners or are deep-sea mariners who work domestically during periods of time off and then return to their regular duties. The commenter recommends that OCMIs should evaluate training and drill programs of the domestic fleets and allow credit for any training and drills that meet OCMI/NMC guidelines.

The Coast Guard agrees in part. Evaluation of training courses and evidence of drills are part of the NMC's functions. Providing these functions from a central location ensures a uniform and consistent implementation of the STCW Convention requirements. One of the functions of the Regional Examination Centers is to provide oversight for the courses.

One commenter states that, in the requirements for a domestic 500 GRT oceans master endorsement (§ 11.418) in accordance with paragraph (c), an individual ''may qualify for an STCW endorsement, according to §§ 11.307, 11.311, 11.313 and 11.315 of this part.'' However, the proposed rules do not provide an STCW endorsement as master beyond 200 GRT/500 GT without additional sea service; nor do they provide ability to work as an OICNW on vessels of less than 200 GRT/500 GT, requirements which would have been met according to § 11.309.

The Coast Guard agrees. This rulemaking only allows the master of oceans self-propelled vessels of less than 500 GRT to obtain an endorsement as master of vessels of less than 500 GT without providing additional service. If a seafarer holds an STCW endorsement as OICNW, §§ 11.307, 11.311, 11.313, and 11.315 of this final rule contain provisions for obtaining the management-level endorsements.

Two commenters state that, according to § 11.305(d), seafarers holding an STCW endorsement as master of vessels of 200 GRT/500 GT or more and less than 1,600 GRT/3,000 GT in accordance with § 11.311 are eligible to apply for the endorsement as master on vessels of 1,600 GRT/3,000 GT or more upon completion of 6 months of sea service, under authority of the endorsement; and complete any items in §§ 11.305(a)(2) and (a)(3) not previously satisfied. The commenters ask if this means that someone holding the respective domestic license would be able to upgrade to an unlimited master.

As previously noted, we are separating the national officer endorsement from the STCW endorsement in this final rule, and mariners must meet the separate qualification requirements for each endorsement.

25. GT/GRT Equivalency

One commenter states that, in § 15.915(a), the Coast Guard has added the 200 GRT wording to what currently only says 500 GT. The commenter believes this has a great effect on uninspected towing vessels between the 200 and 300 GRT range, which would mean that a DDE-unlimited would no longer be able to work on vessels in this range. The commenter recommends either retaining the original language, or substituting terms of uninspected vessels which would limit it to 300 GRT, or defining it as 300 GRT/500 ITC. This, the commenter believes, would allow engineers who have been working on these vessels for many years to continue doing so.

The Coast Guard agrees, and has restored the 500 GRT limit as found in existing § 15.915(a). DDEs working on vessels subject to STCW are covered by their STCW endorsements as found in §§ 11.325 and 11.331. However, the DDE limitations on their national endorsements still apply.

One commenter states that § 11.301(d)(4) regarding dual-tonnage service may cause confusion and result in unintended consequences and notes that several dual-tonnage vessels have tonnage that falls above one threshold but below the other (i.e., 199 GRT/538 ITC or 235 GRT/424 ITC). In these instances, the commenter believes, the manning requirements are primarily driven by whether the vessel is operating domestically or internationally. The commenter recommends that this be considered and that the Coast Guard modify this section so that the mariner is given sea service credit at whichever equivalency is higher.

The Coast Guard agrees that using dual-tonnage may cause confusion. In order to address this issue, the Coast Guard will issue guidance to specify the process for determining the tonnage to be used when applying for a credential.

26. High-Speed Craft (HSC)

Four commenters feel that the type rating certificate renewal period every 2 years is too short a span and should be increased to 5 years to match all other industry standard MMCs. The commenters recommend that, if the HSC licensing has to remain at 2-year renewal intervals: (1) 90 days sea service should be required as opposed to 180 days; and, (2) 4 round trips over each route instead of 12 round trips, as long as the licensed deck officer also has current first-class pilotage over the routes. Another option could be to stay with the present 12 required round trips every 2 years, but allow trips aboard non-HSC type vessels to be credited on a 2-for-1 basis for up to 50 percent of the

trips so long as the licensed deck officer is also a first-class pilot for those routes.

The Coast Guard disagrees. This proposal would diminish the requirements applied under the HSC code that were taken directly from that code. The Coast Guard has amended the HSC code section to ensure it is only applicable to seafarers operating vessels subject to the HSC Code.

Three commenters are concerned that the wording in § 11.821 could cause a problem for every operator of a vessel to which the HSC Code does not apply. The commenters recommend that the wording be changed because the Coast Guard inspectors may apply this to any vessel that operates at high speed. Alternatively, the commenters believe the Coast Guard should further define the application here and the term ''High Speed Craft'' should be added to the definitions section in part 10, so that it is clear to all that the Coast Guard is not requiring every operator of every craft that goes over 25 knots to be type rated.

The Coast Guard agrees and has amended the HSC code section to ensure it is only applicable to seafarers operating vessels to which that code applies.

One commenter is opposed to having a separate type rating certificate (TRC) for each type of HSC and believes it would require repetition in the already archaic licensing application process. If existing licensed crew members are hired, and they have to have a separate individual type rating added to their existing license, the commenter believes it will stall the entire process of hiring.

The Coast Guard disagrees. The HSC code requires an operator to be trained on specific vessels or classes of vessels. If the HSC code is applicable to a vessel, the Coast Guard will continue to require compliance with that requirement; however, the training requirement would not apply to the owners and operators of those vessels not subject to the HSC code.

Three commenters believe that it is inappropriate and confusing to insert TRC in proposed § 11.821 and that the requirement for a TRC for a HSC is derived from the HSC code, not from STCW. The commenters note that the HSC code is not referenced and not incorporated into this rulemaking and that there are currently two vessels in the U.S. operating in compliance with the HSC code, and a fleet of vessels that are not ''code boats.'' The commenters believe it would be confusing to the Coast Guard and the industry to have this section of a separate code incorporated here without sufficient definition or explanation. As a result, the commenter believes the entire section should be deleted.

The Coast Guard agrees in part. We proposed to include the high-speed craft provisions in the SNPRM, and included them in this final rule, because these vessels are in use within the U.S. and the existing regulations did not account for them. These new requirements will further promote safe operation of these vessels. Section 11.821 has been amended to clarify that it applies only to vessels subject to the HSC code.

27. Horsepower

One commenter observes that trade publications highlighting significant new vessel deliveries noted all of the offshore vessels and many inland boats had propulsion power exceeding 4,000 HP. For that reason, the commenter recommends increasing all current domestic credential HP breakpoints to better reflect the current fleet composition. The commenter recommends that the Coast Guard submit a paper to a future STCW meeting to increase the STCW limits from the current 1,000/4,000 HP breakpoints. More realistic breakpoints could be 4,000/10,000/20,000 HP. Alternatively, on a vessel with multiple identical main engines, regulators could count only the power level of a single engine as the required power limit on the engineer credential.

This comment is outside the scope of this rulemaking. The Coast Guard did not propose any new requirements in this area, and regulatory changes would require a separate rulemaking, including public notice and comment.

28. Designated Examiners (DE)

Six commenters agree with the new definition that restricts DEs to only evaluating the proficiency of any applicant for a towing-vessel endorsement. The commenter also believes that the current system of applying for recognition through the NMC is appropriate.

The Coast Guard agrees and will continue to approve the DEs for evaluation of applicants for towing endorsements.

Three commenters ask if the definition of ''designated examiner'' indicates that he or she could be approved by either the Coast Guard or a Coast Guard-accepted organization.

The definition in § 10.107(b) has been revised to reflect that the Coast Guard will continue to approve all DEs.

29. Equivalency

One commenter urges the Coast Guard to recognize the limited size and scope of towing vessel engine rooms and account for this by issuing safe manning certificates for towing vessels subject to STCW that allow an individual serving as officer in charge of an engineering watch or designated duty engineer in a periodically manned towing vessel engine room meeting the operational (STCW III/1) rather than management (STCW III/2) level training requirements to serve as chief engineer.

Pursuant to the STCW Convention, persons with chief engineer functions are required to meet Regulation III/2 or III/3 as appropriate. STCW does not provide for any exemptions from these requirements. If a DDE is the only engineer on the boat, then he is the de-facto chief engineer and must meet Regulation III/2 or III/3 of the STCW Convention. If he or she is an engineer in addition to another who is acting as the chief engineer, then he or she would only be required to meet Regulation III/1 of the STCW Convention.

One commenter requests that the Coast Guard allow OCMI's to exempt crew members, or at least members of the steward's department, on passenger vessels operating on very short-duration cruises inside completely protected bays and harbors from the requirement to obtain MMCs.

The same commenter requests that the Coast Guard designate San Francisco Bay and San Diego Harbor as ''Rivers'' when applying the MMC requirement.

This comment is outside the scope of this rulemaking. The Coast Guard did not propose any new requirements in this area, and regulatory changes would require a separate rulemaking, including public notice and comment.

30. Electro-Technical Officer (ETO)

One commenter recommends that an additional requirement to qualify for an endorsement as an ETO aboard an unlimited tonnage vessel (§ 11.335) should be an endorsement as an OICEW (engineers' license). Service as an ETO requires a thorough knowledge and operational experience of all shipboard engineering systems.

The Coast Guard disagrees. Qualification as an OICEW is not a prerequisite for an ETO endorsement under the STCW Convention. In addition, the Convention provides for other personnel without a marine engineering credential to qualify for this endorsement.

One commenter states that there is no clear education, training or certification requirement for ETO. The commenter states that the minimum requirement for an applicant should be that he or she hold a GMDSS maintainer license and be certified as CompTia A+ Network+ and Security+. There should also be a

requirement that he or she is also certified in the repair and operation of Automatic Identification System, Long Range Identification and Tracking, Ship Security Alert System, Simplified Voyage Data Recorder Radar/Electronic Chart Display and Information System (ECDIS) and all bridge electronics. The commenter also recommends that there should be a recertification requirement.

The Coast Guard partially agrees. Section 11.335 has been amended to include training requirements appropriate for an ETO. The Coast Guard disagrees that the GMDSS maintainer should be a pre-requisite for the ETO since the STCW Convention does not expressly require it. This final rule allows companies to add this requirement as an additional responsibility of an ETO.

One commenter recommends that the Coast Guard establish the following minimum knowledge for § 11.335, ETO and Electro-technical rating: Each applicant for an endorsement/license as an electro-technical officer/rating shall furnish evidence that he or she meets the standard of the GMDSS maintainers as required by the Coast Guard and having met the requirements for electro-technical officer/rating as outlined in STCW A–III/6 or A–III/7.

The Coast Guard disagrees. The GMDSS maintainer and ETO are separate endorsements that are now established in STCW. This final rule allows companies to add this requirement as an additional responsibility of an ETO.

One commenter asks, with regard to § 11.335:

(1) In what engine room capacity does the potential ETO have to serve?

(2) If proficiencies are demonstrated onboard a vessel, who signs the competencies?

(3) Does any new OICEW or greater endorsement qualify as ETO without additional training, service, or assessment?

(4) Is ETO to be a subsidiary duty of any OICEW or higher?

(5) Is this the intended outcome or is the ETO to be a specialized Electronics/Automation/Controls engineer?

The STCW Convention is not a manning document; therefore, the Coast Guard will not require that any vessel carry a mariner holding this ETO endorsement. However, anyone serving in the capacity of ETO must hold the endorsement. If proficiencies are demonstrated onboard a vessel, a qualified assessor would sign the competencies. Any new OICEW must meet the requirements of § 11.335 in order to qualify as an ETO. Any mariner who meets the ETO requirements in § 11.335 will be issued an ETO endorsement without regard to whether they also hold or qualify for a corresponding national endorsement or any other STCW endorsement.

31. Examinations

One commenter notes that § 11.201(j)(2) contains a recommendation that an applicant take the exam ''as soon as possible,'' even though the preamble of the SNPRM (76 FR 45939) states that the Coast Guard agreed with a comment that the advice is unnecessary and would be dropped. The commenter recommends deleting the statement.

The Coast Guard agrees, and § 11.201(j)(2) has been amended to delete this language and indicate only that the approval for examination is good for 1 year.

One commenter recommends that, in § 12.205, the Coast Guard add a consequence to the last sentence of (c), such as ''or the application will be voided.''

The Coast Guard disagrees. The regulatory text is clear that the approval for examination is good for 1 year.

Two commenters note that § 11.201(j)(1)(iii) requires applicants (e.g., cadets) enrolled in a comprehensively approved program of training, service and assessment be authorized for the Coast Guard exam ''not more than 3 months prior to the completion of the program provided all applicable sea service requirements are completed prior to the examination.'' The commenters believe the 3-month period is more restrictive than the 6-month period previously allowed by the Coast Guard and recommended that the 6-month period be retained.

The Coast Guard agrees in part. The exams need to be completed soon before or after issuance of the credential to ensure that new officers have the knowledge prior to receipt of their officer endorsement. However, the Coast Guard recognizes that some training schools complete the training program ahead of time and the rest of the time is spent prepping for the exam. In order to facilitate the examination process while ensuring that the examinees have the knowledge for the exam, the Coast Guard has added an additional sentence to allow applicants to test earlier (a maximum of 6 months prior to the program end and graduation), provided they have completed all parts of the comprehensive program that pertain to maritime credentialing requirements.

One commenter states that, in Table 11.910–2, the examination topics should make reference and include specific knowledge, understanding and proficiencies required in the STCW tables in the applicable deck or engine license category.

The Coast Guard agrees in part. The exam subject tables in § 11.910 cover the general subjects and topics for each credential issued. Subjects, topics, and sub-topics related to STCW KUPs will be defined in guidance issued by the Coast Guard.

One commenter asks how the Coast Guard will approve simulators discussed in § 11.901(c).

The Coast Guard does not approve individual simulators. The Coast Guard approves courses that use simulators and, as part of the approval process, evaluates whether the simulator is suitable for the proposed training.

One commenter states that Tables 11.910–2, 11.930–2, and 12.950–2 do not include security training requirements.

Tables 11.910–2, 11.930–2, and 12.950–2 depict exam topics for endorsements requiring examinations. The security endorsements do not require examinations.

One commenter suggests that, if the tables of examination topics (§§ 11.910 and 11.950) were relocated to the ''Examination Guide,'' they could be more quickly updated as necessary. If strictly adhered to, these tables would provide essential direction to the testing mariner without compromising the integrity of the examination.

The Coast Guard agrees in part. The tables need to remain in the regulations until such time as the Coast Guard replaces them in regulation or issues guidance. The tables are necessary to provide the mariners with the topics for the exams. The Coast Guard will consider issuing a task to MERPAC to develop suitable information on exam topics.

The same commenter notes that, with regard to § 10.219(a), the current regulations used ''Upper Level'' to apply specifically to unlimited master any gross tons (AGT), near-coastal/oceans chief mate AGT near-coastal or oceans, second mate AGT near-coastal or oceans, third mate AGT near-coastal or oceans, chief, first, second, and third engineers without tonnage or route restrictions. But in the reference beneath this SNPRM table, ''Upper Level'' is defined as AGT or unlimited horsepower. Is the master inland AGT considered ''unlimited'' here for fee purposes? The new Deck Examination Guide relies on the old § 10.107 definitions, which included ''Upper Level'' as defined above and distinguishes two retesting procedures and two waiting periods for ''Upper and Lower Levels.''

The same commenter also pointed out that ''Upper Level'' candidates who failed three sections of their examinations were required to retest on all sections. ''Lower Level'' candidates did not have to meet this threshold. ''Upper Level'' candidates had to wait 3 months before beginning a new exam cycle after having failed a previous go-round; ''Lower Level'' candidates had to wait only 2 months. Will the procedures of the Deck Examination Guide remain in place or will the testing procedures and waits change to one system for all candidates as described in § 10.219?

The Coast Guard has changed the testing procedures and waiting periods for both deck and engine ''Upper and Lower'' level examinations to one system for all candidates as detailed in § 11.217(a) of this final rule. The examination guide will be changed accordingly. Additionally, the Coast Guard has added a definition for ''unlimited'' in § 10.107.

The same commenter noted that § 11.418(b) should be changed to provide for a limited examination instead of a full examination.

The Coast Guard agrees, and provisions in the existing regulations calling for a limited examination remain unchanged. We will also retain the existing regulation specifying a limited examination in §§ 11.418(b), 11.429(a)(3), 11.446(b), 11.456(a)(3), and 11.467(f)(3).

One commenter requests a near-term update to the tables of examination subjects in part 11 to reflect the 1995 and 2010 STCW amendments. Of great importance, the commenter believes, is the accuracy of the list of examination subjects, which enables maritime educators to determine more precisely what must be included in training and education programs to ensure their students can adequately prepare for the Coast Guard's exam.

The Coast Guard agrees and has amended the examination tables to include the general topics for the various examinations. The Coast Guard recognizes that additional information may be necessary to further develop these topics. The Coast Guard will consider issuing a task to MERPAC to develop suitable additional information on exam topics.

The same commenter asks, as an example, if a mariner has an STCW endorsement as chief mate on vessels of 1,600 GRT/3,000 GT or more, would the candidate, among other requirements, have to pass the chief mate unlimited near-coastal/ocean examination? And, having passed that examination, later on, would the candidate meet the service and tonnage requirements of the domestic chief mate any gross tons, and would he or she be required to take the unlimited master/chief examination again?

A mariner as described in this comment would not be required to retake examinations previously and successfully completed at a lower level.

32. Dynamic Positioning

One commenter expresses disappointment that the SNPRM does not include an endorsement for Dynamic Positioning Officers (DPO) under B–V/f of the STCW Code. Issuing this endorsement, even if not required by the COI on U.S. flag vessels, would highlight the unique training and experience of DPOs and set a standard among other STCW signatory nations. The commenter urges the Coast Guard to consider creating such an endorsement.

DP requirements are being addressed in a separate rulemaking. Additionally, § 15.520 has been amended to clarify the status of a MODU on DP.

33. Fast Rescue Boats

One commenter recommended that, since existing SOLAS and U.S. requirements mandate that the STCW competency of ''Operate Fast Rescue Boat Engine'' be accomplished at least once a month, the Coast Guard should add to the list of STCW competencies that it will accept as onboard training for the STCW competency ''Operate Fast Rescue Boat Engine.''

The Coast Guard agrees and has amended § 12.617 to include operating the fast rescue boat engine as a competency that can be completed onboard vessels.

34. Deck Officer Requirements

Four commenters note that on page 45918 of the preamble the Coast Guard cites § 11.401 as ''removing the requirement for deck officers to obtain a qualification as Able Seaman,'' which ''provides consistency with the STCW Convention.'' Although the requirement is absent from STCW endorsements, it is still found in §§ 11.407(a)(1), 11.414(a)(2), 11.416(a), and 11.421(a), which are the prerequisite credentials to obtain STCW authority. Moreover, the prerequisite to hold A/B is also found in Great Lakes and Inland §§ 11.437, 11.444, and 11.448. The commenters recommend that the Coast Guard remove the prerequisite of holding an A/B endorsement from these sections.

The Coast Guard agrees and has amended §§ 11.407(a)(1), 11.414(a)(2), 11.416(a), 11.421(a), 11.437(a)(1), 11.444(a)(1), and 11.448 to remove the requirement that applicants for these endorsements must hold an able seaman endorsement.

35. Ceremonial License

Six commenters acknowledge and thank the Coast Guard for recognizing the importance of a mariner's credential by creating the ''ceremonial license.'' The commenters added that this document demonstrates respect for the professionalism of the mariner and that a ceremonial license means a document that reflects a mariner's existing domestic officer endorsement and is suitable for framing, but is not valid for use as an MMC.

One commenter states that, although he appreciates the Coast Guard's willingness to make the ceremonial license available, it would be nice to recognize the issue number which is a source of pride to experienced mariners as well as a valuable tool for potential employers.

The Coast Guard appreciates the desirability of including an issue number on the ceremonial license. Because the MMC does not currently contain an issue number, though, the Coast Guard is unable to include such a number on the ceremonial license. The ceremonial license, however, would show the existing national officer or rating endorsement.

One commenter states that a ceremonial license would fill the gap left by the current passport format license. The commenter adds that passengers have come to expect to see the master's license publicly displayed onboard with all the other documents.

The Coast Guard agrees that passengers have come to expect to see the master's license publicly displayed onboard, and 46 U.S.C. 7110 requires the posting of the master's MMC. However, the ceremonial license ''is not valid for use as a Merchant Mariner Credential'' (see § 10.107), so its posting would not satisfy 46 U.S.C. 7110. The Coast Guard is unable to change this requirement without a revision of the statute.

36. Basic Training

Two commenters state that, in current §§ 11.301(b) and 11.301(c)(3), the onboard assessments for STCW elementary first aid are not equal for officers and ratings.

The Coast Guard did not propose onboard assessments for elementary first aid. The Coast Guard agrees that the requirements for officers and ratings should be the same and has revised those requirements accordingly. The requirements for BT, including elementary first aid, have been broken out into separate sections in §§ 11.302

and 12.602. The Coast Guard has changed the term ''basic safety training'' to ''basic training'' to be consistent with the STCW Convention.

One commenter expresses concern over the provision in § 11.201(h)(1) allowing mariners to demonstrate having maintained the standard of competence in basic and/or advanced firefighting and felt this posed an additional burden to inland mariners. The commenter recommends leaving in place acceptance of 1 year of sea service in the last 5 years as meeting the requirements for demonstrating competence in basic and advanced firefighting for domestic, inland credentials.

The Coast Guard disagrees. There are no firefighting maintenance or renewal requirements for national endorsements in § 11.201(h). The firefighting requirements in § 11.201(h) apply to the original issue of one of the specified officer endorsements. It does not apply to the renewal of an endorsement, or to a raise of grade from one of the enumerated endorsements. However, the Coast Guard has revised this section to add new provisions specifically stating that the firefighting requirement only applies to a raise of grade if the applicant had not previously met the requirement.

One commenter remarked that instructors in first aid and cardio-pulmonary resuscitation (CPR) should be required to demonstrate their familiarity with the most recent techniques through certification by the American Heart Association and/or the American Red Cross.

The Coast Guard agrees that instructors must be familiar with the most current techniques, but does not feel a change is needed. When courses are approved or renewed, the Coast Guard evaluates the qualifications of instructors to ensure they are qualified to teach the course. In addition, continued professional competence of instructors should be addressed in the school's QSS, and will be subject to periodic audit by the Coast Guard.

Two commenters note that § 11.301(b)(3) allows for certain areas of basic safety training (BST) to be satisfied with onboard experience. However, § 12.601 does not list continued proficiency being granted for the same areas through onboard experience and drills.

The Coast Guard agrees, and has relocated the requirements for STCW ratings to accomplish BT to § 12.602. The new section accepts sea service as demonstrating continued proficiency in elementary first aid and personal safety and social responsibilities.

The same commenters state that first aid and CPR are dynamic, ever-changing courses. They express concern about how maritime personnel will be properly trained, while onboard ship, in the most current/updated procedure and by whom.

The Coast Guard disagrees. Because STCW does not require proof of continued competence in elementary first aid or personal safety and social responsibilities, we will accept onboard training and experience, through evidence of 1 year of sea service within the last 5 years as meeting the requirements for these portions of BT.

Two commenters state that, with regard to BST and advanced firefighting renewal requirements, it may be difficult to obtain shoreside assessment/competency as there are very few facilities that have the equipment for these training purposes.

The Coast Guard disagrees. This final rule implements the 2010 amendments, which are very explicit about which areas of the standard of competence can be accomplished onboard and which ones can be accomplished ashore. Initial BT and advanced firefighting training is accomplished ashore through Coast Guard approved courses that cover all aspects of knowledge, understanding and proficiency for all the competence areas. Consequently, we believe that there are sufficient courses with the equipment and teaching resources necessary to cover this training.

One commenter recommends that BST standards and requirements be expanded by the Coast Guard to include all fishing vessels, fish tender vessels, and certain vessels operating inside the boundary line.

The Coast Guard disagrees. The STCW Convention applies to mariners serving on seagoing vessels, except pleasure craft, fishing vessels, and vessels entitled to sovereign immunity, such as warships. Article II of the Convention defines a seagoing ship as a ship other than one that ''navigates exclusively in inland waters or in waters within, or closely adjacent to, sheltered waters or areas where port regulations apply.'' The provisions in this final rule which would implement amendments to the STCW Convention only apply to commercial vessels operating seaward of the boundary line, as specified in 46 CFR part 7. The Coast Guard does not intend, and is not required by STCW, to apply international standards to our domestic mariners in this regard. Furthermore, 46 U.S.C. 8105 prohibits the application of the STCW Convention to fishing vessels.

Two commenters ask what evidence must be produced by the vessel master to verify compliance with §§ 11.1105(c)(1) and 11.1105(c)(2), and whether all MMCs will now have an STCW endorsement for BST.

The proof of compliance will be on the MMC in the form of an endorsement. The Coast Guard will place an endorsement for basic training, formerly known as BST, on the MMC.

One commenter challenges the concept, as outlined in §§ 11.301(b)(3) and 12.601(b)(3), that time served aboard a vessel can in and of itself constitute an ongoing demonstration of competency with regard to the emergency response skills required by Table A–VI/1 of the STCW Code.

The Coast Guard disagrees. The 2010 amendments to the STCW Convention, specifically Section A–VI/1, paragraph 4, are very explicit about which areas of the standard of competence can be accomplished through training and experience onboard and which ones must be accomplished ashore. The allowance in the Convention to demonstrate competence onboard a vessel does not exempt mariners with vessel service from the requirement to demonstrate that they have maintained the standards of competency through onboard training and drills.

The same commenter adds that, depending on their muster-list assignments, many mariners on vessels that are running realistic drills may never have the opportunity to perform certain emergency duties or demonstrate competence performing them, such as boarding a survival craft from the ship while wearing a lifejacket. If a mariner's sea time is served wholly aboard a vessel whose survival craft are inflatable liferafts, and the vessel does not launch and inflate a liferaft, how can it be said that individual has demonstrated the ability to board their survival craft from the ship?

The Coast Guard has addressed this issue in § 12.615. Seafarers holding an STCW endorsements for OICNW, OICEW, and able seafarer-deck are required to meet the requirements for proficiency in survival craft and rescue boats other than fast rescue boats, or proficiency in survival craft and rescue boats other than lifeboats and fast rescue boats. These requirements are consistent with the STCW 2010 amendments.

Five commenters state that the proposed regulations pertaining to requirements for STCW officer and STCW rating endorsements in §§ 11.301, 12.601, 12.615, and 12.617, respectively, are a change from current Coast Guard policy that recognizes at least 1 year of sea service in the last 5 years as meeting the BST, advanced firefighting, survival craft and fast rescue boat proficiency

standards. The commenter believes that this is an unnecessary and unwieldy change to the policy, and will significantly impact mariners who will be required to attend a shore-side school to complete these assessments when no other shore side assessment option is available. The STCW Convention does not allow all assessments to be conducted onboard. Therefore, the administration can only choose to accept onboard assessment for those permitted by the Convention.

The Coast Guard disagrees. We have not changed the requirement for mariners to provide evidence of continued professional competence in BT, advanced firefighting, survival craft, and fast rescue boat through 1 year of sea service within the last 5 years. Further, the 2010 amendments to the STCW Convention require that seafarers provide evidence of continued professional competence in those areas every 5 years. However, the new amendments also identify those areas from the standard of competence that must be assessed ashore. Implementation of shore-based training and assessment is required by the 2010 amendments and is not discretionary.

One commenter believes that § 11.301 is confusing as written because the commenter is unable to determine if mariners are required to retake the advanced firefighting and personal survival courses every 5 years, or if shipboard drills, training and sea service will be sufficient to establish continued professional competence. In the commenter's view, the proficiency in these two areas can be maintained on the vessel through specific drills, training and testing aboard vessels.

The Coast Guard agrees in part. The 2010 amendments to the STCW Convention require that seafarers provide evidence of continued professional competence in BT every 5 years. Continued professional competence may be achieved through a combination of ashore assessments, and onboard drills and training. Furthermore, the new amendments identify those areas from the standard of competence that can be maintained while sailing onboard vessels through drills and onboard training, and those areas that must be assessed ashore. If a mariner cannot complete competencies onboard, then he or she will have to re-take the original courses, or refresher courses, as applicable. The Coast Guard has added new sections on this subject in §§ 11.302(e), 11.303(e), and 12.602(e). As the same issue would also apply to proficiency in survival craft and fast rescue boats, we have also added new §§ 12.613(b)(4), 12.615(b)(4), and 12.617(b)(4).

Three commenters expressed concern that the Coast Guard will be unable to track sea service dates that have a bearing on whether a mariner will meet certain re-qualifying requirements. More specifically, the commenters point out that § 12.601(c) states that mariners may provide evidence of 1 year of sea service within the last 5 years, as meeting the requirement for BT. The commenters feel that implementation of the new regulations will put a huge burden on the NMC that will require rigorous evaluator training and strict oversight.

The Coast Guard disagrees. The Coast Guard will track BT and will keep course completion certificates and sea service records needed to support issuance of the endorsement. A BT endorsement will be issued where the expiration will coincide with the expiration date of the MMC. The Coast Guard intends to implement the BT continued professional competence requirements by: (1) requiring the course completion certificate as proof that the mariner demonstrated the areas that must be refreshed ashore; and (2) requiring 1 year of sea service in the last 5 years as proof that the seafarer demonstrated the topics that can be demonstrated onboard the vessel.

37. MMC return

Three commenters question the requirement in § 10.209(g) that mariners must return all previously issued MMCs when a new MMC is issued.

This is an existing requirement in § 10.227(d)(4). The MMC is used as a mariner identification document and a previously issued MMC will need to be returned if it is still valid when a new MMC is issued. Computer verification is not always used and the potential misuse for the credential warrants returning valid credentials to the Coast Guard. We agree, however, that there is no need to return an expired credential and the text has been changed to reflect that.

38. Renewal requirements

Two commenters recommend that the term ''Qualified Instructor,'' as defined in § 10.107, be included in §§ 10.227(e)(1)(iv) and 10.232(f) to ensure that maritime academy instructors will be considered as meeting the ''closely related service'' professional standard for renewal of an MMC.

The Coast Guard agrees, and has amended §§ 10.227(e)(1)(iv) and 10.232(g) to include qualified instructors.

One commenter states that the required 360 days of sea service in the last 5 years to renew/upgrade a license is excessive.

The Coast Guard disagrees. With regard to STCW endorsements, the service requirements are as specified in the STCW Convention and the Coast Guard does not have discretion to modify them.

39. Safety and Suitability

One commenter recommends that Coast Guard consider amending §§ 10.225 and 11.201 to permit maritime academies or other institutions that submit applications on behalf of a cadet or mariner, to inform the Coast Guard, when necessary, of an applicant's ''character and habits of life'', which may not be revealed by Coast Guard or Transportation Security Administration (TSA) background checks alone. Another commenter recommends that the Coast Guard add text allowing authorized vessel officers and company representatives to submit applications on behalf of applicants and be allowed to inform the Coast Guard, when necessary, of an applicant's ''character and habits of life'' that may not be revealed by Coast Guard or TSA background checks.

The Coast Guard disagrees. The focus on criminal convictions in §§ 10.225 and 11.201 is important because the mariner has been provided significant constitutional protections in criminal trials, the facts of a particular incident have been fully investigated, and matters of contention have been fully adjudicated. Input from the mariner's educational institution or mariner's employers, while potentially valuable, may be problematic. The Coast Guard does not have the resources or the authority to investigate and adjudicate contested matters that occur at an Academy. The benefit of this information is outweighed by the possibility of abuse and privacy concerns. Information on convictions is readily available and already fully documented.

Academies are free to report violations of law of which they are aware to the appropriate enforcement authorities at the time of the offense. Furthermore, matters that are significant enough to warrant denying a credential also probably involve violations of institutional codes of conduct, which are probably more properly dealt with by the institution's disciplinary system.

Additionally, marine employers are required to report violations of law of which they are aware to the appropriate enforcement authorities at the time of the offense. For certain vessels, the

official logbook would provide sufficient documentation and a legal method for reporting the items in 46 U.S.C. 11301. Matters significant enough to prevent issuance of a credential probably warrant referral to the Coast Guard for action under 46 CFR part 5.

40. Sea Service

Two commenters thanked the Coast Guard for reconsidering the issue of Great Lakes and inland sea service credit.

One commenter wants to confirm the change in § 11.402(a)(1) from the previous requirement that all service be on vessels of more than 200 GRT (§ 11.402(a)) to all service must be on vessels of 100 GRT or more.

Yes, the Coast Guard has made this change, accepting that many vessels of 100 GRT have characteristics that can be applied towards the unlimited tonnage vessel without endangering safety. Additionally, the requirement that half of the experience be gained on vessels of 1,600 GRT or more ensures that mariners will have sufficient experience for these credentials.

One commenter recommends that the Coast Guard amend § 10.232(f) to allow closely related service to be applied to the raise-of-grade to original management-level endorsements in the manner of the existing rule. In addition, this closely related service should be accepted as meeting the requirements for ''recency'' when applying for renewal or raise-of-grade.

The Coast Guard disagrees. The regulations already allow using this credit toward raise-of-grade. Such service would be inappropriate to grant an original management-level endorsement. Closely related service does not adequately prepare mariners to demonstrate the competencies required for a management level endorsement. Additionally, § 11.201(c) requires recent qualifying service on vessels.

One commenter recommends that the Coast Guard amend § 10.232(a)(1) by adding ''pilot association letter of attestation'' to the list of acceptable forms to document sea service. In addition, the commenter suggests § 10.232(a)(2) be amended by inserting '', as practicable,'' between the words ''must'' and ''contain.'' This latter change will allow for the reality that for full-time independent professional compulsory pilots, it is not necessary or practicable to include the precise number of vessels piloted and the specific vessel information for the hundreds of ships that may have been piloted during a particular reporting period.

The Coast Guard agrees in part. We recognize the burden placed on pilots and pilot associations to document pilotage sea service pursuant to § 10.232. The Coast Guard has amended § 10.232 to accept pilot association letters of attestation for renewals. However, the Coast Guard is unable to accept the same letter for original officer endorsements or raises in grade as there is not sufficient information with regard to the vessel tonnage, horsepower or propulsion mode. Without the specific vessel information, it is difficult to determine whether a pilot meets the specific requirements for credential transactions other than renewal.

Two commenters request that instructors who teach Coast Guard-approved courses be able to self-certify on those courses that they teach when those courses are required for license renewal.

The Coast Guard agrees and has added § 10.227(e)(1)(v) to recognize that qualified instructors who have taught a course, accepted or approved by the Coast Guard, at least twice within the past 5 years have met the standards needed to receive a course completion certificate for that course.

One commenter recommends that the Coast Guard delete § 11.407(b). The Great Lakes Maritime Academy intends to request a change to their approval letter to request their training programs be approved for oceans and/or near-coastal licenses based on sea service obtained on the Great Lakes.

The Coast Guard agrees in part. The Coast Guard has amended § 11.407(b) to provide for an endorsement to be issued depending on the program completed. The distinction between the near-coastal and oceans programs at the Great Lakes Maritime Academy is based on several differences in route, assessment, and examination. The change is consistent with the revisions in § 11.401 for oceans and near-coastal endorsements.

One commenter recommends that the Coast Guard amend § 10.232(g) by adding a paragraph (5) that says: ''On academy training ships where sea service is part of an approved training program, a day may be creditable as 1½ days of service.'' The commenter believes this is in keeping with the Coast Guard's existing practice of crediting academy training ship sea service as reported to IMO.

The Coast Guard agrees, and has revised this section accordingly. We have also made a similar revision to the definition of ''day'' in § 10.107.

Fourteen commenters recommend that § 11.211 have language that allows service on inspected Ro/Ro passenger vessels to be credited day-for-day for STCW endorsement, regardless of route. This is justified, the commenters believe, by the fact that § 11.1005 requires that masters, chief engineers, mates, and engineers are required to have STCW endorsements. If required to carry the endorsement, the commenters believe credit should be given to those officers and ratings who work on inspected Ro/Ro passenger vessels.

The Coast Guard agrees. Persons serving on vessels to which STCW applies will be credited day for day sea service credit, and § 10.232 has been amended accordingly.

One commenter notes that § 11.412(a) requires any seafarer who desires to upgrade to master 1,600 GRT to sail for 2 years aboard a towing vessel. The commenter believes this is an unreasonable requirement, since many seafarers will never sail aboard a towing vessel. For those who will, the requirement elsewhere to gain a TOAR will suffice to provide the necessary training and experience for towing. A similar requirement is contained in § 11.414 for those desiring to get a mate 1,600 GRT endorsement (1 year on towing vessels required).

The Coast Guard agrees that towing vessels are not the only way to earn sea service credit, and has amended §§ 11.412 and 11.414. Mariners may upgrade to master on vessels of less than 1,600 GRT with service in a licensed position on any number of vessels, including, but not limited to, towing vessels.

One commenter notes that § 11.412(a) requires 4 years total service to upgrade from mate 1,600 GRT to master 1,600 GRT. The commenter also notes that § 11.418(a)(1) requires 3 years total service to upgrade from mate 500 tons to master 500 tons. Over the past year, the commenter notes, there have been several successful appeals of this requirement, and several clarifying letters from the Coast that have effectively changed this requirement. The commenter believes this would seem to be the right time to correct this requirement in the CFR so as to prevent further confusion on this issue for the future.

The Coast Guard agrees, and has amended §§ 11.412 and 11.418 accordingly.

Two commenters recommend that the Coast Guard remove §§ 10.232(b)(1) and 10.232(b)(2), which specify the credit allowed for service on the Great Lakes and other inland navigable waters, as they have no useful purpose whatsoever and only serve to make professional advancement more difficult, thereby decreasing the availability of mariners for service on ocean-going ships.

The Coast Guard disagrees. Service on Great Lakes and inland waters was not previously permitted to count toward an STCW endorsement. Inclusion of these sections will actually increase the availability of mariners for service on ocean-going vessels.

One commenter states that, with regard to § 12.605(a)(2)(i), leaving the proposed section as ''six months of seagoing service'' is overburdening the mariner for a simple bridge lookout/helmsman position. The commenter believes a minimum number of watches should be specified.

The Coast Guard disagrees. This requirement is clearly specified in Regulation II/4.2.2.1 of the STCW Convention.

One commenter suggests that the term ''full mission simulator'' be deleted from the proposed regulations as there are other simulation software that can be used that do not meet the requirements of a ''full mission'' simulator.

The Coast Guard agrees that a full mission simulator is not required for all required training and assessment, but notes that we did not use this term in the proposed rule, or in this final rule. As used throughout this final rule, a simulator does not need be a full mission simulator, it need only be capable of supporting the training and assessment objectives for its proposed use.

Two commenters do not support the proposal in § 10.232, which states that, ''service on inland waters, other than Great Lakes, that are navigable waters of the United States, may be substituted for up to 50 percent of the total required service toward an oceans, near-coastal, or STCW endorsement.'' The commenters believe there are insufficient similarities in experience between inland and ocean service to justify crediting inland time toward full ocean service requirements. An exception, the commenter believes, should provide that inland service be credited for a limited STCW endorsement for ''service on vessels of any gross tons upon the sheltered waters of British Columbia as defined in the treaty between the United States and Canada signed 11 August 1934.''

The Coast Guard disagrees. The STCW defines seagoing service as ''service onboard a ship relevant to the issue or revalidation of a certificate or other qualification.'' The Coast Guard recognizes that some ''relevant'' experience can be gained on inland vessels creditable toward an STCW document. Accordingly, the Coast Guard is allowing day-for-day credit for inland service for up to 50 percent of the total required service. The credit of service is justified because many of the inland navigable waters of the United States are of such length and/or breadth that they have the characteristics of ocean or near-coastal waters.

One commenter requests that, with regard to § 11.211(b)(2), which sets out service requirements for national and STCW officer endorsements, consideration be given for service on inland vessels of 1,600 GRT/3,000 GT and 4,000 HP that have equivalent equipment to ocean vessels. The commenter recommends that credit be given on a day-by-day basis for engine (OICEW) and engine ratings endorsements.

Another commenter also requests the same change with regard to § 11.301(d)(3), which sets out requirements for STCW officer endorsements. The commenter suggests consideration be given for service on inland vessels of 1,600 GRT/3,000 GT and 4,000 HP that have equivalent equipment to ocean vessels. The commenter requests that credit be given on a day-by-day basis for engine (OICEW) and engine ratings endorsements.

The Coast Guard agrees in part. Section 11.301(d)(3), which has been re-numbered as § 11.301(b)(3), has been revised to provide day-for-day credit for service on inland waters. Although there are sufficient common skills and experience to justify allowing credit for service on inland waters, the differences between inland waters and ocean service prevent allowing use of this credit to meet 100 percent of the sea service requirement. Therefore, both § 11.211(b)(2) and § 11.301(b)(3) allow credit for inland service to be credited on a day-for-day basis for up to 50 percent of the total required service.

One commenter recommends that, with regard to § 11.329, the proposed reduction in the requirements to obtain endorsement as an OICEW be eliminated. Reducing the requirement to a mere 12 months of a combination of sea service and approved training program, the commenter believes, will not produce the quality of marine engineer that the U.S. is accustomed to.

The Coast Guard disagrees. The requirement is that the applicant must complete an approved training program. That program must include a combination of workshop skills and seagoing service of not less than 12 months. Furthermore, the training program must satisfy the standards of competence in Section A–III/1 of the STCW Code, which typically takes 3 years. The requirements mirror those for the officer endorsement of third assistant engineer which requires either 3 years of service, or completion of an approved program.

Three commenters state that historically, almost all sea service has been creditable on a day-for-day basis for upgrading a mariner's credentials. In recent years, the commenters believe licensing for chief engineers became subject to geographic restrictions, although no reason was provided for this. Even once this practice was in place, however, most sea time was still creditable on a day-for-day basis for 100 percent of the required time. The commenters believe the proposed language in § 10.232(b) would reduce the creditable sea service to 50 percent of what's actually earned and then limit it to a maximum of 50 percent of the required time. The commenters believe the existing sea-service applicability should remain as it currently stands.

The Coast Guard partially agrees. Section 10.232(b) allows mariners serving onboard vessels operating on inland waters or the Great Lakes to receive credit towards an oceans or STCW endorsement. It was not the Coast Guard's intent to reduce the creditable sea service for national credentials. In fact, this provision permits broader application of Great Lakes and Inland service towards both STCW and national ocean endorsements than is allowed under current regulations. To avoid confusion, the Coast Guard has also added a new paragraph § 10.232(c) that would ensure day-for-day credit for 100 percent of the required time when applying for Great Lakes or inland credentials. We have also re-designated existing paragraphs (c) through (h) as new paragraphs (d) through (i).

Eighteen commenters support proposed section § 11.211 ''Creditable service and equivalents for domestic and STCW officer endorsements'' as it will recognize time served on inland voyages for the issuance of STCW officer endorsements. However, the commenters are disappointed that inland service is to be substituted for only up to 50 percent of the total required service. They recommend that the proposed language be amended so that inland time is credited on a day-for-day basis, as is service on the Great Lakes.

The Coast Guard disagrees. Although there are sufficient common skills and experience involved in service on inland waters and oceans to justify allowing credit for service on inland waters, the differences between inland waters and ocean service prevent allowing use of this credit to meet 100 percent of the service requirement for

near-coastal, oceans, or STCW endorsements.

One commenter believes that the military/government service option is a step in the right direction to encourage an experienced but un-certificated mariner to bring their experience to the merchant fleet. However, without a specific statement granting STCW support-level service credit for watchstanding petty officers, operational-level service credit for service as an underway officer on duty or engineer on watch, and management-level service credit for service as commanding officer/executive officer/engine officer, the intended benefit will be minimized or non-existent. The commenters also believe it is likely §§ 11.301(f) and 11.305(a)(1) would block any applicant from getting an STCW endorsement at the management level directly following service in a management-level billet on a military/government vessel, despite table 11.305(d) creating this path. Perhaps additional elaboration in the final regulation on the intended interaction of §§ 11.301 and 11.305 for military/government mariners would be helpful to allow and clarify the full benefit intended.

The Coast Guard will provide additional guidance in the future to address how to implement assessments for STCW endorsements, including guidance for those in military or government service. Such guidance will address the methods by which a military/government seafarer may demonstrate satisfaction of service requirements, as well as the military/government assessments and training that may be accepted towards the credentials being sought.

One commenter believes that § 10.232(d) is a large step backward and will discourage mariners from beginning service or remaining on military or public vessels, and that the section is even more restrictive and inequitable than the current NMC Policy Letter 09–01 addressing these atypical vessels. The proposed regulations, the commenter believes, treat mariners on a MODU, on a liftboat, or a shoreside port captain significantly differently, while all are ''atypical'' service. The commenter recommends that § 10.232(d) specifically state that it does not apply to liftboats when operating in the elevated mode. If this proposal is not acceptable, the commenter thinks at least the 180-day service cap should be removed.

The Coast Guard agrees in part. This requirement is not a change from current requirements and sea service limits. The Coast Guard will conduct an evaluation of vessel operations and determine whether additional credit should be allowed; however, the Coast Guard still firmly believes that a mariner must have experience operating a vessel in order to obtain an original endorsement or a raise in grade.

One commenter is concerned with the provisions of § 10.232 regarding the crediting of sea service on vessels that may spend a significant amount of their time moored. Oil Spill Response Vessels (OSRVs) and their crews are in a constant state of readiness to respond. The commenter recommends that NMC Policy Letter 09–01 be reviewed with a view towards enhancement and then adopted in this final rule for sea time credit for personnel serving aboard OSRVs to recognize the important service of these mariners.

The Coast Guard agrees in part. This requirement is not a change from § 10.232 and current sea service limits. The Coast Guard will conduct an evaluation of vessel operations and determine whether additional credit should be allowed; however, the Coast Guard still firmly believes that a mariner must have experience operating a vessel in order to obtain an original endorsement or a raise in grade. Where the Coast Guard conducts an evaluation of vessel operations and determines a need for change, NMC Policy Letter 09–01, or its successor, will be revised.

Six commenters, with regard to § 10.232, believe that mariners on vessels of less than 100 GRT should be credited 1½ days if working a 12-hour watch schedule. The size of the vessel does not reduce the experience gained. Although they appreciate the Coast Guard acknowledging and crediting the experience gained for service on the Great Lakes, they still feel service on inland waters should count day-for-day as well. Navigating on inland waters requires just as much and in some instances much more navigating, piloting, training and drilling than service on oceans and the Great Lakes.

The Coast Guard disagrees. The definition of ''day'' provides that vessels allowed to work 12-hour days, as defined in the U.S. Code, will receive 1½ days sea service credit. However, changes to regulations on this subject are limited by statutory restrictions on the type and tonnage of vessels and the number of watches that may be run. Further, although there are sufficient common skills and experience to justify allowing credit for service on inland waters, the differences between inland waters and ocean service prevent allowing use of this credit to meet 100 percent of the service requirements for near-coastal, oceans, or STCW endorsements.

One commenter notes that under domestic regulations, the time required to obtain a near-coastal mate on vessels of less than 200 GRT/500 GT is and has always been 1 year. No change is proposed to this requirement. Under STCW, however, the same license for international voyages would require an endorsement as OICNW, which would require 3 years of total time, and a further 2 years to obtain the endorsement. These voyages have been made safely and successfully for many years. Quintupling the time required to obtain a small-tonnage near-coastal mate's license will effectively eliminate foreign voyages of any kind for our vessels, resulting in substantial restraint of trade.

The Coast Guard disagrees. The time required to obtain a small-tonnage near-coastal mate's license has not increased by 4 years. The minimum service required to qualify an applicant for an endorsement as mate of ocean self-propelled vessels of less than 200 GRT (§ 11.427) is 12 months of total service in the deck department of ocean or near-coastal self-propelled, sail, or auxiliary sail vessels. The minimum service required to qualify an applicant for an endorsement as mate of near-coastal self-propelled vessels of less than 500 GRT (§ 11.421) is 2 years of total service in the deck department of ocean or near-coastal self-propelled, sail, or auxiliary sail vessels. A mariner holding an oceans or near-coastal mate less than 200 GRT would need to complete the following additional service to obtain an appropriate STCW endorsement: (1) Twelve months under the authority of the endorsement, in order to obtain an OICNW endorsement for vessels less than 200 GRT/500 GT; and (2) six months under the authority of the endorsement, in order to obtain an OICNW endorsement for vessels less than 200 GRT/500 GT limited to near-coastal waters. These entry paths from mate of oceans or near-coastal to STCW endorsements as OICNW of vessels less than 200 GRT/500 GT are provided in table 1 of 11.319(d) for ocean waters and table 1 of 11.321(d) for near-coastal waters.

Five commenters object to the Coast Guard proposing to grant 3-for-1 sea service credit for liftboats when they are elevated, but the mariner on a supply boat gets 1-for-1 while the boat is dockside, at anchor or moored to a structure. The commenters note that mariners work under our COIs at all times, when elevated or not, and recommends day-for-day credit at all times on a liftboat.

The Coast Guard agrees in part. This requirement is not a change from current requirements in § 10.232 and sea service limits. The Coast Guard will conduct an evaluation of vessel operations and determine whether additional credit should be allowed or sea service limits should be reduced. However, the Coast Guard still firmly believes that a mariner must have experience operating a vessel in order to obtain an original endorsement or a raise in grade.

One commenter is concerned that, with the proposal to grant 3-for-1 sea service credit for liftboats when they are elevated, mariners will not be able to renew their 1,600 GRT oceans license.

The Coast Guard appreciates the commenter's concerns, and notes that § 10.227(e)(1) of this final rule provides alternatives for mariners without sufficient or recent sea service to renew their credentials.

One commenter notes that § 12.403 for A/B-unlimited requires that all sea service be obtained on ocean waters. The commenter recommends that this should be modified to allow ocean or near-coastal service to be acceptable.

The Coast Guard agrees, but a change is unnecessary. The definition for ''ocean'' in § 10.107 includes near-coastal waters, so this service would be acceptable towards an A/B endorsement.

One commenter suggested that the Coast Guard move the boundary line closer to the coast of portions of Alaska and Washington state to enable mariners to earn sea service creditable towards an STCW endorsement on voyages seaward of the new boundary line.

The Coast Guard cannot include such a provision in this final rule because moving boundary lines is not within the scope of this rulemaking, and changes in this area would require a separate rulemaking. Additionally, boundary lines affect the application of several statutes and regulations beyond those in this final rule, including those governing the inspection of seagoing barges and vessels. However, the Coast Guard has amended § 10.232 so that persons serving on vessels to which STCW applies will be credited day-for-day sea service credit.

41. STCW Officer Endorsements

One commenter notes that § 11.301 does not clearly state that a mariner cannot apply for any STCW officer endorsement without holding a ''domestic'' endorsement. The commenter recommends that the requirement be included, possibly as a blanket statement in this section or within each of the sections for STCW endorsements.

The Coast Guard agrees, and has amended § 11.201 to require that a national endorsement must be held that corresponds to the STCW endorsement being sought.

42. Tankerman

Six commenters state that mariners who hold an endorsement as tankerman-PIC (barge) should be allowed to qualify for an STCW endorsement for advanced oil and/or chemical tanker operations.

Additionally, four commenters noted that § 15.860 should be revised to allow mariners who hold domestic tankerman-PIC (barge) endorsements to serve on tank barges.

The Coast Guard agrees, and has revised § 15.860 accordingly. Personnel on non-tank vessels towing a barge will be required to meet the STCW requirements. For this reason, we provided a means in §§ 13.603, 13.605, and 13.607 for mariners serving on tank barges to qualify for an STCW endorsement with a limitation to non-self-propelled vessels.

One commenter recommends that the Coast Guard amend § 13.107(d) by removing ''including the loading of fuel oil'' because, as the section currently reads, it implies that a tankerman-engineer endorsement is needed for bunkering.

The Coast Guard agrees with the comment and has amended § 13.107(d) to ensure that it is not read to apply to the transfer of anything other than bulk liquid cargoes and that a tankerman endorsement is not needed for bunkering.

One commenter notes that the STCW treats advanced oil and chemical tanker operations as separate endorsements, and recommended that the Coast Guard do the same, while another commenter recommended that these should be combined into a single endorsement for both cargoes.

The Coast Guard agrees with the first commenter, and has separated qualification requirements for oil tankers and for chemical tankers into two sections, §§ 13.603 and 13.605, consistent with the STCW. Nevertheless, it is possible for a single ''cargo course'' to be acceptable for both endorsements, and if the vessel the mariner serves on is certified to carry both oil and chemical cargoes, the mariner will be permitted under this final rule to use the same service to qualify for both endorsements.

One commenter notes that it should be possible to renew tankerman endorsements via in-service experience.

The Coast Guard agrees. Section 13.120 allows for the renewal of national tankerman endorsements with in-service experience and cargo transfers, or completion of an approved course. In addition, for STCW tankerman endorsements, the STCW Code allows for the use of in-service experience to renew the credential.

Two commenters state that the service requirements for STCW endorsements for advanced oil and/or chemical tanker operations should be specifically stated.

The Coast Guard agrees and has added the specific service requirements for these endorsements in §§ 13.603 and 13.605.

One commenter states that there should be reduced requirements for mariners who hold STCW tanker operations endorsements for one cargo (oil, chemical, or liquefied gases) to ''crossover'' to an endorsement for another cargo.

The Coast Guard agrees in part. Therefore, we are retaining the existing regulations in part 13, subpart F for a ''crossover'' for a national tankerman endorsement. The STCW does not provide for such a crossover, and mariners must meet the full service requirements applicable to each cargo.

The same commenter recommends that a mariner should be able to qualify for an STCW endorsement for advanced oil and/or chemical tanker operations via a 28-day approved training program.

The Coast Guard agrees in part. Because the STCW Code allows for the use of a 30-day training program, we amended §§ 13.603 and 13.605 of this final rule to permit an approved training program as an alternative means to qualify for these endorsements. However, to be consistent with the requirements of STCW and the definition of ''month'' in § 10.107, the approved program must be at least 30 days. A similar provision applicable to liquefied gas tankers has been added to § 13.607.

Two commenters note that engineers serving on tank vessels who hold or qualify for a tankerman-engineer endorsement should be allowed to qualify for an STCW endorsement for advanced oil and/or chemical tanker operations without having to meet the requirements for tankerman-PIC.

The Coast Guard agrees. The STCW Convention requires that engineers onboard tank vessels to which STCW applies hold a tankerman endorsement. Therefore, part 13, subpart F of this final rule has provided a means for engineers to qualify for an STCW endorsement with a limitation to maintenance and repair of cargo equipment.

Two commenters note that mariners should qualify for tankerman endorsements with a combination of sea service, shipboard experience, and classroom training.

The Coast Guard agrees and has provided, in part 13, for qualification for endorsements with a combination of training, sea service, and practical experience aboard tank vessels.

43. Tonnage Limitations

Two commenters do not agree with the placement of a tonnage limitation in § 11.437(a)(3). If the Coast Guard closes this avenue, towing vessel operators can never reach the unlimited tonnage licenses without leaving the pilothouse and working as an A/B.

The Coast Guard disagrees. Mariners must have appropriate experience on vessels of appropriate tonnage for the credential being sought, including those for vessels of more than 1,600 GRT. The tonnage provisions in § 11.437 have existed for many years, and the Coast Guard has not proposed to change them. The regulations also provide a path for a mariner receiving a tonnage limitation to remove such a limitation.

One commenter asks the Coast Guard to address what tonnage limitations will be placed on officers with domestic credentials limited to vessels of not more than 500 GRT or 1,600 GRT when they use the paths enabling them to cross over to STCW endorsements. The crossover tables link the national endorsements with the STCW endorsements. Therefore, the commenter believes, any limitation for national should correspond to the appropriate STCW limitation.

The Coast Guard agrees, and limitations on the national endorsement correspond to the appropriate STCW limitation, as shown in the crossover tables.

Two commenters note that a domestic 1,600 GRT/3,000 GT master (§ 11.412) is not listed as qualifying for OICNW on vessels of less than 200 GRT/500 GT. Implicit in STCW is the recognition that you are qualified to serve both in your highest rated capacity and in lower-level positions. The commenters believe this must be reflected in the domestic rules and that requiring time above 200 GRT/500 GT for STCW advancement for master and chief mate more than 200 GRT/500 GT and less than 1,600 GRT/3,000 GT is incongruent with the recognition elsewhere in the SNPRM that tonnage should be relative to the size of license being sought. The commenters believe that this tonnage requirement should be reduced to more than 50 GRT.

The Coast Guard agrees in part. The Coast Guard has removed the specific tonnage requirement from §§ 11.311 and 11.313, and added the requirement for an applicant to hold an appropriate national officer endorsement. As a result, the service requirements for master 1,600 GRT should be adequate to obtain the STCW endorsement as master less than 3,000 GT. The Coast Guard did not include the master endorsement in table 1 of 11.321(d) because that endorsement is associated with the corresponding STCW endorsement for master on vessels of 500 GT or more and less than 3,000 GT instead of the STCW endorsement for OICNW on vessels of less than 500 GT.

The same commenters believe that tonnage requirements for respective licenses should also be brought into parity such that someone who has acquired all of their time on a vessel of more than 100 GRT for a domestic unlimited ocean license according to proposed § 11.402(a)(1) is not rejected because they do not have time on vessels of more than 200 GRT/500 GT required for the STCW endorsement under § 11.305.

The Coast Guard agrees in part. Service acquired to obtain the national endorsement will be credited towards the STCW endorsement. If specific service is required, it will be specified in the associated transition tables found in part 11, subpart C. Should a mariner fail to have sufficient tonnage and receive a tonnage limitation on their domestic endorsement, that same limitation will be placed on the STCW endorsement.

One commenter notes that, in the past, Coast Guard licenses have been designated as ''not more than.'' For example, a mariner currently holds a master on steam or motor vessels of not more than 1,600 GRT. However, the STCW and domestic endorsements will now describe the tonnages on the approximate credentials as master on vessels of 1,600 GRT/3,000 GT or more (STCW) and master of ocean or near-coastal vessels of less than 1,600 GRT/3,000 GT (domestic). Where does the current master 1,600 oceans near-coastal fit? Given the floating one ton, is this mariner considered to hold both the STCW for vessels 1,600 GRT or more and the domestic for vessels 1,600 GRT or more, one but not the other, or neither?

The Coast Guard changed domestic endorsements from ''not more than'' to ''less than'' to better align the national endorsements with the STCW endorsements. This will reduce the likelihood that a mariner could hold a national endorsement and an STCW endorsement and still not be able to operate the vessel due to the 'floating ton'. In addition, we have included manning requirements to show both national and STCW provisions required to sail onboard.

The same commenter notes that § 11.414(a)(2) requires 3 years of service in the deck department on ocean or near-coastal voyages on vessels greater than 200 GRT/500 GT. This was modified from the original NPRM, which changed the requirement to service on vessels greater than 100 GRT. The commenter recommends that the Coast Guard revert back to what was in the NPRM and this service should be required only on vessels greater than 100 GRT.

The Coast Guard agrees, and has amended § 11.414 (a)(2) to use the current 100 GRT tonnage limit, which is consistent with § 11.402.

44. Fees

Twenty-seven mariners object to the proposed requirement in § 10.219(d) that fee payments for MMCs and associated endorsements must be made by credit card or by electronic payment. They claim that it would be a hardship on mariners as they do not always have these means of payment available to them.

The Coast Guard agrees and is withdrawing this proposed revision. The verbiage in the current section will be retained allowing for multiple forms of payment.

45. Post-Dating MMCs

Eighteen commenters support the proposal in § 10.205 to allow the post-dating of MMCs. The commenters add that this is a much-needed step in ensuring that a mariner receives the full 5 years on an MMC for which the mariner has paid. Fourteen of these commenters requested that the Coast Guard go further and adjust the proposed language to ensure that the post-dating is automatically completed by the Coast Guard for every renewal.

The Coast Guard agrees with post-dating credential renewals with the option for a mariner to choose immediate issuance. The credentials will be post-dated to align with the expiration of the existing credential. The Coast Guard has amended § 10.205(a) to require automatic post-dating with the option for immediate issuance.

46. Wages

Two commenters object to the proposed language in § 14.309(a)(4), which would allow the master or individual responsible for paying the

mariner his wages at the conclusion of a voyage to forego the payment of wages due and instead issue a statement of when the wages due will be paid or deposited. The commenters continue by stating that the requirement for payment of wages due at the end of a voyage upon which shipping articles are required has been in place for many years. It recognizes the fact that the voyage may have been of significant duration and ensures that the interests of the mariner are represented in the area of timely compensation for work already provided.

The Coast Guard agrees, and the current § 14.309(a)(4) and (b) remain unchanged.

47. Advanced Firefighting

One commenter objects to the Coast Guard's requirement in proposed § 11.201(c)(4) that a mariner must show evidence of maintaining the standard of competence in advanced firefighting by completing certain assessments ashore.

The Coast Guard disagrees that all knowledge, understanding, and proficiency under the competence ''control firefighting operations aboard ships'' should be done onboard vessels. The 2010 amendments are very explicit on the areas of the standard of competence that can be accomplished onboard and those that can be accomplished ashore.

One commenter asks the Coast Guard to clarify the nature of the ''evidence'' mariners are required to provide in proposed § 11.201(h)(1).

Mariners will be required to provide a sea service letter and course completion certificate, as appropriate. This section remains unchanged from that proposed in the SNPRM.

Two commenters state that, with reference to §§ 11.301(c), 12.613, and 12.617, there are no provisions containing specific statements as to how to re-qualify if unable to meet the continued professional competence in these areas.

The Coast Guard agrees, and amended §§ 11.301(c), 12.613, and 12.617 by adding a new paragraph clearly providing that a mariner who cannot demonstrate the required continued competency by sea service will need to do so in training ashore. This training may be the entire course, or an approved refresher course. If needed, the Coast Guard may issue additional guidance in the form of a NVIC on how this requirement may be met.

48. NMC Web Site

Two commenters believe that the absence of information on the NMC Web site detailing the endorsement requirements satisfied by approved courses violates proposed § 10.406. The commenters recommend the approvals information be returned to the Web site.

The Coast Guard disagrees. Section 10.406 requires the NMC to maintain on its Web site a list of training organizations and the approved courses they offer, and the NMC does so. Due to the sheer volume of approved courses and limited manpower assets at the NMC, the Coast Guard has not provided the information requested by the commenters on the NMC Web site since 2009. The public can use the search function on the NMC Web site for provider and course information. For more information, the public can communicate with the individual course providers. The NMC Web site contains links to provider's Web sites, which normally provide additional up-to-date information about specific approved training.

49. Offshore Supply Vessels

Three commenters note that qualifications for the new OSV endorsements reflect the applicable requirements of the STCW Convention and Code. The commenters are of the view that certain deck and engineering equipment needed for crew to demonstrate competencies required by the STCW assessment tables are not always installed on OSVs. Similarly, it is impossible to get service as an OICEW to qualify as chief engineer when an OSV is not required to carry, and normally has no position for, an OICEW. Thus, it is impossible to comply with the deep-draft ship-oriented assessments and service requirements of the STCW without reasonable and realistic accommodations for OSVs and other small work boats, such as towing vessels and geophysical vessels, among others. Similarly, it is unclear why an OSV-limited endorsement that has the identical service and STCW assessment and training requirements as a deep-draft vessel crewmember endorsement was proposed. The general requirements for OSV endorsements, and particularly domestically limited OSV endorsements, should ''take account of the special characteristics, methods of operation, and nature of service of OSVs'' versus mandating the deep-draft STCW standards currently proposed.

Additionally, two commenters note that the domestic license and STCW requirements are not separate, despite the preamble statements in the SNPRM to the contrary (see §§ 11.493, 11.495, 11.497, 11.553, and 11.555). The commenters recommend that the Coast Guard retain part of the existing regulatory language, which says, ''The Coast Guard may exempt an applicant from meeting any requirement under STCW that the Coast Guard determines to be inappropriate or unnecessary for service on an OSV, or that the applicant meets under the equivalency provisions of Article IX of STCW.'' The same commenters recommend placing such regulatory language in an appropriate location, such as § 11.201, and amending §§ 11.493, 11.495, 11.497, 11.553 and 11.555.

The Coast Guard has changed the OSV endorsements for both deck and engineer officers by separating the national and STCW endorsements to ensure consistency with other requirements. The exemption from meeting the STCW requirements included in existing §§ 11.493, 11.495, 11.497, 11.553, and 11.555 remains unchanged. The Coast Guard made additional changes to the OSV endorsements for both deck and engineer officers to include: (1) Sea service requirements comparable to other credentials; (2) the option to complete an approved course for a mate or assistant engineer to meet the sea service requirements; and (3) the progression from vessels of less than 1,600 GRT/3,000 GT to more than 1,600 GRT/3,000 GT for chief mate and master. These changes also comply with § 617 of the Coast Guard Authorization Act of 2010, which removed the 500 GRT tonnage limits on OSVs. These amendments will ensure that mariners with existing licenses or MMCs can progress to higher credentials.

Because of the separation of national and STCW requirements, the Coast Guard amended the crossover requirements from OSV mate (§ 11.497) to OICNW (§ 11.309(e)) to give credit for the approved training program. The Coast Guard envisions that the approved training program in §§ 11.497(a)(2) and 11.555(a)(2) will meet the requirements for the STCW approved training program in §§ 11.309(a)(1) and 11.329(a)(1).

The same commenters recommend that the 200 GRT/500 GT criteria for an RFPNW or able seafarer, inter-alia, should be changed to read ''over 200 GRT/500 GT on an international voyage or over 500 GRT on a domestic voyage. . . .''

The Coast Guard disagrees. The Coast Guard amended §§ 15.403(c) and 15.404(a) by replacing ''200 GRT/500 GT or more'' with ''500 GT or more'' consistent with the STCW requirements for RFPNW and able seafarer-deck. The STCW is a binding agreement with foreign countries, and these tonnage cutoffs are required by STCW.

50. Proficiency in Survival Craft

One commenter recommends that, in § 12.613(b)(2), the Coast Guard add to the list of STCW competencies that it will accept as onboard training the STCW competency ''Operate Survival Craft Engine''.

The Coast Guard agrees and has amended both §§ 12.615 and 12.617 to include starting the lifeboat engine as part of the assessments done onboard the vessel.

51. Bridge Resource Management (BRM)

One commenter supports the BRM, leadership and teamworking skills, and leadership and managerial skills proposal as written with a comment. BRM is the basis for mitigating marine casualties, breaking the error chain and conditioning the human element, and the commenter believes it is paramount that more emphasis is put towards building that team and getting participants out of the classrooms. The commenter believes a ''team'' must be built using skills gained through situational awareness and emergency situations while underway or at a training facility utilizing a full mission bridge simulator.

The Coast Guard agrees. The requirements for BRM, engineroom resource management (ERM), leadership and teamworking skills, and leadership and managerial skills were included in the STCW Convention in response to a request from the United States maritime industry through MERPAC task statement 64. The required training and demonstrations of competence taken together should provide the following three skills commensurate with an officer's responsibilities: teamwork, leadership, and management. The Coast Guard would prefer that emergency situations for training purposes not be staged while underway, and that training for such emergencies be accomplished through simulator or other training while not underway.

One commenter suggests that the benefits of BRM training should not be limited to international operators, and urges the Coast Guard to adopt similar rules for domestic operators as well.

The Coast Guard does not possess sufficient casualty or other data to support expansion of STCW requirements for BRM/ERM, leadership and teamworking skills, and leadership and managerial skills to inland vessels in this rulemaking. The STCW Convention applies to mariners serving on seagoing vessels, except pleasure craft, fishing vessels, and vessels entitled to sovereign immunity such as warships. Article II of the STCW Convention defines a seagoing ship as a ship other than one that ''navigates exclusively in inland waters or in waters within, or closely adjacent to, sheltered waters or areas where port regulations apply.'' The provisions in this final rule, which would implement amendments to the STCW Convention, only apply to commercial vessels operating seaward of the boundary line, as specified in 46 CFR part 7. The Coast Guard does not intend to apply strict international standards to our domestic mariners in this regard.

One commenter notes that his or her company has worked extensively to develop the skill sets of all of its mariners and particularly senior officers with regard to their leadership and management skills. The commenter believes these are vital skills that are not easy to learn and have a serious impact on the safe and efficient operation of any vessel. The commenter suggests that mariners who have participated in company training be allowed to present it for renewal/upgrade, even if the class was taken prior to the implementation of this rulemaking. Companies that can successfully demonstrate they have trained their senior officers on similar principles, the commenter states, should be allowed to renew/upgrade in the same fashion.

The Coast Guard agrees, but a regulatory change is not required. The Coast Guard will evaluate training given prior to the effective date of this final rule, and will grant credit for training that meets the requirements of this final rule.

52. Engineroom Resource Management

One commenter objects to the requirement in §§ 11.305, 11.307, and 11.325(b)(1) that applicants provide evidence of leadership and managerial skills. The commenter states that evidence of this is provided by completion of an approved bridge and engineroom resource management course. The commenter notes that most companies already evaluate their officers' leadership and management skills during a promotion and the assignment process. The commenter recommends that this requirement be accomplished by alternate means or be removed.

The Coast Guard agrees in part. In this final rule, we implement the proposals in the SNPRM that allow mariners to demonstrate meeting the applicable standards for leadership and managerial skills by alternative methods that include, but are not limited to, completing approved training.

53. Incorporation by Reference (IBR)

Five commenters request that the Coast Guard either publish the pertinent text of the STCW Code and Convention in the CFR or provide the Code and Convention to the public online rather than incorporate them by reference.

The Coast Guard agrees in part. As background, IBR allows Federal agencies to comply with the requirement to publish rules in the **Federal Register** and the CFR by referring to materials already published elsewhere. The legal effect of IBR is that the material is treated as if it were published in the **Federal Register** and CFR. This material, like any other properly issued rule, has the force and effect of law. Congress authorized IBR in the Freedom of Information Act to reduce the volume of material published in the **Federal Register** and CFR. (5 U.S.C. 552(a) and 1 CFR part 51).

While the Coast Guard endeavors to promulgate references needed to implement these regulations, reproducing all of the relevant STCW text in this final rule would be impracticable because doing so would significantly increase the volume of the regulation. Instead, the Coast Guard has incorporated the Convention and Code by reference, and intends to publish NVICs with the relevant tables of competency from part A of the Code. These NVICs will be made available to the public online, which will enable the public to view relevant parts of the STCW Convention and Code as needed.

54. Identification Cards

One commenter notes that a mariner who holds a resident alien card issued by the U.S. Citizenship and Immigration Services or a work authorization card issued by DHS, may use that card as valid identification to obtain a TWIC. The commenter, therefore, requests that the DHS work authorization card be accepted as valid proof of identification to obtain an MMC.

The Coast Guard disagrees. Application for an MMC with an officer endorsement requires that an applicant be a U.S. citizen (46 U.S.C. 7102). Applications for all other MMCs require that an applicant be either a United States citizen or a resident alien, lawfully admitted into the United States for permanent residency (46 CFR 10.221(a)(2)). Because a DHS work authorization card may be obtained by someone who is neither a U.S. citizen nor a resident alien, lawfully admitted into the United States for permanent residency, it is an unacceptable form of identification for application for an

MMC. Changing this requirement is outside the scope of this rulemaking.

55. Economic Comments

One commenter states that, with regard to Regulatory Analyses, Section B. Small Entities of the SNPRM preamble, the Coast Guard's discussion of the proposed rule includes audit and quality systems requirements for training providers. The commenter states the cost analysis that has been conducted by the Coast Guard is only for the costs to training providers to implement and maintain a QSS. What the analysis of this SNPRM does not include, the commenter notes, is the economic impact on many training providers via lost revenue if the SNPRM becomes regulation, but also from the impact of CG–CVC Policy Letter 11–07 of July 1, 2011. Both the SNPRM and CG–CVC Policy Letter 11–07, the commenter believes, rescind the required approved training courses for an OICNW at the operational level on vessels of more than 500 GT (ITC). The commenter believes the SNPRM also rescinds the chief mate and master (management level) approved training presently required by NMC Policy Letter 04–02. Numerous training providers have spent years engaged in curriculum and training course development to be able to provide Coast Guard approved STCW deck officer training courses at the operational and management levels. It should be obvious, the commenter believes, that training providers make substantial financial investment to be in the position to provide the myriad of required training courses to our mariners.

This final rule does not rescind the STCW deck officer training courses at the operational and management levels. In fact, it will require mariners to complete the following STCW courses: BST refresher, advanced firefighting refresher, PSC refresher, fast rescue boat refresher, medical care provider, ERM, ECDIS, leadership and managerial skills, and IMO SMCP. In addition, the number of mariners who will need to complete some of these courses will significantly increase and should generate additional revenue to training facilities. The Coast Guard does not believe there would be revenue loss because this final rule requires STCW deck officer training courses at the operational and management levels that the commenter mentions.

The Coast Guard has included some additional training in this final rule to address some of the concerns raised during the public comment period. The Coast Guard reviewed the tables of competences and identified the training topics that must be accomplished as part of structured training. These topics were part of the NPRM published in 2010. Parts 11 and 12 of this final rule are amended to include a combination of training and service requirements (through assessments) to ensure that seafarers achieve the necessary level of competence.

One commenter believes the costs to maintain a QSS as described in § 10.410, to maintain training programs and courses in accordance with § 10.402, and to maintain records for 5 years in accordance with § 10.403 are significantly underestimated. Internal costs, the commenter notes, are not necessarily cheaper and the assumption that these costs will not be passed on is inaccurate. The analysis also does not take into account the annual costs to maintain these new requirements.

Additionally, two other commenters believe that the Coast Guard has underestimated the burden of implementing a QSS, at least with regard to providers of maritime security training, many of which are small businesses that do not offer other types of maritime training.

The commenters do not provide any specific data or estimates of their own regarding the QSS costs other than mentioning the QSS costs incurred by another training provider who already implemented QSS as part of ISO certification. The Coast Guard conducted a review of available data that support the estimated costs of QSS requirements, and disagrees with the commenters. As addressed in the SNPRM, the Coast Guard included a range of cost estimates to develop a QSS program between $4,320 and $12,240. This range of options includes the use of a professional outside consultant, a non-governmental entity QSS organization, or internal human resources to develop a QSS. Also, training providers have all the elements and procedures in place that are necessary to develop and write a QSS manual on their own without hiring a third-party company, which would potentially minimize their QSS costs.

Six commenters state that it is crucial that Coast Guard take into account the cost and cumulative impact of this regulation on small business. The commenters note that small companies are doing everything they can to survive in this volatile economy, and are greatly concerned about the economic burdens imposed by the cumulative impact of numerous Federal laws and regulations including the SNPRM. In recent years, the commenters note, passenger vessel operators have had to absorb costs associated with Coast Guard maritime security mandates, higher assumptions about average passenger weight for purposes of calculating vessel stability, new rules for serving customers with disabilities and EPA permit requirements for discharges incidental to the normal operation of a vessel.

Another commenter states that federal regulators must also take into account that many passenger vessel association operators have seasonal businesses, and that they frequently compete with land-based venues. Since the potential customer can often find similar services or attractions ashore, more burdensome rules placed on the vessel operator (such as hiring mariners with burdensome credentialing requirements) create a financial disadvantage, since the land-based competitor does not have to shoulder a similar regulatory burden.

The Coast Guard acknowledges that Executive Order 13563 of January 2011 (''Improving Regulation and Regulatory Review'') asks Federal regulatory agencies to ''tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations''. Therefore, the Coast Guard sought to minimize the cumulative impacts on industry by allowing alternative methods of proving competence that would be potentially less costly to the mariners and their employers.

Please see Appendix D (Cumulative Programmatic Costs) of the Regulatory Analysis of this final rule for a detailed discussion of the cumulative impacts of STCW rulemakings since the 1997 interim rule. We estimate the cumulative annualized costs of STCW regulations to be about $37.2 million. This includes $32.6 million from this final rule and $4.6 million from the 1997 interim rule (estimates discounted at 7 percent). As previously discussed, these estimates may overestimate costs due to unquantified cost savings from alternative methods of proving competence that the final rule allows.

56. Grandfathering

One commenter notes that the SNPRM preamble on page 45912 states that the cutoff for grandfathering for domestic credentials is January 1, 2012, which is significantly different from the grandfathering provisions for STCW endorsements and, in the commenter's view, highlights the vague and sometimes strained relationship between the two forms of authority. If a domestic endorsement is needed to get the STCW authority attached to it, the commenter states, the grandfathering provisions for both should be the same.

The Coast Guard agrees. Domestic requirements provided in this final rule will be transitioned during a 5-year-period after the effective date of this final rule to coincide with the renewal of existing national endorsements. Individuals seeking an original credential or raise of grade to an existing credential during this period, and who begin training or service before the effective date of this final rule, need only meet the requirements in place before that date. Those individuals who start training or service on or after the effective date of this final rule, will be required to meet all provisions described in this final rule.

Another commenter recommends combining the two different sections governing grandfathering (one for domestic and one for STCW) into one section.

The Coast Guard disagrees. The domestic grandfathering process and STCW grandfathering processes will need to be handled differently to avoid confusion and ensure public awareness, because of the mandatory compliance dates within the STCW Convention and Code. The grandfathering provisions are specific to the individual endorsement requirements. To avoid confusion, the Coast Guard included grandfathering provisions within the STCW requirements.

One commenter states that § 13.603(b), concerning grandfathering, is not clear and requests clarification.

The Coast Guard agrees and has amended the applicable sections in part 13 (§§ 13.603(e) and 13.605(e)) to make it clear that seafarers applying for an original endorsement after March 24, 2014 must meet the new requirements, which will ensure that all seafarers meet the STCW compliance date of January 1, 2017.

One commenter asks if the grandfathering of approved courses will include applicable maritime security courses approved by Coast Guard QSS organizations.

Any security course or program that is approved or accepted by the Coast Guard on the effective date of this final rule will be grandfathered for the term of its current approval or no later than January 1, 2017, whichever is sooner. After that date, all security courses or programs must meet the requirements of STCW. The course or program must include any additional, relevant competencies or KUPs that have been added by the 2010 amendments to the STCW Convention and Code before the student completes that course or program.

One commenter recommends that mariners holding a DDE-unlimited license should be given an STCW endorsement as OICEW meeting the requirements of STCW III/1.

The Coast Guard disagrees with the suggested language that mariners holding certain national endorsements be ''given'' an STCW endorsement. Most national credential holders qualify in some way for an STCW endorsement, but there are sea service requirements, training, and/or assessments attached. These mariners are able to apply for a particular STCW endorsement outlined in the relevant crossover table in the STCW sections of this final rule (part 11, subpart C, and part 12, subpart F).

The same commenter recommends that mariners holding a DDE-unlimited license should qualify as a chief engineer (limited) to vessels less than 1,200 GT (III/2). In order to obtain an unlimited STCW endorsement as chief engineer, they would require evidence of meeting the additional sea service and training requirements.

The Coast Guard agrees in part. Because there is no basis for the 500 GRT/1,200 GT equivalency, it has not been added in this final rule. However, upon satisfying the requirements for chief engineer set forth in § 11.325 and Table 1 of 11.325(d), a DDE-unlimited will qualify for an STCW chief engineer endorsement limited to 500 GRT.

Two commenters state that all grandfathering provisions should be in effect for any original application submitted prior to January 1, 2013, and for any renewal prior to January 1, 2017.

The Coast Guard disagrees. Unless specified otherwise, STCW provisions in this final rule will be phased in beginning March 24, 2014 with full compliance required by January 1, 2017. This is consistent with the STCW Convention transitional provisions.

Two commenters state that mariners who hold an endorsement as tankerman-PIC (barge) should be ''grandfathered'' in § 13.603 for an STCW endorsement for advanced oil and/or chemical tanker operations.

The Coast Guard agrees in part. In this final rule, we allow for grandfathering to an STCW endorsement, but do not agree to extend grandfathering to self-propelled vessels because the requirements for tankerman-PIC are different than the requirements for tankerman-PIC (barge).

Three commenters state that there must be provisions to accommodate mariners who are using the current system to advance in their careers. The SNPRM preamble implies a domestic credential phase-in period but the actual regulations are silent on this point and must clarify the phase-in scheme. Additionally the phase-in should allow a mariner the option to apply under either the existing system requirements or the new requirements.

The Coast Guard agrees that the grandfathering provisions are an important part of this final rule. The grandfathering provisions in § 11.301(g)(3) permit mariners who commenced service or training before March 24, 2014, to use the existing requirements until January 1, 2017. The changes to the national credentials will be phased in over a 5-year period starting with the effective date of this final rule, consistent with the Coast Guard's normal approach to implementing credentialing rules.

Four commenters note that §§ 11.301(f)(2) and (3) require applicants for management-level STCW endorsements who hold domestic management-level endorsements to provide evidence of operational-level training and assessments. In the past, the Coast Guard considered that holding a qualifying endorsement was evidence that the individual had experience and competence equivalent or superior to that required at the operational level. Also, this would negate the grandfather provisions in both the 1995 and 2010 STCW amendments, as those mariners cannot show this evidence. Moreover, the crossover tables (Table 1 to 11.305(e), Table 1 to 11.307(e), etc.) require only management-level assessments and training. The commenters recommend continuing the previous grandfathering policy and following the crossover tables as written. To avoid confusion, the reference to operational-level training and assessment should be dropped or specifically excluded for applicants using the crossover tables.

The Coast Guard agrees and has added a new paragraph § 11.301(g)(4) so that persons who hold or have held an STCW operational-level endorsement issued prior to the effective date of this final rule, and are seeking to upgrade to an STCW management-level endorsement, will not be required to do the assessments for STCW operational-level endorsements as required in paragraph (f)(2) of that section.

Three commenters note that § 11.301(i)(3) states that mariners with service prior to July 1, 2013, ''will be required to comply with the requirements of this part existing before the publication of these regulations . . . .'' Although it is laudable to allow mariners to follow the rules on which they based decisions relating to their careers, these commenters say, it would also be unfair to deny them the improved provisions the Coast Guard has worked so hard to implement. They

recommend changing ''will be required'' to ''may qualify under the requirements existing either before or after [EFFECTIVE DATE OF THIS RULE] at the applicants choice . . . .''

The Coast Guard agrees and has amended § 11.301(g)(3) to provide the mariner with the opportunity to use the new requirements when applying for credentials. Some of the new requirements provide additional flexibilities that were not available to mariners before. Taking this into account, the Coast Guard is also adding a new paragraph § 11.301(g)(4) in order to extend the grandfathering provisions to persons with an operational-level endorsement upgrading to a management-level endorsement, who should not be required to do assessments for STCW operational-level endorsements, as they would be deemed to have completed them.

One commenter notes that, in Table 11.465(a), there is new language which ''requires completion of a TOAR within 5 years.'' The commenter is concerned about current mariners who have been sailing on an inspected license and a TOAR that was completed more than 5 years ago, because they're not required to put that on their license endorsement at this time. Therefore, the commenter recommends that it be made clear in policy or CFR language that mariners be allowed to obtain the mate towing endorsement at their next renewal over the next 5 years regardless of when they completed their TOAR.

The Coast Guard agrees. The proposed 5-year time limit has been removed from this final rule. It is the Coast Guard's intent to allow mariners to attain these competencies as they are able and as they have time in their current position. Furthermore, the Coast Guard, when initially implementing the rules for licensing and manning for officers of towing vessels, did not require that mariners add these endorsements. For this reason, we will allow the addition of these towing endorsements for those who currently hold master or mate of inspected self-propelled vessels greater than 200 GRT with evidence that the mariner has completed the TOAR, regardless of the length of time since they achieved it.

One commenter notes that § 12.603(c)(2) requires a higher level of Proficiency in Survival Craft for those being grandfathered than is required for an original able seafarer-deck endorsement. Section 12.603(a)(5) allows for providing evidence of completing either a PSC or PSC-limited training, while § 12.603(c)(2) only allows grandfathering for those with a full PSC. The commenter recommends that § 12.603(c)(2) be modified to contain the same language as § 12.603(a)(5).

The Coast Guard agrees and has amended § 12.603(c)(2) as recommended.

One commenter notes that the SNPRM requires any seafarer who holds an STCW endorsement prior to January 1, 2012, to provide evidence of meeting the appropriate standard of competence for the applicable STCW endorsement by January 1, 2017. The commenter asks if he is correct to interpret this as meaning that a seafarer seeking to renew their MMC prior to July 1, 2013, will be bound by the present rules, whereas a seafarer seeking to renew their MMC after that time will be bound by the new rules.

Mariners who hold an STCW endorsement issued prior to March 24, 2014, seeking to renew their endorsements prior to July 1, 2017, will be governed by existing regulations. However, in order for them to sail on or after January 1, 2017, mariners with certain endorsements must meet some additional requirements as specified in individual provisions for endorsements found in parts 11 and 12.

Mariners seeking an STCW endorsement who start service or training after March 24, 2014 will be required to meet the requirements in this final rule.

57. Miscellaneous Comments

One commenter recommends that the Coast Guard take full advantage of the flexibilities incorporated into the STCW Convention and of the robustness of an existing licensing scheme, without compromising safety, security and protection of mariners or of the marine environment. The commenter also recommends that the Coast Guard interpret the STCW Convention in a manner which will not compromise the ability of the U.S. flag merchant fleet to compete in the international trades.

The Coast Guard agrees. The regulatory text in this final rule incorporates some of the flexibilities provided by the STCW Convention with regard to sea service, training, and assessment. However, in some instances, the U.S. system provides a higher standard than the STCW Convention.

The same commenter recommends that the Coast Guard adopt guiding principles for the interpretation of the STCW Convention/Code that will ensure consistency in its interpretation as Coast Guard administrations change and future comprehensive reviews occur. In the commenter's view, such interpretations should be preserved in a manner consistent with international and national laws, regulations, and policies.

The Coast Guard agrees that guiding principles can be helpful. Accordingly, we followed the principles below in the development of this final rule, and will continue to do so during implementation:

(1) The Coast Guard will implement the STCW Convention and Code within its constraints, taking advantage of its flexibilities to the extent possible without compromising safety, security, and protection of the marine environment;

(2) Requirements should not place any unnecessary burdens on the industry and the mariners;

(3) Because the STCW Convention is competence-based and not training-based, training will only be required if it is specifically required by the Convention or if it is demonstrated that the competence can only be obtained via structured training; and

(4) Assessments will be required for all STCW standards of competence.

It is worth noting that these guiding principles were also followed during the development of the 1997 IR.

One commenter asks the Coast Guard to provide the analysis used to determine that Regulations I/6, I/8, II/1, II/2, and II/3 do not apply to the table of competencies listed in Chapter II, Part A of the STCW Code.

Because the Coast Guard has determined that those regulations apply to all tables of competencies throughout the STCW Convention, no such analysis exists. The Tables in part A of the STCW Code establish the standards of competence, which provide ways and means to demonstrate the knowledge, understanding, and proficiencies needed to meet each standard. The Convention is very specific about which standards of competence require training. Basic training, Electronic Chart Display and Information System, and Automatic Radar Plotting Aids (ARPA) are examples of such required training.

In most instances, however, the STCW Convention does not specify whether structured training is required to meet the standards of competence. It is up to each administration to establish the training and experience necessary to achieve the level of competence, and when structured training should be obtained.

Regulations II/1, II/2, II/3, III/1, III/2, III/3, and III/6 require that candidates complete education and training and meet the standard of competence specified in the appropriate sections of the STCW Code. Regulation I/6 requires that the training and assessment

specified under the STCW Convention be administered and supervised by the administration in accordance with Section A–I/6 of the STCW Code for certification. The administration must also ensure that all instructors and assessors are appropriately qualified for the types and levels of training or assessment of competence of seafarers, either onboard a vessel, at shore-side facilities, or by use of simulators. Those involved in training and/or assessment must be qualified for the competence for which the training/assessment is being conducted, and must also have the required training in instructional techniques and assessment methods, as appropriate.

In accordance with Regulation I/8, all training and assessment of competence, certification, endorsement and revalidation activities should be continuously monitored by a quality standards system.

One commenter notes that § 10.225(a)(2) states that an applicant must apply as an original if the MMC sought is the first credential issued to applicants after their previous credential has expired and they do not hold a Document of Continuity under § 10.227(g) of this part or an equivalent unexpired continuity endorsement on their license. The commenter believes that this section conflicts with §§ 10.227 (b) and 10.227(i).

The Coast Guard agrees, and has amended § 10.225(a)(2) to include the words ''beyond the grace period'' after the words ''after their previous credential has expired.'' That section is no longer in conflict with § 10.227(b) and (i).

One commenter recommended that the rule clarify the roles of Coast Guard offices to better facilitate a smooth transition to implementation of the new requirements.

The Coast Guard agrees, and has amended §§ 1.01–10(b)(ii)(A), 1.01–10(b)(ii)(D), and 1.01–15(d) of this final rule to clarify the roles of the Director of Prevention Policy (CG–5P), the Office of Vessel Activities (CG–CVC), and the National Maritime Center.

58. Administrative

One commenter disagrees with the last paragraph of Section V of the SNPRM preamble, which states that if U.S. regulations are non-compliant with the STCW Convention and Code, there is a risk that U.S. ships will be detained in foreign ports by member nations and that U.S. mariners would not be able to seek employment on foreign flag vessels. The commenter states that the threat of detention is overstated in the SNPRM, and that a proposed rulemaking based on such a threat due to some minor non-conformity with the STCW Code or Convention is inappropriate.

The Coast Guard disagrees. The 2010 amendments to the STCW Convention, specifically Regulation I/7 and Section A–I/7, require that the Parties submit a report on the steps taken to implement the 2010 amendments as part of the independent evaluation report (I/8 report). Furthermore, Section A–I/8 requires that the 5-year independent evaluation includes all applicable provisions of the STCW Convention and Code, including the amendments. The independent evaluation report is subject to review by a panel of competent persons. Failure to report implementation of the changes could potentially result in the removal from the ''List of Parties giving the Convention full and complete effect'' (the so-called ''White List''). In turn, removal from the so-called ''White List'' could result in potential detentions and delays.

59. Editorial

One commenter states that § 10.209(d) lists eight items of application paperwork that can be supplied by fax or electronic means, but item four says that the applicants for a radar observer endorsement must submit either the certificate or a certified copy, making it sound like a paper document is required. The commenter recommends allowing electronic versions of that document as well. Given the fact that a ''certificate of training'' is acceptable documentation under § 15.815, the commenter also recommends using the phrase ''certificate of training required by § 15.815'' in place of ''radar-observer certificate.''

The Coast Guard agrees and has amended § 10.209(d)(4) to clarify that copies of all course-completion certificates, including those for radar, are accepted. The Coast Guard also has amended § 11.480(d) to maintain consistency with § 15.815.

The same commenter recommends that, in § 10.402(a)(1), ''sea service'' might be better than ''service experience'' for consistency.

The Coast Guard agrees, and has amended § 10.402(a)(1) to read ''sea service'' for consistency.

The same commenter notes that § 11.201(b) provides an exception in § 11.467(h), which should be (i).

The Coast Guard agrees and has made this change in § 11.201(b).

The same commenter notes that § 11.301(b) says that mariners qualified under paragraph (e) of this section must document continued competence. It appears the management level, (f), is not included in the requirement. The commenter recommends including the management level.

The Coast Guard agrees. Basic training has been re-located to § 11.302, and the recommended changes have been made there.

The same commenter believes that, in both §§ 11.426 and 11.427, the correct section to cite in paragraph (a) should be § 15.105.

The Coast Guard agrees that the citation should have been to § 15.105. The citation has been removed from §§ 11.426, 11.427, 11.428, and 11.429, and has been corrected in § 11.323.

The same commenter notes that, in § 11.1003, the citation of § 11.1105 in paragraph (d) should be § 11.1005.

The Coast Guard agrees and has amended the cited reference in § 11.1003(d) to § 11.1005.

The same commenter recommends that, in § 12.409(b)(3), the word ''lifeboatman'' should be ''lifeboatman-limited.''

The Coast Guard agrees and has made the suggested change in § 12.409(b)(3).The same commenter notes that, in § 12.621, the terminology for the approved course should be consistent with the requirements for training in ''management of medical care'' found in deck management-level qualification standards. The commenter recommends using that phrase in § 12.621(a)(1).

The Coast Guard agrees and has amended § 12.621(a)(1) to include the appropriate course name.

One commenter notes that an error in the change list on page 45916 should be corrected—the reference to § 10.205(h) should be § 10.205(i).

The Coast Guard agrees. Although the comment relates to the preamble of the SNPRM, it is in the Table of Changes, parts of which have been carried over to this final rule. We have amended § 10.205(h) to read § 10.205(i).

The same commenter notes that, in table 10.302(a), the able seafarer-engine vision test reference should be § 10.305(b), not § 10.305(a).

The Coast Guard agrees. We have changed the reference in table 1 to 10.302(a) to § 10.305(b).

Two commenters suggest that § 11.317(a) should read ''to qualify for an STCW endorsement as master.''

The Coast Guard agrees, and has amended § 11.317 as suggested.

One commenter believes that in § 15.610(a), the last sentence was superseded by the recent change to 46 U.S.C. 8905 and should be deleted.

The Coast Guard agrees and has deleted the last sentence of § 15.610(a).

This is a housekeeping issue to address a change in statute and does not pose a burden to the public. The deletion is consistent with the change in 46 U.S.C. 8905 exempting vessels of less than 200 gross tons engaged in the offshore mineral and oil industry if the vessel has offshore mineral and oil industry sites or equipment as its ultimate destination or place of departure, from the requirement that the vessel must be operated by an individual licensed by the DHS Secretary.

Two commenters note that to receive an STCW endorsement as master of vessels less than 200 GRT/500 GT (§ 11.315), service of 36 months is required as OICNW with no tonnage requirement. It goes on to state that this period of service may be reduced to 24 months if 12 months are served as OICNW.

The Coast Guard agrees that, under STCW, the 12 months should be served as chief mate, and has amended § 11.315(a)(1) accordingly.

The same commenters note that, in § 11.317, the requirements listed for qualification as master less than 200 GRT/500 GT near-coastal are those for chief mate 1,600 GRT/3,000 GT or more.

The Coast Guard agrees and has amended § 11.317(a). One commenter recommends that the Coast Guard move § 11.811, requirements to qualify for an STCW endorsement as VSO, to subpart C.

The Coast Guard agrees and has transferred the requirements for VSO, currently in § 11.811 to § 11.337. The appropriate sections in 33 CFR 104.215 will be amended accordingly.

One commenter notes that § 11.903(a) does not contain all of the MODU officer endorsements.

The Coast Guard agrees. Offshore Installation Manager, barge supervisor, and ballast control operator examination subjects are described in § 11.920–2. However, these endorsements should be listed in § 11.903, and the Coast Guard has amended it to do so.

Three commenters state that, in proposed § 11.201(h)(1), the Coast Guard mistakenly said that ''mariners who completed a firefighting course within the previous 5 years . . .'' but that this was a typographical error that should read, ''mariners who completed a firefighting course more than 5 years ago . . .''

The Coast Guard agrees and has revised this section as recommended.

60. Comments Outside the Scope of This Rulemaking

This section describes comments requesting changes that are outside the scope of this rulemaking. Although the Coast Guard is unable to include these suggested changes in this final rule, the Coast Guard may consider them if and when the Coast Guard conducts an additional rulemaking on these subjects.

One commenter claims that, with regard to proposed § 11.910 and table 11.910–2, the public has a right to free access to the latest version of every question and answer, and the Coast Guard must keep that database up-to-date.

The commenter's suggestion is outside the scope of this rulemaking. The Coast Guard did not propose any regulatory changes concerning access to examination questions and answers.

One commenter states that, given the already complex STCW requirements and regulations, plain-language guidance is critical for mariners.

The issuance of guidance is outside the scope of this rulemaking. However, the Coast Guard will consider issuing guidance in the future.

One commenter recommends that the Coast Guard work with MERPAC and other industry stakeholders to develop a plain-language guidance document that will help mariners subject to STCW to understand readily which STCW endorsement they require and what they must do to obtain it. This is outside the scope of this rulemaking. However, the Coast will consider issuing plain-language guidance.

One commenter noted that he or she submitted correspondence to the Coast Guard several months ago concerning NVIC 11–07.

This is outside the scope of this rulemaking. NVIC 11–07 is not part of this rulemaking.

61. MERPAC Comments

Below, the Coast Guard responds to comments received from MERPAC. Several of MERPAC's comments noted non-substantive, editorial errors in the SNPRM. The Coast Guard has incorporated these comments where appropriate, without further discussion.

MERPAC believes that any persons serving as an assessor need to be qualified with training in the skills required to assess competency and approved by the Coast Guard, whether as a QA or as a DE. Therefore, a definition of Qualified Assessor should be added as follows: ''Qualified assessor or QA means a person who is qualified to evaluate, for STCW endorsements, whether an applicant has demonstrated the level of competence in the task for which the assessment is being made. This person must be approved by the Coast Guard or successfully complete a CG approved or accepted program of training.''

As previously discussed, the Coast Guard has amended the definition of ''Qualified Assessor'' in § 10.107 to require Coast Guard approval and to clarify this person's role and professional development.

MERPAC recommends that Coast Guard work with MERPAC to develop the standards for a QA, including developing an approval process and an auditing and oversight program. A task statement should be developed for MERPAC.

The Coast Guard agrees. Section 10.405 includes requirements for qualified assessors. The Coast Guard will consider developing a task statement for MERPAC to address in the future.

MERPAC recommends that a definition for ''Certificate of Registry'' be added.

The Coast Guard disagrees. The Certificate of Registry is included under the MMC definition in 46 U.S.C. Subtitle II, Part E, with the definitions of the other credentialing documentation that the MMC replaced.

MERPAC says that the definition of a ''domestic'' officer endorsement is confusing, and recommends striking ''domestic'' and replacing with ''National'' globally.

The Coast Guard agrees, and has changed ''domestic endorsement'' to ''national endorsement'' to eliminate confusion.

MERPAC recommends the Coast Guard change the definition of ''disabled vessel'' by removing the last sentence of the proposed definition, and revert to the original definition. As proposed, MERPAC believes this definition would mean that any time a vessel maneuvers to and from the dock with an assist tug, or a vessel takes an assist/escort tug, that vessel would be deemed to be a disabled vessel, which would be incorrect in many instances.

The Coast Guard agrees and has deleted the sentence. The intent was not to change the definition, and the Coast Guard is only making editorial changes to the original definition of ''disabled vessel'' in § 10.107.

MERPAC notes the absence of a definition for ''direct supervision'' and recommends that one be added.

The Coast Guard agrees and is using the definition of ''directly supervised'' to also address ''direct supervision''.

MERPAC recommends that the definition of ''drug test'' be amended to broaden the testing procedure to be in line with 49 CFR 40.195.

The Coast Guard disagrees. MERPAC's recommended change to the definition of ''drug test'' is outside the scope of this rulemaking. The Coast

Guard did not propose any changes to the definition of ''drug test''.

MERPAC recommends that the term ''STCW endorsement'' include additional language clarifying that the underlying domestic endorsement must be held by the applicant for an STCW endorsement.

The Coast Guard agrees because the requested change clarifies the requirement for mariners to hold national endorsements as a prerequisite to an applicable STCW endorsement unless otherwise specified. The Coast Guard has amended §§ 11.201 and 12.601 accordingly.

MERPAC recommends that a definition for ''medical certificate'' be added.

The Coast Guard agrees. To ensure consistency with other terms, a definition for ''medical certificate'' has been added to § 10.107.

MERPAC recommends that the ''coastwise voyage'' definition encompass voyages to nations in which we have a treaty or other arrangements between nations that allow coastwise transit. Furthermore, MERPAC recommends that the definition of ''domestic voyage'' should not include the phrase ''without entering waters under the jurisdiction of another country.''

The Coast Guard partially agrees. This definition is consistent with STCW, which requires that each Administration ensure that all mariners serving on foreign vessels working in their waters meet the full STCW requirements or the near coastal provisions in the Convention as implemented by the Administration. The Convention allows for the entry into informal agreements between countries. Section 10.107 was amended so that the definition for ''domestic voyage'' includes voyages beginning and ending at a U.S. port and passing through the waters of another country if the U.S. has entered into a treaty or agreement with that country.

MERPAC recommends adding the definition of ''ILO'', because the term is used in part 14.

The Coast Guard agrees. The ILO is referenced within Subchapter B and should be defined. Section 10.107 has been amended accordingly.

MERPAC recommends that the definition of ''limited'' include horsepower.

The Coast Guard disagrees. For purposes of this final rule, the term ''limited'' is intended to be given its normal meaning, and the definition has been removed from § 10.107.

Where used, it is explained within the regulation how it will be applied. For example, § 11.463(c) explains that for national endorsement as master, mate (pilot) and apprentice mate (steersman) of towing vessels, ''limited'' means an endorsement to operate a towing vessel of less than 200 GRT only within a local area within the Great Lakes, inland waters, or Western Rivers designated by the OCMI.

MERPAC recommends that the Coast Guard review the definitions of a ''self propelled tank vessel'' and ''tankship'' to ensure inclusion of all vessels.

The Coast Guard has reviewed these definitions for consistency and the inclusion of all vessels. It has been determined that the current definitions do not need revision. To address new requirements for STCW endorsements on tank vessels, we have added definitions for ''oil tanker,'' ''chemical tanker'' and ''liquefied gas tanker.''

MERPAC recommends correction of the definition of ''utility towing.'' MERPAC believes it conflicts with the proposed definition for ''disabled vessel.''

Because the Coast Guard is not including the requirements for utility towing credentials in this final rule, we have deleted the definition of ''utility towing'' from § 10.107.

MERPAC recommends that the Coast Guard amend the definition of ''restricted'' to read ''. . . endorsement, for example, specific.''

The Coast Guard agrees in part. The Coast Guard recognizes that the terms ''restricted'' and ''limited'' have been used interchangeably in the past and that there is no consistency in the use of the terms in relation to the title of the credential. The Coast Guard is of the opinion that all limited endorsements or credentials have inherent in their qualifications some sort of constraint that reduces the authority of the credential. Therefore, to avoid confusion, the Coast Guard deleted the two definitions because the terms have the same meaning in standard English language usage.

MERPAC recommends that the definition of ''safe and suitable person'' needs to include ''safety and security of life or property.''

The Coast Guard agrees that this addition will clarify the definition and has amended § 10.107 as suggested.

MERPAC recommends that the definition of ''support level'' should coincide with STCW Code (A–I/1)—management level and operational level.

The Coast Guard agrees that the definition should be consistent with the STCW definition and has amended § 10.107 accordingly.

MERPAC recommends that the definition ''vessel personnel with security duties'' be revised. Currently, it does not accurately capture security duties and it should be changed to harmonize with text from B–VI/6 in STCW.

The Coast Guard agrees. As previously discussed, the Coast Guard has revised the definition of ''vessel personnel with designated security duties'' to harmonize it with the guidance in Section B–VI/6 of the STCW Code and to ensure consistency with the requirements in 33 CFR 104.220 and 104.225.

MERPAC recommends that § 10.225 be amended to allow postdating of endorsements for up to 12 months unless the applicant makes a written request to the contrary.

The Coast Guard agrees. As previously discussed, the Coast Guard has amended § 10.205 to allow for the post-dating of credentials for up to 8 months with the option for a mariner to choose immediate issuance.

MERPAC recommends that a copy of a radar course certificate should not have to be certified, as proposed in § 10.209(d)(4).

The Coast Guard agrees and has amended § 11.480 to maintain consistency with § 15.815. Section 10.209(d)(4) was amended in response to another comment and no longer specifically applies to radar course certificates.

MERPAC recommends that all references linking the TWIC to the MMC be modified to reflect changes in the Coast Guard Authorization Act of 2010.

The Coast Guard agrees. However, as discussed previously, this issue is being addressed in a separate rulemaking.

MERPAC does not support limiting payment of fees to only electronic means. Mariners should not be forced to pay via credit card, because not all mariners have a credit card. The Coast Guard should allow for payments to be accepted in cash, certified/cashier's check, or money order.

The Coast Guard agrees and will continue to accept cash, checks, and money orders, as well as credit cards and electronic payments for MMCs and associated endorsements. Section 10.219 has been amended accordingly.

MERPAC recommends that the Coast Guard add a new paragraph to § 10.221 to address means of proving citizenship since a TWIC is no longer required for all MMCs.

The Coast Guard agrees. However, as discussed previously, TWIC-related changes from the Coast Guard Authorization Act of 2010 are being addressed separately.

MERPAC recommends that, if there is going to be a national medical certificate, the Coast Guard de-link the

medical certificate from the MMC and issue a separate medical certificate. Coast Guard needs to check for consistency with other regulations (e.g., § 10.302) and consider a Legislative Change Proposal if necessary to assure that credentials are issued after evaluating a mariner's professional qualifications alone.

The Coast Guard agrees. As previously discussed, under § 10.301 of this rulemaking, the Coast Guard will issue a separate medical certificate through the NMC.

MERPAC recommends that the Coast Guard insert a new paragraph in § 10.232(b) that would allow the issuance of an STCW restricted certificate based on seagoing service on the waters of British Columbia and the inland passage (as day-for-day service on inland waters) to ensure continued service credit for seafarers working in this area.

The Coast Guard agrees and has amended § 10.232(b) to: (1) Allow day-for-day STCW sea service credit on Great Lakes vessels and aboard inland vessels that maintain STCW standards, especially those inland vessels, that by the nature of their service must occasionally go outside the boundary line; and (2) allow day-for-day service on vessels to which STCW applies, whether inland or coastwise. Service on the waters of the Inside Passage between Puget Sound and Cape Spencer, Alaska, will be credited toward near-coastal and STCW endorsements.

MERPAC is concerned that the change to the medical review process requiring the implied issuance of a medical certificate will exceed the capabilities of the NMC because of the increase in the number of reviews necessitated by the proposed 1- and 2-year cycle of certificates, and an unacceptable backlog will be created. Therefore, mariner's jobs would be jeopardized. MERPAC suggests the Coast Guard replace § 10.301(a) ''operational limitations'' with ''limitations and/or other conditions'' (to assure consistency with NVIC).

As previously discussed, the Coast Guard has no discretion over the issuance of 2-year medical certificates in compliance with the STCW Convention. However, the Coast Guard is taking actions in this final rule to minimize the numbers of mariners who will require more frequent medical evaluation, including the removal of the 1-year certificate for pilots. This change should decrease the workload on the medical evaluation staff and help to reduce the possibility of unreasonable time delays. Additionally, the Coast Guard Authorization Act of 2010 provides the Coast Guard with authority to grant limited extensions for national endorsements when the Coast Guard experiences a backlog. Furthermore, the Coast Guard will be working to develop the DME program to reduce workload issues.

MERPAC recommends that every person holding a license or MMC endorsement as first-class pilot must have a thorough physical examination each year, to be completed by the first day of the month following the anniversary of the individual's most recently completed Coast Guard required physical examination. Every fifth year, in accordance with the medical certificate/endorsement requirements in § 10.301(b), the results of the physical examination must be recorded on a CG–719K form and submitted to the Coast Guard no later than 30 calendar days after completion of the physical examination. MERPAC strongly prefers the above recommendation. However, as a ''Plan B'' in the event the Coast Guard does not accept MERPAC's recommendations that first-class pilots and mariners merely ''serving as'' a pilot be required to have 5-year medical certificates, MERPAC recommends that first-class pilots and ''serving as'' pilots be required to have 2-year medical certificates. Under ''Plan B'', §§ 11.709(b) and (d) should be amended as follows: Every person holding a license or MMC endorsement as first-class pilot must have a thorough physical examination each year, to be completed by the first day of the month following the anniversary of the individual's most recently completed Coast Guard required physical examination. Every other year, in accordance with the medical certificate/endorsement requirements in § 10.301(b), the results of the physical examination must be recorded on a CG–719K form and submitted to the Coast Guard no later than thirty (30) calendar days after completion of the physical examination. Finally, if the Coast Guard moves forward with a certificate for National mariners, pilots should be included in § 10.301(b)(3).

The Coast Guard agrees with MERPAC's plan B and has amended §§ 10.301(b)(2), 10.709(b) and 10.709(d) so that first-class pilots will continue to be subject to annual physical examinations, but will only be issued the biennial medical certificate. Annual physicals for first-class pilots are required by 46 U.S.C. 7101. The 2-year medical certificate requirement is consistent with the STCW Convention requirement for oceangoing mariners, and strikes an appropriate balance between maritime safety and the administrative processing burden.

MERPAC recommends that the Coast Guard define communicable disease and define exactly what the concerns are. Mariners who have only a food-handler credential are receiving extensive, potentially unnecessary medical testing. Clarification needs to be provided in guidance as there currently is no standard for ''communicable.''

The Coast Guard agrees and amended § 10.107 to provide a definition of ''communicable disease.'' The Coast Guard will clarify these requirements in future guidance in an effort to balance the impact on the individual mariner and the potential risks to public safety and health.

MERPAC recommends that the demonstration of physical ability in § 10.304(d)(2) remain in guidance and be struck from the text.

The Coast Guard disagrees. There is a need to provide minimum requirements and standards for a medical examination.

MERPAC recommended amending § 10.403(a)(7) by adding the word ''significant'' before ''change'', to reduce the load on course providers and the NMC by not requiring that every minor change be handled as an original submission for course approval.

The Coast Guard agrees, and has amended § 10.403(a)(7) as recommended. Additionally, the Coast Guard will issue guidance in the future because any changes to a finite or time-based curriculum will have an effect on the delivery of the entire curriculum and, hence, require approval.

MERPAC recommends amending § 10.404(a)(3) by adding ''substitution of required service as a result of . . .'' to avoid requiring individuals to take the same class twice to maintain an endorsement when upgrading.

The Coast Guard agrees in part. This is an existing requirement that applies to national endorsements where the training is used in ''lieu'' of ''service'' or ''exam.'' This requirement is normally not applicable to STCW provisions, since the Convention allows for the attainment of training and assessment for management level at the operational level. In some specific instances, however, it is applicable to STCW, as it is in the case for tanker refresher training. The Coast Guard has amended § 10.404(a)(3) so that an applicant who has taken a required course prior to upgrading from a lower level, can retain the credit for that course when upgrading to the level for which the course was intended.

MERPAC recommends that the Coast Guard amend § 10.410 to include a

requirement that if company training is included under the ISM, Coast Guard should accept ISM to the extent that it meets the QSS requirements.

The Coast Guard agrees. This section of the SNPRM was broad and did not apply only to training institutions and schools. However, the Coast Guard recognizes that other management systems should be included as a means to comply with the QSS requirement. Therefore, the Coast Guard has amended § 10.410 by adding a new paragraph (g) to include ISM as an alternate means of compliance for the QSS provision.

MERPAC is concerned that the incorporation by reference provision in § 11.102(a) is not helpful and recommends that the Coast Guard somehow make STCW available to the general public. It is not sufficient to incorporate by reference, since the document is only available by purchase.

The Coast Guard agrees in part and will be making relevant portions of STCW available to the public. Please see the incorporation by reference section in the discussion of comments above.

MERPAC recommends that § 11.201(j)(1)(iii) be amended to allow applicants attending approved programs to test up to 6 months prior to graduation.

The Coast Guard recognizes that some training schools complete the training program ahead of time and the rest of the time is spent prepping for the exam. If an applicant completes all parts of a comprehensive program that pertain to maritime credentialing requirements, including all sea service and required courses and assessments of competency, a maximum of 6 months prior to completion of the program, an examination will be authorized. This provision is necessary to facilitate the examination process while ensuring that new officers have the required knowledge prior to receipt of their officer endorsement.

MERPAC recommends that the Coast Guard should extend grandfathering provisions found in § 11.301(i) so that persons with an operational level endorsement upgrading to management level should not be required to do the assessments for operational level, because they were already completed.

The Coast Guard agrees and has added a new paragraph § 11.301(i)(4) so that persons who hold or have held an STCW operational level endorsement issued prior to the effective date of this rulemaking and are seeking to upgrade to an STCW management level will not be required to complete the assessments for STCW operational level endorsements as required in subparagraph (f)(2) of that section.

MERPAC recommends in § 11.307(b)(1), but also globally, that the Coast Guard define leadership competency and how is it achieved by amending regulations or policy concerning what kind of evidence will be used.

The Coast Guard agrees and has amended § 11.307(b) and other regulations to require leadership training. This change is necessary to implement requirements in the STCW Code for mariners to demonstrate leadership competence at both the management and operational levels. In addition, the Coast Guard is developing guidance with sample assessments to be used by QAs in their development of assessments to be used onboard vessels.

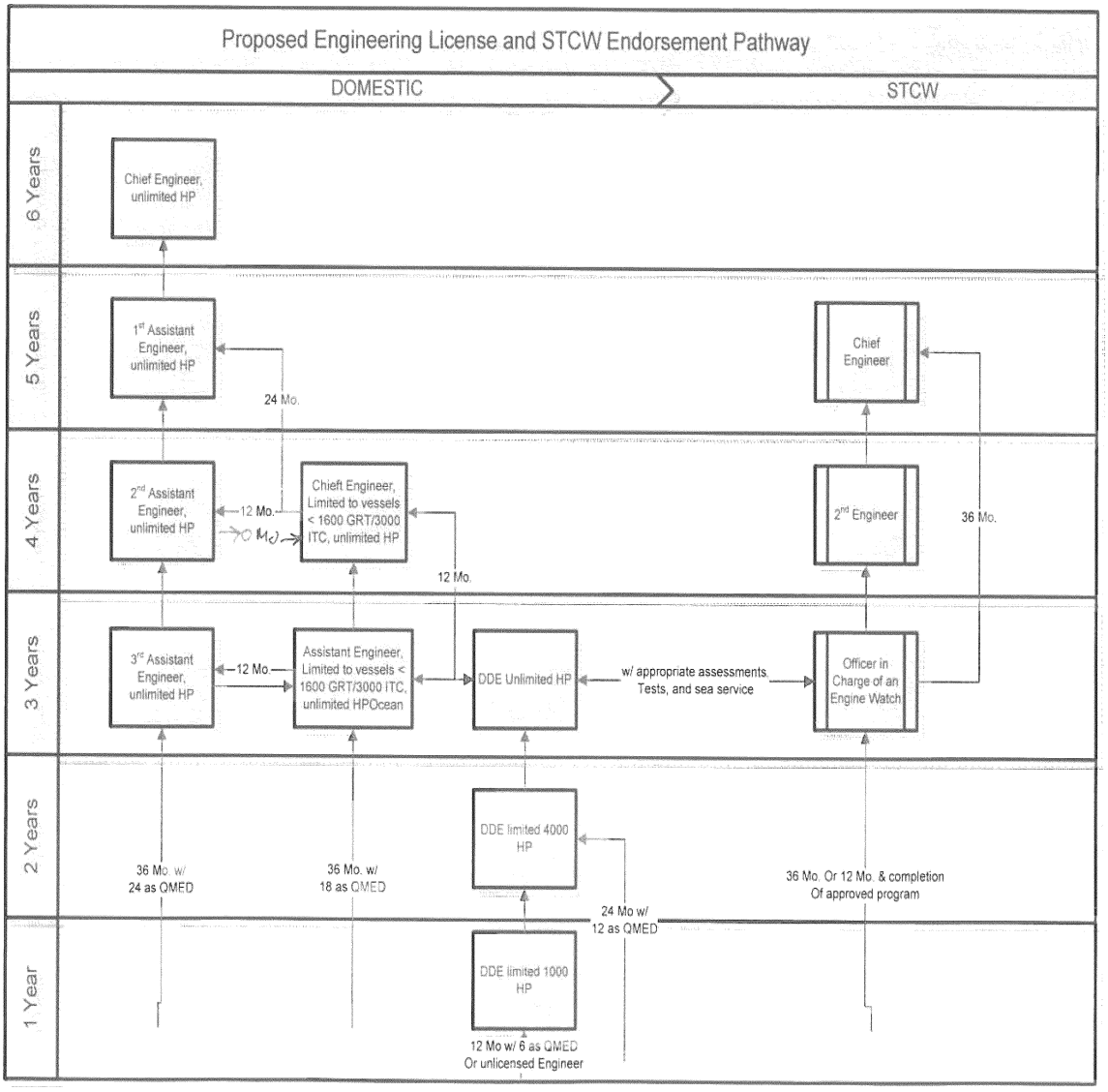
MERPAC recommends that § 11.325(c) be amended so an applicant who holds an STCW endorsement as OICEW, second engineer officer, or chief engineer officer will be allowed to receive the ETO endorsements upon completion of the requirements in Section A–III/6 of the STCW Code.

The Coast Guard agrees and has corrected § 11.335(c) accordingly. The STCW Convention provides for the issuance of ETO endorsements to OICEW, second engineer officer, or chief engineer officer.

MERPAC is concerned that, based upon § 11.404 (et seq.), Great Lakes time is linked with inland time and needs to be broken out, 12 months for Great Lakes and 24 months for inland all the way through, even in uninspected fishing vessels and towing vessels. The new policy recognizing Great Lakes time as equivalent to ocean is not carried through part 11.

The Coast Guard disagrees. Inland and Great Lakes service time for the advancement of inland and Great Lakes endorsements continues to be on a 1-for-1 basis. Therefore, the Great Lakes and inland service time does not need to be separated. However, they have been separated when this service time is being used for oceans and STCW endorsements in this rulemaking. This was done so mariners can use Great Lakes service time on a 1-for-1 basis, up to 100 percent of the required sea service, and inland service time on a 1-for-1 basis, up to 50 percent of the required sea service. The Coast Guard has also reviewed and amended § 11.404 to clarify this.

MERPAC recommends using the following table to replace or modify Table 11.505(a). The effect is to eliminate the chief engineer, limited-near coastal endorsement. Taking into account that STCW applies to all vessels operating outside of the boundary line, there is a need to provide crossovers between national and STCW endorsements. MERPAC recommends that the regulations need to better explain the crossover from unlimited DDE to OICEW. Furthermore, MERPAC recommends that the Coast Guard negotiate the development of assessments for chief engineer (limited) at the 43rd session of the IMO subcommittee on standards of training and watchkeeping.



The Coast Guard partially agrees. We have amended Figure 11.505(a) as suggested, except chief engineer (limited) remains at 5 years sea service, and crossovers to STCW endorsements are not part of the figure due to space limitations but are contained in separate tables in part 11, subpart C.

MERPAC recommends that § 11.516(a)(3) be amended by replacing ''graduation from'' with ''completion of an Engineering Officer Qualification Course.'' An engineering officer of the watch (EOOW) letter from the Army, Coast Guard, or Navy should be prima facie evidence of competence.

The Coast Guard disagrees. Section 11.516(a)(3) provides for specific 4-year academic programs which require graduation in order to receive credit for the training and experience requirements for an STCW and national endorsement. The completion of an EOOW course does not meet all of the STCW competency requirements.

MERPAC recommends that a different term than ''invalid'' be used in § 11.709(d) and § 11.713(a).

The Coast Guard disagrees. The term is appropriate and is further supported by the last sentence in the same paragraph, which states ''the individual may not operate under the authority of that endorsement until a physical examination has been satisfactorily completed.''

MERPAC recommends that § 11.821 be amended. This standard was extracted from a different HSC code and is confusing and inappropriate. At a minimum, add clarification about the HSC code (reference the code) and to what vessels it applies.

The Coast Guard agrees, and has amended § 11.821 to ensure that it is only applicable to seafarers operating vessels to which the HSC code applies.

MERPAC is concerned that tables 11.910–2 and 11.950–2 are pre-STCW 95. MERPAC recommends that the tables be separated by operational and management levels. A small working group should be formed to discuss and locate any differences between national and STCW endorsements that occur in this table. As far as this rulemaking is concerned, the following should be considered: (1) Completely remove tables 11.910–2 and 11.950–2 from the SNPRM; (2) in lieu of the table, the Coast Guard should issue documentation with considerable detail as to what is contained in each exam for each license level; (3) MERPAC should assist in the development of this documentation, which might take the form of a module description as has been used in the past; and (4) MERPAC Task 71 regarding license exam questions cannot logically proceed until

implementation of recommendations 1–3 are well underway.

The Coast Guard disagrees. The tables need to remain in the regulations until the Coast Guard replaces them in regulation or issues guidance. The tables are necessary to provide the mariners with the topics for the exams. The Coast Guard will consider issuing a task statement to MERPAC to develop suitable information about endorsement examination topics.

MERPAC recommends that a footnote be added to Table 12.603(e) to allow for the reduction of the 6-month sea service requirement by taking an approved course for able-seafarer-deck.

The Coast Guard agrees that completion of an approved course for able seafarer-deck justifies the requested reduction in sea service, and has amended Table 1 to 12.603(e).

MERPAC recommends that a footnote be added to Table 12.605(c) to allow for the reduction of sea service (4 months) by taking an approved course for RFPNW.

The Coast Guard agrees that completion of an approved course for RFPNW justifies the requested reduction in sea service, and has amended Table 1 to 12.605(c).

MERPAC recommends that §§ 12.625 and 12.627 be amended to ensure that it provides all of the transitional provisions from STCW and to check § 15.1113 for consistency.

The Coast Guard agrees and has amended §§ 12.625, 12.627, and 15.1113 by adding implementation deadlines for security training requirements. These changes are required by the STCW Convention.

MERPAC recommends that § 13.107(d) be amended as follows: (1) Remove ''and for maintaining and operating the bunker systems including the fuel oil'' (tankerman engineer is specifically for cargo operations. Delete everything after the semicolon.); and (2) add ''liquid cargo in bulk.'' MERPAC recommends that the Coast Guard ensure that text does not apply to the transfer of other than bulk liquid cargoes and a tankerman endorsement is not needed.

The Coast Guard agrees and has amended § 13.107(d) to ensure it does not apply to the transfer of other than bulk liquid cargoes and a tankerman endorsement is not needed.

MERPAC recommends that § 13.117 be revised to allow the applicant to complete an approved course for renewal of a tankerman endorsement that expired more than 12 months (see § 13.120(a)(3)). Many mariners are not aware that taking a course counts toward renewal of tankerman endorsements. This would allow mariners the ability to maintain their tankerman endorsement following expiration of greater than 12 months. Furthermore, MERPAC recommends changing the reference from ''tankerman rating'' to ''tankerman endorsement''.

The Coast Guard disagrees with the recommendation to amend § 13.117. The requirement in that section is consistent with situations where a credential has expired beyond the grace period.

The Coast Guard agrees with the recommendation to change the reference from ''tankerman rating'' to ''tankerman endorsement.'' This change is consistent with the classification of endorsements in § 10.109.

MERPAC recommends that § 13.120(a)(1) be amended by inserting ''including service aboard a barge, as appropriate'' after the words ''tank vessel.'' This is to enable mariners serving on towing vessels, with tankerman credentials, the ability to renew those credentials.

The Coast Guard agrees in part. We agree that certain service on tank barges should receive credit. However, we do not believe a change to the regulations is required because the term ''tank vessel'' includes tank ships and tank barges.

MERPAC recommends that § 13.203 be amended to give mariners serving on ATBs full credit for sea time and experience (loads/discharges) towards full tankerman-PIC endorsement. Many new ATBs have identical cargo-handling equipment as tankships.

The Coast Guard agrees. The Coast Guard has amended § 13.127 to accept service onboard some ATBs toward the national and STCW tankerman endorsements (including tankerman-PIC), provided the ATB equipment is equivalent to comparable tankship equipment. This change is necessary to ensure career paths and to facilitate the use of new ATBs as qualifying platforms for tankerman endorsements. In addition, the Coast Guard has provided a means for mariners serving on tank barges to qualify for an STCW endorsement with a limitation to non-self-propelled vessels.

MERPAC recommends that the regulations include a crossover program from different types of tankers. Seafarers would already have tanker experience. A shorter course consistent with the STCW could be appropriate.

The Coast Guard agrees in part. We are retaining the existing provisions for a ''crossover'' for a domestic tankerman endorsement. The STCW does not provide for such a crossover, and mariners must meet the full service requirements applicable to each cargo.

MERPAC recommends that the regulations split oil and chemical tanker requirements into separate sections and incorporate the STCW code properly and include fast track language in Regulation V/I–1. Seafarers serving onboard tankers certified to carry both oil and chemicals should receive sea credit for both oil and chemicals.

The Coast Guard agrees that the STCW has separate qualification requirements for oil tankers and for chemical tankers, and has separated these two endorsements into their own sections, §§ 13.603 and 13.605. Nevertheless, it is possible for a single ''cargo course'' to be acceptable for both endorsements, and if the vessel the mariner serves on is certified to carry both oil and chemical cargoes, to use the same service to qualify for both endorsements.

MERPAC recommends that § 13.603 be amended to allow tankerman-engineers to obtain an STCW endorsement for advanced oil tanker cargo operations and advanced chemical tanker cargo operations so chief engineers and first assistant engineers don't have to get tankerman-PIC endorsements. Under this proposed text, chief engineers and first assistant engineers will be unable to do the loading and discharges. This section should include language that allows mariners with STCW management-level engine endorsements and tankerman-engineer national endorsement to receive an STCW advanced tanker cargo operations endorsement if they complete the STCW assessments. Changes may be accomplished by amending the domestic requirements (in § 13.201) and the STCW requirements.

The Coast Guard agrees and has added § 13.603(c) as a means for engineers to qualify for an STCW endorsement as the appropriate advanced tanker cargo operations with a limitation to maintenance and repair of cargo equipment.

MERPAC recommends that §§ 13.603 and 13.605 be amended to include an STCW endorsement for appropriate advanced tanker cargo operations with a limitation to non-self-propelled vessels.

The Coast Guard agrees. As previously discussed, personnel on non-tank vessels towing a barge outside the boundary line will be required to meet the STCW requirements. Consequently, we provided a means in § 13.603(b) and 13.605(b) for mariners serving on tank barges to qualify for an STCW endorsement with a limitation to non-self-propelled vessels.

MERPAC recommends that the Coast Guard amend part 15 by adding a section about manning documents and COIs that separately specify the STCW endorsements that must be carried onboard for international voyages.

COIs will list both national and STCW endorsements. The Coast Guard will be revising safe manning documents to be consistent with the changes in this final rule.

MERPAC recommends that the Coast Guard issue a notice to all ship owners explaining the implementation of the U.S. medical certificate to facilitate port state control inspections.

The Coast Guard agrees and will be issuing a notice to IMO and all port state control organizations worldwide. The Coast Guard will publish this notice on the NMC Web site.

MERPAC recommends that part 15 be amended. The text should honor the original agreement with DOT that the STCW application in domestic trade would start at 500 GRT. MERPAC recommends the Coast Guard amend part 15 as follows: (1) Global change in part 15—add ''or 500 GRT on a domestic voyage'' wherever 200/500 tonnages are used. This is pursuant to the DOT agreement to use 500 GRT on the application of the STCW; (2) Global change– add ''seagoing vessel'' wherever horsepower is mentioned. The tonnage should be also mentioned (200 GRT/500 GT). For example, ''seagoing vessel of 200 GRT/500 GT or more driven by main propulsion machinery of 1,000 HP/750 kW propulsion power or more . . .''

The Coast Guard recognizes that the regulations and policies implementing the STCW requirements have been the subject of different interpretations, and is therefore issuing this final rule to ensure clarity of interpretations and applicability of the STCW Convention. STCW-related provisions in part 15 have been amended to incorporate the 500 GT threshold consistent with the STCW requirements. Therefore, STCW tonnage thresholds were not inserted in the engineering requirements. The Coast Guard has added the phrase ''seagoing vessel of 500 GT or more driven by main propulsion machinery of 1,000 HP/750 kW propulsion power or more or on an international voyage'' to § 15.1103(a) in response to this comment.

MERPAC recommends that a new paragraph (g)(3) of § 15.105 be added as follows: ''Pilot vessels are not considered seagoing ships because they operate within, or closely adjacent to, sheltered waters or areas where port regulations apply.''

The Coast Guard agrees, and has amended §§ 15.105(f)(5) and 15.1101(a)(1)(v) to exempt pilot vessels engaged in pilotage duty from STCW requirements in those sections. This change is appropriate because STCW applies only to seagoing vessels that operate outside the boundary line, but generally does not apply to pilot vessels.

MERPAC recommends that § 15.404(d)(3) be deleted. That section requires that ratings, including wipers, must possess an endorsement as able seafarer–engine instead of QMEDs. The Coast Guard needs to categorize which QMED categories should be RFPEW (watchstanding) (Fireman/Watertender (FWT), oiler) and which QMED categories should be able seafarer–engine (non-watchstanding) (all others) to reflect the rating who stands a watch and who does not. Requirements should reflect that all watchstander A/Bs and QMEDS are required to hold a RFPNW or RFPEW. QMEDs serving on vessels in a non-watchstanding position, excluding wipers, oilers and FWT, must hold able seafarer-engine endorsements.

The Coast Guard disagrees. The number of QMEDs and able seamen are specified in the COI, and those serving in such positions must also hold an STCW endorsement. In addition, the Coast Guard has amended § 15.404 to specify the correlation of national rating endorsements and STCW rating endorsements based upon the SNPRM's grandfathering provisions and the usual, customary duties of each rating.

MERPAC is concerned that § 15.515(b), concerning requirements for crew to be aboard when passengers are embarked on a passenger vessel, is overly restrictive and impossible during normal vessel operations and recommends that the text be amended.

The Coast Guard disagrees. It is essential for the safety of the passengers to ensure there are sufficient personnel to respond to emergencies and passenger needs. This is an existing requirement, and this final rule adds explanatory detail for clarification purposes.

MERPAC noted that there are no guidelines for GMDSS maintainer courses in the United States. These need to be developed and provided to industry.

The Coast Guard agrees. Until such time as the Coast Guard establishes criteria for and approves such ''GMDSS at sea maintainer courses,'' § 12.623(a)(2)(ii) will not be a viable option to demonstrate competency. Nonetheless, the Coast Guard has included this option because it intends to soon begin the process of promulgating guidelines for GMDSS course content and approval.

MERPAC recommends that § 15.1105(c)(1) be changed from ''BST or safety familiarization'' to ''BT and safety familiarization specific to that vessel.''

The Coast Guard disagrees. The term ''BST or safety familiarization'' does not appear in § 15.1105(c)(1) of the SNPRM. The text in § 15.1105(c)(1) refers to basic training or instruction and not familiarization training. We have made a global change in this final rule, changing ''basic safety training'' to ''basic training'' to be consistent with the STCW Convention. The Coast Guard does not agree to change § 15.1105(c)(1) as suggested because basic training or basic instruction refers to the four numbered items under paragraph (c), which are more extensive than safety familiarization. This text is consistent with the STCW requirements in Regulation VI/1 and Section A–VI/1.

MERPAC recommends that § 15.1109 be amended by adding ''serving on seagoing vessels, except those vessels listed in 15.1101 of this part.''

The Coast Guard agrees and has amended § 15.1109 as recommended for clarity. That section refers to § 15.105(f) and (g), which contains the same exemptions as § 15.1101. This change is appropriate because STCW watchkeeping requirements apply only to seagoing vessels.

MERPAC states § 15.1113 should be amended to ensure (a), (b), and (c) apply only to vessels over 500 GT.

The Coast Guard agrees with the recommendation to ensure that the requirements in § 15.1113 apply only to vessels of more than 500 GT. In accordance with the 2010 amendments to the STCW Convention, the security requirements are meant to support the requirements of the ISPS Code which applies to vessels of 500 GT or more. Therefore, the Coast Guard has amended § 15.1113 to ensure that the application of the security requirements is only to vessels of 500 GT or more.

MERPAC recommends that § 15.1113 be amended to include all transitional provisions from STCW.

The Coast Guard agrees. As previously discussed, the Coast Guard has amended § 15.1113 to include all transitional provisions from the STCW Convention applicable to vessel personnel with designated security duties and security awareness.

MERPAC recommends that § 15.1113 be amended to account for existing mariner compliance by 2012, and to account for new mariners compliance by 2014. The Coast Guard agrees. As previously discussed, the Coast Guard has amended § 15.1113 to include all transitional provisions from the STCW

Convention applicable to existing and new mariners.

MERPAC recommends § 15.1113 be amended to address contractors and other personnel who should not be required to obtain an endorsement.

The 2010 amendments to the STCW Convention (Section A–VI/6) require all persons employed or engaged on a seagoing vessel to have received security familiarization. The term ''all persons'' includes seafarers and other personnel, including contractors, whether part-time, full-time, temporary, or permanent. At this time, the Coast Guard intends to meet the STCW 2010 amendments through the regulations in 33 CFR 104.225, which requires that all contractors, whether part-time, full-time, temporary, or permanent, must have knowledge on a number of topics, through training or equivalent job experience. The Coast Guard has also amended § 15.1113 to ensure that all contractors have knowledge of the requirements in 33 CFR 104.225 through training or equivalent job experience.

MERPAC recommends that § 15.1113 be amended to provide that individuals who have completed a USCG accepted VSO course, or have been designated as VSO are considered to have met the requirements of training for personnel with or without security duties.

The Coast Guard agrees, and has amended the requirements in § 15.1113 to ensure persons meeting the VSO requirements are considered to have met the requirements of training for personnel with or without security duties. The Coast Guard is revising the definition ''vessel personnel with designated security duties'' to harmonize it with the guidance in Section B–VI/6 of the STCW Code and to ensure consistency with the requirements in 33 CFR subchapter H. The expression ''with designated security duties'' denotes those having specific security duties and responsibilities in accordance with the vessel security plan. The Coast Guard amended the requirements in §§ 12.625 and 15.113 to ensure that the term ''vessel personnel with designated security duties'' is used throughout.

MERPAC recommends that § 15.1113 be amended to ensure that requirements take into account STCW Circ 7(16) providing a compliance waiver until 2017.

The STCW Convention requires that mariners who commenced service after January 1, 2012, meet the training requirements for vessel personnel with designated security duties and security awareness, as appropriate. In addition, the STCW Convention also provides transitional provisions for mariners who started service prior to January 1, 2012. Recognizing that the implementation date was fast approaching, and that there may be practical difficulties for all seafarers with security-related requirements to obtain necessary certifications and/or the necessary endorsements required in accordance with regulation VI/6 of the 2010 amendments to the STCW Convention and Code, the IMO issued Circular STCW.7/Circ.17 providing advice for port state control officers on transitional arrangements leading up to full implementation of the 2010 amendments to the STCW Convention and Code on January 1, 2017. The Circular recommends that Administrations should inform their port state control authorities that, until January 1, 2014, even if a seafarer's documentation with regard to the security-related training in regulation VI/6 is not in accordance with the 2010 amendments to the STCW Convention and Code, it would be sufficient to accept compliance with section 13 of the ISPS. Taking the information in the Circular into account, the Coast Guard has amended § 15.1113 to implement the requirements for ''vessel personnel with designated security duties'' and for ''security awareness.'' The requirements in 33 CFR 104.220 and 104.225 meet the requirements of Section 13 of the ISPS Code.

MERPAC notes the lack of training requirements within the SNPRM as follows: (1) Generally, the officers do not have the time to perform training and assessment onboard due to minimal manning, higher workload and operational constraints; (2) under STCW mandatory rest period rules, the time available for training is limited; (3) The officers may not have the requisite knowledge to teach and assess the needed subjects effectively; (4) training is not part of a ship's officers job description; (5) most officers have not been exposed to ''train the trainer'' techniques; (6) most officers are reluctant to assume the legal liability of training; (7) some subjects can be better conducted ashore due to safety and economic reasons; and (8) if a company wants to address the above issues, then the company must provide the resources to conduct approved onboard training. Therefore, MERPAC recommends that additional formal classroom training be required.

The STCW Convention is a competence-based Convention, and not a training-based Convention. The Coast Guard does not believe that training is the only means of imparting knowledge, and recognizes that some knowledge, understanding, and proficiency is better acquired through experience.

The Tables in part A of the STCW Code establish the standards of competence, which provide ways and means to demonstrate the knowledge, understanding, and proficiencies needed to meet each standard. The Convention is very specific about which standards of competence require training. Basic training, Electronic Chart Display and Information System, and Automatic Radar Plotting Aids are examples of such required training.

In most instances, however, the STCW Convention does not specify whether structured training is required to meet the standards of competence. It is up to each Administration to establish the training and experience necessary to achieve the level of competence, and when structured training should be obtained.

The Coast Guard recognizes concerns raised by comments that shipboard factors, including reduced manning, higher mariner workload, and mariner fatigue issues, could make it a challenge for seafarers onboard vessels to train others. The Coast Guard also recognizes that not all STCW competencies, individual knowledge, understanding and proficiencies must be accomplished as part of structured training because there are areas where in-service experience may fulfill the competency requirement. For these reasons, the Coast Guard reviewed the tables of competencies and identified the training topics that must be accomplished as part of approved formal training. The training topics in the final rule were part of the extensive list of topics proposed in the NPRM, as well as those listed in the SNPRM.

Accordingly, parts 11 and 12 of this final rule have been amended to include a combination of training and in-service requirements, which will be validated through assessments, to ensure that seafarers achieve the necessary level of competence.

MERPAC also recommends that the content of the training should be appropriate to the tonnage, route and/or type of vessel. For example, advanced and emergency ship handling can be performed onboard OSVs, tugs, and ferries, rather than in a full mission simulator.

The Coast Guard partially agrees. The text in part 11, subpart C has been amended in each appropriate section for each STCW endorsement to indicate which courses will be required. The Coast Guard also agrees with the comment that the content of training should be appropriate to the tonnage, route and/or type of vessel. The

regulatory text also includes a provision to allow for the modification of KUPs based on the characteristics and size of vessels, and for the issuance of the appropriate limitations and restrictions.

MERPAC recommends amending § 11.480 to ensure the current practice of not putting radar endorsements on MMCs is stated.

The Coast Guard did not propose any changes in this area. The requested change is outside the scope of this rulemaking.

MERPAC recommends that a working group be formed with Coast Guard Headquarters, NMC, and industry to clarify and define the certification process for single or limited size engineroom staffing. In addition, this working group should also develop the same for deck staffing on vessels of limited size.

Although this suggestion is beyond the scope of this rulemaking, the Coast Guard will consider issuing a task on this subject to MERPAC in the future.

MERPAC recommends that the NMC process refocus the medical review of mariners so that the process is risk-based.

The Coast Guard agrees that the focus should be reviewed for possible improvement, but this is outside the scope of this rulemaking. The Coast Guard is considering plans for the development of a DME program. The Coast Guard will develop guidance on the DME program in the future.

MERPAC recommends that the government pursue creating methods of funding for maritime education due to the impact of the regulatory training and education requirements. (46 U.S.C. 51103).

Although this suggestion is outside the scope of this rulemaking, the Coast Guard will continue to promote maritime education.

62. MEDMAC Comments

Below, the Coast Guard responds to recommendations received from MEDMAC.

MEDMAC recommends replacing the term ''medical certificate/endorsement'' with ''medical certificate'' throughout the document.

The Coast Guard agrees and has made this change throughout the document. This change is appropriate because the Coast Guard will be issuing separate medical certificates rather than endorsements to existing MMCs.

MEDMAC recommends removing the last sentence of § 10.301(a) and replacing it with the text from NVIC 04–08, Enclosure (6), Paragraph 7.

The Coast Guard agrees and has replaced the last paragraph of § 10.301(a) with the recommended text. This change is appropriate because it continues and codifies established Coast Guard policy on the evaluation of physical examinations.

MEDMAC recommends that §§ 10.301(b)(1) and (2) be amended to allow pilots to be issued 2-year medical certificates but not change the statutory requirement for pilots to undergo annual physicals.

The Coast Guard agrees and has amended § 10.301(b)(2) to allow pilots to be issued 2-year medical certificates to ensure consistency with the statute and to avoid any ambiguity.

MEDMAC recommends in § 10.303(b) removing the text ''for medical conditions and medications when'' and replacing it with ''when an applicant does not meet the applicable medical standards, but''.

The Coast Guard agrees that the suggested language is more accurate, and has made this change in § 10.303(b).

MEDMAC recommends removing the last sentence of § 10.304(a) and replacing it with the content of paragraph § 10.304(c), and then removing § 10.304(c).

The Coast Guard agrees that issuing future guidance on disqualifying medical conditions is preferable to the incomplete list in the last sentence of § 10.304(a) of the SNPRM. Accordingly, we have amended § 10.304(a) and have removed § 10.304(c).

MEDMAC requests clarification of guidance on food handlers found in § 10.304(b) that relates to NVIC 04–08 Enclosure 1 ''food handler'' link to Homeport.

The requested guidance is beyond the scope of this rulemaking. However, the Coast Guard has provided in this rulemaking a definition for ''communicable disease,'' which should have direct impact on MEDMAC's concerns. The Coast Guard also will be revising policies associated with this rulemaking and publishing them as required to ensure broadest notification.

MEDMAC recommends that all food handlers be required to submit a general medical exam.

The Coast Guard disagrees. Our requirements must be consistent with the underlying statutes. At present, the Coast Guard does not have authority to require entry-level food handlers to complete the general medical exam.

MEDMAC requests clarification from the Coast Guard on how practitioners shall perform each of the listed demonstrations in § 10.304(d)(2). If the Coast Guard does not have clarification, working group 11–03 recommends a task statement be developed to address this section.

The information regarding demonstrations should be addressed in the revision of NVIC 04–08 which is already a task statement provided to the MEDMAC (MEDMAC Task Statement 1).

C. Discussion of Public Comments in Response to the Merchant Marine Personnel Advisory Committee (MERPAC) and the Merchant Mariner Medical Advisory Committee (MEDMAC) Recommendations

On November 3, 2011, the Coast Guard announced the availability of recommendations from MERPAC in response to Task Statement 75, in which the Coast Guard requested review of the SNPRM (76 FR 68202). The Coast Guard also announced the availability of recommendations from MEDMAC after its review of the SNPRM. The recommendations from both committees were made available to the public for comment. The public comments to these recommendations and the Coast Guard response to the comments received are detailed below.

One commenter supports MERPAC's recommendation that Qualified Assessors should be approved by the Coast Guard.

The Coast Guard agrees. As previously discussed, we have amended the definition of ''Qualified Assessor'' in § 10.107 to add clarification of this person's role and professional development.

The same commenter supports the MERPAC recommendations regarding Listing of Training Elements for 46 CFR part 11 (Deck Competencies with Formal Training Requirements) in its entirety. The commenter states that interpreting the Code to require an approved education and training system for deck officer competencies is in keeping with the generally accepted view of the international maritime community and Coast Guard policy for nearly 10 years. That system would be operated under a QSS and is described in Tables A–II/1, A–II/2 et al. of the STCW Code.

The Coast Guard partially agrees. The Coast Guard reviewed the tables of competencies and identified the training topics that must be accomplished as part of approved formal training. These topics were part of the NPRM published in 2010. Parts 11 and 12 of this final rule are amended to include a combination of training and in-service requirements, validated through assessments, to ensure that the seafarers achieve the necessary level of competence.

One commenter disagrees with MERPAC's recommendation that

mariners should not be able to obtain an STCW endorsement without meeting the service requirements for the associated national endorsement. MERPAC adds that its recommendation is about progression requirements rather than qualification requirements. The commenter states that this MERPAC recommendation would reverse the Coast Guard's stated intent to separate STCW and domestic endorsements. By recombining domestic and STCW sea-service requirements, irrespective of possible conflicts between the two, the Coast Guard would undermine another of its stated intentions, that the new regulations will be easier for mariners to read and understand the requirements for each MMC endorsement.

The Coast Guard disagrees. One of the underlying principles used in the development of this rulemaking is that the STCW endorsement is an international, independent overlay of the national endorsement. Therefore, the mariner cannot have any STCW endorsement unless that mariner possesses the equivalent national endorsement.

One commenter disagrees with MERPAC's recommendation that the Coast Guard amend its definition of ''disabled vessel'' by removing the last sentence of the proposed definition, and by reverting to the definition currently found in the regulations. The commenter states that if the Coast Guard agrees to this recommendation, the continued financial wellbeing of many assistance companies whose livelihood depends on towing and assistance jobs allowed by the inclusion of the last sentence of the definition of ''disabled vessel'' in the SNPRM will be severely threatened. Many marine assistance companies have no other means of income, and for them this amendment will be disastrous.

The Coast Guard disagrees and has only retained non-substantive editorial changes to the original definition of ''disabled vessel'' in § 10.107. The expansion of the definition proposed in the SNPRM would have granted authority beyond the intended scope of the meaning of ''disabled vessel,'' and the final rule is substantially the same as the current regulation. The Coast Guard may consider possible changes to this definition after public notice and comment in a future rulemaking.

There were several comments received in the docket that were not related to MERPAC or MEDMAC recommendations. Those comments are summarized below.

One commenter states that the Coast Guard is placing mariners in peril in § 11.402(c)(1), by allowing a mariner with only 6 months' experience as master of a 1,600 GRT vessel to become a domestic master of an unlimited-tonnage vessel. The commenter states that you need experience as a chief mate on a large vessel in order to understand how to do the captain's job on such a vessel.

Because this final rule makes no changes to the current regulations in § 11.402(c)(1), this comment is outside the scope of this rulemaking.

The same commenter states that the Coast Guard is again placing mariners in peril in § 11.404(a)(2)(ii), by allowing a mariner to become a domestic master of an unlimited-tonnage vessel after 3 years of sea time, without ever having sailed as chief mate. The commenter states that you need experience as a chief mate on a large vessel in order to understand how to do the captain's job on such a vessel.

The Coast Guard disagrees that there is no requirement for experience as a chief mate on large vessels to qualify as master of such a vessel. Section 11.404(a)(2)(i) requires that, in addition to the requirements discussed in § 11.404(a)(2)(ii), mariners must provide evidence of 6 months' service as chief mate on vessels of unlimited tonnage.

One commenter asks why chief engineer (limited-near coastal) is listed above chief engineer (limited-oceans) hierarchically in Table 11.325(d). The same commenter asks if the required service is cumulative (12 months of service to get from chief engineer (limited-oceans) to chief engineer (limited-near coastal), then an additional 12 months of service to get to chief engineer on vessels of unlimited horsepower).

The order of endorsements listed in the table is not meant to be hierarchical. Further, in response to several other comments to the SNPRM docket, the Coast Guard is eliminating the endorsement for chief engineer (limited-near-coastal). An additional 12 months of service is required to cross over to first assistant engineer (unlimited), and an additional year to qualify for chief engineer (unlimited).

The same commenter asks if the proposed regulations eliminate STCW endorsements for chief engineer (limited-oceans) and chief engineer (limited-near coastal), or rather limit them to domestic service. The commenter recommends that the Coast Guard revise the SNPRM to maintain the current scope of authority for chief engineer (limited oceans and near-coastal).

As stated above, the Coast Guard is eliminating the chief engineer (limited-near-coastal) endorsement, leaving only the assistant engineer (limited) and chief engineer (limited) endorsements. Both endorsements authorize service on oceangoing vessels of any horsepower, but restrict service to vessels of less than 1,600 GRT (hence the ''limited'' title).

The same commenter states that the progression paths listed in the NPRM have been changed in the SNPRM. He asks if a path remains for a chief engineer (limited-oceans) to become either a chief engineer or first assistant engineer (second engineer officer) on vessels of unlimited horsepower.

As discussed in the SNPRM, there is a path for the endorsements the commenter cites. For changes to the limited engineers' officer endorsements, including crossover points, see Figure 11.505(a).

One commenter states that an unspecified section, figure or table does not appear to be a path to STCW chief engineering officer for vessels of more than 4,000 HP. In the commenter's view, the credentialing system contains ''confusion,'' again without specifying what the particular uncertainty might be. The commenter further takes exception to the amount of sea service proposed in the SNPRM for a chief engineer (limited) to obtain an STCW endorsement as chief engineer officer.

As discussed above, the SNPRM established the national and STCW credentials as separate entities. Figure 11.505(a) graphically displays the progression and crossover provisions for the national engineering officer endorsements only. All national limitations and restrictions apply. It is recognized that the holder of a national endorsement might also be required to hold an STCW endorsement to sail beyond the boundary line and into foreign ports. Since the applicant for an STCW endorsement must first hold an appropriate national endorsement, the purpose of the tables in § 11.325 is to list those national endorsements that might enable the holder to obtain a relevant STCW endorsement, and to indicate if additional assessment and training are required.

A common misconception is that if a mariner holds a particular national credential (e.g., chief engineer (limited)), that he/she automatically has the right to an ''equivalent'' STCW endorsement as chief engineer officer (e.g., more than 3,000 kW (4,000 HP)). This is not the case, as the STCW endorsement usually requires additional practical assessment, examination and/or training. The tables in part 11, subpart C are guides for mariners to obtain STCW endorsements. Another factor in the equation is that once obtained, the STCW endorsement is

dependent on any restrictions on the face of the national endorsement. For example, engineers (limited) may serve on vessels of any horsepower, but are restricted to vessels of less than 1,600 GRT. The DDEs are restricted to vessels of less than 500 GRT, and some have further horsepower limitations and/or route restrictions placed on their credentials.

D. Additional Request for Comments

In the ''Additional Request for Comments'' section of the SNPRM, the Coast Guard sought specific comments from the public on six issues. These issues and the Coast Guard response to the comments received are outlined below. Detailed Coast Guard responses to specific comments are located above in subsection A of this section, entitled ''Public comments on the SNPRM.''

1. The Coast Guard asked about the value of tonnage and route restrictions for engineering endorsements.

The Coast Guard removed route restrictions and the endorsement for chief engineer (limited near-coastal) in this final rule, but retained the 1,600 GRT limitation for the engineer (limited) series of endorsements. Likewise, the Coast Guard retained both route and tonnage restrictions for the DDE series of engineer endorsements.

2. The Coast Guard asked about alternative or additional requirements for limiting engineer authority, such as maintaining current horsepower restrictions, or any other alternative requirements.

The responses from the public ranged from a suggestion to remove the endorsement of chief engineer (limited near-coastal) to an elaborate 13-page plan for the complete revision of the national and STCW endorsement scheme. The Coast Guard has made several changes including the removal of the chief engineer (limited near-coastal) endorsement and expanded the structure of assistant engineer-OSV, as discussed previously.

3. The Coast Guard asked about potential changes to the qualification requirements for a DE for TOARs to allow mariners to serve as DEs by virtue of their endorsements without any further approval process.

The commenters believe that the current system for a DE to apply for recognition and approval through the NMC is appropriate. The Coast Guard will continue to approve the DEs through the current process.

4. The Coast Guard asked about who, within the mariner population, will take advantage of the alternatives to formal training provided to meet the standards of competence for an STCW endorsement.

Some commenters object to allowing competency to be demonstrated by alternative methods and not exclusively through approved formal training. In their view, the language of the STCW Convention and Code places a strong emphasis on formal training and assessment, and requires education and training for all categories of STCW certification. Other commenters support the concept of onboard training as an alternative to formal classroom training but believe that there are professional knowledge and development areas where in-service experience alone will not fill the need for professional training.

The Coast Guard has added training courses for STCW endorsements that must be accomplished as part of approved formal training. These courses were part of the NPRM. Parts 11 and 12 of this final rule are amended to include a combination of training and in-service requirements (validated through assessments) to ensure that the seafarers achieve the level of competence required for STCW endorsements.

5. The Coast Guard asked about the extent to which changes to sea service requirements, particularly in § 10.232, will increase the availability of mariners for service on oceangoing vessels.

Three commenters recommended that the Coast Guard remove §§ 10.232(b)(1) and 10.232(b)(2) in their entirety in regard to sea service credit for mariners serving on the Great Lakes and on inland waters. They believe there is no useful purpose for these provisions, and their inclusion would make professional advancement more difficult, thereby decreasing the availability of mariners for service on oceangoing vessels.

The Coast Guard has retained the proposed provisions in § 10.232(b)(1) (providing day-for-day credit on the Great Lakes), and § 10.232(b)(2) (providing credit up to 50 percent of total service required). These new requirements were not previously available for those mariners seeking an STCW endorsement. Further, the Coast Guard believes that the inclusion of these sections will actually increase the number of mariners with credentials necessary to make them available for service on ocean-going vessels by expanding the opportunity to earn sea service credit.

6. The Coast Guard asked about the possible changes to fee payment options, as proposed in § 10.219, which would eliminate the ability to pay by cash or check. The commenters objected to the proposed requirement in § 10.219(d) that fee payments for MMCs and associated endorsements must be made by credit card or by electronic payment. They claimed that it would be a hardship on mariners as they do not always have these means of payment available to them.

The Coast Guard is withdrawing this proposed revision. The current § 10.219(d) will be retained, allowing for multiple forms of payment.

VII. Incorporation by Reference

The Director of the **Federal Register** has approved the material listed in §§ 10.103, 11.102, 12.103, 13.103, and 15.103 for incorporation by reference under 5 U.S.C. 552 and 1 CFR part 51. Copies of the material are available from the sources listed in those sections.

VIII. Regulatory Analyses

We developed this final rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 14 of these statutes or executive orders.

A. Regulatory Planning and Review

Executive Orders 12866 (''Regulatory Planning and Review'') and 13563 (''Improving Regulation and Regulatory Review'') direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This final rule has been designated a ''significant regulatory action'' although not economically significant, under section 3(f) of Executive Order 12866. Accordingly, this final rule has been reviewed by the Office of Management and Budget. A combined ''Regulatory Analysis and Final Regulatory Flexibility Analysis'' report is available in the docket as indicated under the **ADDRESSES** section of this preamble. A summary of the report follows:

This final rule will ensure that U.S. mariners comply with the standards set forth in the STCW Convention and Code. This final rule will implement all amendments under the Convention, including the 2010 amendments previously discussed. In addition, the Coast Guard is responding to the comments, feedback, and concerns received from the public as a result of the SNPRM. In order to address those comments and concerns, this final rule

will simplify national licensing requirements and separate them from STCW requirements; provide alternative means for demonstrating competence; clarify oversight requirements for approved courses; amend lifeboatmen requirements; and allow for acceptance of sea service on vessels serving the Great Lakes and inland waters to meet STCW requirements (see ''Discussion of Final Rule'' for additional details).

The changes in this final rule from the current regulations that result in additional impacts involve the following categories of provisions:

1. Medical Examinations and Endorsements

The medical certificate will be reduced from a maximum period of validity of 5 years to 2 years for mariners serving onboard STCW vessels in accordance with the 2010 amendments to the STCW Convention.

2. Leadership and Managerial Skills

This final rule will require leadership and managerial skills for the management-level credential in accordance with the 2010 amendments to the STCW Convention.

3. Engineroom Resource Management

This final rule will require ERM training for engineers seeking operational-level credential, and leadership and managerial skills for the management-level credential in accordance with the 2010 amendments to the STCW Convention.

4. Tankerman Endorsements

This final rule will add new STCW endorsements for basic and advanced oil and chemical tanker cargo operations, and for basic and advanced liquefied gas tanker cargo operations, in accordance with the STCW 2010 amendments.

5. Safety Refresher Training Requirements

This final rule will require safety refresher training every 5 years for all STCW-endorsed mariners holding a credential in basic training (BT), advanced firefighting, proficiency in survival craft and rescue boats other than fast rescue boats, or proficiency in fast rescue boats, in accordance with the 2010 amendments to the STCW Convention and Code.

6. Able Seafarer Deck and Engine

This final rule will require that personnel serving on STCW vessels as able seafarers meet the requirements for certification in order to comply with the STCW 2010 amendments.

In order to address the comments received on the SNPRM, the Coast Guard made several changes to the SNPRM in this final rule. Part A of the Discussion of Comments and Explanation of Changes section summarizes the changes between this final rule and the SNPRM and the ''Tables of Changes'' in section V of the preamble provides a detailed explanation for each change. None of the changes between the SNPRM and this final rule, however, will result in additional impacts to the maritime industry. However, in response to comments from the public, the Coast Guard has added a transitional provision for the implementation of the QSS requirements by January 1, 2017. This will delay the cost impact of QSS requirements to training providers and provide additional time for compliance.

Costs

We estimate that this final rule will affect approximately 60,000 U.S. mariners[8] and 316 owners and operators of 1,044 vessels by imposing additional costs. This rule also affects U.S. mariners operating inside the boundary line by imposing new requirements. However, we do not anticipate the new requirements for national endorsements will impose additional costs. Each of the requirements will affect a different subset of these mariner and owner/operator populations. We used Coast Guard's data on mariners, publicly available information on training costs and mariner wages, and other available industry information to develop the estimates of potential costs to affected mariners and to the owners and operators employing affected mariners for each requirement. We did not find additional data or receive public comments in response to the analysis presented in the SNPRM that would result in changing these estimates for affected mariners or vessel owners and operators.

This final rule will also affect approximately 141 STCW training providers by requiring them to implement a quality standards system and write and maintain a QSS manual; subjecting them to internal and external audit requirements of each Coast Guard-approved course, and extending the time period for which they must keep a paper or electronic record on each student completing a course. Similarly, we did not find additional data or receive public comments that would result in changing our estimates for affected STCW training providers other than delaying the cost impact of QSS requirements to training providers by 3 years and providing additional time for compliance.

The costs of this final rule are presented in Table 1. We estimate the total present value cost over the 10-year period of analysis to be $228.9 million at a 7-percent discount rate ($272.6 million at a 3-percent discount rate). Over the same 10-year period of analysis, we estimate the annualized costs to be about $32.6 million at a 7-percent discount rate ($32.0 million at a 3-percent discount rate).

TABLE 1—SUMMARY OF PRESENT VALUE COSTS OF FINAL RULE

[$ Millions]

Year	Discount rate	
	7 percent	3 percent
1	$17.0	$17.7
2	38.5	41.5
3	36.0	40.3
4	35.0	40.8
5	31.8	38.5
6	29.7	37.4
7	11.3	14.7
8	10.5	14.3
9	9.8	13.9
10	9.2	13.5
Total*	228.9	272.6
Annualized	32.6	32.0

* Totals may not sum due to rounding.

We estimate the mariner training requirements are the primary cost driver throughout the 10-year period of analysis. See Table 2 for a summary of annualized costs by requirement category.

TABLE 2—SUMMARY OF THE ANNUALIZED COSTS OF THE FINAL RULE

[$ Millions]

Category	Annualized*	
	7 percent	3 percent
Mariner Training**	$27.06	$26.40
2-Year Medical Examination	3.99	3.99
Sea Service	1.04	1.04
Training Providers	0.50	0.51
Total	32.60	31.96

** Includes changes for officer, engineer and rating endorsements.

The changes to mariner training make up about 83 percent of the costs throughout the 10-year period of analysis. Table 3 below presents a

[8] Includes all mariners to which STCW applies, which is limited to voyages beyond the boundary line.

summary of the costs by requirement as a percentage of the total annualized costs of this final rule.

TABLE 3—SUMMARY OF COSTS BY REQUIREMENT OF THE FINAL RULE (AS A PERCENTAGE OF ANNUALIZED COST)

Requirements	Annualized cost percent
Mariner Training	83
2-Year Medical Examination	12
Sea Service	3
Training Providers	2
Total	100

We believe that the training costs discussed above would likely be high estimates, as this final rule provides flexibility in choosing alternative methods if these are more cost effective to the mariners, owners and operators.

In the absence of additional information, such as the choice of alternative methods by company size and time differences to complete one alternative compared to another, we estimate potential regulatory compliance costs by assuming that mariners and their employers would fulfill these requirements through classroom training. This results in upper-bound monetized costs for these training provisions.

Benefits [9]

This final rule will implement all amendments to the STCW and ensure that the U.S. is meeting its obligations under the STCW Convention. The STCW Convention sets the standards of competence for mariners internationally, bringing U.S. mariners in line with training, certification and medical standards developed by the International Maritime Organization (IMO). In addition to the benefit of improving marine safety and decreasing the risk of shipping accidents, additional benefits of this final rule are expected to accrue to the U.S. economy in the form of: (1) Preventing and mitigating accidents on STCW Convention-compliant foreign vessels in U.S. waters due to the Coast Guard's increased ability to enforce requirements; (2) Maintaining U.S. status on the ''White List'' and avoiding the detention of U.S. vessels in foreign ports due to non-compliance with the STCW Convention; (3) Ensuring U.S. mariners can compete in the global workforce market; and, (4) Ensuring that U.S. regulations are consistent with international performance standards based on international consensus and IMO convention, which minimizes variation in standards of training and watchkeeping.

One benefit of this final rule is an increase in vessel safety and a resulting decrease in the risk of shipping casualties. According to one study on the Review and Analysis of Accident Databases by the American Bureau of Shipping (ABS), the human element is involved in 80 percent of shipping casualties, with 45 percent of those casualties primarily due to human error, and another 35 percent attributable to a failure to adequately respond.[10]

The final rule seeks to decrease human error and improve responsiveness through a three-pronged approach—increased training and service requirements, improved consistency of training, and enhanced medical evaluation and reporting.

Lack of mariner competence in situational awareness and assessment are primary causes of human error. The enhanced competency and service requirements of the STCW Convention are expected to increase mariners' situational awareness and situational assessment, and improve their ability to respond to potential hazards.

The requirements for training providers to develop and follow a quality standard system help to ensure that the STCW training given to mariners is of consistent quality.

Unidentified medical conditions can also impair a mariner's ability to perform tasks and respond, thus contributing to the human element of casualties. This final rule will require more frequent medical exams for STCW mariners, thus reducing the potential contribution of medical conditions to human error.[11] In combination, the provisions of this final rule are expected to reduce potential for vessel accidents, including those with small and large consequences.

Based on data and information from the Coast Guard's Marine Information for Safety and Law Enforcement (MISLE) database system, between 2002 and 2009, there were an average of 11 fatalities and 126 injuries (ranging in severity) per year on U.S. flag SOLAS vessels that could be prevented or mitigated by this rulemaking. These form the baseline for this final rule. Likewise, pollution from incidents involving U.S. flag SOLAS vessels resulted in an annual average of 285,152 gallons of oil spilled per year that are also part of the baseline damages that could be prevented or otherwise mitigated by this rulemaking. Table 4 summarizes the annual damages associated with fatalities, injuries, and oil spills for U.S. flag SOLAS vessels.

These estimates do not include quantified measures of secondary impacts that result from vessel accidents.

TABLE 4—ANNUAL BASELINE OF FATALITIES, INDUSTRIES, OIL SPILLS, AND PROPERTY DAMAGE (2002–2009)

Impact	SOLAS
Fatalities	11.
Injuries	126.
Oil Spills	169.
Amount of Oil Spilled	285,152 gallons.
Property Damage	$25.7 million.
Congestion and Delays	Not quantified.

The training, sea service and QSS provisions of the final rule would most likely reduce the risk of accident-related consequences such as fatalities, injuries, and pollution. Estimating the precise reduction in risk from improved training and sea service requirements is difficult given existing information. We found limited information on how STCW, or other competency-based marine transportation training, quantitatively increases marine safety by reducing the risk of accidents.

We did find research conducted for other industries on the impact of training programs on outcomes and behaviors. This research found a wide range of potential reductions in risk: from a low of no impact to a high of approximately 87 percent. See the ''Regulatory Analysis and Final Regulatory Flexibility Analysis'' report available in the docket for more information. No additional data or updates to estimates were received as part of public comments.

If the annual costs of $28.1 million we estimate for the cost of training and sea

[9] The Coast Guard did not receive any comments from the public on the benefits analysis for the SNPRM. The changes between the SNPRM and this final rule did not result in any modifications to benefits estimated in this section.

[10] Clifford C. Baker and Denise B. McCafferty. 2004. ABS Review and Analysis of Accident Databases. American Bureau of Shipping. Accessed at *http://www.slc.ca.gov/Division_Pages/MFD/Prevention_First/Documents/2004/Human%20and%20Organizational%20Factors/McCafferty%20paper.pdf.*

[11] Examples of major accidents that resulted in deaths, injuries, environmental contamination or property damage in which an unidentified medical condition was a causal factor include: the allision of the M/V *Cosco Busan* with the San Francisco-Oakland Bay Bridge, the allision of the passenger ferry *Andrew J. Barberi,* and Towboat *Robert Y. Love* allision with Interstate 40 Highway Bridge. Although these did not directly involve STCW mariners, the same risk from unidentified medical conditions applies.

service requirements (exclusive of the QSS training provider and the medical examination requirements) are compared against the accident-related baseline damages for SOLAS vessels including fatalities, injuries, property damage and oil spilled, this final rule would have to reduce damages by 23 percent to reach break even. Using the cost of training and sea service requirements, if only fatalities are considered, the final rule would need to prevent approximately 4.5 fatalities per year to break even, out of about 11 total fatalities per year on SOLAS vessels. Accident-related fatalities represent approximately 20 percent of the total baseline damages.

The annualized cost of the training and sea service requirements (exclusive of the QSS training provider and the medical examination requirements) is approximately $28.1 million per year at a 7-percent discount rate (See Table 2 for a summary of annualized costs by requirement category). Based on the distribution of potential risk reduction derived from the studies described above applied to the baseline consequences of accident-related damages for U.S. flag, SOLAS vessels, we estimate the discounted, annualized benefits of this final rule could be about $24.3 million, with a range of $23.7 million to $29.4 million.

The medical examination requirements will also reduce risk, both for fatalities due to medical conditions and for accident-related fatalities and oil spills. The incapacitation of mariners on vessels due to undiagnosed and untreated medical and/or physical conditions could contribute to vessel mishaps and associated public safety risks. Data from the trucking industry indicate that certain medical conditions can increase the risk of accidents. For example, truck drivers with diabetes have a 19 percent higher risk of causing an accident. Similarly, drivers with cardio-vascular disease have a 43 percent greater risk of causing an accident.[12]

More frequent medical exams can help ensure that medical conditions that could impair performance and increase the risk of an incident are identified earlier, thus increasing opportunities to treat the condition and reducing the chances that uncontrolled symptoms and side-effects could cause decreased performance and increased risk of accidents.

The annual costs of the medical-related requirements are approximately $3.99 million at a 7-percent discount rate. If we compare this cost with the damages associated with the five fatalities related to medical conditions, this final rule would need to result in a 12.7 percent reduction in risk to break even.

To summarize, we estimate the monetized annualized costs of this final rule to be about $32.6 million (at a 7-percent discount rate). However, we believe that this may likely be a high cost estimate as this final rule provides flexibility in choosing alternative methods of demonstrating competency if these are more cost effective to the mariners, owners and operators.

We considered five alternatives to this final rule:

- Alternative 1: Maintain the current STCW Convention interim rule.
- Alternative 2: Implement the NPRM-proposed requirements.
- Alternative 3: Implement the SNPRM STCW-related proposed requirements only.
- Alternative 4: Implement NPRM with a separate rulemaking for 2010 STCW amendments.
- Alternative 5: Implement the SNPRM.

The first alternative is not feasible as it would not meet all U.S. responsibilities as a party to the Convention. The second alternative would partially meet U.S. responsibility, but would not implement the 2010 STCW amendments. The third alternative would meet the U.S. responsibilities under the STCW Convention, but would not provide clarifications and modification to national endorsements for which costs are minimal. The fourth alternative would not have met U.S. STCW responsibilities. The fifth alternative would not incorporate any comments, feedback, and concerns received from the public as a result of the SNPRM. Public comments helped the Coast Guard reorganize and clarify certain STCW and non-STCW provisions of the SNPRM and led this final rule to be more efficient.

The ''Regulatory Analysis and Final Regulatory Flexibility Analysis'' report available on the docket provides additional detail on the alternatives, costs, and benefits of this rulemaking.

At this time, based on available information, we expect that this rulemaking will not be economically significant under Executive Order 12866 (e.g., have an annual effect on the economy of $100 million or more).

B. Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this final rule will have a significant economic impact on a substantial number of small entities. 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.

A Final Regulatory Flexibility Analysis discussing the impact of this final rule on small entities is available in the docket where indicated under **ADDRESSES**.

This final rule will directly regulate mariners and training providers. Individuals, such as the mariners regulated by this final rule are not small entities under the definition of a small entity in the Regulatory Flexibility Act (RFA).

This final rule includes audit and quality system requirements for training providers. Based on Coast Guard data, approximately 84 percent of the STCW training providers that are affected by this final rule are small by the (SBA) size standards.

While we do not expect training providers to offer new training programs unless it is beneficial to their business model, we have estimated the impact of this final rule to training providers as if they would not pass any of their costs to mariners. Therefore, the revenue impacts to the small training providers discussed below may be overestimates.

We found that this final rule will have a significant economic impact (more than 1 percent impact on revenue) on 62 percent of small training providers in the first year they implement QSS requirements. After the first year of implementation, we found that this final rule will have a significant economic impact on 29 percent of small training providers.

In response to comments from the public, the Coast Guard has delayed implementation of the QSS requirements to January 1, 2017. This will delay the cost impact of QSS requirements to training providers and provide additional time for compliance. The impacts discussed above are not based on discounted present value costs and do not account for the additional time for compliance.

This final rule does not directly require companies or maritime employers to pay for the final training requirements for affected mariners. However, we acknowledge that some marine employers fund training and

[12] Source: Final Rule Regulatory Evaluation, ''Medical Certification Requirements as Part of the Commercial Driver's License,'' Final Rule, Federal Motor Carrier Safety Administration, July 2008 (FMCSA–1997–2210–0211.1).

might be indirectly impacted. In recognition of this possibility, we analyzed impacts on small entities to include a sensitivity analysis showing the impact of additional training costs on employers of mariners. We provided this analysis in the Initial Regulatory Flexibility Analysis for the SNPRM and summarized it in Final Regulatory Flexibility Analysis for this rule.

Based on this sensitivity analysis, we found that about 80 percent of the vessel owners and operators affected by this final rule will be small entities under the Regulatory Flexibility Act and the Small Business Administration (SBA) size standards. We estimate that this final rule will have a more than 1 percent cost impact on annual revenue for 69 to 83 percent of the small vessel owners and operators affected by this rulemaking, depending on the year.

However, under this final rule, the Coast Guard will accept various, flexible methods for demonstrating competence that will reduce the costs of training requirements, a potential cost relief to maritime employers that fund training.

C. 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 final rule so that they can better evaluate its effects on them and participate in the rulemaking. If this final rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult Ms. Zoe Goss, Maritime Personnel Qualifications Division, Coast Guard; telephone 202–372–1425. 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.

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).

D. Collection of Information

This final rule calls for modifications to collections of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). It modifies two existing Office of Management and Budget (OMB) Collections of Information: OMB Control Number 1625–0028, ''Course Approvals for Merchant Marine Training Schools;'' and OMB Control Number 1625–0079, ''Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1995 and 1997 Amendments to the International Convention.''

As defined in 5 CFR 1320.3(c), ''collection of information'' comprises reporting, recordkeeping, monitoring, posting, labeling, and other, similar actions. The title and description of the information collections, a description of those who must collect the information, and an estimate of the total annual burden follow. The estimate covers the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and completing and reviewing the collection.

This final rule adds to recordkeeping requirements of training providers and credentialed merchant mariners.

Title: Course Approval and Records for Merchant Mariner Training Schools.

OMB Control Number: 1625–0028.

Title 46 United States Code (U.S.C.) 7315 authorizes a license or document applicant to substitute the completion of an approved course for a portion of the required sea service. 46 CFR 10.402 specifies the information that must be submitted for the Coast Guard to evaluate and approve each course. 46 CFR 10.403 specifies recordkeeping requirements that a school teaching approved courses must meet for each student taking each course.

Under this final rule, training providers who teach STCW Convention courses will: (1) Develop and maintain a QSS, including writing and maintaining a QSS manual; (2) Undergo an internal audit and undergo an external audit every 5 years and keep the audit records for Coast Guard inspection as needed; and (3) Store student course records for an additional 4 years.

Since training providers are currently required to store student records for 1 year and many of them store records for several years more, the burden of the new requirement that will extend recordkeeping from 1 year to 5 years is small.

Summary of the Collection of Information: A licensed mariner is authorized to substitute the completion of an approved course for a portion of the required sea service. Training providers must submit specific information to the Coast Guard to evaluate and approve each course.

This final rule will require training providers to write and maintain a QSS manual and arrange two internal audits of STCW Convention courses within 5 years.

Need for Information: The information is necessary to show evidence that training providers meet the minimum quality standards and recordkeeping requirements for each course established by the IMO.

Proposed Use of Information: The Coast Guard will use this information to document that the training level of mariners meets international requirements.

Description of the Respondents: The respondents are the mariner training schools that will be required to complete form CG–719B.

Number of Respondents: According to the Coast Guard National Maritime Center (NMC), there are approximately 285 training schools. However, only 141 training providers teach STCW courses. The number of respondents is 141 STCW training providers in the first year and recurring annually.

Frequency of Response: Respondents are required to write a QSS manual in the first year and modify it as needed. They will also arrange internal audits on their STCW courses every two and a half years.

Burden of Response: Writing a QSS manual will take a training provider approximately 206 hours in the first year (205 hours for reporting and 1 hour for recordkeeping), and modifying it will take 9 hours every year (8 hours for reporting and 1 hour recordkeeping). We estimate that it will take 10 hours for each respondent to complete an internal audit twice every 5 years (9 hours for reporting and 1 hour for recordkeeping) or approximately 4 hours per year.

Estimate of Total Annual Burden: The existing OMB-approved total annual burden, as adjusted in May 2012, is 97,260 hours. This rule will increase the burden for 141 training providers by approximately 225 hours each. The total additional hours requested for this rulemaking is 30,879 [$141 \times (206 + 9 + 4)$]. The new annual burden for the first year is 29,046 hours and about 1,833 hours each year after the first year.

Title: Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1995 and 1997 Amendments to the International Convention.

OMB Control Number: 1625–0079.

The International Convention for Standards of Training, Certification and Watchkeeping for Seafarers (STCW) sets qualifications for masters, officers and watchkeeping personnel on seagoing merchant ships. The United States is a signatory to these conventions, which

define standards of competence necessary to protect safety of life at sea and the marine environment and address the responsibilities of all State-Parties to ensure seafarers meet defined standards of competence and quality. The information collection requirements are necessary to implement the amendments to this important international convention.

This final rule makes three changes that impact this collection. This final regulation will: (1) Change the medical exam requirements for STCW credentialed mariners from once every 5 years to once every 2 years; (2) require documented evidence of security training or awareness for 2 groups of mariners—personnel with security duties (except vessel security officers) and all other mariners working aboard a vessel; and (3) recognize STCW endorsements issued by foreign governments.

To comply with changes in medical examination requirements, mariners will be required to submit a CG–719K form as filled out by a physician. To comply with security training or awareness for personnel, vessel owners/operators will need to provide documentary evidence that personnel with security duties other than VSOs meet requirements set forth in 33 CFR 104.220, and provide documentary evidence of meeting the requirements of 33 CFR 104.225 for all other personnel working on a vessel. Additionally, this final rule allows for the recognition of STCW endorsements issued by foreign governments if proper documentation is submitted by a vessel owner/operator.

Summary of the Collection of Information: The STCW Convention sets qualifications for mariners on seagoing merchant ships. As a signatory party, the United States must collect information to document that requirements described in this important international treaty are being met.

This final rule, which adopts 2010 amendments to the STCW convention, requires STCW mariners to provide documentation of a medical exam occurring once every two years; establishes the need for documentary evidence certifying security training or awareness for personnel; and provides the means to recognize STCW endorsements issued by foreign governments.

Need for Information: The collection of information is needed to ensure that mariners have completed training and medical assessment necessary to receive STCW certification or endorsement. Collection of information is also needed to demonstrate to the International Maritime Organization that the United States has in place certain specific regulations that implement the international requirements and related amendments to the STCW convention.

Proposed Use of Information: The information collected will help to ensure compliance with international requirements and to maintain acceptable quality in activities associated with training and assessment of merchant mariners.

Description of the Respondents: The respondents will be merchant mariners holding STCW endorsements who need to update their medical records with the NMC, and the vessel owner/operators employing STCW endorsed mariners.

Number of Respondents: According to Coast Guard NMC data, an estimated 60,000 merchant mariners hold STCW endorsements. Of those mariners, approximately 12,000 submit medical examination forms each year. Since this final rule requires medical exams every 2 years, approximately 18,000 additional mariners will need to respond each year.

This final rule will also require employers of STCW endorsed mariners to submit documentary evidence of security training or awareness. Approximately 316 employers will need to submit this one-time requirement for 23,413 mariners—12,020 mariners who fall under 33 CFR 104.220 and 11,393 mariners who fall under 33 CFR 104.225.

Additionally, approximately 105 owner/operators and approximately 1,800 mariners holding STCW endorsements issued by foreign governments will need to respond.

Frequency of Response: For medical examination requirements, mariners will need to respond every two years. We will assume half of the mariner population would respond annually. For security training or knowledge, mariners will need to make a one-time response that includes the proof of meeting the requirement. Credentials for mariners holding foreign-issue STCW endorsements are valid for 5 years and response will be once every 5 years.

Burden of Response: For medical examinations, the mariner will take approximately 20 minutes to complete form CG–719K and another 5 minutes to submit that form. Total response burden will be approximately 25 minutes.

For personnel with security training, we estimate it will take employers 15 minutes per mariner to provide documentary evidence of security training or awareness.

For mariners with STCW endorsements issued by foreign governments, filling out form CG–719B takes approximately 15 minutes to complete.

Estimate of Total Annual Burden: For medical examinations, existing OMB-approved total annual burden, as adjusted in January 2013, is 17,927 hours. This rule will increase the annual burden by 7,950 hours (7,500 hours for medical exams plus 450 hours for foreign-issued STCW endorsements). Additionally, this final rule will impose a one-time burden of 5,853 hours on owner/operators to provide documentary evidence of training.

This final rule will increase the annual burden on 18,000 respondents submitting medical examination forms by approximately 25 minutes each. A total of 7,500 additional hours is requested for this rulemaking [18,000 × (25/60)]. For the approximately 1,800 mariners holding STCW endorsements issued by foreign governments, this final rule will increase the annual burden by approximately 15 minutes each. The total additional hours requested for this rulemaking is 450 [1,800 × (15/60)]. For other personnel with security training or awareness, this one-time requirement will impose a burden on 316 respondents of 15 minutes each, or approximately 5,853 hours [23,413 mariners × (15/60)].

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), we submitted a copy of this final rule to the Office of Management and Budget (OMB) for its review of the collection of information.

You are not required to respond to a collection of information unless it displays a currently valid OMB control number.

E. 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 final rule under that Order and have determined that it does not have implications for federalism.

It is well settled that States may not regulate in categories reserved for regulation by the Coast Guard. It is also well settled that all of the categories covered in 46 U.S.C. 3306, 3703, 7101, and 8101 (design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, and manning of vessels), as well as the reporting of casualties and any other category in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, are

within the field foreclosed from regulation by the States. (See the decision of the Supreme Court in the consolidated cases of *United States* v. *Locke and Intertanko* v. *Locke,* 529 U.S. 89, 120 S.Ct. 1135 (March 6, 2000).)

In *United States* v. *Locke,* the Supreme Court referenced the STCW Convention as evidence that such areas are exclusively Federal, stating: ''That training is a field reserved to the Federal Government is further confirmed by the circumstance that the STCW Convention addresses crew 'training' and 'qualification' requirements, and that the United States has enacted crew training regulations.'' *United States* v. *Locke and Intertanko* v. *Locke,* 529 U.S. 89, 120 S.Ct. 1135 (March 6, 2000). This rule addresses the training and credentialing of mariners and would impact manning of vessels, areas reserved for regulation by the Coast Guard. Because the States may not regulate within these categories, this rule does not affect the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government.

This rule would not extend Federal jurisdiction into those areas of pilotage that are reserved to the States in 46 U.S.C. 8501. Section 8501 provides for State regulation of pilots in the bays, rivers, harbors, and ports of the U.S. unless the law specifies otherwise.

F. 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. This final rule will not result in such an expenditure; however, we discuss the economic effects of this final rule elsewhere in this preamble.

G. Taking of Private Property

This final 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.

H. Civil Justice Reform

This final 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.

I. Protection of Children

We have analyzed this final 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.

J. Indian Tribal Governments

This final 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.

K. Energy Effects

We have analyzed this final rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order. Though it is a ''significant regulatory action'' under Executive Order 12866, it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

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

M. Environment

We have analyzed this final 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 (42 U.S.C. 4321 et seq.), and have concluded 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 under section 2.B.2, figure 2–1, paragraph (34) (a) and (c) of the Instruction. This rule involves the credentialing of mariners to meet IMO standards. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

List of Subjects

46 CFR Part 1

Administrative practice and procedure, Organization and functions (Government agencies), Reporting and recordkeeping requirements.

46 CFR Part 10

Incorporation by reference, Penalties, Reporting and recordkeeping requirements, Schools, Seamen.

46 CFR Part 11

Incorporation by reference, Penalties, Reporting and recordkeeping requirements, Schools, Seamen, Transportation Worker Identification Card.

46 CFR Part 12

Incorporation by reference, Penalties, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 13

Incorporation by reference, Cargo vessels, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 14

Oceanographic research vessels, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 15

Incorporation by reference, Reporting and recordkeeping requirements, Seamen, Vessels.

For the reasons discussed in the preamble, the Coast Guard amends 46 CFR parts 1, 10, 11, 12, 13, 14, and 15 as follows:

PART 1—ORGANIZATION, GENERAL COURSE AND METHODS GOVERNING MARINE SAFETY FUNCTIONS

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

Authority: 5 U.S.C. 552; 14 U.S.C. 633; 46 U.S.C. 7701; 46 U.S.C. Chapter 93; Pub. L. 107–296, 116 Stat. 2135; Department of Homeland Security Delegation No. 0170.1; § 1.01–35 also issued under the authority of 44 U.S.C. 3507.

§ 1.01–10 [Amended]

■ 2. In § 1.01–10(d)(1)(ii)(D), after the words ''under technical control of the'', remove the words ''Director of Inspections and Compliance (CG–5PC),'' and add, in their place, the words ''Director of Prevention Policy (CG–5P), and subject to the policy and guidance of the Office of Vessel Activities (CG–CVC),''.

§ 1.01–15 [Amended]

■ 3. In § 1.01–15(d), after the words ''same authority as an OCMI'', add the words '', subject to the policy and guidance of the Office of Vessel Activities (CG–CVC),''.

§ 1.03–40 [Amended]

■ 4. In § 1.03–40, after the words ''make a formal appeal of that decision or action'', remove the text '', via the NMC,''.

PART 10—MERCHANT MARINER CREDENTIAL

■ 5. Revise the authority citation for part 10 to read as follows:

Authority: 14 U.S.C. 633; 31 U.S.C. 9701; 46 U.S.C. 2101, 2103, 2110; 46 U.S.C. chapter 71; 46 U.S.C. chapter 73; 46 U.S.C. chapter 75; 46 U.S.C. 2104; 46 U.S.C. 7701, 8903, 8904, and 70105; Executive Order 10173; Department of Homeland Security Delegation No. 0170.1.

■ 6. Amend § 10.101 as follows:

■ a. Revise the heading of § 10.101 to read as set forth below;

■ b. In paragraph (b), remove the word ''their'' and add, in its place, the words ''his or her''; and

■ c. In paragraph (d), remove the words ''holder of'' and add, in their place, the words ''applicant for''.

§ 10.101 Purpose.

* * * * *

§ 10.103 [Amended]

■ 7. Amend § 10.103 as follows:

■ a. In paragraph (b)(1), remove ''STCW—'' and the year ''1995''; after the word ''amended'' add '', 2011''; and after the words ''incorporation by reference approved for §§ 10.107, 10.109,'' remove the section number ''and10.231'' and add, in its place, the section numbers ''10.201, and 10.410''; and

■ b. In paragraph (b)(2), after the word ''amended'' remove the year ''1995'' and add, in its place, '', 2011''; and after the words ''incorporation by reference approved for §§ 10.107, 10.109,'' remove the section numbers ''10.227, and 10.231'' and add, in their place, the section numbers ''10.201, 10.404, 10.411, and 10.412''.

■ 8. Revise § 10.107 to read as follows:

§ 10.107 Definitions in subchapter B.

(a) With respect to part 16 of this subchapter only, if the definitions in paragraph (b) of this section differ from those set forth in § 16.105, the definition set forth in § 16.105 applies.

(b) As used in this subchapter, the following terms apply only to merchant marine personnel credentialing and the manning of vessels subject to the manning provisions in the navigation and shipping laws of the United States:

Able seafarer-deck means a rating qualified in accordance with the provisions of Regulation II/5 of the STCW Convention.

Able seafarer-engine means a rating qualified in accordance with the provisions of Regulation III/5 of the STCW Convention.

Apprentice mate (steersman) of towing vessels means a credentialed mariner in training to perform bridge watchkeeping duties onboard a towing vessel, who must be under the direct supervision and in the continuous presence of a master or mate (pilot) of towing vessels.

Approved means approved by the Coast Guard.

Approved training means training that is approved by the Coast Guard or meets the requirements of § 10.408 of this part.

Articulated tug barge or ATB means any tug-barge combination which, through the use of an articulated or ''hinged'' connection system between the tug and barge, allows independent movement in the critical area of fore and aft pitch.

Assistance towing means towing a disabled vessel for consideration.

Assistant engineer, for national endorsements, means a qualified officer in the engine department other than the chief engineer.

Authorized official includes, but is not limited to, a Federal, State or local law enforcement officer.

Ballast control operator or BCO means an officer restricted to service on mobile offshore drilling units (MODUs) whose duties involve the operation of the complex ballast system found on many MODUs. When assigned to a MODU, a ballast control operator is equivalent to a mate on a conventional vessel.

Barge means a non-self propelled vessel as defined in 46 U.S.C 102.

Barge supervisor or BS means an officer restricted to service on MODUs whose duties involve support to the offshore installation manager (OIM) in marine-related matters including, but not limited to, maintaining watertight integrity, inspecting and maintaining mooring and towing components, and maintaining emergency and other marine-related equipment. A barge supervisor, when assigned to a MODU, is equivalent to a mate on a conventional vessel.

Boatswain means the leading seaman and immediate supervisor of deck crew who supervises the maintenance of deck gear.

Boundary line marks the dividing point between internal and offshore waters for the purposes of several U.S. statutes and, with exceptions, generally follows the trend of the seaward, highwater shorelines. See 46 CFR part 7.

Cargo engineer means a person holding an officer endorsement on a dangerous-liquid tankship or a liquefied-gas tankship whose primary responsibility is maintaining the cargo system and cargo-handling equipment.

Ceremonial license means a document that reflects a mariner's existing national officer endorsement and is suitable for framing, but is not valid for use as a Merchant Mariner Credential (MMC).

Chemical tanker means a tank vessel that is certificated to carry or carries chemicals in bulk as cargo or cargo residue. For the purposes of qualifying for an STCW endorsement for advanced chemical tanker cargo operations, this includes tank barges.

Chief engineer means the senior engineer responsible for the mechanical propulsion and the operation and maintenance of the mechanical and electrical installations of the vessel.

Chief mate means the deck officer next in rank to the master and upon whom the command of the vessel will fall in the event of incapacity of the master.

Coast Guard-accepted means—

(1) That the Coast Guard has officially acknowledged in writing that the material or process at issue meets the applicable requirements;

(2) That the Coast Guard has issued an official policy statement listing or describing the material or process as meeting the applicable requirements; or

(3) That an entity acting on behalf of the Coast Guard under a Memorandum of Agreement has determined that the

material or process meets the applicable requirements.

Coast Guard-accepted QSS organization means an entity that has been approved by the Coast Guard to accept and monitor training on behalf of the Coast Guard.

Coastwise seagoing vessel means a vessel that is authorized by its Certificate of Inspection to proceed beyond the Boundary Line established in part 7 of this chapter.

Coastwise voyage is a domestic voyage and means a voyage in which a vessel proceeds—

(1) From one port or place in the United States to another port or place in the United States;

(2) From a port or place in a United States possession to another port or place in the same possession, and passes outside the line dividing inland waters from the high seas; or

(3) From a port or place in the United States or its possessions and passes outside the line dividing inland waters from the high seas and navigates on the high seas, and then returns to the same port or place.

Communicable disease means any disease capable of being transmitted from one person to another directly, by contact with excreta or other discharges from the body; or indirectly, via substances or inanimate objects contaminated with excreta or other discharges from an infected person. Pursuant to 42 U.S.C. 12113, the Department of Health and Human Services periodically publishes in the **Federal Register** a list of infectious and communicable diseases that are transmissible through the food supply, and that list provides examples of communicable diseases for purposes of § 10.304 of this title.

Conviction means that the applicant for a merchant mariner credential has been found guilty, by judgment or plea by a court of record of the United States, the District of Columbia, any State, territory, or possession of the United States, a foreign country, or any military court, of a criminal felony or misdemeanor or of an offense described in section 205 of the National Driver Register Act of 1982, as amended (49 U.S.C. 30304). If an applicant pleads guilty or no contest, is granted deferred adjudication, or is required by the court to attend classes, make contributions of time or money, receive treatment, submit to any manner of probation or supervision, or forgo appeal of a trial court's conviction, then the Coast Guard will consider the applicant to have received a conviction. A later expungement of the conviction will not negate a conviction unless the Coast Guard is satisfied that the expungement is based upon a showing that the court's earlier conviction was in error.

Credential means any or all of the following:

(1) Merchant mariner's document.

(2) License.

(3) STCW endorsement.

(4) Certificate of registry.

(5) Merchant Mariner Credential.

Criminal record review means the process or action taken by the Coast Guard to determine whether an applicant for, or holder of, a credential is a safe and suitable person to be issued such a credential or to be employed on a vessel under the authority of such a credential.

Dangerous drug means a narcotic drug, a controlled substance, or a controlled-substance analogue (as defined in section 102 of the Comprehensive Drug Abuse and Control Act of 1970 (21 U.S.C. 802)).

Dangerous liquid or DL means a liquid listed in 46 CFR 153.40 of this chapter that is not a liquefied gas as defined in this part. Liquid cargoes in bulk listed in 46 CFR part 153, Table 2, of this chapter are not dangerous-liquid cargoes when carried by non-oceangoing barges.

Day means, for the purpose of complying with the service requirements of this subchapter, 8 hours of watchstanding or day-working not to include overtime. On vessels authorized by 46 U.S.C. 8104 and 46 CFR 15.705, to operate a two-watch system, a 12-hour working day may be creditable as 1 1/2 days of service. On vessels of less than 100 GRT, a day is considered as 8 hours unless the Coast Guard determines that the vessel's operating schedule makes this criteria inappropriate; in no case will this period be less than 4 hours. When computing service on MODUs for any endorsement, a day of MODU service must be a minimum of 4 hours, and no additional credit is received for periods served over 8 hours. For cadet service on a training ship furnished by the Maritime Administration under 46 CFR 310.4, a day may be creditable as 1½ days of service.

Deck crew (excluding individuals serving under their officer endorsement) means, as used in 46 U.S.C. 8702, only the following members of the deck department: able seamen, boatswains, and ordinary seamen.

Deck department means the department aboard a ship responsible for navigation, cargo, command, and control functions.

Designated areas means those areas within pilotage waters for which first-class pilot's endorsements are issued under part 11, subpart G, of this chapter, by the Officer in Charge, Marine Inspection (OCMI). The areas for which first-class pilot's endorsements are issued within a particular Marine Inspection Zone and the specific requirements to obtain them may be obtained from the OCMI concerned.

Designated duty engineer or DDE means a qualified engineer, who may be the sole engineer on vessels with a periodically unmanned engine room.

Designated examiner or DE means a person who has been trained or instructed in techniques of training or assessment on towing vessels and is otherwise qualified to evaluate whether an applicant has achieved the level of proficiency required to hold a towing vessel endorsement on a merchant mariner credential (MMC). This person must be approved by the Coast Guard.

Designated medical examiner means a licensed physician, licensed physician's assistant, or licensed nurse practitioner who has been trained and approved to conduct medical and physical examinations of merchant mariners on behalf of the U.S. Coast Guard and may be delegated limited authority to grant waivers and approve physical/medical suitability for service.

Directly supervised/direct supervision (only when referring to issues related to tankermen) means being in the direct line of sight of the person-in-charge or maintaining direct, two-way communications by a convenient, reliable means, such as a predetermined working frequency over a handheld radio.

Disabled vessel means a vessel that needs assistance, whether docked, moored, anchored, aground, adrift, or underway. This does not mean a barge or any other vessel not regularly operated under its own power.

Document of Continuity means a document issued by the Coast Guard to seafarers who are unwilling or otherwise unable to meet the requirements of § 10.227, for the sole purpose of maintaining an individual's eligibility for renewal of an endorsement.

Domestic voyage means a voyage from one United States port to another United States port, without entering waters under the jurisdiction of another country unless the United States has entered into a treaty or an agreement with that country respecting mutual recognition of national mariner qualifications. This includes a voyage to nowhere that returns to the originating port.

Drug test means a chemical test of an individual's urine for evidence of dangerous drug use.

Dual-mode integrated tug barge means an integrated tug barge (ITB) involving an articulated (flexible) coupling system where the towing unit rolls and heaves (articulates) about a horizontal pivot point. Dual mode units resemble a conventional tug and are capable of towing in other configurations (astern or alongside).

Electro-technical officer means an officer qualified in accordance with the provisions of Regulation III/6 of the STCW Convention.

Electro-technical rating means a rating qualified in accordance with the provisions of Regulation III/7 of the STCW Convention.

Employment assigned to means the total period of time a person is assigned to work on MODUs, including time spent ashore as part of normal crew rotation.

Endorsement is a statement of a mariner's qualifications and, for the purposes of this chapter, includes only those endorsements listed in § 10.109 of this part.

Engine department means the department aboard a ship responsible for the main propulsion and auxiliary systems, and other mechanical, electrical, hydraulic, and refrigeration systems, including deck machinery and cargo-handling equipment.

Entry-level mariner means a mariner holding no rating other than ordinary seaman, wiper, steward's department, or steward's department food handler (F.H.).

Evaluation means processing an application, from the point of receipt to approval or denial of the application, including review of all documents and records submitted with an application as well as those obtained from public records and databases.

Fails a chemical test for dangerous drugs means that the result of a chemical test conducted under 49 CFR part 40 was reported as ''positive'' by a Medical Review Officer because the chemical test indicated the presence of a dangerous drug at a level equal to or exceeding the levels established in 49 CFR part 40.

First assistant engineer means the engineer officer next in rank to the chief engineer and upon whom the responsibility for the mechanical propulsion and the operation and maintenance of the mechanical and electrical installations of the vessel will fall in the event of the incapacity of the chief engineer.

Great Lakes, for the purpose of calculating service requirements for an endorsement, means the Great Lakes and their connecting and tributary waters, including the Calumet River as far as the Thomas J. O'Brien Lock and Controlling Works (between miles 326 and 327), the Chicago River as far as the east side of the Ashland Avenue Bridge (between miles 321 and 322), and the Saint Lawrence River as far east as the lower exit of Saint Lambert Lock. For purposes of requiring MMCs with rating endorsements, the connecting and tributary waters are not part of the Great Lakes.

Gross register tons or GRT means the gross ton measurement of the vessel under 46 U.S.C. chapter 145, Regulatory Measurement.

Gross tonnage or GT means the gross tonnage measurement of the vessel under 46 U.S.C. chapter 143, Convention Measurement.

Harbor assist means the use of a towing vessel during maneuvers to dock, undock, moor, or unmoor a vessel, or to escort a vessel with limited maneuverability.

High-speed craft type rating (HSC) means an endorsement for specific duty on a particular type and model of high-speed craft (compliant with the high-speed craft code).

Horsepower or HP means, for the purpose of this subchapter, the total maximum continuous shaft horsepower of the entire vessel's main propulsion machinery as determined by the manufacturer. This term is used when describing a vessel's propulsion power and also when placing limitations on an engineer officer license or endorsement. One horsepower equals 0.75 kW.

ILO means the International Labour Organization.

IMO means the International Maritime Organization.

Increase in scope means additional authority added to an existing credential, such as adding a new route or increasing the authorized horsepower or tonnage.

Inland waters means the navigable waters of the United States shoreward of the Boundary Lines as described in part 7 of this chapter, excluding the Great Lakes, and, for towing vessels, excluding the Western Rivers.

Integrated tug barge or ITB means any tug barge combination which, through the use of special design features or a specially designed connection system, has increased seakeeping capabilities relative to a tug and barge in the conventional pushing mode. An ITB can be divided into either a dual-mode ITB or a push-mode ITB. The definitions for those categories can be found elsewhere in this section.

Invalid credential means an MMC, MMD, license, STCW endorsement, or Certificate of Registry that has been suspended or revoked, has expired, has been tampered with, has not been signed, or has been superseded in accordance with § 10.205 of this part.

ISM means the International Safety Management Code.

Kilowatt or kW means 1⅓ horsepower. This term is used when describing a vessel's propulsion power and also when placing limitations on an engineer officer license or endorsement.

Large passenger vessel, for the purposes of subpart H of part 12, and part 15, means a vessel of more than 70,000 gross tons, as measured under 46 U.S.C. 14302 and documented under the laws of the United States, with capacity for at least 2,000 passengers and a coastwise endorsement under 46 U.S.C. chapter 121.

Lifeboatman means a mariner who is qualified to take charge of, lower, and operate survival craft and related survival equipment on a vessel.

Lifeboatman-Limited means a mariner who is qualified to take charge of, lower, and operate liferafts, rescue boats, and other survival equipment on vessels where lifeboats are not installed.

Liquefied gas or LG means a cargo that has a vapor pressure of 172 kPa (25 psia) or more at 37.8°C (100 °F).

Liquefied gas tanker means a tank vessel that is certificated to carry or carries liquefied gases in bulk as cargo or cargo residue. For the purposes of qualifying for an STCW endorsement for advanced liquefied gas tanker cargo operations, this includes tank barges.

Liquid cargo in bulk means a liquid or liquefied gas listed in § 153.40 of this chapter and carried as a liquid cargo or liquid-cargo residue in integral, fixed, or portable tanks, except a liquid cargo carried in a portable tank actually loaded and discharged from a vessel with the contents intact.

Management level means the level of responsibility associated with—

(1) Serving as master, chief mate, chief engineer officer or second engineer officer onboard a seagoing ship; and

(2) Ensuring that all functions within the designated area of responsibility are properly performed.

Marine chemist means a person certificated by the National Fire Protection Association as a marine chemist.

Master means the officer having command of a vessel.

Mate means a qualified officer in the deck department other than the master.

Medical Certificate means a certificate issued by the Coast Guard under 46 CFR part 10, subpart C that serves as proof that the seafarer meets the medical and physical standards for merchant mariners.

Merchant Mariner Credential or MMC means a credential issued by the Coast

Guard under 46 CFR part 10. It combines the individual merchant mariner's document, license, and certificate of registry enumerated in 46 U.S.C. subtitle II part E as well as the STCW endorsement into a single credential that serves as the mariner's qualification document, certificate of identification, and certificate of service.

MMC application means the application for the MMC, as well as the application for any endorsement on an MMC.

Mobile offshore drilling unit or MODU means a vessel capable of engaging in drilling operations for the exploration for or exploitation of subsea resources. MODU designs include the following:

(1) Bottom bearing units, which include—

(i) Self-elevating (or jack-up) units with moveable, bottom bearing legs capable of raising the hull above the surface of the sea; and

(ii) Submersible units of ship-shape, barge-type, or novel hull design, other than a self-elevating unit, intended for operating while bottom bearing.

(2) Surface units with a ship-shape or barge-type displacement hull of single or multiple hull construction intended for operating in a floating condition, including semi-submersibles and drill ships.

Month means 30 days, for the purpose of complying with the service requirements of this subchapter.

National Driver Register or NDR means the nationwide repository of information on drivers maintained by the National Highway Traffic Safety Administration under 49 U.S.C. chapter 303.

National officer endorsement means an annotation on an MMC that allows a mariner to serve in the capacities listed in § 10.109(a) of this part. The officer endorsement serves as the license and/or certificate of registry pursuant to 46 U.S.C. subtitle II part E.

National rating endorsement means an annotation on an MMC that allows a mariner to serve in those capacities set out in § 10.109(b) and (c) of this part. The rating endorsement serves as the merchant mariner's document pursuant to 46 U.S.C. subtitle II part E.

NDR-listed convictions means a conviction of any of the following motor vehicle-related offenses or comparable offenses:

(1) Operating a motor vehicle while under the influence of, or impaired by, alcohol or a controlled substance; or

(2) A traffic violation arising in connection with a fatal traffic accident, reckless driving, or racing on the highways.

Near-coastal means ocean waters not more than 200 miles offshore from the U.S. and its possessions, except for MMCs endorsed as Operator of Uninspected Passenger Vessel for which near-coastal is limited to waters not more than 100 miles offshore from the U.S. and its possessions. This would also include those near-coastal waters identified by another Administration when the U.S. has entered into a treaty or an agreement with that country respecting the recognition of the U.S. near-coastal endorsement.

Non-resident alien, for the purposes of subchapter H of part 12, and part 15, means an individual who is not a citizen or alien lawfully admitted to the United States for permanent residence, but who is employable in the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), including an alien crewman described in section 101(a)(15)(D)(i) of that Act who meets the requirements of 46 U.S.C. 8103(k)(3)(A).

Oceans means the waters seaward of the Boundary Lines as described in 46 CFR part 7. For the purposes of establishing sea service credit, the waters of the Inside Passage between Puget Sound and Cape Spencer, Alaska, and the inland waters of another country are not considered oceans.

Officer endorsement means an annotation on an MMC that allows a mariner to serve in the capacities listed in § 10.109 of this part.

Officer in Charge, Marine Inspection, or OCMI means, for the purposes of this subchapter, the commanding officer of the National Maritime Center, or any person designated as such by the Commandant, in accordance with 46 CFR 1.01–5(b).

Officer in charge of an engineering watch in a manned engine room or designated duty engineer in a periodically unmanned engine room (OICEW) means an engineering officer qualified at the operational level.

Officer in charge of a navigational watch (OICNW) means a deck officer qualified at the operational level.

Offshore installation manager or OIM means an officer restricted to service on MODUs. An assigned offshore installation manager is equivalent to a master on a conventional vessel and is the person designated by the owner or operator to be in complete and ultimate command of the unit.

Oil tanker means a tank vessel that is certificated to carry or carries oil in bulk as cargo or cargo residue. For the purposes of qualifying for an STCW endorsement for advanced oil tanker cargo operations, this includes tank barges.

On location means that a mobile offshore drilling unit is bottom bearing or moored with anchors placed in the drilling configuration.

Operate, operating, or operation (as applied to the manning requirements of vessels carrying passengers) refers to a vessel any time passengers are embarked whether the vessel is underway, at anchor, made fast to shore, or aground.

Operational level means the level of responsibility associated with—

(1) Serving as officer in charge of a navigational or engineering watch, or as designated duty engineer for periodically unmanned machinery spaces, or as radio operator onboard a seagoing ship; and

(2) Maintaining direct control over the performance of all functions within the designated area of responsibility in accordance with proper procedures and under the direction of an individual serving in the management level for that area of responsibility.

Orally assisted examination means an examination as described in 46 CFR, part 11, subpart I of this subchapter administered orally and documented by a Coast Guard examiner.

Overriding operational condition means circumstances in which essential shipboard work cannot be delayed due to safety or environmental reasons, or could not have reasonably been anticipated at the commencement of the voyage.

Participation, when used with regard to the service on transfers required for tankerman by §§ 13.120, 13.203, or 13.303 of this chapter, means either actual participation in the transfers or close observation of how the transfers are conducted and supervised.

Passes a chemical test for dangerous drugs means that the result of a chemical test conducted according to 49 CFR part 40 is reported as ''negative'' by a Medical Review Officer according to that part.

Periodically unattended engine room means a space containing main propulsion and associated machinery and all sources of main electrical supply which is not at all times manned under all operating conditions, including maneuvering.

PIC means a person in charge.

Pilot of towing vessels means a qualified officer of a towing vessel operated only on inland routes.

Pilotage waters means the navigable waters of the United States, including all inland waters and offshore waters to a distance of 3 nautical miles from the baseline from which the Territorial Sea is measured.

Practical demonstration means the performance of an activity under the direct observation of a designated examiner or qualified assessor for the purpose of establishing that the performer is sufficiently proficient in a practical skill to meet a specified standard of competence or other objective criterion.

Propulsion power means the total maximum continuous-rated output power of the main propulsion machinery of a vessel determined by the manufacturer, in either kilowatts or horsepower, which appears on the ship's Certificate of Registry or other official document and excludes thrusters and other auxiliary machinery.

Public vessel means a vessel that—

(1) Is owned, or demise chartered, and operated by the United States Government or a government of a foreign country; and

(2) Is not engaged in commercial service.

Push-mode ITBs means those ITBs that involve a rigid coupling system and, when not coupled to the barge, are incapable of conducting towing in any other configuration (such as astern or alongside) because, by themselves, they have very limited seakeeping capability. The propelling unit moves as one with the barge unit.

Qualified Assessor or QA means a person who is qualified to evaluate, for STCW endorsements, whether an applicant has demonstrated the necessary level of competence in the task for which the assessment is being made. This person must be individually approved by the Coast Guard.

Qualified instructor means a person who has been trained in instructional techniques and is otherwise qualified to provide required training to candidates for an MMC endorsement. A faculty member employed at a State maritime academy or the U.S. Merchant Marine Academy operated under 46 CFR part 310 and instructing a course on merchant marine officer or rating knowledge, understanding, or proficiency requirements is qualified to serve as a qualified instructor in his or her area of specialization without individual evaluation by the Coast Guard.

Qualified rating means various categories of able seaman, qualified member of the engine department, or tankerman endorsements issued on MMCs.

Quality Standard System or QSS means a set of policies, procedures, processes, and data required to establish and fulfill the organization's objectives.

Raise of grade means an increase in the level of authority and responsibility associated with an officer or rating endorsement, such as from mate to master or second assistant engineer to first assistant engineer.

Rating endorsement is an annotation on an MMC that allows a mariner to serve in those capacities set out in § 10.109 of this part.

Regional examination center or REC means a field office of the National Maritime Center that receives and screens credential applications, conducts approved course oversight, and administers Coast Guard examinations as required by this subchapter.

Rest means a period of time during which the person concerned is off duty, is not performing work (which includes administrative tasks such as chart correction or preparation of port-entry documents), and is allowed to sleep without interruption.

Restricted tankerman endorsement means a valid tankerman endorsement on a merchant mariner credential restricting its holder as the Coast Guard deems appropriate. For instance, the endorsement may restrict the holder to one or a combination of the following: A specific cargo or cargoes; a specific vessel or vessels; a specific facility or facilities; a specific employer or employers; a specific activity or activities (such as loading or unloading in a cargo transfer); or a particular area of water.

Rivers means a river, canal, or other similar body of water designated as such by the Coast Guard.

Safe and suitable person means a person whose prior record, including but not limited to criminal record and/or NDR record, provides no information indicating that his or her character and habits of life would support the belief that permitting such a person to serve under the MMC and/or endorsement sought would clearly be a threat to the safety and security of life or property, detrimental to good discipline, or adverse to the interests of the United States. See 46 CFR 10.211 and 10.213 for the regulations associated with this definition.

Seagoing service means service onboard a ship/vessel relevant to the issue of a credential or other qualification.

Seagoing vessel means a ship that operates beyond the boundary line specified in 46 CFR part 7.

Second engineer officer means an engineer officer next in rank to the chief engineer officer and upon whom the responsibility for the mechanical propulsion and the operation and maintenance of the mechanical and electrical installations of the ship will fall in the event of the incapacity of the chief engineer officer.

Self propelled has the same meaning as the terms ''propelled by machinery'' and ''mechanically propelled.'' This term includes vessels fitted with both sails and mechanical propulsion.

Senior company official means the president, vice president, vice president for personnel, personnel director, or similarly titled or responsible individual, or another employee designated in writing by one of these individuals for the purpose of certifying employment.

Service (as used when computing the required service for endorsements) means the time period, in days, a person is assigned to work. On MODUs, this excludes time spent ashore as part of crew rotation.

Ship means a vessel using any mode of propulsion, including sail and auxiliary sail.

Simulated transfer means a transfer practiced in a course meeting the requirements of § 13.121 of this subchapter that uses simulation to meet part of the service on transfers required for tankerman by §§ 13.203 or 13.303 of this subchapter.

Staff officer means a person who holds an MMC with an officer endorsement listed in § 10.109(a)(36) through (a)(43) of this part.

Standard of competence means the level of proficiency to be achieved for the proper performance of duties onboard vessels according to national and international criteria.

Steward's department means the department that includes entertainment personnel and all service personnel, including wait staff, housekeeping staff, and galley workers, as defined in the vessel security plan approved by the Secretary under 46 U.S.C. 70103(c). These personnel may also be referred to as members of the hotel department on a large passenger vessel.

STCW means the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended (incorporated by reference, see § 10.103 of this subpart).

STCW Code means the Seafarers' Training, Certification and Watchkeeping Code (incorporated by reference, see § 10.103 of this subpart).

STCW endorsement means an annotation on an MMC that allows a mariner to serve in those capacities under § 10.109(d) of this subpart. The STCW endorsement serves as evidence that a mariner has met the requirements of the STCW Convention.

Support level means the level of responsibility associated with

performing assigned tasks, duties, or responsibilities onboard a seagoing ship under the direction of an individual serving in the operational or management level.

Tank barge means a non-self-propelled tank vessel.

Tank vessel means a vessel that is constructed or adapted to carry, or that carries, oil or hazardous material in bulk as cargo or cargo residue, and that—

(1) Is a vessel of the United States;

(2) Operates on the navigable waters of the United States; or

(3) Transfers oil or hazardous material in a port or place subject to the jurisdiction of the United States.

Tankerman assistant means a person holding a valid ''Tankerman-Assistant'' endorsement on his or her MMC. See 46 CFR, part 13, subpart D.

Tankerman engineer means a person holding a valid ''Tankerman-Engineer'' endorsement on his or her MMC. See 46 CFR part 13, subpart E.

Tankerman PIC means a person holding a valid ''Tankerman-PIC'' endorsement on his or her MMC. See 46 CFR part 13, subpart B.

Tankerman PIC (Barge) means a person holding a valid ''Tankerman-PIC (Barge)'' endorsement on his or her MMC. See 46 CFR part 13, subpart C.

Tankship means any self-propelled tank vessel constructed or adapted primarily to carry oil or hazardous material in bulk as cargo or as cargo residue.

Training program means a combination of training, practical assessment, and service which provides an individual with all or part of the necessary knowledge, understanding, and proficiency required for a specific qualification.

Transfer means any movement of fuel, dangerous liquid, or liquefied gas as cargo in bulk or as cargo residue to or from a vessel by means of pumping, gravitation, or displacement.

Transportation Worker Identification Credential or TWIC means an identification credential issued by the Transportation Security Administration under 49 CFR part 1572.

Underway means that a vessel is not at anchor, made fast to the shore, or aground. When referring to a mobile offshore drilling unit (MODU), underway means that the MODU is not in an on-location or laid-up status and includes that period of time when the MODU is deploying or recovering its mooring system.

Undocumented vessel means a vessel not required to have a certificate of documentation issued under the laws of the United States.

Unlimited means an annotation on an MMC authorizing service on vessels of any tonnage or any propulsion power.

Vessel personnel with designated security duties means a person, excluding the designated security officer (e.g., Company Security Officer (CSO), as defined in 33 CFR chapter I, subchapter H, and Vessel Security Officer (VSO)), having specific security duties and responsibilities in accordance with the ship security plan.

Vessel Security Officer (VSO) means a person onboard the vessel accountable to the Master and designated by the Company as responsible for security of the vessel, including implementation and maintenance of the Vessel's Security Plan, and for liaison with the Facility Security Officer and the vessel's Company Security Officer.

Western Rivers means—

(1) The Mississippi River;

(2) The Mississippi River's tributaries, South Pass, and Southwest Pass, to the navigational demarcation lines dividing the high seas from harbors, rivers, and other inland waters of the United States;

(3) The Port Allen-Morgan City Alternate Route;

(4) That part of the Atchafalaya River above its junction with the Port Allen-Morgan City Alternate Route including the Old River and the Red River; and

(5) Those waters specified in 33 CFR 89.25.

Year means 360 days for the purpose of complying with the service requirements of this subchapter.

■ 9. Revise § 10.109 to read as follows:

§ 10.109 Classification of endorsements.

(a) *National officer endorsements.* The following national officer endorsements are established in part 11 of this subchapter. The endorsements indicate that an individual holding a valid MMC with this endorsement is qualified to serve in that capacity and the endorsement has been issued under the requirements contained in part 11 of this subchapter:

(1) Master.
(2) Chief mate.
(3) Second mate.
(4) Third mate.
(5) Mate.
(6) Master of towing vessels.
(7) Master of towing vessels, limited.
(8) Mate (pilot) of towing vessels.
(9) Apprentice mate (Steersman).
(10) Apprentice mate (Steersman), limited.
(11) Assistance towing.
(12) Offshore installation manager (OIM).
(13) Barge supervisor (BS).
(14) Ballast control operator (BCO).
(15) Operator of uninspected passenger vessels (OUPV).
(16) Master of uninspected fishing industry vessels.
(17) Mate of uninspected fishing industry vessels.
(18) Master (OSV).
(19) Chief mate (OSV).
(20) Mate (OSV).
(21) Chief engineer.
(22) Chief engineer (limited).
(23) First assistant engineer.
(24) Second assistant engineer.
(25) Third assistant engineer.
(26) Assistant engineer (limited).
(27) Designated duty engineer (DDE).
(28) Chief engineer (OSV).
(29) Assistant engineer (OSV).
(30) Chief engineer MODU.
(31) Assistant engineer MODU.
(32) Chief engineer uninspected fishing industry vessels.
(33) Assistant engineer uninspected fishing industry vessels.
(34) Radio officer.
(35) First-class pilot.
(36) Chief purser.
(37) Purser.
(38) Senior assistant purser.
(39) Junior assistant purser.
(40) Medical doctor.
(41) Professional nurse.
(42) Marine physician assistant.
(43) Hospital corpsman.
(44) High-speed craft type rating.
(45) Radar observer.

(b) *National rating endorsements.* The following national rating endorsements are established in part 12 of this subchapter. The endorsements indicate that an individual holding a valid MMC with this endorsement is qualified to serve in that capacity and the endorsement has been issued under the requirements contained in part 12 of this subchapter:

(1) Able seaman:
(i) Unlimited;
(ii) Limited;
(iii) Special;
(iv) Special (OSV);
(v) Sail; and
(vi) Fishing industry.
(2) Ordinary seaman.
(3) Qualified member of the engine department (QMED), including the following specialty endorsements:
(i) Oiler;
(ii) Fireman/Watertender;
(iii) Junior engineer;
(iv) Pumpman/Machinist; and
(v) Electrician/Refrigerating engineer.
(4) Lifeboatman.
(5) Lifeboatman-Limited.
(6) Wiper.
(7) Steward's department.
(8) Steward's department (F.H.).
(9) Cadet (deck or engine).
(10) Student observer.

(11) Apprentice engineer.
(12) Apprentice mate.
(c) The following ratings are established in part 13 of this subchapter. The national endorsements indicate that an individual holding a valid MMC with this endorsement is qualified to serve in that capacity and the endorsement has been issued under the requirements contained in part 13 of this subchapter:
(1) Tankerman-PIC.
(2) Tankerman-PIC (Barge).
(3) Restricted Tankerman-PIC.
(4) Restricted Tankerman-PIC (Barge).
(5) Tankerman assistant.
(6) Tankerman engineer.
(d) *STCW endorsements.* The following STCW endorsements are issued according to the STCW Convention, the STCW Code, and parts 11, 12, and 13 of this subchapter. The endorsements indicate that an individual holding a valid MMC with this endorsement is qualified to serve in that capacity and the endorsement has been issued under the requirements contained in parts 11, 12 or 13 of this subchapter as well as the STCW Convention and STCW Code (incorporated by reference, see § 10.103 of this subpart):
(1) Master.
(2) Chief mate.
(3) Officer in charge of a navigational watch (OICNW).
(4) Chief engineer officer.
(5) Second engineer officer.
(6) Officer in charge of an engineering watch in a manned engineroom or designated duty engineer in a periodically unmanned engineroom (OICEW).
(7) Electro-technical officer (ETO).
(8) Rating forming part of a navigational watch (RFPNW).
(9) Able seafarer-deck.
(10) Rating forming part of an engineering watch in a manned engineroom or designated to perform duties in a periodically unmanned engineroom (RFPEW).
(11) Able seafarer-engine.
(12) Electro-technical rating.
(13) Basic training (BT).
(14) Advanced firefighting.
(15) Proficiency in survival craft and rescue boats other than fast rescue boats (PSC).
(16) Proficiency in survival craft and rescue boats other than fast rescue boats—limited (PSC—limited).
(17) Proficiency in fast rescue boats.
(18) Person in charge of medical care.
(19) Medical first-aid provider.
(20) GMDSS at-sea maintainer.
(21) GMDSS operator.
(22) Advanced oil tanker cargo operation.
(23) Advanced chemical tanker cargo operation.
(24) Advanced liquefied gas tanker cargo operation.
(25) Basic oil and chemical tanker cargo operation.
(26) Basic liquefied gas tanker cargo operation.
(27) Vessel Security Officer.
(28) Vessel personnel with designated security duties.
(29) Security awareness.
(30) High-speed craft (HSC) type rating certificate.

§ 10.201 [Amended]

■ 10. Amend § 10.201 as follows:
■ a. In paragraph (a), remove the words ''incorporated by reference in § 10.103'' and add, in their place, the words ''(incorporated by reference, see § 10.103 of this part)''; and
■ b. In paragraph (c), remove the words ''National Maritime Center or at any Regional Examination Center during usual business hours, or through the mail'' and add, in their place, the words ''Coast Guard''.

§ 10.205 [Amended]

■ 11. Amend § 10.205 as follows:
■ a. Revise paragraph (a) to read as set forth below;
■ b. In paragraph (b), after the words ''All endorsements'', add the words '', unless otherwise noted,'';
■ c. In paragraph (c), remove the word ''one'' and add, in its place, the numeral ''1'' and remove the text ''§ 10.227(f)'' and add, in its place, the text ''§ 10.227(h)'';
■ d. In paragraph (d), after the words ''in accordance with § 10.227'', add the words ''of this part''; and after the words ''becomes invalid'', add the words ''unless otherwise noted in paragraph (a) of this section''.
■ e. Remove paragraph (f), and redesignate paragraphs (g) and (h) as paragraphs (f) and (g), respectively; and
■ f. Add new paragraph (h) to read as follows:

§ 10.205 Validity of a merchant mariner credential.

(a) An MMC is valid for a term of 5 years from the date of issuance. Except upon the written request for the immediate issuance by the applicant, the Coast Guard will post-date the issuance of an MMC renewal that includes no other transactions up to 8 months from the date that the Coast Guard accepts a complete application as required in this part. If the expiration date of the mariner's active credential is beyond 8 months of the date that the Coast Guard accepts a complete application as required in this part, the new credential issue date will be 8 months from the date of application acceptance at which time the currently active credential will become invalid in accordance with paragraph (d) of this section. Otherwise, the new credential issue validity date will coincide with the expiration date of the active credential held by the mariner. All other MMC transactions will be processed for immediate issuance.

* * * * *

(h) When a Document of Continuity is replaced with an MMC re-issued in accordance with § 10.227 of this part, the Document of Continuity that has been replaced becomes invalid. In the event that not all endorsements on a Document of Continuity are activated, a new Document of Continuity will be issued for the remaining endorsements.

§ 10.207 [Amended]

■ 12. In § 10.207, after the words ''a unique serial number,'', add the words ''called the mariner reference number,''.
■ 13. Revise § 10.209 to read as follows:

§ 10.209 General application procedures.

(a) The applicant for an MMC, whether for an original, renewal, duplicate, raise of grade, or a new endorsement on a previously issued MMC, must establish that he or she satisfies all the requirements for the MMC and endorsement(s) sought before the Coast Guard will issue the MMC. This section contains the general requirements for all applicants. Additional requirements for duplicates, renewals, new endorsements, and raises of grade appear later in this part.
(b) The Coast Guard may refuse to process an incomplete MMC application. The requirements for a complete application for an original MMC are contained in § 10.225 of this part, the requirements for a renewal MMC application are contained in § 10.227 of this part, the requirements for a duplicate MMC application are contained in § 10.229 of this part, and the requirements for an application for a new endorsement or raise of grade are contained in § 10.231 of this part.
(c) Applications are valid for 12 months from the date that the Coast Guard approves the application.
(d) The application may be submitted in person, by mail, fax, or other electronic means. A complete MMC application, which is described in §§ 10.225, 10.227, 10.229, and 10.231 may include—
(1) The application, consent for National Driver Register (NDR) check, and notarized oath on Coast Guard-furnished forms, and the evaluation fee required by § 10.219 of this part;
(2) The applicant's continuous discharge book, certificate of

identification, MMD, MMC, license, STCW endorsement, Certificate of Registry (COR), or, if it has not expired, a photocopy of the credential, including the back and all attachments;

(3) Proof, documented on CG–719K or CG–719K/E, as appropriate, that the applicant passed the applicable vision, hearing, medical, or physical exam as required by subpart C of this part, or an unexpired medical certificate issued by the Coast Guard;

(4) Copies of course completion certificates or other evidence of course completion;

(5) Evidence of sea service, or an accepted substitute for sea service, if required;

(6) For an endorsement as a medical doctor or professional nurse as required in § 11.807 of this subchapter, evidence that the applicant holds a currently valid, appropriate license as physician, surgeon, or registered nurse, issued under the authority of a state or territory of the United States, the Commonwealth of Puerto Rico, or the District of Columbia. Any MMC issued will retain any limitation associated with the medical license;

(7) Any certificates or other supplementary materials required to show that the mariner meets the mandatory requirements for the specific endorsement sought, as established in parts 11, 12 or 13 of this subchapter; and

(8) An open-book exercise, in accordance with § 10.227(e)(1) of this part.

(e) The following requirements must be satisfied before an original or renewal MMC, or new endorsement or a raise of grade added to a previously issued MMC, will be issued. These materials will be added to the individual's record by the Coast Guard:

(1) *Determination of safety and suitability.* No MMC will be issued as an original or reissued with a new expiration date, and no new officer endorsement will be issued if the applicant fails the criminal record review as set forth in § 10.211 of this part.

(2) *NDR review.* No MMC will be issued as an original or reissued with a new expiration date, and no new officer endorsement will be issued if the applicant fails the NDR review as set forth in § 10.213 of this part.

(3) *Information supplied by the Transportation Security Administration (TSA).* No MMC or endorsement will be issued until the Coast Guard receives the following information from the applicant's TWIC enrollment: the applicant's fingerprints, FBI number and criminal record (if applicable), photograph, proof of citizenship, or Nationality with proof of legal resident status (if applicable). If the information is not available from TSA, the mariner may be required to visit a Regional Exam Center or a TWIC enrollment center to provide this information.

(f) Upon determining that the applicant satisfactorily meets all requirements for an MMC or an endorsement thereon, the Coast Guard will issue the properly endorsed MMC to the applicant. The Coast Guard will not issue an MMC until it has received proof that the mariner holds a valid TWIC.

(g) When a new MMC is issued, the mariner must return any previously issued and unexpired MMC, license, MMD, COR, or STCW endorsement to the Coast Guard, unless the new MMC is being issued to replace a lost or stolen credential.

(h) No MMC will be issued if the applicant fails a chemical test for dangerous drugs as required in §§ 10.225(b)(5), 10.227(d)(5), and 10.231(c)(6).

(i) *Ceremonial licenses.* A mariner may obtain a ceremonial license when applying for his or her credential or Document of Continuity.

§ 10.211 [Amended]

■ 14. Amend § 10.211 as follows:

■ a. Remove the words ''table 10.211(g)'' wherever they appear and add, in their place, the words ''table 1 to § 10.211'';

■ b. In paragraph (a)(1), after the words ''written disclosure of all'', add the word ''prior'';

■ c. In paragraph (d), remove the word ''disapproved'' and add, in its place, the word ''denied'';

■ d. In paragraph (e), remove the word ''disapproved'' and add, in its place, the word ''denied''; and remove the word ''disapproval'' and add, in its place, the word ''denial'';

■ e. In paragraph (g), after the words ''The Coast Guard will use table 10.211(g)'', add the words ''of this section'';

■ f. In paragraphs (h) and (i), after the words ''table 10.211(g)'' wherever they appear, add the words ''of this section'';

■ g. In paragraph (j), remove the word ''their'' in the first sentence and add, in its place, the words ''his or her''; and remove the word ''disapprove'' in the last sentence and add, in its place, the word ''deny''; and

■ h. In paragraph (k), remove the word ''their'' in the first sentence and add, in its place, the words ''his or her''; and after the words ''in table 10.211(g)'' wherever they appear, add the words ''of this section''.

■ 15. Revise § 10.213 to read as follows:

§ 10.213 National Driver Register.

(a) No MMC will be issued as an original or reissued with a new expiration date, and no new officer endorsement will be issued, unless the applicant consents to a check of the NDR for offenses described in section 205(a)(3)(A) or (B) of the NDR Act (i.e., operation of a motor vehicle while under the influence of, or impaired by, alcohol or a controlled substance; and any traffic violations arising in connection with a fatal traffic accident, reckless driving, or racing on the highways).

(b) The Coast Guard will not consider NDR-listed civil convictions that are more than 3 years old from the date of request unless that information relates to a current suspension or revocation of the applicant's license to operate a motor vehicle. The Coast Guard may determine minimum and maximum assessment periods for NDR-listed criminal convictions using table 10.213(c) of this section. An applicant conducting simultaneous MMC transactions is subject to only one NDR check.

(c) The guidelines in table 1 to paragraph (c) will be used by the Coast Guard in evaluating applicants who have drug or alcohol related NDR-listed convictions. Non-drug or alcohol related NDR-listed convictions will be evaluated by the Coast Guard under table 1 to § 10.211 of this part as applicable. The Coast Guard may consider non-drug or alcohol related NDR-listed convictions that are more than 3 years old from the date of the request when the information relates to a current suspension or revocation of the applicant's license to operate a motor vehicle.

TABLE 1 TO § 10.213(c)—GUIDELINES FOR EVALUATING APPLICANTS FOR MMCS WHO HAVE NDR MOTOR VEHICLE CONVICTIONS INVOLVING DANGEROUS DRUGS OR ALCOHOL [1]

Number of convictions	Date of conviction	Assessment period
1	Less than 1 year	1 year from date of conviction.
1	More than 1, less than 3 years	Application will be processed, unless suspension, or revocation [2] is still in effect. Applicant will be advised that additional conviction(s) may jeopardize merchant mariner credentials.
1	More than 3 years old	Application will be processed.
2 or more	Any less than 3 years old	1 year since last conviction and at least 3 years from 2nd most recent conviction, unless suspension or revocation is still in effect.
2 or more	All more than 3 years old	Application will be processed unless suspension or revocation is still in effect.

[1] Any applicant who has ever been the user of, or addicted to the use of, a dangerous drug must meet the requirements of paragraph (f) of this section.

[2] Suspension or revocation, when referred to in table 10.213, means a State suspension or revocation of a motor vehicle operator's license.

(d) Any application may be denied if information from the NDR check leads the Coast Guard to determine that the applicant cannot be entrusted with the duties and responsibilities of the endorsement for which the application is made. If an application is denied, the Coast Guard will notify the applicant in writing of the reason(s) for denial and advise the applicant that the appeal procedures in subpart 1.03 of part 1 of this chapter apply. No examination will be given pending decision on appeal.

(e) Before denying an application because of information received from the NDR, the Coast Guard will make the information available to the applicant for review and written comment. The applicant may submit records from the applicable State concerning driving record and convictions to the Coast Guard processing the application. The Coast Guard will hold an application with NDR-listed convictions pending the completion of the evaluation and delivery by the individual of the underlying State records.

(f) If an applicant has one or more alcohol or dangerous drug-related criminal or NDR-listed convictions, if the applicant has ever been the user of, or addicted to the use of, a dangerous drug, or if the applicant applies before the minimum assessment period for his or her conviction has elapsed, the Coast Guard may consider the following factors, as applicable, in assessing the applicant's suitability to hold an MMC. This list is intended as a guide for the Coast Guard. The Coast Guard may consider other factors which it judges appropriate to a particular applicant, such as—

(1) Proof of completion of an accredited alcohol or drug abuse rehabilitation program;

(2) Active membership in a rehabilitation or counseling group, such as Alcoholics Anonymous or Narcotics Anonymous;

(3) Character references from persons who can attest to the applicant's sobriety, reliability, and suitability for employment in the merchant marine, including parole or probation officers;

(4) Steady employment; and

(5) Successful completion of all conditions of parole or probation.

§ 10.215 [Removed]

■ 16. Remove § 10.215

■ 17. Revise § 10.217 to read as follows:

§ 10.217 Merchant mariner credential application and examination locations.

(a) Applicants for an MMC may apply to any of the Regional Examination Centers (RECs) or any other location designated by the Coast Guard. Applicants may contact the National Maritime Center at 100 Forbes Drive, Martinsburg, WV 25404, by telephone 1–888–427–5662 or 304–433–3400, or by email at *IASKNMC@uscg.mil*. A list of locations approved for application submittal is available through the Coast Guard Web site at *http://www.uscg.mil/nmc*.

(b) *Exam Locations*. (1) Coast Guard units abroad may conduct exams for ratings at locations other than the RECs, but are not prepared to conduct practical examinations.

(2) The Coast Guard may designate additional exam facilities/locations to provide services to applicants for MMCs.

■ 18. Revise § 10.219 to read as follows:

§ 10.219 Fees.

(a) Use table 1 to § 10.219(a) to calculate the mandatory fees for MMCs and associated endorsements.

TABLE 1 TO § 10.219(a)—FEES

If you apply for	And you need		
	Evaluation then the fee is . . .	Examination then the fee is . . .	Issuance then the fee is . . .
MMC with officer endorsement:			
Original:			
Upper level [1]	$100	$110	$45
Lower level [2]	100	95	45
Renewal	50	45	45
Raise of grade	100	45	45
Modification or removal of limitation or scope	50	45	45
Radio officer endorsement:			
Original	50	45	45
Renewal	50	n/a	45
Staff officer endorsements:			
Original	90	n/a	45
Renewal	50	n/a	45
MMC with rating endorsement:			

TABLE 1 TO § 10.219(a)—FEES—Continued

If you apply for	And you need		
	Evaluation then the fee is . . .	Examination then the fee is . . .	Issuance then the fee is . . .
Original endorsement for ratings other than qualified ratings	95	n/a	45
Original endorsement for qualified rating	95	140	45
Upgrade or raise of Grade	95	140	45
Renewal endorsement for ratings other than qualified ratings	50	n/a	45
Renewal endorsement for qualified rating	50	45	45
Modification or removal of limitation or scope	50	45	45
STCW endorsement:			
Original	(4)	(4)	(4)
Renewal	(4)	(4)	(4)
Reissue, replacement, and duplicate	n/a	n/a	3 45

[1] Upper level means credentials authorizing service on vessels of any gross tons/unlimited tonnage or unlimited propulsion power.
[2] Lower level means credentials authorizing service on vessels of less than 1,600 GRT/3,000 GT.
[3] Duplicate for MMC lost as result of marine casualty—No Fee.
[4] No Fee.

(b) *Fee payment procedures.* Applicants may pay—

(1) All fees required by this section at the time the application is submitted; or

(2) A fee for each phase as follows:

(i) An evaluation fee when the application is submitted.

(ii) An examination fee before the first examination section is taken.

(iii) An issuance fee before issuance of the MMC.

(c) If the examination is administered at a place other than a Regional Examination Center (REC), the examination fee must be paid to the REC at least one week before the scheduled examination date.

(d) Unless the Coast Guard provides additional payment options, fees must be paid as follows:

(1) Fee payments must be for the exact amount.

(2) Fee payments may be made by electronic payment in a manner specified by the Coast Guard. For information regarding current forms of electronic payment, go to the National Maritime Center's (NMC) Web site, *www.uscg.mil/nmc*. To assist with the automation of mariner credential applications, applicants are encouraged to pay the fees electronically.

(3) Payments may be made by cash, check, money order, or credit card.

(4) Payments submitted by mail may not be made in cash. Mailed payments should specify the type of credential sought and the type of fee (e.g., evaluation, examination, issuance) being paid. The address for sending payment by mail can be found at the NMC Web site, *www.uscg.mil/nmc*.

(5) Checks or money orders must be made payable to the U.S. Coast Guard, and the full legal name and last four digits of applicant's social security number must appear on the front of each check or money order.

(e) Unless otherwise specified in this part, when two or more endorsements are processed on the same application the fees will be as follows:

(1) *Evaluation fees.* If an applicant simultaneously applies for a rating endorsement and a deck or engineer officer's endorsement, only the evaluation fee for the officer's endorsement will be charged. If an applicant simultaneously applies for a staff officer or radio officer endorsement along with the deck or engineer officer endorsement, only the evaluation fee for the deck or engineer officer's endorsement will be charged. No evaluation fee is charged for an STCW endorsement.

(2) *Examination fees.* One examination fee will be charged for each exam or series of exams for an original, raise of grade, or renewal of an endorsement on an MMC taken within 1 year from the date of the application approval. An examination fee will also be charged to process an open-book exercise used to renew an MMC. If an officer endorsement examination under part 11 of this chapter also fulfills the examination requirements in part 12 of this chapter for rating endorsements, only the fee for the officer endorsement examination is charged.

(3) *Issuance fees.* Only one issuance fee will be charged for each MMC issued, regardless of the number of endorsements placed on the credential. There is no fee for a Document of Continuity.

(f) The Coast Guard may assess additional charges to anyone to recover collection and enforcement costs associated with delinquent payments or failure to pay a fee. The Coast Guard will not provide credentialing services to a mariner who owes money for credentialing services previously provided.

(g) Anyone who fails to pay a fee or charge established under this section is liable to the United States Government for a civil penalty of not more than $6,500 for each violation.

(h) *No-fee MMC for certain applicants.* For the purpose of this section, a no-fee MMC applicant is a person who is a volunteer or a part- or full-time employee of an organization that is—

(1) Charitable in nature;

(2) Not for profit; and

(3) Youth oriented.

(i) *Determination of eligibility.* (1) An organization may submit a written request to U.S. Coast Guard National Maritime Center, 100 Forbes Drive, Martinsburg, WV 25404, in order to be considered an eligible organization under the criteria set forth in paragraph (h) of this section. With the written request, the organization must provide evidence of its status as a youth-oriented, not-for-profit, charitable organization.

(2) The following organizations are accepted by the Coast Guard as meeting the requirements of paragraph (h) of this section and need not submit evidence of their status: Boy Scouts of America, Sea Explorer Association, Girl Scouts of the United States of America, and Young Men's Christian Association of the United States of America.

(j) A letter from an organization determined eligible under paragraph (h) of this section must also accompany the person's MMC application to the Coast Guard. The letter must state that the purpose of the person's application is solely to further the conduct of the organization's maritime activities. The applicant will then be eligible under this section to obtain a no-fee MMC if other requirements for the MMC are met.

(k) An MMC issued to a person under paragraph (h) of this section will be endorsed restricting its use to vessels owned or operated by the sponsoring organization.

(l) The holder of a no-fee MMC issued under paragraph (h) of this section may have the restriction removed by paying the appropriate evaluation, examination, and issuance fees that would have otherwise applied.

§ 10.221 [Amended]

■ 19. Amend § 10.221 as follows:

■ a. In paragraph (a)(1), remove the word ''part'' and add, in its place, the word ''subchapter''; and

■ b. In paragraph (a)(2), remove the section number ''§ 12.40–11'' and add, in its place, the section number ''§ 12.809''.

■ 20. Amend § 10.223 as follows:

■ a. In paragraphs (c)(3)(i), (c)(3)(ii), and (c)(3)(iii), remove the word ''chapter'' and add, in its place, the word ''subchapter''; and

■ b. Revise paragraphs (c)(2) and (c)(3)(iv) to read as set forth below.

§ 10.223 Modification or removal of limitations or scope.

* * * * *

(c) * * *

(2) Proof that the mariner either holds a valid TWIC or has applied for a TWIC.

(3) * * *

(iv) The mandatory requirements for STCW endorsements are contained in parts 11, 12, and 13 of this subchapter.

* * * * *

■ 21. Revise § 10.225 to read as follows:

§ 10.225 Requirements for original merchant mariner credentials.

(a) An applicant must apply as an original if the MMC sought is—

(1) The first credential issued to the applicant;

(2) The first credential issued to applicants after their previous credential has expired beyond the grace period and they do not hold a Document of Continuity under § 10.227(g) of this part or an equivalent unexpired continuity endorsement on their license or MMD; or

(3) The first credential issued to applicants after their previous credential was revoked pursuant to § 10.235 of this part.

(b) A complete application for an original MMC must contain the following, except as otherwise noted in § 10.227(i) of this subpart:

(1) A completed, signed application.

(2) Proof that the mariner either holds a valid TWIC or has applied for a TWIC.

(3) All supplementary materials required to show that the mariner meets the mandatory requirements for all endorsements sought as follows:

(i) The mandatory requirements for officer endorsements are contained in part 11 of this subchapter.

(ii) The mandatory requirements for rating endorsements are contained in part 12 of this subchapter.

(iii) The mandatory requirements for tanker rating endorsements are contained in part 13 of this subchapter.

(iv) The mandatory requirements for STCW endorsements are contained in parts 11, 12, and 13 of this subchapter.

(4) The appropriate fee as set forth in § 10.219 of this part.

(5) Evidence of having passed a chemical test for dangerous drugs or of qualifying for an exemption from testing in § 16.220 of this subchapter.

(6) Where sea service is required, documentary evidence in accordance with § 10.232 of this part.

(7) Proof, documented on CG–719–K or CG–719–K/E, as appropriate, that the applicant passed all applicable vision, hearing, medical, and/or physical exams as required by subpart C of this part or a valid medical certificate issued by the Coast Guard.

(8) Consent to a Coast Guard check of the NDR for offenses described in section 205(a)(3)(A) or (B) of the National Driver Register Act of 1982, as amended.

(9) The oath as required in paragraph (c) of this section.

(c) *Oath.* Every person who receives an original MMC must first take an oath, before an official authorized to give such an oath, that he or she will faithfully and honestly, according to his or her best skill and judgment, without concealment or reservation, perform all the duties required by law and obey all lawful orders of superior officers. An oath may be administered by any Coast Guard-designated individual or any person legally permitted to administer oaths in the jurisdiction where the person taking the oath resides. An oath administered at a location other than the Coast Guard must be verified in writing by the administering official and submitted to the same Regional Examination Center (REC) where the applicant applied for his or her MMC. This oath remains binding for any subsequently issued MMC and endorsements added to the MMC, unless specifically renounced in writing.

■ 22. Revise § 10.227 to read as follows:

§ 10.227 Requirements for renewal.

(a) Except as provided in paragraph (g) of this section, an applicant for renewal of a credential must establish possession of all of the necessary qualifications before the MMC will be renewed.

(b) A credential may be renewed at any time during its validity and for 1 year after expiration.

(c) No credential will be renewed if it has been suspended without probation or revoked as a result of action under part 5 of this chapter or if facts that would render a renewal improper have come to the attention of the Coast Guard.

(d) Except as provided in paragraph (g) of this section, a complete application for renewal must contain the following:

(1) A completed, signed application.

(2) Proof that the mariner either holds a valid TWIC or has applied for a TWIC.

(3)The appropriate fee as set forth in § 10.219 of this part.

(4) Any uncanceled MMD, MMC, license, STCW endorsement, Certificate of Registry (COR), or Document of Continuity held by the applicant. If one or more of these credentials are still valid at the time of application, a photocopy—front, back, and all attachments—will satisfy this requirement.

(5) Evidence of having passed a chemical test for dangerous drugs or of qualifying for an exemption from testing in § 16.220 of this subchapter.

(6) Applicants seeking a national endorsement must either hold an unexpired medical certificate or submit a medical certificate application.

(7) Consent to a Coast Guard check of the NDR for offenses described in section 205(a)(3)(A) or (B) of the National Driver Register Act of 1982, as amended.

(e) Except as provided in paragraph (e)(8) of this section and 46 CFR 13.120, the applicant must meet the following professional requirements for renewal:

(1) The applicant must either—

(i) Present evidence of at least 1 year of sea service during the past 5 years;

(ii) Pass a comprehensive, open-book exercise covering the general subject matter contained in appropriate sections of subpart (I) of this part;

(iii) Complete an approved refresher training course;

(iv) Provide evidence of employment as a qualified instructor or in a position closely related to the operation, construction, or repair of vessels (either deck or engineer as appropriate) for at least 3 years during the past 5 years. An applicant for a deck license or officer endorsement with this type of employment must also demonstrate knowledge on an applicable Rules of the Road open-book exercise; or

(v) Provide evidence of being a qualified instructor who has taught a

Coast Guard-approved or -accepted course relevant to the endorsement or credential being applied for, at least twice within the past 5 years, therefore meeting the standards needed to receive a course completion certificate for that course.

(2) The qualification requirements for renewal of radar observer endorsement as contained in § 11.480 of this subchapter.

(3) Additional qualification requirements for renewal of an officer endorsement as first-class pilot as contained in § 11.713 of this subchapter.

(4) An applicant for renewal of a radio officer's endorsement must, in addition to meeting the requirements of this section, present a copy of a currently valid license as first- or second-class radiotelegraph operator issued by the Federal Communications Commission.

(5) An applicant for renewal of an endorsement as medical doctor or professional nurse must, in addition to meeting the requirements of this section, present evidence that he or she holds a currently valid, appropriate license as physician, surgeon, or registered nurse issued under the authority of a State or territory of the United States, the Commonwealth of Puerto Rico, or the District of Columbia. Any such renewal will retain the limitations placed upon the medical license by the issuing body. There are no professional requirements for renewal of an endorsement as marine physician assistant or hospital corpsman.

(6) An applicant for renewal of an endorsement as master or mate (pilot) of towing vessels, in addition to the other requirements in this paragraph, must also submit satisfactory evidence of—

(i) Having completed a practical demonstration of maneuvering and handling a towing vessel to the satisfaction of a designated examiner; or

(ii) Ongoing participation in training and drills during the validity of the license or MMC being renewed.

(7) An applicant seeking to renew a tankerman endorsement must meet the additional requirements listed in § 13.120 of this subchapter.

(8) There are no professional requirements for renewal for the following endorsements:

(i) Staff officers (all types).

(ii) Ordinary seaman.

(iii) Wiper.

(iv) Steward's department.

(v) Steward's department (F.H.).

(vi) Cadet.

(vii) Student observer.

(viii) Apprentice engineer.

(ix) Apprentice mate (issued under part 12 of this subchapter).

(x) Person in charge of medical care.

(xi) Medical first-aid provider.

(xii) GMDSS at-sea maintainer.

(xiii) GMDSS operator.

(f) Except as otherwise provided, each candidate for a renewal of an STCW endorsement must meet the applicable requirements of part 11, subpart C, and/or part 12, subpart F.

(g) *Document of Continuity.* (1) Applicants for renewal of national endorsements, who are unwilling or otherwise unable to meet the requirements of paragraph (d) of this section, including but not limited to the medical and physical standards of subpart C of this part, suitability standards of § 10.211 of this part, drug tests, professional requirements, and TWIC, may apply for a Document of Continuity issued by the Coast Guard. Documents of Continuity do not expire and are issued solely to maintain an individual's eligibility for renewal. A Document of Continuity does not entitle an individual to serve as a merchant mariner. A holder of a Document of Continuity may obtain a properly endorsed, valid MMC at any time by satisfying the requirements for renewal as provided in paragraphs (d), (e), or (f) of this section as applicable. When a valid MMC is issued to replace a previously held Document of Continuity, the previously issued Document of Continuity becomes void.

(2) Applications for a Document of Continuity must include the following:

(i) The endorsements to be placed into continuity.

(ii) An application including a signed statement from the applicant attesting to an awareness of the limited purpose of the Document of Continuity, his or her inability to serve, and the requirements to obtain an MMC.

(3) If not all MMC endorsements are to be converted into a Document of Continuity, a new MMC will be issued with the active endorsements. Once the new MMC and/or Document of Continuity is issued the previous MMC is no longer valid and must be returned to the Coast Guard.

(4) STCW endorsements may not be placed in continuity. If an individual continues to maintain a valid MMC while placing specific national endorsements into continuity, those STCW endorsements associated with the national endorsements that were placed in continuity are no longer valid.

(5) No credential expired beyond the 12-month administrative grace period in paragraph (h) of this section can be converted into a Document of Continuity.

(6) A holder of a Document of Continuity may obtain a properly endorsed, valid MMC, including STCW endorsements, at any time by satisfying the requirements for renewal as provided in paragraphs (d) and (f) of this section.

(h) *Administrative grace period.* A credential may be renewed up to 12 months after expiration. For a credential to be re-issued by the Coast Guard more than 12 months after its expiration, an applicant must comply with the requirements of paragraph (i) of this section. When an applicant's credential expires during a time of service with the Armed Forces and there is no reasonable opportunity for renewal, including by mail, this period may be extended. The period of military service following the date of expiration which precluded renewal may be added to the 12-month grace period. The 12-month grace period and any extensions do not affect the expiration date of the credential. A license, MMD, COR, STCW endorsement, MMC, and any endorsements thereon, are not valid for use after the expiration date.

(i) *Re-issuance of expired credentials.* (1) If an applicant applies for re-issuance of an endorsement as deck officer, engineer officer, or qualified rating more than 12 months after its expiration, instead of the requirements of paragraph (e) of this section, the applicant must demonstrate continued professional knowledge by completing a course approved for this purpose, or by passing the complete examination for original issue of the endorsement. The examination may be oral-assisted if the expired credential was awarded based on the results of an oral exam. The fees set forth in § 10.219 of this part apply to these examinations. In the case of an expired radio officer's endorsement, the endorsement may be issued upon presentation of a valid first- or second-class radiotelegraph operator license issued by the Federal Communications Commission.

(2) An endorsement for chief purser, purser, senior assistant purser, junior assistant purser, hospital corpsman, marine physician assistant, medical doctor, or professional nurse that has been expired for more than 12 months must be renewed in the same way as a current endorsement of that type. There are no additional requirements for re-issuing endorsements for chief purser, purser, senior assistant purser, junior assistant purser, hospital corpsman, marine physician assistant, medical doctor, or professional nurse that have been expired for more than 12 months.

(3) Applicants applying for re-issuance of an endorsement as master or mate (pilot) of towing vessels more than 12 months after expiration of the

previous endorsement must complete the practical demonstration of maneuvering and handling a towing vessel required under (e)(6)(i) of this section.

(4) Applicants applying for re-issuance of an endorsement as any tankerman rating more than 12 months after expiration of the previous endorsement must meet the requirements in § 13.117 of this subchapter.

■ 23. Amend § 10.229 as follows:

■ a. Revise the section heading to read as set forth below;

■ b. Revise paragraph (a) to read as set forth below;

■ c. In paragraph (b), in the first sentence, after the words ''The duplicate'', add the word ''credential'' and remove the second sentence;

■ d. In paragraph (c), after the words ''a duplicate'', add the word ''credential''; and

■ e. In paragraph (d), after the words ''the appropriate fees set out in § 10.219'', add the words ''of this part''.

§ 10.229 Replacement of lost merchant mariner credentials.

(a) Upon request and without examination, a mariner may be issued a duplicate credential and medical certificate after submitting an application with an affidavit describing the circumstances of the loss. The Coast Guard will only issue the duplicate credential, MMC and/or medical certificate, after confirming the validity of the mariner's credentials and the validity of the mariner's TWIC.

* * * * *

■ 24. Revise § 10.231 to read as follows:

§ 10.231 Requirements for raises of grade or new endorsements.

(a) This section applies to applicants who already hold a valid credential and want to make either of the following transactions:

(1) Add a new endorsement.

(2) Obtain a raise of grade of an existing endorsement.

(b) If an applicant for new endorsement or raise of grade meets the renewal requirements under § 10.227 of this subpart for every endorsement listed on the MMC and requests renewal, the applicant will receive a credential valid for 5 years. When an applicant does not meet the renewal requirements for every endorsement held, the applicant's new endorsement will be issued with the expiration date that is the same as the current MMC.

(c) A complete application for a new endorsement or raise of grade must contain the following:

(1) A completed, signed application.

(2) Proof that the mariner either holds a valid TWIC or has applied for a TWIC.

(3) All supplementary materials required to show that the mariner meets the mandatory requirements for the new endorsements sought as follows:

(i) The mandatory requirements for officer endorsements as contained in part 11 of this subchapter and paragraph (d) of this section.

(ii) The mandatory requirements for rating endorsements as contained in part 12 of this subchapter.

(iii) The mandatory requirements for tankerman rating endorsements are contained in part 13 of this subchapter.

(iv) The mandatory requirements for STCW endorsements as contained in parts 11, 12, and 13 of this subchapter.

(4) The appropriate fee as contained in § 10.219 of this part.

(5) Any uncanceled MMD, MMC, license, STCW endorsement, or COR held by the applicant. If one or more of these credentials are still valid at the time of application, a photocopy—front, back, and all attachments—will satisfy this requirement.

(6) Applicants for the following endorsements must produce evidence of having passed a chemical test for dangerous drugs or of qualifying for an exemption from testing in § 16.220 of this subchapter:

(i) Any officer endorsement.

(ii) The first endorsement as able seaman, lifeboatman, lifeboatman-limited, qualified member of the engine department, or tankerman.

(7) Where sea service is required, documentary evidence in accordance with § 10.232 of this part.

(8) Applicants seeking a new endorsement must either hold an unexpired medical certificate or submit a medical certificate application.

(9) Consent to a Coast Guard check for offenses described in section 205(a)(3)(A) or (B) of the National Driver Register Act of 1982, as amended.

(d) Additional requirements for an applicant seeking a raise of grade of an officer endorsement are as follows:

(1) Sea service acquired before the issuance of an officer endorsement is generally not accepted as any part of the service required for a raise of grade of that endorsement. However, service acquired before issuance of an officer endorsement will be accepted for certain crossovers, endorsements, or increases in scope of an MMC, as appropriate. In the limited tonnage categories for deck officers, total accumulated service is a necessary criterion for most raises of grade; therefore, service acquired before the issuance of such officer endorsements will be accepted.

(2) An applicant remains eligible for a raise of grade while on probation as a result of action under part 5 of this chapter. A raise of grade issued to a person on probation will be subject to the same probationary conditions imposed against his or her other credentials. The offense for which he or she was placed on probation will be considered on the merits of the case in determining fitness to hold the endorsement applied for. No applicant will be examined for a raise of grade during any period when a suspension without probation or a revocation imposed under part 5 of this chapter is effective against his or her credential or while an appeal from these actions is pending.

(3) *Professional examination.* (i) When the Coast Guard finds an applicant's experience and training for raise of grade is satisfactory, and the applicant is eligible in all other respects, the Coast Guard will authorize a professional examination.

(ii) Oral-assisted examinations may be administered in accordance with § 11.201(j) of this subchapter.

(iii) The general instructions for administration of examinations and the lists of subjects for all endorsements are found in part 11, subpart I; part 12, subpart E; and part 13, subpart A of this subchapter.

■ 25. Add § 10.232 to read as follows:

§ 10.232 Sea service.

(a) *Documenting sea service.* (1) Sea service may be documented in various forms such as certificates of discharge, pilotage service and billing forms, and service letters or other official documents from marine companies signed by the owner, operator, master, or chief engineer of the vessel. The Coast Guard must be satisfied as to the authenticity and acceptability of all evidence of experience or training presented.

(2) Documentary evidence produced by the applicant, unless in the form of a Certificate of Discharge conforming to § 14.307 of this subchapter, must contain all of the following information:

(i) Vessel name(s) and official numbers listed on the registration, certificate, or document issued.

(ii) Gross tonnage of the vessel.

(iii) Propulsion power and mode of propulsion of the vessel.

(iv) The amount and nature (e.g. chief mate, assistant engineer, etc.) of the applicant's experience.

(v) Applicable dates of service for each vessel, and the ports or terminals if applicable.

(vi) The routes upon which the experience was acquired.

(vii) For those seeking service credit on towing vessels in accordance with § 11.211(e) of this subchapter, the aggregate tonnage of the tug and barges during the mariner's service.

(viii) Any other information necessary to determine the applicability of STCW to the vessel.

(ix) Whether the vessel is manned and equipped in accordance with SOLAS.

(x) Where required for an officer endorsement, time served as bridge watchkeeping or engine watchkeeping duties under the supervision of a qualified officer.

(3) An MMC endorsement, in certain cases, may be considered as satisfactory evidence of any qualifying experience for obtaining other endorsements.

(4) For service on vessels of less than 200 GRT, owners of vessels may attest to their own service and provide proof of ownership. Those who do not own a vessel must obtain letters or other evidence from licensed personnel or the owners of the vessels listed.

(5) If the required sea service is associated with watchkeeping functions and the performance of duties, as required in §§ 11.323, 11.329, and 11.333, the service must be documented as having been carried out under the direct supervision of the appropriate person. If the required sea service is associated with the performance of duties, as required in §§ 11.470, 11.472, and 11.474, the service must be documented as having been carried out under the supervision of the appropriate person.

(6) An applicant who has been acting as a pilot may submit a letter from a pilot's association attesting to the applicant's sea service. Pilots not part of an association may submit other relevant records indicating service, such as billing forms. For a raise-of-grade, pilots must comply with the requirements of paragraph (a)(2) of this section.

(b) Service toward an oceans, near-coastal, or STCW endorsement will be credited as follows:

(1) Service on the Great Lakes will be credited on a day-for-day basis up to 100 percent of the total required service.

(2) Service on inland waters, other than Great Lakes, that are navigable waters of the United States, will be credited on a day-for-day basis for up to 50 percent of the total required service.

(3) Service on vessels to which STCW applies, whether inland or coastwise, will be credited on a day-for-day basis. For establishing credit for sea service, the waters of the Inside Passage between Puget Sound and Cape Spencer, Alaska will be credited for a near-coastal and STCW endorsement.

(c) Service toward a near-coastal or a Great Lakes endorsement will be credited on a day-for-day basis and in accordance with the individual requirements for the specific credential.

(d) *Sea service as a member of the Armed Forces of the United States and civilian service on vessels owned by the United States as required experience.* (1) Sea service as a member of the Armed Forces of the United States will be accepted as required experience for an original, raise of grade, renewal, or increase in scope of all endorsements. In most cases, military sea service will have been performed upon ocean waters; however, inland service, as may be the case on smaller vessels, will be credited in the same manner as conventional evaluations. The applicant must submit an official transcript of sea service or history of assignments as verification of the service claimed when the application is submitted. A DD–214 is not acceptable evidence of sea service. The applicant must also provide the Coast Guard with other necessary information as to tonnage, routes, propulsion power, percentage of time underway, and assigned duties upon the vessels on which he or she served. Such service will be evaluated by the Coast Guard for a determination of its equivalence to sea service acquired on merchant vessels and the appropriate grade, class, and limit of endorsement for which the applicant is eligible. Normally, 60 percent of the total time onboard is considered equivalent underway service; however, the periods of operation of each vessel may be evaluated separately. In order to be eligible for a master's or chief engineer's unlimited endorsement, the applicant must have acquired military service in the capacity of commanding officer or engineer officer, respectively.

(2) Applicants for management-level, operational-level or support-level STCW endorsements must demonstrate competence in accordance with part 11, subpart C; part 12, subpart F; and part 13, subpart F of this subchapter.

(3) Service in deck ratings on military vessels such as seaman apprentice, seaman, boatswain's mate, quartermaster, or Radarman/Operations Specialist are considered deck service for the purposes of this part. Service in other ratings may be considered if the applicant establishes that his or her duties required a watchstanding presence on or about the bridge of a vessel. Service in engineer ratings on military vessels such as fireman apprentice, fireman, engineman, machinists mate, machinery technician, or boiler tender are considered engineer service for the purposes of this part. There are also other ratings such as electrician, hull technician, or damage controlman, which may be credited when the applicant establishes that his or her duties required watchstanding duties in an operating engine room.

(4) In addition to service on vessels that get underway regularly, members of the Armed Forces may obtain creditable service for assignment to vessels that get underway infrequently, such as tenders and repair vessels. Normally, a 25-percent factor is applied to these time periods. This experience can be equated with general shipboard familiarity, training, ship's business, and other related duties.

(5) Sea service obtained on submarines is creditable, as if it were surface vessel service, for deck and engineer officer and qualified ratings endorsements under the provision of paragraph (a) of this section. For application for deck officer and qualified ratings endorsements, submarine service may be creditable if at least 25 percent of all service submitted for the endorsement was obtained on surface vessels (e.g. if 4 years' total service were submitted for an original officer endorsement, at least 1 year must have been obtained on surface craft in order for the submarine service to be eligible for evaluation).

(6) Service gained in a civilian capacity as commanding officer, master, mate, engineer, or pilot, etc., of any vessel owned and operated by the United States, in any service in which a license or officer endorsement as master, mate, engineer, or pilot was not required at the time of such service, will be evaluated by the Coast Guard for a determination of equivalence.

(e) *Sea service on vessels that do not get underway.* This requirement applies to service obtained on vessels mandated by the Certificate of Inspection (COI) which are in operation but do not get underway or occasionally get underway for short voyages. Service while the vessel is not underway must be credited as follows:

(1) Engineering department. Service may be credited day-for-day for up to 50 percent of the service credit for renewal, raise in grade, and original issue for each day the engineering plant is operational.

(2) Deck department. Service may be credited as follows:

(i) Original issue and raise in grade. Service is creditable on a 3-for-1 basis (12 months of experience equals 4 months of creditable service) for up to 6 months of service credit.

(ii) Renewal. Service in any capacity in the deck department is creditable as closely related service under

§ 10.227(e)(1)(iv). When submitted in combination with underway service, service is creditable on a 3-for-1 basis (12 months of experience equals 4 months of creditable service) for up to 6 months of service credit.

(f) *Foreign sea service.* (1) Experience and service acquired on foreign vessels is creditable for establishing eligibility for an original or renewal of an officer, rating, or STCW endorsement, subject to evaluation by the Coast Guard to determine that it is a fair and reasonable equivalent to service acquired on merchant vessels of the United States with respect to grade, tonnage, horsepower, waters, and operating conditions. This experience and service is also creditable to meet recency requirements.

(2) Experience and service acquired on foreign vessels while holding a valid U.S. endorsement is creditable for establishing eligibility for a raise of grade of an officer, rating, or STCW endorsement, subject to evaluation as specified in paragraph (d)(1) of this section. This experience and service is also creditable to meet recency requirements.

(3) An applicant who has obtained qualifying experience on foreign vessels must submit satisfactory documentary evidence of such service (including any necessary official translation to the English language) in accordance with paragraph (a)(1) and (a)(2) of this section.

(g) *Closely related service.* The Coast Guard may accept evidence of employment in a position closely related to the operation, construction, or repair of vessels (either deck or engineer as appropriate) as meeting the sea service requirements for renewal under § 10.227(e)(1)(iv). Service as port engineer, port captain, shipyard superintendent, qualified instructor, or similar related service may be creditable for service for raise of grade of an engineer or deck officer endorsement; however, it may not be used for obtaining an original management-level endorsement. The service is creditable as follows:

(1) Port engineer, port captain or shipyard superintendent experience is creditable on a 3-for-1 basis for a raise of grade (e.g., 12 months of experience equals 4 months of creditable service). For a raise-of-grade, this credit is limited to 6 months of service.

(2) Service as a qualified instructor in a Coast Guard approved course or a training program is creditable on a 2-for-1 basis for a raise of grade (e.g., 12 months of experience equals 6 months of creditable service). For a raise-of-grade, this credit is limited to 6 months of service.

(h) *Day.* (1) Except as noted otherwise, for the purpose of calculating service in this subchapter, a day is equal to 8 hours of watchstanding or day-working not to include overtime.

(2) On vessels authorized by 46 U.S.C. 8104 and 46 CFR 15.705, to operate a two-watch system, a 12-hour working day may be creditable as 1½ days of service.

(3) On vessels of less than 100 GRT, a day is considered as 8 hours unless the Coast Guard determines that the vessel's operating schedule makes this criterion inappropriate; in no case will this period be less than 4 hours.

(4) When computing service on MODUs for any endorsement, a day of MODU service must be a minimum of 4 hours, and no additional credit is received for periods served over 8 hours.

(5) For cadet service on a training ship furnished by the Maritime Administration under 46 CFR 310.4, a day may be creditable as 1½ days of service.

(i) *Tonnage equivalency.* For the purpose of parts 10, 11 and 12, 200 GRT will be considered equivalent to 500 GT, and 1,600 GRT will be considered equivalent to 3,000 GT.

■ 26. Amend § 10.235 as follows:

■ a. In paragraph (d), after the words ''of those endorsements are suspended or revoked,'', remove the words ''the mariner'' and add, in their place, the words ''he or she'', and after the words ''will be issued'', add the words '', without payment of a fee,'';

■ b. In paragraph (e), after the words ''has been suspended'', add the words ''without probation'';

■ c. Redesignate paragraphs (f) through (h) as paragraphs (g) through (i);

■ d. Add new paragraph (f) to read as set forth below;

■ e. In redesignated paragraph (g), remove the text ''§ 10.227(d)(8)(vi)(A)'' and add, in its place, the words ''§ 10.227(e)(6)(i) of this subpart'';

■ f. In redesignated paragraph (h), remove the words ''Beginning April 15, 2009, if'' and add, in their place, the word ''If''; and

■ g. In redesignated paragraph (i), remove the words ''Beginning April 15, 2009, a'' and add, in their place, the letter ''A''.

§ 10.235 Suspension or revocation of merchant mariner credentials.

* * * * *

(f) When applying for an original endorsement on an MMC, pursuant to paragraph (d) of this section, an individual's existing service and training may be considered by the Coast Guard when determining the grade of the endorsement to be issued.

* * * * *

§ 10.237 [Amended]

■ 27. In § 10.237(a), after the words ''an MMC'', add the words '', medical certificate,''; after the word ''endorsement,'', add the words, ''it will provide''; and after the words ''listing the reason(s) for denial'', remove the words ''will be provided to the applicant''.

■ 28. Revise § 10.239 to read as follows:

§ 10.239 Quick reference table for MMC requirements.

Table 1 to § 10.239 provides a guide to the requirements for officer endorsements. Provisions in the reference section are controlling.

TABLE 1 TO § 10.239: QUICK REFERENCE TABLE FOR MMC REQUIREMENTS
[For tankerman endorsements, see table 1 to § 13.129.]

Endorsement category	Minimum age	Citizenship	Medical and physical exam	Experience	Recommendations and character check	Firefighting	Professional exam	Demonstration of professional ability	Recency of service	First aid and CPR
Master, mates	§ 11.201(e) Note: exceptions.	U.S., § 10.221(a)(1) § 11.201(d).	§ 10.302(a)	46 CFR Part 11—Subpart D.	N/A: Note exceptions in § 11.201(g) for original national or STCW endorsements.	§ 11.201(h)	§ 11.201(j); § 11.903; § 11.910. Note: § 11.903(b)	N/A	original § 11.201 (c)(2). renewal § 10.227(e)	§ 11.201(i) Note: exceptions.
Operator of Uninspected Passenger Vessels (OUPV).	§ 11.201(e) Note: exceptions here and in § 11.201(l).	§ 10.221(a)(1) § 11.201(d).	§ 10.302(a)	§ 11.467(c); (d); (e); (f); (g).	N/A: Note exceptions in § 11.201(g) for original national or STCW endorsements.	N/A	§§ 11.201(j); 11.903; § 11.910.	N/A	original § 11.201 (c)(2). renewal § 10.227(e)	§§ 11.201(i): Note exceptions.
STCW Deck Officer endorsements.	§ 11.201(e) Note: exceptions.	U.S., § 10.221(a)(1) § 11.201(d).	§ 10.302(a)	46 CFR Part 11—Subpart C.	N/A: Note exceptions in § 11.201(g) for original national or STCW endorsements.	§ 11.303 Renewal: § 11.303(b) and (c)	N/A	Master § 11.305; .311; .315; .317. Chief Mate § 11.307; .313;. OICNW § 11.309; 11.319; 11.321.	original § 11.201 (c)(2). renewal § 10.227(e)	§ 11.201(i).
Officer on a passenger ship when on an international voyage.	N/A	N/A	N/A	N/A	N/A	N/A	N/A	§ 11.1105(a)(1); (2)	§ 11.1105(c)	N/A.
Engineers (original)	§ 11.201(e) Note: exceptions.	U.S., § 10.221(a)(1) § 11.201(d).	10.302(a)	46 CFR Part 11—Subpart E.	N/A: Note exceptions in § 11.201(g) for original national or STCW endorsements.	§ 11.201(h)	§ 11.201(j); 11.903; § 11.950. Note: § 11.903(b)	N/A	original § 11.201 (c)(2). renewal § 10.227(e)	§ 11.201(i).
STCW Engineering Officer endorsements.	§ 11.201(e) Note: exceptions.	U.S., § 10.221(a)(1) § 11.201(d).	§ 10.302(a)	46 CFR Part 11—Subpart C.	N/A: Note exceptions in § 11.201(g) for original national or STCW endorsements.	§ 11.303 Renewal: § 11.303(b) and (c)	N/A	Chief § 11.325; § 11.331;. 2nd engineer officer; § 11.327; § 11.333. OICEW/DDE § 11.329.	original § 11.201 (c)(2). renewal § 10.227(e)	§ 11.201(i).
National Designated Duty Engineer (DDE).	§ 11.201(e) Note: exceptions.	U.S., § 10.221(a)(1) § 11.201(d).	§ 10.302(a)	11.524(b)	N/A: Note exceptions in § 11.201(g) for original national or STCW endorsements.	§ 11.201(h)(1)(iv)	§ 11.903	N/A	original § 11.201 (c)(2). renewal § 10.227(e)	§ 11.201(i).
Electro-technical officer.	§ 11.201(e) Note: exceptions.	U.S., § 10.221(a)(1) § 11.201(d).	§ 10.302(a)	§ 11.335(a)(1) note exception in § 11.335(b) & § 11.33 5(c).	N/A: Note exceptions in § 11.201(g) for original national or STCW endorsements.	§ 11.335(a)(3)(ii)	N/A	§ 11.335(a)(2), (3) note exception in § 11.335(b) & (c).		§ 11.335(a)(3)(i).
Pilot	§ 11.201(e) Note: exceptions.	U.S., § 10.221(a)(1) § 11.201(d).	§ 10.302(a); § 11.709.	§ 11.703; § 11.705	N/A: Note exceptions in § 11.201(g) for original national or STCW endorsements.	N/A	§ 11.707; § 11.903; § 11.910.	§ 11.705	§ 11.705(e), § 11.713.	§ 11.201(i).
Towing vessels	§ 11.201(e) Note: exceptions.	U.S., § 10.221(a)(1) § 11.201(d).	§ 10.302(a)	46 CFR Part 11—Subpart D.	N/A: Note exceptions in § 11.201(g) for original national or STCW endorsements.	§ 11.201(h)(1)(ii) § 11.201(h)(2)(ii). Note: exceptions	§ 11.201(j); § 11.903; § 11.910.	§ 11.464; § 11.465	original § 11.201 (c)(2). renewal § 10.227(e)	§ 11.201(i).

TABLE 1 TO § 10.239: QUICK REFERENCE TABLE FOR MMC REQUIREMENTS—Continued

[For tankerman endorsements, see table 1 to § 13.129.]

Endorsement category	Minimum age	Citizenship	Medical and physical exam	Experience	Recommendations and character check	Firefighting	Professional exam	Demonstration of professional ability	Recency of service	First aid and CPR
Offshore Supply Vessels.	§ 11.201(e) Note: exceptions.	U.S., § 10.221(a)(1) § 11.201(d).	§ 10.302(a)	Master § 11.493 Chief Mate § 11.495. Mate § 11.497 C/E § 11.553 Engineer § 11.555	N/A: Note exceptions in § 11.201(g) for original national or STCW endorsements.	§ 11.201(h)	§ 11.201(j); Master § 11.493 Chief Mate § 11.495 Mate § 11.497 C/E § 11.553; § 11.903 Eng § 11.555; § 11.903.	Master § 11.493 Chief Mate § 11.495. Mate § 11.497 C/E § 11.553 Engineer § 11.555	original § 11.201 (c)(2). renewal § 10.227(e).	§ 11.201(i).
MODU licenses	§ 11.201(e) Note: exceptions.	U.S., § 10.221(a)(1) § 11.201(d).	§ 10.302(a)	OIM: § 11.470 B.S.: § 11.472 BCO: § 11.474 ChEng: § 11.542 Asst. Eng: § 11.544	N/A: Note exceptions in § 11.201(g) for original national or STCW endorsements.	§ 11.201(h): note exceptions.	§ 11.201(j); § 11.903; § 11.920.	N/A	original § 11.201 (c)(2). renewal § 10.227(e).	§ 11.201(i).
Uninspected fishing industry vessels.	§ 11.201(e) Note: exceptions.	U.S., § 10.221(a)(1) § 11.201(d).	§ 10.302(a)	Deck: § 11.462(c); (d);. Engine: § 11.530(c); (d); (e).	N/A: Note exceptions in § 11.201(g) for original national or STCW endorsements.	§ 11.201(h) Note: exceptions	§ 11.201(j); § 11.903; § 11.910.	N/A	original § 11.201 (c)(2). renewal § 10.227(e).	§ 11.201(i).
Radio officer	§ 11.201(e) Note: exceptions.	U.S., § 10.221(a)(1) § 11.201(d).	§ 10.302(a)	N/A	N/A: Note exceptions in § 11.201(g) for original national or STCW endorsements.	N/A	N/A	§ 11.603	N/A	§ 11.201(i).
GMDSS Operator	N/A	N/A	N/A	N/A	N/A	N/A	N/A	11.604	N/A	N/A.
Officer raises of grade.	§ 11.201(e) Note: exceptions.	U.S., § 10.221(a)(1) § 11.201(d).	§ 10.302(a)	§ 10.231(c); Part 11, subparts D and E.	N/A	N/A	§ 10.231(d); § 11.903; § 11.910; § 11.920; § 11.950.	Part 11, subparts D and E.	3 months in past 3 years, § 11.201 (c)(2).	N/A.
Officer renewals	§ 11.201(e) Note: exceptions.	U.S., § 10.221(a)(1) § 11.201(d).	§ 10.302(a)	§ 10.227(d) and (e) Note: exceptions	N/A	N/A	N/A	Towing officers, § 10.227(d) and (e).	1 year in past 5, § 10.227(e) and (f). Note: alternative.	N/A.
Staff officer	§ 11.201(e) Note: exceptions.	U.S., § 10.221(a)(1) § 11.201(d).	§ 10.302(a)	§ 11.807	N/A: Note exceptions in § 11.201(g) for original national or STCW endorsements.	N/A	N/A	§ 11.807	N/A	§ 11.201(i).
Staff officer renewals.	§ 11.201(e) Note: exceptions.	U.S., § 10.221(a)(1) § 11.201(d).	§ 10.302(a)	N/A	N/A	N/A	N/A	N/A	N/A	N/A.
Able seaman	§ 12.401(c)(1)	U.S. or alien admitted for permanent residence, § 10.221(a)(2).	§ 10.302(a), § 12.401(c)(2).	§ 12.403	N/A	N/A	§ 12.401(c)(5)	§ 12.401(c)(6) § 12.405.	Renewal only, 1 year in past 5, § 10.227(e) and (f). Note: alternative	N/A.
Able-seafarer deck	§ 12.603(a)(1))	U.S. or alien admitted for permanent residence, § 10.221(a)(2).	§ 10.302(a)	§ 12.603(a)(3)	N/A	N/A	N/A	§ 12.603(a)(2) § 12.603(a)(4) § 12.603(a)(5).	Renewal only, 1 year in past 5, § 10.227(e) and (f). Note: alternative	§ 12.601(c).
Ratings for forming a navigational watch.	§ 12.605(a)(1)	U.S. or alien admitted for permanent residence, § 10.221(a)(2).	§ 10.302(a)	§ 12.605(a)(2)	N/A	N/A	N/A	§ 12.605(a)(3)	Renewal only, 1 year in past 5, § 10.227(e) and (f). Note: alternative	§ 12.601(c).
Qualified members of engine department.	§ 12.501(c)(1)	U.S. or alien admitted for permanent residence, § 10.221(a)(2).	§ 10.302(a)	§ 12.503	N/A	N/A	§ 12.505	N/A	Renewal only, 1 year in past 5, § 10.227(e) and (f). Note: alternative	N/A.

Able-seafarer engine	§ 12.607(a)(1)	U.S. or alien admitted for permanent residence, § 10.221(a)(2).	§ 10.302(a)	§ 12.607(a)(3)	N/A	N/A	N/A	§ 12.607(a)(2); (4) § 12.607(b); (c).	Renewal only, 1 year in past 5, § 10.227(e) and (f). Note: alternative	§ 12.601(c).
Ratings for forming an engineering watch.	§ 12.609(a)(1)	U.S. or alien admitted for permanent residence, § 10.221(a)(2).	§ 10.302(a)	§ 12.609(a)(2)	N/A	N/A	N/A	§ 12.609(a)(3)	Renewal only, 1 year in past 5, § 10.227(e) and (f). Note: alternative	§ 12.601(c).
Electro-technical rating.	§ 12.611(a)(1)	U.S. or alien admitted for permanent residence, § 10.221(a)(2).	§ 10.302(a)	§ 12.611(a)(2)	N/A	N/A	N/A	§ 12.611(a)(3); § 12.611(b).	Renewal only, 1 year in past 5, § 10.227(e) and (f). Note: alternative.	§ 12.601(c).
Entry level ratings	N/A	U.S. or alien admitted for permanent residence, § 10.221(a)(2)§ 12.803; § 12.809.	N/A; note exception in § 12.811(a)(2). Note: Food Handler (F.H.) requirements in Table § 10.302(a). (xiii) § 10.302(a) (xiv).	N/A	N/A	N/A	N/A	N/A	N/A	N/A.
Lifeboatman	N/A	U.S. or alien admitted for permanent residence, § 10.221(a)(2).	§ 10.302(a)	§ 12.407(b)(1)	N/A	N/A	§ 12.407(b)(2); (4)	§ 12.407(b)(2); (3)	Renewal only, 1 year in past 5, § 10.227(e) and (f). Note: alternative.	N/A.
Lifeboatman-Limited	N/A	U.S. or alien admitted for permanent residence, § 10.221(a)(2).	§ 10.302(a)	§ 12.409(b)(1)	N/A	N/A	§ 12.409(b)(2); (4)	§ 12.409(b)(2); (3)	Renewal only, 1 year in past 5, § 10.227(e) and (f). Note: alternative.	N/A.
Proficiency in fast rescue boats.	§ 12.617(a)(1)	U.S. or alien admitted for permanent residence, § 10.221(a)(2).	N/A	N/A	N/A	N/A	N/A	§ 12.617(a)(2); (3); (4).	Renewal only, 1 year in past 5, § 10.227(e) and (f). Note: alternative. Renewal § 12.617(b)(2).	§ 12.601(c).
Proficiency in survival craft and rescue boats other than fast rescue boats.	§ 12.613(a)(1)	U.S. or alien admitted for permanent residence, § 10.221(a)(2).	N/A	§ 12.613(a)(2)	N/A	N/A	N/A	§ 12.613(a)(3)	Renewal only, 1 year in past 5, § 10.227(e) and (f). Note: alternative. Renewal: § 12.613(b)(2).	§ 12.601(c).
Proficiency in survival craft and rescue boats other than lifeboats and fast rescue boats-limited.	§ 12.615(a)(1)	U.S. or alien admitted for permanent residence, § 10.221(a)(2).	N/A	§ 12.615(a)(2)	N/A	N/A	N/A	§ 12.615(a)(3)	Renewal only, 1 year in past 5, § 10.227(e) and (f). Note: alternative. Renewal: § 12.615(b)(2).	§ 12.601(c).
Assistance Towing endorsement.	N/A	N/A	N/A	§ 11.482	N/A	N/A	§ 11.482	§ 11.482	original § 11.201(c)(2).	N/A.
Radar Observer endorsement.	N/A	N/A	N/A	N/A	N/A	N/A	N/A	§ 11.480(d); (h)	N/A	N/A.
Vessel Security Officer.	§ 11.337(a)	U.S. or alien admitted for permanent residence, § 10.221(a)(1) § 10.221(a)(2.	§ 10.302(a)	§ 11.337(a)	N/A: Note exceptions in § 11.201(g) for original national or STCW endorsements.	N/A	N/A	§ 11.337(a)	original § 11.201 (c)(2). renewal § 10.227(e).	§ 11.201(i).
High Speed Craft	N/A	U.S. § 10.221(a)(1)	N/A	§ 11.821(b)(1) § 11.821(c).	N/A: Note exceptions in § 11.201(g) for original national or STCW endorsements.	N/A	N/A	§ 11.821(b)(2)	Renewal: § 11.821(e).	N/A.
GMDSS at sea maintainer.	§ 12.623(a)	N/A	N/A	N/A	N/A	N/A	N/A	§ 12.623(b)	N/A	N/A.
Medical first-aid provider.	N/A	N/A	N/A	§ 12.619(b)	N/A	N/A	N/A	§ 12.619(a)(1); (2)	N/A	§ 12.619(a)(1).

TABLE 1 TO § 10.239: QUICK REFERENCE TABLE FOR MMC REQUIREMENTS—Continued

[For tankerman endorsements, see table 1 to § 13.129.]

Endorsement category	Minimum age	Citizenship	Medical and physical exam	Experience	Recommendations and character check	Firefighting	Professional exam	Demonstration of professional ability	Recency of service	First aid and CPR
Person in charge of medical care.	N/A	N/A	N/A	§ 12.621(b)	N/A	N/A	N/A	§ 12.621(a)(1); (2)	N/A	§ 12.621(a)(1).
Vessel personnel with designated security duties.	§ 12.625(a)(1)	U.S. or alien admitted for permanent residence, § 10.221(a)(2) § 12.803.	§ 12.625(a)(2)	§ 12.625(a)(1)	N/A	N/A	N/A	§ 12.625(a)(1)	Renewal only, 1 year in past 5, § 10.227(e) and (f). Note: alternative.	N/A.
Security awareness	§ 12.627(a)(1)	U.S. or alien admitted for permanent residence, § 10.221(a)(2) § 12.803.	§ 12.627(a)(2)	§ 12.627(a)(1)	N/A	N/A	N/A	§ 12.627(a)(1)	Renewal only, 1 year in past 5, § 10.227(e) and (f). Note: alternative.	N/A.
Ratings serving on passenger ships on international voyages.	N/A	N/A	N/A	N/A	N/A	N/A	N/A	§ 12.905(a); (b)	Renewal § 12.905(d).	N/A.

■ 29. Add subpart C, consisting of §§ 10.301 through 10.306, to read as follows:

Subpart C—Medical Certification

Sec.
10.301 General requirements.
10.302 Medical and physical requirements.
10.303 Medical waivers, limitations, and restrictions.
10.304 General medical exam.
10.305 Vision requirements.
10.306 Hearing requirements.

Subpart C—Medical Certification

§ 10.301 General requirements.

(a) The Coast Guard will issue a medical certificate to a mariner meeting the medical and physical standards for merchant mariners. The medical certificate will be issued for various periods of time based upon the endorsements the mariner holds. The Coast Guard will review all information provided and will determine whether—

(1) The applicant is physically and medically qualified for the medical certificate without any limitations, waivers and/or other conditions;

(2) The applicant is physically and medically qualified for the medical certificate with limitations and/or other conditions as specified by the Coast Guard;

(3) For an applicant who does not possess the vision, hearing, or general physical condition necessary, a medical certificate may be issued with appropriate limitations, waivers and/or other conditions as specified by the Coast Guard;

(4) Additional information is necessary to determine if the applicant is physically and/or medically qualified for the medical certificate. The Coast Guard will request additional information from the applicant. The Coast Guard may hold the package pending receipt of that information before the package and/or application is denied; or

(5) The applicant is not physically and/or medically qualified for the medical certificate. The application for a medical certificate will be denied by the Coast Guard.

(b) Except as otherwise noted, medical certificates will be issued for the following periods of time:

(1) All persons employed or engaged onboard vessels to which STCW applies will be issued a medical certificate valid for 2 years unless the mariner is under the age of 18, in which case the maximum period of validity will be 1 year.

(2) Medical certificates issued to a mariner who is serving as a first-class pilot, or acting as a pilot under § 15.812 of this subchapter, will be issued for a maximum period of 2 years.

(3) Medical certificates issued to all other mariners will be issued for a maximum period of 5 years.

(4) Applicants seeking additional MMC endorsements holding a current medical certificate are not required to submit a new medical physical exam if their existing medical certification meets all of the requirements of this section for the endorsement sought.

(c) Applicants holding no endorsement other than a staff officer endorsement need not meet the medical and physical requirements of this section.

§ 10.302 Medical and physical requirements.

(a) To qualify for a medical certificate, a mariner must provide evidence of meeting the medical and physical standards in this section on a CG–719–K or CG–719–K/E, as appropriate. The Coast Guard retains final authority for determining whether a mariner is medically and physically qualified. Columns 2 through 5 of Table 1 to paragraph (a) of this section provide the specific exam, test, or demonstrations required to obtain the corresponding credential listed in column 1. Further clarifications of the requirements contained in the table are found throughout this subpart.

(b) Any required test, exam, or demonstration must have been performed, witnessed, or reviewed by a licensed medical doctor, licensed physician assistant, licensed nurse practitioner, or a designated medical examiner. All licensed medical practitioners must hold a valid license issued in the United States. Medical examinations for Great Lakes Pilots must be conducted by a licensed medical doctor in accordance with the physical exam requirements in 46 CFR 402.210.

TABLE 1 TO § 10.302(a)—MEDICAL AND PHYSICAL REQUIREMENTS FOR MARINER ENDORSEMENTS

1 Credential	2 Vision test	3 Hearing test	4 General medical exam	5 Demonstration of physical ability
(1) Deck officer, including pilot	§ 10.305(a)	§ 10.306	§ 10.304(a)	§ 10.304(c)
(2) Engineering officer	§ 10.305(b)	§ 10.306	§ 10.304(a)	§ 10.304(c)
(3) Radio officer	§ 10.305(b)	§ 10.306	§ 10.304(a)	§ 10.304(c)
(4) Offshore installation manager, barge supervisor, or ballast control operator	§ 10.305(b)	§ 10.306	§ 10.304(a)	§ 10.304(c)
(5) Able seaman	§ 10.305(a)	§ 10.306	§ 10.304(a)	§ 10.304(c)
(6) QMED	§ 10.305(b)	§ 10.306	§ 10.304(a)	§ 10.304(c)
(7) Able seafarer deck	§ 10.305(a)	§ 10.306	§ 10.304(a)	§ 10.304(c)
(8) RFPNW	§ 10.305(a)	§ 10.306	§ 10.304(a)	§ 10.304(c)
(9) Able seafarer engine	§ 10.305(b)	§ 10.306	§ 10.304(a)	§ 10.304(c)
(10) RFPEW	§ 10.305(b)	§ 10.306	§ 10.304(a)	§ 10.304(c)
(11) Electro-technical rating	§ 10.305(b)	§ 10.306	§ 10.304(a)	§ 10.304(c)
(12) Tankerman	§ 10.305(b)	§ 10.306	§ 10.304(a)	§ 10.304(c)
(13) Lifeboatman and Proficiency in survival craft and rescue boats other than fast rescue boats (PSC)	§ 10.305(b)	§ 10.306	§ 10.304(a)	§ 10.304(c)
(14) Lifeboatman-Limited and Proficiency in survival craft and rescue boats other than fast rescue boats—limited (PSC—limited)	§ 10.305(b)	§ 10.306	§ 10.304(a)	§ 10.304(c)
(15) Fast Rescue Boat	§ 10.305(b)	§ 10.306	§ 10.304(a)	§ 10.304(c)
(16) Food handler serving on vessels to which STCW does not apply			§ 10.304(b)	
(17) Food handler serving on vessels to which STCW applies			§ 10.304(b)	§ 10.304(c)
(18) Ratings, including entry level, serving on vessels to which STCW applies, other than those listed above				§ 10.304(c)

TABLE 1 TO § 10.302(a)—MEDICAL AND PHYSICAL REQUIREMENTS FOR MARINER ENDORSEMENTS—Continued

1 Credential	2 Vision test	3 Hearing test	4 General medical exam	5 Demonstration of physical ability
(19) Ratings, including entry level, serving on vessels to which STCW does not apply, other than those listed above				
(20) Vessel security officer	§ 10.305(a)	§ 10.306	§ 10.304(a)	§ 10.304(c)

§ 10.303 Medical waivers, limitations, and restrictions.

(a) The Coast Guard may grant a waiver if, after review of all relevant supporting medical documents and consultation with the examining physician, as needed, an applicant does not possess the vision, hearing, or general physical condition necessary; and extenuating circumstances warrant special consideration. An applicant may submit to the Coast Guard additional correspondence, records, and reports in support of a waiver. In this regard, recommendations from agencies of the Federal Government operating government vessels, as well as owners and operators of private vessels, made on behalf of their employees, will be given full consideration.

(b) In general, medical waivers are approved when an applicant does not meet the applicable medical standards, but objective medical evidence indicates that the condition is sufficiently controlled and the effects of medication pose no significant risk to maritime and public safety. The Coast Guard retains final authority for the issuance of medical waivers.

(c) Medical waivers may be granted with specific conditions to which the applicant must adhere, such as more frequent monitoring of the medical conditions, submission of medical exams and/or tests at varying intervals to track the ongoing status of the medical condition, or operational limitations in the manner the mariner may serve under the MMC.

(d) The Coast Guard may place an operational limitation on medical and physical conditions. Any operational limitations will be reflected in the medical certificate.

(e) The Coast Guard may place a restriction on a medical certificate based upon medical and physical conditions of an applicant. Any restriction will be reflected on the medical certificate and may include restriction of route or trade.

§ 10.304 General medical exam.

(a) The general medical exam must be documented and of such scope to ensure that there are no conditions that pose significant risk of sudden incapacitation or debilitating complication. This exam must also document any condition requiring medication that impairs cognitive ability, judgment, or reaction time. The Coast Guard will provide guidance on the conduct of general medical exams. Examiners should be familiar with the content and recommended medical evaluation data compiled in the medical guidelines.

(b) Food handlers are not required to submit to a general medical exam, but must obtain a statement from a licensed physician, physician assistant, or nurse practitioner attesting that they are free of communicable diseases that pose a direct threat to the health or safety of other individuals in the workplace.

(c) *Demonstration of physical ability.* (1) A demonstration of physical ability is required only if—

(i) The medical practitioner conducting the general medical exam is concerned that an applicant's physical ability may impact maritime safety; or

(ii) Table 1 to § 10.302(a) of this subpart shows that the mariner must pass a demonstration of physical ability.

(2) For an applicant to satisfactorily pass a demonstration of physical ability, the examiner must be satisfied that the applicant—

(i) Has no disturbance in the sense of balance;

(ii) Is able, without assistance, to climb up and down vertical ladders and inclined stairs;

(iii) Is able, without assistance, to step over a door sill or coaming;

(iv) Is able to move through a restricted opening of 24-by-24 inches (61-by-61 centimeters);

(v) Is able to grasp, lift, and manipulate various common shipboard tools, move hands and arms to open and close valve wheels in vertical and horizontal directions, and rotate wrists to turn handles;

(vi) Does not have any impairment or disease that could prevent normal movement and physical activities;

(vii) Is able to stand and walk for extended periods of time;

(viii) Does not have any impairment or disease that could prevent response to a visual or audible alarm; and

(ix) Is capable of normal conversation.

(3) Guidance on demonstration of physical ability is contained in the relevant Coast Guard guidance for the conduct of general medical exams.

(d) *Reports of medical and physical exams, demonstrations, and tests.* These reports must be submitted within 12 months from the date signed by the licensed medical professional. When submitted with a complete application package, these reports remain valid for 12 months from the date the Coast Guard accepts a complete application.

§ 10.305 Vision requirements.

(a) *Deck standard.* (1) A mariner must have correctable vision to at least 20/40 in one eye and uncorrected vision of at least 20/200 in the same eye. The color sense must be determined to be satisfactory when tested by any of the following methods or an alternative test acceptable to the Coast Guard, without the use of color-sensing lenses:

(i) Pseudoisochromatic Plates (Dvorine, 2nd Edition; AOC; revised edition or AOC–HRR; Ishihara 14-, 24-, or 38-;plate editions).

(ii) Farnsworth Lantern.

(iii) Titmus Vision Tester/OPTEC 2000.

(iv) Optec 900.

(v) Richmond Test, 2nd and 4th edition.

(2) After January 1, 2017, applicants for an STCW endorsement must have correctable vision to at least 20/40 in both eyes and uncorrected vision of at least 20/200 in both eyes. A mariner who meets these requirements and who suffers loss of vision in one eye after being issued an MMC is subject to the requirements of paragraphs (c), (d), and (e) of this section, as applicable. A mariner holding an MMC prior to January 1, 2017, must continue to meet the requirements of paragraph (a)(1) of this section.

(b) *Engineering, radio officer, tankerman, and MODU standard.* A mariner must have correctable vision to

at least 20/50 in one eye and uncorrected vision of at least 20/200 in the same eye and need only the ability to distinguish the colors red, green, blue, and yellow. The color sense must be determined to be satisfactory when tested by any color-vision test listed in paragraph (a) of this section, or an alternative test acceptable to the Coast Guard, without the use of color-sensing lenses. The Coast Guard will accept Farnsworth D–15 Hue Test as a color vision test to meet the requirements of this paragraph.

(c) *Vision waiver.* Any applicant whose uncorrected vision does not meet the 20/200 standard and is correctable to listed standards above may be granted a medical waiver in accordance with § 10.303 of this subpart. If a vision waiver is granted, a limitation will be placed on his or her MMC indicating the mariner may not serve under the authority of the endorsement unless corrective lenses are worn and spare lenses are carried onboard a vessel. Waivers are not normally granted to an applicant whose corrected vision in the better eye is not at least 20/40 for deck officers or 20/50 for engineer officers.

(d) *Vision operational limitation.* If corrective lenses are required in order to meet the vision standards above, a mariner may not serve under the authority of the endorsement unless corrective lenses are worn and spare lenses are carried onboard a vessel. This operational limitation will be placed on his or her medical certificate.

(e) *Loss of vision.* A mariner having lost vision in one eye must wait 6 months from the date of the vision loss before submitting any application, and must provide a statement of demonstrated ability on his or her medical examination.

§ 10.306 Hearing requirements.

(a) If the medical practitioner conducting the general medical exam has concerns that an applicant's ability to hear may impact maritime safety, the examining medical practitioner must refer the applicant to an audiologist or other hearing specialist to conduct an audiometer test and a speech discrimination test, as appropriate.

(b) The audiometer test must include testing at the following thresholds: 500 Hz; 1,000 Hz; 2,000 Hz; and 3,000 Hz. The frequency responses for each ear must be averaged to determine the measure of an applicant's hearing ability. Applicants must demonstrate an unaided threshold of 30 decibels or less in at least one ear.

(c) The functional speech discrimination test must be carried out at a level of 65 decibels. For issuance of an original MMC or endorsement the applicant must demonstrate functional speech discrimination of at least 90 percent. For renewal or raise of grade, the applicant must demonstrate functional speech discrimination of at least 80 percent.

(d) *Hearing waivers.* An applicant who is unable to meet the hearing standards of the audiometer test, but who can pass the functional speech discrimination test; or who requires hearing aids to meet the hearing standards, may be eligible for a medical waiver in accordance with § 10.303 of this subpart.

(e) *Hearing operational limitation.* If hearing aids are required in order to meet the hearing standards above, a mariner may not serve under the authority of the endorsement unless hearing aids are worn in the operational mode, and spare batteries are carried onboard a vessel. This operational limitation will be placed on his or her medical certificate.

30. Add subpart D, consisting of §§ 10.401 through 10.412, to read as follows:

Subpart D—Training Courses and Programs

Sec.
10.401 Applicability.
10.402 Approval of training courses.
10.403 General standards.
10.404 Substitution of training for required service, use of training-record books (TRBs), and use of towing officer assessment records (TOARs).
10.405 Qualification as qualified assessor (QA) and designated examiner (DE).
10.406 Approved courses.
10.407 Approval of training programs.
10.408 Coast Guard-accepted training other than approved courses and programs.
10.409 Coast Guard-accepted Quality Standard System (QSS) organizations.
10.410 Quality Standard System (QSS) requirements.
10.411 Simulator performance standards.
10.412 Distance and e-learning.

§ 10.401 Applicability.

This subpart prescribes the general requirements applicable to offerors of all approved courses and training programs which may be accepted instead of sea service, examination required by the Coast Guard, or STCW assessments, or which satisfy course completion requirements.

§ 10.402 Approval of training courses.

(a) *Categories.* The Coast Guard may approve courses designed to substitute for or fulfill any or all of the following:

(1) A portion of sea service requirement.

(2) Examinations required by the Coast Guard.

(3) Professional competency requirements.

(4) Regulatory requirements.

(b) *Request for approval.* Organizations desiring course approval by the Coast Guard must submit a written request and a complete curriculum package to the National Maritime Center, either by mail or electronically. The curriculum package must be provided in a format specified by the Office of Vessel Activities (CG–CVC) and include:

(1) *A cover letter.* The cover letter must contain—

(i) The name of the organization providing the instruction and the course name;

(ii) The locations where the course will be held;

(iii) A general description and overview of the course;

(iv) The category of acceptance being sought, as listed in paragraph (a) of this section; and

(v) Reference to regulatory requirements met by the training.

(2) Part A: Course framework. The course framework must contain—

(i) The following specific course intentions:

(A) Course scope.

(B) Course objective;

(ii) The following conditions relative to students:

(A) Student entry standards.

(B) Class-size limitations.

(C) Student/teacher ratio;

(iii) Documentary evidence that each instructor and/or assessor—

(A) Has either experience, training, or evidence of instruction in effective instructional techniques and/or effective assessment techniques;

(B) Is qualified in the task for which the training is being conducted and have relevant experience; and

(C) Has attained a level of experience and qualification equal or superior to the relevant level of knowledge, skills, and abilities described in the performance objective;

(iv) Site information, which must include—

(A) A description of the facility, measurements of the instructional space, pictures showing multiple views of the space, and a description of the instruction or assessment being performed; and

(B) A request, if applicable, to teach at an alternative site. This requires contact with the local Regional Exam Center and approval by the National Maritime Center; and

(v) A description of the following materials used for development, instruction, and performance measurement:

(A) Equipment.

(B) Teaching aids.

(C) Textbooks and presentations.
(D) Reference bibliography.
(3) Part B: Course outline. The course outline must contain—
(i) Course subjects/topics; and
(ii) Course schedule, including the duration and order of lessons, and an indication as to whether each lesson is—
(A) A classroom lecture;
(B) A practical demonstration;
(C) A simulator exercise;
(D) An examination; or
(E) Another method of instructional reinforcement.
(4) Part C: Detailed teaching syllabus. The detailed teaching syllabus must be written in a learning objective format in which the objectives describe what the student must do to demonstrate that the specific knowledge has been transferred. The detailed teaching syllabus must contain—
(i) The learning objectives as related to the subjects/topics;
(ii) The specific references from which the instruction was developed; and
(iii) Reference to the specific teaching aids, textbooks, or technical materials used for instruction and performance measurement.
(5) Part D–1: Lesson plans. The lesson plans must contain the following specific instructional contents of the individual course lessons:
(i) The main element learning objective.
(ii) Student assignments.
(iii) Training outcomes, which are statements that identify the specific knowledge, skill, or ability that students must gain and display as a result of the training or instructional activity. A training outcome is made up of three elements: expected student performance, condition, and criterion.
(6) Part D–2: Instructor notes. The instructor notes must contain—
(i) The specific instructional methodologies utilized in the particular lesson; and
(ii) The instructional materials, including instructional directions containing the following:
(A) Pre-instructional activities.
(B) Content presentation.
(C) Student participation.
(D) Assessment process.
(E) Other instructional activities, such as homework and reading assignments.
(7) Part E: Evaluations. The evaluations section must contain—
(i) Any methodology that is used to measure a student's knowledge, performance, or level of achievement, including—
(A) Homework;
(B) Quizzes;
(C) Exams;
(D) Laboratory projects;
(E) Competency assessments;
(F) Remediation; and
(G) Testing strategies;
(ii) Assessment instruments, which are any tools used to determine whether the student has achieved the desired level of knowledge, understanding, or proficiency; and
(iii) Any methodology that is used to measure the effectiveness of the training or instructor, including—
(A) Instructor evaluations;
(B) Course evaluations/surveys; and
(C) Other feedback.
(8) *Course completion certificate.* A sample course completion certificate that allows for the following information to be entered:
(i) Course provider number.
(ii) Course number.
(iii) Terms of approval.
(c) *Approval notification.* The Coast Guard will notify each applicant for course approval when an approval is granted or denied. If the Coast Guard denies a request for approval, the Coast Guard will inform the applicant of the reasons for the denial and describe the corrections required for granting an approval.
(d) *Validity of course approval.* Unless surrendered, suspended, or withdrawn, an approval for a course is valid for up to a maximum of 5 years after issuance, unless—
(1) The school ceases operation;
(2) The school gives notice that it will no longer offer the course;
(3) The owner or operator fails to submit any required information; or
(4) Any change occurs in the ownership of the school to which the approval was issued.
(e) *Significant changes to the course approval.* (1) Any significant changes to the course approval or the content of the course will be handled as a request for renewal of an approval (as specified in paragraph (f) of this section), or as a request for an original approval (as specified in paragraph (b) of this section), depending on the nature and scope of the change.
(2) The Coast Guard may not accept course completion certificates if the course does not follow the conditions of the course approval.
(f) *Renewal of course approval.* (1) If the owner or operator of a training school desires to have a course's approval renewed, the owner or operator must submit a request to the NMC accompanied by the information from paragraph b of this section.
(2) If satisfied that the content and quality of instruction remain satisfactory, the Coast Guard will approve the request.
(3) The renewed approval is valid as detailed in paragraph (d) of this section.
(g) *Suspension of approval.* (1) The Coast Guard may suspend the approval, require the holder to surrender the certificate of approval, and may direct the holder to cease claiming the course is Coast Guard-approved, if it determines that a specific course does not comply with the—
(i) Applicable provisions of 46 CFR parts 10, 11, 12, or 13;
(ii) Requirements specified in the course's approval; or
(iii) Course's curriculum package as submitted for approval.
(2) The Coast Guard will notify the approval holder in writing of the intent to suspend course approval and the reasons for suspension. If the approval holder fails to correct the conditions leading to suspension, the course will be suspended. The Coast Guard will notify the approval holder that the specific course fails to meet applicable requirements and explain how the deficiencies can be corrected.
(3) The Coast Guard may grant the approval holder up to 90 days to correct the deficiency.
(4) Course completion certificates will not be accepted for training provided during a period of suspension or expiration.
(h) *Withdrawal of approval.* The Coast Guard may withdraw approval for any course—
(1) When the approval holder fails to correct the deficiency of a suspended course within 90 days; or
(2) Upon determining that the approval holder has demonstrated a pattern or history of any of the following:
(i) Failing to comply with the applicable regulations or the course approval requirements.
(ii) Deviating from approved course curricula.
(iii) Presenting courses in a manner that does not achieve the learning objectives.
(iv) Falsifying any document required and integral to the conduct of the course, including, but not limited to, attendance records, written test grades, course completion grades, or assessment of practical demonstrations.
(i) *Appeals of suspension or withdrawal of approval.* Anyone directly affected by a decision to suspend or withdraw an approval may appeal the decision to the Commandant as provided in § 1.03–40 of this chapter.

§ 10.403 General standards.

(a) Each school with an approved course must—
(1) Have a well-maintained facility that accommodates the students in a

safe and comfortable environment conducive to learning;

(2) Have the necessary equipment, including simulators where appropriate, sufficient for the number of students to be accommodated, and support the objectives of the course;

(3) Administer training entirely in the English language unless specifically approved to be presented in another language;

(4) Administer written examinations to each student appropriate for the course material and the knowledge requirements of the position or endorsement for which the student is being trained. For a course approved to substitute for a Coast Guard-administered examination, the courses must be of such a degree of difficulty that a student who successfully completes them would most likely pass, on the first attempt, an examination prepared by the Coast Guard;

(5) Require each student to successfully demonstrate practical skills appropriate for the course material and equal to the level of endorsement for which the course is approved;

(6) Effective March 24, 2014, keep physical or electronic copies of the following records for at least 5 years after the end of each student's completion or disenrollment from a course or program:

(i) A copy of each student's examination scores.

(ii) A copy of each examination or, in the case of a practical test, a report of such test.

(iii) A record of each student's classroom attendance.

(iv) A copy of each student's course completion certificate or program completion certificate, as appropriate.

(v) A summary of changes or modification to the last course submittal.

(vi) A list of all locations at which the training course was presented and the number of times it was presented at each location.

(vii) The name(s) of the instructor(s) who taught the course, which does not include lab assistants or other non-teaching assistants.

(viii) The number of students who began the training.

(ix) The number of students who successfully completed the training.

(x) The number of students who were required to retest.

(xi) The number of students who were required to retake the entire course.

(xii) The number of students who were required to retake a portion of the course;

(7) Not significantly change its approved curriculum without approval from the NMC as specified in § 10.402(e) of this subpart;

(8) Conduct an internal audit midway through the term of the course's approval and maintain the results of the audit for a period of not less than 5 years. The audit will evaluate whether—

(i) Records are being maintained according to these regulations;

(ii) The course is being presented in accordance with the approval letter; and

(iii) Surveys from students indicate that the course is meeting their needs; and

(9) At any time, allow the Coast Guard to—

(i) Inspect its facilities, equipment, and records, including scholastic records;

(ii) Conduct interviews and surveys of students to aid in course evaluation and improvement;

(iii) Assign personnel to observe or participate in the course of instruction; and

(iv) Supervise or administer the required examinations or practical demonstrations, including the substitution of an applicable Coast Guard examination in a course approved to substitute for a Coast Guard administered examination.

(b) [Reserved]

§ 10.404 Substitution of training for required service, use of training-record books (TRBs), and use of towing officer assessment records (TOARs).

(a) *Substitution of training for required service.* (1) Satisfactory completion of an approved training course may be substituted for a portion of the required service on deck or in the engine department for national deck or engineer endorsements. Satisfactory completion of an approved training program which includes sea service may be substituted for a portion of or all of the required service on deck or in the engine department, except as limited by law for ratings. The list of all currently approved courses and programs, including the equivalent service and applicable endorsements, is maintained by the NMC.

(2) Unless otherwise allowed, recency requirements may not be achieved by service granted as a result of successful completion of approved training or by training on a simulator; however, underway service obtained as a portion of an approved course or program may be used for this purpose.

(3) Unless otherwise allowed, training obtained before receiving an endorsement may not be used for service credit for subsequent raises of grade, increases in scope, or renewals.

(4) This provision for crediting service for training is not applicable to STCW endorsements unless provided otherwise.

(b) *Use of training-record books (TRBs).* (1) Approved training programs for STCW endorsements for OICNW and OICEW must maintain a TRB for each student where training and/or assessments of competence are conducted onboard the ship. The TRB must contain at least the following information:

(i) The name of the applicant.

(ii) The tasks to be performed or the skills to be demonstrated, with reference to the standards of competence set forth in the tables of the appropriate sections in part A of the STCW Code (incorporated by reference, see § 10.103 of this part).

(iii) The method for demonstrating competence to be used in determining that the tasks or skills have been performed properly, with reference to the standards of competence set forth in the tables of competence in the appropriate sections in part A of the STCW Code (incorporated by reference, see § 10.103 of this part).

(iv) A place for a qualified instructor to indicate by his or her initials that the applicant has received training in the proper performance of the task or skill.

(v) A place for a qualified assessor (QA) to indicate by his or her initials that the applicant has successfully completed a practical demonstration and has proved competent in the task or skill under the criteria, when assessment of competence is to be documented in the record books.

(vi) The printed name of each qualified instructor, including any MMC endorsements held, and the instructor's signature.

(vii) The printed name of each qualified assessor, when any assessment of competence is recorded, including any MMC endorsement, license, or document held by the assessor, and the assessor's signature confirming that his or her initials certify that he or she has witnessed the practical demonstration of a particular task or skill by the applicant.

(2) The TRB referred to in paragraph (b) of this section may be maintained electronically, provided the electronic record meets Coast Guard-accepted standards for accuracy, integrity, and availability.

(3) The Coast Guard may accept other forms of documentation as meeting the requirements to maintain the training-record book.

(c) *Use of towing officer assessment records (TOARs).* Each applicant for an endorsement as master or mate (pilot) of towing vessels, and each master or mate of self-propelled vessels of 200 GRT or

more, seeking an endorsement for towing vessels, must complete a TOAR approved by the Coast Guard that contains at least the following:

(1) Identification of the applicant, including his or her full name, and reference number.

(2) Objectives of the training and assessment.

(3) Tasks to perform or skills to demonstrate.

(4) Criteria to use in determining that the tasks or skills have been performed properly.

(5) A means for a designated examiner (DE) to attest that the applicant has successfully completed a practical demonstration and has proved proficient in the task or skill under the criteria.

(6) Identification of each DE by his or her full name and reference number, job title, ship name and official number, and serial number of the MMC, license, or document held, and printed name and signature confirming that his or her initials certify that he or she has witnessed the practical demonstration of a particular task or skill by the applicant.

§ 10.405 Qualification as qualified assessor (QA) and designated examiner (DE).

(a) To become a QA, an applicant must have documentary evidence to establish—

(1) Experience, training, or instruction in assessment techniques;

(2) Qualifications in the task for which the assessment is being conducted; and

(3) Possession of the level of endorsement, or other professional credential, which provides proof that he or she has attained a level of experience and qualification equal or superior to the relevant level of knowledge, skills, and abilities to be assessed.

(b) To become a DE for towing officer assessment records (TOARs), an applicant must have documentary evidence to establish—

(1) Experience, training, or instruction in assessment techniques on towing vessels;

(2) Qualifications on towing vessels in the task for which the assessment is being conducted; and

(3) Possession of the level of endorsement on towing vessels, or other professional credential, which provides proof that he or she has attained a level of qualification equal or superior to the relevant level of knowledge, skills, and abilities described in the training objectives.

(c) Documentary evidence may be in the form of performance evaluations, which include an evaluation of effectiveness in on-the-job organization and delivery of training, or a certificate of successful completion from an ''assessor training'' course.

(d) In order to renew his or her qualifications, each QA and DE must have either experience, training, or evidence of instruction in effective assessment within the past 5 years.

§ 10.406 Approved courses.

The NMC maintains the list of training organizations and the approvals given to the training they offer. This information is available online at *www.uscg.mil/nmc*.

§ 10.407 Approval of training programs.

(a) Training programs approved to qualify a mariner to hold an STCW or national endorsement must meet the standards in this section or the requirements in § 10.402 of this subpart. All such programs must also meet the same standards as those found in § 10.403 of this subpart. The Coast Guard will accept information submitted by training providers to state, regional, and/or national accrediting bodies as evidence such providers satisfy one or more of the requirements of this section.

(b) *Categories*. The Coast Guard may approve programs designed to substitute for or fulfill any or all of the following:

(1) A portion of sea service requirements.

(2) Examinations required by the Coast Guard.

(3) Professional competency requirements.

(4) Regulatory requirements.

(c) *Request for approval.* Organizations desiring program approval by the Coast Guard must submit a written request and a complete curriculum package to the National Maritime Center (NMC), either by mail or electronically. The curriculum package must include the following information:

(1) *A cover letter*. The cover letter must contain—

(i) The name of the organization providing the instruction;

(ii) The location(s) where it will be held;

(iii) A general description and overview of the program, including the individual courses that are part of the program;

(iv) The category of acceptance being sought as listed in paragraph (b) of this section; and

(v) Reference to regulatory requirements met by the training.

(2) *A goal statement(s)*. The goal statement should describe—

(i) The specific performance behaviors to be measured;

(ii) The conditions under which the performance behavior(s) will be exhibited; and

(iii) The level of performance behavior(s) that is to be achieved.

(3) *Performance objectives*. Performance objectives are statements, which identify the specific knowledge, skill, or ability the student should gain and display as a result of the training or instructional activity. A performance objective is made up of three elements: Expected student performance, condition, and criterion.

(4) *Assessment instruments*. Assessment instruments are any tools used to determine whether the student has achieved the desired level of knowledge, understanding, or proficiency.

(5) *Instructor information*. Documentary evidence that each instructor and assessor—

(i) Has either experience, training, or evidence of instruction in effective instructional techniques and/or in effective assessment techniques;

(ii) Is qualified in the task for which the training is being conducted and have relevant experience; and

(iii) Has attained a level of experience and qualification equal or superior to the relevant level of knowledge, skills, and abilities described in the performance objective.

(6) *Site information*. Site information must include a description of the facility or facilities at which the training will be held. Authority to teach at an alternative site requires approval by the NMC.

(7) *A teaching syllabus*. A detailed teaching syllabus providing the following information:

(i) Instructional strategy. Aspects of instructional strategies should include—

(A) The order of presentation;

(B) The level of interaction, including the student-to-teacher ratio;

(C) Feedback;

(D) Remediation;

(E) Testing strategies; and

(F) Media used to present information.

(ii) Instructional materials, including lesson plans containing—

(A) Pre-instructional activities;

(B) Content presentation;

(C) Student participation;

(D) Assessment processes; and

(E) Other instructional activities, such as homework and reading assignments.

(iii) Course surveys on the relevance and effectiveness of the training completed by students.

(iv) Course schedule, including the duration and order of lessons, and an

indication as to whether each lesson is—

(A) A classroom lecture;

(B) A practical demonstration;

(C) A simulator exercise;

(D) An examination; or

(E) Another method of instructional reinforcement.

(8) *Program completion certificate.* A sample program completion certificate.

(d) *Approval notification.* The Coast Guard will notify each applicant for program approval when an approval is granted or denied. If the Coast Guard denies a request for approval, the Coast Guard will inform the applicant of the reasons for the denial and describe the corrections required for granting an approval.

(e) *Validity of program approval.* Unless surrendered, suspended, or withdrawn, an approval for a program is valid for up to a maximum of 5 years after issuance, unless—

(1) The school ceases operation;

(2) The school gives notice that it will no longer offer the program;

(3) The owner or operator fails to submit any required report; or

(4) Any change occurs in the ownership of the school to which the approval was issued.

(f) *Significant changes to the course program approval.* (1) Any significant changes to the program approval or the content of the program will be handled as a request for renewal of an approval (as specified in paragraph (f) of this section), or as a request for an original approval (as specified in paragraph (b) of this section), depending on the nature and scope of the change.

(2) The Coast Guard may not accept program completion certificates if the program does not follow the conditions of its approval.

(g) *Renewal of program approval.* (1) If the owner or operator of a training school desires to have a program's approval renewed, the owner or operator must submit a request to the NMC accompanied by the information from paragraphs (c)(1), (c)(5), (c)(6), and (c)(7) of this section.

(2) If satisfied that the content and quality of instruction remain satisfactory, the Coast Guard will approve the request.

(3) The renewed approval is valid as detailed in paragraph (d) of this section.

(h) *Suspension of approval.* (1) The Coast Guard may suspend the approval, require the holder to surrender the certificate of approval, and may direct the holder to cease claiming the program is Coast Guard-approved, if it determines that a specific program does not comply with the—

(i) Applicable provisions of 46 CFR parts 10, 11, 12, or 13;

(ii) Requirements specified in the program's approval; or

(iii) Program's curriculum package as submitted for approval.

(2) The Coast Guard will notify the approval holder in writing of the intent to suspend program approval and the reasons for suspension. If the approval holder fails to correct the reasons for suspension, the program will be suspended. The Coast Guard will notify the approval holder that the specific program fails to meet applicable requirements and explain how the deficiency can be corrected.

(3) The Coast Guard may grant the approval holder up to 90 days to correct the deficiency.

(4) Program completion certificates will not be accepted for training provided during a period of suspension or expiration.

(i) *Withdrawal of approval.* The Coast Guard may withdraw approval for any program—

(1) When the approval holder fails to correct the deficiency of a suspended program within 90 days; or

(2) Upon determining that the approval holder has demonstrated a pattern or history of any of the following:

(i) Failing to comply with the applicable regulations or the program approval requirements.

(ii) Deviating from approved program curricula.

(iii) Presenting instructional material in a manner that does not achieve the learning objectives.

(iv) Falsifying any document required and integral to the conduct of the program, including, but not limited to, attendance records, written test grades, course completion grades, or assessment of practical demonstrations.

(j) *Appeals of suspension or withdrawal of approval.* Anyone directly affected by a decision to suspend or withdraw an approval may appeal the decision to the Commandant as provided in § 1.03–40 of this chapter.

§ 10.408 Coast Guard-accepted training other than approved courses and programs.

(a) When the training and assessment of competence required by this part are not subject to Coast Guard approval under §§ 10.402 and 10.407 of this subpart, but are used to qualify a mariner to hold an endorsement, the offeror of the course or program must ensure that such training and assessment meets the same standards as those found in §§ 10.402 and 10.403 of this subpart.

(b) The Coast Guard will accept courses approved and monitored by a Coast Guard-accepted Quality Standard System (QSS) organization. The Coast Guard maintains a list of training organizations conducting accepted training that are independently monitored by a Coast Guard-accepted QSS organization. The Coast Guard-accepted QSS organization must comply with the following requirements:

(1) Submit a certificate of acceptance of training to the Coast Guard.

(2) Submit an updated certificate of acceptance to the Coast Guard if the terms of acceptance have been changed.

(3) Sign each certificate to the training organization owner or operator, or its authorized representative(s), stating that the training fully complies with the requirements of this section, and identifying the Coast Guard-accepted QSS organization being used for independent monitoring.

(c) The training must be audited periodically in accordance with the requirements of § 10.409(e)(7) of this subpart. If the Coast Guard determines, on the basis of its own observations or conclusions or those of the Coast Guard-accepted QSS organization, that the particular training does not satisfy one or more of the conditions described in paragraph (a) of this section—

(1) The Coast Guard or Coast Guard-accepted QSS organization will so notify the offeror of the training by letter, enclosing a report of the observations and conclusions;

(2) The offeror may, within a period of time specified in the notice, either appeal the observations or conclusions to the Commandant (CG–CVC) or bring the training into compliance; and

(3) If the appeal is denied—or if the deficiency is not corrected in the allotted time, or within any additional time period judged by the Coast Guard to be appropriate, considering progress toward compliance—the Coast Guard will remove the training from the list maintained under paragraph (b) of this section until it can verify full compliance. The Coast Guard may deny applications for endorsements based, in whole or in part, on training not on the list, until additional training or assessment is documented.

§ 10.409 Coast Guard-accepted Quality Standard System (QSS) organizations.

(a) Organizations wishing to serve as a Coast Guard-accepted QSS organization, to accept and monitor training on behalf of the Coast Guard, should apply to the National Maritime Center. An organization submitting an application may not act as a Coast Guard-accepted QSS organization until it has received its letter of acceptance.

(b) *Validity of acceptance.* Organizations meeting the requirements

in paragraph (e) of this section will be issued a letter of acceptance valid for a maximum period of 5 years from the date of issuance.

(c) An organization wishing to become a Coast Guard-accepted QSS organization must have processes for reviewing, accepting, and monitoring training that are equal to the Coast Guard's course approval and oversight processes in §§ 10.402 through 10.410 of this subpart.

(d) Each person conducting evaluation and monitoring of the training must be knowledgeable about the subjects being evaluated or monitored and about the national and international requirements that apply to the training, and must not be involved in the training and assessment of students.

(e) The documentation submitted to the Coast Guard must contain the information listed below. An organization approved as a recognized classification society in accordance with 46 CFR part 8, subpart B, need not present evidence of compliance with paragraphs (e)(1) and (e)(8) of this section.

(1) Identification of the organization: Name of the organization, address, contact information, and organizational structure (including the QSS department).

(2) Scope of approval: Training and assessment the organization wishes to accept and monitor.

(3) Background of the organization: Historical information outlining the organization's experience reviewing and accepting training and/or assessment activities.

(4) Staffing and support infrastructure, including—

(i) Names and qualifications of the individuals who will be involved in the review, acceptance, and monitoring of training and assessment;

(ii) Description of the training given to individuals who will be conducting review, acceptance, and monitoring activities; and

(iii) Technical and support resources within the organization that support the review, acceptance and monitoring activities.

(5) Submission guidelines: Information for client organizations to submit courses for review and acceptance, including criteria for course design, instructor/assessor qualifications, syllabi, equipment, and facilities.

(6) *Review and acceptance procedures.* (i) Descriptions of the methods of evaluation of the physical, administrative, and infrastructure support aspects of client organizations;

(ii) Descriptions of the methods of evaluation of the instructors or qualified assessors of a client organization and the maintenance of their records;

(iii) Descriptions of format for accepting training material;

(iv) Descriptions of the methods by which the course acceptance process responds to the client organization modifications to the training curriculum, changes to instructors or examiners, changes to the infrastructure support; and

(v) Descriptions of the renewal procedures.

(7) Audit procedures: Description of the methods for auditing accepted courses. Client organizations must be audited once in a 5-year period.

(8) Quality commitment: Provide evidence of having a quality management system that includes the following elements:

(i) A documented statement of a quality policy and quality objectives.

(ii) A quality manual.

(iii) Documented procedures and records.

(iv) Documents, including records, determined by the organization to be necessary to ensure the effective planning, operation, and control of its processes.

(f) Coast Guard-accepted QSS organizations must notify the NMC of the training they have accepted within 14 days of the acceptance date. The notification must include the name and address of the institution, the course title and the requirement the course meets, and a one-paragraph description of the course's content.

(g) *Audits.* (1) A Coast Guard-accepted QSS organization must conduct internal audits at least once in 5 years with a minimum of 2 years between reviews. Results of the internal audits must be available upon request to the Coast Guard within 60 days of completion.

(2) Each Coast Guard-accepted QSS organization may be audited by the Coast Guard at least once every 5 years. The results of the audit will be available to the Coast Guard-accepted QSS organization within 60 days of completion of the audit.

(3) Results of Coast Guard-accepted QSS organizations' audits to client organizations must be available upon request to the Coast Guard within 60 days of completion.

(h) *Disenrollment.* (1) A Coast Guard-accepted QSS organization must give each client organization it serves a 180-day notice of its intention to cease to function as a Coast Guard-accepted QSS organization.

(2) If the Coast Guard determines that a Coast Guard-accepted QSS organization is not meeting its obligations to review, accept, and monitor training and assessment, the NMC will notify the organization in writing and will enclose information about the events that led to this determination. The organization will then have a specified period of time to correct the deficiency or appeal the conclusions to the Commandant (CG–5P). If the organization appeals, and the appeal is denied, or the deficiencies are not corrected within the allotted time, the NMC will withdraw the acceptance of the Coast Guard-accepted QSS organization. The NMC will notify all client organizations affected by this decision so that they may make arrangements to transfer to another Coast Guard-accepted QSS organization or seek NMC approval for their training.

(i) A Coast Guard-accepted QSS organization may not approve courses provided by subsidiary organizations.

§ 10.410 Quality Standard System (QSS) requirements.

(a) Providers of Coast Guard-approved courses, programs, training, and Coast Guard-accepted training creditable towards an STCW endorsement must establish and maintain a Quality Standard System (QSS), in accordance with Regulation I/8 of the STCW Convention (incorporated by reference, see § 10.103 of this part).

(b) The QSS must be monitored by the Coast Guard or monitored through a third party that is designated as a Coast Guard-accepted QSS organization.

(c) The Coast Guard-monitored QSS must—

(1) Have a documented quality policy and quality objectives that align with the commitment by the training institution to achieve its missions and goals;

(2) Maintain a manual that documents the objectives, authorities, and responsibilities that are essential controls for the implementation of the QSS, including—

(i) The core procedures required to meet the missions and goals of the institution;

(ii) The documents necessary for effective design, planning, operation, and control for the delivery of courses meeting the regulatory requirements;

(iii) The filing and archiving of records so they are retrievable and legible;

(iv) Action taken to stop recurrence of system, process, and product nonconformity; and

(v) Auditing, reviewing, and improving the performance of the training management system.

(d) Documentation from a nationally recognized academic accreditation body

may be accepted by the Coast Guard as meeting one or more of the requirements listed in paragraph (c) of this section. The documentation must be readily available for inspection upon request.

(e) The Coast Guard will accept documentation from a training institution certified under a national or international Quality Management System Standard as meeting one or more of the requirements listed in paragraph (c) of this section. The documentation must be readily available for inspection upon request.

(f) Coast Guard-approved courses, programs, and training creditable towards an STCW endorsement must meet the requirements of this section by January 1, 2017.

(g) The Coast Guard will accept company ISM documentation as meeting one or more of the requirements listed in paragraph (c) of this section.

(h) Organizations are subject to audits at least twice in a 5-year period. Organizations must cooperate with Coast Guard audits.

§ 10.411 Simulator performance standards.

Simulators used in assessment of competence must meet the appropriate performance standards set out in Section A–I/12 of the STCW Code (incorporated by reference, see § 10.103 of this part). However, a simulator installed or brought into use before February 1, 2002, need not meet those standards if it fulfills the objectives of the assessment of competence or demonstration of proficiency.

§ 10.412 Distance and e-learning.

The Coast Guard may allow the training of mariners by means of distance learning and e-learning in accordance with the standards of training and assessment set forth in section B–I/6 (Training and assessment) of the STCW Code (incorporated by reference, see § 10.103 of this part).

■ 31. Revise part 11 to read as follows:

PART 11—REQUIREMENTS FOR OFFICER ENDORSEMENTS

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11.101 Purpose of regulations.
11.102 Incorporation by reference.
11.103–11.105 [Reserved]
11.107 Paperwork approval.
11.109–11.113 [Reserved]

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11.201 General requirements for national and STCW officer endorsements.
11.203–11.210 [Reserved]
11.211 Creditable service and equivalents for national and STCW officer endorsements.
11.212–11.216 [Reserved]
11.217 Examination procedures and denial of officer endorsements.
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Subpart C—STCW Officer Endorsements

11.301 Requirements for STCW officer endorsements.
11.302 Basic training.
11.303 Advanced firefighting.
11.304 STCW deck officer endorsements.
11.305 Requirements to qualify for an STCW endorsement as master on vessels of 3,000 GT or more (management level).
11.307 Requirements to qualify for an STCW endorsement as chief mate on vessels of 3,000 GT or more (management level).
11.309 Requirements to qualify for an STCW endorsement as officer in charge of a Navigational Watch (OICNW) on vessels of 500 GT or more (operational level).
11.311 Requirements to qualify for an STCW endorsement as master on vessels of 500 GT or more and less than 3,000 GT (management level).
11.313 Requirements to qualify for an STCW endorsement as chief mate on vessels of 500 GT or more and less than 3,000 GT (management level).
11.315 Requirements to qualify for an STCW endorsement as master on vessels of less than 500 GT (management level).
11.317 Requirements to qualify for an STCW endorsement as master on vessels of less than 500 GT limited to near-coastal waters (management level).
11.319 Requirements to qualify for an STCW endorsement as Officer in Charge of a Navigational Watch (OICNW) on vessels of less than 500 GT (operational level).
11.321 Requirements to qualify for an STCW endorsement as Officer in Charge of a Navigational Watch (OICNW) on vessels of less than 500 GT limited to near-coastal waters (operational level).
11.323 STCW engineer officer endorsements.
11.325 Requirements to qualify for an STCW endorsement as chief engineer officer on vessels powered by main propulsion machinery of 3,000 kW/4,000 HP propulsion power or more (management level).
11.327 Requirements to qualify for an STCW endorsement as second engineer officer on vessels powered by main propulsion machinery of 3,000 kW/4,000 HP propulsion power or more (management level).
11.329 Requirements to qualify for an STCW endorsement as Officer in Charge on an Engineering Watch (OICEW) in a manned engineroom, or as a designated duty engineer in a periodically unmanned engineroom, on vessels powered by main propulsion machinery of 750 kW/1,000 HP propulsion power or more (operational level).
11.331 Requirements to qualify for an STCW endorsement as chief engineer officer on vessels powered by main propulsion machinery of 750 kW/1,000 HP or more and less than 3,000 kW/4,000 HP propulsion power (management level).
11.333 Requirements to qualify for an STCW endorsement as second engineer officer on vessels powered by main propulsion machinery of 750 kW/1,000 HP or more and less than 3,000 kW/4,000 HP propulsion power (management level).
11.335 Requirements to qualify for an STCW endorsement as an electro-technical officer on vessels powered by main propulsion machinery of 750 kW/1,000 HP or more (operational level).
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11.402 Tonnage requirements for national ocean or near-coastal endorsements for vessels of 1,600 GRT or more.
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11.464 Requirements for national endorsements as master of towing vessels.
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11.530 Endorsements as engineers of uninspected fishing industry vessels.
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Authority: 14 U.S.C. 633; 31 U.S.C. 9701; 46 U.S.C. 2101, 2103, and 2110; 46 U.S.C. chapter 71; 46 U.S.C. 7502, 7505, 7701, 8906, and 70105; Executive Order 10173; Department of Homeland Security Delegation No. 0170.1. Section 11.107 is also issued under the authority of 44 U.S.C. 3507.

Subpart A—General

§ 11.101 Purpose of regulations.

(a) The purpose of this part is to provide—

(1) A means of determining the qualifications an applicant must possess to be eligible for an officer endorsement as a staff officer, deck officer, engineer officer, pilot, or radio officer on merchant vessels, or for an endorsement to operate uninspected passenger vessels; and

(2) A means of determining that an applicant is competent to serve as a master, chief mate, officer in charge of a navigational watch, chief engineer officer, second engineer officer (first assistant engineer), officer in charge of

an engineering watch, designated duty engineer, or Global Maritime Distress and Safety System (GMDSS) radio operator, in accordance with the provisions of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended (the STCW Convention or STCW), and other laws, and to receive the appropriate endorsement as required by STCW.

(b) With few exceptions, these regulations do not specify or restrict officer endorsements to particular types of service such as tankships, freight vessels, or passenger vessels. However, each officer credentialed under this part must become familiar with the relevant characteristics of a vessel prior to assuming his or her duties as required in the provisions of § 15.405 of this subchapter.

(c) The regulations previously found in subpart C of this part that prescribe the requirements applicable to approved training courses, training for a particular officer endorsement, and training and assessment associated with meeting the standards of competence established by the STCW Convention have been moved to 46 CFR part 10, subpart C.

§ 11.102 Incorporation by reference.

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish a notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the Coast Guard, Office of Operating and Environmental Standards (CG–CG–OES), 2100 2nd St. SW., Stop 7126, Washington, DC 20593–7126, 202–372–1405 and is available from the sources listed below. It is also available for inspection 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/code_of_federal_regulations/ibr_locations.html.*

(b) International Maritime Organization (IMO), 4 Albert Embankment, London SE1 7SR, England:

(1) The International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended, 2011 (the STCW Convention or the STCW), incorporation by reference approved for §§ 11.201, 11.426, 11.427, 11.428, 11.429, 11.493, 11.495, 11.497, 11.553, 11.555, 11.1001, 11.1003, 11.1009, and 11.1105.

(2) The Seafarers' Training, Certification and Watchkeeping Code, as amended, 2011 (the STCW Code), incorporation by reference approved for §§ 11.201, 11.301, 11.302, 11.303, 11.305, 11.307, 11.309, 11.311, 11.313, 11.315, 11.317, 11.319, 11.321, 11.325, 11.327, 11.329, 11.331, 11.333, 11.335, 11.604, 11.901, and 11.1105.

(3) The International Convention for the Safety of Life at Sea, 1974 (SOLAS), incorporation by reference approved for § 11.601.

§§ 11.103–11.105 [Reserved]

§ 11.107 Paperwork approval.

(a) This section lists the control numbers assigned by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 (Pub. L. 96–511) for the reporting and recordkeeping requirements in this part.

(b) The following control numbers have been assigned to the sections indicated:

(1) OMB 1625–0040–46 CFR 11.201, 11.202, 11.205, 11.470, 11.472, 11.474, 11.542, and 11.544.

(2) OMB 1625–028–46 CFR 11.480.

§§ 11.109–11.113 [Reserved]

Subpart B—General Requirements for Officer Endorsements

§ 11.201 General requirements for national and STCW officer endorsements.

(a) *General.* In addition to the requirements of part 10 of this subchapter, the applicant for an officer endorsement, whether original, renewal, duplicate, or raise of grade, must establish to the satisfaction of the Coast Guard that he or she possesses all the qualifications necessary (including but not limited to age, experience, character, physical health, citizenship, approved training, professional competence, and a test for dangerous drugs) before the Coast Guard will issue to him or her a merchant mariner credential (MMC). An applicant for any STCW endorsement must hold the appropriate national endorsement unless otherwise specified.

(b) *English language requirements.* Except as provided in § 11.467(i) of this part, an applicant for an officer endorsement must demonstrate an ability to speak and understand English as found in the navigation rules, aids to navigation publications, emergency equipment instructions, machinery instructions, and radiotelephone communications instructions.

(c) *Experience and service.* (1) Applicants for officer endorsements should refer to § 10.232 of this subchapter for information regarding requirements for documentation and proof of sea service.

(2) An applicant for a national officer endorsement must have at least 3 months of required service on vessels of appropriate tonnage or horsepower within the 3 years immediately preceding the date of application.

(3) No original officer endorsement may be issued to any naturalized citizen based on less experience in any grade or capacity than would have been required of a citizen of the United States by birth.

(4) Experience and service acquired on foreign vessels is creditable for establishing eligibility for an officer endorsement, subject to evaluation by the Coast Guard to determine that it is a fair and reasonable equivalent to service acquired on merchant vessels of the United States, with respect to grade, tonnage, horsepower, waters, and operating conditions. An applicant who has obtained qualifying experience on foreign vessels must submit satisfactory documentary evidence of such service (including any necessary translation into English) in accordance with § 10.232 of this subchapter.

(5) No applicant for an original officer endorsement who is a naturalized citizen and who has obtained experience on foreign vessels will be given an original officer endorsement in a grade higher than that upon which he or she has actually served while acting under the authority of a foreign credential.

(6) Experience acquired while the applicant was less than 16 years of age is generally not creditable. Compelling circumstances and unique experiences acquired before the applicant reaches 16 years of age will be evaluated on a case-by-case basis.

(d) *Citizenship.* No officer endorsement may be issued to any person who is not a citizen of the United States with the exception of operators of uninspected passenger vessels that are not documented under the laws of the United States.

(e) *Age.* Except as specified in this paragraph, no officer endorsement may be issued to a person who has not attained the age of 21 years. The required evidence of age may be established using any of the items submitted to establish citizenship set out in 49 CFR 1572.17.

(1) An endorsement may be granted to an applicant who has reached the age of 19 years as—

(i) Master of near-coastal, Great Lakes and inland, or river vessels of 25–200 GRT;

(ii) Third mate;

(iii) Third assistant engineer;

(iv) Mate of vessels of between 200 GRT and 1,600 GRT;

(v) Ballast control operator (BCO);

(vi) Assistant engineer (MODU);

(vii) Assistant engineer of fishing industry vessels;

(viii) Mate (pilot) of towing vessels;

(ix) Radio officer;

(x) Assistant engineer (limited); or

(xi) Designated duty engineer of vessels of less than 4,000 HP/3,000 kW.

(2) An endorsement may be granted to an applicant who has reached the age of 18 years as—

(i) Limited master of near-coastal vessels of less than 100 GRT;

(ii) Limited master of Great Lakes and inland vessels of less than 100 GRT;

(iii) Mate of Great Lakes and inland vessels of 25–200 GRT;

(iv) Mate of near-coastal vessels of 25–200 GRT;

(v) Operator of uninspected passenger vessels (OUPV);

(vi) Designated duty engineer of vessels of less than 1,000 HP/750 kW;

(vii) Apprentice mate (steersman) of towing vessels;

(viii) Officer in charge of a navigational watch (OICNW);

(ix) Officer in charge of an engineering watch (OICEW); and

(x) Electro-technical officer (ETO).

(f) *Physical examination.* (1) Persons serving or intending to serve in the merchant marine service are encouraged to take the earliest opportunity to ascertain, through examination, whether their visual acuity, color vision, hearing, and general physical condition, are such as to qualify them for service in that profession. Any physical impairment or medical condition that would render an applicant incompetent to perform the ordinary duties required of an officer is cause for denial of an officer endorsement.

(2) Applications for an original officer endorsement, raises of grade, and extensions of route, must be current and up to date with respect to service and the physical examination, as appropriate. Physical examinations and applications are valid for 12 months from the date the application is approved.

(g) *Character check.* (1) An individual may apply for an original officer endorsement, or officer or STCW endorsement of a different type, while on probation as a result of administrative action under part 5 of this chapter. The offense for which the applicant was placed on probation will be considered in determining his or her fitness to hold the endorsement applied for. An officer or STCW endorsement issued to an applicant on probation will be subject to the same probationary conditions as were imposed against the applicant's other credential. An applicant may not take an examination for an officer or STCW endorsement during any period of time when a suspension without probation or a revocation is effective against the applicant's currently held license, merchant mariner document (MMD), or MMC, or while an appeal from these actions is pending.

(2) If information about the applicant's habits of life and character is brought to the attention of the Coast Guard after an original license, certificate of registry, or officer endorsement has been issued, and if such information reasonably supports the conclusion that the applicant cannot be entrusted with the duties and responsibilities of the license, certificate of registry, or officer endorsement issued, or indicates that the application for the license, certificate of registry, or officer endorsement was false or incomplete, the Coast Guard may notify the holder in writing that the license, certificate of registry, or officer endorsement is considered null and void, direct the holder to return the credential to the Coast Guard, and advise the holder that, upon return of the credential, the appeal procedures of § 10.237 of this subchapter apply.

(h) *Firefighting certificate.* (1) Applicants for an original officer endorsement in the following categories must present a certificate of completion from a firefighting course of instruction that has been approved by the Coast Guard. (1) The firefighting course must have been completed within the past 5 years, or if it was completed more than 5 years before the date of application, the applicant must provide evidence of maintaining the standard of competence in accordance with the firefighting requirements for the credential sought.

(2) The following categories must meet the requirements for basic and advanced firefighting in Regulations VI/1 and VI/3 of the STCW Convention and Tables A–VI/1–2 and A–VI/3 of the STCW Code (both incorporated by reference, see § 11.102 of this part):

(i) National officer endorsements as master or mate on seagoing vessels of 200 GRT or more.

(ii) All national officer endorsements for master or mate (pilot) of towing vessels, except apprentice mate (steersman) of the vessels, on oceans.

(iii) All national officer endorsements for MODUs.

(iv) All national officer endorsements for engineers.

(v) All national officer endorsements for OSVs.

(vi) All STCW officer endorsements except GMDSS radio operator.

(3) The following categories must meet the requirements for basic firefighting in Regulation VI/1 of the STCW Convention and Table A–VI/1–2 of the STCW Code:

(i) Officer endorsement as master on vessels of less than 500 GT in ocean service.

(ii) All officer endorsements for master or mate (pilot) of towing vessels, except apprentice mate (steersman) of towing vessels, in all services except oceans.

(4) Applicants for a raise of grade of an officer endorsement who have not previously met the requirements of paragraph (h) of this section must do so.

(i) *First-aid and cardiopulmonary resuscitation (CPR) course certificates.* All applicants for an original officer endorsement, except as provided in §§ 11.429, 11.456, and 11.467 of this part, must present to the Coast Guard—

(1) Evidence of continued competency in STCW basic training in accordance with § 11.302 of this part or a certificate indicating completion not more than 1 year from the date of application of —

(i) The American National Red Cross Standard First Aid course or American National Red Cross Community First Aid & Safety course; or

(ii) A Coast Guard-approved first-aid course; and

(2) A currently valid certificate of completion of a CPR course from either—

(i) The American National Red Cross;

(ii) The American Heart Association; or

(iii) A Coast Guard-approved CPR course.

(j) *Professional examination.* (1) When the Coast Guard finds the applicant's experience and training to be satisfactory, and the applicant is eligible in all other respects, the Coast Guard will authorize examination in accordance with the following requirements:

(i) Except for an endorsement required by the STCW Convention, any applicant for a deck or engineer officer endorsement limited to vessels less than 200 GRT, or an officer endorsement limited to uninspected fishing industry vessels, may request an orally assisted examination instead of any written or other textual examination. If there are textual questions that the applicant has difficulty reading and understanding, the Coast Guard will offer the orally assisted examination. Each officer endorsement based on an orally assisted examination is limited to the specific route and type of vessel upon which the

applicant obtained the majority of service.

(ii) The general instructions for administration of examinations and the lists of subjects for all officer endorsements appear in subpart I of this part. The Coast Guard will place in the applicant's file a record indicating the subjects covered.

(iii) An applicant enrolled in an approved comprehensive program of training, service, and assessment will be authorized for an examination not more than 6 months prior to completion of the comprehensive program, provided all sea service and assessments of competency are completed prior to the examination.

(iv) The examination, whether administered orally or by other means, must be conducted only in the English language.

(2) When the application has been approved for examination, the approval is valid for 1 year.

(3) An examination is not required for a staff officer or radio officer endorsement.

(k) *Radar observer.* Applicants for an endorsement as radar observer must present a certificate of completion from a radar observer course as required by § 11.480 of this part.

(l) *Restrictions.* The Coast Guard may modify the service and examination requirements in this part to satisfy the unique qualification requirements of an applicant or distinct group of mariners. The Coast Guard may also lower the age requirement for OUPV applicants. The authority granted by an officer endorsement will be restricted to reflect any modifications made under the authority of this paragraph.

§§ 11.202–11.210 [Reserved]

§ 11.211 Creditable service and equivalents for national and STCW officer endorsements.

(a) Applicants for officer endorsements should refer to § 10.232 of this subchapter for information regarding requirements for documentation and proof of sea service.

(b) Service toward an oceans, near-coastal, or STCW endorsement will be credited as follows:

(1) Service on the Great Lakes will be credited on a day-for-day basis up to 100 percent of the total required service.

(2) Service on inland waters, other than Great Lakes, that are navigable waters of the United States, will be credited on a day-for-day basis for up to 50 percent of the total required service.

(c) *Service on mobile offshore drilling units.* (1) MODU service is creditable for raise of grade of an officer endorsement. Evidence of 1 year of service on MODUs as mate or equivalent while holding an officer endorsement or license as third mate, or as engineering officer of the watch or equivalent while holding an officer endorsement or license as third assistant engineer, is acceptable for a raise of grade to second mate or second assistant engineer, respectively. However, any subsequent raises of grade of unlimited, non-restricted officer licenses or endorsements must include a minimum of 6 months of service on conventional vessels.

(2) Service on MODUs maintaining station by means of dynamic positioning, may be credited as service on conventional vessels for any raise in grade; however, time more than 8 hours each day will not be credited.

(3) A day of creditable MODU service must be a minimum of 4 hours, and no additional credit will be granted for periods of more than 8 hours.

(4) Creditable MODU service excludes time spent ashore due to crew rotation.

(d) *Service on Articulated Tug Barges (ATBs) and Integrated Tug Barges (ITBs).* Service on ATB or Dual Mode ITB units is creditable for an original deck officer endorsement or raise of grade of any deck officer endorsement. Service on an ATB or Dual Mode ITB with an aggregate tonnage of 1,600 GRT/3,000 GT or more is creditable on a two-for-one basis (2 days experience equals 1 day of creditable service) for up to 50 percent of the total service on vessels of 1,600 GRT/3,000 GT or more required for an unlimited officer endorsement. The remaining required service on vessels of more than 1,600 GRT/3,000 GT must be obtained on conventional vessels or Push Mode ITBs.

(e) *Service on towing vessels.* Service as master or mate (pilot) on towing vessels, when the aggregate tonnage of the tug and barges is 1,600 GRT/3,000 GT or more, is creditable, using the aggregate tonnage, on a two-for-one basis (2 days experience equals 1 day of creditable service) for up to 50 percent of the total service on vessels of 1,600 GRT/3,000 GT or more required for an unlimited officer endorsement. The remaining required service on vessels of more than 1,600 GRT/3,000 GT must be obtained on conventional vessels. This service must be documented as specified in § 10.232(a) of this subchapter.

(f) Individuals obtaining sea service as part of an approved training curriculum pursuant to either § 11.407(a)(2) or § 11.516(a)(3) of this part must do so in the capacity of cadet (deck) or cadet (engine), as appropriate, notwithstanding any other rating endorsements the individual may hold or any other capacity in which the individual may have served.

(g) *Other experience.* Other experience in a marine-related area, other than at sea, or sea service performed on unique vessels, will be evaluated by the Coast Guard for a determination of equivalence to traditional service.

(h) *Tonnage.* When determining sea service credit for officer endorsement applicants under subpart D of this part, the tonnage of a vessel solely admeasured using the Convention measurement scheme under 46 U.S.C. Chapter 143 will be credited as Gross Register Tonnage. This paragraph does not apply to those vessels measured under the optional regulatory measurement provisions of 46 U.S.C. 14305.

§ 11.212–§ 11.216 [Reserved]

§ 11.217 Examination procedures and denial of officer endorsements.

(a) The examination fee set out in Table 1 to § 10.219(a) of this subchapter must be paid before the applicant may take the first examination section. If an applicant fails three or more sections of the examination, a complete re-examination must be taken. On the subsequent exam, if the applicant again fails three or more sections, at least 3 months must elapse before another complete examination is attempted, and a new examination fee is required. If an applicant fails one or two sections of an examination, the applicant may be retested twice on these sections during the next 3 months. If the applicant does not successfully complete these sections within the 3-month period, a complete re-examination must be taken at least 3 months from the date of the last retest, and a new examination fee is required. The 3-month retest period may be extended by the Coast Guard if the applicant presents evidence documenting sea time that prevented the taking of a retest during the 3-month period. The retest period may not be extended beyond 7 months from the initial examination. All examinations and retests must be completed within 1 year of approval for examination.

(b) If the Coast Guard refuses to grant an applicant the endorsement applied for due to the applicant's failure to pass a required examination, the Coast Guard will provide the applicant with a written statement setting forth the portions of the examination that must be retaken and the date by which the examination must be completed.

§§ 11.219–11.223 [Reserved]

Subpart C—STCW Officer Endorsements

§ 11.301 Requirements for STCW officer endorsements.

(a) *Standard of competence.* (1) The Coast Guard will accept one or more methods listed in the STCW Code to demonstrate meeting the standard of competence in this subpart. See Column 3—Methods for demonstrating competence—of the Tables of Competence in the STCW Code (incorporated by reference, see § 11.102 of this part). The Coast Guard will accept the following as evidence of meeting the standard of competence under each of these methods:

(i) In-service experience: Documentation of successful completion of assessments, approved or accepted by the Coast Guard, and signed by a qualified assessor (QA)—deck or engineering—as appropriate.

(ii) Training ship experience: Documentation of successful completion of an approved training program involving formal training and assessment onboard a training ship.

(iii) Simulator training: Documentation of successful completion of training and assessment from a Coast Guard-approved course involving maritime simulation.

(iv) Laboratory equipment training: Documentation of successful completion of training and assessments from an approved training course or facility.

(v) Practical training or instruction:

(A) Documentation of successful completion of assessment as part of a structured/formal training or instruction provided by an organization or company as part of an accepted safety or quality management system; or

(B) Documentation of successful completion of an approved training course from a school or facility.

(vi) Specialist training: Documentation of successful completion of assessment as part of a company training or specialized training provided by a maritime or equipment specialist.

(vii) Workshop skills training: Documentation of successful completion of assessments or completion certificate from an approved training program, school or facility.

(viii) Training program: Documentation of successful completion of an approved training program.

(ix) Training on a manned scale ship model: Documentation of successful completion of assessment as part of a structured/formal training or instruction provided by an approved training school or facility.

(x) Practical demonstration of competence: Documentation of successful completion of assessments approved or accepted by the Coast Guard.

(xi) Practical test and practical experience: Documentation of successful completion of assessments approved or accepted by the Coast Guard.

(xii) Examination: Successful completion of a Coast Guard examination.

(xiii) Instruction or course: Documentation of successful completion of an approved or accepted course of instruction.

(2) Knowledge components may be documented by—

(i) Successful completion of the Coast Guard examination for the associated officer endorsement;

(ii) Successful completion of an approved course; or

(iii) Successful completion of an approved program.

(3) The Coast Guard will publish assessment guidelines that should be used to document assessments that demonstrate meeting the standard of competence, as required by paragraph (a)(1) of this section. Organizations may develop alternative assessment documentation for demonstrations of competence; however, such documentation must be approved by the Coast Guard prior to its use and submittal with an application.

(b) *Service.* (1) Service as a rating will not be accepted to upgrade from the operational-level to management-level STCW endorsements.

(2) Service on the Great Lakes will be credited on a day-for-day basis for up to 100 percent of the total required service.

(3) Service on inland waters other than Great Lakes, which are navigable waters of the United States, will be credited on a day-for-day basis for up to 50 percent of the total required service.

(4) Service accrued onboard vessels with dual tonnages (both domestic and international) will be credited using the international tonnage for the credential sought.

(5) Applicants who cannot meet the requirement for 1 year of sea service within the last 5 years as described in § 11.303(c) of this subpart, will be required to meet the requirements of § 11.303(a) of this subpart.

(c) *Operational-level endorsement.* Applicants holding national officer endorsements, who seek to add an STCW endorsement at the operational level, must provide evidence of meeting the STCW requirements found in this subpart, including—

(1) Meeting the service requirements for the operational-level STCW endorsement;

(2) Satisfactory completion of the STCW operational-level standards of competence; and

(3) Satisfactory completion of the STCW operational-level training as required in this part.

(d) *Management-level endorsement.* Applicants holding national officer endorsements as master, chief mate, chief engineer, or first assistant engineer, and who seek to add an STCW endorsement at the management level, must provide evidence of meeting the STCW requirements found in this subpart, including—

(1) Meeting the service requirements for the management-level STCW endorsement;

(2) Satisfactory completion of the STCW operational- and management-level standards of competence; and

(3) Satisfactory completion of the STCW operational- and management-level training as required in this part.

(e) *Training and assessment for Automatic Radar Plotting Aids (ARPA), Electronic Chart Display and Information System (ECDIS), or Global Maritime Distress and Safety System (GMDSS).* Training and assessment in the use of ARPA, ECDIS, or GMDSS is not required for those who serve exclusively on ships not fitted with ARPA, ECDIS, or GMDSS. For ARPA and ECDIS, this limitation must be reflected in the endorsement issued to the seafarer concerned. GMDSS is a separate endorsement that will only be added if the applicant qualifies for it.

(f) *Exemptions and Limitations.* (1) The Coast Guard may exempt an applicant from meeting any individual knowledge, understanding, and proficiency required in the appropriate table of competence in the STCW Code. These exemptions must be approved by the Coast Guard based upon vessel type. Under these circumstances, the certificate may include a corresponding limitation. (2) A seafarer may have a limitation removed by providing the Coast Guard with evidence of having completed the individual knowledge, understanding, and proficiency required.

(g) *Grandfathering.* (1) Except as noted otherwise, each candidate who applies for a credential based on approved or accepted training or approved seagoing service that was started on or after March 24, 2014, or who applies for the MMC endorsement on or after January 1, 2017, must meet the requirements of this part.

(2) Except as noted by this subpart, seafarers holding an STCW endorsement prior to March 24, 2014, will not be required to complete any additional training required under this part to retain the STCW endorsements until January 1, 2017.

(3) Except as noted otherwise, candidates who apply for a credential based on approved or accepted training or approved seagoing service that was completed before March 24, 2014, may qualify under the requirements of this part existing before that date. This includes the assessments published prior to March 24, 2014, as well as the additional requirements for the STCW endorsement section.

(4) Persons who hold or have held an STCW operational-level endorsement issued prior to March 24, 2014 and are seeking to upgrade to an STCW management-level endorsement will not be required to complete the practical assessments for STCW operational-level endorsements as required in paragraph (d)(2) of this section.

(5) Except as noted by this subpart, the Coast Guard will continue to issue STCW endorsements meeting the requirements of this part existing before March 24, 2014, for seafarers identified in paragraph (g)(3) of this section, until January 1, 2017.

(h) Notwithstanding § 11.901 of this part, each mariner found qualified to hold any of the following national officer endorsements will also be entitled to hold an STCW endorsement corresponding to the service or other limitations of the license or officer endorsements on the MMC. The vessels concerned are not subject to further obligation under STCW because of their special operating conditions as small vessels engaged in domestic, near-coastal voyages.

(1) Masters, mates, or engineers endorsed for service on small passenger vessels that are subject to subchapter T or K of this chapter and that operate beyond the boundary line.

(2) Masters, mates, or engineers endorsed for service on seagoing vessels of less than 200 GRT, other than passenger vessels subject to subchapter H of this chapter.

(i) Mariners serving on, and owners or operators of any of the following vessels, do not need to hold an STCW endorsement, because they are exempt from application of STCW:

(1) Fishing vessels as defined in 46 U.S.C. 2101(11)(a).

(2) Fishing vessels used as fish-tender vessels as defined in 46 U.S.C. 2101(11)(c).

(3) Barges as defined in 46 U.S.C. 102, including non-self-propelled mobile offshore drilling units.

(4) Vessels operating exclusively on the Great Lakes or on the inland waters of the United States in the Straits of Juan de Fuca or on the Inside Passage between Puget Sound and Cape Spencer.

(j) Mariners serving on, and owners or operators of uninspected passenger vessels as defined in 46 U.S.C. 2101(42)(B), do not need to hold an STCW endorsement. The vessels concerned are not subject to further obligation under STCW because of their special operating conditions as small vessels engaged in domestic, near-coastal voyages.

§ 11.302 Basic training.

(a) Applicants seeking an STCW officer endorsement must provide evidence of meeting the standard of competence for basic training (BT) as follows:

(1) Personal survival techniques as set out in Table A–VI/1–1 of the STCW Code (incorporated by reference, see § 11.102 of this part).

(2) Fire prevention and firefighting as set out in Table A–VI/1–2 of the STCW Code.

(3) Elementary first aid as set out in Table A–VI/1–3 of the STCW Code.

(4) Personal safety and social responsibilities as set out in Table A–VI/1–4 of the STCW Code.

(b) Every 5 years seafarers qualified in accordance with § 11.301(c) and (d) of this subpart must provide evidence of maintaining the standard of competence for BT.

(c) The Coast Guard will accept onboard training and experience, through evidence of 1 year of sea service within the last 5 years, for the following areas:

(1) Personal survival techniques as set out in Table A–VI/1–1 of the STCW Code:

(i) Donning a lifejacket.

(ii) Boarding a survival craft from the ship, while wearing a lifejacket.

(iii) Taking initial actions on boarding a lifeboat to enhance chance of survival.

(iv) Streaming a lifeboat drogue or sea-anchor.

(v) Operating survival craft equipment.

(vi) Operating location devices, including radio equipment.

(2) Fire prevention and firefighting as set out in Table A–VI/1–2 of the STCW Code:

(i) Using self-contained breathing apparatus.

(ii) Performing a rescue in a smoke-filled space, using an approved smoke-generating device aboard, while wearing a breathing apparatus.

(3) Elementary first aid as set out in Table A–VI/1–3 of the STCW Code.

(4) Personal safety and social responsibilities as set out in Table A–VI/1–4 of the STCW Code.

(d) The Coast Guard will only accept evidence of approved assessments conducted ashore for the following areas:

(1) Personal survival techniques as set out in Table A–VI/1–1 of the STCW Code:

(i) Donning and using an immersion suit.

(ii) Safely jumping from a height into the water.

(iii) Righting an inverted liferaft while wearing a lifejacket.

(iv) Swimming while wearing a lifejacket.

(v) Keeping afloat without a lifejacket.

(2) Fire prevention and firefighting as set out in Table A–VI/1–2 of the STCW Code:

(i) Using various types of portable fire extinguishers.

(ii) Extinguishing smaller fires, e.g., electrical fires, oil fires, and propane fires.

(iii) Extinguishing extensive fires with water, using jet and spray nozzles.

(iv) Extinguishing fires with foam, powder, or any other suitable chemical agent.

(v) Fighting fire in smoke-filled enclosed spaces wearing self-contained breathing apparatus.

(vi) Extinguishing fire with water fog or any other suitable firefighting agent in an accommodation room or simulated engineroom with fire and heavy smoke.

(vii) Extinguishing oil fire with fog applicator and spray nozzles, dry chemical powder, or foam applicators.

(e) Applicants who cannot meet the requirement for 1 year of sea service within the last 5 years, as described in paragraph (c) of this section, will be required to meet the requirements of paragraph (a) of this section or complete approved or accepted refresher training.

§ 11.303 Advanced firefighting.

(a) *Advanced firefighting.* Applicants seeking an STCW officer endorsement must provide evidence of meeting the standard of competence as set out in Table A–VI/3 of the STCW Code (incorporated by reference, see § 11.102 of this part). Applicants for an original STCW officer endorsement, who met the requirements of § 11.201(h) of this part will be deemed to have met the requirement of this paragraph.

(b) Every 5 years seafarers qualified in accordance with paragraph (a) of this section must provide evidence of

maintaining the standard of competence as set out in Table A–VI/3 of the STCW Code.

(c) The Coast Guard will accept onboard training and experience, through evidence of 1 year of sea service within the last 5 years, as meeting the requirements of paragraph (b) of this section for the following areas as set out in Table A–VI/3 of the STCW Code:

(1) Control firefighting operations aboard ships with the following knowledge, understanding, and proficiencies:

(i) Firefighting procedures at sea and in port, with particular emphasis on organization, tactics and command.

(ii) Communication and coordination during firefighting operations.

(iii) Ventilation control, including smoke extraction.

(iv) Control of fuel and electrical systems.

(v) Firefighting process hazards (dry distillation, chemical reactions, boiler uptake).

(vi) Fire precautions and hazards associated with the storage and handling of materials.

(vii) Management and control of injured persons.

(viii) Procedures for coordination with shore-based firefighters.

(2) Inspect and service fire-detection and extinguishing systems and equipment.

(i) Requirements for statutory and classification surveys.

(ii) Reserved.

(d) The Coast Guard will only accept evidence of assessments conducted ashore as meeting the requirements of paragraph (b) of this section for the following areas as set out in Table A–VI/3 of the STCW Code:

(1) Control firefighting operations aboard ships with the following knowledge, understanding, and proficiencies:

(i) Use of water for fire-extinguishing, the effect on ship stability, precautions and corrective procedures.

(ii) Firefighting involving dangerous goods.

(2) Organize and train fire parties.

(3) Inspect and service fire-detection and extinguishing systems and equipment.

(i) Fire detection. Fire-detection systems; fixed fire-extinguishing systems; portable and mobile fire-extinguishing equipment, including appliances, pumps and rescue, salvage; life-support; personal protective and communication equipment.

(ii) Reserved.

(4) Investigate and compile reports on incidents involving fire.

(e) Applicants who cannot meet the requirement for 1 year of sea service within the last 5 years, as described in paragraph (c) of this section, will be required to meet the requirements of paragraph (a) of this section or complete approved or accepted refresher training.

§ 11.304 STCW deck officer endorsements.

(a) Specific requirements for all STCW deck officer endorsements are detailed in the applicable sections in this part.

(1) Master on vessels of 3,000 GT or more (management level).

(2) Chief mate on vessels of 3,000 GT or more (management level).

(3) Officer in charge of a navigational watch (OICNW) of vessels of 500 GT or more (operational level).

(4) Master of vessels of 500 GT or more and less than 3,000 GT (management level).

(5) Chief mate of vessels of 500 GT or more and less than 3,000 GT (management level).

(6) Master of vessels of less than 500 GT (management level).

(7) Master of vessels of less than 500 GT limited to near-coastal waters (management level).

(8) OICNW of vessels of less than 500 GT (operational level).

(9) OICNW of vessels of less than 500 GT limited to near-coastal waters (operational level).

(b) [Reserved]

§ 11.305 Requirements to qualify for an STCW endorsement as master on vessels of 3,000 GT or more (management level).

(a) To qualify for an STCW endorsement as master, an applicant must—

(1) Provide evidence of 36 months of service as OICNW on vessels operating in oceans, near-coastal waters, and/or Great Lakes. This period may be reduced to not less than 24 months if the applicant served as chief mate for not less than 12 months. Service on inland waters that are navigable waters of the United States may be substituted for up to 50 percent of the total required service. Experience gained in the engine department on vessels may be creditable for up to 3 months of the service requirements;

(2) Provide evidence of meeting the standard of competence specified in Section A–II/2 of the STCW Code (incorporated by reference, see § 11.102 of this part); and

(3) Provide evidence of having satisfactorily completed approved training in the following subject areas:

(i) Advanced shiphandling.

(ii) Advanced stability.

(iii) Advanced meteorology.

(iv) Leadership and managerial skills.

(v) Search and rescue.

(vi) ARPA, if serving on a vessel with this equipment.

(vii) ECDIS, if serving on a vessel with this equipment.

(viii) GMDSS, if serving on a vessel with this equipment.

(ix) Management of medical care.

(b) For a renewal of an STCW endorsement as master of vessels of 3,000 GT or more to be valid on or after January 1, 2017, each candidate must provide evidence of successful completion of approved training in the following:

(1) Leadership and managerial skills.

(2) ECDIS, if serving on a vessel with this equipment.

(c) The Coast Guard may exempt an applicant from meeting any individual knowledge, understanding, and proficiency required in Section A–II/2 of the STCW Code. These exemptions must be approved by the Coast Guard based upon vessel type. Under these circumstances, the credential may include a corresponding limitation.

(d) Seafarers holding an STCW endorsement as masters of vessels of 500 GT or more and less than 3,000 GT, in accordance with § 11.311 of this subpart, are eligible to apply for the endorsement as master on vessels of 3,000 GT or more upon completion of 6 months of sea service, under the authority of the endorsement, and must complete any items in paragraphs (a)(2) and (a)(3) of this section not previously satisfied.

(e) Seafarers with one of the following national officer endorsements are eligible to apply for this endorsement upon completion of the requirements in table 1 to this paragraph:

TABLE 1 TO § 11.305(e)—STCW ENDORSEMENT AS MASTER ON VESSELS OF 3,000 GT OR MORE

Entry path from national endorsements	Sea service under authority of the endorsement [1]	Competence—STCW Table A–II/2 [2]	Training required by this section [3]
Master ocean or near-coastal, unlimited tonnage	None	Yes	Yes.
Master OSV	None	Yes	Yes.

[1] This column provides the minimum additional service required of the seafarer in order to meet the requirements of this section.
[2] Complete any items in paragraph (a)(2) of this section not previously satisfied.
[3] Complete any items in paragraph (a)(3) of this section not previously satisfied.

§ 11.307 Requirements to qualify for an STCW endorsement as chief mate on vessels of 3,000 GT or more (management level).

(a) To qualify for an STCW endorsement as chief mate, an applicant must—

(1) Provide evidence of 12 months of service as OICNW on vessels operating in oceans, near-coastal waters, and/or Great Lakes. Service on inland waters, bays, or sounds that are navigable waters of the United States may be substituted for up to 50 percent of the total required service. Experience gained in the engine department on vessels may be creditable for up to 1 month of the service requirements;

(2) Meet the standard of competence specified in Section A–II/2 of the STCW Code (incorporated by reference, see § 11.102 of this part); and

(3) Provide evidence of having satisfactorily completed approved training in the following subject areas:

(i) Advanced shiphandling.

(ii) Advanced stability.

(iii) Advanced meteorology.

(iv) Leadership and managerial skills.

(v) Search and rescue.

(vi) ARPA, if serving on a vessel with this equipment.

(vii) ECDIS, if serving on a vessel with this equipment.

(viii) GMDSS, if serving on a vessel with this equipment.

(ix) Management of medical care.

(b) For a renewal of an STCW endorsement as chief mate of vessels of 3,000 GT or more to be valid on or after January 1, 2017, each candidate must provide evidence of successful completion of approved training in the following:

(1) Leadership and managerial skills.

(2) ECDIS, if serving on a vessel with this equipment.

(c) The Coast Guard may exempt an applicant from meeting any individual knowledge, understanding, and proficiency required in Section A–II/2 of the STCW Code. These exemptions must be approved by the Coast Guard based upon vessel type. Under these circumstances, the credential may include a corresponding limitation.

(d) Seafarers holding an STCW endorsement as chief mate of vessels of 500 GT or more and less than 3,000 GT, in accordance with § 11.313 of this subpart, are eligible to apply for the endorsement as chief mate on vessels of 3,000 GT or more upon completion of 6 months of sea service, under the authority of the endorsement, and must complete any items in paragraphs (a)(2) and (a)(3) of this section not previously satisfied.

(e) Seafarers with one of the following national officer endorsements are eligible to apply for this endorsement upon completion of the requirements in the following table:

TABLE 1 TO § 11.307(e)—STCW ENDORSEMENT AS CHIEF MATE ON VESSELS OF 3,000 GT OR MORE

Entry path from national endorsements	Sea service under authority of the endorsement [1]	Competence—STCW Table A–II/2 [2]	Training required by this section [3]
Chief mate ocean or near-coastal, unlimited tonnage.	None	Yes	Yes.
Master ocean or near-coastal, less than 500 GRT.	12 months	Yes	Yes.
Chief mate OSV	None	Yes	Yes.
Master towing vessel ocean or near-coastal.	12 months	Yes	Yes.

[1] This column provides the minimum additional service required of the seafarer in order to meet the requirements of this section.
[2] Complete any items in paragraph (a)(2) of this section not previously satisfied.
[3] Complete any items in paragraph (a)(3) of this section not previously satisfied.

§ 11.309 Requirements to qualify for an STCW endorsement as Officer in charge of a navigational watch (OICNW) of vessels of 500 GT or more (operational level).

(a) To qualify for an STCW endorsement as OICNW, an applicant must—

(1) Provide evidence of seagoing service as follows:

(i) Thirty-six months of seagoing service in the deck department on vessels operating in oceans, near-coastal waters, and/or Great Lakes. Service on inland waters, bays, or sounds that are navigable waters of the United States may be substituted for up to 50 percent of the total required service; or

(ii) Twelve months of seagoing service as part of an approved training program, which includes onboard training that meets the requirements of Section A–II/1 of the STCW Code (incorporated by reference, see § 11.102 of this part);

(2) Provide evidence of having performed, during the required seagoing service, bridge watchkeeping duties under the supervision of an officer holding the STCW endorsement as master, chief mate, second mate, or OICNW, for a period of not less than 6 months;

(3) Provide evidence of meeting the standard of competence specified in Section A–II/1 of the STCW Code; and

(4) Provide evidence of having satisfactorily completed approved training in the following subject areas:

(i) Medical first-aid provider.

(ii) Radar observer.

(iii) Search and rescue.

(iv) Basic and advanced firefighting in accordance with § 11.303 of this subpart.

(v) Proficiency in survival craft and rescue boats other than fast rescue boats.

(vi) Visual signaling.

(vii) Bridge resource management (BRM).

(viii) Terrestrial and celestial navigation, and electronic navigation systems.

(ix) Watchkeeping, including International Regulations for Preventing Collisions at Sea (COLREGS) and IMO standard marine communication phrases (SMCP).

(x) Cargo handling and stowage.

(xi) Ship handling.

(xii) Stability and ship construction.

(xiii) Meteorology.

(xiv) ARPA, if serving on a vessel with this equipment.

(xv) GMDSS, if serving on a vessel with this equipment.

(xvi) ECDIS, if serving on a vessel with this equipment.

(b) Experience gained in the engine department on vessels may be creditable for up to 3 months of the service requirements in paragraph (a)(1)(i) of this section.

(c) For a renewal of an STCW endorsement as OICNW of vessels of 500 GT or more to be valid on or after January 1, 2017, each candidate must provide the following:

(1) Evidence of meeting the standard of competence in leadership and teamworking skills.

(2) Completion of approved training in ECDIS, if serving on a vessel with this equipment.

(d) The Coast Guard may exempt an applicant from meeting any individual knowledge, understanding, and proficiency required in Section A–II/1 of the STCW Code. These exemptions must be approved by the Coast Guard based upon vessel type. Under these circumstances, the credential may include a corresponding limitation.

(e) Seafarers with one of the following national officer endorsements are eligible to apply for this endorsement upon completion of the requirements in the following table:

TABLE 1 TO § 11.309(e)—STCW ENDORSEMENT AS OICNW ON VESSELS OF 500 GT OR MORE

Entry path from national endorsements	Sea service under authority of the endorsement [1]	Competence—STCW Table A–II/2 [2]	Training required by this section [3]
Mate ocean or near-coastal, unlimited tonnage	None	Yes	Yes.
Master ocean or near-coastal, less than 500 GRT	6 months	Yes	Yes.
Mate ocean or near-coastal, less than 1,600 GRT	None	Yes	Yes.
Mate ocean or near-coastal, less than 500 GRT	12 months	Yes	Yes.
Mate OSV	12 months [1]	Yes	Yes.
Mate towing vessel ocean or near-coastal	6 months	Yes	Yes.

[1] This column provides the minimum additional service required of the seafarer in order to meet the requirements of this section.
[2] Complete any items in paragraph (a)(3) of this section not previously satisfied.
[3] Complete any items in paragraph (a)(4) of this section not previously satisfied.

§ 11.311 Requirements to qualify for an STCW endorsement as master of vessels of 500 GT or more and less than 3,000 GT (management level).

(a) To qualify for an STCW endorsement as master, an applicant must—

(1) Provide evidence of 36 months of service as OICNW on vessels operating in oceans, near-coastal waters, and/or Great Lakes. However, this period may be reduced to not less than 24 months if the applicant served as chief mate for not less than 12 months. Service on inland waters, bays, or sounds that are navigable waters of the United States may be substituted for up to 50 percent of the total required service. Experience gained in the engine department on vessels may be creditable for up to 3 months of the service requirements;

(2) Provide evidence of meeting the standard of competence specified in Section A–II/2 of the STCW Code (incorporated by reference, see § 11.102 of this part); and

(3) Provide evidence of having satisfactorily completed approved training in the following subject areas:

(i) Advanced shiphandling.

(ii) Advanced stability.

(iii) Advanced meteorology.

(iv) Leadership and managerial skills.

(v) Search and rescue.

(vi) Management of medical care.

(vii) ECDIS, if serving on a vessel with this equipment.

(viii) ARPA, if serving on a vessel with this equipment.

(ix) GMDSS, if serving on a vessel with this equipment.

(b) For a renewal of an STCW endorsement as master of vessels of 500 GT or more and less than 3,000 GT to be valid on or after January 1, 2017, each candidate must provide evidence of successful completion of approved training in the following:

(1) Leadership and managerial skills.

(2) ECDIS, if serving on a vessel with this equipment.

(c) The Coast Guard may exempt an applicant from meeting any individual knowledge, understanding, and proficiency required in Section A–II/2 of the STCW Code. These exemptions must be approved by the Coast Guard based upon vessel type. Under these circumstances, the credential may include a corresponding limitation.

(d) Seafarers with one of the following national officer endorsements are eligible to apply for this endorsement upon completion of the requirements in the following table:

TABLE 1 TO § 11.311(d)—STCW ENDORSEMENT AS MASTER ON VESSELS OF 500 GT OR MORE AND LESS THAN 3,000 GT

Entry path from national endorsements	Sea service under authority of the endorsement [1]	Competence—STCW Table A–II/3 [2]	Training required by this section [3]
Master oceans or near-coastal, less than 1,600 GRT	None	Yes	Yes.
Master OSV	None	Yes	Yes.
Master oceans or near-coastal, less than 500 GRT	12 months	Yes	Yes.
Master towing vessel oceans or near-coastal	12 months	Yes	Yes.

[1] This column provides the minimum additional service required of the seafarer in order to meet the requirements of this section.
[2] Complete any items in paragraph (a)(2) of this section not previously satisfied.
[3] Complete any items in paragraph (a)(3) of this section not previously satisfied.

§ 11.313 Requirements to qualify for an STCW endorsement as chief mate of vessels of 500 GT or more and less than 3,000 GT (management level).

(a) To qualify for an STCW endorsement as chief mate, an applicant must—

(1) Provide evidence of 12 months of service as OICNW on vessels operating in oceans, near-coastal waters, and/or Great Lakes. Service on inland waters, bays, or sounds that are navigable waters of the United States may be substituted for up to 50 percent of the total required service. Experience gained in the engine department on vessels may be creditable for up to 1 month of the service requirements;

(2) Provide evidence of meeting the standard of competence specified in Section A–II/2 of the STCW Code (incorporated by reference, see § 11.102 of this part); and

(3) Provide evidence of having satisfactorily completed approved training in the following subject areas:

(i) Advanced shiphandling.

(ii) Advanced stability.

(iii) Advanced meteorology.

(iv) Leadership and managerial skills.

(v) Search and rescue.

(vi) Management of medical care.

(vii) ECDIS, if serving on a vessel with this equipment.

(viii) ARPA, if serving on a vessel with this equipment.

(ix) GMDSS, if serving on a vessel with this equipment.

(b) For a renewal of an STCW endorsement as chief mate of vessels of 500 GT or more and less than 3,000 GT to be valid on or after January 1, 2017, each candidate must provide evidence of successful completion of approved training in the following:

(1) Leadership and managerial skills.

(2) ECDIS, if serving on a vessel with this equipment.

(c) The Coast Guard may exempt an applicant from meeting any individual knowledge, understanding, and proficiency required in Section A–II/2 of the STCW Code. These exemptions must be approved by the Coast Guard based upon vessel type. Under these circumstances, the credential may include a corresponding limitation.

(d) Seafarers with one of the following national officer endorsements are eligible to apply for this endorsement upon completion of the requirements in the following table:

TABLE 1 TO § 11.313(d)—STCW ENDORSEMENT AS CHIEF MATE ON VESSELS OF 500 GT OR MORE AND LESS THAN 3,000 GT

Entry path from national endorsements	Sea service under authority of the endorsement [1]	Competence—STCW Table A–II/2 [2]	Training required by this section [3]
Chief mate OSV	None	Yes	Yes.
Master oceans or near-coastal, less than 500 GRT	6 months	Yes	Yes.
Master towing vessel oceans or near-coastal	6 months	Yes	Yes.

[1] This column provides the minimum additional service required of the seafarer in order to meet the requirements of this section.
[2] Complete any items in paragraph (a)(2) of this section not previously satisfied.
[3] Complete any items in paragraph (a)(3) of this section not previously satisfied.

§ 11.315 Requirements to qualify for an STCW endorsement as master of vessels of less than 500 GT (management level).

(a) To qualify for an STCW endorsement as master, an applicant must—

(1) Provide evidence of 36 months of seagoing service as OICNW on vessels operating in oceans, near-coastal waters, and/or Great Lakes; however, this period may be reduced to not less than 24 months if not less than 12 months of such seagoing service has been served as chief mate. Service on inland waters, bays, or sounds that are navigable waters of the United States may be substituted for up to 50 percent of the total required service. Experience gained in the engine department may be creditable for up to 3 months of the service requirements;

(2) Provide evidence of meeting the standard of competence specified in Section A–II/2 of the STCW Code (incorporated by reference, see § 11.102 of this part); and

(3) Provide evidence of having satisfactorily completed approved training in the following subject areas:

(i) Search and rescue.

(ii) Management of medical care.

(iii) Leadership and managerial skills.

(iv) ECDIS, if serving on a vessel with this equipment.

(v) ARPA, if serving on a vessel with this equipment.

(vi) GMDSS, if serving on a vessel with this equipment.

(b) For a renewal of an STCW endorsement as master of vessels of less than 500 GT to be valid on or after January 1, 2017, each candidate must provide evidence of successful completion of approved training in the following:

(1) Leadership and managerial skills.

(2) ECDIS, if serving on a vessel with this equipment.

(c) The Coast Guard may exempt an applicant from meeting any individual knowledge, understanding, and proficiency required in Section A–II/3 of the STCW Code. These exemptions must be approved by the Coast Guard based upon vessel type. Under these circumstances, the credential may include a corresponding limitation.

(d) Seafarers with one of the following national officer endorsements are eligible to apply for this endorsement upon completion of the requirements in the following table:

TABLE 1 TO § 11.315(d)—STCW ENDORSEMENT AS MASTER OF VESSELS OF LESS THAN 500 GT

Entry path from national endorsements	Sea service under authority of the endorsement [1]	Competence—STCW Table A–II/3 [2]	Training required by this section [3]
Master oceans or near-coastal, less than 500 GRT	None	Yes	Yes.
Master towing vessel oceans or near-coastal	None	Yes	Yes.
Master oceans or near-coastal, less than 200 GRT	12 months	Yes	Yes.

[1] This column provides the minimum additional service required of the seafarer in order to meet the requirements of this section.
[2] Complete any items in paragraph (a)(2) of this section not previously satisfied.
[3] Complete any items in paragraph (a)(3) of this section not previously satisfied.

§ 11.317 Requirements to qualify for an STCW endorsement as master of vessels of less than 500 GT limited to near-coastal waters (management level).

(a) To qualify for an STCW endorsement as master, an applicant must—

(1) Provide evidence of 12 months of service as OICNW, on vessels operating in oceans, near-coastal waters, and/or Great Lakes. Service on inland waters, bays, or sounds that are navigable waters of the United States may be substituted for up to 50 percent of the total required service. Experience gained in the engine department on vessels may be creditable for up to 1 month of the service requirements;

(2) Provide evidence of meeting the standard of competence specified in Section A–II/3 of the STCW Code (incorporated by reference, see § 11.102 of this part); and

(3) Provide evidence of having satisfactorily completed approved training in the following subject areas:

(i) Medical first-aid provider.

(ii) Basic and advanced firefighting in accordance with § 11.303 of this subpart.

(iii) Proficiency in survival craft and rescue boats other than fast rescue boats.

(iv) Leadership and managerial skills.

(v) ECDIS, if serving on a vessel with this equipment.

(vi) Radar observer, if serving on a vessel with this equipment.

(vii) ARPA, if serving on a vessel with this equipment.

(b) For a renewal of an STCW endorsement as master of vessels of less than 500 GT limited to near-coastal waters to be valid on or after January 1, 2017, each candidate must provide evidence of successful completion of approved training in the following:

(1) Leadership and managerial skills.

(2) ECDIS, if serving on a vessel with this equipment.

(c) The Coast Guard may exempt an applicant from meeting any individual knowledge, understanding, and proficiency required in Section A–II/3 of the STCW Code. These exemptions must be approved by the Coast Guard based upon vessel type. Under these circumstances, the credential may include a corresponding limitation.

(d) Seafarers with one of the following national officer endorsements are eligible to apply for this endorsement upon completion of the requirements in the following table:

TABLE 1 TO § 11.317(d)—STCW ENDORSEMENT AS MASTER OF VESSELS OF LESS THAN 500 GT LIMITED TO NEAR-COASTAL WATERS

Entry path from national endorsements	Sea service under authority of the endorsement [1]	Competence—STCW Table A–II/3 [2]	Training required by this section [3]
Mate oceans or near-coastal, less than 500 GRT	None	Yes	Yes.
Mate towing vessel oceans or near-coastal	None	Yes	Yes.
Master oceans or near-coastal, less than 200 GRT	6 months	Yes	Yes.
Mate oceans or near-coastal, less than 200 GRT	12 months	Yes	Yes.

[1] This column provides the minimum additional service required of the seafarer in order to meet the requirements of this section.
[2] Complete any items in paragraph (a)(2) of this section not previously satisfied.
[3] Complete any items in paragraph (a)(3) of this section not previously satisfied.

§ 11.319 Requirements to qualify for an STCW endorsement as Officer in Charge of a Navigational Watch (OICNW) of vessels of less than 500 GT (operational level).

(a) To qualify for an STCW endorsement as OICNW, an applicant must—

(1) Provide evidence of seagoing service as follows:

(i) Provide evidence of 36 months of service in the deck department on vessels operating in oceans, near-coastal waters, and/or Great Lakes. Service on inland waters, bays, or sounds that are navigable waters of the United States may be substituted for up to 50 percent of the required service. Experience gained in the engine department may be creditable for up to 3 months of the service requirements; or

(ii) Provide evidence of not less than 12 months of seagoing service as part of an approved training program that includes onboard training that meets the requirements of Section A–II/1 of the STCW Code (incorporated by reference, see § 11.102 of this part).

(2) Provide evidence of having performed during the required seagoing service, bridge watchkeeping duties, under the supervision of an officer holding the STCW endorsement as master, chief mate, or OICNW, for a

period of not less than 6 months. The Coast Guard will accept service on vessels as boatswain, able seaman, or quartermaster while holding the appropriate deck watchkeeping rating endorsement, which may be accepted on a two-for-one basis to a maximum allowable substitution of 3 months (6 months of experience equals 3 months of creditable service);

(3) Provide evidence of meeting the standard of competence specified in Section A–II/1 of the STCW Code; and

(4) Provide evidence of having satisfactorily completed approved training in the following subject areas:

(i) Medical first-aid provider.

(ii) Radar observer, if serving on a vessel with this equipment.

(iii) Watchkeeping, including COLREGS and IMO standard marine communication phrases (SMCP).

(iv) Basic and advanced firefighting in accordance with § 11.303 of this subpart.

(v) Proficiency in survival craft and rescue boats other than fast rescue boats.

(vi) Visual signaling.

(vii) Bridge resource management;

(viii) ARPA, if serving on a vessel with this equipment.

(ix) GMDSS, if serving on a vessel with this equipment.

(x) ECDIS, if serving on a vessel with this equipment.

(b) For a renewal of an STCW endorsement as OICNW of vessels of less than 500 GT to be valid on or after January 1, 2017, each candidate must provide the following:

(1) Evidence of meeting the standard of competence in leadership and teamworking skills.

(2) Completion of approved training in ECDIS, if serving on a vessel with this equipment.

(c) The Coast Guard may exempt an applicant from meeting any individual knowledge, understanding, and proficiency required in Section A–II/3 of the STCW Code. These exemptions must be approved by the Coast Guard based upon vessel type. Under these circumstances, the credential may include a corresponding limitation.

(d) Seafarers with one of the following national officer endorsements are eligible to apply for this endorsement upon completion of the requirements in the following table:

TABLE 1 TO § 11.319(d)—STCW ENDORSEMENT AS OFFICER IN CHARGE OF A NAVIGATIONAL WATCH (OICNW) OF VESSELS OF LESS THAN 500 GT.

Entry path from national endorsements	Sea service under authority of the endorsement [1]	Competence—STCW Table A–II/3 [2]	Training required by this section [3]
Mate oceans or near-coastal, less than 500 GRT	None	Yes	Yes.
Mate towing vessel oceans or near-coastal	None	Yes	Yes.
Master oceans or near-coastal, less than 200 GRT	6 months	Yes	Yes.
Mate oceans or near-coastal, less than 200 GRT	12 months	Yes	Yes.

[1] This column provides the minimum additional service required of the seafarer in order to meet the requirements of this section.
[2] Complete any items in paragraph (a)(2) of this section not previously satisfied.
[3] Complete any items in paragraph (a)(3) of this section not previously satisfied.

§ 11.321 Requirements to qualify for an STCW endorsement as officer in charge of a navigational watch (OICNW) of vessels of less than 500 GT limited to near-coastal waters (operational level).

(a) To qualify for an STCW endorsement as OICNW, an applicant must—

(1) Provide evidence of seagoing service as follows:

(i) Twenty-four months of seagoing service in the deck department on vessels operating in oceans, near-coastal waters, and/or Great Lakes. Service on inland waters, bays, or sounds that are navigable waters of the United States may be substituted for up to 50 percent of the total required service. Experience gained in the engine department may be creditable for up to 3 months of the service requirements; or

(ii) Successful completion of an approved training program that includes seagoing service as required by the Coast Guard; or

(iii) Successful completion of approved training for this section and obtain 12 months of seagoing service;

(2) Provide evidence of meeting the standard of competence specified in Section A–II/3 of the STCW Code (incorporated by reference, see § 11.102 of this part); and

(3) Provide evidence of having satisfactorily completed approved training in the following subject areas:

(i) Medical first-aid provider.

(ii) Basic and advanced firefighting in accordance with § 11.303 of this subpart.

(iii) Proficiency in survival craft and rescue boats other than fast rescue boats.

(iv) Bridge resource management;

(v) ECDIS, if serving on a vessel with this equipment.

(vi) Radar observer, if serving on a vessel with this equipment.

(vii) ARPA, if serving on a vessel with this equipment.

(b) For a renewal of an STCW endorsement as OICNW of vessels of less than 500 GT limited to near-coastal waters to be valid on or after January 1, 2017, each candidate must provide the following:

(1) Evidence of meeting the standard of competence in leadership and teamworking skills.

(2) Completion of approved training in ECDIS, if serving on a vessel with this equipment.

(c) The Coast Guard may exempt an applicant from meeting any individual knowledge, understanding, and proficiency required in Section A–II/3 of the STCW Code. These exemptions must be approved by the Coast Guard based upon vessel type. Under these circumstances, the credential may include a corresponding limitation.

(d) Seafarers with one of the following national officer endorsements are eligible to apply for this endorsement upon completion of the requirements in the following table:

TABLE 1 TO § 11.321(d)—STCW ENDORSEMENT AS OICNW OF VESSELS OF LESS THAN 500 GT LIMITED TO NEAR-COASTAL WATERS

Entry path from national endorsements	Sea service under authority of the endorsement [1]	Competence—STCW Table A–II/3 [2]	Training required by this section [3]
Mate oceans or near-coastal less than 500 GRT	None	Yes	Yes.
Mate towing vessel oceans or near-coastal	None	Yes	Yes.
Master oceans or near-coastal, less than 200 GRT	None	Yes	Yes.
Mate oceans or near-coastal, less than 200 GRT	6 months	Yes	Yes.

[1] This column provides the minimum additional service required of the seafarer in order to meet the requirements of this section.
[2] Complete any items in paragraph (a)(2) of this section not previously satisfied.
[3] Complete any items in paragraph (a)(3) of this section not previously satisfied.

§ 11.323 STCW engineer officer endorsements.

(a) Specific requirements for all STCW engineer officer endorsements are detailed in the applicable sections in this part.

(1) Chief engineer officer on vessels powered by main propulsion machinery of 3,000 kW/4,000 HP propulsion power or more (management level).

(2) Second engineer officer on vessels powered by main propulsion machinery of 3,000 kW/4,000 HP propulsion power or more (management level).

(3) Officer in charge of an engineering watch (OICEW) in a manned engineroom, or as a designated duty engineer in a periodically unmanned engineroom, on vessels powered by main propulsion machinery of 750 kW/1,000 HP propulsion power or more (operational level).

(4) Chief engineer officer on vessels powered by main propulsion machinery of between 750 kW/1,000 HP and 3,000 kW/4,000 HP propulsion power (management level).

(5) Second engineer officer on vessels powered by main propulsion machinery of 750 kW/1,000 HP to 3,000 kW/4,000 HP propulsion power (management level).

(6) Electro-technical officer on vessels powered by main propulsion machinery of 750 kW/1,000 HP or more (operational level).

(b) *Limitations.* (1) STCW engineer officer endorsements issued in accordance with §§ 11.325, 11.327, 11.329, 11.331, 11.333, and 11.335 of this subpart will be restricted to specific propulsion modes for steam, motor, or gas turbine-propelled vessels as appropriate.

(2) STCW engineer officer endorsements issued in accordance with §§ 11.325, 11.327, 11.329, 11.331, 11.333, and 11.335 of this subpart for motor or gas turbine-propelled vessels may be endorsed as limited to serve on vessels without auxiliary boilers, waste-heat boilers, distilling plants, oily water separators, or sewage treatment plants. An applicant may qualify for removal of any of these limitations by demonstrating the appropriate competencies.

(c) An engineer officer who does not hold an STCW endorsement may serve on seagoing vessels propelled by machinery of less than 750 kW/1,000 HP, the vessels specified in § 15.105(f) and (g) of this subchapter, and vessels operating on the Great Lakes or inland waters of the United States.

(d) An officer endorsement issued in the grade of chief engineer (limited) or assistant engineer (limited) allows the holder to serve within any propulsion power limitations on vessels of unlimited tonnage on inland waters, on vessels of less than 3,000 GT in Great Lakes service, and on the vessels specified in § 15.105(f) and (g) of this subchapter.

§ 11.325 Requirements to qualify for an STCW endorsement as chief engineer officer on vessels powered by main propulsion machinery of 3,000 kW/4,000 HP propulsion power or more (management level).

(a) To qualify for an STCW endorsement as chief engineer officer, an applicant must—

(1) Provide evidence of not less than 36 months of service as OICEW on ships powered by main propulsion machinery of 750 kW/1,000 HP propulsion power or more. This period may be reduced to not less than 24 months if the applicant has served for not less than 12 months as second engineer officer on ships powered by propulsion machinery of 3,000 kW/4,000 HP or more;

(2) Provide evidence of meeting the standard of competence specified in Section A–III/2 of the STCW Code (incorporated by reference, see § 11.102 of this part); and

(3) Provide evidence of having satisfactorily completed approved training in the following areas:

(i) Engineroom resource management (ERM) if not completed at the operational level.

(ii) Leadership and managerial skills.

(iii) Management of electrical and electronic control equipment.

(b) For a renewal of an STCW endorsement as chief engineer officer on vessels powered by main propulsion machinery of 3,000 kW/4,000 HP propulsion power or more to be valid on or after January 1, 2017, each candidate must provide evidence of successful completion of approved training in the following:

(1) ERM if not completed at the operational level.

(2) Leadership and managerial skills.

(3) Management of electrical and electronic control equipment.

(c) The Coast Guard may exempt an applicant from meeting any individual knowledge, understanding, and proficiency required in Section A–III/2 of the STCW Code. These exemptions must be approved by the Coast Guard based upon vessel type. Under these circumstances, the credential may include a corresponding limitation.

(d) Seafarers with one of the following national officer endorsements are eligible to apply for this endorsement upon completion of the requirements in the following table:

TABLE 1 TO § 11.325(d)—STCW ENDORSEMENT AS CHIEF ENGINEER OFFICER ON VESSELS POWERED BY MAIN PROPULSION MACHINERY OF 3,000KW/4,000HP PROPULSION POWER OR MORE

Entry path from national endorsements	Sea service [1]	Competence—STCW Table A–III/2 [2]	Training required by this section [3]
Chief engineer	None	Yes	Yes.
Chief engineer (limited)	12 months	Yes	Yes.
Chief engineer (MODU)	12 months/24 months [4]	Yes	Yes.
Chief engineer (OSV)	None	Yes	Yes.
Designated duty engineer, any horsepower [5]	24 months as DDE	Yes	Yes.

[1] This column provides the minimum additional service required of the seafarer in order to meet the requirements of this section.
[2] Complete any items in paragraph (a)(2) of this section not previously satisfied.
[3] Complete any items in paragraph (a)(3) of this section not previously satisfied.
[4] Depending on the type of sea service used to obtain chief engineer (MODU) (refer to § 11.542 of this part)
[5] STCW certificate should be limited to vessels less than 500 GRT.

§ 11.327 Requirements to qualify for an STCW endorsement as second engineer officer on vessels powered by main propulsion machinery of 3,000kW/4,000 HP propulsion power or more (management level).

(a) To qualify for an STCW endorsement as second engineer officer, an applicant must—

(1) Provide evidence of not less than 12 months of service as OICEW on vessels powered by main propulsion machinery of 750kW/1,000 HP or more; or 12 months of sea service as a chief engineer on vessels powered by propulsion machinery of vessels between 750kW/1,000 HP and 3,000 kW/4,000 HP;

(2) Provide evidence of meeting the standard of competence specified in Section A–III/2 of the STCW Code (incorporated by reference, see § 11.102 of this part); and

(3) Provide evidence of having satisfactorily completed approved training in the following areas:

(i) Engineroom resource management (ERM) if not completed at the operational level.

(ii) Leadership and managerial skills.

(iii) Management of electrical and electronic control equipment.

(b) For a renewal of an STCW endorsement as second engineer officer on vessels powered by main propulsion machinery of 3,000 kW/4,000 HP propulsion power or more to be valid on or after January 1, 2017, each candidate must provide evidence of successful completion of approved training in the following:

(1) ERM if not completed at the operational level.

(2) Leadership and managerial skills.

(3) Management of electrical and electronic control equipment.

(c) The Coast Guard may exempt an applicant from meeting any individual knowledge, understanding, and proficiency required in Section A–III/2 of the STCW Code. These exemptions must be approved by the Coast Guard based upon vessel type. Under these circumstances, the credential may include a corresponding limitation.

(d) Seafarers with one of the following national officer endorsements are eligible to apply for this endorsement upon completion of the requirements in the following table:

TABLE 1 TO § 11.327(d)—STCW ENDORSEMENT AS SECOND ENGINEER OFFICER ON VESSELS POWERED BY MAIN PROPULSION MACHINERY OF 3,000 KW/4,000 HP PROPULSION POWER OR MORE

Entry path from national endorsements	Sea service [1]	Competence—STCW Table A–III/2 [2]	Training required by this section [3]
First assistant engineer	None	Yes	Yes.
Second assistant engineer	None	Yes	Yes.
Third assistant engineer	12 months	Yes	Yes.
Assistant engineer (limited)	12 months	Yes	Yes.
Chief engineer MODU	12 months	Yes	Yes.
Chief engineer OSV	None	Yes	Yes.
Designated duty engineer, unlimited [4]	12 months as DDE	Yes	Yes.

[1] This column provides the minimum additional service required of the seafarer in order to meet the requirements of this section.
[2] Complete any items in paragraph (a)(2) of this section not previously satisfied.
[3] Complete any items in paragraph (a)(3) of this section not previously satisfied.
[4] STCW certificate should be limited to vessels less than 500 GRT.

§ 11.329 Requirements to qualify for an STCW endorsement as Officer in Charge of an Engineering Watch (OICEW) in a manned engineroom or designated duty engineer in a periodically unmanned engineroom on vessels powered by main propulsion machinery of 750 kW/1,000 HP propulsion power or more (operational level).

(a) To qualify for an STCW endorsement as OICEW, an applicant must—

(1) Provide evidence of seagoing service as follows:

(i) Thirty-six months of seagoing service in the engine department; or

(ii) Successful completion of an approved training program, which includes a combination of workshop skill training and seagoing service of not less than 12 months, and that meets the requirements of Section A–III/1 of the STCW Code (incorporated by reference, see § 11.102 of this part);

(2) Provide evidence of having performed during the required seagoing service, engine room watchkeeping duties, under the supervision of an officer holding the STCW endorsement as chief engineer officer or as a qualified engineer officer, for a period of not less than 6 months;

(3) Provide evidence of meeting the standard of competence specified in Section A–III/1 of the STCW Code; and

(4) Provide evidence of having satisfactorily completed approved training in the following subject areas:

(i) Medical first-aid provider.

(ii) Basic and advanced firefighting in accordance with § 11.303 of this subpart.

(iii) Proficiency in survival craft and rescue boats other than fast rescue boats.

(iv) Engineroom resource management (ERM).

(v) Engineering terminology and shipboard operations.

(vi) Auxiliary machinery.

(vii) Gas turbine plants, as applicable.

(viii) Steam plants, as applicable.

(ix) Motor plants, as applicable.

(x) Electrical machinery and basic electronics.

(xi) Control systems.

(b) Experience gained in the deck department may be creditable for up to 3 months of the service requirements in paragraph (a)(1)(i) of this section.

(c) For a renewal of an STCW endorsement as OICEW to be valid on or after January 1, 2017, each candidate must provide evidence of having satisfactorily completed ERM training and meeting the standard competence in leadership and teamworking skills if not previously completed.

(d) The Coast Guard may exempt an applicant from meeting any individual knowledge, understanding, and proficiency required in Section A–III/1 of the STCW Code. These exemptions must be approved by the Coast Guard based upon vessel type. Under these circumstances, the credential may include a corresponding limitation.

(e) Seafarers with one of the following national officer endorsements are eligible to apply for this endorsement upon completion of the requirements in the following table:

TABLE 1 TO § 11.327(d)—STCW ENDORSEMENT AS SECOND ENGINEER OFFICER ON VESSELS POWERED BY MAIN PROPULSION MACHINERY OF 3,000 kW/4,000 HP PROPULSION POWER OR MORE

Entry path from national endorsements	Sea service [1]	Competence—STCW Table A–III/2 [2]	Training required by this section [3]
First assistant engineer	None	Yes	Yes.
Second assistant engineer	None	Yes	Yes.
Third assistant engineer	12 months	Yes	Yes.
Assistant engineer (limited)	12 months	Yes	Yes.
Chief engineer MODU	12 months	Yes	Yes.
Chief engineer OSV	None	Yes	Yes.
Designated duty engineer, unlimited [4]	12 months as DDE	Yes	Yes.

[1] This column provides the minimum additional service required of the seafarer in order to meet the requirements of this section.
[2] Complete any items in paragraph (a)(2) of this section not previously satisfied.
[3] Complete any items in paragraph (a)(3) of this section not previously satisfied.
[4] STCW certificate should be limited to vessels less than 500 GRT.

§ 11.331 Requirements to qualify for an STCW endorsement as chief engineer officer on vessels powered by main propulsion machinery of 750 kW/1,000 HP or more and less than 3,000 kW/4,000 HP propulsion power (management level).

(a) To qualify for an STCW endorsement as chief engineer officer, an applicant must—

(1) Provide evidence of meeting the requirements for certification as OICEW, and have not less than 24 months of service on seagoing vessels powered by main propulsion machinery of not less than 750 kW/1,000 HP, of which not less than 12 months must be served while qualified to serve as second engineer officer. Experience gained in the deck department may be creditable for up to 2 months of the total service requirements;

(2) Provide evidence of meeting the standard of competence specified in Section A–III/3 of the STCW Code (incorporated by reference, see § 11.102 of this part); and

(3) Provide evidence of having satisfactorily completed approved training in the following areas:

(i) Engineroom resource management (ERM) if not completed at the operational level.

(ii) Leadership and managerial skills.

(iii) Management of electrical and electronic control equipment.

(b) For a renewal of an STCW endorsement as chief engineer officer on vessels powered by main propulsion machinery of 750 kW/1,000 HP or more and less than 3,000 kW/4,000 HP propulsion power to be valid on or after January 1, 2017, each candidate must provide evidence of successful completion of approved training in the following:

(1) ERM if not completed at the operational level.

(2) Leadership and managerial skills.

(3) Management of electrical and electronic control equipment.

(c) An engineer officer qualified to serve as second engineer officer on vessels powered by main propulsion machinery of 3,000 kW/4,000 HP or more, may serve as chief engineer officer on vessels powered by main propulsion machinery of 750 kW/1,000 HP or more and less than 3,000 kW/4,000 HP provided the certificate is so endorsed.

(d) The Coast Guard may exempt an applicant from meeting any individual knowledge, understanding, and proficiency required in Section A–III/3 of the STCW Code. These exemptions must be approved by the Coast Guard based upon vessel type. Under these circumstances, the credential may include a corresponding limitation.

(e) Seafarers with one of the following national officer endorsements are eligible to apply for this endorsement upon completion of the requirements in the following table:

TABLE 1 TO § 11.331(e)—STCW ENDORSEMENT AS CHIEF ENGINEER OFFICER ON VESSELS POWERED BY MAIN PROPULSION MACHINERY OF 750 kW/1,000 HP OR MORE AND LESS THAN 3,000 kW/4,000 HP PROPULSION POWER

Entry path from national endorsements	Sea service [1]	Competence—STCW Table A–III/2 [2]	Training required by this section [3]
Chief engineer	None	Yes	Yes.
First assistant engineer	None	Yes	Yes.

TABLE 1 TO § 11.331(e)—STCW ENDORSEMENT AS CHIEF ENGINEER OFFICER ON VESSELS POWERED BY MAIN PROPULSION MACHINERY OF 750 kW/1,000 HP OR MORE AND LESS THAN 3,000 kW/4,000 HP PROPULSION POWER—Continued

Entry path from national endorsements	Sea service [1]	Competence—STCW Table A–III/2 [2]	Training required by this section [3]
Chief engineer (limited)	None	Yes	Yes.
Chief engineer OSV	None	Yes	Yes.
Chief engineer MODU	12 months	Yes	Yes.
Designated duty engineer, 3,000 kW/4,000 HP	12 months	Yes	Yes.
Designated duty engineer, 750 kW/1,000 HP	24 months	Yes	Yes.

[1] This column provides the minimum additional service required of the seafarer in order to meet the requirements of this section.
[2] Complete any items in paragraph (a)(2) of this section not previously satisfied.
[3] Complete any items in paragraph (a)(3) of this section not previously satisfied.

§ 11.333 Requirements to qualify for an STCW endorsement as second engineer officer on vessels powered by main propulsion machinery of 750kW/1,000 HP or more and less than 3,000 kW/4,000 HP propulsion power (management level).

(a) To qualify for an STCW endorsement as second engineer officer, an applicant must—

(1) Provide evidence of meeting the requirements for certification as OICEW, as well as serving for not less than 12 months as assistant engineer officer or engineer officer on vessels powered by main propulsion machinery of not less than 750 kW/1,000 HP. Experience gained in the deck department may be creditable for up to 1 month of the total service requirements;

(2) Provide evidence of meeting the standard of competence specified in Section A–III/3 of the STCW Code (incorporated by reference, see § 11.102 of this part); and

(3) Provide evidence of having satisfactorily completed approved training in the following areas:

(i) Engineroom resource management (ERM) if not completed at the operational level.

(ii) Leadership and managerial skills.

(iii) Management of electrical and electronic control equipment.

(b) For a renewal of an STCW endorsement as second engineer officer on vessels powered by main propulsion machinery of 750 kW/1,000 HP or more and less than 3,000 kW/4,000 HP propulsion power to be valid on or after January 1, 2017, each candidate must provide evidence of successful completion of approved training in the following:

(1) ERM if not completed at the operational level.

(2) Leadership and managerial skills.

(3) Management of electrical and electronic control equipment.

(c) The Coast Guard may exempt an applicant from meeting any individual knowledge, understanding, and proficiency required in Section A–III/3 of the STCW Code. These exemptions must be approved by the Coast Guard based upon vessel type. Under these circumstances, the credential may include a corresponding limitation.

(d) Seafarers with one of the following national officer endorsements are eligible to apply for this endorsement upon completion of the requirements in the following table:

TABLE 1 TO § 11.333(d)—STCW ENDORSEMENT AS SECOND ENGINEER OFFICER ON VESSELS POWERED BY MAIN PROPULSION MACHINERY OF 750 kW/1,000 HP OR MORE AND LESS THAN 3,000 kW/4,000 HP PROPULSION POWER

Entry path from national endorsements	Sea service [1]	Competence—STCW Table A–III/2 [2]	Training required by this section [3]
First assistant engineer	None	Yes	Yes.
Second assistant engineer	None	Yes	Yes.
Third assistant engineer	12 months	Yes	Yes.
Assistant engineer (limited)	None	Yes	Yes.
Assistant engineer OSV	None	Yes	Yes.
Assistant engineer MODU	12 months	Yes	Yes.

[1] This column provides the minimum additional service required of the seafarer in order to meet the requirements of this section.
[2] Complete any items in paragraph (a)(2) of this section not previously satisfied.
[3] Complete any items in paragraph (a)(3) of this section not previously satisfied.

§ 11.335 Requirements to qualify for an STCW endorsement as an electro-technical officer on vessels powered by main propulsion machinery of 750 kW/1,000 HP or more (operational level).

(a) To qualify for an STCW endorsement as an electro-technical officer (ETO), an applicant must—

(1) Provide evidence of 36 months combined workshop skills training and approved seagoing service of which not less than 30 months must be seagoing service in the engine department of vessels. Experience gained in the deck department may be creditable for up to 3 months of the service requirements; or completion of an approved training program, that includes a combination of workshop skill training and seagoing service of not less than 12 months, and which meets the requirements of Section A–III/6 of the STCW Code (incorporated by reference, see § 11.102 of this part);

(2) Provide evidence of meeting the standard of competence specified in Section A–III/6 of the STCW Code;

(3) Provide evidence of having satisfactorily completed approved training in the following subject areas:

(i) Medical first-aid provider.

(ii) Basic and advanced firefighting in accordance with § 11.303 of this subpart.

(iii) Proficiency in survival craft and rescue boats other than fast rescue boats; and

(4) Provide evidence of having satisfactorily completed approved professional training in the following subject areas:

(i) Onboard computer networking and security.

(ii) Radio electronics.

(iii) Integrated navigation equipment.

(iv) Ship propulsion and auxiliary machinery.

(v) Instrumentation and control systems.

(vi) High-voltage power systems.

(b) Any applicant who has served in a relevant capacity onboard a vessel for a period of not less than 12 months within the last 60 months and meets the standards of competence specified in Section A–III/6 of the STCW Code is considered by the Coast Guard to be suitably qualified but must provide evidence of—

(1) Seagoing service; and

(2) Having achieved the standards of competence specified in Section A–III/6 of the STCW Code.

(c) An applicant who holds an STCW endorsement as OICEW, second engineer officer, or chief engineer officer will be allowed to receive the ETO endorsement upon completion of the requirements in Section A–III/6 of the STCW Code.

(d) An applicant who does not hold any other national or STCW endorsement will be issued, upon completion of the requirements in this section, the ETO endorsement without any corresponding national endorsement.

§ 11.337 Requirements to qualify for an STCW endorsement as vessel security officer.

(a) The applicant for an endorsement as vessel security officer must present satisfactory documentary evidence in accordance with the requirements in 33 CFR 104.215.

(b) All applicants for an endorsement must meet the physical examination requirements in 46 CFR part 10, subpart C.

(c) All applicants for this endorsement must meet the safety and suitability requirements and the National Driver Registry review requirements in § 10.209(e) of this subchapter, unless they have met these requirements within the previous 5 years in connection with another endorsement.

Subpart D—Professional Requirements for National Deck Officer Endorsements

§ 11.401 Ocean and near-coastal national officer endorsements.

(a) Subject to the provisions of §§ 11.464(e) and 11.465(b) of this subpart, any license or MMC endorsement for service as master or mate on ocean waters qualifies the mariner to serve in the same grade on any waters, except towing vessels upon western rivers subject to the limitations of the endorsement.

(b) Subject to the provisions of §§ 11.464(e) and 11.465(b) of this subpart, any license or MMC endorsement issued for service as master or mate on near-coastal waters qualifies the mariner to serve in the same grade on Great Lakes and inland waters, except towing vessels upon western rivers subject to the limitations of the endorsement.

(c) Near-coastal endorsements for unlimited tonnage require the same number of years of service as the ocean-unlimited endorsements. The primary differences in these endorsements are the nature of the service and the scope of the required training, examination, and assessment.

(d) A master or mate on vessels of 200 GRT or more, and a master or mate on vessels under 200 GRT, may be endorsed for sail or auxiliary sail as appropriate. The applicant must present the equivalent total service required for conventional officer endorsements, including at least 1 year of deck experience on that specific type of vessel. For example, for an officer endorsement as master of vessels of less than 1,600 GRT endorsed for auxiliary sail, the applicant must meet the total experience requirements for the conventional officer endorsement, including time as mate, and the proper tonnage experience, including at least 1 year of deck service, on appropriately sized auxiliary sail vessels. For an endorsement to serve on vessels of less than 200 GRT, see the individual endorsement requirements.

(e) Service toward an oceans, near-coastal or STCW endorsement will be credited as follows:

(1) Service on the Great Lakes will be credited on a day-for-day basis.

(2) Service on inland waters, other than Great Lakes, that are navigable waters of the United States, may be substituted for up to 50 percent of the total required service.

(3) Service on vessels to which STCW applies, whether inland or coastwise, will be credited on a day-for-day basis.

§ 11.402 Tonnage requirements for national ocean or near-coastal endorsements for vessels of 1,600 GRT or more.

(a) To qualify for a national ocean or near-coastal endorsement for service on vessels of unlimited tonnage—

(1) All the required experience must be obtained on vessels of 100 GRT or more; and

(2) At least one-half of the required experience must be obtained on vessels of 1,600 GRT or more.

(b) If an applicant for a national endorsement as master or mate of unlimited tonnage does not have the service on vessels of 1,600 GRT or more as required by paragraph (a)(2) of this section, a tonnage limitation will be placed on the MMC based on the applicant's qualifying experience. The endorsement will be limited to the maximum tonnage on which at least 25 percent of the required experience was obtained, or 150 percent of the maximum tonnage on which at least 50 percent of the service was obtained, whichever is higher. However, the minimum tonnage limitation calculated according to this paragraph will be 2,000 GRT. Limitations are in multiples of 1,000 GRT using the next higher figure when an intermediate tonnage is calculated. When the calculated limitation equals or exceeds 10,000 GRT, the applicant is issued an unlimited tonnage endorsement.

(c) Tonnage limitations imposed under paragraph (b) of this section may be raised or removed in one of the following manners:

(1) When the applicant provides evidence of 6 months of service on vessels of 1,600 GRT or more in the highest grade endorsed, all tonnage limitations will be removed.

(2) When the applicant provides evidence of 6 months of service on vessels of 1,600 GRT or more in any capacity as an officer other than the highest grade for which he or she is endorsed, all tonnage limitations for the grade in which the service is performed will be removed and the next higher grade endorsement will be raised to the tonnage of the vessel on which the majority of the service was performed. The total cumulative service before and after issuance of the limited license or MMC officer endorsement may be considered in removing all tonnage limitations.

(3) When the applicant has 12 months of service as able seaman on vessels of 1,600 GRT or more while holding a

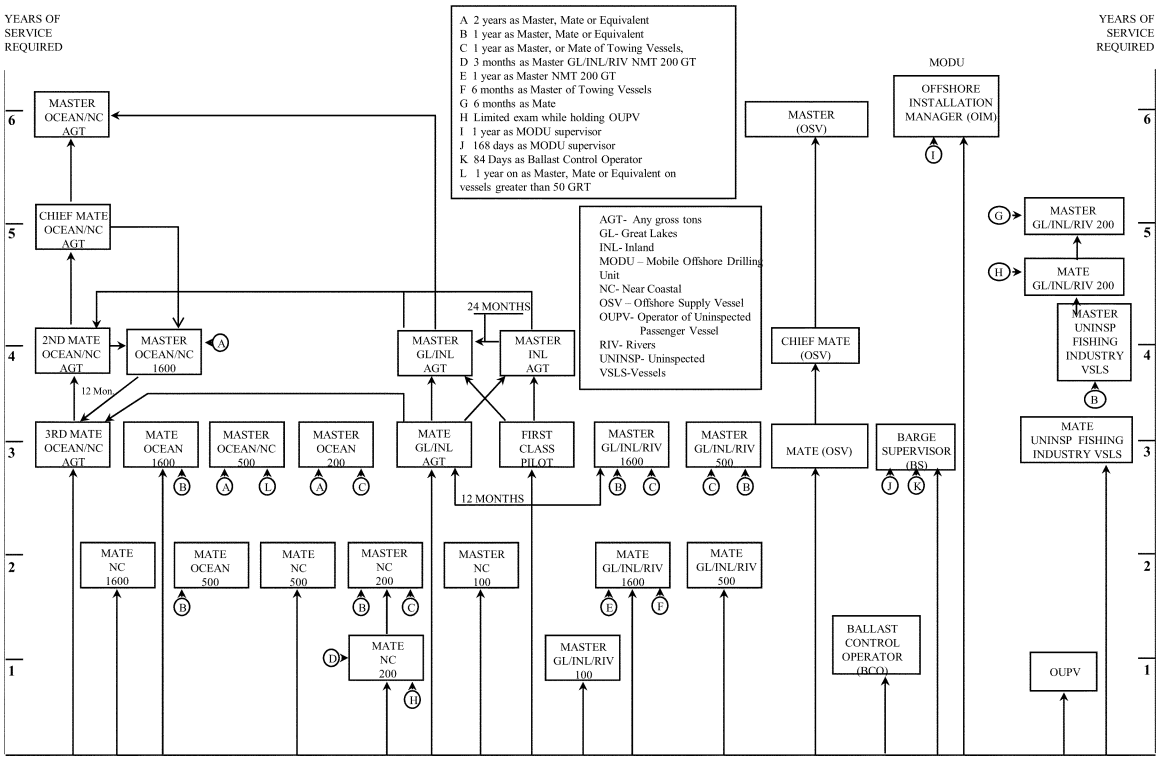
license or endorsement as third mate, all tonnage limitations on the third mate's license or MMC officer endorsement will be removed.

(d) No applicant holding any national endorsement as master or mate of vessels of less than 1,600 GRT, less than 500 GRT, or less than 25–200 GRT may use the provisions of paragraph (c) of this section to increase the tonnages of his or her license or endorsement.

§ 11.403 Structure of national deck officer endorsements.

Figure 11.403 illustrates the national deck officer endorsement structure, including crossover points. The section numbers on the diagram refer to the specific requirements applicable.

Figure 11.403: Structure of national deck officer endorsements



§ 11.404 Service requirements for master of ocean or near-coastal self-propelled vessels of unlimited tonnage.

(a) The minimum service required to qualify an applicant for an endorsement as master of ocean or near-coastal self-propelled vessels of unlimited tonnage is—

(1) One year of service as chief mate on ocean self-propelled vessels; or

(2) While holding a license or MMC endorsement as chief mate of ocean self-propelled vessels of unlimited tonnage, 12 months of service on deck as follows:

(i) A minimum of 6 months of service as chief mate.

(ii) Service as second mate, third mate, or officer in charge of a navigational watch accepted on a two-for-one basis (12 months as officer in charge of a navigational watch equals 6 months of creditable service).

(b) An individual holding an endorsement or license as master of Great Lakes and inland, self-propelled vessels of unlimited tonnage, or master of inland, self-propelled vessels of unlimited tonnage, may obtain an endorsement as master of oceans or near-coastal self-propelled vessels of unlimited tonnage by providing evidence of sea service of not less than 24 months under the authority of the credential and by completing the prescribed examination in subpart I of this part. Service will be credited as follows:

(1) Service on the Great Lakes will be credited on a day-for-day basis up to 100 percent of the total required service.

(2) Service on inland waters, other than Great Lakes, that are navigable waters of the United States, will be credited on a day-for-day basis for up to 50 percent of the total required service.

(3) Service on vessels to which STCW applies, whether inland or coastwise, will be credited on a day-for-day basis.

(c) A person holding this endorsement may qualify for an STCW endorsement, according to § 11.305 of this part.

§ 11.405 Service requirements for chief mate of ocean or near-coastal self-propelled vessels of unlimited tonnage.

(a) The minimum service required to qualify an applicant for an endorsement as chief mate of ocean or near-coastal self-propelled vessels of unlimited tonnage is 1 year of service as officer in charge of a navigational watch on ocean

self-propelled vessels while holding a license or MMC endorsement as second mate.

(b) Service towards an oceans, near-coastal, or STCW endorsement will be credited as follows:

(1) Service on the Great Lakes will be credited on a day-for-day basis.

(2) Service on inland waters, other than Great Lakes, that are navigable waters of the United States, may be substituted for up to 50 percent of the total required service.

(3) Service on vessels to which STCW applies, whether inland or coastwise, will be credited on a day-for-day basis.

(c) A person holding this endorsement may qualify for an STCW endorsement, according to § 11.307 of this part.

§ 11.406 Service requirements for second mate of ocean or near-coastal self-propelled vessels of unlimited tonnage.

(a) The minimum service required to qualify an applicant for an endorsement as second mate of ocean or near-coastal self-propelled vessels of unlimited tonnage is—

(1) One year of service as officer in charge of a navigational watch on ocean self-propelled vessels while holding a license or endorsement as third mate; or

(2) While holding a license or MMC endorsement as third mate of ocean self-propelled vessels of unlimited tonnage, 12 months of service on deck as follows:

(i) A minimum of 6 months service as officer in charge of a deck watch on ocean self-propelled vessels.

(ii) Service on ocean self-propelled vessels as boatswain, able seaman, or quartermaster while holding a certificate or MMC endorsement as able seaman, which may be accepted on a two-for-one basis to a maximum allowable substitution of six months (12 months of experience equals 6 months of creditable service).

(b) Service towards an oceans, near-coastal or STCW endorsement will be credited as follows:

(1) Service on the Great Lakes will be credited on a day-for-day basis up to 100 percent of the total required service.

(2) Service on inland waters, other than Great Lakes, that are navigable waters of the United States, will be credited on a day-for-day basis for up to 50 percent of the total required service.

(3) Service on vessels to which STCW applies, whether inland or coastwise, will be credited on a day-for-day basis.

(c) If an individual holds an endorsement or license as master of Great Lakes and inland self-propelled vessels of unlimited tonnage or master of inland self-propelled vessels of unlimited tonnage, he or she may obtain an endorsement as second mate of ocean or near-coastal self-propelled vessels of unlimited tonnage by completing the prescribed examination in subpart I of this part.

(d) A person holding this endorsement may qualify for an STCW endorsement, according to § 11.309 of this part.

§ 11.407 Service requirements for third mate of ocean or near-coastal self-propelled vessels of unlimited tonnage.

(a) The minimum service or training required to qualify an applicant for an endorsement as third mate of ocean or near-coastal self-propelled vessels of unlimited tonnage is—

(1) Three years of service in the deck department on ocean self-propelled vessels, with a minimum of 6 months of bridge watchkeeping duties under the supervision of the master or a qualified officer. Experience gained in the engine department on vessels of appropriate tonnage may be creditable for up to 3 months of the service requirements for this officer endorsement;

(2) Graduation from—

(i) The U.S. Merchant Marine Academy (deck curriculum);

(ii) The U.S. Coast Guard Academy with qualification as an underway officer in charge of a navigational watch, underway officer of the deck, or deck watch officer;

(iii) The U.S. Naval Academy with qualification as an underway officer in charge of a navigational watch, underway officer of the deck or deck watch officer; or

(iv) The deck class of a maritime academy approved by and conducted under rules prescribed by the Maritime Administrator and listed in part 310 of this title, including the ocean option program in the deck class of the Great Lakes Maritime Academy; or

(3) Satisfactory completion of a comprehensive apprentice mate training program approved by the Coast Guard.

(b) Graduation from the deck class of the Great Lakes Maritime Academy will qualify the graduate to be examined for an endorsement as third mate self-propelled vessels of unlimited tonnage with a route appropriate to the program completed.

(c) While holding a license or MMC endorsement as master of ocean or near-coastal self-propelled vessels of less than 1,600 GRT, 1 year of service as master on vessels of more than 200 GRT operating on ocean or near-coastal waters will qualify the applicant for an endorsement as third mate of ocean or near-coastal self-propelled vessels of unlimited tonnage.

(d) An individual holding an endorsement or license as mate of Great Lakes and inland, self-propelled vessels of unlimited tonnage, or master of inland, self-propelled vessels of unlimited tonnage, may obtain an endorsement as third mate of oceans or near-coastal self-propelled vessels of unlimited tonnage by completing the prescribed examination in subpart I of this part.

(e) A person holding this endorsement may qualify for an STCW endorsement, according to § 11.309 of this part.

§ 11.410 Requirements for deck officer endorsements for vessels of less than 1,600 GRT.

(a) Endorsements as master and mate of vessels of less than 1,600 GRT are issued in the following tonnage categories:

(1) Less than 1,600 GRT.

(2) Less than 500 GRT.

(3) Between 25 and 200 GRT in 50-ton increments and with appropriate mode of propulsion such as self-propelled, sail, or auxiliary sail.

(b) Experience gained in the engine department on vessels of appropriate tonnage may be creditable for up to 90 days of the service requirements for any master or mate endorsement in this category.

(c) An officer's endorsement in this category obtained with an orally assisted examination will be limited to 500 GRT. In order to raise that tonnage limit to 1,600 GRT, the written examination and service requirements must be satisfied.

§ 11.412 Service requirements for master of ocean or near-coastal self-propelled vessels of less than 1,600 GRT.

(a) The minimum service required to qualify an applicant for an endorsement as master of ocean or near-coastal self-propelled vessels of less than 1,600 GRT is—

(1) Four years total service on ocean or near-coastal waters. Service on Great Lakes and inland waters may substitute for up to 2 years of the required service. Two years of the required service must have been on vessels of more than 100 GRT. Two years of the required service must have been as a master or mate of self-propelled vessels, or master or mate (pilot) of towing vessels, or equivalent position while holding a license or MMC endorsement as master or mate of self-propelled vessels, or master or mate (pilot) of towing vessels. One year of the service as master or mate of self-propelled vessels, or master or mate (pilot) of towing vessels, or equivalent position must have been on vessels of more than 100 GRT; or

(2) One year of service on vessels of more than 100 GRT on ocean or near-

coastal waters as a master or mate of self-propelled vessels, or master or mate of towing vessels while holding a license or MMC endorsement as mate of ocean self-propelled vessels of less than 1,600 GRT or as master or mate of towing vessels.

(b) An applicant holding a license or MMC endorsement as chief mate of ocean or near-coastal self-propelled vessels of 1,600 GRT or more is eligible for this endorsement without further examination. An applicant holding a license or MMC endorsement as second mate of ocean or near-coastal self-propelled vessels of 1,600 GRT or more is eligible for this endorsement upon completion of a limited examination.

(c) A person holding this endorsement may qualify for an STCW endorsement, according to § 11.311 of this part.

§ 11.414 Service requirements for mate of ocean self-propelled vessels of less than 1,600 GRT.

(a) The minimum service required to qualify an applicant for an endorsement as mate of self-propelled vessels of less than 1,600 GRT is—

(1) Three years of total service in the deck department of ocean or near-coastal self-propelled, sail, or auxiliary sail vessels, as follows:

(i) Service on Great Lakes and inland waters may substitute for up to 18 months of the required service.

(ii) One year of the required service must have been on vessels of more than 100 GRT.

(iii) One year of the required service must have been as a master or mate of self-propelled vessels, or master or mate (pilot) of towing vessels, or equivalent position while holding a license or MMC endorsement as master, mate, or master or mate (pilot) of towing vessels. Six months of the required service as master or mate of self propelled vessels, or master or mate (pilot) of towing vessels, or equivalent position must have been on vessels of more than 100 GRT; or

(2) Three years of total service in the deck department on ocean or near-coastal self-propelled, sail, or auxiliary sail vessels of more than 100 GRT. Six months of the required service must have been while performing bridge watchkeeping duties under the supervision of the master or a qualified officer.

(b) A person holding this endorsement may qualify for an STCW endorsement, according to § 11.309 of this part.

§ 11.416 Service requirements for mate of near-coastal self-propelled vessels of less than 1,600 GRT.

(a) The minimum service required to qualify an applicant for an endorsement as mate of near-coastal self-propelled vessels of less than 1,600 GRT is 2 years of total service in the deck department of ocean or near-coastal self-propelled, sail, or auxiliary sail vessels. Service on Great Lakes and inland waters may substitute for up to 1 year of the required service. One year of the required service must have been on vessels of more than 100 GRT. Six months of the required service must have been while performing bridge watchkeeping duties under the supervision of the master or a qualified officer.

(b) A person holding this endorsement may qualify for an STCW endorsement, according to § 11.309 of this part.

§ 11.418 Service requirements for master of ocean or near-coastal self-propelled vessels of less than 500 GRT.

(a) The minimum service required to qualify an applicant for an endorsement as master of ocean or near-coastal self-propelled vessels of less than 500 GRT is—

(1) Three years total of service on ocean or near-coastal waters. Service on Great Lakes and inland waters may substitute for up to 18 months of the required service. Two years of the required service must have been as a master, mate, or equivalent position while holding a license or MMC endorsement as master, mate, or operator of uninspected passenger vessels. One year of the required service as master, mate, or equivalent position must have been on vessels of more than 50 GRT; or

(2) One year of service on vessels of more than 50 GRT on ocean or near-coastal waters as a master or mate of self-propelled vessels, or master or mate of towing vessels while holding a license or MMC endorsement as mate of ocean self-propelled vessels of less than 500 GRT.

(b) The holder of a license or MMC endorsement as master or mate (pilot) of towing vessels authorizing service on oceans or near-coastal routes is eligible for an endorsement as master of ocean or near-coastal self-propelled vessels of less than 500 GRT after both 1 year of service as master or mate of towing vessels on oceans or near-coastal routes and completion of a limited examination.

(c) A person holding this endorsement may qualify for an STCW endorsement, according to §§ 11.307, 11.309, 11.311, 11.313, and 11.315 of this part.

§ 11.420 Service requirements for mate of ocean self-propelled vessels of less than 500 GRT.

(a) The minimum service required to qualify an applicant for an endorsement as mate of ocean self-propelled vessels of less than 500 GRT is 2 years of total service in the deck department of ocean or near-coastal self-propelled, sail, or auxiliary sail vessels. Service on Great Lakes and inland waters may substitute for up to 1 year of the required service. One year of the required service must have been as a master, mate, or equivalent position while holding a license or endorsement as master, mate, or operator of uninspected passenger vessels. Six months of the required service as master, mate, or equivalent position must have been on vessels of more than 50 GRT.

(b) A person holding this endorsement may qualify for an STCW endorsement, according to §§ 11.309, 11.317, 11.319, and 11.321 of this part.

§ 11.421 Service requirements for mate of near-coastal self-propelled vessels of less than 500 GRT.

(a) The minimum service required to qualify an applicant for an endorsement as mate of near-coastal self-propelled vessels of less than 500 GRT is 2 years of total service in the deck department of ocean or near-coastal self-propelled, sail, or auxiliary sail vessels. Service on Great Lakes and inland waters may substitute for up to 1 year of the required service. One year of the required service must have been on vessels of more than 50 GRT. Three months of the required service must have been while performing bridge watchkeeping duties under the supervision of the master or a qualified officer on vessels of more than 50 GRT.

(b) A person holding this endorsement may qualify for an STCW endorsement, according to §§ 11.309, 11.317, 11.319, and 11.321 of this part.

§ 11.422 Tonnage limitations and qualifying requirements for endorsements as master or mate of vessels of less than 200 GRT.

(a) Each national endorsement as master or mate of vessels of less than 200 GRT is issued with a tonnage limitation based on the applicant's qualifying experience. The tonnage limitation will be issued at the 25, 50, 100, or 200 GRT level. The endorsement will be limited to the maximum GRT on which at least 25 percent of the required experience was obtained, or 150 percent of the maximum GRT on which at least 50 percent of the service was obtained,

whichever is higher. Limitations are as stated above, using the next higher figure when an intermediate tonnage is calculated. If more than 75 percent of the qualifying experience is obtained on vessels of 5 GRT or less, the MMC will automatically be limited to vessels of less than 25 GRT.

(b) The tonnage limitation may be raised as follows:

(1) For an endorsement as mate, with at least 45 days of additional service on deck of a vessel in the highest tonnage increment authorized by the officer endorsement.

(2) For an endorsement as master, with at least 90 days of additional service on deck of a vessel in the highest tonnage increment authorized by the master endorsement.

(3) With additional service, which, when combined with all previously accumulated service, will qualify the applicant for a higher tonnage officer endorsement under the basic formula specified in paragraph (a) of this section.

(4) With 6 months additional service in the deck department on vessels within the highest tonnage increment on the officer's license or MMC endorsement. In this case, the tonnage limitation may be raised one increment.

(c) When the service is obtained on vessels upon which no personnel need an officer endorsement or license, the Coast Guard must be satisfied that the nature of this required service (i.e., size of vessel, route, equipment, etc.) is a reasonable equivalent to the duties performed on vessels which are required to engage individuals with officer endorsements.

(d) Service gained in the engine room on vessels of 200 GRT or less may be creditable for up to 90 days of the deck service requirements for mate.

§ 11.424 Requirements for master of ocean self-propelled vessels of less than 200 GRT.

(a) The minimum service required to qualify an applicant for an officer endorsement as master of ocean self-propelled vessels of less than 200 GRT is—

(1) Three years of total service on ocean or near-coastal waters. Service on Great Lakes and inland waters may substitute for up to 18 months of the required service. Two years of the required service must have been as master, mate, or equivalent position while holding a license or MMC endorsement as master, as mate, or as operator of uninspected passenger vessels; or

(2) Two years of total service as a master or mate of ocean or near-coastal towing vessels. Completion of an examination is also required.

(b) In order to obtain an officer endorsement for sail or auxiliary sail vessels, the applicant must submit evidence of 12 months of service on sail or auxiliary sail vessels. The required 12 months of service may have been obtained prior to issuance of the master's license or MMC endorsement.

(c) A person holding this endorsement may qualify for an STCW endorsement, according to §§ 11.315, 11.317, 11.319, and 11.321 of this part.

§ 11.425 Requirements for mate of ocean self-propelled vessels of less than 200 GRT.

(a) The minimum service required to qualify for the endorsement as mate of ocean self-propelled vessels of less than 200 GRT is—

(1) Twelve months of total service in the deck department of ocean or near-coastal self-propelled, sail, or auxiliary sail vessels. Service on Great Lakes and inland waters may substitute for up to 6 months of the required service; or

(2) Three months of service in the deck department of self-propelled vessels operating on ocean, near-coastal, Great Lakes, or inland waters while holding a license or MMC endorsement as master of inland self-propelled, sail, or auxiliary sail vessels of less than 200 GRT.

(b) The holder of a license or MMC endorsement as operator of uninspected passenger vessels with a near-coastal route endorsement may obtain this endorsement by successfully completing an examination on rules and regulations for small passenger vessels.

(c) To obtain this officer endorsement for sail or auxiliary sail vessels, the applicant must submit evidence of 6 months of deck service on sail or auxiliary sail vessels.

(d) A license or MMC endorsement as master of near-coastal self-propelled vessels may be endorsed as mate of sail or auxiliary sail vessels upon presentation of 3 months of service on sail or auxiliary sail vessels.

(e) To obtain a tonnage endorsement for 100 GRT or more, the applicant must complete the additional examination topics indicated in subpart I of this part.

(f) A person holding this endorsement may qualify for an STCW endorsement, according to §§ 11.319 and 11.321 of this part.

§ 11.426 Requirements for master of near-coastal self-propelled vessels of less than 200 GRT.

(a) The minimum service required to qualify for a master of near-coastal self-propelled vessels of less than 200 GRT is—

(1) Two years total service on ocean or near-coastal waters. Service on Great Lakes and inland waters may substitute for up to 1 year of the required service. One year of the required service must have been as a master, mate, or equivalent position while holding a license or endorsement as master, mate, or operator of uninspected passenger vessels; or

(2) One year of total service as master or mate of towing vessels on ocean or near-coastal routes. Completion of an examination is also required.

(b) To obtain this officer endorsement for sail or auxiliary sail vessels, the applicant must submit evidence of 12 months of service on sail or auxiliary sail vessels. These 12 months of experience may have been obtained before qualifying for an officer endorsement.

(c) Holders of this endorsement are considered to be in compliance with the STCW Convention (incorporated by reference, see § 11.102) while operating within the limitations of this endorsement.

§ 11.427 Requirements for mate of near-coastal self-propelled vessels of less than 200 GRT.

(a) The minimum service required to qualify for the endorsement as mate of near-coastal self-propelled vessels of less than 200 GRT is—

(1) Twelve months of total service in the deck department of ocean or near-coastal self-propelled, sail, or auxiliary sail vessels. Service on Great Lakes and inland waters may substitute for up to 6 months of the required service; or

(2) Three months of service in the deck department of self-propelled vessels operating on ocean, near-coastal, Great Lakes, or inland waters while holding a license or MMC endorsement as master of inland self-propelled, sail, or auxiliary sail vessels of less than 200 GRT.

(b) The holder of a license or MMC endorsement as operator of uninspected passenger vessels with a near-coastal route endorsement may obtain this endorsement by successfully completing an examination on rules and regulations for small passenger vessels.

(c) To obtain this officer endorsement for sail or auxiliary sail vessels, the applicant must submit evidence of 6 months of deck service on sail or auxiliary sail vessels.

(d) A license or MMC endorsement as master of near-coastal self-propelled vessels may be endorsed as mate of sail or auxiliary sail vessels upon presentation of 3 months of service on sail or auxiliary sail vessels.

(e) To obtain a tonnage endorsement for 100 GRT or more, the applicant must complete the additional examination topics indicated in subpart I of this part.

(f) Holders of this endorsement are considered to be in compliance with the STCW Convention (incorporated by reference, see § 11.102) while operating within the limitations of this endorsement.

§ 11.428 Requirements for master of near-coastal self-propelled vessels of less than 100 GRT.

(a) The minimum service required to qualify for the endorsement as master of self-propelled, seagoing vessels of less than 100 GRT limited to domestic voyages upon near-coastal waters is 2 years of service in the deck department of a self-propelled vessel on ocean or near-coastal waters. Service on Great Lakes and inland waters may substitute for up to 1 year of the required service.

(b) To obtain an endorsement for sail or auxiliary sail vessels, the applicant must submit evidence of 12 months of service on sail or auxiliary-sail vessels. This required service may have been obtained before issuance of the license or MMC.

(c) Holders of this endorsement are considered to be in compliance with the STCW Convention (incorporated by reference, see § 11.102 of this part) while operating within the limitations of this endorsement.

(d) All endorsements issued for master or mate of vessels of less than 100 GRT are issued in tonnage increments based on the applicant's qualifying experience in accordance with the provisions of § 11.422 of this subpart.

§ 11.429 Requirements for a limited master of near-coastal self-propelled vessels of less than 100 GRT.

(a) An endorsement as limited master for service on near-coastal waters on vessels of less than 100 GRT may be issued to an applicant to be employed by organizations such as yacht clubs, marinas, formal camps, and educational institutions. An endorsement issued under this section is limited to the specific activity and the locality of the yacht club, marina, or camp. To obtain this restricted endorsement, an applicant must—

(1) Have 4 months of service on any waters in the operation of the type of vessel for which the endorsement is requested;

(2) Satisfactorily complete a safe boating course approved by the National Association of State Boating Law Administrators, or a safe boating course conducted by the U.S. Power Squadron or the American Red Cross, or a Coast Guard-approved course. This course must have been completed within 5 years before the date of application; and

(3) Pass a limited examination appropriate for the activity to be conducted and the route authorized.

(b) The first aid and cardiopulmonary resuscitation (CPR) course certificates required by § 11.201(i) of this part will only be required when, in the opinion of the Coast Guard, the geographic area over which service is authorized precludes obtaining medical services within a reasonable time.

(c) To obtain an endorsement for sail or auxiliary sail vessels, the applicant must submit evidence of 4 months of service on sail or auxiliary sail vessels. The required 4 months of service may have been obtained prior to issuance of the license or MMC endorsement.

(d) Holders of this endorsement are considered to be in compliance with the STCW Convention (incorporated by reference, see § 11.102 of this part) while operating within the limitations of this endorsement.

§ 11.430 Endorsements for the Great Lakes and inland waters.

(a) Any officer endorsement issued for service on Great Lakes and inland waters self-propelled vessels, excluding towing vessels, is valid on all of the inland waters of the United States as defined in § 10.107 of this subchapter.

(b) Any officer endorsement issued for service on inland waters self-propelled vessels, excluding towing vessels, is valid for the inland waters of the United States, excluding the Great Lakes.

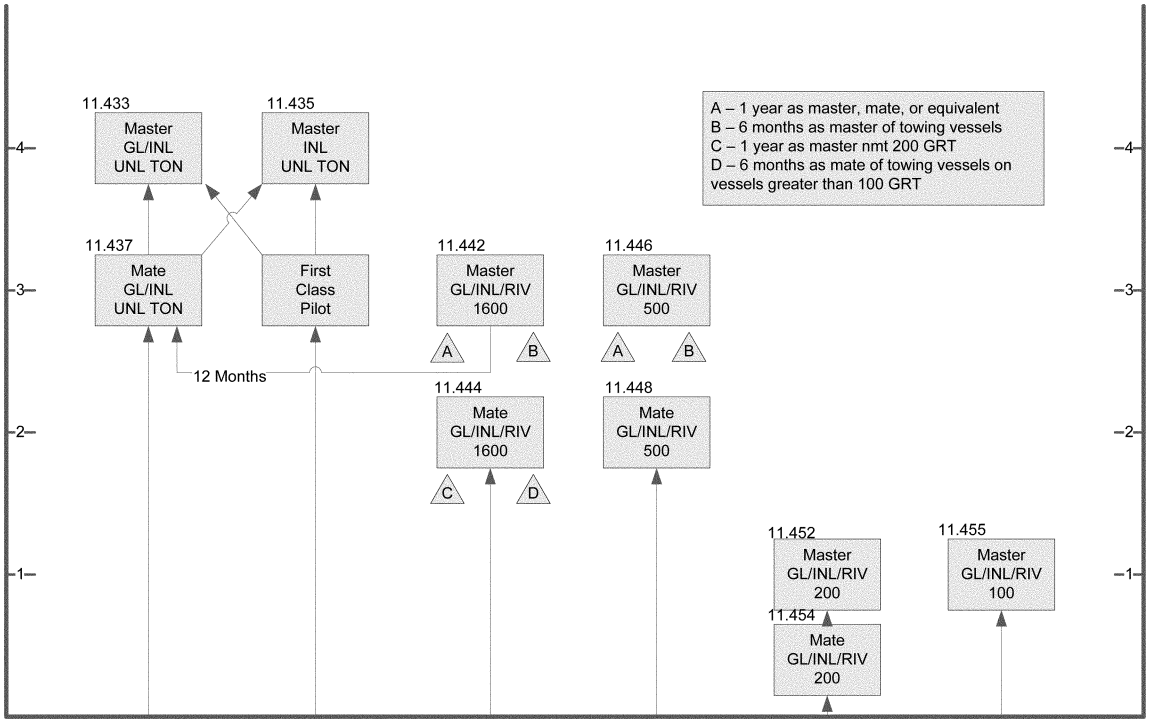
(c) Any officer endorsement issued for service on inland waters or an inland route is valid for service on the sheltered waters of the Inside Passage between Puget Sound and Cape Spencer, Alaska.

(d) Because these officer endorsements authorize service on waters seaward of the International Regulations for Preventing Collisions at Sea (COLREGS) demarcation lines, as defined in 33 CFR part 80, the applicant must complete an examination on the COLREGS or the endorsement will exclude such waters.

(e) To obtain a master or mate endorsement with a tonnage limit of 200 GRT or more, whether an original, raise-in-grade, or increase in the scope of authority, the applicant must meet the training requirements in § 11.201(h) and (i) of this part and successfully complete radar observer training in § 11.480 of this part.

(f) Figure 11.430(f) illustrates the deck officer endorsement structure, including crossover points, for Great Lakes and inland waters service. The section numbers on the diagram refer to the specific requirements applicable.

Figure 11.430(f) -- Structure of deck officer endorsements for Great Lakes and inland waters service



§ 11.431 Tonnage requirements for Great Lakes and inland endorsements for vessels of 1,600 GRT or more.

(a) All required experience for Great Lakes and inland unlimited endorsements must be obtained on vessels of 100 GRT or more. At least one-half of the required experience must be obtained on vessels of 1,600 GRT or more.

(b) Tonnage limitations may be imposed on these endorsements in accordance with § 11.402(b) and (c) of this subpart.

§ 11.433 Requirements for master of Great Lakes and inland self-propelled vessels of unlimited tonnage.

(a) The minimum service required to qualify an applicant for an endorsement as master of Great Lakes and inland self-propelled vessels of unlimited tonnage is—

(1) One year of service as a mate or first-class pilot while acting in the capacity of first mate of Great Lakes self-propelled vessels of 1,600 GRT or more while holding a license or MMC endorsement as mate inland or first-class pilot of Great Lakes and inland self-propelled vessels of unlimited tonnage;

(2) Two years of service as master of self-propelled vessels of 1,600 GRT or more on inland waters, excluding the Great Lakes; or

(3) One year of service upon Great Lakes waters while holding a license or MMC endorsement as mate or first-class pilot of Great Lakes and inland self-propelled vessels of 1,600 GRT or more. A minimum of 6 months of this service must have been in the capacity of first mate. Service as second mate is accepted for the remainder on a two-for-one basis to a maximum of 6 months (2 days of service equals 1 day of creditable service).

(b) [Reserved]

§ 11.435 Requirements for master of inland self-propelled vessels of unlimited tonnage.

(a) The minimum service required to qualify an applicant for an endorsement as master of self-propelled vessels of unlimited tonnage on inland waters, excluding the Great Lakes is—

(1) One year of service as first-class pilot (of other than canal and small lakes routes) or mate of Great Lakes or inland self-propelled vessels of 1,600 GRT or more while holding a license or MMC endorsement as mate inland or first-class pilot of Great Lakes and inland self-propelled vessels of unlimited tonnage; or

(2) Two years of service performing bridge watchkeeping duties under the supervision of the master or a qualified officer while holding a mate/first-class pilot license or MMC endorsement.

(b) [Reserved]

§ 11.437 Requirements for mate of Great Lakes and inland self-propelled vessels of unlimited tonnage.

(a) The minimum service required to qualify an applicant for an endorsement as mate of Great Lakes and inland self-propelled vessels of unlimited tonnage is—

(1) Three years of service in the deck department of self-propelled vessels, at least 3 months of which must have been on vessels on inland waters and at least 6 months of which must have been while performing bridge watchkeeping duties under the supervision of the master or a qualified officer;

(2) Graduation from the deck class of the Great Lakes Maritime Academy; or

(3) While holding a license or MMC endorsement as master of Great Lakes and inland self-propelled vessels of less than 1,600 GRT, 1 year of service as master on vessels of 200 GRT or more. A tonnage limitation may be placed on this license in accordance with § 11.431 of this subpart.

(b) Service gained in the engine department on vessels of appropriate tonnage may be creditable for up to 6

months of the service requirements under paragraph (a)(1) of this section.

§ 11.442 Requirements for master of Great Lakes and inland self-propelled vessels of less than 1,600 GRT.

(a) The minimum service required to qualify an applicant for an endorsement as master of Great Lakes and inland self-propelled vessels of less than 1,600 GRT is—

(1) Three years of total service on vessels. Eighteen months of the required service must have been on vessels of 100 GRT or more. One year of the required service must have been as a master, mate, or equivalent position on vessels of 100 GRT or more while holding a license or MMC endorsement as master, mate, or master of towing vessels; or

(2) Six months of service as operator on vessels of 100 GRT or more while holding a license or MMC endorsement as master of towing vessels.

(b) [Reserved]

§ 11.444 Requirements for mate of Great lakes and inland self-propelled vessels of less than 1,600 GRT.

(a) The minimum service required to qualify an applicant for an endorsement as mate of Great Lakes and inland self-propelled vessels of less than 1,600 GRT is—

(1) Two years of total service in the deck department of self-propelled vessels. One year of the required service must have been on vessels of 100 GRT or more. Six months of the required service must have been while performing bridge watchkeeping duties under the supervision of the master or a qualified officer on vessels of 100 GRT or more;

(2) One year of total service as master of self-propelled, sail, or auxiliary sail vessels, or operator of uninspected passenger vessels of 50 GRT or more while holding a license or MMC endorsement as master of self-propelled vessels of less than 200 GRT or OUPV; or

(3) Six months of total service as mate (pilot) of towing vessels on vessels of 100 GRT or more.

(b) [Reserved]

§ 11.446 Requirements for master of Great Lakes and inland self-propelled vessels of less than 500 GRT.

(a) The minimum service required to qualify an applicant for an endorsement as master of Great Lakes and inland self-propelled vessels of less than 500 GRT is—

(1) Three years of total service on vessels. One year of the required service must have been as a master, mate, or equivalent position on vessels of 50 GRT or more while holding a license or MMC endorsement as master, mate, or OUPV.

(2) [Reserved]

(b) An applicant holding a license or MMC endorsement as master of ocean, near-coastal, or Great Lakes and inland towing vessels is eligible for this endorsement after 6 months of service as master of towing vessels and completion of a limited examination. This requires 3 1/2 years of service. Two years of this service must have been served while holding a license or MMC endorsement as master or mate (pilot) of towing vessels, or mate.

§ 11.448 Requirements for mate of Great Lakes and inland self-propelled vessels of less than 500 GRT.

The minimum service required to qualify an applicant for an endorsement as mate of Great Lakes and inland self-propelled vessels of less than 500 GRT is 2 years of total service in the deck department of self-propelled vessels. One year of the required service must have been on vessels of 50 GRT or more. Three months of the required service must have been while performing bridge watchkeeping duties under the supervision of the master or a qualified officer on vessels of 50 GRT or more.

§ 11.450 Tonnage limitations and qualifying requirements for endorsements as master or mate of Great Lakes and inland vessels of less than 200 GRT.

(a) Except as noted in paragraph (d) of this section, all endorsements issued for master or mate of vessels of less than 200 GRT are issued in 50 GRT increments based on the applicant's qualifying experience in accordance with the provisions of § 11.422 of this subpart.

(b) Service gained in the engineroom on vessels of less than 200 GRT may be creditable for up to 25 percent of the deck service requirements for mate.

(c) When the service is obtained on vessels upon which personnel with licenses or endorsements are not required, the Coast Guard must be satisfied that the nature of this required service (i.e., size of vessel, route, equipment, etc.) is a reasonable equivalent to the duties performed on vessels which are required to engage individuals with endorsements.

(d) If more than 75 percent of the qualifying experience is obtained on vessels of 5 GRT or less, the license will automatically be limited to vessels of less than 25 GRT.

§ 11.452 Requirements for master of Great Lakes and inland self-propelled vessels of less than 200 GRT.

(a) The minimum service required to qualify an applicant for an endorsement or license as master of Great Lakes and inland self-propelled vessels of less than 200 GRT is 1 year of service on vessels. Six months of the required service must have been as master, mate, or equivalent position while holding a license or endorsement as master or mate of self-propelled vessels, or master or mate (pilot) of towing vessels, or OUPV. To obtain authority to serve on the Great Lakes, 3 months of the required service must have been on Great Lakes waters; otherwise the endorsement will be limited to the inland waters of the United States (excluding the Great Lakes).

(b) To obtain an endorsement for sail or auxiliary sail vessels, the applicant must have 6 months of service on sail or auxiliary sail vessels. This required service may have been obtained prior to issuance of the license or MMC endorsement as master.

§ 11.454 Requirements for mate of Great Lakes and inland self-propelled vessels of less than 200 GRT.

(a) The minimum service required to qualify an applicant for an endorsement as mate of Great Lakes and inland self-propelled vessels of less than 200 GRT is 6 months of service in the deck department of self-propelled vessels. To obtain authority to serve on the Great Lakes, 3 months of the required service must have been on Great Lakes waters; otherwise the endorsement will be limited to the inland waters of the United States (excluding the Great Lakes).

(b) To obtain an endorsement for sail or auxiliary sail vessels, the applicant must submit evidence of 3 months of service on sail or auxiliary sail vessels.

(c) A mariner holding an endorsement as master of self-propelled vessels may be endorsed as mate of sail or auxiliary sail vessels upon presentation of 3 months service on sail or auxiliary sail vessels.

(d) The holder of a license or MMC endorsement as operator of inland uninspected passenger vessels may obtain this endorsement by successfully completing an examination on rules and regulations for small passenger vessels. To obtain authority to serve on the Great Lakes, 3 months of the required service must have been on Great Lakes waters; otherwise the endorsement will be limited to the inland waters of the United States (excluding the Great Lakes).

(e) To obtain a tonnage endorsement for 100 GRT or more, the applicant must complete the additional examination topics indicated in subpart I of this part.

§ 11.455 Requirements for master of Great Lakes and inland self-propelled vessels of less than 100 GRT.

(a) The minimum service required to qualify an applicant for an endorsement as master of Great Lakes and inland self-propelled vessels of less than 100 GRT is 1 year of total service in the deck department of self-propelled, sail, or auxiliary sail vessels. To obtain authority to serve on the Great Lakes, 3 months of the required service must have been on Great Lakes waters; otherwise the endorsement will be limited to the inland waters of the United States (excluding the Great Lakes).

(b) To obtain an endorsement for sail or auxiliary sail vessels, the applicant must submit evidence of 6 months of service on sail or auxiliary sail vessels. The required 6 months of service may have been obtained prior to issuance of the endorsement.

(c) All endorsements issued for master or mate of vessels of less than 100 GRT are issued in tonnage increments based on the applicant's qualifying experience in accordance with the provisions of § 11.422 of this subpart.

§ 11.456 Requirements for limited master of Great Lakes and inland self-propelled vessels of less than 100 GRT.

(a) An endorsement as limited master for vessels of less than 100 GRT upon Great Lakes and inland waters may be issued to an applicant to be employed by organizations such as formal camps, educational institutions, yacht clubs, and marinas with reduced service requirements. An endorsement issued under this paragraph is limited to the specific activity and the locality of the camp, yacht club, or marina. To obtain this restricted endorsement, an applicant must—

(1) Have 4 months of service in the operation of the type of vessel for which the endorsement is requested;

(2) Satisfactorily complete a safe boating course approved by the National Association of State Boating Law Administrators, a public education course conducted by the U.S. Power Squadron or the American Red Cross, or a Coast Guard-approved course. This course must have been completed within 5 years before the date of application; and

(3) Pass a limited examination appropriate for the activity to be conducted and the route authorized.

(b) The first aid and cardiopulmonary resuscitation (CPR) course certificates required by § 11.201(i) of this part will only be required when, in the opinion of the Coast Guard, the geographic area over which service is authorized precludes obtaining medical services within a reasonable time.

§ 11.457 Requirements for master of inland self-propelled vessels of less than 100 GRT.

(a) An applicant for an endorsement as master of inland self-propelled vessels of less than 100 GRT must present 1 year of service on any waters. In order to raise the tonnage limitation to more than 100 GRT, the examination topics indicated in subpart I of this part must be completed in addition to satisfying the experience requirements of § 11.452(a) of this subpart.

(b) To obtain an endorsement for sail or auxiliary sail vessels, the applicant must submit evidence of 6 months of service on sail or auxiliary sail vessels. The required 6 months of service may have been obtained prior to issuance of the license or MMC endorsement.

(c) All endorsements issued for master or mate of vessels of less than 100 GRT are issued in tonnage increments based on the applicant's qualifying experience in accordance with the provisions of § 11.422 of this subpart.

§ 11.459 Requirements for national endorsement as master or mate of rivers.

(a) An applicant for an endorsement as master of river self-propelled vessels of unlimited tonnage must meet the same service requirements as master of inland self-propelled vessels of unlimited tonnage.

(b) An applicant for an endorsement as master or mate of river self-propelled vessels, with a limitation of 25 to 1,600 GRT, must meet the same service requirements as those required by this subpart for the corresponding tonnage Great Lakes and inland self-propelled endorsement. Service on the Great Lakes is not, however, required.

§ 11.462 Requirements for national endorsement as master or mate of uninspected fishing industry vessels.

(a) This section applies to endorsements for masters and mates of all vessels, however propelled, navigating the high seas, which are documented to engage in the fishing industry, with the exception of—

(1) Wooden ships of primitive build;

(2) Unrigged vessels; and

(3) Vessels of less than 200 GRT.

(b) Endorsements as master or mate of uninspected fishing industry vessels are issued for either ocean or near-coastal routes, depending on the examination completed. To qualify for an uninspected fishing industry vessel endorsement, the applicant must satisfy the training and examination requirements of § 11.201(h)(1) of this part.

(c) An applicant for an endorsement as master of uninspected fishing industry vessels must have 4 years of total service on ocean or near-coastal routes. Service on Great Lakes or inland waters may substitute for up to 2 years of the required service. One year of the required service must have been as master, mate, or equivalent position while holding a license or MMC endorsement as master or mate of self-propelled vessels, or master or mate (pilot) of towing vessels, or OUPV.

(1) To qualify for an endorsement for less than 500 GRT, at least 2 years of the required service, including the 1 year as master, mate, or equivalent, must have been on vessels of 50 GRT or more.

(2) To qualify for an endorsement for less than 1,600 GRT, at least 2 years of the required service, including the 1 year as master, mate, or equivalent, must have been on vessels of 100 GRT or more.

(3) To qualify for an endorsement for more than 1,600 GRT, but not more than 5,000 GRT, the vessel tonnage upon which the 4 years of required service was obtained will be used to compute the tonnage. The endorsement is limited to the maximum tonnage on which at least 25 percent of the required service was obtained or 150 percent of the maximum tonnage on which at least 50 percent of the service was obtained, whichever is higher. Limitations are in multiples of 1,000 GRT, using the next higher figure when an intermediate tonnage is calculated. An endorsement as master of uninspected fishing industry vessels authorizing service on vessels more than 1,600 GRT also requires 1 year as master, mate, or equivalent on vessels of 100 GRT or more.

(4) The tonnage limitation for this endorsement may be raised using one of the following methods but cannot exceed 5,000 GRT. Limitations are in multiples of 1,000 GRT, using the next higher figure when an intermediate tonnage is calculated.

(i) Three months of service as master on a vessel results in a limitation in that capacity equal to the tonnage of that vessel rounded up to the next multiple of 1,000 GRT.

(ii) Six months of service as master on a vessel results in a limitation in that capacity equal to 150 percent of the tonnage of that vessel.

(iii) Six months of service as master on vessels more than 1,600 GRT results in raising the limitation to 5,000 GRT.

(iv) Six months of service as mate on vessels more than 1,600 GRT results in raising the limitation for master to the tonnage on which at least 50 percent of the service was obtained.

(v) Two years of service as a deckhand on a vessel while holding a license or MMC endorsement as master results in a limitation on the MMC equal to 150 percent of the tonnage of that vessel up to 5,000 GRT.

(vi) One year of service as deckhand on a vessel while holding a license or MMC endorsement as master results in a limitation on the MMC equal to the tonnage of that vessel.

(d) An applicant for an endorsement as mate of uninspected fishing industry vessels must have 3 years of total service on ocean or near-coastal routes. Service on Great Lakes or inland waters may substitute for up to 18 months of the required service.

(1) To qualify for an endorsement of less than 500 GRT, at least 1 year of the required service must have been on vessels of 50 GRT or more.

(2) To qualify for an endorsement of less than 1,600 GRT, at least 1 year of the required service must have been on vessels of 100 GRT or more.

(3) To qualify for an endorsement of more than 1,600 GRT, but not more than 5,000 GRT, the vessel tonnage upon which the 3 years of required service was obtained will be used to compute the tonnage. The endorsement is limited to the maximum tonnage on which at least 25 percent of the required service was obtained, or 150 percent of the maximum tonnage on which at least 50 percent of the service was obtained, whichever is higher. Limitations are in multiples of 1,000 GRT, using the next higher figure when an intermediate tonnage is calculated.

(4) The tonnage limitation on this endorsement may be raised using one of the following methods, but cannot exceed 5,000 GRT. Limitations are in multiples of 1,000 GRT, using the next higher figure when an intermediate tonnage is calculated.

(i) Three months of service as mate on a vessel results in a limitation in that capacity equal to the tonnage of that vessel rounded up to the next multiple of 1,000 GRT.

(ii) Six months of service as mate on a vessel results in a limitation in that capacity equal to 150 percent of the tonnage of that vessel.

(iii) Six months of service as mate on vessels more than 1,600 GRT results in raising the limitation to 5,000 GRT.

(iv) One year of service as deckhand on vessels more than 1,600 GRT while holding a license or MMC endorsement as mate, results in raising the limitation on the MMC to 5,000 GRT;

(v) Two years of service as a deckhand on a vessel while holding a license or MMC endorsed as mate results in a limitation on the MMC equal to 150 percent of the tonnage of that vessel up to 5,000 GRT.

(vi) One year of service as deckhand on a vessel while holding a license or MMC endorsement as mate results in a limitation on the MMC equal to the tonnage of that vessel.

(e) Applicants may request an oral examination on the subjects listed in subpart I of this part.

§ 11.463 General requirements for national endorsements as master, mate (pilot), and apprentice mate (steersman) of towing vessels.

(a) The Coast Guard issues the following endorsements for towing vessels:

(1) Master of towing vessels.

(2) Master of towing vessels, limited.

(3) Mate (pilot) of towing vessels.

(4) Apprentice mate (steersman).

(5) Apprentice mate (steersman), limited.

(b) An endorsement as master of towing vessels means an endorsement to operate towing vessels not restricted to local areas designated by OCMIs. This also applies to a mate (pilot) of towing vessels.

(c) For this section, ''limited'' means an endorsement to operate a towing vessel of less than 200 GRT only within a local area on the Great Lakes, inland waters, or Western Rivers designated by the OCMI.

(d) Mariners who met the training and service requirements for towing vessels before May 21, 2001, and have maintained a valid Coast Guard-issued credential may obtain a towing endorsement if they meet the following:

(1) Demonstrate at least 90 days of towing service before May 21, 2001.

(2) Provide evidence of successfully completing the apprentice mate exam, its predecessor exam, or a superior exam.

(3) Meet the renewal requirements in § 10.227(e)(6)(i) of this subchapter.

(e) Mariners who operated towing vessels in the offshore oil and mineral industry prior to October 15, 2010, may obtain a towing endorsement until December 24, 2018 as follows:

(1) Mariners who held officer endorsements as operator of uninspected towing vessels (OUTV) or mate or master of inspected self-propelled vessels may qualify for a towing endorsement if they meet the following:

(i) Provide evidence of at least 90 days of service on towing vessels in the offshore oil and mineral industry prior to October 15, 2010.

(ii) Provide evidence of successfully completing the apprentice mate (steersman) examination, its predecessor exam, or a superior exam.

(iii) Meet the renewal requirements in § 10.227(e)(6) of this subchapter.

(2) Mariners who have not held any of the officer endorsements listed in paragraph (e)(1) of this section may qualify for an endorsement as master of towing vessels if they meet the following:

(i) Provide evidence of at least 48 months of service on towing vessels in the offshore oil and mineral industry prior to October 15, 2010.

(ii) Successfully complete the appropriate apprentice mate (steersman) exam.

(3) Mariners who have not held any of the officer endorsements listed in paragraph (e)(1) of this section may qualify for an endorsement as mate of towing vessels if they meet the following:

(i) Provide evidence of at least 36 months of service on towing vessels in the offshore oil and mineral industry prior to October 15, 2010.

(ii) Successfully complete the appropriate apprentice mate (steersman) exam.

(f) Deck officers who serve on the following seagoing vessels must comply with the requirements of §§ 11.309 and 11.311 of this subpart for the appropriate STCW endorsement:

(1) A towing vessel on an oceans voyage operating beyond near-coastal waters.

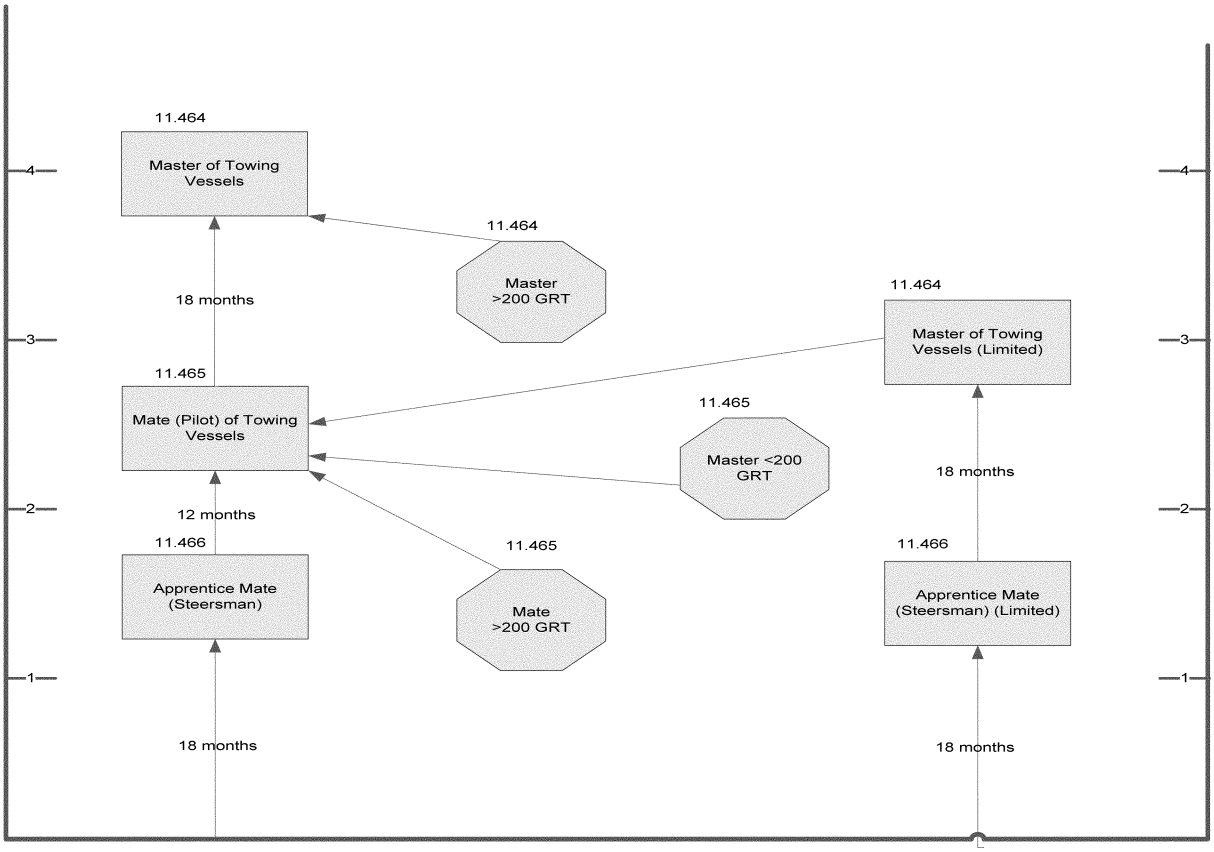
(2) A towing vessel on an international voyage.

(3) A towing vessel of 200 GRT or more on a domestic, near-coastal voyage.

(g) Endorsements as mate (pilot) or master of towing vessels may be issued with a restriction to specific types of towing vessels and/or towing operations such as articulated tug barge (ATB) vessels that do not routinely perform all of the tasks identified in the Towing Officer Assessment Record (TOAR).

(h) Figure 11.463(h) illustrates the towing officer endorsement structure, including crossover points. The section numbers on the diagram refer to the specific requirements applicable.

Figure 11.463(h) -- Structure of towing officer endorsements



§ 11.464 Requirements for national endorsements as master of towing vessels.

(a) An applicant for an endorsement as master of towing vessels with a route listed in column 1 of table 1 to this section, must complete the service requirements indicated in columns 2 through 5. Applicants may serve on the subordinate routes listed in column 5 without further endorsement.

TABLE 1 TO § 11.464(a)—REQUIREMENTS FOR ENDORSEMENT AS MASTER OF TOWING VESSELS [1]

1 Route endorsed	2 Total service [2]	3 TOS [3] on T/V as mate (pilot)	4 TOS [3] on particular route	5 Sub-ordinate route authorized
(1) OCEANS (O)	48	18	3	NC, GL–I.
(2) NEAR-COASTAL (NC)	48	18	3	GL–I.
(3) GREAT LAKES-INLAND (GL–I)	48	18	3	None.
(4) WESTERN RIVERS (WR)	48	18	3	None.

[1] The holder of an endorsement as master of towing vessels may have an endorsement placed on the MMC as mate (pilot) of towing vessels for a route superior to the current route on which the holder has no operating experience after passing an examination for that additional route. After the holder completes 90 days of experience and completes a Towing Officer Assessment Record (TOAR) on that route, the Coast Guard will add it to the holder's endorsement as master of towing vessels and remove the endorsement for mate (pilot) of towing vessels.
[2] Service is in months.
[3] TOS is time of service.

(b) A person holding this endorsement may qualify for an STCW endorsement, according to §§ 11.307, 11.311, 11.313, and 11.315 of this part.

(c) To obtain an endorsement as master of towing vessels (limited), applicants must complete the requirements listed in columns 2 through 5 of table 1 to paragraph (c) of this section.

TABLE 1 TO § 11.464(c)—REQUIREMENTS FOR NATIONAL ENDORSEMENT AS MASTER OF TOWING VESSELS (LIMITED)

1 Route endorsed	2 Total service [1]	3 TOS [2] on T/V as limited apprentice mate (steersman)	4 TOAR or an approved course	5 TOS on particular route
LIMITED LOCAL AREA (LLA)	36	18	Yes	3.

[1] Service is in months.
[2] TOS is time of service.

(d) Those holding a license or MMC endorsement as mate (pilot) of towing vessels, may have master of towing vessels (limited) added to their MMC for a limited local area within the scope of their current route.

(e) Before serving as master of towing vessels on the Western Rivers, mariners must possess 90 days of observation and training and their MMC must include an endorsement for Western Rivers.

(f) Each company must maintain evidence that every vessel it operates is under the direction and control of a mariner with the appropriate endorsement and experience, including 30 days of observation and training on the intended route other than Western Rivers.

(g) Those holding a license or MMC endorsement as a master of self-propelled vessels of more than 200 GRT, may operate towing vessels within any restrictions on their endorsement if they—

(1) Have a minimum of 30 days of training and observation on towing vessels for the route being assessed, except as noted in paragraph (f) of this section; and

(2) Either—

(i) Hold a completed Towing Officer Assessment Record (TOAR) described in § 10.404(c) of this part that shows evidence of assessment of practical demonstration of skills; or

(ii) Complete an approved training course.

(h) A license or MMC does not need to include a towing endorsement if mariners hold a TOAR or complete an approved training course.

§ 11.465 Requirements for national endorsements as mate (pilot) of towing vessels.

(a) To obtain an endorsement as mate (pilot) of towing vessels endorsed with a route listed in column 1 of Table 1 to paragaph (a) of this section, applicants must complete the service in columns 2 through 5. Mariners holding a license or MMC endorsement as master of towing vessels (limited) wishing to upgrade it to mate (pilot) of towing vessels must complete the service in columns 5 and 6. An endorsement with a route endorsed in column 1 authorizes service on the subordinate routes listed in column 7 without further endorsement. Time of service requirements as an apprentice mate (steersman) of towing vessels may be reduced by an amount equal to the time specified in the approval letter for a completed Coast Guard-approved training program.

TABLE 1 TO § 11.465(a)—REQUIREMENTS FOR NATIONAL ENDORSEMENT AS MATE (PILOT [1]) OF TOWING VESSELS

1 Route endorsed	2 Total service [2]	3 TOS [3] on T/V as apprentice mate (steersman) [4]	4 TOS on particular route	5 TOAR [5] or an approved course	6 30 days of observation and training while holding master (limited) and pass an examination	7 Subordinate route authorized
(1) OCEANS (O)	30	12	3	YES	YES	NC, GL–I.
(2) NEAR-COASTAL (NC)	30	12	3	YES	YES	GL–I.
(3) GREAT LAKES-INLAND (GL–I)	30	12	3	YES	YES.	
(4) WESTERN RIVERS (WR)	30	12	3	YES	NO (90 days service required).	

[1] For all inland routes, as well as Western Rivers, the endorsement as pilot of towing vessels is equivalent to that as mate of towing vessels. All qualifications and equivalencies are the same.
[2] Service is in months unless otherwise indicated.
[3] TOS is time of service.
[4] Time of service requirements as an apprentice mate (steersman) of towing vessels may be reduced by an amount equal to the time specified in the approval letter for a completed Coast Guard-approved training program.
[5] TOAR is a Towing Officer Assessment Record.

(b) Before serving as mate (pilot) of towing vessels on the Western Rivers, mariners must possess 90 days of observation and training and have their MMC include an endorsement for Western Rivers.

(c) Each company must maintain evidence that every vessel it operates is under the direction and control of a mariner with the appropriate endorsement and experience, including 30 days of observation and training on

the intended route other than Western Rivers.

(d) Those holding a license or MMC endorsement as a mate of inspected, self-propelled vessels of more than 200 GRT or one as first-class pilot, may operate towing vessels within any restrictions on their credential if they—

(1) Have a minimum of 30 days of training and observation on towing vessels for the route being assessed, except as noted in paragraph (b) of this section; and

(2) Hold a completed Towing Officer Assessment Record (TOAR) described in § 10.404(c) of this subchapter that shows evidence of assessment of practical demonstration of skills.

(e) A license or MMC does not need to include a towing endorsement if you hold a TOAR or a course completion certificate.

(f) Those holding any endorsement as a master of self-propelled vessels of any tonnage that is less than 200 GRT, except for the limited masters endorsements specified in §§ 11.429 and 11.456 of this subpart, may obtain an endorsement as mate (pilot) of towing vessels by meeting the following requirements:

(1) Providing proof of 36 months of service as a master under the authority of an endorsement described in this paragraph.

(2) Successfully completing the appropriate TOAR.

(3) Successfully completing the appropriate apprentice mate exam.

(4) Having a minimum of 30 days of training and observation on towing vessels for the route being assessed, except as noted in paragraph (b) of this section.

(g) An approved training course for mate (pilot) of towing vessels must include formal instruction and practical demonstration of proficiency either onboard a towing vessel or at a shoreside training facility before a designated examiner, and must cover the material (dependent upon route) required by Table 2 to § 11.910 of this part for apprentice mate (steersman), towing vessels on ocean and near-coastal routes; apprentice mate (steersman), towing vessels on Great Lakes and inland routes; or steersman, towing vessels on Western Rivers routes.

(h) A person holding this endorsement may qualify for an STCW endorsement, according to §§ 11.309, 11.317, 11.319, and 11.321 of this part.

§ 11.466 Requirements for national endorsements as apprentice mate (steersman) of towing vessels.

(a) As Table 1 to § 11.466(a) shows, to obtain an endorsement as apprentice mate (steersman) of towing vessels listed in column 1, endorsed with a route listed in column 2, mariners must complete the service requirements indicated in columns 3 through 6.

TABLE 1 TO § 11.466(a)—REQUIREMENTS FOR NATIONAL ENDORSEMENT AS APPRENTICE MATE (STEERSMAN) OF TOWING VESSELS

1 Endorsement	2 Route endorsed	3 Total service [1]	4 TOS [2] on T/V	5 TOS on particular route	6 Pass examination [3]
(1) APPRENTICE MATE (STEERSMAN)	OCEANS (O)	18	12	3	YES.
	NEAR-COASTAL (NC)	18	12	3	YES.
	GREAT LAKES	18	12	3	YES.
	INLAND (GL–I)	18	12	3	YES.
	WESTERN RIVERS (WR)	18	12	3	YES.
(2) APPRENTICE MATE (STEERSMAN) (LIMITED)	NOT APPLICABLE	18	12	3	YES.

[1] Service is in months.
[2] TOS is time of service.
[3] The examination for apprentice mate is specified in subpart I of this part.

(b) Those holding a license or endorsement as apprentice mate (steersman) of towing vessels may obtain a restricted endorsement as apprentice mate (steersman) (limited). This endorsement will go on the mariner's MMC after passing an examination for a route that is not included in the current endorsements and on which the mariners have no operating experience. Upon completion of 3 months of experience on that route, mariners may have the restriction removed.

§ 11.467 Requirements for a national endorsement as operator of uninspected passenger vessels of less than 100 GRT.

(a) This section applies to an applicant for the endorsement to operate an uninspected vessel of less than 100 GRT, equipped with propulsion machinery of any type, carrying six or fewer passengers.

(b) An endorsement as OUPV for near-coastal waters limits the holder to service on domestic, near-coastal waters not more than 100 miles offshore, the Great Lakes, and all inland waters. Endorsements issued for inland waters include all inland waters except the Great Lakes. Endorsements may be issued for a particular local area under paragraph (f) or paragraph (g) of this section.

(c) For an endorsement as OUPV on near-coastal waters, an applicant must have a minimum of 12 months of experience in the operation of vessels, including at least 3 months of service on vessels operating on ocean or near-coastal waters.

(d) For an endorsement as OUPV on the Great Lakes and inland waters, an applicant must have 12 months of service on Great Lakes or inland waters, including at least 3 months of service operating vessels on Great Lakes waters.

(e) For an endorsement as OUPV on inland waters, an applicant must have a minimum of 12 months of experience in the operation of vessels.

(f) A limited OUPV endorsement may be issued to an applicant to be employed by organizations such as formal camps, yacht clubs, educational institutions, and marinas. An endorsement issued under this paragraph will be limited to the specific activity and the locality of the camp, yacht club, or marina. In order to obtain this restricted endorsement, an applicant must—

(1) Have 3 months of service in the operation of the type of vessel for which the endorsement is requested;

(2) Satisfactorily complete a safe-boating course approved by the National Association of State Boating Law Administrators, or those public education courses conducted by the U.S. Power Squadron or the American

National Red Cross or a Coast Guard-approved course; and

(3) Pass a limited examination appropriate for the activity to be conducted and the route authorized.

(4) Hold the first aid and cardiopulmonary resuscitation (CPR) course certificates required by § 11.201(i) of this part when, in the opinion of the Coast Guard, the geographic area over which service is authorized precludes obtaining medical services within a reasonable time.

(g) Restricted OUPV endorsements may be issued to applicants to be employed on inland navigable waters. An endorsement under this paragraph will be limited to specific bodies of water that have been approved by the cognizant OCMI. In order to obtain this endorsement, the applicant must be qualified for the endorsement under this section; however, the OCMI may modify the service and examination requirements as follows:

(1) At least 3 months of service in the operation of the type of vessel and on each body of water for which the endorsement is requested.

(2) Satisfactorily pass an examination appropriate for the activity to be conducted and the waters authorized.

(h) An applicant for an officer endorsement as OUPV who speaks Spanish, but not English, may be issued an officer endorsement restricted to the navigable waters of the United States in the vicinity of Puerto Rico.

§ 11.468 National officer endorsements for mobile offshore drilling units (MODUs).

Officer endorsements for service on MODUs authorize service on units of unlimited tonnage upon ocean waters while on location or while underway, as restricted on the endorsement, except when moving independently under their own power.

§ 11.470 National officer endorsements as offshore installation manager.

(a) Officer endorsements as offshore installation manager (OIM) include:

(1) OIM Unrestricted.

(2) OIM Surface Units on Location.

(3) OIM Surface Units Underway.

(4) OIM Bottom Bearing Units on Location.

(5) OIM Bottom Bearing Units Underway.

(b) To qualify for an endorsement as OIM unrestricted, an applicant must—

(1) Present evidence of one of the following:

(i) Four years of employment assigned to MODUs, including at least 1 year of service as driller, assistant driller, toolpusher, assistant toolpusher, barge supervisor, mechanical supervisor, electrician, crane operator, ballast control operator, or equivalent supervisory position on MODUs, with a minimum of 14 days of that supervisory service on surface units.

(ii) A degree from a program in engineering or engineering technology which is accredited by the Accreditation Board for Engineering and Technology (ABET). The National Maritime Center will give consideration to accepting education credentials from programs having other than ABET accreditation. An applicant qualifying through a degree program must also have at least 168 days of service as driller, assistant driller, toolpusher, assistant toolpusher, barge supervisor, mechanical supervisor, electrician, crane operator, ballast control operator, or equivalent supervisory position on MODUs, with a minimum of 14 days of that supervisory service on surface units;

(2) Present evidence of training course completion as follows:

(i) A certificate from a Coast Guard-approved stability course approved for OIM unrestricted.

(ii) A certificate from a Coast Guard-approved survival suit and survival craft training course.

(iii) A certificate from a firefighting training course as required by § 11.201(h) of this part; and

(3) Provide a recommendation signed by a senior company official which—

(i) Provides a description of the applicant's experience and qualifications;

(ii) Certifies that the individual has successfully directed, while under the supervision of an experienced rig mover, two rig moves each of surface units and of bottom bearing units; and

(iii) Certifies that one of the rig moves required under paragraph (b)(3)(ii) of this section was completed within 1 year preceding date of application.

(c) An applicant for an endorsement as OIM unrestricted who holds an unlimited license or MMC endorsement as master or chief mate must satisfy the requirements in paragraphs (b)(2) and (b)(3) of this section and have at least 84 days of service on surface units and at least 28 days of service on bottom bearing units.

(d) To qualify for an endorsement as OIM surface units on location, an applicant must—

(1) Present evidence of one of the following:

(i) Four years of employment assigned to MODUs, including at least 1 year of service as driller, assistant driller, toolpusher, assistant toolpusher, barge supervisor, mechanical supervisor, electrician, crane operator, ballast control operator or equivalent supervisory position on MODUs, with a minimum of 14 days of that supervisory service on surface units.

(ii) A degree from a program in engineering or engineering technology which is accredited by the Accreditation Board for Engineering and Technology (ABET). The National Maritime Center will give consideration to accepting education credentials from programs having other than ABET accreditation. An applicant qualifying through a degree program must also have at least 168 days of service as driller, assistant driller, toolpusher, assistant toolpusher, barge supervisor, mechanical supervisor, electrician, crane operator, ballast control operator, or equivalent supervisory position of MODUs, with a minimum of 14 days of that supervisory service on surface units; and

(2) Present evidence of training course completion as follows:

(i) A certificate from a Coast Guard-approved stability course approved for a license or MMC endorsement as OIM surface units.

(ii) A certificate from a Coast Guard-approved survival suit and survival craft training course.

(iii) A certificate from a firefighting training course as required by § 11.201(h) of this part.

(e) An applicant for an endorsement as OIM surface units on location who holds an unlimited license or MMC endorsement as master or chief mate must satisfy the requirements of paragraph (d)(2) of this section and have at least 84 days of service on surface units.

(f) To qualify for an endorsement as OIM surface units underway, an applicant must—

(1) Provide the following:

(i) Evidence of the experience described in paragraph (d)(1) of this section and a recommendation signed by a senior company official which—

(A) Provides a description of the applicant's experience and qualifications;

(B) Certifies that the individual has successfully directed, while under the supervision of an experienced rig mover, three rig moves of surface units; and

(C) Certifies that one of the rig moves required under paragraph (f)(1)(i)(B) of this section was completed within 1 year preceding date of application; or

(ii) A recommendation signed by a senior company official which—

(A) Provides a description of the applicant's experience and company qualifications program completed;

(B) Certifies that the applicant has witnessed ten rig moves either as an

observer in training or as a rig mover under supervision;

(C) Certifies that the individual has successfully directed, while under the supervision of an experienced rig mover, five rig moves of surface units; and

(D) Certifies that one of the rig moves required under paragraph (f)(1)(ii)(C) of this section was completed within 1 year preceding the date of application; and

(2) Present evidence of training course completion as follows:

(i) A certificate from a Coast Guard-approved stability course approved for an OIM surface units endorsement.

(ii) A certificate from a Coast Guard-approved survival suit and survival craft training course.

(iii) A certificate from a firefighting training course as required by § 11.201(h) of this part.

(g) An applicant for endorsement as OIM surface units underway who holds an unlimited license or MMC endorsement as master or chief mate must satisfy the requirements in paragraph (f)(2) of this section and provide a company recommendation signed by a senior company official which—

(1) Provides a description of the applicant's experience and qualifications;

(2) Certifies that the individual has successfully directed, while under the supervision of an experienced rig mover, three rig moves on surface units; and

(3) Certifies that one of the rig moves required under paragraph (g)(2) of this section was completed within 1 year preceding the date of application.

(h) To qualify for an endorsement as OIM bottom bearing units on location, an applicant must—

(1) Present evidence of one of the following:

(i) Four years of employment assigned to MODUs, including at least 1 year of service as driller, assistant driller, toolpusher, assistant toolpusher, barge supervisor, mechanical supervisor, electrician, crane operator, ballast control operator, or equivalent supervisory position on MODUs.

(ii) A degree from a program in engineering or engineering technology that is accredited by ABET. The National Maritime Center will give consideration to accepting education credentials from programs having other than ABET accreditation. An applicant qualifying through a degree program must also have at least 168 days of service as driller, assistant driller, toolpusher, assistant toolpusher, barge supervisor, mechanical supervisor, electrician, crane operator, ballast control operator, or equivalent supervisory position on MODUs; and

(2) Present evidence of training course completion as follows:

(i) A certificate from a Coast Guard-approved survival suit and survival craft training course.

(ii) A certificate from a firefighting training course as required by § 11.201(h) of this part.

(i) An applicant for an endorsement as OIM bottom bearing units on location who holds an unlimited license or MMC endorsement as master or chief mate must satisfy paragraph (h)(2) of this section and have at least 28 days of service on bottom bearing units.

(j) To qualify for an endorsement as OIM bottom bearing units underway, an applicant must—

(1) Provide the following:

(i) Evidence of the experience described in paragraph (h)(1) of this section with a recommendation signed by a senior company official which—

(A) Provides a description of the applicant's experience and qualifications;

(B) Certifies that the individual has successfully directed, while under the supervision of an experienced rig mover, three rig moves of bottom bearing units; and

(C) Certifies that one of the rig moves required under paragraph (j)(1)(i)(B) of this section was completed within 1 year preceding date of application; or

(ii) A recommendation signed by a senior company official which—

(A) Provides a description of the applicant's experience and company qualifications program completed;

(B) Certifies that the applicant has witnessed ten rig moves either as an observer in training or as a rig mover under supervision;

(C) Certifies that the individual has successfully directed, while under the supervision of an experienced rig mover, five rig moves of bottom bearing units; and

(D) Certifies that one of the rig moves required under paragraph (j)(1)(ii)(C) of this section was completed within 1 year preceding date of application; and

(2) Present evidence of training course completion as follows:

(i) A certificate from a Coast Guard-approved stability course approved for a license or MMC endorsement as OIM bottom bearing units.

(ii) A certificate from a Coast Guard-approved survival suit and survival craft training course.

(iii) A certificate from a firefighting training course as required by § 11.201(h) of this part.

(k) An applicant for endorsement as OIM bottom bearing units underway who holds an unlimited license or MMC endorsement as master or chief mate must satisfy the requirements in paragraph (j)(2) of this section and provide a company recommendation signed by a senior company official, which—

(1) Provides a description of the applicant's experience and qualifications;

(2) Certifies that the individual has successfully directed, while under the supervision of an experienced rig mover, three rig moves of bottom bearing units; and

(3) Certifies that one of the rig moves required under paragraph (k)(2) of this section was completed within 1 year preceding the date of application.

§ 11.472 National officer endorsements as barge supervisor.

(a) To qualify for an endorsement as barge supervisor (BS), an applicant must—

(1) Present evidence of one of the following:

(i) Three years of employment assigned to MODUs including at least 168 days of service as driller, assistant driller, toolpusher, assistant tool pusher, mechanic, electrician, crane operator, subsea specialist, ballast control operator, or equivalent supervisory position on MODUs. At least 84 days of that service must have been as a ballast control operator, or barge supervisor trainee.

(ii) A degree from a program in engineering or engineering technology that is accredited by the Accreditation Board for Engineering and Technology (ABET). The National Maritime Center will give consideration to accepting education credentials from programs having other than ABET accreditation. An applicant qualifying through a degree program must also have at least 168 days of service as driller, assistant driller, toolpusher, assistant toolpusher, mechanic, electrician, crane operator, subsea specialist, ballast control operator, or equivalent supervisory position on MODUs. At least 84 days of that service must have been as a ballast control operator, or barge supervisor trainee; and

(2) Present evidence of training course completion as follows:

(i) A certificate from a Coast Guard-approved stability course approved for barge supervisor.

(ii) A certificate from a Coast Guard-approved survival suit and survival craft training course.

(iii) A certificate from a firefighting training course as required by § 11.201(h) of this part.

(b) An applicant for an endorsement as barge supervisor who holds an

unlimited license or MMC endorsement as master or mate must satisfy the requirements in paragraph (a)(2) of this section and have at least 84 days of service as ballast control operator or barge supervisor trainee.

§ 11.474 National officer endorsements as ballast control operator.

(a) To qualify for an endorsement as ballast control operator (BCO), an applicant must—

(1) Present evidence of one of the following:

(i) One year of employment assigned to MODUs, including at least 28 days of service as a trainee under the supervision of an individual holding a license or MMC endorsement as ballast control operator.

(ii) A degree from a program in engineering or engineering technology that is accredited by the Accreditation Board for Engineering and Technology (ABET). The National Maritime Center will give consideration to accepting education credentials from programs having other than ABET accreditation. An applicant qualifying through a degree program must also have at least 28 days of service as a trainee under the supervision of an individual holding a license or MMC endorsement as ballast control operator; and

(2) Present evidence of training course completion as follows:

(i) A certificate from a Coast Guard-approved stability course approved for barge supervisor or ballast control operator.

(ii) A certificate from a Coast Guard-approved survival suit and survival craft training course.

(iii) A certificate from a firefighting training course as required by § 11.201(h) of this part.

(b) An applicant for an endorsement as BCO who holds an unlimited license or MMC endorsement as master, mate, chief engineer, or assistant engineer must satisfy the requirements in paragraph (a)(2) of this section and have at least 28 days of service as a trainee under the supervision of an individual holding an endorsement as BCO.

§ 11.480 Radar observer.

(a) This section contains the requirements that an applicant must meet to qualify as a radar observer.

(b) If an applicant meets the requirements of this section, one of the following radar observer endorsements will be added to his or her MMC:

(1) Radar observer (unlimited).

(2) Radar observer (inland waters and Gulf Intercoastal waterways (GIWW)).

(3) Radar observer (rivers).

(c) Radar observer (unlimited) is valid on all waters. Radar observer (inland waters and GIWW) is valid only for those waters other than the Great Lakes covered by the Inland Navigational Rules. Radar observer (rivers) is valid only on any river, canal, or similar body of water designated by the OCMI, but not beyond the boundary line.

(d) Except as provided by paragraph (e) of this section, each applicant for a radar observer endorsement or for renewal of a radar observer endorsement must complete the appropriate course approved by the Coast Guard, receive the appropriate certificate of training, and present the certificate or a copy of the certificate to the Coast Guard in person, by mail, fax, or other electronic means.

(e) A radar observer endorsement issued under this section is valid for 5 years from the date of issuance of the certificate of training from a course approved by the Coast Guard.

(f) A mariner may maintain the validity of a radar observer endorsement by completing a refresher or re-certification course approved for that purpose.

(g) An applicant for renewal of a license or MMC that does not need a radar observer endorsement may renew without meeting the requirements for the endorsement. However, a radar endorsement will not be placed on the MMC unless the mariner submits a course completion certificate or a copy of the certificate from an approved radar course.

(h) An applicant seeking to raise the grade of a license or MMC endorsement or increase its scope, where the increased grade or scope requires a radar observer certificate, may use an expired certificate to fulfill that requirement. However, a radar endorsement will not be placed on the MMC unless the mariner submits a course completion certificate or a copy of the certificate from an approved radar course.

§ 11.482 Assistance towing.

(a) This section contains the requirements to qualify for an endorsement authorizing a mariner to engage in assistance towing. Except as noted in this paragraph, holders of MMC officer and OUPV endorsements must have an assistance towing endorsement to engage in assistance towing. Holders of endorsements as master or mate (pilot) of towing vessels or master or mate endorsements authorizing service on inspected vessels of 200 GRT or more do not need the assistance towing endorsement.

(b) An applicant for an assistance towing endorsement must pass a written examination or complete a Coast Guard-approved course demonstrating his or her knowledge of assistance towing safety, equipment, and procedures.

(c) The holder of a license or MMC for master, mate, or operator endorsed for assistance towing is authorized to engage in assistance towing on any vessel within the scope of the license or MMC.

(d) The period of validity of the endorsement is the same as the license or MMC on which it is included, and it may be renewed with the MMC.

§ 11.491 National officer endorsements for service on offshore supply vessels.

(a) Each officer endorsement for service on offshore supply vessels (OSVs) authorizes service on OSVs as defined in 46 U.S.C. 2101(19) and as interpreted under 46 U.S.C. 14104(b), subject to any restrictions placed on the license or MMC.

(b) For those officers who previously received a 500 GRT limitation on their national officer endorsement due to the definition of OSV existing before October 15, 2010, the limitation will be raised to 1,600 GRT to be consistent with other national officer endorsements.

§ 11.493 Master (OSV).

(a) The minimum service required to qualify an applicant for an endorsement as master (OSV) of offshore supply vessels less than 1,600 GRT/3,000 GT is 24 months of total service as mate, chief mate, or master of ocean or near-coastal and/or Great Lakes on self-propelled vessels of more than 100 GRT. Service on inland waters may substitute for up to 50 percent of the required service. At least one-half of the required experience must be served as chief mate.

(b) The minimum service required to qualify an applicant for an endorsement as master (OSV) of 1,600 GRT/3,000 GT or more is 24 months of total service as mate, chief mate, or master of ocean or near-coastal and/or Great Lakes on self-propelled vessels of more than 100 GRT. At least one-half of the required experience must be served as chief mate and be obtained on vessels of 1,600 GRT/3,000 GT or more.

(c) If an applicant for an endorsement as master (OSV) of more than 1,600 GRT/3,000 GT does not have the service on vessels of 1,600 GRT/3,000 GT or more as required by paragraph (b) of this section, a tonnage limitation will be placed on the officer endorsement based on the applicant's qualifying experience. The endorsement will be limited to the maximum tonnage on which at least 25 percent of the required experience was obtained, or 150 percent of the maximum tonnage on which at

least 50 percent of the service was obtained, whichever is higher. However, the minimum tonnage limitation calculated according to this paragraph will be 2,000 GRT. Limitations are in multiples of 1,000 GRT using the next higher figure when an intermediate tonnage is calculated. In no case will the limitation exceed 10,000 GRT/GT for OSVs unless the applicant meets the full requirements for an unlimited tonnage endorsement.

(d) A person holding an endorsement as master (OSV) may qualify for an STCW endorsement, according to §§ 11.305 and 11.311 of this part.

(e) The Coast Guard may exempt an applicant from meeting any requirement under STCW Regulation II/2 (incorporated by reference, see § 11.102 of this part) that the Coast Guard determines to be inappropriate or unnecessary for service on an OSV, or that the applicant meets under the equivalency provisions of Article IX of STCW.

§ 11.495 Chief mate (OSV).

(a) The minimum service required to qualify an applicant for an endorsement as chief mate (OSV) of offshore supply vessels less than 1,600 GRT/3,000 GT is 12 months of total service as mate, chief mate, or master of ocean or near-coastal and/or Great Lakes on self-propelled vessels of more than 100 GRT. Service on inland waters may substitute for up to 50 percent of the required service.

(b) The minimum service required to qualify an applicant for an endorsement as chief mate (OSV) of 1,600 GRT/3,000 GT or more is 12 months of total service as mate, chief mate, or master of ocean or near-coastal and/or Great Lakes on self-propelled vessels of more than 100 GRT. At least one-half of the required experience must be obtained on vessels of 1,600 GRT/3,000 GT or more.

(c) If an applicant for an endorsements as chief mate (OSV) of 1,600 GRT/3,000 GT or more does not have the service on vessels of 1,600 GRT/3,000 GT or more as required by paragraph (b) of this section, a tonnage limitation will be placed on the officer endorsement based on the applicant's qualifying experience. The endorsement will be limited to the maximum tonnage on which at least 25 percent of the required experience was obtained, or 150 percent of the maximum tonnage on which at least 50 percent of the service was obtained, whichever is higher. However, the minimum tonnage limitation calculated according to this paragraph will be 2,000 GRT. Limitations are in multiples of 1,000 GRT using the next higher figure when an intermediate tonnage is calculated. In no case will the limitation exceed 10,000 GRT/GT for OSVs unless the applicant meets the full requirements for an unlimited tonnage endorsement.

(d) A person holding an endorsement as chief mate (OSV) may qualify for an STCW endorsement, according to §§ 11.307 and 11.313 of this part.

(e) The Coast Guard may exempt an applicant from meeting any requirement under STCW Regulation II/2 (incorporated by reference, § 11.102 of this part) that the Coast Guard determines to be inappropriate or unnecessary for service on an OSV, or that the applicant meets under the equivalency provisions of Article IX of STCW.

§ 11.497 Mate (OSV).

(a) The minimum service required to qualify an applicant for an endorsement as mate (OSV) of offshore supply vessels is—

(1) Twenty-four months of total service in the deck department of ocean or near-coastal self-propelled, sail, or auxiliary sail vessels. Service on Great Lakes and inland waters may substitute for up to 1 year of the required service. One year of the required service must have been on vessels of more than 100 GRT; or

(2) One year of total service as part of an approved or accepted mate (OSV) training program.

(b) A person holding an endorsement as mate (OSV) may qualify for an STCW endorsement, according to § 11.309 of this part.

(c) The Coast Guard may exempt an applicant from meeting any requirement under STCW Regulation II/1 (incorporated by reference, see § 11.102 of this part) that the Coast Guard determines to be inappropriate or unnecessary for service on an OSV, or that the applicant meets under the equivalency provisions of Article IX of STCW.

Subpart E—Professional Requirements for National Engineer Officer Endorsements

§ 11.501 Grades and types of national engineer endorsements issued.

(a) National engineer endorsements are issued in the grades of—

(1) Chief engineer;
(2) First assistant engineer;
(3) Second assistant engineer;
(4) Third assistant engineer;
(5) Chief engineer (limited);
(6) Assistant engineer (limited);
(7) Designated duty engineer;
(8) Chief engineer uninspected fishing industry vessels;
(9) Assistant engineer uninspected fishing industry vessels;
(10) Chief engineer (MODU);
(11) Assistant engineer (MODU);
(12) Chief engineer (OSV); and
(13) Assistant engineer (OSV).

(b) Engineer endorsements issued in the grades of chief engineer (limited) and assistant engineer (limited) of steam, motor, and/or gas turbine-propelled vessels allow the holder to serve within any propulsion power limitations on vessels of unlimited tonnage on inland waters and of less than 1,600 GRT in ocean, near-coastal, or Great Lakes service in the following manner:

(1) Chief engineer (limited) may serve on oceans and near-coastal waters.

(2) Assistant engineer (limited) may serve on ocean and near-coastal waters.

(c) Engineer licenses or MMC endorsements issued in the grades of designated duty engineer of steam, motor, and/or gas turbine-propelled vessels allow the holder to serve within stated propulsion power limitations on vessels of less than 500 GRT in the following manner:

(1) Designated duty engineers limited to vessels of less than 1,000 HP or 4,000 HP may serve only on near-coastal or inland waters.

(2) Designated duty engineers-unlimited may serve on any waters.

(d) An engineer officer's license or MMC endorsement authorizes service on steam, motor, or gas turbine-propelled vessels or may authorize all modes of propulsion.

(e) A person holding an engineer license or MMC endorsement that is restricted to near-coastal waters may serve within the limitations of the license or MMC upon near-coastal, Great Lakes, and inland waters.

§ 11.502 General requirements for national engineer endorsements.

(a) For all original and raise of grade of engineer endorsements, at least one-third of the minimum service requirements must have been obtained on the particular mode of propulsion for which the applicant seeks endorsement.

(b) If an applicant desires to add a propulsion mode (steam, motor, or gas turbine) to his or her endorsement while holding a license or MMC officer endorsement in that grade, the following alternatives are acceptable:

(1) Four months of service as an observer on vessels of the new propulsion mode.

(2) Four months of service as an engineer officer at the operational level on vessels of the new propulsion mode.

(3) Six months of service as oiler, fireman/watertender, or junior engineer on vessels of the new propulsion mode.

(4) Completion of a Coast Guard-approved training course for this endorsement.

§ 11.503 Propulsion power limitations for national endorsements.

(a) Engineer endorsements of all grades and types may be subject to propulsion power limitations. Other than as provided in § 11.524 of this subpart for the designated duty engineer (DDE), the propulsion power limitation placed on a license or MMC endorsement is based on the applicant's qualifying experience considering the total shaft propulsion power of each vessel on which the applicant has served.

(b) When an applicant for an original or raise of grade of an engineer endorsement, other than a DDE, has not obtained at least 50 percent of the required experience on vessels of 4,000 HP/3,000 kW or more, a propulsion power limitation is placed on the MMC based on the applicant's qualifying experience. The endorsement is limited to the maximum propulsion power on which at least 25 percent of the required experience was obtained, or 150 percent of the maximum propulsion power on which at least 50 percent of the service was obtained, whichever is higher. Limitations are in multiples of 1,000 HP/750 kW, using the next higher figure when an intermediate horsepower is calculated. When the limitation as calculated equals or exceeds 10,000 HP/7,500 kW, an unlimited propulsion power endorsement is issued.

(c) The following service on vessels of 4,000 HP/3,000 kW or more will be considered qualifying for raising or removing the propulsion power limitations placed on an engineer endorsement:

(1) Six months of service in the highest-grade endorsed: Removal of all propulsion power limitations.

(2) Six months of service as an engineer officer in any capacity other than the highest grade for which the applicant is licensed or endorsed: Removal of all propulsion power limitations for the grade in which service is performed and raised to the next higher grade endorsement to the propulsion power of the vessel on which service was performed. The total cumulative service before and after issuance of the limited engineer endorsement may be considered in removing all propulsion power limitations.

(3) Twelve months of service as oiler or junior engineer while holding a license or MMC endorsement as third assistant engineer or assistant engineer (limited): Removal of all propulsion power limitations on third assistant engineer or assistant engineer's (limited) endorsement.

(4) Six months of service as oiler or junior engineer while holding a license or MMC endorsement as second assistant engineer: removal of all propulsion power limitations on third assistant engineer's endorsement.

(d) Raising or removing propulsion power limitations based on service required by paragraph (c) of this section may be granted without further written examination, if the Coast Guard considers further examination unnecessary.

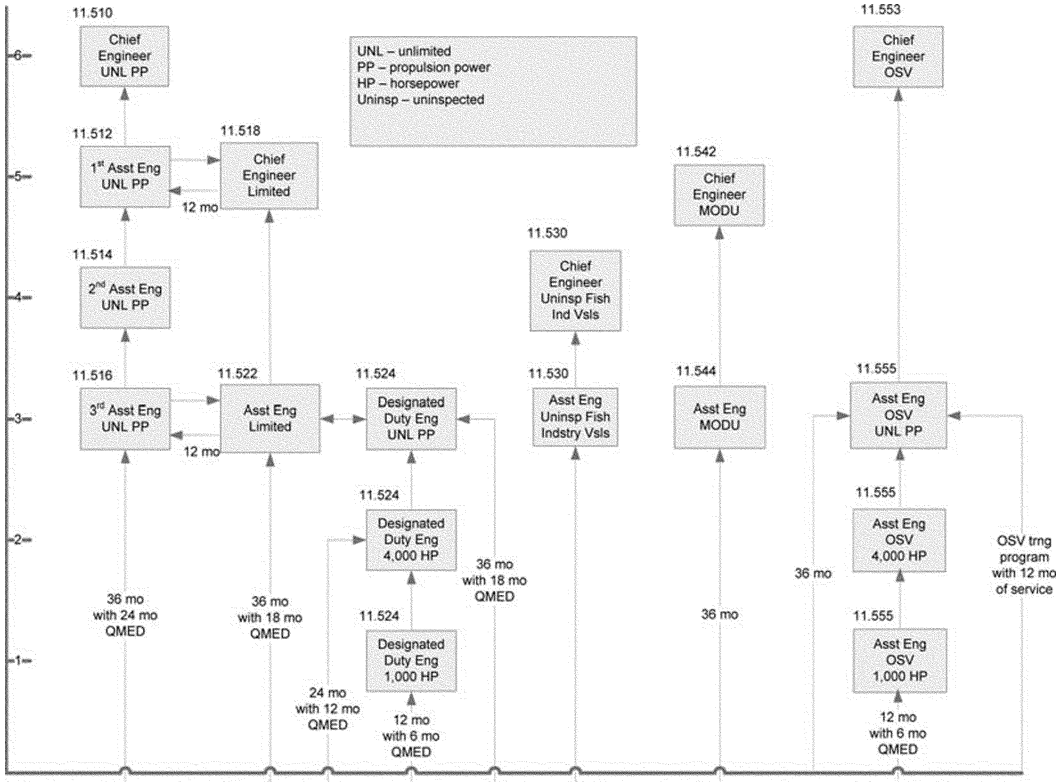
§ 11.504 Application of deck service for national limited engineer endorsements.

Service gained in the deck department on vessels of appropriate tonnage may substitute for up to 25 percent or 6 months, whichever is less, of the service requirement for an endorsement as chief engineer (limited), assistant engineer (limited), or DDE.

§ 11.505 National engineer officer endorsements.

Figure 11.505(a) illustrates the national engineering endorsement structure, including crossover points.

Figure 11.505(a)—Structure of national engineer officer endorsements for non-seagoing service.



§ 11.510 Service requirements for national endorsement as chief engineer of steam, motor, and/or gas turbine-propelled vessels.

(a) The minimum service required to qualify an applicant for endorsement as chief engineer of steam, motor, and/or gas turbine-propelled vessels is—

(1) One year of service as first assistant engineer; or

(2) One year of service while holding a license or MMC endorsement as first assistant engineer. A minimum of 6 months of this service must have been as first assistant engineer, and the remainder must be as assistant engineer. Service as an assistant engineer other than first assistant engineer is accepted on a two-for-one basis to a maximum of 6 months (2 days of service as a second or third assistant engineer equals 1 day of creditable service).

(b) A person holding this endorsement may qualify for an STCW endorsement, according to §§ 11.325 and 11.331 of this part.

§ 11.512 Service requirements for national endorsement as first assistant engineer of steam, motor, and/or gas turbine-propelled vessels.

(a) The minimum service required to qualify an applicant for endorsement as first assistant engineer of steam, motor, and/or gas turbine-propelled vessels is—

(1) One year of service as an assistant engineer while holding a license or MMC with a second assistant engineer endorsement; or

(2) One year of service as a chief engineer (limited) and completing the appropriate examination described in subpart I of this part.

(b) A person holding this endorsement may qualify for an STCW endorsement, according to §§ 11.327, 11.331, and 11.333 of this part.

§ 11.514 Service requirements for national endorsement as second assistant engineer of steam, motor, and/or gas turbine-propelled vessels.

(a) The minimum service required to qualify an applicant for endorsement as second assistant engineer of steam, motor, and/or gas turbine-propelled vessels is—

(1) One year of service as an assistant engineer, while holding a license or MMC endorsement as third assistant engineer; or

(2) One year of service while holding a license or MMC endorsement as third assistant engineer, which includes—

(i) A minimum of 6 months of service as third assistant engineer; and

(ii) Additional service as a qualified member of the engine department, calculated on a two-for-one basis.

(b) A person holding this endorsement may qualify for an STCW endorsement, according to §§ 11.327, 11.329, and 11.333 of this part.

§ 11.516 Service requirements for national endorsement as third assistant engineer of steam, motor, and/or gas turbine-propelled vessels.

(a) The minimum service required to qualify an applicant for endorsement as third assistant engineer of steam, motor, and/or gas turbine-propelled vessels is—

(1) Three years of service in the engineroom of vessels, 2 years of which must have been as a qualified member of the engine department or equivalent position;

(2) Three years of service as an apprentice to the machinist trade engaged in the construction or repair of marine, locomotive, or stationary engines, together with 1 year of service in the engineroom as oiler, fireman/watertender, or junior engineer;

(3) Graduation from—

(i) The U.S. Merchant Marine Academy (engineering curriculum);

(ii) The U.S. Coast Guard Academy and completion of an onboard engineer officer qualification program required by the service;

(iii) The U.S. Naval Academy and completion of an onboard engineer officer qualification program required by the service; or

(iv) The engineering class of a Maritime Academy approved by and conducted under the rules prescribed by the Maritime Administrator and listed in part 310 of this title;

(4) Graduation from the marine engineering course of a school of technology accredited by the Accreditation Board for Engineering and Technology, together with 3 months of service in the engine department of steam, motor, or gas turbine-propelled vessels;

(5) Graduation from the mechanical or electrical engineering course of a school of technology accredited by the ABET, together with 6 months of service in the engine department of steam, motor, or gas turbine-propelled vessels;

(6) Satisfactory completion of a comprehensive apprentice engineers training program approved by the Coast Guard; or

(7) One year of service as assistant engineer (limited) of self-propelled vessels and completion of the appropriate examination described in subpart I of this part.

(b) Experience gained in the deck department on vessels of 100 GRT or more can be credited for up to 3 months of the service requirements under paragraph (a)(1) of this section.

(c) A person holding this endorsement may qualify for an STCW endorsement, according to §§ 11.327, 11.329, and 11,333 of this part.

§ 11.518 Service requirements for national endorsement as chief engineer (limited) of steam, motor, and/or gas turbine-propelled vessels.

(a) The minimum service required to qualify an applicant for endorsement as chief engineer (limited) of steam, motor, and/or gas turbine-propelled vessels is 5 years of total service in the engineroom of vessels. Two years of this service must have been as an engineer officer while holding an engineer officer endorsement. Thirty months of the service must have been as a qualified member of the engine department or equivalent position.

(b) A person holding this endorsement may qualify for an STCW endorsement, according to §§ 11.325 and 11.331 of this part.

§ 11.522 Service requirements for national endorsement as assistant engineer (limited) of steam, motor, and/or gas turbine-propelled vessels.

(a) The minimum service required to qualify an applicant for endorsement as assistant engineer (limited) of steam, motor, and/or gas turbine-propelled vessels is 3 years of service in the engineroom of vessels. Eighteen months of this service must have been as a qualified member of the engine department or equivalent position.

(b) A person holding this endorsement may qualify for an STCW endorsement, according to §§ 11.327, 11.329, and 11.333 of this part.

§ 11.524 Service requirements for national endorsement as designated duty engineer (DDE) of steam, motor, and/or gas turbine-propelled vessels.

(a) DDE endorsements are issued in three levels of propulsion power limitations dependent upon the total service of the applicant and completion of an appropriate examination. These endorsements are limited to vessels of less than 500 GRT on certain waters as specified in § 11.501 of this subpart.

(b) The service requirements for endorsements as DDE are—

(1) For designated duty engineer of steam, motor, and/or gas turbine-propelled vessels of unlimited propulsion power, the applicant must have 3 years of service in the engineroom. Eighteen months of this service must have been as a qualified member of the engine department or equivalent position;

(2) For designated duty engineer of steam, motor, and/or gas turbine-propelled vessels of less than 4,000 HP/

3,000 kW, the applicant must have 2 years of service in the engineroom. One year of this service must have been as a qualified member of the engine department or equivalent position; and

(3) For designated duty engineer of steam, motor, and/or gas turbine-propelled vessels of less than 1,000 HP/750 kW, the applicant must have 1 year of service in the engineroom. Six months of this service must have been as a qualified member of the engine department or equivalent position.

(c) A person holding this endorsement may qualify for an STCW endorsement, according to §§ 11.325, 11.327, 11.329, and 11.331 of this part.

§ 11.530 Endorsements as engineers of uninspected fishing industry vessels.

(a) This section applies to endorsements for chief and assistant engineers of all vessels, however propelled, which are documented to engage in the fishing industry, with the exception of—

(1) Wooden ships of primitive build;

(2) Unrigged vessels; and

(3) Vessels of less than 200 GRT.

(b) Endorsements as chief engineer and assistant engineer of uninspected fishing industry vessels are issued for ocean waters and with propulsion power limitations in accordance with the provisions of § 11.503 of this subpart.

(c) For an endorsement as chief engineer, the applicant must have served 4 years in the engineroom of vessels. One year of this service must have been as an assistant engineer officer or equivalent position.

(d) For an endorsement as assistant engineer, an applicant must have served 3 years in the engine room of vessels.

(e) Two-thirds of the service required under this section must have been on motor vessels.

(f) Applicants may request an orally assisted examination on the subjects listed in subpart I of this part.

§ 11.540 Endorsements as engineers of mobile offshore drilling units (MODUs).

Endorsements as chief engineer (MODU) or assistant engineer (MODU) authorize service on certain self-propelled or non-self-propelled units of unlimited propulsion power where authorized by the vessel's certificate of inspection.

§ 11.542 Endorsement as chief engineer (MODU).

(a) To qualify for an endorsement as chief engineer (MODU) an applicant must—

(1) Present evidence of one of the following:

(i) Six years of employment assigned to MODUs, including 3 years of employment as mechanic, motorman, subsea engineer, electrician, barge engineer, toolpusher, unit superintendent, crane operator, or equivalent. Eighteen months of that employment must have been assigned to self-propelled or propulsion assisted units.

(ii) Two years of employment assigned to MODUs as an assistant engineer (MODU). Twelve months of that employment must have been assigned to self-propelled or propulsion assisted units; and

(2) Present evidence of completion of a firefighting training course as required by § 11.201(h) of this part.

(b) If an applicant successfully completes an examination and possesses the total required sea service for an endorsement as chief engineer (MODU), but does not possess the required sea service onboard self-propelled or propulsion assisted units, the Coast Guard may issue the applicant an endorsement limited to non-self-propelled units. The Coast Guard may remove the limitation upon presentation of satisfactory evidence of the required self-propelled sea service and completion of any additional required examination.

(c) A person holding this endorsement may qualify for an STCW endorsement, according to §§ 11.325, 11.327, and 11.331 of this part.

§ 11.544 Endorsement as assistant engineer (MODU).

(a) To qualify for an endorsement as assistant engineer (MODU) an applicant must—

(1) Present evidence of one of the following experience:

(i) Three years of employment assigned to MODUs including 18 months of employment as mechanic, motorman, subsea engineer, electrician, barge engineer, toolpusher, unit superintendent, crane operator, or equivalent. Nine months of that employment must have been assigned to self-propelled or propulsion assisted unit.

(ii) Three years of employment in the machinist trade engaged in the construction or repair of diesel engines and 1 year of employment assigned to MODUs in the capacity of mechanic, motorman, oiler, or equivalent. Nine months of that employment must have been assigned to self-propelled or propulsion assisted units.

(iii) A degree from a program in marine, mechanical, or electrical engineering technology that is accredited by the Accreditation Board for Engineering and Technology (ABET). The National Maritime Center will give consideration to accepting education credentials from programs having other than ABET accreditation. An applicant qualifying through a degree program must also have at least 6 months of employment in any of the capacities listed in paragraph (a)(1)(i) of this section aboard self-propelled or propulsion-assisted units; and

(2) Present evidence of completion of a firefighting training course as required by § 11.201(h) of this part.

(b) If an applicant successfully completes an examination and possesses the total required sea service for an endorsement as an assistant engineer (MODU), but does not possess the required sea service onboard self-propelled or propulsion assisted units, the Coast Guard may issue the applicant an endorsement limited to non-self-propelled units. The Coast Guard may remove the limitation upon presentation of the satisfactory evidence of the required self-propelled sea service and completion of any additional required examination.

(c) A person holding this endorsement may qualify for an STCW endorsement, according to §§ 11.329 and 11.333 of this part.

§ 11.551 Endorsements for service on offshore supply vessels.

Each endorsement for service on OSVs as chief engineer (OSV) or engineer (OSV) authorizes service on OSVs as defined in 46 U.S.C. 2101(19) and as interpreted under 46 U.S.C. 14104(b), subject to any restrictions placed on the MMC.

§ 11.553 Chief engineer (OSV).

(a) The minimum service required to qualify an applicant for an endorsement as chief engineer (OSV) is 4 years of total service in the engineroom of vessels. One year of this service must have been as an engineer officer while holding an engineer officer endorsement. Two years of the service must have been as a qualified member of the engine department or equivalent position.

(b) If an applicant has not obtained at least 50 percent of the required experience on vessels of 4,000 HP/3,000 kW or more, a propulsion power limitation is placed on the MMC based on the applicant's qualifying experience. The endorsement is limited to the maximum propulsion power on which at least 25 percent of the required experience was obtained, or 150 percent of the maximum propulsion power on which at least 50 percent of the service was obtained, whichever is higher.

Limitations are in multiples of 1,000 HP/750 kW, using the next higher figure when an intermediate propulsion power is calculated. When the limitation as calculated equals or exceeds 10,000 HP/7,500 kW, an unlimited propulsion power endorsement is issued.

(c) A person holding an endorsement as chief engineer (OSV) may qualify for an STCW endorsement, according to §§ 11.325, 11.327, and 11.331 of this part.

(d) The Coast Guard may exempt an applicant from meeting any requirement under STCW Regulation III/2 (incorporated by reference, see § 11.102 of this part) that the Coast Guard determines to be inappropriate or unnecessary for service on an OSV, or that the applicant meets under the equivalency provisions of Article IX of STCW.

§ 11.555 Assistant engineer (OSV).

(a) The minimum service required to qualify an applicant for an endorsement as assistant engineer (OSV) of unlimited propulsion power is—

(1) Three years of service in the engineroom. Eighteen months of this service must have been as a qualified member of the engine department (QMED) or equivalent position; or

(2) One year of total service as part of an approved or accepted engineer (OSV) training program.

(b) The minimum service required to qualify an applicant for an endorsement as assistant engineer (OSV) of less than 4,000 HP/3,000 kW, is 2 years of service in the engineroom. One year of this service must have been as a QMED or equivalent position.

(c) The minimum service required to qualify an applicant for an endorsement as assistant engineer (OSV) of less than 1,000 HP/750 kW is 1 year of service in the engineroom. Six months of this service must have been as a QMED or equivalent position.

(d) A person holding an endorsement as assistant engineer (OSV) may qualify for an STCW endorsement, according to §§ 11.329 and 11.333 of this part.

(e) The Coast Guard may exempt an applicant from meeting any requirement under STCW Regulation III/1 (incorporated by reference, see § 11.102 of this part) that the Coast Guard determines to be inappropriate or unnecessary for service on an OSV, or that the applicant meets under the equivalency provisions of Article IX of STCW.

Subpart F—Credentialing of Radio Officers

§ 11.601 Applicability.

This subpart provides for endorsement as radio officers for employment on vessels, and for the issue of STCW endorsements for those qualified to serve as radio operators on vessels subject to the provisions on the Global Maritime Distress and Safety System (GMDSS) of Chapter IV of SOLAS (incorporated by reference, see § 11.102 of this part).

§ 11.603 Requirements for radio officers' endorsements.

Each applicant for an original endorsement or renewal of license must present a current first or second class radiotelegraph operator license issued by the Federal Communications Commission. The applicant must enter on the endorsement application form the number, class, and date of issuance of his or her Federal Communications Commission license.

§ 11.604 Requirements for an STCW endorsement for Global Maritime Distress and Safety System (GMDSS) radio operators.

Each applicant for an original endorsement must present a certificate of completion from a Coast Guard-approved course for operator of radio in the GMDSS meeting the requirements of Section A–IV/2 of the STCW Code (incorporated by reference, see § 11.102 of this part).

Subpart G—Professional Requirements for Pilots

§ 11.701 Scope of pilot endorsements.

(a) An applicant for an endorsement as first-class pilot need not hold any other officer endorsement issued under this part.

(b) The issuance of an endorsement as first-class pilot to an individual qualifies that individual to serve as pilot over the routes specified on the endorsement, subject to any limitations imposed under paragraph (c) of this section.

(c) The OCMI issuing an endorsement as first-class pilot imposes appropriate limitations commensurate with the experience of the applicant, with respect to class or type of vessel, tonnage, route, and waters.

(d) A license or MMC endorsement issued for service as a master, mate, or operator of uninspected towing vessels authorizes service as a pilot under the provisions of § 15.812 of this subchapter. Therefore, first-class pilot endorsements will not be issued with tonnage limitations of 1,600 GRT or less.

§ 11.703 Service requirements.

(a) The minimum service required to qualify an applicant for an endorsement as first-class pilot is predicated upon the nature of the waters for which pilotage is desired.

(1) *General routes (routes not restricted to rivers, canals and small lakes.* The applicant must have at least 36 months of service in the deck department of self-propelled vessels navigating on oceans, coastwise, and Great Lakes, or bays, sounds, and lakes other than the Great Lakes, as follows:

(i) Eighteen months of the 36 months of service must be performing bridge watchkeeping duties under the supervision of the master or a qualified officer.

(ii) At least 12 months of the 18 months of service required in paragraph (a)(1)(i) of this section must be on vessels operating on the class of waters for which pilotage is desired.

(2) *River routes.* The applicant must have at least 36 months of service in the deck department of any vessel including at least 12 months of service on vessels operating on the waters of rivers while the applicant is performing bridge watchkeeping duties under the supervision of the master or a qualified officer.

(3) *Canal and small lakes routes.* The applicant must have at least 24 months of service in the deck department of any vessel including at least 8 months of service on vessels operating on canals or small lakes.

(b) A graduate of the Great Lakes Maritime Academy in the deck class meets the service requirements of this section for an endorsement as first-class pilot on the Great Lakes.

(c) Completion of an approved or accepted pilot training course may be substituted for a portion of the service requirements of this section in accordance with § 10.404 of this subchapter. Additionally, roundtrips made during this training may apply toward the route familiarization requirements of § 11.705 of this subpart. An individual using substituted service must have at least 9 months of shipboard service.

(d) An individual holding a license or MMC endorsement as master or mate of inspected self-propelled vessels of more than 1,600 GRT meets the service requirements of this section for an endorsement as first-class pilot.

§ 11.705 Route familiarization requirements.

(a) The Officer in Charge, Marine Inspection (OCMI) has jurisdiction and determines within the range limitations specified in this section, the number of

roundtrips required to qualify an applicant for a particular route, considering the following:

(1) The geographic configuration of the waterway.

(2) The type and size of vessels using the waterway.

(3) The abundance or absence of aids to navigation.

(4) The background lighting effects.

(5) The known hazards involved, including waterway obstructions or constrictions such as bridges, narrow channels, or sharp turns.

(6) Any other factors unique to the route that the OCMI deems appropriate.

(b) An applicant holding no other deck officer endorsement seeking an endorsement as first-class pilot must furnish evidence of having completed a minimum number of roundtrips, while serving as quartermaster, wheelsman, able seaman, apprentice pilot, or in an equivalent capacity, standing regular watches at the wheel or in the pilot house as part of routine duties, over the route sought. Evidence of having completed a minimum number of roundtrips while serving as an observer, properly certified by the master and/or pilot of the vessel, is also acceptable. The range of roundtrips for an endorsement is a minimum of 12 roundtrips and a maximum of 20 roundtrips. An applicant may have additional routes added to the first-class pilot endorsement by meeting the requirements in paragraph (c) of this section.

(c) An applicant who currently holds a deck officer license or MMC endorsement seeking an endorsement as first-class pilot for a particular route must furnish evidence of having completed the number of roundtrips over the route, specified by the OCMI, within the range limitations of this paragraph, for the particular grade of existing license or MMC endorsement held. The range of roundtrips for an endorsement is a minimum of eight roundtrips and a maximum of 15 roundtrips.

(d) Unless determined impracticable by the OCMI, 25 percent of the roundtrips required by the OCMI under this section must be made during the hours of darkness.

(e) One of the roundtrips required by the OCMI under this section must be made over the route within the 6 months immediately preceding the date of application.

(f) For an endorsement of unlimited tonnage, applicants must meet tonnage requirements for roundtrips specified in § 11.711(b) of this subpart.

§ 11.707 Examination requirements.

(a) An applicant for an endorsement as first-class pilot, except as noted in paragraph (b) of this section, is required to pass the examination described in subpart I of this part.

(b) An applicant for an extension of route, or an applicant holding a license or MMC endorsement as master or mate authorized to serve on vessels of more than 1,600 GRT seeking an endorsement as first-class pilot, is required to pass those portions of the examination described in subpart I of this part that concern the specific route for which endorsement is sought.

§ 11.709 Annual physical examination requirements.

(a) This section applies only to an individual who pilots a vessel of 1,600 GRT or more.

(b) Every person holding a license or MMC endorsement as first-class pilot must have a thorough physical examination each year, to be completed by the first day of the month following the anniversary of the individual's most recently completed Coast Guard-required physical examination. Every other year, in accordance with the medical certificate requirements in § 10.301(b) of this subchapter, the results of the physical examination must be recorded on a CG–719K form and submitted to the Coast Guard no later than 30 calendar days after completion of the physical examination.

(c) Each annual physical examination must meet the requirements specified in 46 CFR, part 10, subpart C and be recorded on a CG–719–K.

(d) An individual's first-class pilot endorsement becomes invalid on the first day of the month following the anniversary of the individual's most recently completed Coast Guard-required physical examination, if the person does not meet the physical examination requirement as provided in paragraph (b) of this section. The individual may not operate under the authority of that endorsement until a physical examination has been satisfactorily completed.

§ 11.711 Tonnage requirements.

(a) In order to obtain a first-class pilot endorsement authorizing service on vessels of unlimited tonnage over a particular route, the applicant must have sufficient experience on vessels of more than 1,600 GRT.

(b) For purposes of this section, an applicant is considered to have sufficient experience if the applicant has 18 months of experience as master, mate, quartermaster, wheelsman, able seaman, apprentice pilot, or in an equivalent capacity, standing regular watches at the wheel or in the pilothouse as part of routine duties, on vessels of 1,600 GRT or more, and two-thirds of the minimum number of roundtrips required for the route have been on vessels of 1,600 GRT or more.

(c) If an applicant does not have sufficient experience on vessels of 1,600 GRT or more, the endorsement will be for a limited tonnage until the applicant completes the 18 months of sea service, as mentioned in paragraph (b) of this section, on vessels of 1,600 GRT or more.

(d) For purposes of this section, for experience with respect to tonnage on towing vessels, the combined gross tonnage of the towing vessels and the vessels towed will be considered. However, the Coast Guard may require that all or a portion of the required number of roundtrips be obtained on self-propelled vessels of 1,600 GRT or more, when the Coast Guard determines that due to the nature of the waters and the overall experience of the applicant, self-propelled vessel experience is necessary to obtain a first-class pilot endorsement that is not restricted to tug and barge combinations.

§ 11.713 Requirements for maintaining current knowledge of waters to be navigated.

(a) If a first-class pilot has not served over a particular route within the past 60 months, that person's license or MMC endorsement is invalid for that route, and remains invalid until the individual has made one re-familiarization round trip over that route, except as provided in paragraph (b) of this section. Whether this requirement is satisfied or not has no effect on the renewal of other licenses or MMC endorsements. Roundtrips made within the 90-day period preceding renewal will be valid for the duration of the renewed license or MMC endorsement.

(b) For certain long or extended routes, the OCMI may, at his or her discretion, allow the re-familiarization requirement to be satisfied by reviewing appropriate navigation charts, coast pilots tide and current tables, local Notice to Mariners, and any other materials that would provide the pilot with current knowledge of the route. Persons using this method of re-familiarization must certify, when applying for renewal of their license or MMC endorsement, the material they have reviewed and the dates on which this was accomplished. Review within the 90-day period preceding renewal is valid for the duration of the renewed MMC endorsement.

Subpart H—Registration of Staff Officers and Miscellaneous Endorsements

§ 11.801 Applicability.

This subpart provides for the registration of staff officers for employment on vessels documented or numbered under the laws of the United States. Staff officers must be registered if serving on most vessels in ocean service or on the Great Lakes.

§ 11.803 Staff departments.

(a) Title 46 U.S.C. 8302 contains the requirements for staff departments on U.S. flag vessels.

(b) Title 46 U.S.C. 8302 does not apply to—

(1) A fishing or whaling vessel or yacht;

(2) A vessel operated only on bays, sounds, inland waters, and lakes (other than the Great Lakes); and

(3) A vessel ferrying passengers and cars on the Great Lakes.

§ 11.805 General requirements.

(a) The applicant for an endorsement as staff officer is not required to take any examination; however, the applicant must present to the Coast Guard a letter justifying the need for the endorsement.

(b) An applicant for a higher grade in the staff department must apply in the same manner as for an original endorsement and must surrender the previous Coast Guard-issued credentials upon issuance of the new MMC. A staff officer may serve in a lower grade of service for which he or she is registered.

(c) Title 46 U.S.C. 8302 addresses uniforms for staff officers who are members of the Naval Reserve.

(d) A duplicate MMC may be issued by the Coast Guard. (See § 10.229 of this subchapter.)

(e) An MMC is valid for a term of 5 years from the date of issuance. Procedures for renewing endorsements are found in § 10.227 of this subchapter.

(f) Each applicant for an original or a higher grade of endorsement, as described in paragraph (b) of this section, must produce evidence of having passed a chemical test for dangerous drugs or of qualifying for an exception from testing in § 16.220 of this subchapter. An applicant who fails a chemical test for dangerous drugs will not be issued an MMC.

§ 11.807 Experience requirements for registry.

(a) The applicant for a certificate of registry as staff officer must submit evidence of experience as follows:

(1) *Chief purser.* Two years of service aboard vessels performing duties relating to work in the purser's office.

(2) *Purser.* One year of service aboard vessels performing duties relating to work in the purser's office.

(3) *Senior assistant purser.* Six months of service aboard vessels performing duties relating to work in the purser's office.

(4) *Junior assistant purser.* Previous experience not required.

(5) *Medical doctor.* A valid license as physician or surgeon issued under the authority of a state or territory of the United States, the Commonwealth of Puerto Rico, or the District of Columbia.

(6) *Professional nurse.* A valid license as a registered nurse issued under authority of a state or territory of the United States, the Commonwealth of Puerto Rico, or the District of Columbia.

(7) *Marine physician assistant.* Successful completion of an accredited course of instruction for a physician's assistant or nurse practitioner program.

(8) *Hospital corpsman.* A rating of at least hospital corpsman or health services technician, first class in the U.S. Navy, U.S. Coast Guard, U.S. Marine Corps, or an equivalent rating in the U.S. Army (not less than Staff Sergeant, Medical Department, U.S.A.), or in the U.S. Air Force (not less than Technical Sergeant, Medical Department, U.S.A.F.), and a period of satisfactory service of at least 1 month in a military hospital or U.S. Public Health Service Hospital.

(b) Employment on shore in connection with a vessel's business may be accepted instead of service aboard vessels. Related shore employment is accepted in the ratio of 2 months of shore service to 1 month of creditable service aboard vessels.

(c) In computing the length of service required of an applicant for an endorsement, service of one season on vessels on the Great Lakes is counted as service of 1 year.

(d) In the event an applicant for an endorsement, other than medical doctor or professional nurse, presents evidence of other qualifications that, in the opinion of the Coast Guard, is equivalent to the experience requirements of this section and is consistent with the duties of a staff officer, the Coast Guard may issue the MMC.

§ 11.821 High-speed craft type-rating.

(a) This section is only applicable to those persons who will be serving or have served upon those vessels built and operated in accordance with the International Code of Safety for High Speed Craft (HSC Code).

(b) To qualify for a high-speed craft type-rating certificate (TRC) for operating vessels to which the HSC Code applies, an applicant must—

(1) Hold a valid officer endorsement for vessels of commensurate grade, tonnage, route, and/or horsepower; and

(2) Present evidence of successful completion of a Coast Guard-approved type rating training program.

(c) A separate TRC will be issued for each type and class of high speed craft. The original route will be as specified in the approved type rating program. Additional routes may be added to an existing TRC by completing at least 12 roundtrips over each route under the supervision of a type-rated master on the class of high speed craft the TRC will be valid for. Six of the trips must be made during the hours of darkness or a ''daylight only'' restriction will be imposed.

(d) A TRC will be valid for 2 years. The expiration date of a TRC will not be changed due to the addition of additional routes.

(e) To renew a TRC, an applicant must provide evidence of—

(1) At least 6 months of service in the appropriate position on the type crafts to which the TRC applies during the preceding 2 years, including at least 12 roundtrips over each route, together with evidence of a completed revalidation assessment; or

(2) Completion of an approved revalidation training program.

Subpart I—Subjects of Examinations

§ 11.901 General provisions.

(a) Where required by § 11.903 of this subpart, each applicant for an endorsement listed in that section must pass an examination on the appropriate subjects listed in this subpart.

(b) If the endorsement is to be limited in a manner that would render any of the subject matter unnecessary or inappropriate, the examination may be amended accordingly by the Coast Guard. Limitations that may affect the examination content are as follows:

(1) Restricted routes for reduced service officer endorsements (master or mate of vessels of less than 200 GRT, OUPV, or master or mate (pilot) of towing vessels).

(2) Limitations to a certain class or classes of vessels.

(c) Simulators used in assessments of competence required by subpart C of this part must meet the appropriate performance standards set out in Section A–I/12 of the STCW Code (incorporated by reference, see § 11.102 of this part). However, simulators installed or brought into use before February 1, 2002, need not meet these performance standards if they fulfill the

objective of the assessment of competence or demonstration of proficiency.

§ 11.903 Officer endorsements requiring examinations.

(a) The following officer endorsements require examinations for issuance:

(1) Chief mate of ocean or near-coastal self-propelled vessels of unlimited tonnage (examined at the management level).

(2) Third mate of ocean or near-coastal self-propelled vessels of unlimited tonnage (examined at the operational level).

(3) Master of ocean or near-coastal self-propelled vessels of less than 1,600 GRT.

(4) Mate of ocean or near-coastal self-propelled vessels of less than 1,600 GRT.

(5) Master of near-coastal vessels less than 200 GRT.

(6) Mate of near-coastal vessels less than 200 GRT.

(7) Master of near-coastal vessels less than 100 GRT.

(8) Mate of near-coastal vessels less than 100 GRT.

(9) Master of Great Lakes and inland vessels of unlimited tonnage.

(10) Mate of Great Lakes and inland vessels of unlimited tonnage.

(11) Master of inland vessels of unlimited tonnage.

(12) Master of river vessels of unlimited tonnage.

(13) Master of Great Lakes and inland/river vessels less than 500 GRT or less than 1,600 GRT.

(14) Mate of Great Lakes and inland/river vessels less than 500 GRT or less than 1,600 GRT.

(15) Master of Great Lakes and inland/river vessels less than 200 GRT.

(16) Mate of Great Lakes and inland/river vessels less than 200 GRT.

(17) Master of Great Lakes and inland/river vessels less than 100 GRT.

(18) First-class pilot.

(19) Apprentice mate (steersman) of towing vessels.

(20) Apprentice mate (steersman) of towing vessels, limited.

(21) Offshore Installation Manager.

(22) Barge Supervisor.

(23) Ballast Control Operator.

(24) Operator of uninspected passenger vessels.

(25) Master of uninspected fishing industry vessels.

(26) Mate of uninspected fishing industry vessels.

(27) Master (OSV).

(28) Chief mate (OSV).

(29) Mate (OSV).

(30) First assistant engineer (limited or unlimited propulsion power).

(31) Third assistant engineer (limited or unlimited propulsion power).

(32) Chief engineer (limited) steam/motor vessels.

(33) Assistant engineer (limited) steam/motor vessels.

(34) Designated duty engineer steam/motor vessels.

(35) Chief engineer (uninspected fishing industry vessels).

(36) Assistant engineer (uninspected fishing industry vessels).

(37) Chief engineer (MODU).

(38) Assistant engineer (MODU).

(39) Chief engineer (OSV).

(40) Assistant engineer (OSV).

(b) In paragraphs (a)(1) through (4), and (a)(6), (7), (15), and (16) of this section, examinations will vary depending on route desired.

(c) The following officer endorsements do not require examinations:

(1) Master of oceans or near-coastal vessels of unlimited tonnage when upgrading from MMC officer endorsements, or a license and STCW endorsement as chief mate of oceans or near-coastal vessels of unlimited tonnage, provided the applicant has already been examined at the management level.

(2) Master of oceans or near-coastal vessels of unlimited tonnage when adding an endorsement as offshore installation manager (OIM).

(3) Master of oceans or near-coastal self-propelled vessels of less than 200 GRT, when upgrading from mate of near-coastal self-propelled vessels of less than 200 GRT. Master of oceans self-propelled vessels of less than 200 GRT would, however, require an examination in celestial navigation.

(4) Second mate of oceans or near-coastal vessels when upgrading from third mate of oceans or near-coastal vessels, provided the applicant has already been examined at the operational level.

(5) Master of Great Lakes and inland vessels, or river vessels of less than 200 GRT when upgrading from mate of less than 200 GRT on the same route.

(6) Chief engineer unlimited, provided the applicant has already been examined at the management level.

(7) Chief engineer limited to service on steam, motor, or gas turbine-propelled vessels of less than 10,000 HP/7,500 kW on near-coastal routes, provided the applicant has already been examined at the management level.

(8) Chief engineer limited to service on steam, motor, and/or gas turbine-propelled vessels of less than 4,000 HP/3,000 kW on near-coastal routes, provided the applicant has already been examined at the management level.

(9) Second assistant engineer when upgrading from third assistant engineer, provided the applicant has already been examined at the operational level.

§ 11.910 Subjects for deck officer endorsements.

Table 1 to § 11.910 gives the codes used in Table 2 to § 11.910 for all deck officers. Table 2 to § 11.910 indicates the examination subjects for each endorsement, by code number. Figures in the body of Table 2 to § 11.910, in place of the letter ''x'', refer to notes.

TABLE 1 TO § 11.910—CODES FOR DECK OFFICER ENDORSEMENTS

Deck Officer Endorsements
1. Master/chief mate, oceans/near-coastal, unlimited tonnage.
2. Master, oceans/near-coastal, less than 500 GRT and less than 1,600 GRT.
3. Second mate/third mate, oceans/near-coastal, unlimited tonnage, and mate less than 500 GRT and less than 1600 GRT, oceans/near-coastal.
4. Master, oceans/near-coastal, and mate, near-coastal, less than 200 GRT (includes master, near-coastal, less than 100 GRT).
5. Operator, uninspected passenger vessels, near-coastal.
6. Operator, uninspected passenger vessels, Great Lakes/inland.
7. Apprentice mate, towing vessels, ocean (domestic trade) and near-coastal routes.
8. Apprentice mate (steersman), towing vessels, Great Lakes, and inland routes.
9. Steersman, towing vessels, Western Rivers.
10. Master, Great Lakes/inland, or master, inland, unlimited tonnage.
11. Mate, Great Lakes/inland, unlimited tonnage.
12. Master, Great Lakes/inland, less than 500 GRT and less than 1,600 GRT.
13. Mate, Great Lakes/inland, less than 500 GRT and less than 1,600 GRT.
14. Master or mate, Great Lakes/inland, less than 200 GRT (includes master, Great Lakes/inland, less than 100 GRT).

TABLE 1 TO § 11.910—CODES FOR DECK OFFICER ENDORSEMENTS—Continued

15. Master, rivers, unlimited tonnage.
16. Master, rivers, less than 500 GRT and less than 1,600 GRT.
17. Mate, rivers, less than 500 GRT and less than 1,600 GRT.
18. Master or mate, rivers, less than 200 GRT (includes master, rivers, less than 100 GRT).
19. Master, uninspected fishing industry vessels, oceans/near-coastal.
20. Mate, uninspected fishing industry vessels, oceans/near-coastal.
21. First-class pilot.
22. Master (OSV).
23. Chief mate (OSV).
24. Mate (OSV).

Table 2 to § 11.910 --_Subjects For Deck Officer Endorsements

Examination topics	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24
Navigation and position determination:																								
Ocean Track Plotting:																								
Middle Latitude Sailing	1	1	1																1	1		1	1	1
Mercator Sailing	X	X	X	7															X	X		X	X	X
Great Circle Sailing	1	1	1	7															1	1		1	1	1
Parallel Sailing	1	1	1																1	1		1	1	1
Estimated Time of Arrival	X	X	X				1												X	1	1	X	X	1
Piloting:																								
Distance Off	X	X	X	X	X	X	X	X		X	X	X	X	X					X	X	X	X	X	X
Bearing Problems	X	X	X	X	X	X	X	X		X	X	X	X	X					X	X	X	X	X	X
Fix or Running Fix	X	X	X	X	X	X	X	X		X	X	X	X	X					X	X	X	X	X	X
Chart Navigation	X	X	X	X	X	X	X	X	2	X	X	X	X	X	2	2	2	2	X	X	X	X	X	X
Dead Reckoning	X	X	X	X	X	X	X	X		X	X	X	X	X					X	X	X	X	X	X
Celestial Observations:																								
Latitude by Polaris	1	1	1	1															1	1		1	1	1
Latitude by Meridian Transit (Any Body)	1	1																	1			1	1	
Latitude by Meridian Transit (Sun Only)			1	1			1													1				1
Fix or Running Fix (Any Body)	1	1	1																1			1	1	1
Fix or Running Fix (Sun Only)				1			1													1				
Star Identification	1	1	1				1												1			1	1	1
Star Selection	1	1	1				1												1			1	1	1
Times of Celestial Phenomena:																								
Time of Meridian Transit (Any Body)	1	1																	1			1	1	
Time of Meridian Transit (Sun Only)			1	1			1													1				1
Zone Time of Sun Rise/Set/Twilight	1	1	1	1			1												1	1		1	1	1
Speed by RPM	X	X	X							3									X	X		X	X	X
Fuel Conservation	X	X		1			1			3									X			X	X	

Examination topics	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24
Electronic Navigation	X	X	X	X	X	X	X	X		X	X	X	X	X					X	X	X	X	X	X
Instruments & Accessories	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Aids to Navigation	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Charts, Navigation Publication, & Notices to Mariners	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Nautical Astronomy & Navigation Definitions	1	1	1	1			1												1	1		1	1	1
Chart Sketch																					4			
Seamanship:																								
Marlinspike Seamanship			X	X	X	X	X	X	X		X		X	X	X	X	X	X	X	X	X			X
Purchases, Blocks, & Tackle			X	X			X	X	X		X		X	X	X	X	X	X	X	X	X			X
Watchkeeping:																								
COLREGS	X	X	X	X	X	5	X	5		5	5	5	5	5					X	X	5	X	X	X
Inland Navigational Rules	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Basic Principles, Watchkeeping	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Navigation Safety Regulations (33 CFR 164)	X		X				X	X	X	X	X				X				6	6	6	6	6	6
Compass - Magnetic & Gyro:																								
Principles, Operation, and Maintenance of Gyro Compass	X	X	X	7			1			X	X	X	X	7	X				X	X		X	X	X
Principles of Magnetic Compass	X	X	X	X	X	3	X	3	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Gyro Compass Error/Correction	X	X	X	7			1	X		X	X	X	X	7	X				X	X	X	X	X	X
Magnetic Compass Error/Correction	X	X	X	X	X	3	X	3	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Determination of Compass Error:																								
Azimuth (Any Body)	X	X	X	7			X															X	X	X
Azimuth (Sun Only)										3									1	1				
Amplitude (Any Body)	X	X	X	7			X															X	X	X
Amplitude (Sun Only)										3									1	1				
Terrestrial Observation	X	X	X	X	X	X	X	X		X	X	X	X	X					X	X	X	X	X	X

Examination topics	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24
Meteorology and Oceanography:																								
Characteristics of Weather Systems	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X		X	X	X
Ocean Current Systems	X	X	X	X			X												X	X		X	X	
Weather Charts and Reports	X	X	X	X	X	X	X	X		X	X	X	X	X					X	X		X	X	X
Tides and Tidal Currents:																								
Terms and Definitions	X	X	X	X	X	X	X	X		X	X	X	X	X					X	X	X	X	X	X
Publications	X	X	X	X	X	X	X	X		X	X	X	X	X					X	X	X	X	X	X
Calculations	X	X	X	X	X	X	X	X		X	X	X	X	X					X	X	X	X	X	X
Vessel Maneuvering and Handling:																								
Approaching Pilot Vessel or Station	X	X																			X			
Vessel Handling in Rivers & Estuaries	X	X		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X		X	X	X	
Maneuvering in Shallow Water	X	X		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X		X	X	X	
Interaction with Bank/Passing Ship	X	X		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X		X	X	X	
Berthing and Unberthing	X	X		X	X	X	X			X	X	X		X	X	X		X	X		X	X	X	
Anchoring and Mooring	X	X	X	X	X	X	X			X	X	X	X	X					X	X	X	X	X	X
Dragging of, Clearing Fouled Anchors	X	X	X	X						X	X	X	X	X					X	X		X	X	X
Heavy Weather Operations	X	X	X	X	X	X	X	X		3	3	3	3	3					X	X		X	X	X
Maneuvering for Launching of Lifeboats and Liferafts in Heavy Weather	X	X		X			X	X		3		3		3					X			X	X	
Receiving Survivors From Lifeboats/Liferafts	X	X		X			X	X														X	X	
General: Turn Circle, Pivot Point, Advance and Transfer			X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X			X

Examination topics	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24
Determine Maneuvering Characteristics of Major Vessel Types	X	X								3												X	X	
Wake Reduction	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Ice Operations/Ice Navigation	X	X	X				X	X	X	X	3	X	3						X	X		X	X	X
Towing Vessel Operations							X	X	X															
Stability, Construction, and Damage Control:																								
Principles of Vessel Construction	X	X	X	X			X	3	X	X	3	X	3	X	X	X						X	X	X
Trim and Stability	X	X	X	X			X	X	X	X	3	X	3	X	X	X		X	X	X		X	X	X
Damage Trim and Stability	X	X																				X	X	
Stability, Trim, and Stress Calculation	X	X	X																			X	X	
Vessel Structural Members	X	X	X	7							X	X	3	7								X	X	X
IMO Ship Stability Recommendations	X	X																				X	X	
Damage Control	X	X	X	7			X	X		X	X	X	X	7	X	X	X	7	X	X		X	X	X
Change in Draft Due to Density	X																							
Vessel Power Plants:																								
Marine Power Plant Operating Principles	X	X		7			X	X	X	X		X		7	X	X			X			X	X	
Vessel's Auxiliary Machinery	X	X								X		X			X	X						X	X	
Marine Engineering Terms	X	X	X	7			X	X	X	X	X	X	X	7	X	X	X	7	X	X		X	X	X
Small Engine Operations and Maintenance				X	X	X								X				X						
Cargo Handling and Stowage:																								
Cargo Stowage and Security, including Cargo Gear	X	X	X	7						X	X	X	X	7	X	X	X	7	X	X		X	X	X
Loading and Discharging Operations	X	X	X							X	X	X	X		X	X	X		X	X		X	X	X
International Regulations for Cargoes, especially	X	X																				X	X	

Examination topics	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24
International Maritime Dangerous Goods Code																								
Dangerous/Hazardous Cargo Regulations	X	X	X				X	X	X	X	X	X	X		X	X	X					X	X	X
Tank Vessel and Fuel Oil Operations	X	X	X	7						X	X	X	X	7	X	X	X	7	X	X		X	X	X
Cargo Piping and Pumping Systems																						X	X	X
Cargo Oil Terms and Definitions																						X	X	X
Barge Regulations (Operations)							X	X	X															
Fire Prevention and Firefighting Appliances:																								
Organization of Fire Drills	X	X	X	X			X	X	X	X	X	X	X	X	X	X	X	X	X	X		X	X	X
Classes and Chemistry of Fire	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X		X	X	X
Firefighting Systems	X	X	X	X			X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Firefighting Equipment & Regulations	X	X	X	7			X	X	X	X	X	X	X	7	X	X	X	7	X	X	X	X	X	X
Firefighting Equipment & Regulations for T-Boats				9										9				9						
Basic Firefighting and Prevention	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Emergency Procedures:																								
Ship Beaching Precautions	X	X								X		X							X			X	X	
Actions Prior to/after Grounding, Including Refloating	X	X								X		X			X	X			X			X	X	
Collision	X	X		X	X	X	X	X	X	X		X		X	X	X		X	X			X	X	
Temporary Repairs	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X		X	X	X
Passenger/Crew Safety in Emergencies	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X		X	X	X
Fire or Explosion	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X		X	X	X
Abandon Ship Procedures	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X		X	X	X
Emergency Steering	X	X	X	7			X	X	X	X	X	X	X	7	X	X	X	7	X	X		X	X	X

Examination topics	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24
Rescuing Survivors from Ship/Aircraft in Distress	X	X	X	X			X	X	X	X	X	X	X	X	X	X	X	X	X	X		X	X	X
Man Overboard Procedures	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X		X	X	X
Emergency Towing	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X		X	X	X
Medical Care:																								
Knowledge and use of:																								
International Medical Guide for Ships	X	X																				X	X	
Ship's Medical Chest & Medical Aid at Sea	X	X																				X	X	
Medical Section, International Code of Signals	X	X	X																			X	X	X
Maritime Law:																								
International Maritime Law:																								
International Convention on Load Lines	X	X																				X	X	
SOLAS	X	X																				X	X	
MARPOL 73/78	X	X	X	X															X	X		X	X	X
International Health Regulations	X	X																				X	X	
Other International Instruments for Ship/Passenger/Crew/ Cargo Safety	X	X		X																		X	X	
National Maritime Law:																								
Load Lines	X	X	X	X			X	X		3	3	3	3	X								X	X	X
Certification & Documentation of Vessels	X	X		X	X	X	X	X	X	X		X		X	X	X		X	X			X	X	
Rules & Regulations for Inspected Vessels	X	X	X	7						X	X	X	X	7	X	X	X	7				X	X	X
Rules & Regulations for Inspected T-Boats				9										9				9						

Examination topics	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24
Rules and Regulations for Uninspected Vessels					X	X	X	X	X										X	X				
Pollution Prevention Regulations	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X		X	X	X
Pilotage	X	X					X	X	X												X	X	X	
Licensing & Certification of Seamen	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X		X	X	X
Shipment and Discharge, Manning	X	X		X			X			X		X			X	X						X	X	
Title 46, U.S. Code	X	X								X		X			X	X						X	X	
Captain of the Port Regulations, Vessel Traffic Service Procedures for the Route Desired																					X			
Shipboard Management and Training:																								
Personnel Management	X	X								X		X			X	X			X			X	X	
Shipboard Organization	X	X								X		X			X	X			X			X	X	
Required Crew Training	X	X								X		X			X	X			X			X	X	
Ship Sanitation	X	X		X	X	X	X	X	X	X		X		X	X	X		X	X			X	X	
Vessel Alteration/Repair Hot Work	X	X	X	X			X	X	X	X	X	X	X	X	X	X	X	X	X	X		X	X	X
Safety	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X		X	X	X
Ship's Business:																								
Charters	X	X					X	X	X	X		X			X	X						X	X	
Liens and Salvage	X	X					X	X	X	X		X			X	X						X	X	
Insurance	X	X					X	X	X	X		X			X	X						X	X	
Entry and Clearance	X	X					X	X	X	X		X			X	X						X	X	
ISM and Safety Management Systems	X	X	X				X	X	X													X	X	X
Certificates and Documents Required	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X		X	X	X
Communications:																								
Radiotelephone Communications	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
GMDSS	X	X																				X	X	

Examination topics	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24
Signals: Storm/Wreck/Distress/ Special	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X		X	X	X
International Code of Signals	X	X	X																			X	X	X
IMO Standard Maritime Communication Phrases	X	X	X																			X	X	X
Lifesaving:																								
Survival at Sea	X	X	X	X	X		X												X	X		X	X	X
Lifesaving Appliance Regulations	X	X	X	7						X	X	X	X	7	X	X	X	7				X	X	X
Lifesaving Appliance Regulations for T-Boats				9										9				9						
Lifesaving Appliance Operation	X	X	X	7	X	X	X	X	X	X	X	X	X	7	X	X	X	7	X	X		X	X	X
Lifesaving Appliance Operations for T-Boats				9										9				9						
Search and Rescue:																								
Search and Rescue Procedures	X	X	X							X		X							X			X	X	X
Automated Mutual-Assistance Vessel Rescue System and International Aeronautical and Maritime Search And Rescue Manual	X	X	X																			X	X	X
Sail/Auxiliary Sail Vessels Addendum (8)	X	X	X	X	X	X				X	X	X	X	X	X	X	X	X						

1 For ocean routes only.

2 River chart navigation only.

3 Only on Great Lakes specific modules taken for "Great Lakes and Inland" routes.

4 Including recommended courses, distances, prominent aids to navigation, depths of waters in channels and over hazardous shoals, and other important features of the route,

such as character of the bottom. The Coast Guard may accept chart sketching of only a portion or portions of the route for long or extended routes.

5 COLREGS required if endorsement is not limited to non-COLREGS waters.

6 For officer endorsements of 1,600 GRT or more.

7 Only for officer endorsements of 100 GRT or more.

8 Sail vessel safety precautions, rules of the road, operations, heavy weather procedures, navigation, maneuvering, and sailing terminology. Applicants for sail/auxiliary sail endorsements to master, mate or operator of uninspected passenger vessels are also tested in the subjects contained in this addendum.

9 For officer endorsements of less than 100 GRT.

§ 11.920 Subjects for MODU endorsements.

Table 1 to § 11.920 gives the codes used in Table 2 to § 11.920 for MODU endorsements. Table 2 to § 11.920 indicates the examination subjects for each endorsement by the code number.

TABLE 1 TO § 11.920—CODES FOR MODU ENDORSEMENTS

1. OIM/Unrestricted.
2. OIM/Surface Units Underway.
3. OIM/Surface Units on Location.
4. OIM/Bottom Bearing Units Underway.

TABLE 1 TO § 11.920—CODES FOR MODU ENDORSEMENTS—Continued

5. OIM/Bottom Bearing Units on Location.
6. Barge Supervisor.
7. Ballast Control Operator.

TABLE 2 TO § 11.920—SUBJECTS FOR MODU LICENSES

Examination topics	1	2	3	4	5	6	7
Watchkeeping:							
COLREGS	X	X	.....	X	.....	X	.....
"Basic Principles for Navigational Watch"	X	X	X	X	X	X	.....
MODU obstruction lights	X	.....	X	.....	X	X	.....
Meteorology and oceanography:							
Synoptic chart weather forecasting	X	X	X	X	X	X	.....
Characteristics of weather systems	X	X	X	X	X	X	X
Ocean current systems	X	X	X	X	X	X	.....
Tide and tidal current publications	X	X	X	X	X	X	.....
Stability, ballasting, construction and damage control:							
Principles of ship construction, structural members	X	X	X	X	X	X	X
Trim and stability	X	X	X	X	X	X	X
Damaged trim and stability countermeasures	X	X	X	X	.....	X	X
Stability and trim calculations	X	X	X	X	.....	X	X
Load line requirements	X	X	X	X	X	X	X
Operating manual:							
Rig characteristics and limitations	X	X	X	X	X	X	X
Hydrostatics data	X	X	X	X	.....	X	X
Tank tables	X	X	X	X	X	X	X
KG limitations	X	X	X	X	.....	X	X
Severe storm instructions	X	X	X	X	X	X	X
Transit instructions	X	X	.....	X	.....	X	X
On-station instructions	X	.....	X	.....	X	X	X
Unexpected list or trim	X	X	X	X	.....	X	X
Ballasting procedures	X	X	X	.....	.....	X	X
Operation of bilge system	X	X	X	X	.....	X	X
Leg loading calculations	X	.....	.....	X	X	.....	.....
Completion of variable load form	X	X	X	X	X	X	X
Evaluation of variable load form	X	X	X	X	X	X	X
Emergency procedures	X	X	X	X	X	X	X
Maneuvering and handling:							
Anchoring and anchor handling	X	X	X	.....	.....	X	.....
Heavy weather operations	X	X	X	X	X	X	X
Mooring, positioning	X	X	X	X	.....	X	X
Moving, positioning	X	X	.....	X	.....	X	.....
Fire prevention and firefighting appliances:							
Organization of fire drills	X	X	X	X	X	X	X
Classes and chemistry of fire	X	X	X	X	X	X	X
Firefighting systems	X	X	X	X	X	X	X
Firefighting equipment and regulations	X	X	X	X	X	X	X
Basic firefighting and prevention of fires	X	X	X	X	X	X	X
Emergency procedures and contingency plans:							
Temporary repairs	X	X	X	X	.....	X	.....
Fire or explosion	X	X	X	X	X	X	X
Abandon unit	X	X	X	X	X	X	X
Man overboard	X	X	X	X	X	X	X
Heavy weather	X	X	X	X	X	X	X
Collision	X	X	X	X	X	X	X
Failure of ballast control system	X	X	X	.....	.....	X	X
Mooring emergencies	X	.....	X	.....	.....	X	X
Blowouts	X	.....	X	.....	X	X	X
H_2S safety	X	.....	X	.....	X	X	X
General Engineering—Power plants and auxiliary systems:							
Marine engineering terminology	X	X	X	X	X	X	X
Engineering equipment, operations and failures	X	X	X	X	X	X	.....
Offshore drilling operations	.....	.....	.....	.....	.....	.....	X
Deck seamanship—general:							
Transfer of personnel	X	X	X	X	X	X	.....
Support boats/helicopters	X	X	X	X	X	X	.....
Cargo stowage and securing	X	X	X	X	X	X	.....
Hazardous materials/dangerous goods precautions	X	X	X	X	X	X	.....
Mooring equipment	X	X	X	X	X	X	.....
Crane use procedures and inspections	X	X	X	X	X	X	.....
Medical care:							

TABLE 2 TO § 11.920—SUBJECTS FOR MODU LICENSES—Continued

Examination topics	1	2	3	4	5	6	7
Knowledge and use of:							
First aid	X	X	X	X	X	X	X
First response medical action	X	X	X	X	X	X	X
Maritime law and regulation:							
National maritime law:							
Certification and documentation of vessels	X	X	X	X	X	.....	.....
Ship sanitation	X	X	X	X	X	.....	.....
Regulations for vessel inspection	X	X	X	X	X	.....	.....
Pollution prevention regulations	X	X	X	X	X	X	X
Credentialing regulations	X	X	X	X	X	.....	.....
Rules and regulations for MODUs	X	X	X	X	X	X	.....
International Maritime law:							
International Maritime Organization	X	X	X	X	X	.....	.....
International Convention on Load Lines	X	X	X	X	.....	.....	X
MARPOL 73/78	X	X	X	X	X	.....	.....
Personnel Management and Training:							
Ship's business including:							
Required logs and recordkeeping	X	X	X	X	X	X	.....
Casualty reports and records	X	X	X	X	X	.....	.....
Communications:							
Radio communications and FCC permit	X	X	X	X	X	X	.....
Radiotelephone procedures	X	X	X	X	X	X	.....
Lifesaving/Survival:	.....	.....	.....	.....	.....	.....	.....
Lifesaving appliance operation (launching, boat handling)	X	X	X	X	X	X	X
Procedures/rules for lifeboats, survival suits, personal flotation devices (PFDs), life rafts and emergency signals	X	X	X	X	X	X	X
Emergency radio transmissions	X	X	X	X	X	X	X
Survival at sea	X	X	X	X	X	X	X

§ 11.950 Examination subjects for engineer officer endorsements.

Table 1 to § 11.950 gives the codes used in Table 2 to § 11.950 for engineer officer endorsements. Table 2 to § 11.950 indicates the examination subjects for each endorsement by the code number.

TABLE 1 TO § 11.950—CODES FOR ENGINEER OFFICER ENDORSEMENTS

1. First assistant engineer (unlimited).
2. Third assistant engineer (unlimited).
3. Chief engineer (limited).
4. Assistant engineer (limited).
5. Designated duty engineer (unlimited).
6. Designated duty engineer (4,000 HP).
7. Designated duty engineer (1,000 HP).
8. Chief engineer (uninspected fishing industry vessels).

TABLE 1 TO § 11.950—CODES FOR ENGINEER OFFICER ENDORSEMENTS—Continued

9. Assistant engineer (uninspected fishing industry vessels).
10. Chief engineer (MODU).
11. Assistant engineer (MODU).
12. Chief engineer (OSV unlimited).
13. Assistant engineer (OSV unlimited).
14. Chief engineer (OSV 4,000 HP).
15. Assistant engineer (OSV 4,000 HP).

Table 2 to § 11.950 -- Subjects for engineer officer endorsements

	1			2			3			4			5			6		
	S	M	G	S	M	G	S	M	G	S	M	G	S	M	G	S	M	G
General Subjects:																		
Prints and tables	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Hand tools				X	X	X				X	X	X	X	X	X	X	X	X
Pipes, fittings, and valves				X	X	X				X	X	X	X	X	X	X	X	X
Hydraulics	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Materials science				X	X	X				X	X	X						
Bilge systems	X	X	X	X	X	X				X	X	X	X	X	X	X	X	X
Oily water separators	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Sanitary/sewage systems	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Freshwater systems	X	X	X	X	X	X				X	X	X	X	X	X	X	X	X
Lubricants				X	X	X				X	X	X	X	X	X	X	X	X
Lubrication systems	X	X	X	X	X	X				X	X	X	X	X	X	X	X	X
Automation systems	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Control systems	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Propellers/ shafting systems	X	X	X	X	X	X				X	X	X	X	X	X	X	X	X
Machine shop				X	X	X				X	X	X	X	X	X	X	X	X
Distilling systems	X	X	X	X	X	X				X	X	X	X	X	X			
Pumps				X	X	X				X	X	X	X	X	X	X	X	X
Compressors				X	X	X				X	X	X	X	X	X	X	X	X
Administration	X	X	X				X	X	X				X	X	X	X	X	X
Bearings	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Governors	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Cooling systems	X	X	X	X	X	X				X	X	X	X	X	X	X	X	X
Instruments				X	X	X				X	X	X	X	X	X	X	X	X
Ship construction and repair				X	X	X				X	X	X	X	X	X	X	X	X
Steering systems	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X

	1			2			3			4			5			6		
	S	M	G	S	M	G	S	M	G	S	M	G	S	M	G	S	M	G
Deck machinery	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Ventilation systems	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Thermodynamics				X	X	X				X	X	X	X	X	X			
Heat exchangers				X	X	X				X	X	X	X	X	X	X	X	X
Watch duties				X	X	X				X	X	X						
International rules and regulations				X	X	X				X	X	X	X	X	X			
Refrigeration and air conditioning:																		
Theory				X	X	X				X	X	X	X	X	X	X	X	X
Air conditioning systems	X	X	X	X	X	X				X	X	X	X	X	X	X	X	X
Refrigeration systems	X	X	X	X	X	X				X	X	X	X	X	X	X	X	X
Control systems	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Instruments-gauges				X	X	X				X	X	X	X	X	X	X	X	X
Safety	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Casualty control	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Electricity, electronics and control systems:																		
Theory				X	X	X				X	X	X	X	X	X	X	X	X
General maintenance				X	X	X				X	X	X	X	X	X	X	X	X
Generators				X	X	X				X	X	X	X	X	X	X	X	X
Motors				X	X	X				X	X	X	X	X	X	X	X	X
Motor controllers	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Propulsion systems	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Distribution systems	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Electronic systems	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Batteries				X	X	X				X	X	X	X	X	X	X	X	X
Communications				X	X	X				X	X	X	X	X	X	X	X	X
Safety	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Casualty control	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Troubleshooting	X	X	X				X	X	X				X	X	X	X	X	X

	1			2			3			4			5			6		
	S	M	G	S	M	G	S	M	G	S	M	G	S	M	G	S	M	G
High voltage systems	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Computers and networks	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Bridge navigation equipment	X	X	X				X	X	X									
Steam Generators:																		
Steam-theory				X	X					X	X		X			X		
Main boilers	X			X			X			X			X			X		
Auxiliary boilers		X	X		X	X					X	X		X	X		X	X
Feedwater systems	X	X	X	X	X	X				X	X	X	X	X	X	X	X	X
Condensate systems	X	X	X	X	X	X				X	X	X	X	X	X	X	X	X
Recovery systems	X	X	X	X	X	X				X	X	X	X	X	X	X	X	X
Fuel	X			X			X			X			X			X		
Main fuel systems	X			X						X			X			X		
Boiler water chemistry	X			X			X			X			X			X		
Control systems	X			X			X			X			X			X		
Automation systems	X			X			X			X			X			X		
Safety	X			X			X			X			X			X		
Casualty control	X			X			X			X			X			X		
Steam engines:																		
Main turbines	X			X			X			X			X			X		
Auxiliary turbines	X	X		X	X					X	X		X	X		X		
Governor systems	X			X			X			X			X			X		
Control systems	X			X			X			X			X			X		
Automation systems	X			X			X			X			X			X		
Lubrication systems	X			X						X			X			X		
Drive systems	X			X			X			X			X			X		
Auxiliary diesels	X			X			X			X			X			X		
Safety	X			X			X			X			X			X		
Casualty control	X			X			X			X			X			X		
Motor propulsion:																		
Fundamentals					X						X			X			X	

	1			2			3			4			5			6		
	S	M	G	S	M	G	S	M	G	S	M	G	S	M	G	S	M	G
Main engines		X			X			X			X			X			X	
Auxiliary engines		X			X			X			X			X			X	
Starting systems		X			X			X			X			X			X	
Lubrication systems		X			X			X			X			X			X	
Fuel		X			X			X			X			X			X	
Fuel systems		X			X			X			X			X			X	
Fuel injection systems		X			X			X			X			X			X	
Intake systems					X						X			X			X	
Exhaust systems					X						X			X			X	
Cooling systems					X						X			X			X	
Air-charging systems		X			X			X			X			X			X	
Drive systems					X						X			X			X	
Control systems		X			X			X			X			X			X	
Automation systems		X			X			X			X			X			X	
Governors		X			X			X			X			X			X	
Steam systems		X			X						X			X			X	
Water chemistry		X			X			X			X			X			X	
Safety		X			X			X			X			X			X	
Casualty control		X			X			X			X			X			X	
Safety:																		
Fire theory	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Fire prevention	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Fire fighting	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Flooding	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Dewatering	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Stability and trim	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Damage control	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Emergency equipment and lifesaving appliances.																		
General safety	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Hazardous materials	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X

	1			2			3			4			5			6		
	S	M	G	S	M	G	S	M	G	S	M	G	S	M	G	S	M	G
Pollution prevention	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Inspections and surveys	X	X	X				X	X	X				X	X	X	X	X	X
U.S. rules and regulations	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Gas Turbines																		
Configurations						X						X			X			X
Fundamentals						X						X			X			X
Thermo-dynamics			X			X			X			X			X			X
Construction						X						X			X			X
Operating parameters			X			X			X			X			X			X
Start systems						X						X			X			X
Lubrication systems			X			X			X			X			X			X
Fuel systems			X			X			X			X			X			X
Drive systems			X			X			X			X			X			X
Bleed air systems						X						X			X			X
Intake and exhaust systems						X						X			X			X
Instrumentation and controls			X			X			X			X			X			X
Maintenance			X			X			X			X			X			X
Inspection			X						X						X			X
Troubleshooting			X						X						X			X
Casualty control			X			X			X			X			X			X
Management level																		
Management skills	X	X	X				X	X	X									
Crisis management	X	X	X				X	X	X									
Shipyard	X	X	X				X	X	X									
Inspections-surveys	X	X	X				X	X	X									
Vessel layup	X	X	X				X	X	X									
Employee familiarization	X	X	X				X	X	X									
Operational planning	X	X	X				X	X	X									

	1			2			3			4			5			6		
	S	M	G	S	M	G	S	M	G	S	M	G	S	M	G	S	M	G
Assessing competency	X	X	X				X	X	X									
Management practices	X	X	X				X	X	X									
Arbitration	X	X	X				X	X	X									
Internal documents	X	X	X				X	X	X									
International laws-conventions	X	X	X				X	X	X									
Technical analysis	X	X	X				X	X	X									
Maintenance systems	X	X	X				X	X	X									
Troubleshooting	X	X	X				X	X	X									
Codes and regulations	X	X	X				X	X	X									

Note: Numbers on the top row of this table represent endorsement titles found in table 1 to 11.950

S - Steam propulsion

M - Motor propulsion

G - Gas turbine propulsion

Table 3 to § 11.950 -- Subjects for Engineer Officer Endorsements

	7			8		9		10		11		12		13		14		15	
	S	M	G	S	M	S	M	S	M	S	M	S	M	S	M	S	M	S	M
General Subjects:																			
Prints and tables	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Hand tools						X	X			X	X			X	X			X	X
Pipes, fittings, and valves						X	X			X	X			X	X			X	X
Hydraulics	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Materials science																			
Bilge systems	X	X	X			X	X			X	X			X	X			X	X
Oily water separators	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Sanitary/sewage systems	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Freshwater systems	X	X	X			X	X			X	X			X	X			X	X
Lubricants	X	X	X			X	X			X	X			X	X			X	X
Lubrication systems	X	X	X			X	X			X	X			X	X			X	X
Automation systems	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Control systems	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Propellers/ shafting systems	X	X	X			X	X			X	X			X	X			X	X
Machine shop	X	X	X			X	X			X	X			X	X			X	X
Distilling systems						X	X			X	X								
Pumps	X	X	X			X	X			X	X			X	X			X	X
Compressors	X	X	X			X	X			X	X			X	X			X	X
Administration	X	X	X	X	X			X	X			X	X			X	X		
Bearings	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Governors	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Cooling systems	X	X	X			X	X			X	X			X	X			X	X
Instruments	X	X	X			X	X			X	X			X	X			X	X
Ship construction and repair	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Steering systems	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X

	7			8		9		10		11		12		13		14		15	
	S	M	G	S	M	S	M	S	M	S	M	S	M	S	M	S	M	S	M
Deck machinery	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Ventilation systems	X	X	X			X	X			X	X			X	X			X	X
Thermodynamics																			
Heat exchangers	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Watch duties				X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
International rules and regulations						X	X			X	X			X	X			X	X
Refrigeration and air conditioning:																			
Theory	X	X	X			X	X			X	X			X	X			X	X
Air conditioning systems	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Refrigeration systems	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Control systems	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Instruments-gauges	X	X				X	X			X	X			X	X			X	X
Safety	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Casualty control	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Electricity, electronics and control systems:																			
Theory	X	X	X			X	X			X	X			X	X			X	X
General maintenance	X	X	X			X	X			X	X			X	X			X	X
Generators	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Motors	X	X	X			X	X			X	X			X	X			X	X
Motor controllers	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Propulsion systems	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Distribution systems	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Electronic systems	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Batteries	X	X	X			X	X			X	X			X	X			X	X
Communications	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Safety	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Casualty control	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Troubleshooting	X	X	X	X	X			X	X			X	X			X	X		

	7			8		9		10		11		12		13		14		15	
	S	M	G	S	M	S	M	S	M	S	M	S	M	S	M	S	M	S	M
High voltage systems								X	X			X	X			X	X		
Computers and networks								X	X			X	X			X	X		
Bridge navigation equipment								X	X			X	X			X	X		
Steam Generators:																			
Steam-theory	X					X	X			X	X			X	X			X	X
Main boilers	X			X		X		X		X		X		X					
Auxiliary boilers		X	X		X		X		X		X		X		X		X		X
Feedwater systems	X	X	X		X	X	X		X	X	X	X	X	X	X		X	X	X
Condensate systems	X	X	X		X	X	X		X	X	X	X	X	X	X		X	X	X
Recovery systems	X	X	X		X	X	X		X	X	X	X	X	X	X		X	X	X
Fuel	X			X		X		X		X		X		X		X		X	
Main fuel systems				X		X				X				X				X	
Boiler water chemistry	X			X		X		X		X		X		X		X		X	
Control systems	X			X		X		X		X		X		X		X		X	
Automation systems	X			X		X		X		X		X		X		X		X	
Safety	X			X		X		X		X		X		X		X		X	
Casualty control	X			X		X		X		X		X		X		X		X	
Steam engines:																			
Main turbines	X			X		X		X		X		X		X		X		X	
Auxiliary turbines	X					X				X				X				X	
Governor systems	X			X		X		X		X		X		X		X		X	
Control systems	X			X		X		X		X		X		X		X		X	
Automation systems	X			X		X		X		X		X		X		X		X	
Lubrication systems	X					X				X				X				X	
Drive systems	X			X		X		X		X		X		X		X		X	
Safety	X			X		X		X		X		X		X		X		X	
Casualty control	X			X		X		X		X		X		X		X		X	
Motor propulsion:																			
Fundamentals		X					X				X				X				X
Main engines		X			X		X		X		X		X		X		X		X

	7			8		9		10		11		12		13		14		15	
	S	M	G	S	M	S	M	S	M	S	M	S	M	S	M	S	M	S	M
Auxiliary engines		X			X		X		X		X		X		X		X		X
Starting systems		X			X		X		X		X		X		X		X		X
Lubrication systems		X			X		X		X		X		X		X		X		X
Fuel		X			X		X		X		X		X		X		X		X
Fuel systems		X			X		X		X		X		X		X		X		X
Fuel injection systems		X			X		X		X		X		X		X		X		X
Intake systems		X					X				X				X				X
Exhaust systems		X					X				X				X				X
Cooling systems		X					X				X				X				X
Air-charging systems		X			X		X		X		X		X		X		X		X
Drive systems		X			X		X		X		X		X		X		X		X
Control systems		X			X		X		X		X		X		X		X		X
Automation systems		X			X		X		X		X		X		X		X		X
Governors		X			X		X		X		X		X		X		X		X
Steam systems		X					X				X				X				X
Water chemistry		X					X				X				X				X
Safety		X			X		X		X		X		X		X		X		X
Casualty control		X			X		X		X		X		X		X		X		X
Safety:																			
Fire theory	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Fire prevention	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Fire fighting	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Flooding	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Dewatering	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Stability and trim	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Damage control	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Emergency equipment and lifesaving appliances.																			
General safety	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Hazardous materials	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Pollution	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X

	7			8		9		10		11		12		13		14		15	
	S	M	G	S	M	S	M	S	M	S	M	S	M	S	M	S	M	S	M
Inspections and surveys	X	X	X	X	X			X	X			X	X			X	X		
U.S. rules and regulations	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Gas Turbines																			
Configurations			X																
Fundamentals			X																
Thermo-dynamics			X																
Construction			X																
Operating parameters			X																
Start systems			X																
Lubrication systems			X																
Fuel systems			X																
Drive systems			X																
Bleed air systems			X																
Intake and exhaust systems			X																
Instrumentation and controls			X																
Maintenance			X																
Inspection			X																
Troubleshooting			X																
Casualty control			X																
Management level																			
Management skills				X	X			X	X			X	X			X	X		
Crisis management				X	X			X	X			X	X			X	X		
Shipyard				X	X			X	X			X	X			X	X		
Inspections-surveys				X	X			X	X			X	X			X	X		
Vessel layup				X	X			X	X			X	X			X	X		
Employee familiarization				X	X			X	X			X	X			X	X		
Operational planning				X	X			X	X			X	X			X	X		
Assessing competency				X	X			X	X			X	X			X	X		

	7			8		9		10		11		12		13		14		15	
	S	M	G	S	M	S	M	S	M	S	M	S	M	S	M	S	M	S	M
Management practices				X	X			X	X			X	X			X	X		
Arbitration				X	X			X	X			X	X			X	X		
Internal documents				X	X			X	X			X	X			X	X		
International laws-conventions				X	X			X	X			X	X			X	X		
Technical analysis				X	X			X	X			X	X			X	X		
Maintenance systems				X	X			X	X			X	X			X	X		
Troubleshooting				X	X			X	X			X	X			X	X		
Codes and regulations				X	X			X	X			X	X			X	X		

Note: Numbers on the top row of this table represent endorsement titles found in table 1 to § 11.950

S - Steam propulsion

M - Motor propulsion

G - Gas turbine propulsion

Subpart J—Recognition of Other Parties' STCW Certificates

§ 11.1001 Purpose of rules.

(a) The rules in this subpart implement Regulation I/10 of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 as amended (STCW) (incorporated by reference, see § 11.102 of this part) by establishing requirements and procedures for the recognition and endorsement of officer certificates of competence issued by other Parties to STCW.

(b) Specific regulations on the use of non-U.S. credentialed officers and mariners with officer endorsements (except those of master) are found in § 15.720 of this subchapter.

§ 11.1003 General requirements.

(a) The Coast Guard recognizes certificates only from countries that the United States has assured itself comply with requirements of the STCW Convention and STCW Code (incorporated by reference, see § 11.102 of this part).

(b) The Coast Guard will publish a list of countries whose certificates it will recognize.

(c) The Coast Guard will issue a ''Certificate attesting recognition'' to an applicant after ensuring the validity and authenticity of the credential (certificate of competency) issued by his or her country of origin.

(d) No application from a non-US citizen for a ''Certificate attesting recognition'' issued pursuant to this subpart will be accepted unless the applicant's employer satisfies the requirements of § 11.1005 of this subpart.

§ 11.1005 Employer application requirements.

(a) The employer must submit the following to the Coast Guard, as a part of the applicant's application for a ''Certificate attesting recognition,'' on behalf of the applicant:

(1) A signed report that contains all material disciplinary actions related to the applicant, such as, but not limited to, violence or assault, theft, drug and alcohol policy violations, and sexual harassment, along with an explanation of the criteria used by the employer to determine the materiality of those actions.

(2) A signed report regarding an employer-conducted background check. The report must contain—

(i) A statement that the applicant has successfully undergone an employer-conducted background check;

(ii) A description of the employer-conducted background check; and

(iii) All information derived from the employer-conducted background check.

(b) If a ''Certificate attesting recognition'' is issued to the applicant, the employer must maintain a detailed record of the seaman's total service on all authorized U.S. flag vessels, and must make that information available to the Coast Guard upon request.

(c) In addition to the initial material disciplinary actions report and the initial employer-conducted background check specified in paragraph (a) of this section, the employer must submit an annual material disciplinary actions report to update whether there have been any material disciplinary actions related to the applicant since the last material disciplinary actions report was submitted to the Coast Guard.

(d) The employer must also submit to the Coast Guard the applicant's copy of the following:

(1) Base credential (certificate of competency), as well as any other documentary evidence of proficiency (such as Basic Training in accordance with § 11.302 of this part, Basic/Advanced Firefighting in accordance with § 11.303 of this part, Survival Craft, etc.) to verify that the applicant meets the manning requirements. The documentation must include any necessary official translation into the English language.

(2) Valid medical certificate.

(3) Valid identification document, such as a passport or Seaman's Identity Document (SID).

(e) The employer is subject to the civil penalty provisions specified in 46 U.S.C. 8103(f) for any violation of this section.

§ 11.1007 Basis for denial.

An applicant for a ''Certificate attesting recognition'' of an officer certificate issued by another party must—

(a) Have no record of material disciplinary actions during employment on any U.S. flag vessel of the employer, as verified in writing by the owner or managing operator of the U.S. flag vessels on which the applicant will be employed; and

(b) Have successfully completed an employer-conducted background check, to the satisfaction of both the employer and the Coast Guard.

§ 11.1009 Restrictions.

(a) A ''Certificate attesting recognition'' of an STCW certificate issued by another party to a non-resident alien under this subpart authorizes service only on vessels owned and/or operated in accordance with § 15.720 of this subchapter.

(b) The certificate will be issued for service only in the department for which the application was submitted.

(c) No other certificate is authorized, unless all applicable requirements of this subpart and the STCW Convention (incorporated by reference, see § 11.102 of this part) are met, and the employer makes subsequent application for a new endorsement.

(d) This certificate is not valid for service on U.S. vessels operating in U.S. waters.

Subpart K—Officers on a Passenger Ship When on an International Voyage

§ 11.1101 Purpose of rules.

The rules in this subpart establish requirements for officers serving on passenger ships as defined in § 11.1103 of this subpart.

§ 11.1103 Definitions.

Passenger ship in this subpart means a ship carrying more than 12 passengers when on an international voyage.

§ 11.1105 General requirements for officer endorsements.

(a) To serve on a passenger vessel on international voyages, masters, deck officers, chief engineers and engineer officers, must—

(1) Meet the appropriate requirements of the STCW Regulation V/2 and of section A–V/2 of the STCW Code (incorporated by reference, see § 11.102 of this part) as follows:

(i) Masters, officers, and other personnel designated on the muster list to assist passengers in emergency situation onboard passenger ships must have completed training in crowd management specified in section A–V/2 of the STCW Code.

(ii) Personnel providing direct service to passengers in passenger spaces onboard passenger ships must have completed the safety training specified in section A–V/2 of the STCW Code.

(iii) Masters, chief engineer officers, chief mates, second engineer officers, and any person designated on muster lists of having responsibility for the safety of passengers in emergency situations onboard passenger ships must have completed approved training in crisis management and human behavior as specified in section A–V/2 of the STCW Code.

(iv) Masters, chief engineer officers, chief mates, second engineer officers, and every person assigned immediate responsibility for embarking and disembarking passengers, loading, discharging or securing cargo, or closing hull openings onboard Ro-Ro passenger

ships must have completed approved training in passenger safety, cargo safety, and hull integrity as specified in section A–V/2 of the STCW Code; and

(2) Hold documentary evidence as proof of meeting these requirements through approved or accepted training.

(b) Seafarers who are required to be trained in accordance with paragraph (a) of this section must provide, at intervals not exceeding 5 years, evidence of maintaining the standard of competence.

(c) The Coast Guard will accept onboard training and experience, through evidence of 1 year of sea service within the last 5 years, as meeting the requirements of paragraph (b) of this section.

(d) Personnel serving onboard small passenger vessels engaged in domestic, near-coastal voyages, as defined in § 11.301(h) of this subchapter, are not subject to any obligation for the purpose of this STCW requirement.

■ 32. Revise part 12 to read as follows:

PART 12—REQUIREMENTS FOR RATING ENDORSEMENTS

Subpart A—General

Sec.
12.101 Purpose.
12.103 Incorporation by reference.
12.105 Paperwork approval.

Subpart B—General Requirements for Rating Endorsements

12.201 General requirements for national and STCW rating endorsements.
12.203 Creditable service and equivalents for national and STCW ratings endorsements.
12.205 Examination procedures and denial of rating and STCW endorsements.

Subpart C—[Reserved]

Subpart D—Requirements for National Deck Rating Endorsements

12.401 General requirements for able seaman (A/B) endorsements.
12.403 Service or training requirements for able seaman (A/B) endorsements.
12.405 Examination and demonstration of ability for able seaman (A/B) endorsements.
12.407 General requirements for lifeboatman endorsements.
12.409 General requirements for lifeboatman-limited endorsements.

Subpart E—Requirements for National Engineer Rating Endorsements

12.501 General requirements for a qualified member of the engine department (QMED).
12.503 Service or training requirements.
12.505 Examination requirements.

Subpart F—Requirements for STCW Rating Endorsements

12.601 General requirements for STCW rating endorsements.
12.602 Basic training.
12.603 Requirements to qualify for an STCW endorsement as able seafarer-deck.
12.605 Requirements to qualify for an STCW endorsement as ratings forming part of a navigational watch (RFPNW).
12.607 Requirements to qualify for an STCW endorsement as rating as able seafarer-engine.
12.609 Requirements to qualify for an STCW endorsement as rating forming part of an engineering watch (RFPEW).
12.611 Requirements to qualify for an STCW endorsement as electro-technical rating (ETR) on vessels powered by main propulsion machinery of 750 kW/1,000 HP or more.
12.613 Requirements to qualify for an STCW endorsement in proficiency in survival craft and rescue boats other than fast rescue boats (PSC).
12.615 Requirements to qualify for an STCW endorsement in proficiency in survival craft and rescue boats other than lifeboats and fast rescue boats-limited (PSC-limited).
12.617 Requirements to qualify for an STCW endorsement in proficiency in fast rescue boats.
12.619 Requirements to qualify for an STCW endorsement as medical first-aid provider.
12.621 Requirements to qualify for an STCW endorsement as person in charge of medical care.
12.623 Requirements to qualify for an STCW endorsement as Global Maritime Distress and Safety System (GMDSS) at-sea maintainer.
12.625 Requirements to qualify for an STCW endorsement as vessel personnel with designated security duties.
12.627 Requirements to qualify for an STCW endorsement for security awareness.

Subpart G—Entry-Level National Ratings and Miscellaneous Ratings

12.701 Credentials required for entry-level and miscellaneous ratings.
12.703 General requirements for entry-level ratings.
12.705 Endorsements for persons enrolled in a Maritime Administration approved training program.
12.707 Student observers.
12.709 Apprentice engineers.
12.711 Apprentice mate.

Subpart H—Non-Resident Alien Members of the Steward's Department on U.S. Flag Large Passenger Vessels

12.801 Purpose.
12.803 General requirements.
12.805 Employer requirements.
12.807 Basis for denial.
12.809 Citizenship and identity.
12.811 Restrictions.
12.813 Alternative means of compliance.

Subpart I—Crewmembers on a Passenger Ship on an International Voyage

12.901 Purpose.
12.903 Definitions.
12.905 General requirements.

Authority: 31 U.S.C. 9701; 46 U.S.C. 2101, 2103, 2110, 7301, 7302, 7503, 7505, 7701, and 70105; Department of Homeland Security Delegation No. 0170.1.

Subpart A—General

§ 12.101 Purpose.

(a) The purpose of this part is to provide—

(1) A comprehensive and adequate means of determining and verifying the professional qualifications an applicant must possess to be eligible for certification to serve on merchant vessels of the United States; and

(2) A means of determining that an applicant is qualified to receive the endorsement required by the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended (the STCW Convention, or STCW).

(b) The requirements applicable to approved and accepted training, training for a particular rating endorsement, and training and assessment associated with meeting the standards of competence established by the STCW Convention have been moved to 46 CFR part 10, subpart D.

§ 12.103 Incorporation by reference.

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish a notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the Coast Guard, Office of Operating and Environmental Standards (CG–OES), 2100 Second Street SW., Stop 7126, Washington, DC 20593–7126, and is available from the sources listed below. It is also available for inspection 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/code_of_federal_regulations/ibr_locations.html*.

(b) International Maritime Organization (IMO), 4 Albert Embankment, London SE1 7SR, England:

(1) The Seafarers' Training, Certification and Watchkeeping Code, as amended, 2011 (the STCW Code), incorporation by reference approved for §§ 12.601, 12.602, 12.603, 12.605, 12.607, 12.609, 12.611, 12.613, 12.615, 12.617, 12.619, 12.621, 12.623, 12.811, and 12.905.

(2) [Reserved]

§ 12.105 Paperwork approval.

(a) This section lists the control numbers assigned by the Office of Management and Budget under the Paperwork Reduction Act of 1980 (Pub. L. 96–511) for the reporting and recordkeeping requirements in this part.

(b) The following control numbers have been assigned to the sections indicated:

(1) OMB 1625–0079—46 CFR 12.217 and 12.301.

(2) [Reserved]

Subpart B—General Requirements for Rating Endorsements

§ 12.201 General requirements for national and STCW rating endorsements.

(a) *General.* (1) An MMC issued to a deck or engineer officer will be endorsed for all entry-level ratings and any other ratings for which they qualify under this part. An applicant for any STCW endorsement must hold the appropriate national endorsement, unless otherwise specified.

(2) The authorized holder of any valid rating endorsement may serve in any capacity in the staff department of a vessel, except in those capacities requiring a staff officer; except that whenever the service includes the handling of food, no person may be so employed unless his or her credential bears the food handler's endorsement indicated by the notation ''(F.H.)''.

(3) When an applicant meets the requirements for certification set forth in this part, the Coast Guard will issue the appropriate endorsement.

(b) *Physical and medical requirements.* The physical and medical requirements applicable to the endorsements in this subpart are found in 46 CFR part 10, subpart C.

§ 12.203 Creditable service and equivalents for national and STCW ratings endorsements.

Applicants for endorsements should refer to § 10.232 of this subchapter for information regarding requirements for documentation and proof of sea service.

§ 12.205 Examination procedures and denial of rating and STCW endorsements.

(a) The examination fee set out in Table 1 to § 10.219(a) of this subchapter must be paid before the applicant may take the first section of the examination.

(b) Upon receipt of an application for a rating endorsement, the Coast Guard will give any required examination as soon as practicable after determining that the applicant is otherwise qualified for the endorsement.

(c) An applicant for a rating endorsement who has been duly examined and failed the examination may seek reexamination at any time after the initial examination. However, an applicant who fails an examination for the third time must wait 90 days before re-testing. All examinations and retests must be completed within 1 year of approval for examination.

(d) Upon receipt of an application for an STCW endorsement, the Coast Guard will evaluate the applicant's qualifications. The Coast Guard will issue the appropriate endorsement after determining that the applicant satisfactorily meets all requirements for any requested STCW rating or qualification.

Subpart C—[Reserved]

Subpart D—Requirements for National Deck Rating Endorsements

§ 12.401 General requirements for able seaman (A/B) endorsements.

(a) *General.* An A/B is any person below officer and above ordinary seaman who holds a merchant mariner credential (MMC) or merchant mariner document (MMD) endorsed as A/B by the Coast Guard.

(b) *Categories.* The following categories of able seaman endorsements are established:

(1) Able seaman—unlimited.

(2) Able seaman—limited.

(3) Able seaman—special.

(4) Able seaman—offshore supply vessels.

(5) Able seaman-sail.

(6) Able seaman-fishing industry.

(c) *Requirements for certification.* To qualify for an endorsement as able seaman, an applicant must—

(1) Be at least 18 years of age;

(2) Pass the prescribed physical and medical examination requirements specified in 46 CFR, part 10, subpart C;

(3) Present evidence of having passed a chemical test for dangerous drugs or of qualifying for an exemption from testing as described in § 16.220 of this subchapter;

(4) Meet the sea service or training requirements set forth in this part;

(5) Pass an examination for able seaman;

(6) Qualify for an endorsement as lifeboatman or lifeboatman-limited; and

(7) Speak and understand the English language as would be required in performing the general duties of able seaman and during an emergency aboard ship.

(d) *Additional requirements.* (1) The holder of an MMC or MMD endorsed for the rating of A/B may serve in any rating in the deck department without obtaining an additional endorsement, provided—

(i) That the holder possesses the appropriate A/B endorsement for the service of the vessel; and

(ii) That the holder possesses the appropriate STCW endorsement when serving as an able seafarer-deck or Ratings forming part of the navigational watch on a seagoing ship.

(2) After March 24, 2014, any MMC endorsed as A/B will also be endorsed as lifeboatman or lifeboatman-limited, as appropriate.

(3) The A/B endorsement will clearly describe the type of rating that it represents (see paragraph (a) of this section).

§ 12.403 Service or training requirements for able seaman (A/B) endorsements.

(a) The minimum service required to qualify for the various categories of endorsement as able seaman is as follows:

(1) *Able seaman—unlimited.* Three years of service on deck on vessels operating on oceans or on the Great Lakes.

(2) *Able seaman—limited.* Eighteen months of service on deck on vessels of 100 GRT or more which operate in a service not exclusively confined to the rivers and smaller inland lakes of the United States.

(3) *Able seaman—special.* Twelve months of service on deck on vessels operating on oceans or the navigable waters of the United States, including the Great Lakes.

(4) *Able seaman—offshore supply vessels.* Six months of service on deck on vessels operating on oceans or on the navigable waters of the United States, including the Great Lakes.

(5) *Able seaman—sail.* Six months of service on deck on sailing school vessels, oceanographic research vessels powered primarily by sail, or equivalent sailing vessels operating on oceans or on the navigable waters of the United States, including the Great Lakes.

(6) *Able seaman—fishing industry.* Six months of service on deck, not as a processor, onboard vessels operating on oceans or on the navigable waters of the United States, including the Great Lakes.

(b) Approved training programs may be substituted for the required periods of service on deck as follows:

(1) A graduate of a school ship may be qualified for a rating endorsement as A/B, without further service, upon satisfactory completion of the program of instruction. For this purpose, ''school ship'' is interpreted to mean an institution that offers a complete approved program of instruction, including a period of at-sea training, in the skills appropriate to the rating of A/B.

(2) Training programs, other than those classified as a school ship, may be substituted for up to one-third of the required service on deck. The Coast Guard will determine the service/training ratio for each program and may allow a maximum of 3 days of deck service credit for each day of instruction.

§ 12.405 Examination and demonstration of ability for able seaman (A/B) endorsements.

(a) Before an applicant is issued an endorsement as an A/B, he or she must prove, to the satisfaction of the Coast Guard, by oral or other means of examination, or by actual demonstration in a Coast Guard-approved course, his or her knowledge of seamanship and the ability to carry out effectively all the duties that may be required of an A/B, including those of a lifeboatman or lifeboatman-limited.

(b) The examination, whether administered orally or by other means, must be conducted only in the English language and must consist of questions regarding—

(1) The applicant's knowledge of nautical terms, use of the compass for navigation, running lights, passing signals, and fog signals for vessels on the high seas, inland waters, or Great Lakes, and distress signals; and

(2) The applicant's knowledge of commands in handling the wheel by obeying orders passed to him or her as helmsman, and knowledge of the use of the engine room telegraph.

(c) The applicant must provide evidence, to the satisfaction of the Coast Guard, of the knowledge of principal knots, bends, splices, and hitches in common use by actually making them.

(d) The applicant must demonstrate, to the satisfaction of the Coast Guard, knowledge of pollution laws and regulations, procedures for discharge containment and cleanup, and methods for disposal of sludge and waste material from cargo and fueling operations.

§ 12.407 General requirements for lifeboatman endorsements.

(a) *General.* Every person fulfilling the manning requirements as lifeboatman on any United States vessel must hold an endorsement as lifeboatman. No endorsement as lifeboatman is required of any person employed on any unrigged vessel, except on a seagoing barge and on a tank barge navigating waters other than rivers and/or canals.

(b) *Requirements for certification.* (1) To qualify for an endorsement as lifeboatman, an applicant must—

(i) Be at least 18 years of age;

(ii) Pass the prescribed physical and medical examination requirements specified in 46 CFR, part 10, subpart C; and

(iii) Present evidence of having passed a chemical test for dangerous drugs or as having qualified for an exemption for testing described in § 16.220 of this subchapter.

(2) To be eligible for an endorsement as lifeboatman, an applicant must meet one of the following sea service requirements:

(i) At least 6 months of sea service in any department of vessels and the successful completion of an approved course.

(ii) At least 12 months of sea service in any department of vessels on ocean, coastwise, inland, and Great Lakes routes.

(3) Before an applicant is issued an endorsement as a lifeboatman, he or she must prove, to the satisfaction of the Coast Guard, by oral or other means of examination, and by actual practical demonstration of abilities, his or her knowledge of seamanship and the ability to carry out effectively all the duties that may be required of a lifeboatman. This requirement may be met by completion of an approved course in paragraph (b)(2)(i) of this section, provided the course includes actual practical demonstration of abilities.

(4) The practical demonstration must consist of a demonstration of the applicant's ability to—

(i) Take charge of a survival craft or rescue boat during and after launch;

(ii) Operate a survival craft engine;

(iii) Demonstrate the ability to row by actually pulling an oar in the boat;

(iv) Manage a survival craft and survivors after abandoning ship;

(v) Safely recover survival craft and rescue boats; and

(vi) Use locating and communication devices.

(5) The examination, whether administered orally or by other means, must be conducted only in the English language and must consist of questions regarding—

(i) Lifeboats and liferafts, the names of their essential parts, and a description of the required equipment;

(ii) The clearing away, swinging out, and lowering of lifeboats and liferafts, the handling of lifeboats under oars and sails, including questions relative to the proper handling of a boat in a heavy sea; and

(iii) The operation and functions of commonly used types of davits.

(6) An applicant, to be eligible for an endorsement as lifeboatman, must be able to speak and understand the English language as would be required in the rating of lifeboatman and in an emergency aboard ship.

§ 12.409 General requirements for lifeboatman-limited endorsements.

(a) *General.* Every person fulfilling the manning requirements for lifeboatman on any United States vessel fitted with liferafts, but not fitted with lifeboats, must hold an endorsement as lifeboatman or as lifeboatman-limited. No endorsement as lifeboatman or lifeboatman-limited is required of any person employed on any unrigged vessel, except on a seagoing barge and on a tank barge navigating waters other than rivers and/or canals.

(b) *Requirements for certification.* (1) To qualify for an endorsement as lifeboatman-limited, an applicant must—

(i) Be at least 18 years of age;

(ii) Pass the prescribed physical and medical examination requirements specified in 46 CFR Part 10, subpart C; and

(iii) Present evidence of having passed a chemical test for dangerous drugs or of having qualified for an exemption for testing, as described in § 16.220 of this subchapter.

(2) An applicant, to be eligible for an endorsement as lifeboatman-limited, must meet one of the following sea service requirements:

(i) At least 12 months of sea service in any department of vessels on ocean, coastwise, inland, and Great Lakes routes.

(ii) At least 6 months of sea service in any department of vessels, and successful completion of an approved course.

(3) Before an applicant is issued an endorsement as a lifeboatman-limited, he or she must prove, to the satisfaction of the Coast Guard, by oral or other means of examination, and by actual practical demonstration of abilities, his or her knowledge of seamanship and ability to carry out effectively all the duties that may be required of a lifeboatman-limited.

(4) The practical demonstration must consist of a demonstration of the applicant's ability to—

(i) Take charge of a rescue boat, liferaft, or other lifesaving apparatus during and after launch;

(ii) Operate a rescue boat engine;

(iii) Manage a survival craft and survivors after abandoning ship;

(iv) Safely recover rescue boats; and

(v) Use locating and communication devices.

(5) The examination, whether administered orally or by other means, must be conducted only in the English

language and must consist of questions regarding—

(i) Liferafts, rescue boats, and other survival craft except lifeboats, the names of their essential parts, and a description and use of the required equipment;

(ii) The clearing away, launching, and handling of rescue craft, except lifeboats; and

(iii) The operation and functions of commonly used launching devices for rescue boats and survival craft other than lifeboats.

(6) An applicant, to be eligible for an endorsement as lifeboatman-limited, must be able to speak and understand the English language as would be required in the rating of lifeboatman-limited and in an emergency aboard ship.

Subpart E—Requirements for National Engineer Rating Endorsements

§ 12.501 General requirements for a qualified member of the engine department (QMED).

(a) *General.* A qualified member of the engine department is any person below officer and above the rating of coal passer or wiper, who holds an MMC or MMD endorsed as QMED by the Coast Guard.

(b) *Categories.* (1) Each QMED rating must be endorsed separately, unless the applicant qualifies for all QMED ratings, in which case the endorsement will read ''QMED—any rating.'' The ratings are—

(i) Fireman/Watertender;

(ii) Oiler;

(iii) Junior engineer;

(iv) Electrician/Refrigerating engineer; and

(v) Pumpman/Machinist.

(2) The Coast Guard will no longer issue original endorsements for deck engineer, deck/engine mechanic, or engineman, or individual endorsements for refrigerating engineer, machinist, electrician, and pumpman. However, a mariner who holds any of these endorsements may continue to renew them as long as he or she is otherwise qualified.

(3) If the holder of an endorsement as pumpman only or machinist only seeks the combined endorsement of pumpman/machinist, the mariner must pass the examination described in Table 1 to § 12.505(c) of this subpart.

(4) If the holder of an endorsement as electrician only or refrigerating engineer only seeks the combined endorsement of electrician/refrigerating engineer, the mariner must pass the examination described in Table 1 to § 12.505(c) of this subpart.

(c) *Requirements for certification.* To qualify for any endorsement as QMED, an applicant must—

(1) Be at least 18 years of age;

(2) Pass the prescribed physical and medical examination requirements specified in 46 CFR Part 10, subpart C;

(3) Present evidence of having passed a chemical test for dangerous drugs or of having qualified for an exemption from testing, as described in § 16.220 of this subchapter;

(4) Meet the sea service or training requirements in § 12.503 of this subpart;

(5) Pass an examination as QMED; and

(6) Speak and understand the English language as would be required in performing the general duties of QMED and during an emergency aboard ship.

§ 12.503 Service or training requirements.

(a) An applicant for an endorsement as QMED must provide the Coast Guard with proof of qualification based on 6 months of service in a rating at least equal to that of wiper or coal passer.

(b) Approved training programs may be substituted for the required periods of service as follows:

(1) A graduate of a school ship may qualify for a rating endorsement as QMED, without further service, upon satisfactory completion of the program of instruction. For this purpose, school ship is interpreted to mean an institution that offers a complete approved program of instruction, including a period of at-sea training, in the skills appropriate to the rating of QMED.

(2) Training programs, other than those classified as a school ship, may be substituted for up to one-half of the required service. The service/training ratio for each program is determined by the Coast Guard.

§ 12.505 Examination requirements.

(a) Before an applicant is issued an endorsement as QMED in the rating of oiler, fireman/watertender, junior engineer, pumpman/machinist, or electrician/refrigerating engineer, he or she must prove, to the satisfaction of the Coast Guard, by oral or other means of examination, his or her knowledge of the subjects listed in paragraph (c) of this section.

(b) The examination, whether administered orally or by other means, must be conducted only in the English language.

(c) Table 1 to § 12.505(c) provides a list of subjects required.

TABLE 1 TO § 12.505(c)—EXAMINATION SUBJECTS FOR QMED RATINGS

Subjects	Pumpman/ machinist	Fireman/ watertender	Oiler	Electrician/ refrigerating engineer	Junior engineer
General subjects:					
Auxiliary machinery	X	X	X	X	X
Basic safety procedures	X	X	X	X	X
Bearings	X		X	X	X
Care of equipment and machine parts	X	X	X	X	X
Deck machinery	X			X	X
Drawings and tables	X			X	X
Heat exchangers	X	X	X	X	X
Hydraulic principles	X			X	X
Instrumentation principles	X	X	X	X	X
Lubrication principles	X		X	X	X
Maintenance procedures	X	X	X	X	X
Measuring instruments	X	X	X	X	X
Pipes, fittings, and valves	X	X	X	X	X
Pollution prevention	X	X	X	X	X
Properties of fuel		X	X		X
Pumps, fans, and blowers	X			X	X
Refrigeration principles			X	X	X
Remote control equipment	X	X	X	X	X
Use of hand/power tools	X	X	X	X	X

TABLE 1 TO § 12.505(c)—EXAMINATION SUBJECTS FOR QMED RATINGS—Continued

Subjects	Pumpman/ machinist	Fireman/ watertender	Oiler	Electrician/ refrigerating engineer	Junior engineer
Watch duties		X	X		X
Electrical subjects:					
A/C circuits				X	X
Batteries				X	X
Calculations				X	X
Communication devices				X	X
D/C circuits				X	X
Distribution systems				X	X
Electronic principles				X	X
Generation equipment			X	X	X
Maintenance			X	X	X
Measuring devices				X	X
Motor controllers				X	X
Motors			X	X	X
Safety	X	X	X	X	X
Troubleshooting				X	
Safety and environmental protection subjects:					
Communications	X	X	X	X	X
Damage control	X	X	X	X	X
Elementary first aid	X	X	X	X	X
Emergency equipment	X	X	X	X	X
Environmental awareness	X	X	X	X	X
Fire prevention	X	X	X	X	X
Firefighting equipment	X	X	X	X	X
Firefighting principles	X	X	X	X	X
General safety	X	X	X	X	X
Hazardous materials	X	X	X	X	X
Shipboard equipment and systems subjects:					
Air conditioning				X	X
Ballast	X	X	X		X
Bilge	X	X	X		X
Compressed air	X	X	X	X	X
Desalination			X		X
Fuel oil storage/transfer		X	X		X
Fuel treatment		X	X		X
Heating/ventilation	X			X	X
Lubrication	X		X	X	X
Potable water			X		X
Refrigeration			X	X	X
Sanitary/sewage			X		X
Steering			X	X	X
Steam propulsion subjects:					
Auxiliary turbines		X	X		X
Boiler fundamentals		X	X		X
Combustion principles		X	X		X
Condensate systems		X	X		X
Drive systems		X	X		X
Feedwater systems		X	X		X
Fuel service systems		X	X		X
Maintenance	X	X	X		X
Safety	X	X	X	X	X
Steam fundamentals	X	X	X		X
Turbine fundamentals		X	X		X
Motor propulsion subjects:					
Air-charge systems			X		X
Cooling water systems			X		X
Diesel engine principles	X		X		X
Drive systems	X		X		X
Fuel service systems			X		X
Intake/exhaust			X		X
Lubrication systems	X		X		X
Starting systems			X		X
Waste heat/auxiliary boiler			X		X

Subpart F—Requirements for STCW Rating Endorsements

§ 12.601 General requirements for STCW rating endorsements.

(a) *General.* An applicant for any STCW endorsement must hold the appropriate national endorsement, unless otherwise specified. The Coast Guard will issue an STCW endorsement to qualified applicants for any of the following ratings or qualifications:

(1) Able seafarer-deck.

(2) Ratings forming part of a navigational watch (RFPNW).

(3) Able seafarer-engine.

(4) Ratings forming part of a watch in a manned engineroom or designated to perform duties in a periodically unmanned engineroom (RFPEW).

(5) Electro-technical rating on vessels powered by main propulsion machinery of 750 kW/1,000 HP or more.

(6) Proficiency in survival craft and rescue boats, other than fast rescue boats (PSC).

(7) Proficiency in survival craft and rescue boats, other than lifeboats and fast rescue boats (PSC-limited).

(8) Proficiency in fast rescue boats.

(9) Medical first-aid provider.

(10) Person in charge of medical care.

(11) GMDSS at-sea maintainer.

(12) Vessel personnel with designated security duties.

(13) Security awareness.

(b) *Standard of competence.* (1) The Coast Guard will accept one or more methods listed in the STCW Code to demonstrate meeting the standard of competence in this subpart. See Column 3, ''Methods for demonstrating competence,'' of the Tables of Competence in the STCW Code (incorporated by reference, see § 12.103 of this part). The Coast Guard will accept the following as evidence of meeting the standard of competence under each of these methods:

(i) *In-service experience:* Documentation of successful completion of assessments, approved or accepted by the Coast Guard, and signed by a qualified assessor, deck or engineering, as appropriate.

(ii) *Training ship experience:* Documentation of successful completion of an approved training program involving formal training and assessment onboard a training ship.

(iii) *Simulator training:* Documentation of successful completion of training and assessment from a Coast Guard-approved course involving maritime simulation.

(iv) *Laboratory equipment training:* Documentation of successful completion of training and assessments from an approved training course or completion certificate from an approved training school or facility.

(v) *Practical training or instruction:*

(A) Documentation of successful completion of assessment as part of structured/formal training or instruction provided by an organization or company as part of an accepted safety or quality management system; or

(B) Documentation of successful completion of an approved training course from a school or facility.

(vi) *Specialist training:* Documentation of successful completion of assessment as part of a company training or specialized training provided by a maritime or equipment specialist.

(vii) *Workshop skills training:* Documentation of successful completion of assessments or completion certificate from an approved training program, school or facility.

(viii) *Training program:* Documentation of successful completion of an approved training program.

(ix) *Practical demonstration and practical demonstration of competence:* Documentation of successful completion of assessments approved or accepted by the Coast Guard.

(x) *Practical test and practical experience:* Documentation of successful completion of assessments approved or accepted by the Coast Guard.

(xi) *Examination:* Successful completion of a Coast Guard examination.

(xii) *Instruction or course:* Documentation of successful completion of a course of instruction offered by an approved training school or facility.

(2) Knowledge components may be documented by—

(i) Successful completion of the Coast Guard examination for the associated rating endorsement;

(ii) Successful completion of an approved course; or

(iii) Successful completion of an approved program.

(3) The Coast Guard will publish assessment guidelines that should be used to document assessments that demonstrate meeting the standard of competence, as required by paragraph (b)(1) of this section. Organizations may develop alternative assessment documentation for demonstrations of competence; however, such documentation must be approved by the Coast Guard prior to its use and submittal with an application.

(c) *Grandfathering.* (1) Except as noted otherwise, each candidate who applies for a credential based on approved or accepted training or approved seagoing service that was started on or after March 24, 2014, or who applies for the MMC endorsement on or after January 1, 2017, must meet the requirements of this part.

(2) Except as noted by this subpart, seafarers holding an STCW endorsement prior to March 24, 2014, will not be required to complete any additional training required under this part to retain the STCW endorsements.

(3) Except as noted otherwise, candidates who apply for a credential based on approved or accepted training or approved seagoing service that was completed before March 24, 2014, may qualify under the requirements of this part existing before that date. This includes the assessments published prior to March 24, 2014, as well as the additional requirements for the STCW endorsement section.

(4) Except as noted by this subpart, the Coast Guard will continue to issue STCW endorsements meeting the requirements of this part existing before March 24, 2014, for seafarers identified in paragraph (c)(3) of this section, until January 1, 2017.

§ 12.602 Basic training.

(a) Applicants seeking an STCW rating endorsement must provide evidence, with their application, of meeting the standard of competence for basic training as described below:

(1) Personal survival techniques, as set out in Table A–VI/1–1 of the STCW Code (incorporated by reference, see § 12.103 of this part).

(2) Fire prevention and firefighting, as set out in Table A–VI/1–2 of the STCW Code.

(3) Elementary first aid, as set out in Table A–VI/1–3 of the STCW Code.

(4) Personal safety and social responsibilities, as set out in Table A–VI/1–4 of the STCW Code.

(b) Every 5 years, seafarers qualified in accordance with § 12.601 (a) of this subpart must provide evidence of maintaining the standard of competence for basic training (BT).

(c) The Coast Guard will accept onboard training and experience, through evidence of 1 year of sea service within the last 5 years for the following areas:

(1) Personal survival techniques, as set out in Table A–VI/1–1 of the STCW Code:

(i) Donning a lifejacket.

(ii) Boarding a survival craft from the ship, while wearing a lifejacket.

(iii) Taking initial actions on boarding a lifeboat to enhance chance of survival.

(iv) Streaming a lifeboat drogue or sea-anchor.

(v) Operating survival craft equipment.

(vi) Operating location devices, including radio equipment.

(2) Fire prevention and firefighting, as set out in Table A–VI/1–2 of the STCW Code:

(i) Using self-contained breathing apparatus.

(ii) Performing a rescue in a smoke-filled space, using an approved smoke-generating device aboard, while wearing a breathing apparatus.

(3) Elementary first aid, as set out in Table A–VI/1–3 of the STCW Code.

(4) Personal safety and social responsibilities, as set out in Table A–VI/1–4 of the STCW Code.

(d) The Coast Guard will only accept evidence of approved assessments conducted ashore for the following areas:

(1) Personal survival techniques, as set out in Table A–VI/1–1 of the STCW Code:

(i) Donning and use an immersion suit.

(ii) Safely jumping from a height into the water.

(iii) Righting an inverted liferaft while wearing a lifejacket.

(iv) Swimming while wearing a lifejacket.

(v) Keeping afloat without a lifejacket.

(2) Fire prevention and firefighting as set out in Table A–VI/1–2 of the STCW Code:

(i) Using various types of portable fire extinguishers.

(ii) Extinguishing smaller fires. e.g., electrical fires, oil fires, and propane fires.

(iii) Extinguishing extensive fires with water, using jet and spray nozzles.

(iv) Extinguishing fires with foam, powder, or any other suitable chemical agent.

(v) Fighting fire in smoke-filled enclosed spaces wearing self-contained breathing apparatuses.

(vi) Extinguishing fire with water fog or any other suitable firefighting agent in an accommodation room or simulated engine room with fire and heavy smoke.

(vii) Extinguishing oil fire with fog applicator and spray nozzles, dry chemical powder, or foam applicators.

(e) Applicants who cannot meet the requirement for 1 year of sea service within the last 5 years, as described in paragraph (c) of this section, will be required to meet the requirements of paragraph (a) of this section or complete approved or accepted refresher training.

§ 12.603 Requirements to qualify for an STCW endorsement as able seafarer-deck.

(a) To qualify for this endorsement as able seafarer-deck, an applicant must—

(1) Be not less than 18 years of age;

(2) Meet the requirements for certification as a RFPNW;

(3) While qualified as an RFPNW, have seagoing service in the deck department of—

(i) Not less than 18 months; or

(ii) Not less than 12 months and have completed approved training;

(4) Provide evidence of meeting the standard of competence specified in Table A–II/5 of the STCW Code (incorporated by reference, see § 12.103 of this part); and

(5) Provide evidence of having satisfactorily completed approved training in—

(i) Proficiency in survival craft and rescue boats other than fast rescue boats (PSC); or

(ii) Proficiency in survival craft and rescue boats, other than lifeboats or fast rescue boats-limited (PSC-limited), as appropriate.

(b) Until January 1, 2017, seafarers will be considered to have met the requirements of this section if they have served as a watchstanding A/B or as an RFPNW for a period of not less than 12 months within the 60 months prior to application.

(c) Seafarers holding a rating endorsement as able seaman before January 1, 2017, will be eligible for this endorsement upon showing evidence of—

(1) Holding an endorsement as an RFPNW; and

(2) Having satisfactorily completed approved training in—

(i) Proficiency in survival craft and rescue boats, other than fast rescue boats (PSC); or

(ii) Proficiency in survival craft and rescue boats, other than lifeboats or fast rescue boats-limited (PSC-limited), as appropriate.

(d) The Coast Guard may exempt an applicant from meeting any individual knowledge, understanding, and proficiency required in Section A–II/5 of the STCW Code. These exemptions must be approved by the Coast Guard, based upon vessel type. Under these circumstances, the endorsement may include a corresponding limitation.

(e) Except as provided in paragraphs (b) and (c) of this section, seafarers with the following national rating endorsements will be eligible for this endorsement upon completion of the requirements designated in this section:

TABLE 1 TO § 12.603(e)—STCW ENDORSEMENT AS ABLE SEAFARER-DECK

Entry path from national endorsements	Sea service under authority of the endorsement [1]	Competence—STCW Table A–II/4 [2]	Competence—STCW Table A–II/5 [3]	Training required by this section [4]
A/B unlimited	None	Y	Y	N
A/B limited	None	Y	Y	N
A/B special	6 months [5]	Y	Y	N
A/B-offshore supply vessels	12 months [6]	Y	Y	N
A/B sail	12 months [6]	Y	Y	N
A/B-fishing industry	12 months [6]	Y	Y	N

[1] This column provides the minimum additional service required of the seafarer already holding an RFPNW endorsement in order to meet the requirements of this section.

[2] Complete any items in paragraph (a)(2) of this section not previously satisfied.

[3] Complete any items in paragraph (a)(4) of this section not previously satisfied.

[4] Complete any items in paragraph (a)(5) of this section not previously satisfied.

[5] The service may be reduced to 3 months if training has been completed as part of an approved training program meeting the requirements of paragraph (a)(4) of this section.

[6] The service may be reduced to 6 months if training has been completed as part of an approved training program meeting the requirements of (a)(4) of this section.

§ 12.605 Requirements to qualify for an STCW endorsement as ratings forming part of a navigational watch (RFPNW).

(a) To qualify for endorsement as an RFPNW on a seagoing vessel of 500 GT or more, an applicant must—

(1) Be not less than 16 years of age;

(2) Provide evidence of service as follows:

(i) Six months of seagoing service, which includes training and experience associated with navigational watchkeeping functions and involves the performance of duties carried out under the supervision of the master, mate, or qualified STCW deck rating; or

(ii) Proof of successful completion of Coast Guard-approved or -accepted training, which includes not less than 2 months of approved seagoing service; and

(3) Provide evidence of meeting standards of competence prescribed in Table A–II/4 of the STCW Code (incorporated by reference, see § 12.103 of this part).

(b) The Coast Guard may exempt an applicant from meeting any individual knowledge, understanding, and proficiency required in Section A–II/4 of the STCW Code. These exemptions must be approved by the Coast Guard based upon vessel type. Under these circumstances, the endorsement may include a corresponding limitation.

(c) Seafarers with the following national rating endorsements will be eligible for this endorsement upon completion of requirements designated in this section:

TABLE 1 TO § 12.605(c)—STCW ENDORSEMENT AS RFPNW

Entry path from national endorsements	Sea service under authority of the endorsement [1]	Competence—STCW Table A–II/4 [2]
A/B unlimited	None	Y
A/B limited	None	Y
A/B special	None	Y
A/B-offshore supply vessels.	None	Y
A/B sail	None	Y
A/B-fishing industry.	None	Y
Ordinary seaman	6 mo.[3]	Y

[1] This column provides the minimum additional service required of the seafarer in order to meet the requirements of this section.

[2] Complete any items in paragraph (a)(3) of this section not previously satisfied.

[3] The service may be reduced to 2 months if training has been completed as part of an approved training program meeting the requirements of paragraph (a)(2)(ii) of this section.

§ 12.607 Requirements to qualify for an STCW endorsement as rating as able seafarer-engine.

(a) To qualify for an STCW endorsement as an able seafarer-engine, an applicant must—

(1) Be not less than 18 years of age;

(2) Meet the requirements for certification as a ratings forming part of an engineering watch (RFPEW);

(3) While qualified as an RFPEW, have seagoing service in the engine department of—

(i) Not less than 12 months; or

(ii) Not less than 6 months and have completed approved training; and

(4) Provide evidence of meeting the standard of competence specified in Table A–III/5 of the STCW Code (incorporated by reference, see § 12.103 of this part).

(b) Until January 1, 2017, seafarers will be considered to have met the requirements of this section if they have served as a watchstanding Qualified Member of the Engine Department (QMED), junior engineer, oiler, fireman/watertender, deck-engine mechanic, or engineman in the engine department, or as an RFPEW for a period of not less than 12 months within the last 60 months prior to application.

(c) Seafarers holding a rating endorsement as QMED, junior engineer, electrician or electrician/refrigerating engineer, pumpman or pumpman/machinist, refrigerating engineer, or machinist before January 1, 2017, will be eligible for this endorsement upon showing evidence of holding an endorsement as an RFPEW.

(d) The Coast Guard may exempt an applicant from meeting any individual knowledge, understanding, and proficiency required in Section A–III/5 of the STCW Code. These exemptions must be approved by the Coast Guard based upon vessel type. Under these circumstances, the endorsement may include a corresponding limitation.

(e) Except as provided in paragraphs (b) and (c) of this section, seafarers with the following national rating endorsements will be eligible for this endorsement upon completion of requirements designated in this section:

TABLE 1 TO § 12.607(e)—STCW ENDORSEMENT AS ABLE SEAFARER-ENGINE

Domestic QMED endorsement	Additional sea service for AS–E
Engineman	None.
Deck Engine Mechanic.	None.
Electrician	6 months.[1]
Refrigerating Engineer.	6 months.[1]

TABLE 1 TO § 12.607(e)—STCW ENDORSEMENT AS ABLE SEAFARER-ENGINE—Continued

Domestic QMED endorsement	Additional sea service for AS–E
Pumpman	6 months.[1]
Machinist	6 months.[1]

[1] Service may be reduced to 3 months if training has been completed as part of an approved training program.

§ 12.609 Requirements to qualify for an STCW endorsement as rating forming part of an engineering watch (RFPEW).

(a) To qualify for an STCW endorsement as an RFPEW in a manned engine room or to qualify to be designated to perform duties in a periodically unmanned engine room, an applicant must—

(1) Be not less than 16 years of age;

(2) Provide evidence of service as follows:

(i) Six months of seagoing service, which includes training and experience associated with engine room functions, and involves the performance of duties carried out under the supervision of an engineer officer or a qualified STCW rating; or

(ii) Proof of successful completion of a Coast Guard-approved or -accepted training, which includes not less than 2 months approved seagoing service; and

(3) Provide evidence of meeting the standard of competence as specified in Table A–III/4 of the STCW Code (incorporated by reference, see § 12.103 of this part).

(b) The Coast Guard may exempt an applicant from meeting any individual knowledge, understanding, and proficiency required in Section A–III/4 of the STCW Code. These exemptions must be approved by the Coast Guard based upon vessel type. Under these circumstances, the endorsement may include a corresponding limitation.

(c) Seafarers with the following national rating endorsements will be eligible for this endorsement upon completion of requirements designated in this section:

TABLE 1 TO § 12.609(c)—STCW ENDORSEMENT AS RFPEW

Entry path from national endorsements	Sea service under authority of the endorsement [1]	Competence—STCW Table A–III/4 [2]
Any QMED	None	Y

TABLE 1 TO § 12.609(c)—STCW ENDORSEMENT AS RFPEW—Continued

Entry path from national endorsements	Sea service under authority of the endorsement [1]	Competence—STCW Table A–III/4 [2]
Wiper	6 months.	Y

[1] This column provides the minimum additional service required of the seafarer in order to meet the requirements of this section.
[2] Complete any items in paragraph (a)(3) of this section not previously satisfied.

(d) *Limitations.* (1) STCW RFPEW endorsements issued in accordance with this section will be restricted to specific propulsion modes for steam, motor, or gas turbine-propelled vessels, as appropriate.

(2) STCW RFPEW endorsements issued in accordance with this section for motor or gas turbine-propelled vessels may be endorsed as limited to serve on vessels without auxiliary boilers, waste-heat boilers, or distilling plants. An applicant may qualify for removal of any of these limitations by demonstrating the appropriate competencies.

§ 12.611 Requirements to qualify for an STCW endorsement as electro-technical rating (ETR) on vessels powered by main propulsion machinery of 750 kW/1,000 HP or more.

(a) To qualify for an STCW endorsement as an electro-technical rating, an applicant must—

(1) Be not less than 18 years of age;

(2) Provide evidence of—

(i) Twelve months of seagoing service, that includes training and experience associated with engine room watchkeeping functions and involves the performance of duties carried out under the supervision of an engineer officer, electro-technical officer, or a qualified STCW engine rating;

(ii) Proof of successful completion of a Coast Guard-approved or -accepted program, which includes not less than 6 months of approved seagoing service; or

(iii) Qualifications meeting the standard of competence specified in Table A–III/7 of the STCW Code (incorporated by reference, see § 12.103 of this part) and approved seagoing service of not less than 3 months;

(3) Provide evidence of meeting the standard of competence specified in Table A–III/7 of the STCW Code; and

(4) Provide evidence of completion of an approved course in—

(i) Computer systems and maintenance; and

(ii) High-voltage power systems.

(b) An applicant who holds an STCW endorsement as able seafarer-engine and a national rating endorsement as electrician, electrician/refrigerating engineer, or junior engineer will be issued the ETR endorsement upon completion of the requirements in Section A–III/7 of the STCW Code and evidence of completion of the training required in paragraph (a)(4) of this section.

(c) Seafarers with the following national rating endorsement will be eligible for this endorsement upon completion of the requirements designated in this section:

TABLE 1 TO § 12.611(c)—STCW ENDORSEMENT AS ELECTRO-§ TECHNICAL RATING

Entry path from national endorsements	Sea service under authority of the endorsement [1]	Competence—STCW Table A–III/7 [2]
Electrician/refrigerating engineer.	None	Y
Junior engineer	None	Y

[1] This column provides the minimum additional service required of the seafarer in order to meet the requirements of this section.
[2] Complete any items in paragraph (a)(3) of this section not previously satisfied.

§ 12.613 Requirements to qualify for an STCW endorsement in proficiency in survival craft and rescue boats other than fast rescue boats (PSC).

(a) To qualify for an STCW endorsement in proficiency in survival craft and rescue boats other than fast rescue boats (PSC), the applicant must—

(1) Be at least 18 years of age;

(2) Meet the requirements for a lifeboatman endorsement in § 12.407 of this part and Table A–VI/2–1 of the STCW Code (incorporated by reference, see § 12.103 of this part); and

(3) Complete basic training (BT), found in § 12.601(c) of this subpart.

(b) *Continued professional competence.* (1) Seafarers qualified in accordance with paragraph (a) of this section must provide evidence of maintaining the standard of competence as set out in Table A–VI/2–1 of the STCW Code every 5 years.

(2) The Coast Guard will accept onboard training and experience, through evidence of 1 year of sea service within the last 5 years, as meeting the requirements of paragraph (b)(1) of this section for the following areas, as set out in Table A–VI/2–1 of the STCW Code:

(i) Taking charge of a survival craft or rescue boat during and after launch, including—

(A) Interpreting the markings on survival craft as to the number of persons they are intended to carry;

(B) Giving correct commands for launching and boarding survival craft, clearing the ship, and handling and disembarking persons from survival craft;

(C) Preparing and safely launch survival craft, operating its engine, and clearing the ship's side quickly; and

(D) Safely recovering survival craft and rescue boats.

(ii) Operating a survival craft engine, including—

(A) Rowing and steering a boat and steer by compass;

(B) Using individual items of equipment of survival craft, except for pyrotechnics; and

(C) Rigging devices to aid location.

(iii) Using locating devices, including communication and signaling apparatus, including—

(A) Using of portable radio equipment for survival craft.

(B) [Reserved]

(iv) Applying first aid to survivors.

(3) The Coast Guard will only accept evidence of assessments conducted ashore as meeting the requirements of paragraph (b)(1) of this section for the areas not included in paragraph (b)(2) of this section, as set out in Table A–VI/2–1 of the STCW Code.

(4) Applicants who cannot meet the requirement for 1 year of sea service within the last 5 years, as described in paragraph (b)(2) of this section, will be required to meet the requirements of paragraph (a) of this section or complete approved or accepted refresher training.

(c) Seafarers holding an MMD or MMC endorsement as lifeboatman before January 1, 2017 will be eligible for this endorsement upon showing evidence of sea service of not less than 12 months within the last 60 months. The sea service must be completed prior to January 1, 2017.

§ 12.615 Requirements to qualify for an STCW endorsement in proficiency in survival craft and rescue boats other than lifeboats and fast rescue boats-limited (PSC-limited).

(a) To qualify for an STCW endorsement in proficiency in survival craft and rescue boats other than lifeboats and fast rescue boats–limited (PSC–limited), the applicant must—

(1) Be at least 18 years of age;

(2) Meet the requirements for a lifeboatman-limited endorsement in

§ 12.409 of this part and Table A–VI/2–1 of the STCW Code (incorporated by reference, see § 12.103 of this part); and

(3) Complete BT, found in § 12.601(c) of this subpart.

(b) *Continued professional competence.* (1) Seafarers qualified in accordance with paragraph (a) of this section must provide evidence of maintaining the standard of competence as set out in Table A–VI/2–1 of the STCW Code every 5 years.

(2) The Coast Guard will accept onboard training and experience, through evidence of 1 year of sea service within the last 5 years, as meeting the requirements of paragraph (b)(1) of this section for the following areas, as set out in Table A–VI/2–1 of the STCW Code:

(i) Taking charge of a survival craft or rescue boat during and after launch including—

(A) Interpreting the markings on survival craft as to the number of persons they are intended to carry;

(B) Giving correct commands for launching and boarding rescue boats and survival craft other than lifeboats, clearing the ship, and handling and disembarking persons from survival craft;

(C) Preparing and safely launching rescue boats and survival craft, other than lifeboats, starting the engine, and clearing the ship's side quickly; and

(D) Safely recovering rescue boats.

(ii) Managing survivors and survival craft after abandoning ship, including—

(A) Steering a rescue boat and steer by compass;

(B) Using individual items of equipment of survival craft other than lifeboats, except for pyrotechnics; and

(C) Rigging devices to aid location.

(iii) Using locating devices, including communication and signaling apparatuses, including—

(A) Using portable radio equipment for rescue boats and survival craft;

(B) [Reserved]

(iv) Applying first aid to survivors.

(3) The Coast Guard will only accept evidence of assessments conducted ashore as meeting the requirements of paragraph (b)(1) of this section for the areas not included in paragraph (b)(2) of this section as set out in Table A–VI/2–1 of the STCW Code.

(4) Applicants who cannot meet the requirement for 1 year of sea service within the last 5 years, as described in paragraph (b)(2) of this section, will be required to meet the requirements of paragraph (a) of this section or complete approved or accepted refresher training.

(c) Seafarers holding an MMD or MMC endorsement as lifeboatman-limited before January 1, 2017, will be eligible for this endorsement upon showing evidence of sea service of not less than 12 months within the last 60 months. The sea service must be completed prior to January 1, 2017.

§ 12.617 Requirements to qualify for an STCW endorsement in proficiency in fast rescue boats.

(a) To qualify for an STCW endorsement in proficiency in fast rescue boats, an applicant must—

(1) Be not less than 18 years of age;

(2) Hold an endorsement in proficiency in survival craft and rescue boats other than fast rescue boats (PSC) or in proficiency in survival craft and rescue boats other than lifeboats and fast rescue boats–limited (PSC–limited) under this subpart;

(3) Provide evidence of successful completion of a Coast Guard-approved or -accepted course; and

(4) Provide evidence of meeting the standard of competence specified in Table A–VI/2–2 of the STCW Code (incorporated by reference, see § 12.103 of this part).

(b) *Continued professional competence.* (1) Seafarers qualified in accordance with paragraph (a) of this section must provide evidence of maintaining the standard of competence as set out in Table A–VI/2–2 of the STCW Code every 5 years.

(2) The Coast Guard will accept onboard training and experience, through evidence of 1 year of sea service within the last 5 years, as meeting the requirements of paragraph (b)(1) of this section for the following areas, as set out in Table A–VI/2–2 of the STCW Code:

(i) Taking charge of a fast rescue boat during and after launch, including—

(A) Controlling safe launching, operating of the engine, and recovering a fast rescue boat;

(B) Handling a fast rescue boat in prevailing weather and sea conditions;

(C) Using communication and signaling equipment between the fast rescue boat and a helicopter and a ship;

(D) Using the emergency equipment carried; and

(E) Carrying out search patterns, taking account of environmental factors.

(ii) [Reserved]

(3) The Coast Guard will only accept evidence of assessments conducted ashore as meeting the requirements of paragraph (b)(1) of this section for the areas not included in paragraph (b)(2) of this section, as set out in Table A–VI/2–2 of the STCW Code.

(4) Applicants who cannot meet the requirement for 1 year of sea service within the last 5 years, as described in paragraph (b)(2) of this section, will be required to meet the requirements of paragraph (a)(3) of this section or complete approved or accepted refresher training.

§ 12.619 Requirements to qualify for an STCW endorsement as medical first-aid provider.

(a) To qualify for an STCW endorsement as medical first-aid provider, an applicant must—

(1) Provide evidence of successful completion of an approved course in medical first aid; and

(2) Provide evidence of meeting the standard of competence specified in Table A–VI/4–1 of the STCW Code (incorporated by reference, see § 12.103 of this part).

(b) An applicant holding one of the following credentials is qualified for an endorsement as medical first-aid provider:

(1) A valid professional license listed in § 11.807(a)(5) or (a)(6) of this subchapter, without restriction or limitation placed upon it by the issuing State.

(2) A rating listed in § 11.807(a)(7) or (a)(8) of this subchapter.

§ 12.621 Requirements to qualify for an STCW endorsement as person in charge of medical care.

(a) To qualify for an STCW endorsement as person in charge of medical care, an applicant must—

(1) Provide evidence of successful completion of an approved course that leads to an endorsement for seafarers designated to take charge of medical care onboard a ship; and

(2) Provide evidence of meeting the standard of competence specified in Table A–VI/4–2 of the STCW Code (incorporated by reference, see § 12.103 of this part).

(b) An applicant holding any of the following credentials is qualified for an endorsement as person in charge of medical care:

(1) A valid professional license listed in § 11.807(a)(5) or (a)(6) of this subchapter, without restriction or limitation placed upon it by the issuing State.

(2) A rating listed in § 11.807(a)(7) or (a)(8) of this subchapter.

§ 12.623 Requirements to qualify for an STCW endorsement as Global Maritime Distress and Safety System (GMDSS) at-sea maintainer.

To qualify for an STCW endorsement as GMDSS at-sea maintainer, an applicant must—

(a) Be not less than 18 years of age;

(b) Provide evidence of—

(1) Successful completion of a training program that covers at least the scope and content of the training outlined in Section B–IV/2 of the STCW

Code (incorporated by reference, see § 12.103 of this part); or

(2) Passing an approved GMDSS at-sea maintainer course; and

(c) Hold a valid Federal Communications Commission (FCC) certificate as GMDSS at-sea maintainer.

§ 12.625 Requirements to qualify for an STCW endorsement as vessel personnel with designated security duties.

(a) An applicant for an STCW endorsement as vessel personnel with designated security duties must—

(1) Present satisfactory documentary evidence, such as a certificate or letter signed by a company official, or a certificate of completion from a Coast Guard-accepted or Coast Guard-approved course, of meeting the requirements in 33 CFR 104.220;

(2) Meet the physical examination requirements in 46 CFR Part 10, subpart C; and

(3) Meet the safety and suitability requirements and the National Driver Registry review requirements in § 10.209(e) of this subchapter, unless the applicant has met these requirements within the previous 5 years in connection with another endorsement.

(b) Until March 24, 2014, seafarers will be able to apply for an endorsement as vessel personnel with designated security duties by—

(1) Having completed approved seagoing service with designated security duties, for a period of at least 6 months in total during the preceding 3 years;

(2) Having performed security functions considered to be equivalent to the seagoing service required in paragraph (b)(1) of this section; or

(3) Successfully completing Coast Guard-accepted or Coast Guard-approved training.

§ 12.627 Requirements to qualify for an STCW endorsement for security awareness.

(a) An applicant for an endorsement for security awareness must—

(1) Present satisfactory documentary evidence, such as a certificate or letter signed by a company official, or a certificate of completion from a Coast Guard-accepted or Coast Guard-approved course, of meeting the requirements in 33 CFR 104.225;

(2) Meet the physical examination requirements in 46 CFR, part 10, subpart C; and

(3) Meet the safety and suitability requirements and the National Driver Registry review requirements in § 10.209(e) of this subchapter, unless the applicant has met these requirements within the previous 5 years in connection with another endorsement.

(b) Until March 24, 2014, seafarers will be able to apply for an endorsement in security awareness by—

(1) Having performed approved seagoing service for a period of at least 6 months in total during the preceding 3 years;

(2) Having performed security functions considered to be equivalent to the seagoing service required in paragraph (b)(1) of this section; or

(3) Successfully completing Coast Guard-accepted or Coast Guard-approved training.

Subpart G—Entry-Level National Ratings and Miscellaneous Ratings

§ 12.701 Credentials required for entry-level and miscellaneous ratings.

Every person employed or engaged on a vessel subject to 46 U.S.C. 8701, must produce an MMC or MMD with the appropriate endorsement to the master or person in charge (PIC), if appropriate, before signing shipping articles.

§ 12.703 General requirements for entry-level ratings.

(a) Rating endorsements will be issued without professional examination to applicants in capacities other than able seaman, lifeboatman, lifeboatman-limited, tankerman, or QMED, including—

(1) Ordinary seaman;

(2) Wiper;

(3) Steward's department; and

(4) Steward's department (F.H.).

(b) Holders of MMCs or MMDs endorsed as ordinary seaman may serve in any unqualified rating in the deck or steward's department, except as a food handler.

(c) Holders of MMCs or MMDs endorsed as wiper may serve in any unqualified rating in the engine or steward's department, except as a food handler.

(d) Only MMCs or MMDs endorsed as steward's department (F.H.) will authorize the holder's service in any capacity in the steward's department, including food handler.

§ 12.705 Endorsements for persons enrolled in a Maritime Administration-approved training program.

MMCs issued to individuals obtaining sea service as part of an approved training curriculum while enrolled at either the United States Merchant Marine Academy or a deck or engineering class of a Maritime Academy approved by and conducted under the rules prescribed by the Maritime Administrator and listed in 46 CFR Part 310 will include an endorsement of cadet (deck) or cadet (engine), as appropriate, and lifeboatman. Individuals obtaining sea service as part of such an approved training curriculum must do so in the capacity of cadet (deck) or cadet (engine), as appropriate, notwithstanding any other rating endorsements the individual may hold or any other capacity in which the individual may have previously served.

§ 12.707 Student observers.

Students in technical schools who are enrolled in courses in marine management, naval architecture, and ship operations, and who present a letter or other documentary evidence that they are enrolled, will be issued an MMC endorsed as ''student observer—any department'' and may be signed on ships as such. Students holding these endorsements will not take the place of any of the crew, or replace any of the regular required crew.

§ 12.709 Apprentice engineers.

(a) Persons enrolled in an engineer training program approved by the Coast Guard, and who present a letter or other documentary evidence that they are enrolled, may be issued an MMC endorsed as apprentice engineer and may be signed on ships as such. The endorsement as apprentice engineer may be in addition to other endorsements; however, this endorsement does not authorize the holder to replace any of the regular required crew.

(b) Persons holding the endorsement as apprentice engineer are deemed to be seamen.

§ 12.711 Apprentice mate.

(a) A person enrolled in a mate training program approved by the Coast Guard, and who presents a letter or other documentary evidence that he or she is enrolled, may be issued an MMC rating endorsement as apprentice mate and may be signed on a vessel in this capacity. The rating endorsement as apprentice mate may be in addition to other endorsements; however, this endorsement does not authorize the holder to replace any of the regular required crew.

(b) Persons holding the endorsement as apprentice mate are deemed to be seamen.

Subpart H—Non-Resident Alien Members of the Steward's Department on U.S. Flag Large Passenger Vessels

§ 12.801 Purpose.

The rules in this subpart implement 46 U.S.C. 8103(k) by establishing requirements for the issuance of MMCs, valid only for service in the steward's

department of U.S. flag large passenger vessels, to non-resident aliens.

§ 12.803 General requirements.

(a) Unless otherwise specified in this subpart, non-resident alien applicants for Coast Guard-issued MMCs are subject to all applicable requirements contained in this subchapter.

(b) No application for an MMC from a non-resident alien issued pursuant to this subpart will be accepted unless the applicant's employer satisfies all of the requirements of § 12.805 of this subpart.

§ 12.805 Employer requirements.

(a) The employer must submit the following to the Coast Guard, as a part of the applicant's MMC application, on behalf of the applicant:

(1) A signed report that contains all material disciplinary actions related to the applicant, such as, but not limited to, violence or assault, theft, drug and alcohol policy violations, and sexual harassment, along with an explanation of the criteria used by the employer to determine the materiality of those actions.

(2) A signed report regarding an employer-conducted background check. The report must contain—

(i) A statement that the applicant has successfully undergone an employer-conducted background check;

(ii) A description of the employer-conducted background check, including all databases and records searched. The background check must, at a minimum, show that the employer has reviewed all information reasonably and legally available to the owner or managing operator, including the review of available court and police records in the applicant's country of citizenship, and any other country in which the applicant has received employment referrals, or resided, for the past 20 years prior to the date of application; and

(iii) All information derived from the employer-conducted background check.

(3) An employer-conducted background check, which must be conducted to the satisfaction of the Coast Guard for an MMC to be issued to the applicant.

(b) If an MMC is issued to the applicant, the report and information required in paragraph (a)(2) of this section must be securely kept by the employer on the U.S. flag large passenger vessel on which the applicant is employed. The report and information must remain on the last U.S. flag large passenger vessel on which the applicant was employed until such time as the MMC is returned to the Coast Guard in accordance with paragraph (d) of this section.

(c) If an MMC or a transportation worker identification credential (TWIC) is issued to the applicant, each MMC and TWIC must be securely kept by the employer on the U.S. flag large passenger vessel on which the applicant is employed. The employer must maintain a detailed record of the seaman's total service on all authorized U.S. flag large passenger vessels, and must make that information available to the Coast Guard upon request, to demonstrate that the limitations of § 12.811(c) of this subpart have not been exceeded.

(d) In the event that the seaman's MMC and/or TWIC expires, the seaman's visa status terminates, the seaman serves onboard the U.S. flag large passenger vessel(s) for 36 months in the aggregate as a nonimmigrant crewman, the employer terminates employment of the seaman, or, if the seaman otherwise ceases working with the employer, the employer must return the MMC to the Coast Guard and/or the TWIC to the Transportation Security Administration (TSA) within 10 days of the event.

(e) In addition to the initial material disciplinary actions report and the initial employer-conducted background check specified in paragraph (a) of this section, the employer must—

(1) Submit to the National Maritime Center an annual material disciplinary actions report to update whether there have been any material disciplinary actions related to the applicant since the last material disciplinary actions report was submitted to the Coast Guard. The annual material disciplinary actions report must—

(i) Be submitted to the satisfaction of the Coast Guard in accordance with the same criteria set forth in paragraph (a)(1) of this section, except that the period of time examined for the material disciplinary actions report need only extend back to the date of the last material disciplinary actions report; and

(ii) Be submitted to the Coast Guard on or before the anniversary of the issuance date of the MMC; and

(2) Conduct a background check each year that the MMC is valid to search for any changes that might have occurred since the last employer-conducted background check was performed. The annual background check must—

(i) Be conducted to the satisfaction of the Coast Guard in accordance with the same criteria set forth in paragraph (a)(2) of this section, except that the period of time examined during the annual background check need only extend back to the date of the last background check; and

(ii) Be submitted to the Coast Guard on or before the anniversary of the issuance date of the MMC.

(f) The employer is subject to the civil penalty provisions specified in 46 U.S.C. 8103(f) for any violation of this section.

§ 12.807 Basis for denial.

In addition to the requirements for an MMC established elsewhere in this subchapter, and the basis for denial established in §§ 10.209, 10.211, and 10.213 of this subchapter, an applicant for an MMC issued pursuant to this subpart must—

(a) Have been employed for a period of at least 1 year on a foreign flag passenger vessel that is under the same common ownership or control as the U.S. flag large passenger vessel on which the applicant will be employed upon issuance of an MMC under this subpart;

(b) Have no record of material disciplinary actions during the employment required under paragraph (a) of this section, as verified in writing by the owner or managing operator of the U.S. flag large passenger vessel on which the applicant will be employed;

(c) Have successfully completed an employer-conducted background check to the satisfaction of both the employer and the Coast Guard; and

(d) Meet the citizenship and identity requirements of § 12.809 of this subpart.

§ 12.809 Citizenship and identity.

(a) Instead of the requirements of § 10.221 of this subchapter, a non-resident alien may apply for a Coast Guard-issued MMC, endorsed and valid only for service in the steward's department of a U.S. flag large passenger vessel, as defined in 46 U.S.C. 8103(k)(5)(B), if he or she is employable in the United States under the Immigration and Nationality Act (8 U.S.C. 1101, et seq.), including an alien crewman described in section 101 (a)(15)(D)(i) of that Act.

(b) To meet the citizenship and identity requirements of this subpart, an applicant must present an unexpired passport issued by the government of the country of which the applicant is a citizen or subject, and either a valid U.S. C–1/D Crewman Visa or another valid U.S. visa or authority deemed acceptable by the Coast Guard.

(c) Any non-resident alien applying for an MMC under this subpart may not be a citizen of, or a temporary or permanent resident of, a country designated by the Department of State as a ''State Sponsor of Terrorism'' pursuant

to section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) or section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

§ 12.811 Restrictions.

(a) An MMC issued to a non-resident alien under this subpart authorizes service only in the steward's department of the U.S. flag large passenger vessel(s), that is/are under the same common ownership and control as the foreign flag passenger vessel(s) on which the non-resident alien served to meet the requirements of § 12.807(a) of this subpart.

(1) The MMC will be endorsed for service in the steward's department, in accordance with § 12.703 of this part.

(2) The MMC may also be endorsed for service as a food handler if the applicant meets the requirements of § 12.703 of this part.

(3) No other rating or endorsement is authorized, except lifeboatman or lifeboatman-limited, in which case all applicable requirements of this subchapter and the STCW Convention and STCW Code (incorporated by reference, see § 12.103 of this part) must be met.

(b) The following restrictions must be printed on the MMC, or be listed in an accompanying Coast Guard letter, or both:

(1) The name and official number of all U.S. flag vessels on which the non-resident alien may serve. Service is not authorized on any other U.S. flag vessel.

(2) Upon issuance, the MMC must remain in the custody of the employer at all times.

(3) Upon termination of employment, the MMC must be returned to the Coast Guard within 10 days, in accordance with § 12.805 of this subpart.

(4) A non-resident alien issued an MMC under this subpart may not perform watchstanding, engine room duty watch, or vessel navigation functions.

(5) A non-resident alien issued an MMC under this subpart may perform emergency-related duties, provided that—

(i) The emergency-related duties do not require any other rating or endorsement, except lifeboatman or lifeboatman-limited as specified in paragraph (a)(3) of this section;

(ii) The non-resident alien has completed familiarization and basic training (BT), as required in § 15.1105 of this subchapter;

(iii) If the non-resident alien serves as a lifeboatman or lifeboatman-limited, he or she has the necessary lifeboatman or lifeboatman-limited endorsement; and

(iv) The non-resident alien has completed the training for crewmembers on passenger ships performing duties involving safety or care for passengers, as required in § 15.1103 of this subchapter.

(c) A non-resident alien may only serve for an aggregate period of 36 months of actual service on all authorized U.S. flag large passenger vessels combined under the provisions of this subpart.

(d) Once this 36-month limitation is reached, the MMC becomes invalid and must be returned to the Coast Guard under § 12.805(d) of this subpart, and the non-resident alien is no longer authorized to serve in a position requiring an MMC on any U.S. flag large passenger vessel.

(e) An individual who successfully adjusts his or her immigration status to become either an alien lawfully admitted for permanent residence to the United States, or a citizen of the United States, may apply for an MMC, subject to the requirements of § 10.221 of this subchapter, without any restrictions or limitations imposed by this subpart.

§ 12.813 Alternative means of compliance.

(a) The owner or managing operator of a U.S. flag large passenger vessel seeking to employ non-resident aliens issued MMCs under this subpart may submit a plan to the Coast Guard, which, if approved, will serve as an alternative means of complying with the requirements of this subpart.

(b) The plan must address all the elements contained in this subpart, as well as the related elements contained in § 15.530 of this subchapter, to the satisfaction of the Coast Guard.

Subpart I—Crewmembers on a Passenger Ship on an International Voyage

§ 12.901 Purpose.

This subpart establishes requirements for the qualification of ratings serving on passenger ships as defined in § 12.903 of this part.

§ 12.903 Definitions.

Passenger ship in this subpart means a ship carrying more than 12 passengers when on an international voyage.

§ 12.905 General requirements.

(a) Any seafarer may serve on a passenger vessel on an international voyage and perform duties that involve safety or care for passengers, only after—

(1) Meeting the appropriate requirements of the STCW Regulation V/2 and of section A–V/2 of the STCW Code (incorporated by reference, see § 12.103 of this part); and

(2) Holding documentary evidence to show that the mariner meets these requirements through approved or accepted training.

(b) Seafarers who are required to be trained in accordance with paragraph (a)(1) of this section must, at intervals not exceeding 5 years, provide evidence of maintaining the standard of competence.

(c) The Coast Guard will accept onboard training and experience, through evidence of 1 year of sea service within the last 5 years, as meeting the requirements of paragraph (a)(2) of this section.

(d) Personnel serving onboard small passenger vessels engaged in domestic, near-coastal voyages, as defined in § 15.105(g)(1) of this subchapter, are not subject to any obligation for the purpose of this STCW requirement.

PART 13—CERTIFICATION OF TANKERMAN

■ 33. The authority citation for part 13 continues to read as follows:

Authority: 44 U.S.C. 3507; 46 U.S.C. 3703, 7317, 8703, 9102; Department of Homeland Security Delegation No. 0170.1.

■ 34. Revise § 13.101 to read as follows:

§ 13.101 Purpose.

This part describes the various tankerman endorsements issued by the Coast Guard on a merchant mariner credential (MMC).

(a) This part prescribes the requirements for the following endorsements:

(1) Tankerman-PIC.

(2) Tankerman-PIC (Barge).

(3) Restricted Tankerman-PIC.

(4) Restricted Tankerman-PIC (Barge).

(5) Tankerman-assistant.

(6) Tankerman-engineer.

(b) This part prescribes the requirements for the following STCW endorsements:

(1) Advanced oil tanker cargo operation.

(2) Advanced chemical tanker cargo operation.

(3) Advanced liquefied gas tanker cargo operation.

(4) Basic oil and chemical tanker cargo operation.

(5) Basic liquefied gas tanker cargo operation.

■ 35. Add § 13.103 to read as follows:

§ 13.103 Incorporation by reference.

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1

CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish a notice of change in the Federal Register and the material must be available to the public. All approved material is available for inspection at the Coast Guard, Office of Operating and Environmental Standards (CG–OES), 2100 2nd St. SW., Stop 7126, Washington, DC 20593–7126, 202–372–1405, and is available from the sources listed below. It is also available for inspection 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/code_of_federal_regulations/ibr_locations.html*.

(b) International Maritime Organization (IMO), 4 Albert Embankment, London SE1 7SR, England:

(1) The Seafarers' Training, Certification and Watchkeeping Code, as amended, 2011 (the STCW Code), approved for incorporation by reference in §§ 13.601, 13.603, 13.605, 13.607, 13.609, and 13.611; and

(2) [Reserved]

§ 13.106 [Amended]

■ 36. In § 13.106, remove the word ''chapter'' and add, in its place, the word ''subchapter''.

■ 37. Amend § 13.107 as follows:

■ a. In paragraph (a), remove the words ''OCMI at an REC'' and add, in their place, the words ''Coast Guard''; remove the words '' ''Tankerman-PIC'' '' and add, in their place, the words ''tankerman-PIC''; and remove the words ''Tankerman-Engineer'' and add, in their place, the words ''tankerman-engineer'';

■ b. In paragraph (b), remove the words ''OCMI at an REC'' and add, in their place, the words ''Coast Guard''; and remove the words '' ''Tankerman-PIC (Barge)'' '' and add, in their place, the words ''tankerman-PIC (barge)'';

■ c. In paragraph (c), remove the words ''OCMI at an REC'' and add, in their place, the words ''Coast Guard''; remove the words '' ''Tankerman-Assistant'' '' and add, in their place, the words ''tankerman-assistant''; and remove the word ''shall'' and add, in its place, the word ''must'';

■ d. Revise paragraphs (d), (e), and (f) to read as set forth below; and

■ e. Remove paragraph (g).

§ 13.107 Tankerman endorsement: General.

* * * * *

(d) If an applicant meets the requirements of subpart E of this part, the Coast Guard may endorse his or her MMC as tankerman-engineer. No person holding this endorsement may act as a PIC or tankerman-assistant of any transfer of liquid cargo in bulk, or of cargo-tank cleaning unless he or she also holds an endorsement authorizing such service. A person holding this endorsement and acting in this capacity has the primary responsibility, on his or her self-propelled tank vessel carrying dangerous liquid (DL) or liquefied gas (LG), for maintaining both the cargo systems and equipment for transfer of liquid cargo in bulk. No person licensed or credentialed under part 11 of this chapter may serve as a chief engineer, first assistant engineer, or cargo engineer aboard an inspected self-propelled tank vessel when liquid cargo in bulk or cargo residue is carried unless he or she holds an endorsement as tankerman-engineer or equivalent.

(e) If an applicant meets the requirements of § 13.111 of this subpart, the Coast Guard may place on his or her MMC an endorsement as a tankerman-PIC restricted according to the definitions of ''restricted tankerman endorsement'' in § 10.107 of this subchapter.

(f) This section does not apply to any person solely by reason of his or her involvement in bunkering or fueling.

§ 13.109 [Amended]

■ 38. In § 13.109, remove paragraph (c).

■ 39. Revise § 13.111 to read as follows:

§ 13.111 Restricted tankerman endorsement.

(a) An applicant may apply for a tankerman endorsement restricted to specific cargoes, specific vessels, or groups of vessels (such as uninspected towing vessels and Oil Spill Response Vessels), specific facilities, and/or specific employers. The Coast Guard will evaluate each application and may modify the applicable requirements for the endorsement, allowing for special circumstances and for whichever restrictions the endorsement will state.

(b) To qualify for a restricted tankerman-PIC endorsement, an applicant must meet §§ 13.201 (excluding paragraph (c)(4)), 13.203, and 13.205 of this part.

(1) Twenty-five percent of the service described in § 13.203(a) of this part must have occurred within the past 5 years.

(2) Two of the transfers described in § 13.203(b) of this part must have occurred within the past 5 years.

(c) To qualify for a restricted tankerman-PIC (barge) endorsement, an applicant must meet §§ 13.301 (excluding paragraph (c)(4)), 13.303, and 13.305 of this part.

(1) Twenty-five percent of the service described in § 13.303(a) of this part must have occurred within the past 5 years.

(2) Two of the transfers described in § 13.303(b) of this part must have occurred within the past 5 years.

(d) To qualify for a restricted tankerman-PIC (barge) endorsement restricted to a tank-cleaning and gas-freeing facility, an applicant must—

(1) Be at least 18 years old;

(2) Apply on a form provided by the Coast Guard;

(3) Present evidence of passing a physical and medical examination according to § 13.125 of this part;

(4) Present evidence in the form of a letter, which must be dated within the 5 years prior to the application for the credential, on company letterhead from the operator of the facility stating that OSHA considers the applicant a ''competent person (as designated under 29 CFR 1915.7)'' for the facility and that the applicant has the knowledge necessary to supervise tank-cleaning and gas-freeing; and

(5) Be capable of speaking and understanding, in English, all instructions needed to commence, conduct, and complete a transfer of cargo, and of reading and understanding the English found in the Declaration of Inspection, vessel response plans, and Cargo Information Cards.

(e) The restricted tankerman-PIC (barge) endorsement restricted to a tank-cleaning and gas-freeing facility is valid only while the applicant is employed by the operator of the facility that provided the letter of service required by paragraph (d)(4) of this section, and this and any other appropriate restrictions will appear in the endorsement.

(f) A restricted tankerman-PIC endorsement limited to operation on vessels inside the boundary line is not valid where STCW certification is required.

■ 40. Add § 13.115 to read as follows:

§ 13.115 Chemical testing requirements.

Each applicant for an original tankerman endorsement must provide evidence of having passed a chemical test for dangerous drugs or of qualifying for an exemption from testing in § 16.220 of this chapter as specified in § 10.225(b)(5) of this subchapter.

■ 41. Add § 13.117 to read as follows:

§ 13.117 Re-issuance of expired tankerman endorsements.

Whenever an applicant applies for re-issuance of an endorsement as any

tankerman rating more than 12 months after expiration of the previous endorsement, the applicant must meet the requirements for an original endorsement.

■ 42. Revise § 13.120 to read as follows:

§ 13.120 Renewal of tankerman endorsement.

An applicant seeking renewal of a tankerman endorsement or an STCW endorsement valid for service on tank vessels must meet the requirements of § 10.227 of this subchapter, except § 10.227(e)(1), for renewing an MMC and meet the following additional requirements:

(a) For endorsements as tankerman-PIC, advanced oil and chemical tanker cargo operation; and advanced liquefied gas tanker cargo operations, present evidence of—

(1) At least 90 days of service during the preceding 5 years onboard a tank vessel for which the endorsement is valid, performing duties appropriate to the tankerman endorsement held; and participation in at least two transfers of liquid cargo in bulk of the type for which the endorsement is valid within the preceding 5 years; or

(2) Completion of an approved course for Tankship: Dangerous Liquids or Tankship: Liquefied Gases, appropriate for the endorsement to be renewed, within the previous 5 years.

(b) For endorsements as tankerman-assistant, basic oil and chemical tanker cargo operation; and basic liquefied gas tanker cargo operations, present evidence of—

(1) At least 90 days of service during the preceding 5 years onboard a tank vessel for which the endorsement is valid, performing duties appropriate to the tankerman endorsement held; or

(2) Completion of an approved course for Tankship: Dangerous Liquids or Tankship: Liquefied Gases, appropriate for the endorsement to be renewed, within the previous 5 years.

(c) For endorsements as tankerman-PIC (Barge), present evidence of—

(1) Participation in at least two transfers of liquid cargo in bulk of the type for which the endorsement is valid, within the preceding 5 years; or

(2) Completion of a course approved for this purpose, appropriate for the endorsement to be renewed, within the previous 5 years.

(d) For endorsements as tankerman-engineer, present evidence of—

(1) At least 90 days of service during the preceding 5 years onboard a tank vessel for which the endorsement is valid, performing duties appropriate to the tankerman endorsement held; or

(2) Completion of a course approved for this purpose, appropriate for the endorsement to be renewed, within the previous 5 years.

■ 43. Revise § 13.121 to read as follows:

§ 13.121 Courses for tankerman endorsements.

(a) This section prescribes the requirements, beyond those in §§ 10.302 and 10.304 of this subchapter, applicable to schools offering courses required for a tankerman endorsement and courses that are a substitute for experience with transfers of liquid cargo in bulk required for the endorsement.

(b) A course that uses simulated transfers to train students in loading and discharging tank vessels may replace up to two loadings and two discharges, one commencement and one completion of loading, and one commencement and one completion of discharge required for a tankerman-PIC or tankerman-PIC (barge) endorsement. The request for approval of the course must specify those segments of a transfer that the course will simulate. The letter from the Coast Guard approving the course will state the number and kind of segments that the course will replace.

(c) The liquid cargo course required for an endorsement as—

(1) Tankerman-PIC DL is Tankship: Dangerous Liquids;

(2) Tankerman-PIC (barge) DL is Tank Barge: Dangerous Liquids;

(3) Tankerman-PIC LG is Tankship: Liquefied Gases;

(4) Tankerman-PIC (barge) LG is Tank Barge: Liquefied Gases;

(5) Tankerman assistant DL is Tankship: Familiarization (Dangerous Liquids);

(6) Tankerman assistant LG is Tankship: Familiarization (Liquefied Gases);

(7) Tankerman-engineer DL is Tankship: Dangerous Liquids; and

(8) Tankerman-engineer LG is Tankship: Liquefied Gases.

(d) The firefighting course required for an endorsement as—

(1) Tankerman-PIC (barge) is Tank Barge: Firefighting or basic firefighting; and

(2) Tankerman-PIC, tankerman-assistant, and tankerman-engineer is basic firefighting.

(e) The Coast Guard will evaluate and approve the curricula of courses to ensure adequate coverage of the required subjects. Training may employ classroom instruction, demonstrations, or simulated or actual operations.

(1) The course curricula for Tankship Familiarization must consist of the topics identified in Table 1 to § 13.121(e) of this subpart.

(2) The course curricula for tankerman-PIC, tankerman-PIC (barge), and tankerman-engineer endorsements must consist of the topics identified in Table 2 to § 13.121(e) of this subpart.

(3) The course curricula for firefighting courses must consist of the topics identified in Table 3 to § 13.121(e) of this subpart.

TABLE 1 TO § 13.121(e)

Tankship familiarization topics	1	2
Basic knowledge of tankers:		
types of oil and chemical vessels or liquefied gas tanker vessels	X	X
general arrangement and construction	X	X
Basic knowledge of cargo operations:		
piping systems and valves	X	X
cargo pumps and cargo handling equipment	X	X
loading and unloading and care in transit	X	X
tank cleaning, purging, gas-freeing and inerting	X	X
Basic knowledge of the physical properties of oil and chemicals:		
pressure and temperature, including vapor pressure/temperature relationship	X	
types of electrostatic charge generation	X	
chemical symbols	X	
Basic knowledge of the physical properties of liquefied gases, including:		
properties and characteristics		X
pressure and temperature, including vapor pressure/temperature relationship		X
types of electrostatic charge generation		X

TABLE 1 TO § 13.121(e)—Continued

Tankship familiarization topics	1	2
chemical symbols		X
Knowledge and understanding of tanker safety culture and safety management	X	X
Basic knowledge of the hazards associated with tanker operations, including:		
health hazards	X	X
environmental hazards	X	X
reactivity hazards	X	X
corrosion hazards	X	X
explosion and flammability hazards	X	X
sources of ignition	X	X
electrostatic hazards	X	X
toxicity hazards	X	X
vapor leaks and clouds	X	X
extremely low temperatures		X
pressure hazards		X
Basic knowledge of hazard controls:		
inerting, water padding, drying agents and monitoring techniques	X	X
anti-static measures	X	X
ventilation	X	X
segregation	X	X
cargo inhibition	X	X
importance of cargo compatibility	X	X
atmospheric control	X	X
gas testing	X	X
Understanding of information on a Material Safety Data Sheet (MSDS)	X	X
Function and proper use of gas-measuring instruments and similar equipment	X	X
Proper use of safety equipment and protective devices, including:		
breathing apparatus and tank-evacuating equipment	X	X
protective clothing and equipment	X	X
resuscitators	X	X
rescue and escape equipment	X	X
Basic knowledge of safe working practices and procedures in accordance with legislation and industry guidelines and personal shipboard safety relevant to oil and chemical tankers, including:		
precautions to be taken when entering enclosed spaces	X	X
precautions to be taken before and during repair and maintenance work	X	X
safety measures for hot and cold work	X	X
electrical safety	X	X
ship/shore safety checklist	X	X
Basic knowledge of first aid with reference to a Material Safety Data Sheet (MSDS)	X	X
Basic knowledge of emergency procedures, including emergency shutdown	X	X
Basic knowledge of the effects of oil and chemical pollution on human and marine life	X	X
Basic knowledge of shipboard procedures to prevent pollution	X	X
Basic knowledge of measures to be taken in the event of spillage, including the need to:		
report relevant information to the responsible persons	X	X
assist in implementing shipboard spill-containment procedures	X	X
prevent brittle fracture		X

Column 1—Tankship familiarization (dangerous liquids).
Column 2—Tankship familiarization (liquefied gases).

TABLE 2 TO § 13.121(e)

Tankship and tank barge course topics	1	2	3	4
General characteristics, compatibility, reaction, firefighting procedures, and safety precautions for the cargoes of:				
Bulk liquids defined as Dangerous Liquids in 46 CFR Part 13	X	X		
Bulk liquefied gases & their vapors defined as Liquefied Gases in 46 CFR Part 13			X	X
Knowledge and understanding of the physical and chemical properties of oil and chemical cargoes	X			
Physical phenomena of liquefied gas, including:				
Basic concept			X	X
Compression and expansion			X	X
Mechanism of heat transfer			X	X
Potential hazards of liquefied gas, including:				
Chemical and physical properties			X	X
Combustion characteristics			X	X
Results of gas release to the atmosphere			X	X
Health hazards (skin contact, inhalation, and ingestion)			X	X
Control of flammability range with inert gas			X	X
Thermal stress in structure and piping of vessel			X	X
Cargo systems, including:				
Principles of containment systems	X	X	X	X
Construction, materials, coating, & insulation of cargo tanks			X	X

TABLE 2 TO § 13.121(e)—Continued

Tankship and tank barge course topics	1	2	3	4
General arrangement of cargo tanks	X	X	X	X
Venting and vapor-control systems	X	X	X	X
Cargo-handling systems, including:				
Piping systems, valves, pumps, and expansion systems	X	X	X	X
Operating characteristics	X	X	X	X
Instrumentation systems, including:				
Cargo-level indicators	X	X	X	X
Gas-detecting systems	X		X	X
Temperature-monitoring systems, cargo	X		X	X
Temperature-monitoring systems, hull			X	X
Automatic-shutdown systems	X		X	X
AuXiliary systems, including:				
Ventilation, inerting	X	X	X	X
Valves, including:				
Quick-closing	X	X	X	X
Remote-control	X	X	X	X
Pneumatic	X	X	X	X
Excess-flow	X	X	X	X
Safety-relief	X	X	X	X
Pressure-vacuum	X	X	X	X
Heating-systems: cofferdams & ballast tanks			X	X
Operations connected with the loading and discharging of cargo, including:				
Lining up the cargo and vapor-control systems	X	X	X	X
Pre-transfer inspections and completion of the Declaration of Inspection	X	X	X	X
Hooking up of cargo hose, loading arms, and grounding-strap	X	X	X	X
Starting of liquid flow	X	X	X	X
Calculation of loading rates	X		X	
Discussion of loading	X	X	X	X
Ballasting and deballasting	X	X	X	X
Topping off of the cargo tanks	X	X	X	X
Discussion of discharging	X	X	X	X
Stripping of the cargo tanks	X	X		
Monitoring of transfers	X	X	X	X
Gauging of cargo tanks	X	X	X	X
Disconnecting of cargo hoses or loading arms	X	X	X	X
Cargo-tank-cleaning procedures and precautions	X	X		
Slop arrangements	X			
Ship-to-ship transfers	X			
Operating procedures and sequence for:				
Inerting of cargo tanks and void spaces	X	X	X	X
Cooldown and warmup of cargo tanks			X	X
Gas-freeing	X	X	X	X
Loaded or ballasted voyages	X		X	
Testing of cargo-tank atmospheres for oxygen & cargo vapor	X	X	X	X
Stability and stress considerations connected with loading and discharging of cargo	X	X	X	X
Loadline, draft, and trim	X	X	X	X
Disposal of boil-off, including:				
System design			X	X
Safety features			X	X
Stability-letter requirements	X		X	
Emergency procedures, including notice to appropriate authorities, for:				
Fire	X	X	X	X
Collision	X	X	X	X
Grounding	X	X	X	X
Equipment failure	X	X	X	X
Leaks and spills	X	X	X	
Structural failure	X	X	X	X
Emergency discharge of cargo	X	X	X	X
Entering cargo tanks	X	X	X	X
Emergency shutdown of cargo-handling	X	X	X	X
Emergency systems for closing cargo tanks	X	X		
Rules & regulations (international and Federal, for all tank vessels) on conducting operations and preventing pollution	X	X	X	X
Pollution prevention, including:				
Procedures to prevent air and water pollution	X	X	X	X
Measures to take in event of spillage	X	X	X	X
Danger from drift of vapor cloud	X	X	X	X
Environmental protection equipment, including oil discharge monitoring equipment	X			
Terminology for tankships carrying oil and chemicals	X			
Terminology for tank barges carrying oil and chemicals		X		
Terminology for tankships carrying liquefied gases			X	
Terminology for tank barges carrying liquefied gases				X

TABLE 2 TO § 13.121(e)—Continued

Tankship and tank barge course topics	1	2	3	4
Principles & procedures of crude-oil-washing (COW) systems, including:				
Purpose	X			
Equipment and design	X			
Operations	X			
Safety precautions	X			
Maintenance of plant and equipment	X			
Principles & procedures of the inert-gas systems (IGSs), including:				
Purpose	X		X	
Equipment and design	X		X	
Operations	X		X	
Safety precautions	X		X	
Maintenance of plant and equipment	X		X	
Principles & procedures of vapor-control systems, including:				
Purpose	X	X	X	X
Principles	X	X	X	X
Coast Guard regulations	X	X	X	X
Hazards	X	X	X	X
Active system components	X	X	X	X
Passive system components	X	X	X	X
Operating procedures, including:				
Testing and inspection requirements	X	X	X	X
Pre-transfer procedures	X	X	X	X
Connecting sequence	X	X	X	X
Start-up sequence	X	X	X	X
Normal operations	X	X	X	X
Loading and unloading plans	X			
Emergency procedures	X	X	X	X
Cargo-hazard-information systems	X	X	X	X
Safe entry into confined spaces, including:				
Testing tank atmospheres for oxygen & hydrocarbon vapors	X	X		
Definition and hazards of confined spaces	X	X	X	X
Cargo tanks and pumprooms	X	X	X	X
Evaluation and assessment of risks and hazards	X	X	X	X
Safety precautions and procedures	X	X	X	X
Enclosed space rescue	X			
Personnel protective equipment (PPE) and clothing	X	X	X	X
Maintenance of PPE	X	X	X	X
Dangers of skin contact	X	X	X	X
Inhalation of vapors	X	X		
Electricity and static electricity—hazards and precautions	X	X	X	X
Emergency procedures	X	X	X	X
Federal regulations, national standards & industry guidelines	X	X	X	X
Inspections by marine chemists & competent persons, including hot-work permits & procedures	X	X	X	X
Vessel response plans:				
Purpose, content, and location of information	X	X	X	X
Procedures for notice and mitigation of spills	X	X	X	X
Geographic-specific appendices	X	X	X	X
Vessel-specific appendices	X	X	X	X
Emergency-action checklist	X	X	X	X

Column 1—Tankship: Dangerous Liquids.
Column 2—Tank Barge: Dangerous Liquids.
Column 3—Tankship: Liquefied Gases.
Column 4—Tank Barge: Liquefied Gases.

TABLE 3 TO § 13.121(e)

Firefighting course topics	1	2
Elements of fire (Fire triangle):		
Fuel	X	X
Source of ignition	X	X
Oxygen	X	X
Ignition sources (general):		
Chemical		X
Biological		X
Physical		X
Ignition sources applicable to barges	X	
Definitions of flammability and combustibility:		
Flammability	X	X
Ignition point	X	X
Burning temperature	X	X

TABLE 3 TO § 13.121(e)—Continued

Firefighting course topics	1	2
Burning speed	.....	X
Thermal value	.....	X
Lower flammable limit	X	X
Upper flammable limit	X	X
Flammable range	X	X
Inerting	.....	X
Static electricity	X	X
Flash point	X	X
Auto-ignition	X	X
Spread of fire:		
By radiation	X	X
By convection	X	X
By conduction	X	X
Reactivity	X	X
Fire classifications and applicable extinguishing agents	X	X
Main causes of fires:		
Oil leakage	X	X
Smoking	X	X
Overheating pumps	X	X
Galley appliances	.....	X
Spontaneous ignition	X	X
Hot work	X	X
Electrical apparatus	.....	X
Reaction, self-heating, and auto-ignition	.....	X
Fire prevention:		
General	X	X
Fire hazards of DL and LG	X	X
Fire detection:		
Fire- and smoke-detection systems	.....	X
Automatic fire alarms	.....	X
Firefighting equipment:		
Fire mains, hydrants	.....	X
International shore-connection	.....	X
Smothering-installations, carbon dioxide (CO_2), foam * * *	.....	X
Pressure-water spray system in special-category spaces	.....	X
Automatic sprinkler system	.....	X
Emergency fire pump, emergency generator	.....	X
Chemical-powder applicants	.....	X
General outline of required and mobile apparatus	.....	X
Fireman's outfit, personal equipment	.....	X
Breathing apparatus	.....	X
Resuscitation apparatus	.....	X
Smoke helmet or mask	.....	X
Fireproof life-line and harness	.....	X
Fire hose, nozzles, connections, and fire axes	.....	X
Fire blankets	.....	X
Portable fire extinguishers	X	X
Limitations of portable and semiportable extinguishers	X	X
Emergency procedures:		
Arrangements:		
Escape routes	X	X
Means of gas-freeing tanks	X	X
Class A, B, and C divisions	.....	X
Inert-gas system	.....	X
Ship firefighting organization:		
General alarms	.....	X
Fire-control plans, muster stations, and duties	.....	X
Communications	.....	X
Periodic shipboard drills	.....	X
Patrol system	.....	X
Basic firefighting techniques:		
Sounding alarm	X	X
Locating and isolating fires	X	X
Stopping leakage of cargo	X	X
Jettisoning	.....	X
Inhibiting	.....	X
Cooling	.....	X
Smothering	.....	X
Sizing up situation	X	.....
Locating information on cargo	X	.....
Extinguishing	X	X
Extinguishing with portable units	X	X

TABLE 3 TO § 13.121(e)—Continued

Firefighting course topics	1	2
Setting reflash watch	X	X
Using additional personnel	X	X
Firefighting extinguishing-agents:		
Water (solid jet, spray, fog, and flooding)	.....	X
Foam (high, medium and low expansion)	.....	X
Carbon dioxide (CO_2)	X	X
Aqueous-film-forming foam (AFFF)	.....	X
Dry chemicals	X	X
Use of extinguisher on:		
Flammable and combustible liquids	X	X
Manifold-flange fire	X	X
Drip-pan fire	X	X
Pump fire	X	X
Drills for typical fires on barges	X	.....
Field exercises:		
Extinguish small fires using portable extinguishers:		
Electrical	X	X
Manifold-flange	X	X
Drip-pan	X	X
Pump	X	X
Use self-contained breathing apparatus (SCBA)	.....	X
Extinguish extensive fires with water	.....	X
Extinguish fires with foam, or chemical	.....	X
Fight fire in smoke-filled enclosed space wearing SCBA	.....	X
Extinguish fire with water fog in an enclosed space with heavy smoke	.....	X
Extinguish oil fire with fog applicator and spray nozzles, dry-chemical, or foam applicators	.....	X
Effect a rescue in a smoke-filled space while wearing breathing apparatus	.....	X

Column 1—tankerman-PIC (barge).
Column 2—tankerman-PIC, tankerman-engineer, and tankerman-assistant.

§ 13.123 [Amended]

■ 44. In § 13.123, remove the word ''shall'' and add, in its place, the word ''must''; remove the text ''%'' and add, in its place, the word ''percent''; and remove the word ''five'' and add, in its place, the number ''5''.

§ 13.125 [Amended]

■ 45. In § 13.125, remove the word ''shall'' and add, in its place, the word ''must''; and after the words ''physical requirements of'', remove the words ''§ 10.215 of this chapter, excluding paragraph (d)(2) of that section'' and add, in their place, the words ''part 10, subpart C, of this chapter''.

■ 46. Amend § 13.127 as follows:

■ a. Revise paragraph (a) to read as set forth below;

■ b. In paragraph (b) introductory text, remove the words ''paragraph (a)(2)'' and add, in their place, the words ''paragraph (a)(3)'';

■ c. In paragraphs (b)(2) and (b)(5), remove the word ''four'' and add, in its place, the number ''4'';

■ d. In paragraph (b)(4), after the word ''one discharge'', remove the word ''a'' and add, in its place, the words ''conducted during each'';

■ f. In paragraph (b)(6), remove the word ''cargo'' wherever it appears;

■ g. In paragraph (b)(7), after the words ''Declaration of Inspection, the connection of'', remove the word ''cargo''; and after the words ''the start of the'', remove the word ''cargo'';

■ h. In paragraph (b)(9), remove the words ''§ 13.203(b) or 13.303(b)'' and add, in their place, the words ''§§ 13.203(b) or 13.303(b) of this subchapter''; and

■ i. Add new paragraph (c) to read as follows:

§ 13.127 Service: General.

(a) A service letter must be signed by the owner, operator, master, or chief engineer of the vessel and must specify the following:

(1) The name of the vessel, official number for the vessel, and date of service for each vessel.

(2) For endorsements as tankerman-PIC, tankerman-PIC (barge), and tankerman-assistant, the classification of cargo (DL, LG, or, for a restricted endorsement, a specific product) handled while the applicant accumulated the service.

(3) The dates, the numbers and kinds of transfers the applicants have participated in, the ports or terminals, if applicable, and the number of transfers that involved commencement or completion of loading or discharge.

(4) For endorsements as tankerman-PIC or tankerman-PIC (barge), that the applicant has demonstrated to the satisfaction of the signer that he or she is fully capable of supervising transfers of liquid cargo, including—

(i) Pre-transfer inspection;

(ii) Pre-transfer conference and execution of the Declaration of Inspection;

(iii) Connection of cargo hoses or loading-arms;

(iv) Line-up of the cargo system for loading and discharge;

(v) Start of liquid flow during loading;

(vi) Start of cargo pump and increase of pressure to normal discharge pressure;

(vii) Calculation of loading-rates;

(viii) Monitoring;

(ix) Topping-off of cargo tanks during loading;

(x) Stripping of cargo tanks;

(xi) Ballasting and deballasting, if appropriate;

(xii) Disconnection of the cargo hoses or loading-arms; and

(xiii) Securing of cargo systems.

(5) For endorsements as tankerman-engineer, that the applicant has demonstrated to the satisfaction of the signer that he or she is fully capable of supervising transfers of fuel oil, including—

(i) Pre-transfer inspection;

(ii) Pre-transfer conference and execution of the Declaration of Inspection;

(iii) Connection of hoses or loading-arms;

(iv) Line-up of the piping system for loading and transfer of fuel oil;

(v) Start of liquid flow during loading;

(vi) Calculation of loading rates;
(vii) Monitoring;
(viii) Topping-off of tanks during loading;
(ix) Disconnection of the hoses or loading arms; and
(x) Securing of fuel oil systems.

* * * * *

(c) Service on Articulated Tug Barges (ATBs). Service on ATBs with an aggregate tonnage of 1,600 GRT or more will be creditable on a case-by-case basis and with prior authorization by the Coast Guard, provided the ATB equipment is comparable to tank vessel equipment. The Coast Guard may issue blanket authorizations for classes of ATBs.

■ 47. Revise § 13.129 to read as follows:

§ 13.129 Quick-reference table for tankerman endorsements.

Table 1 to § 13.129 provides a guide to the requirements for various tankerman endorsements. Provisions in the reference sections are controlling.

TABLE 1 TO § 13.129

Category	Minimum age	Physical required	Service	Recency of service	Proof of service	Firefighting	Cargo training	English language
Tankerman-PIC Subpart B	18; 13.201(a)	Yes; Part 10, subpart C	13.203	13.123	13.205	13.201(c)(3)	13.201(c)(4)	13.201(d).
Tankerman-PIC (Barge) Subpart C.	18; 13.301(a)	Yes; Part 10, subpart C	13.303	13.123	13.305	13.301(c)(3)	13.301(c)(4)	13.301(d).
Tankerman-Assistant Subpart D.	18; 13.401(a)	Yes; Part 10, subpart C	13.401(e)(2)	13.123	13.405	13.401(d)	13.401(e)(1)	13.401(f).
Tankerman-Engineer Subpart E.	18; 13.501(a)	Yes; Part 10, subpart C	13.503	13.123	13.505	13.501(c)(3)	13.501(c)(4)	13.501(d).
Restricted Tankerman-PIC	18; 13.111(b)	Yes; Part 10, subpart C	13.111(b)	13.111(b)	13.111(b)	13.111(b)	No	13.111(b).
Restricted Tankerman-PIC (Barge).	18; 13.111(c)	Yes; Part 10, subpart C	13.111(c)	13.111(c)	13.111(c)	13.111(c)	No	13.111(c).
Restricted Tankerman-PIC (Barge), Facility.	18; 13.111(d)(1)	Yes; Part 10, subpart C	13.111(d)(4)	No	13.111(d)(4)	No	No	13.111(d)(5).

■ 48. Revise the heading for subpart B to read as follows:

Subpart B—Requirements for Tankerman-PIC Endorsement

■ 49. Revise § 13.201 to read as follows:

§ 13.201 Original application for tankerman-PIC endorsement.

Each applicant for an original tankerman-PIC endorsement must—
(a) Be at least 18 years old;
(b) Apply on a form provided by the Coast Guard;
(c) Present evidence of—
(1) Passing a physical and medical examination in accordance with § 13.125 of this part;
(2) Service on tankships in accordance with § 13.203 of this subpart;
(3) Completion of an approved firefighting course that provides training in the subjects listed in Table 1 to § 13.121(g) of this part completed within 5 years of the date of application for the endorsement, unless he or she has previously submitted such a certificate for a license, tankerman endorsement, or officer endorsement on an MMC; and
(4) Completion of an approved course for Tankship: Dangerous Liquids or Tankship: Liquefied Gases appropriate to the endorsement applied for within the previous 5 years. A course certificate used for original issuance or renewal of an endorsement cannot be used for a subsequent renewal of the same endorsement; and
(d) Be capable of speaking and understanding, in English, all instructions needed to commence, conduct, and complete a transfer of cargo, and be capable of reading and understanding the English language found in the Declaration of Inspection, vessel response plans, and Material Safety Data Sheet.

■ 50. Amend § 13.203 as follows:
■ a. Revise the section heading to read as set forth below;
■ b. In the introductory text, remove the words ''''Tankerman-PIC'''' and add, in their place, the words ''tankerman-PIC''; and remove the word ''shall'' and add, in its place, the word ''must'';
■ c. In paragraph (a), remove the word ''shall'' and add, in its place, the word ''must''; and
■ d. In paragraphs (b) introductory text and (c) introductory text, remove the word ''shall'' and add, in its place, the word ''must''; and remove the words ''''Tankerman-PIC'''' and add, in their place, the words ''tankerman-PIC''.

§ 13.203 Service requirements.

* * * * *

■ 51. Amend § 13.205 as follows:
■ a. Revise the section heading to read as set forth below; and
■ b. In the introductory text, remove the words ''Service must be proved by'' and add, in their place, the words ''Proof of service must be provided in''.

§ 13.205 Proof of service for tankerman-PIC endorsement.

* * * * *

§ 13.207 [Removed]

■ 52. Remove § 13.207.

§ 13.209 [Removed]

■ 53. Remove § 13.209.

■ 54. Revise the heading for subpart C to read as follows:

Subpart C—Requirements for Tankerman-PIC (Barge) Endorsement

■ 55. Revise § 13.301 to read as follows:

§ 13.301 Original application for tankerman-PIC (barge) endorsement.

Each applicant for a tankerman-PIC (barge) endorsement must—
(a) Be at least 18 years old;
(b) Apply on a form provided by the Coast Guard;
(c) Present evidence of—
(1) Passing a physical and medical examination according to § 13.125 of this part;
(2) Service on tank vessels in accordance with § 13.303 of this subpart;
(3) Completion of an approved Tank Barge: Firefighting course providing training in the subjects identified in Table 1 to § 13.121(g) of this part completed within 5 years of the date of application for the endorsement, unless he or she has previously submitted such a certificate for a license, tankerman endorsement, or officer endorsement on an MMC; and
(4) Completion of an approved Tank Barge: Dangerous Liquids or Tank Barge: Liquefied Gases course appropriate for the endorsement applied for within the previous 5 years. A course certificate used for original issuance or renewal of an endorsement cannot be used for a subsequent renewal of the same endorsement; and
(d) Be capable of speaking, and understanding, in English, all

instructions needed to commence, conduct, and complete a transfer of cargo, and be capable of reading and understanding the English language found in the Declaration of Inspection, vessel response plans, and Material Safety Data Sheet.

■ 56. Amend § 13.303 as follows:

■ a. Revise the section heading to read as set forth below;

■ b. In the introductory text, remove the words ''''Tankerman-PIC (Barge)'''' and add, in their place, the words ''tankerman-PIC (barge)''; and remove the word ''shall'' and add, in its place, the word ''must'';

■ c. In paragraph (a) introductory text, remove the word ''shall'' and add, in its place, the word ''must'';

■ d. In paragraph (b) introductory text, remove the words ''''Tankerman-PIC'' or ''Tankerman-PIC (barge),'''' and add, in their place, the words ''tankerman-PIC or tankerman-PIC (barge),''; and

■ e. In paragraph (c) introductory text, remove the words ''''Tankerman-PIC (Barge)'''' and add, in their place, the words ''tankerman-PIC (barge)''; and remove the word ''shall'' and add, in its place, the word ''must''.

§ 13.303 Service requirements.

* * * * *

■ 57. Amend § 13.305 as follows:

■ a. Revise the section heading to read as set forth below; and

■ b. Remove the words ''Service must be proved by'' and add, in their place, the words ''Proof of service must be provided in''; and remove the words ''paragraph (a)(3)(vii)'' and add, in their place, the words ''paragraph (a)(4)(vii)''.

§ 13.305 Proof of service for tankerman-PIC (barge).

* * * * *

§ 13.307 [Removed]

■ 58. Remove § 13.307.

§ 13.309 [Removed]

■ 59. Remove § 13.309.

■ 60. Revise the heading for subpart D to read as follows:

Subpart D—Requirements for Tankerman-Assistant Endorsement

■ 61. Revise § 13.401 to read as follows:

§ 13.401 Original application for tankerman-assistant endorsement.

Each applicant for a tankerman-assistant endorsement must—

(a) Be at least 18 years old;

(b) Apply on a form provided by the Coast Guard;

(c) Present evidence of passing a physical and medical examination according to § 13.125 of this part;

(d) Present evidence of completion of an approved firefighting course providing training in the subjects identified in Table 1 to § 13.121(g) of this part completed within 5 years of the date of application for the endorsement, unless he or she has previously submitted such a certificate for a license, tankerman endorsement, or officer endorsement on an MMC;

(e) Present evidence of either—

(1) Completion of an approved Tankship Familiarization course providing training in the subjects identified in Table 1 to § 13.121(e) of this part within the previous 5 years. A course certificate used for original issuance or renewal of an endorsement cannot be used for a subsequent renewal of the same endorsement; or

(2) At least 90 days of deck service on tankships or self-propelled tank vessels certified to carry DL or LG appropriate to the endorsement applied for and successfully complete a professional examination for the topics identified in Table 1 to § 13.121(e) of this part; and

(f) Be capable of speaking and understanding, in English, all instructions needed to commence, conduct, and complete a transfer of cargo.

■ 62. Revise § 13.403 to read as follows:

§ 13.403 Service requirements.

(a) Each applicant already holding an MMD or MMC endorsed tankerman-assistant for DL and seeking one for LG, or the converse, must—

(1) Provide evidence of at least half the service required in § 13.401(e)(2) of this subpart and successfully complete a professional examination for the topics identified in Table 1 to § 13.121(e) of this part appropriate to the endorsement applied for; or

(2) Complete a course in DL or LG appropriate to the endorsement applied for as prescribed in § 13.401(e)(1) of this subpart.

(b) [Reserved]

■ 63. Revise § 13.405 to read as follows:

§ 13.405 Proof of service for tankerman-assistant endorsement.

Service must be proved by either—

(a) A letter on company letterhead from the owner, operator, or master of a tankship or self-propelled tank vessel. The letter must specify—

(1) The name of the vessel(s), the applicable dates, and the port(s) or terminal(s);

(2) The classification of cargo (DL or LG) carried while the applicant accumulated the service;

(3) The number of days of deck service the applicant accumulated on the tankship or self-propelled tank vessel; and

(4) That the applicant has demonstrated an understanding of cargo transfer and a sense of responsibility that, in the opinion of the signer, will allow the applicant to safely carry out duties respecting cargo transfer and transfer equipment assigned by the PIC of the transfer without direct supervision by the PIC; or

(b) Certificates of Discharge from tankships with the appropriate classification of cargo (DL, LG, or both); and a letter on company letterhead from the owner, operator, or master of one of the tankships or self-propelled tank vessels stating that he or she has demonstrated—

(1) An understanding of cargo transfers; and

(2) A sense of responsibility that, in the opinion of the signer, will allow him or her to safely carry out duties respecting cargo and its equipment assigned by the PIC of the transfer without direct supervision by the PIC.

§ 13.407 [Removed]

■ 64. Remove § 13.407.

§ 13.409 [Removed]

■ 65. Remove § 13.409.

■ 66. Revise the heading for subpart E to read as follows:

Subpart E—Requirements for Tankerman-Engineer Endorsement

■ 67. Revise § 13.501 to read as follows:

§ 13.501 Original application for tankerman-engineer endorsement.

Each applicant for a tankerman-engineer endorsement must—

(a) Be at least 18 years old;

(b) Apply on a form provided by the Coast Guard;

(c) Present evidence of—

(1) Passing a physical and medical examination according to § 13.125 of this part;

(2) Service on tankships and self-propelled tank vessels in accordance with § 13.503 of this subpart;

(3) Completion of an approved firefighting course providing training in the subjects identified in Table 1 to § 13.121(g) of this part completed within 5 years of the date of application for the endorsement, unless he or she has previously submitted such a certificate for a license, tankerman endorsement, or officer endorsement on an MMC; and

(4) Completion of an approved Tankship course in dangerous liquids or liquefied gases, appropriate for the endorsement applied for within the previous 5 years. A course certificate used for original issuance or renewal of an endorsement cannot be used for a

subsequent renewal of the same endorsement; and

(d) Be capable of speaking and understanding, in English, all instructions needed to commence, conduct, and complete a transfer of cargo or fuel.

■ 68. Amend § 13.503 as follows:

■ a. Revise the section heading to read as set forth below;

■ b. In paragraph (a) introductory text, remove the words ''Tankerman-Engineer'' and add, in their place, the words ''tankerman-engineer''; and remove the word ''shall'' and add, in its place, the word ''must''; and

■ c. In paragraph (b), remove the words ''Tankerman-Engineer'' and add, in their place, the words ''tankerman-engineer''; after the words ''and seeking'', remove the word ''one'' and add, in its place, the words ''an endorsement'', and after the words ''or the converse,'', remove the word ''shall'' and add, in its place, the word ''must''.

§ 13.503 Service requirements.

* * * * *

■ 69. Amend § 13.505 by revising the section heading to read as follows:

§ 13.505 Proof of service for tankerman-engineer endorsement.

* * * * *

§ 13.507 [Removed]

■ 70. Remove § 13.507

§ 13.509 [Removed]

■ 71. Remove § 13.509

■ 72. Add new subpart F, consisting of §§ 13.601 through 13.611, to read as follows:

Subpart F—Requirements for STCW Tankerman Endorsements

Sec.

13.601 General.
13.603 Requirements to qualify for an STCW endorsement for advanced oil tanker cargo operations.
13.605 Requirements to qualify for an STCW endorsement for advanced chemical tanker cargo operations.
13.607 Requirements to qualify for an STCW endorsement for advanced liquefied gas tanker cargo operations.
13.609 Requirements to qualify for an STCW endorsement for basic oil and chemical tanker cargo operations.
13.611 Requirements to qualify for an STCW endorsement for basic liquefied gas tanker cargo operations.

Subpart F—Requirements for STCW Tankerman Endorsements

§ 13.601 General.

(a) When all tankerman endorsements are issued, renewed, or otherwise modified, the Coast Guard will determine, upon request, whether the applicant meets the requirements for an STCW tankerman endorsement for service on seagoing vessels. If the applicant is qualified, the Coast Guard will issue the appropriate endorsement. An applicant for any STCW endorsement must hold the appropriate national endorsement unless otherwise specified.

(b) Applicants for an STCW tankerman endorsement must—

(1) Meet the training and service requirements for the endorsement sought; and

(2) Meet the appropriate standard of competence identified in the STCW Code (incorporated by reference, see § 13.103 of this part).

(c) The Coast Guard will accept the following as proof of meeting the standards of competence:

(1) In-service experience: Documentation of successful completion of assessments, approved or accepted by the Coast Guard, and signed by a qualified assessor, deck or engineering, as appropriate.

(2) Training ship experience: Documentation of successful completion of an approved training program involving formal training and assessment onboard a school ship.

(3) Simulator training: Documentation of successful completion of training and assessment from a Coast Guard-approved course involving maritime simulation.

(4) Training program: Documentation of successful completion of an approved training program involving formal training and assessments.

(d) The Coast Guard will publish guidelines that should be used to document successful demonstrations of competence. Organizations may develop alternative assessment documentation for demonstrations of competence ; however, such documentation must be approved by the Coast Guard prior to its use and submittal with an application.

§ 13.603 Requirements to qualify for an STCW endorsement for advanced oil tanker cargo operations.

(a) Every applicant for an endorsement in advanced oil tanker cargo operations must—

(1) Qualify for a national endorsement as tankerman-PIC dangerous liquid;

(2) Meet the standards of competence identified in Table A–V/1–1–2 of the STCW Code (incorporated by reference, see § 13.103 of this part); and

(3) Provide evidence of 90 days of sea service onboard oil tankers. The Coast Guard will accept service submitted to qualify for a national endorsement as required in § 13.203 of this part, provided that the service was on oil tankers.

(b) Applicants may qualify for an endorsement in advanced oil tanker cargo operations with a limitation to non-self-propelled vessels. To qualify for this endorsement, an applicant must—

(1) Hold a national endorsement as tankerman-PIC (barge) dangerous liquids;

(2) Provide evidence of meeting the standards of competence identified in Table A–V/1–1–2 of the STCW Code; and

(3) Provide evidence of at least 90 days of service, whether shore-based or vessel-based, on one or more oil tankers. The Coast Guard will accept service submitted to qualify for a national endorsement required in § 13.303 of this part, provided that the service was on oil tankers.

(c) Applicants may qualify for an endorsement in advanced oil tanker cargo operations with a limitation to maintenance and repair of cargo equipment. To qualify for this endorsement, an applicant must—

(1) Qualify for a national endorsement as tankerman-engineer;

(2) Provide evidence of meeting the standards of competence identified in Table A–V/1–1–2 of the STCW Code applicable to maintenance and repair of cargo equipment; and

(3) Provide evidence of—

(i) At least 90 days of service as an engineering officer on oil tankers;

(ii) At least 90 days of rating or cadet service on deck or in the engine department on oil tankers; or

(iii) A combination of the service in paragraphs (c)(3)(i) and (c)(3)(ii) of this section.

(d) Applicants holding an endorsement in advanced chemical tanker cargo operations or advanced liquefied gas tanker cargo operations may qualify for an endorsement in advanced oil tanker cargo operations by completing, in a supernumerary capacity, an approved training program onboard oil tankers. The program must be at least 1 month and include at least three loading and three discharge operations.

(e) *Grandfathering.* Seafarers holding valid tankerman-PIC dangerous liquid, tankerman-PIC (barge) dangerous liquid, or tankerman-engineer endorsements issued prior to March 24, 2014, will be issued STCW endorsements for advanced oil and chemical tanker cargo operations, with any appropriate limitations, without meeting the requirements of this section. Seafarers holding an endorsement as tankerman-PIC (barge) dangerous liquid, and

holding an advanced oil tanker cargo operations endorsement issued on or before March 24, 2014, will be limited to non-self-propelled vessels. Seafarers holding an endorsement as tankerman-engineer, and holding an advanced oil tanker cargo operations endorsement issued on or before March 24, 2014, will be limited to maintenance and repair of cargo equipment. After March 24, 2014, all seafarers applying for an original endorsement in advanced oil tanker cargo operations must meet the requirements of this section.

§ 13.605 Requirements to qualify for an STCW endorsement for advanced chemical tanker cargo operations.

(a) Every applicant for an endorsement in advanced chemical tanker cargo operations must:

(1) Qualify for a national endorsement as tankerman-PIC dangerous liquid;

(2) Meet the standards of competence identified in Table A–V/1–1–3 of the STCW Code (incorporated by reference, see § 13.103 of this part); and

(3) Provide evidence of 90 days of sea service onboard chemical tankers. The Coast Guard will accept service submitted to qualify for a national endorsement as required in § 13.203 of this part, provided that the service was on chemical tankers.

(b) Applicants may qualify for an endorsement in advanced chemical tanker cargo operations with a limitation to non-self-propelled vessels. To qualify for this endorsement, an applicant must:

(1) Qualify for a national endorsement as tankerman-PIC (barge) dangerous liquid;

(2) Provide evidence of meeting the standards of competence identified in Table A–V/1–1–3 of the STCW Code; and

(3) Provide evidence of at least 90 days of service, whether shore-based or vessel-based, on chemical tankers. The Coast Guard will accept service submitted to qualify for a national endorsement as required in § 13.303 of this part, provided that the service was on chemical tankers.

(c) Applicants may qualify for an endorsement in advanced chemical tanker cargo operations with a limitation to maintenance and repair of cargo equipment. To qualify for this endorsement, an applicant must:

(1) Qualify for a national endorsement as tankerman-engineer;

(2) Provide evidence of meeting the standards of competence identified in Table A–V/1–1–3 of the STCW Code applicable to maintenance and repair of cargo equipment; and

(3) Provide evidence of—

(i) At least 90 days of service as an engineering officer on chemical tankers;

(ii) At least 90 days of rating or cadet service on deck or in the engine department on chemical tankers; or

(iii) A combination of the service in paragraphs (c)(3)(i) and (c)(3)(ii) of this section.

(d) Applicants holding an endorsement in advanced oil tanker cargo operations or advanced liquefied gas tanker cargo operations may qualify for an endorsement in advanced chemical tanker cargo operations by completing, in a supernumerary capacity, an approved training program onboard chemical tankers. The program must be at least 1 month and include at least three loading and three discharge operations.

(e) *Grandfathering.* Seafarers holding valid tankerman-PIC dangerous liquid, tankerman-PIC (barge) dangerous liquid, or tankerman-engineer endorsements issued prior to March 24, 2014 will be issued STCW endorsements for advanced oil and chemical tanker cargo operations, with any appropriate limitations, without meeting the requirements of this section. Seafarers holding an endorsement as tankerman-PIC (barge) dangerous liquid, and holding an advanced chemical tanker cargo operations endorsement issued on or before March 24, 2014, will be limited to non-self-propelled vessels. Seafarers holding an endorsement as tankerman-engineer, and holding an advanced chemical tanker cargo operations endorsement issued on or before March 24, 2014, will be limited to maintenance and repair of cargo equipment. After March 24, 2014, all seafarers applying for an original endorsement in advanced chemical tanker cargo operations must meet the requirements of this section.

§ 13.607 Requirements to qualify for an STCW endorsement for advanced liquefied gas tanker cargo operations.

(a) Every applicant for an endorsement in advanced liquefied gas tanker cargo operations must:

(1) Qualify for a national endorsement as tankerman-PIC liquefied gas;

(2) Meet the standards of competence identified in Tables A–V/1–2–2 of the STCW Code (incorporated by reference, see § 13.103 of this part); and

(3) Provide evidence of 90 days of service on liquefied gas tankers. The Coast Guard will accept service submitted to qualify for a national endorsement as required in § 13.203 of this part, provided that the service was on liquefied gas tankers.

(b) Applicants may qualify for an endorsement in advanced liquefied gas tanker cargo operations with a limitation to non-self-propelled vessels. To qualify for this endorsement, an applicant must:

(1) Qualify for a national endorsement as tankerman-PIC (barge) liquefied gas;

(2) Provide evidence of meeting the standards of competence identified in Table A–V/1–2–2 of the STCW Code; and

(3) Provide evidence of at least 90 days of service, whether shore-based or vessel-based, on liquefied gas tankers. The Coast Guard will accept service submitted to qualify for a national endorsement as required in § 13.303 of this part, provided that the service was on liquefied gas tankers.

(c) Applicants may qualify for an endorsement in advanced liquefied gas tanker cargo operations with a limitation to maintenance and repair of cargo equipment. To qualify for this endorsement, an applicant must:

(1) Qualify for a national endorsement as tankerman-engineer;

(2) Provide evidence of meeting the standards of competence identified in Table A–V/1–2–2 of the STCW Code applicable to maintenance and repair of cargo equipment; and

(3) Provide evidence of—

(i) At least 90 days of service as an engineering officer on liquefied gas tankers;

(ii) At least 90 days of rating or cadet service on deck or in the engine department on liquefied gas tankers; or

(iii) A combination of the service in paragraphs (c)(3)(i) and (c)(3)(ii) of this section.

(d) Applicants holding an endorsement in advanced oil tanker cargo operations or advanced chemical tanker cargo operations may qualify for an endorsement in advanced liquefied gas tanker cargo operations by completing, in a supernumerary capacity, an approved training program onboard liquefied gas tankers. The program must be at least 1 month and include at least three loading and three discharge operations.

(e) *Grandfathering.* Seafarers holding valid tankerman-PIC liquefied gas, tankerman-PIC (barge) liquefied gas, or tankerman-engineer endorsements issued prior to March 24, 2014, will be issued an STCW endorsement for advanced liquefied gas tanker cargo operations, with any appropriate limitations, without meeting the requirements of paragraph (a) of this section. Seafarers holding an endorsement as tankerman-PIC (barge) liquefied gas, and holding an advanced liquefied gas tanker cargo operations endorsement issued on or before March 24, 2014, will be limited to non-self-

propelled vessels. Seafarers holding an endorsement as tankerman-engineer, and holding an advanced liquefied gas tanker cargo operations endorsement issued on or before March 24, 2014, will be limited to maintenance and repair of cargo equipment. After March 24, 2014, all seafarers applying for an original endorsement in advanced liquefied gas tanker operations must meet the requirements of this section.

§ 13.609 Requirements to qualify for an STCW endorsement for basic oil and chemical tanker cargo operations.

(a) Every applicant for an endorsement in basic oil and chemical tanker operations must:

(1) Qualify for a national endorsement as tankerman-assistant dangerous liquid; and

(2) Provide evidence of meeting the standards of competence identified in Table A–V/1–1–1 of the STCW Code (incorporated by reference, see § 13.103 of this part).

(b) *Grandfathering.* Seafarers holding a valid tankerman-assistant dangerous liquid or tankerman-engineer endorsement issued prior to March 24, 2014 will be issued an STCW endorsement for basic oil and chemical tanker cargo operations without meeting the requirements of paragraph (a) of this section. After March 24, 2014, all seafarers applying for an original endorsement in basic oil and chemical tanker operations must meet the requirements of this section.

§ 13.611 Requirements to qualify for an STCW endorsement for basic liquefied gas tanker cargo operations.

(a) Every applicant for an endorsement in basic liquefied gas tanker operations must:

(1) Qualify for a national endorsement as tankerman-assistant liquefied gas; and

(2) Provide evidence of meeting the standards of competence identified in Table A–V/1–2–1 of the STCW Code (incorporated by reference, see § 13.103 of this part).

(b) *Grandfathering.* Seafarers holding a valid tankerman-assistant liquefied gas or tankerman-engineer endorsement issued prior to March 24, 2014, will be issued an STCW endorsement for basic liquefied gas tanker cargo operations without meeting the requirements of paragraph (a) of this section. After March 24, 2014, all seafarers applying for an original endorsement in basic liquefied gas tanker operations must meet the requirements of this section.

PART 14—SHIPMENT AND DISCHARGE OF MERCHANT MARINERS

■ 73. The authority citation for part 14 continues to read as follows:

Authority: 5 U.S.C. 552; 46 U.S.C. Chapters 103 and 104; 46 U.S.C. 70105.

§ 14.201 [Amended]

■ 74. Amend § 14.201 as follows:

■ a. In paragraph (a), remove the word ''shall'' wherever it appears and add, in its place, the word ''must''; and

■ b. In paragraph (b), after the words ''Except as provided by § 14.203'', add the words ''of this subpart''; and remove the words ''gross tons'' wherever they appear and add, in their place, the word ''GRT''.

§ 14.205 [Amended]

■ 75. In § 14.205, remove the word ''shall'' and add, in its place, the word ''must''.

■ 76. Revise § 14.207 to read as follows:

§ 14.207 Content and form of shipping articles.

(a)(1) The content and form of shipping articles for each vessel of the United States of 100 GRT or more upon a foreign or intercoastal voyage must comply with the requirements of 46 U.S.C. 10302, 10303, 10304, and 10305. The articles must identify the nature of the voyage and specify at least the name, license, MMD or MMC number, capacity of service, time due onboard to begin work, name and address of the next of kin, and wages due to each merchant mariner, either who was discharged or whose services were otherwise terminated during the month.

(2) The content and form of articles for each such vessel upon a coastwise voyage (including a voyage on the Great Lakes) must also comply with the requirements of 46 U.S.C. 10502. The articles must specify at least the matter identified by paragraph (a)(1) of this section, except that they must not specify the wages due to the mariner. The wages section of the form must be left blank for coastwise voyages.

(b) Any shipping company that manually prepares the articles may, upon request, obtain a form from the Coast Guard.

(c) Any company that electronically prepares the articles may develop its own software or buy it off the shelf; but, in either of these cases, it must secure approval to use the software for these purposes from the National Maritime Center at any of the addresses provided in § 14.103 of this part.

§ 14.209 [Amended]

■ 77. In § 14.209, remove the word ''shall'' and add, in its place, the word ''must''.

§ 14.211 [Amended]

■ 78. In § 14.211, remove the word ''shall'' and add, in its place, the word ''must''.

■ 79. Amend § 14.213 as follows:

■ a. In paragraph (a), remove the word ''shall'' wherever it appears, and add, in its place, the word ''must'';

■ b. Revise paragraph (b) to read as set forth below; and

■ c. In paragraph (c), remove the word ''shall'' and add, in its place, the word ''must''.

§ 14.213 Report of shipment of merchant mariner.

* * * * *

(b) When a vessel of the United States sails exclusively on the Great Lakes—

(1) Each master or individual in charge must, at the commencement of the season, or once the vessel is put into service, whichever occurs earlier, send one copy of articles, signed by the master and by each mariner, to the owner, charterer, or managing operator;

(2) The master or individual in charge must every 60 days send supplementary particulars of engagement covering each mariner engaged during this period, signed by the master and by each mariner, to the owner, charterer, or managing operator; and

(3) The master or individual in charge must, at the close of the season, or once the vessel is withdrawn from service, whichever occurs later, send articles, signed by the master and by each mariner, to the owner, charterer, or managing operator.

* * * * *

§ 14.301 [Amended]

■ 80. In § 14.301, remove the word ''shall'' wherever it appears and add, in its place, the word ''must''.

§ 14.303 [Amended]

■ 81. In § 14.303, remove the words ''the master shall'' and add, in their place, the words ''the master must''; and remove the words ''the consular officer shall'' and add, in their place, the words ''the consular officer will''.

§ 14.305 [Amended]

■ 82. In § 14.305, remove the word ''shall'' and add, in its place, the word ''must''.

■ 83. Amend § 14.307 as follows:

■ a. Revise paragraph (a) to read as set forth below; and

■ b. In paragraphs (b) through (e), remove the word ''shall'' wherever it

appears and add, in its place, the word ''must''.

§ 14.307 Entries on certificate of discharge.

(a) Each master or individual in charge of a vessel must, for each merchant mariner being discharged from the vessel, prepare a certificate of discharge and two copies, whether by writing or typing them on the prescribed form with permanent ink or generating them from computer in the prescribed format, and must sign them with permanent ink. The prescribed format for a certificate of discharge is the same as the current form CG–718A. The form has the mariner's printed name, signature, citizenship, MMD or MMC number, certification statement, date, master's signature, rate/rank the mariner is serving on the voyage, date and place of shipment, date and place of discharge, name of the vessel, name of the operating company, official number of the vessel, class of the vessel, and nature of the voyage.

* * * * *

§ 14.309 [Amended]

■ 84. Amend § 14.309 as follows:
■ a. In paragraph (a) introductory text, remove the word ''shall'' and add, in its place, the word ''must'';
■ b. In paragraph (a)(3), after the word ''certificate'', add the words ''of discharge''; and
■ c. In paragraph (b), remove the word ''shall'' and add, in its place, the word ''must''.

§ 14.311 [Amended]

■ 85. Amend § 14.311 as follows:
■ a. In paragraph (a), remove the word ''shall'' and add, in its place, the word ''may; after the words ''certificates of discharge to'', remove the word ''an'' and add, in its place, the word ''the''; and remove the words ''which the shipping company may request from the National Maritime Center'' and add, in their place, the words ''provided by the Coast Guard in § 14.103 of this part''; and
■ b. In paragraph (b), remove the word ''shall'' wherever it appears and add, in its place, the word ''must''.

■ 86. Amend § 14.313 as follows:
■ a. In paragraphs (a) and (b), remove the word ''shall'' wherever it appears and add, in its place, the word ''must'';
■ b. Redesignate paragraph (c) as paragraph (d); and
■ c. Add new paragraph (c) to read as follows:

§ 14.313 Storage of shipping articles and of certificates of discharge.

* * * * *

(c) Articles sent for storage to the address in § 14.103(a) of this part that are not prepared in accordance with paragraph (a) of this section may be returned to the shipping company for correction.

* * * * *

§ 14.403 [Amended]

■ 87. Amend § 14.403 as follows:
■ a. In paragraph (a) introductory text, remove the words ''Department of Transportation'' and add, in their place, the words ''Department of Homeland Security''; and
■ b. In paragraph (a)(2), remove the word ''shall'' and add, in its place, the word ''must''.

§ 14.405 [Amended]

■ 88. Amend § 14.405 as follows:
■ a. In paragraph (a), remove the words ''OCMI of the Coast Guard'' and add, in their place, the words ''Coast Guard OCMI'';
■ b. In paragraph (c), remove the word ''OCMI'' wherever it appears; and remove the word ''shall'' and add, in its place, the word ''must''; and
■ c. In paragraph (d), before the word ''OCMI'', wherever it appears, add the words ''Coast Guard''; and remove the word ''shall'' and add, in its place, the word ''must''.

■ 89. Amend § 14.407 as follows:
■ a. In paragraph (a), remove the words ''gross tons'' and add, in their place, the word ''GRT''; remove the word ''shall'' wherever it appears and add, in its place, the word ''must''; and after the words ''in the form of a copy of a certificate of discharge, or electronically'', add the words ''to the address provided in § 14.103 of this part'';
■ b. In paragraph (b), remove the word ''shall'' and add, in its place, the word ''must''; after the words ''a copy of each certificate'', add the words ''of discharge''; remove the words ''After January 3, 1997, the'' and add, in their place, the word ''The''; and after the words ''copies of certificates'', add the words ''of discharge'';
■ c. In paragraph (c), remove the word ''shall'' and add, in its place, the word ''must''; and after the words ''on a certificate'', add the words ''of discharge'';
■ d. Revise paragraph (d) to read as set forth below;
■ e. In paragraph (e), remove the word ''shall'' and add, in its place, the word ''must''; and
■ f. Add new paragraph (f) to read as follows:

§ 14.407 Reports.

* * * * *

(d) Each oceanographic company must keep all original articles and copies of all certificates of discharge for 3 years. After 3 years the company must prepare the original shipping articles in alphabetical order by vessel name and send to the address in § 14.103(a) of this part for storage at the Federal Records Center at Suitland, Maryland. The company may dispose of the copies of certificates of discharge. The Coast Guard will dispose of copies of certificates submitted manually, once the information is entered into its sea-service database and is validated.

* * * * *

(f) Articles sent for storage to the address in § 14.103(a) of this part that are not prepared in accordance with paragraph (d) of this section may be returned to the company for correction.

PART 15—MANNING REQUIREMENTS

■ 90. The authority citation for part 15 continues to read as follows:

Authority: 44 U.S.C. 3507; 46 U.S.C. 2101, 2103, 3306, 3703, 8101, 8102, 8104, 8105, 8301, 8304, 8502, 8503, 8701, 8702, 8901, 8902, 8903, 8904, 8905(b), 8906, 9102, and 8103; and Department of Homeland Security Delegation No. 0170.1.

§ 15.101 [Amended]

■ 91. In § 15.101, remove the words ''the regulations in''; and remove the words ''parts E & F,''.

■ 92. Revise § 15.103 to read as follows:

§ 15.103 Incorporation by reference.

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish notice of change in the Federal Register and the material must be available to the public. All approved material is available for inspection at the Coast Guard, Office of Operating and Environmental Standards (CG–OES), 2703 Martin Luther King Avenue SE. Stop 7509, Washington, DC 20593–7509, 202–372–1405, and is available from the sources listed below. It is also available for inspection 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/code_of_federal_regulations/ibr_locations.html.*

(b) International Maritime Organization (IMO), 4 Albert Embankment, London, SE1 7SR England:

(1) The International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended, 2011 (STCW Convention), incorporation by reference approved for §§ 15.403, 15.404, 15.1103, 15.1105, and 15.1109.

(2) The Seafarers' Training, Certification and Watchkeeping Code, as amended, 2011 (STCW Code), incorporation by reference approved for § 15.1109.

(3) The International Convention for the Safety of Life at Sea, 1974 (SOLAS), approved for incorporation by reference in §§ 15.818 and 15.1103.

■ 93. Revise § 15.105 to read as follows:

§ 15.105 General.

(a) The regulations in this part apply to all vessels that are subject to the manning requirements contained in the navigation and shipping laws of the United States, including uninspected vessels (46 U.S.C. 7101–9308).

(b) The navigation and shipping laws state that a vessel may not be operated unless certain manning requirements are met. In addition to establishing a minimum number of officers and rated crew to be carried onboard certain vessels, they establish minimum qualifications concerning licenses and MMC endorsements, citizenship, and conditions of employment. It is the responsibility of the owner, charterer, managing operator, master, or person in charge or in command of the vessel to ensure that appropriate personnel are carried to meet the requirements of the applicable navigation and shipping laws and regulations.

(c) Inspected vessels are issued a Certificate of Inspection (COI) which indicates the minimum complement of officers and crew (including lifeboatmen) considered necessary for safe operation. The COI complements the statutory requirements but does not supersede them.

(d) Uninspected vessels operating on an international voyage may be issued a safe manning certificate indicating the minimum complement of qualified mariners necessary for safe operation.

(e) The regulations in subpart K of this part apply to seagoing vessels subject to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended (STCW).

(f) Persons serving on any of the following vessels, or any owner or operator of any of these vessels, do not need to meet the requirements of subpart K of this part, because the vessels are exempt from application of STCW:

(1) Fishing vessels as defined in 46 U.S.C. 2101(11)(a).

(2) Fishing vessels used as fish-tender vessels as defined in 46 U.S.C. 2101(11)(c).

(3) Barges as defined in 46 U.S.C. 102, including non-self-propelled mobile offshore drilling units.

(4) Vessels operating exclusively on the Great Lakes or on the inland waters of the U.S. in the Straits of Juan de Fuca or on the Inside Passage between Puget Sound and Cape Spencer.

(5) Pilot vessels engaged on pilotage duty.

(g) Owners and operators, and personnel serving on the following small vessels engaged exclusively on domestic, near-coastal voyages are in compliance with subpart K of this part and are, therefore, not subject to further requirements for the purposes of the STCW Convention:

(1) Small passenger vessels subject to subchapter T or K of 46 CFR chapter I.

(2) Vessels of less than 200 GRT, other than passenger vessels subject to subchapter H of 46 CFR chapter I.

(3) Uninspected passenger vessels (UPVs) as defined in 46 U.S.C. 2101(42)(B).

(h) Personnel serving on vessels identified in paragraphs (g)(1) and (g)(2) of this section may be issued, without additional proof of qualification, an appropriate STCW endorsement on their license or MMC when the Coast Guard determines that such an endorsement is necessary to enable the vessel to engage on a single international voyage of a non-routine nature. The STCW endorsement will be expressly limited to service on the vessel or the class of vessels and will not establish qualification for any other purpose.

Subparts C through J [Redesignated as Subparts D through K]

■ 94. Redesignate subparts C through J as subparts D through K.

Subpart C [Added and reserved]

■ 95. Add and reserve a new subpart C.

■ 96. Revise newly redesignated subpart D to read as follows:

Subpart D—Manning Requirements; All Vessels

Sec.

15.401 Employment and service within restrictions of credential.
15.403 When credentials for ratings are required.
15.404 Requirements for serving onboard a vessel.
15.405 Familiarity with vessel characteristics.
15.410 Credentialed individuals for assistance towing vessels.
15.415 [Reserved]

Subpart D—Manning Requirements; All Vessels

§ 15.401 Employment and service within restrictions of credential.

(a) A person may not employ or engage an individual, and an individual may not serve, in a position in which an individual is required by law or regulation to hold a license, certificate of registry, Merchant Mariner's Document (MMD), Transportation Worker Identification Credential (TWIC) and/or Merchant Mariner Credential (MMC), unless the individual holds all credentials required, as appropriate, authorizing service in the capacity in which the individual is engaged or employed, and the individual serves within any restrictions placed on the credential. An individual holding an active license, certificate of registry, MMD, or MMC issued by the Coast Guard must also hold a valid TWIC issued by the Transportation Security Administration unless the individual is exempt under 46 CFR 10.203(b)(1).

(b) A person may not employ or engage an individual, and an individual may not serve in a position in which it is required by law or regulation that the individual hold an MMC endorsed with a national endorsement, as well as a corresponding STCW endorsement for service outside the boundary line.

(c) A person may not employ or engage an individual in a position required to hold an MMC unless that individual maintains a current medical certificate. Medical certificates must be issued and will remain current for the following periods of time, unless otherwise noted on the certificate:

(1) After January 1, 2017, two years for individuals serving on vessels to which STCW applies unless the mariner is under the age of 18, in which case the maximum period of validity will be 1 year.

(2) Two years for individuals serving as a first-class pilot or those individuals serving as pilots on vessels of 1,600 GRT or more under § 15.812 of this part.

(3) Five years for all other mariners.

(d) Each individual referred to in paragraph (a) of this section must hold an MMD or MMC that serves as identification, with an appropriate endorsement for the position in which the seaman serves, and the MMD or MMC, along with a valid medical certificate, must be presented to the master of the vessel at the time of employment or before signing Articles of Agreement.

(e) Each individual below the grades of officer and staff officer employed on

any U.S. flag merchant vessel of 100 GRT or more must possess a valid MMD or MMC issued by the Coast Guard, except as noted below:

(1) Mariners on vessels navigating exclusively on rivers and lakes, except the Great Lakes, as defined in § 10.107 of this subchapter.

(2) Mariners below the rank of officer employed on any non-self-propelled vessel, except seagoing barges and barges to which 46 U.S.C. chapter 37 applies.

(3) Personnel not designated with any safety or security duties onboard casino vessels.

(f) Every person employed on a vessel with dual tonnages (both domestic and international) must hold a credential authorizing service appropriate to the tonnage scheme under which the vessel is manned and operating.

§ 15.403 When credentials for ratings are required.

(a) Every seaman referred to in this section, when required, must produce a valid MMC or MMD with all applicable rating endorsements for the position sought, a valid TWIC unless the mariner is exempt under 46 CFR 10.203(b)(2), and a valid medical certificate to the master of the vessel at the time of his or her employment before signing Articles of Agreement. Seamen who do not possess one of these credentials may be employed at a foreign port or place within the limitations specified in § 15.720 of this part.

(b)(1) Every person below the grades of officer and staff officer employed on any U.S. flag merchant vessel of 100 GRT or more, except those navigating rivers exclusively and the smaller inland lakes, must possess a valid MMC or MMD, along with a valid medical certificate, with all appropriate endorsements for the positions served.

(2) No endorsements are required of any person below the rank of officer employed on any barges except seagoing barges and barges to which 46 U.S.C. chapter 37 applies.

(3) No endorsements are required of any person below the rank of officer employed on any sail vessel of less than 500 net tons while not carrying passengers for hire and while not operating outside the line dividing inland waters from the high seas. 33 U.S.C. 151.

(c) Each person serving as an able seafarer-deck, or a rating forming part of a navigational watch (RFPNW), on a seagoing vessel of 500 GT or more must hold an STCW endorsement certifying him or her as qualified to perform the navigational function at the support level, in accordance with the STCW Convention (incorporated by reference, see § 15.103 of this part).

(d) Each person serving as an able seafarer-engine, or a rating forming part of an engineering watch (RFPEW), on a seagoing vessel driven by main propulsion machinery of 1,000 HP/750 kW propulsion power or more must hold an STCW endorsement certifying him or her as qualified to perform the marine-engineering function at the support level, in accordance with the STCW Convention.

(e) Notwithstanding any other rule in this part, no person subject to this part serving on any of the following vessels needs an STCW endorsement:

(1) Vessels exempted from the application of the STCW Convention, including—

(i) Fishing vessels as defined in 46 U.S.C. 2101(11)(a);

(ii) Fishing vessels used as fish-tender vessels as defined in 46 U.S.C. 2101(11)(c);

(iii) Barges as defined in 46 U.S.C. 102, including non-self-propelled mobile offshore-drilling units;

(iv) Vessels operating exclusively on the Great Lakes; or

(v) Pilot vessels engaged in pilotage duty.

(2) Vessels not subject to any obligation under the STCW Convention due to their special operating conditions as small vessels engaged in domestic, near-coastal voyages, including—

(i) Small passenger vessels subject to subchapter T or K of 46 CFR chapter I;

(ii) Vessels of less than 200 GRT (other than passenger vessels subject to subchapter H of 46 CFR) chapter I; or

(iii) Uninspected passenger vessels as defined in 46 U.S.C. 2101(42)(B).

§ 15.404 Requirements for serving onboard a vessel.

(a) *Ratings Forming Part of a Navigational Watch (RFPNW).* Each person serving as an RFPNW on a seagoing vessel of 500 GT or more, subject to the STCW Convention (incorporated by reference, see § 15.103 of this part), must hold an STCW endorsement attesting to his or her qualifications to perform the navigational function at the support level.

(b) *Able seaman.* Each person serving as a rating as able seaman on a U.S. flag vessel must hold an MMC endorsed as able seaman, except that no credential as able seaman is required of any person employed on any tug or towboat on the bays and sounds connected directly with the seas, or on any barges except seagoing barges or tank barges. Each person serving as an able seaman on a seagoing vessel subject to the STCW Convention must also hold an STCW endorsement as able seafarer-deck.

(c) *Ratings Forming Part of an Engineering Watch (RFPEW).* Each person serving as an RFPEW in a manned engineroom or designated to perform duties in a periodically unmanned engineroom, on a seagoing vessel driven by main propulsion machinery of 1,000 HP/750 kW propulsion power or more, must hold an STCW endorsement attesting to his or her qualifications to perform the marine-engineering function at the support level.

(d) *Qualified Member of the Engine Department (QMED).* (1) The holder of an MMD or MMC endorsed with one or more QMED ratings may serve in any unqualified rating in the engine department without obtaining an additional endorsement.

(2) A QMED may serve as a qualified rating in the engine department only in the specific ratings endorsed on his or her MMD or MMC.

(3) Persons serving on vessels subject to the STCW Convention as junior engineer, pumpman/machinist, or electrician/refrigeration engineer must also hold an STCW endorsement as able seafarer-engine.

(e) *Lifeboatman.* Every person assigned duties as a lifeboatman must hold a credential attesting to such proficiency. Persons serving on vessels subject to the STCW Convention must also hold an STCW endorsement in proficiency in survival craft and rescue boats other than fast rescue boats (PSC).

(f) *Lifeboatman-limited.* Every person assigned duties onboard a vessel that is not required to carry lifeboats and is required to employ a lifeboatman must hold an endorsement as either lifeboatman or lifeboatman-limited. Persons serving on vessels subject to the STCW Convention must also hold an STCW endorsement in proficiency in survival craft and rescue boats other than lifeboats and fast rescue boats—limited (PSC—limited).

(g) *Fast rescue boats.* Every person engaged or employed in a position requiring proficiency in fast rescue boats must hold an endorsement attesting to such proficiency.

(h) *Entry level.* Every person employed in a rating other than able seaman or QMED on a U.S. flag vessel on which MMCs are required must hold an MMD or MMC endorsed as wiper, ordinary seaman, steward's department, or steward's department (F.H.).

(i) *Person in charge of medical care.* Every person designated to take charge of medical care onboard vessels subject to the STCW Convention must hold an

MMD or MMC endorsed as person in charge of medical care.

(j) *Medical first-aid provider.* Every person designated to provide medical first aid onboard vessels subject to the STCW Convention must hold an MMD or MMC endorsed as medical first-aid provider or a deck or engineer officer endorsement.

(k) *GMDSS radio operator or maintainer.* Every person responsible for the operation or shipboard maintenance of GMDSS radio equipment onboard vessels subject to the STCW Convention must hold an MMD or MMC endorsed as GMDSS radio operator or GMDSS radio maintainer, as appropriate.

§ 15.405 Familiarity with vessel characteristics.

Each credentialed crewmember must become familiar with the relevant characteristics of the vessel appropriate to his or her duties and responsibilities prior to assuming those duties and responsibilities. As appropriate, these may include, but are not limited to, general arrangement of the vessel, maneuvering characteristics, proper operation of the installed navigation equipment, proper operation of firefighting and lifesaving equipment, stability and loading characteristics, emergency duties, and main propulsion and auxiliary machinery, including steering gear systems and controls.

§ 15.410 Credentialed individuals for assistance towing vessels.

Every assistance towing vessel must be under the direction and control of an individual holding a license or MMC authorizing him or her to engage in assistance towing under the provisions of § 11.482 of this subchapter.

§ 15.415 [Reserved]

§ 15.505 [Amended]

■ 97. In § 15.505, remove the words ''changes in manning as indicated'' and add, in their place, the words ''changes to the manning required''; and remove the words ''certificate of inspection'', wherever they appear, and add, in their place, the word ''COI''.

■ 98. Revise § 15.515 to read as follows:

§ 15.515 Compliance with certificate of inspection.

(a) Except as provided by § 15.725 of this part, no vessel may be navigated unless it has in its service and onboard the crew complement required by the COI.

(b) Any time passengers are embarked on a passenger vessel, the vessel must have the crew complement required by the COI, whether the vessel is underway, at anchor, made fast to shore, or aground. However, the master may allow reduced crew for limited or special operating conditions subject to the approval of the OCMI.

(c) No vessel subject to inspection under 46 U.S.C. 3301 will be navigated unless it is under the direction and control of an individual who holds an appropriate license or officer endorsement on his or her MMC.

■ 99. Revise § 15.520 to read as follows:

§ 15.520 Mobile offshore drilling units (MODUs).

(a) The requirements in this section for MODUs supplement other requirements in this part.

(b) The OCMI determines the minimum number of officers and crew (including lifeboatmen) required for the safe operation of inspected MODUs. In addition to other factors listed in this part, the specialized nature of the MODU is considered in determining the specific manning levels.

(c) A license or officer endorsement on an MMC as offshore installation manager (OIM), barge supervisor (BS), or ballast control operator (BCO) authorizes service only on MODUs. A license or endorsement as OIM is restricted to the MODU type and mode of operation specified on the credential.

(d) When underway, a self-propelled MODU, other than a drillship, must be under the command of an individual who holds a license as master endorsed as OIM, or an MMC endorsed as master and OIM. When not underway, such a vessel must be under the command of an individual holding the appropriate OIM credential.

(e) A drillship must be under the command of an individual who holds a license or MMC officer endorsement as master. When a drillship is on location, or is maintaining its position with a dynamic positioning system, the individual in command must hold a license as master endorsed as OIM or an MMC with master and OIM officer endorsements.

(f) A non-self-propelled MODU must be under the command of an individual who holds a license or MMC officer endorsement as OIM.

(g) An individual serving as mate on a self-propelled surface unit when underway, other than a drillship, must hold an appropriate license, or an MMC endorsed as mate and BS or BCO. When not underway, such a vessel may substitute an individual holding the appropriate BS or BCO endorsement for the mate, if permitted by the cognizant OCMI.

(h) An individual holding a license or MMC officer endorsement as BS is required on a non-self-propelled surface unit other than a drillship.

(i) An individual holding a license or MMC officer endorsement as BS may serve as BCO.

(j) The OCMI issuing the MODU's COI may authorize the substitution of chief or assistant engineer (MODU) for chief or assistant engineer, respectively, on self-propelled or propulsion-assisted surface units, except drillships. The OCMI may also authorize the substitution of assistant engineer (MODU) for assistant engineer on drillships.

(k) Requirements in this part concerning radar observers do not apply to non-self-propelled MODUs.

(l) A surface MODU underway or on location, when afloat and equipped with a ballast control room, must have that ballast control room manned by an individual holding a license or MMC officer endorsement authorizing service as BCO.

■ 100. Revise the heading in § 15.525 to read as follows:

§ 15.525 Additional manning requirements for tank vessels.

* * * * *

■ 101. Revise § 15.530 to read as follows:

§ 15.530 Large passenger vessels

(a) The owner or operator of a U.S. flag large passenger vessel must ensure that any non-resident alien holding a Coast Guard-issued MMC described in part 12, subpart H of this subchapter is provided the rights, protections, and benefits of the International Labor Organization's Merchant Shipping (Minimum Standards) Convention of 1976.

(b) On U.S. flag large passenger vessels, non-resident aliens holding a Coast Guard-issued MMC described in part 12, subpart H of this subchapter—

(1) May only be employed in the steward's department on the vessel(s) specified on the MMC or accompanying Coast Guard letter under § 12.811 of this subchapter;

(2) May only be employed for an aggregate period of 36 months of actual service on all authorized U.S. flag large passenger vessels combined, under § 12.811 of this subchapter;

(3) May not perform watchstanding, engine room duty watch, or vessel navigation functions, under § 12.811 of this subchapter; and

(4) May perform emergency-related duties only if, under § 12.811 of this subchapter—

(i) The emergency-related duties do not require any other rating or endorsement, except lifeboatman as specified in § 12.811 of this subchapter;

(ii) The non-resident alien has completed familiarization and basic training, as required in § 15.1105 of this part;

(iii) The non-resident alien, if serving as a lifeboatman, has the necessary lifeboatman's endorsement; and

(iv) The non-resident alien has completed the training for crewmembers on passenger ships performing duties involving safety or care for passengers, as required in part 12, subpart J of this subchapter.

(c) No more than 25 percent of the total number of ratings on a U.S. flag large passenger vessel may be aliens, whether admitted to the United States for permanent residence or authorized for employment in the United States as non-resident aliens.

(d) The owner or operator of a U.S. flag large passenger vessel employing non-resident aliens holding Coast Guard-issued MMCs described in part 12, subpart H of this subchapter must—

(1) Retain custody of all non-resident alien MMCs for the duration of employment, under § 12.811 of this subchapter; and

(2) Return all non-resident alien MMCs to the Coast Guard upon termination of employment, under § 12.811 of this subchapter.

(e) The owner or operator of a U.S. flag large passenger vessel employing non-resident aliens holding Coast Guard-issued MMCs described in part 12, subpart H of this subchapter is subject to the civil penalty provisions specified in 46 U.S.C. 8103(f), for any violation of this section.

■ 102. Revise § 15.605 to read as follows:

§ 15.605 Credentialed operators for uninspected passenger vessels.

Each uninspected passenger vessel (UPV) must be under the direction and control of an individual credentialed by the Coast Guard, as follows:

(a) Every UPV of 100 GRT or more, as defined by 46 U.S.C. 2101(42)(A), must be under the command of an individual holding a license or MMC endorsed as master. When navigated, it must be under the direction and control of a credentialed master, pilot, or mate.

(b) Every self-propelled UPV as defined by 46 U.S.C. 2101(42)(B) must be under the direction and control of an individual holding a license or MMC endorsed as or equivalent to an operator of an uninspected passenger vessel (OUPV).

(c) Personnel serving on UPVs engaged on international voyages must meet the requirements of subpart K of this part.

■ 103. Amend § 15.610 as follows:

■ a. Revise paragraphs (a) and (b)(1) to read as set forth below;

■ b. In paragraph (b) introductory text, after the words ''endorsement for that route'', remove the text '','' and add, in its place, the word ''or''; after the words ''for the Western Rivers, or'', add the word ''who''; and after the words ''meets the requirements of paragraph (a)'', add the words ''of this section''; and

■ c. In paragraph (b)(2), after the words ''during hours of darkness, and'', add the words ''provide evidence that''; and remove the words ''round trip of the 12'' and add, in their place, the words ''of the four roundtrips was''.

§ 15.610 Master and mate (pilot) of towing vessels.

(a) Except as provided in this paragraph, every towing vessel of at least 8 meters (26 feet) in length, measured from end to end over the deck (excluding sheer), must be under the direction and control of a person holding a license or MMC officer endorsement as master or mate (pilot) of towing vessels, or as master or mate of vessels of greater than 200 GRT, holding either an endorsement on his or her license or MMC for towing vessels or a completed Towing Officer Assessment Record (TOAR) signed by a designated examiner indicating that the officer is proficient in the operation of towing vessels. This requirement does not apply to any vessel engaged in assistance towing.

(b) * * *

(1) To operate a towing vessel with tank barges, or a tow of barges carrying hazardous materials regulated under subchapters N or O of this chapter, an officer in charge of the towing vessel must have completed 12 roundtrips over this route as an observer, with at least three of those trips during hours of darkness, and provide evidence that at least one of the 12 roundtrips was completed within the last 5 years.

* * * * *

§ 15.701 [Amended]

■ 104. Amend § 15.701 as follows:

■ a. In paragraph (a) introductory text, after the number ''1936'', add the words ''(see 46 U.S.C. 8304)'';

■ b. In paragraph (a)(3), remove the comma symbol;

■ c. In paragraph (b), remove the word ''chapter'' and add, in its place, the word ''subchapter'';

■ d. In paragraph (c), after the words ''foreign flag vessel to which the'', add the words ''Officers Competency Certificates''; and

■ e. In paragraph (d), remove the word ''five'' and add, in its place, the number ''5''.

■ 105. Amend § 15.705 as follows:

■ a. In paragraph (a), remove the words ''is the law applicable'' and add, in their place, the word ''applies''; remove the word ''*watch*'' in the third sentence and add, in its place, the word ''''watch''''; and remove the words ''certificate of inspection'' and add, in their place, the word ''COI or other safe manning document'';

■ b. Revise paragraph (b) to read as set forth below;

■ c. In paragraph (c)(2), after the word ''or'', remove the text '','';

■ d. In paragraph (d), remove the words ''26 feet'' and add, in their place, the words ''8 meters (26 feet)''; between the number ''24'' and the word ''hour'', add the text ''-''; and after the number ''1936'', add the words ''(see 46 U.S.C. 8304)'';

■ e. Revise paragraph (e) to read as set forth below;

■ f. In paragraph (f) introductory text, remove the words ''gross tons'' and add, in their place, the word ''GRT'';

■ g. In paragraph (f)(1), after the words ''remainder of that 24-hour period'' add the text '',''; and

■ h. In paragraph (f)(2), after the words ''in any 24-hour period'' add the text '',''.

§ 15.705 Watches.

* * * * *

(b) Subject to exceptions, 46 U.S.C. 8104 requires that when a master of a seagoing vessel of more than 100 GRT establishes watches for the officers, sailors, coal passers, firemen, oilers, and watertenders, ''the personnel shall be divided, when at sea, into at least three watches and shall be kept on duty successively to perform ordinary work incidental to the operation and management of the vessel.'' Solely for the purposes of this part, the Coast Guard interprets ''sailors'' to mean those members of the deck department other than officers, whose duties involve the mechanics of conducting the ship on its voyage, such as helmsman (wheelsman), lookout, etc., and which are necessary to the maintenance of a continuous watch. The term ''sailors'' is not interpreted to include able seamen and ordinary seamen not performing these duties.

* * * * *

(e) Fish processing vessels are subject to various provisions of 46 U.S.C. 8104 concerning watches, including—

(1) For fish processing vessels that entered into service before January 1, 1988, the following watch requirements apply to the officers and deck crew:

(i) If more than 5,000 GRT—three watches.

(ii) If more than 1,600 GRT and not more than 5,000 GRT—two watches.

(iii) If not more than 1,600 GRT—no watch division specified; or

(2) For fish processing vessels that entered into service after December 31, 1987, the following watch requirements apply to the officers and deck crew:

(i) If more than 5,000 GRT—three watches.

(ii) If not more than 5,000 GRT and having more than 16 individuals onboard, primarily employed in the preparation of fish or fish products—two watches.

(iii) If not more than 5,000 GRT and having not more than 16 individuals onboard, primarily employed in the preparation of fish or fish products—no watch division specified.

* * * * *

§ 15.710 [Amended]

■ 106. In § 15.710(c), remove the words ''on board'' and add, in their place, the word ''onboard''.

■ 107. Amend § 15.720 as follows:

■ a. Revise the heading of § 15.720 to read as set forth below;

■ b. In paragraph (d), remove the word ''shall'' and add, in its place, the word ''must''; remove the words ''which is equivalent in'' and add, in their place, the words ''that required''; and after the words ''other qualifications'', add the word ''equivalent''; and

■ c. Add new paragraph (e) to read as follows:

§ 15.720 Use of non-U.S.-credentialed personnel.

* * * * *

■ (e) Non-U.S.-credentialed officers serving onboard vessels subject to STCW must hold a ''Certificate attesting recognition'' in accordance with part 11, subpart J of this subchapter. A mariner may serve for a period not to exceed 3 months onboard the vessel while the Coast Guard is processing his or her application for such a certificate.

§ 15.725 [Amended]

■ 108. In § 15.725, after the words ''A report of sailing short must be filed'', remove the words ''in writing''; remove the words ''Officer in Charge, Marine Inspection (OCMI)'' and add, in their place, the word ''OCMI''; and remove the word ''twelve'' and add, in its place, the number ''12''.

§ 15.730 [Amended]

■ 109. Amend § 15.730 as follows:

■ a. In paragraph (a) introductory text, remove the words ''gross tons'' and add, in their place, the word ''GRT'';

■ b. In paragraph (a)(1), after the words ''and lakes'', remove the text ''('' and after the word ''Lakes'', remove the text ''))'';

■ c. In paragraph (a)(2), after the words ''manned barge'', remove the text ''('' and after the word ''applies'', remove the text ''))'';

■ d. In paragraph (a)(6), remove the words ''1600 gross tons'' and add, in their place, the words ''1,600 GRT''; remove the word ''enters'' and add, in its place, the word ''entered''; remove the words ''on board'' and add, in their place, the word ''onboard''; after the words ''or fish products; and'', remove the text ''.''; and

■ e. In paragraph (b), remove the words ''on board'' wherever they appear and add, in their place, the word ''onboard''.

■ 110. Amend § 15.805 as follows:

■ a. In paragraph (a) introductory text, remove the second instance of the word ''master'';

■ b. In paragraph (a)(1), remove the words ''gross tons'' and add, in their place, the word ''GRT'';

■ c. In paragraphs (a)(2) and (a)(3), after the word ''vessel'', remove the text ''.'' and add, in its place, the text '';'';

■ d. In paragraph (a)(4), after the word ''vessel'', remove the text ''.'' and add, in its place, the words ''; and'';

■ e. In paragraph (a)(5) introductory text, before the words ''26 feet'' remove the words ''at least''; remove the words ''under the'' and add, in their place, the word ''in''; and remove the words ''gross register tons (GRT)'' and add, in their place, the word ''GRT'';

■ f. In paragraph (a)(5)(ii), remove the words ''with officer endorsement for'' and add, in their place, the words ''endorsed for master of'';

■ g. In paragraph (a)(6), remove the words ''gross tons'' and add, in their place, the word ''GRT'';

■ h. Add new paragraph (a)(7) to read as set forth below;

■ i. Redesignate paragraph (b) as paragraph (c); and

■ j. Add new paragraph (b) to read as follows:

§ 15.805 Master.

(a) * * *

(7) Every uninspected passenger vessel engaged on an international voyage.

(b) On vessels subject to STCW, the individual meeting the requirement of this section must also hold an STCW endorsement as master with the appropriate tonnage for the vessel which he or she is operating, except as noted in § 15.105(g) of this part for vessels on domestic near-coastal voyages.

* * * * *

■ 111. Amend § 15.810 as follows:

■ a. In paragraphs (b)(1) and (b)(2), remove the words ''1000 gross tons'' and add, in their place, the words ''1,000 GRT'';

■ b. In paragraph (b)(3), remove the words ''100 or more gross tons'' and add, in their place, the words ''100 GRT or more''; remove the words ''1000 gross tons'' and add, in their place, the words ''1,000 GRT''; and remove the words ''200 gross tons'' and add, in their place, the words ''200 GRT'';

■ c. In paragraphs (b)(4) and (b)(5), remove the words ''100 gross tons'' and add, in their place, the words ''100 GRT'';

■ d. In paragraph (c), remove the words ''200 gross tons'' and add, in their place, the words ''200 GRT'';

■ e. In paragraph (d) introductory text, before the words ''26 feet'' remove the words ''at least'';

■ f. In paragraph (d)(2)(i), remove the words ''Towing Officer's Assessment Record (TOAR)'' and add, in their place, the word ''TOAR''; and

■ g. Add new paragraph (g) to read as follows:

§ 15.810 Mates.

* * * * *

(g) On vessels subject to STCW, the individual meeting the requirement of this section must also hold an STCW endorsement as officer in charge of a navigational watch with the appropriate tonnage for the vessel which he or she is operating, except as noted in § 15.105 (g) of this part for vessels on domestic near-coastal voyages.

■ 112. Revise § 15.812 to read as follows:

§ 15.812 Pilots.

(a) Except as specified in paragraph (f) of this section, the following vessels, not sailing on register, when underway on the navigable waters of the United States, must be under the direction and control of an individual qualified to serve as pilot under paragraph (b) or (c) of this section, as appropriate:

(1) Coastwise seagoing vessels propelled by machinery and subject to inspection under 46 U.S.C. Chapter 33, and coastwise seagoing tank barges subject to inspection under 46 U.S.C. Chapter 37.

(2) Vessels that are not authorized by their COI to proceed beyond the Boundary Line established in part 7 of this chapter, are in excess of 1,600 GRT propelled by machinery, and are subject to inspection under 46 U.S.C. Chapter 33.

(3) Vessels operating on the Great Lakes, that are propelled by machinery and subject to inspection under 46 U.S.C. Chapter 33, or are tank barges subject to inspection under 46 U.S.C. Chapter 37.

(b) The following individuals may serve as a pilot on a vessel subject to paragraph (a) of this section, when underway on the navigable waters of the United States that are designated areas:

(1) An individual holding a valid first-class pilot's license or MMC officer endorsement as first-class pilot, operating within the restrictions of his or her credential, may serve as pilot on any vessel to which this section applies.

(2) An individual holding a valid license or MMC officer endorsement as master or mate, employed aboard a vessel within the restrictions of his or her credential, may serve as pilot on a vessel of not more than 1,600 GRT propelled by machinery, described in paragraphs (a)(1) and (a)(3) of this section, provided he or she—

(i) Is at least 21 years old;

(ii) Is able to show current knowledge of the waters to be navigated, as required in § 11.713 of this subchapter; and

(iii) Provides evidence of completing a minimum of four roundtrips over the route to be traversed while in the wheelhouse as watchstander or observer. At least one of the roundtrips must be made during the hours of darkness if the route is to be traversed during darkness.

(3) An individual holding a valid license or MMC officer endorsement as master, mate, or operator employed aboard a vessel within the restrictions of his or her credential, may serve as pilot on a tank barge or tank barges totaling not more than 10,000 GRT/GT, described in paragraphs (a)(1) and (a)(3) of this section, provided he or she—

(i) Is at least 21 years old;

(ii) Is able to show current knowledge of the waters to be navigated, as required in § 11.713 of this subchapter;

(iii) Has a current physical examination in accordance with the provisions of § 11.709 of this subchapter;

(iv) Has at least 6 months of service in the deck department on towing vessels engaged in towing operations; and

(v) Provides evidence of completing a minimum of 12 roundtrips over the route to be traversed, as an observer or under instruction in the wheelhouse. At least three of the roundtrips must be made during the hours of darkness if the route is to be traversed during darkness.

(c) An individual holding a valid license or MMC officer endorsement as master, mate, or operator, employed aboard a vessel within the restrictions of his or her credential, may serve as a pilot for a vessel subject to paragraphs (a)(1) and (a)(2) of this section, when underway on the navigable waters of the United States that are not designated areas of pilotage waters, provided he or she—

(1) Is at least 21 years old;

(2) Is able to show current knowledge of the waters to be navigated, as required in § 11.713 of this subchapter; and

(3) Has a current physical examination in accordance with the provisions of § 11.709 of this subchapter.

(d) In any instance in which the qualifications of a person satisfying the requirements for pilotage through the provisions of this subpart are questioned by the Coast Guard, the individual must, within a reasonable time, provide the Coast Guard with documentation proving compliance with the applicable portions of paragraphs (b) and (c) of this section.

(e) Federal pilotage requirements contained in paragraphs (a) through (d) of this section are summarized in the following two quick reference tables:

(1) Table 1 to § 15.812(e)(1) provides a guide to the pilotage requirements for inspected, self-propelled vessels.

TABLE 1 TO § 15.812(e)(1)—QUICK REFERENCE TABLE FOR FEDERAL PILOTAGE REQUIREMENTS FOR U.S.–INSPECTED, SELF-PROPELLED VESSELS, NOT SAILING ON REGISTER

	Designated areas of pilotage waters (routes for which First-Class Pilot's licenses or MMC officer endorsements are issued)	Non-designated areas of pilotage waters (between the 3-mile line and the start of traditional pilotage routes)
Inspected self-propelled vessels greater than 1,600 GRT, authorized by their COI to proceed beyond the Boundary Line, or operating on the Great Lakes.	First-Class Pilot	Master or Mate may serve as pilot if he or she— 1. Is at least 21 years old; 2. Has an annual physical exam; and 3. Maintains current knowledge of the waters to be navigated.[1]
Inspected self-propelled vessels not more than 1,600 GRT, authorized by their COI to proceed beyond the Boundary Line, or operating on the Great Lakes.	First-Class Pilot, *or* Master or Mate may serve as pilot if he or she— 1. Is at least 21 years old; 2. Maintains current knowledge of the waters to be navigated; and[1] 3. Has four roundtrips over the route.[2]	Master or Mate may serve as pilot if he or she— 1. Is at least 21 years old; 2. Has an annual physical exam; and 3. Maintains current knowledge of the waters to be navigated.[1]
Inspected self-propelled vessels greater than 1,600 GRT, not authorized by their COI to proceed beyond the Boundary Line (inland route vessels); other than vessels operating on the Great Lakes.	First-Class Pilot	Master or Mate may serve as pilot if he or she— 1. Is at least 21 years old; 2. Has an annual physical exam; and 3. Maintains current knowledge of the waters to be navigated.[1]
Inspected self-propelled vessels not more than 1,600 GRT, not authorized by their COI to proceed beyond the Boundary Line (inland route vessels); other than vessels operating on the Great Lakes.	No pilotage requirement	No pilotage requirement.

[1] One roundtrip within the past 60 months.

[2] If the route is to be traversed during darkness, one of the four roundtrips must be made during darkness.

(2) Table 1 to § 15.812(e)(2) provides a guide to the pilotage requirements for tank barges.

TABLE 1 TO § 15.812(e)(2)—QUICK REFERENCE TABLE FOR FEDERAL PILOTAGE REQUIREMENTS FOR U.S.-INSPECTED TANK BARGES, NOT SAILING ON REGISTER

	Designated areas of pilotage waters (routes for which First-Class Pilot's licenses or MMC officer endorsements are issued)	Non-designated areas of pilotage waters (between the 3-mile line and the start of traditional pilotage routes)
Tank Barges greater than 10,000 GRT/GT, authorized by their COI to proceed beyond the Boundary Line, or operating on the Great Lakes.	First-Class Pilot ..... Master, Mate, or Master, Mate (Pilot) of towing vessels may serve as pilot if he or she:. 1. Is at least 21 years old; 2. Has an annual physical exam; 3. Maintains current knowledge of the waters to be navigated;[1] and 4. Has at least 6 months' service in the deck department on towing vessels engaged in towing	Master, Mate, or Master, Mate (Pilot) of towing vessels may serve as pilot if he or she: 1. Is at least 21 years old; 2. Has an annual physical exam;[2] 3. Maintains current knowledge of the waters to be navigated;[1] and 4. Has at least 6 months' service in the deck department on towing vessels engaged in towing operations
Tank Barges 10,000 GRT/GT or less, authorized by their COI to proceed beyond the Boundary Line, or operating on the Great Lakes.	First-Class Pilot, or Master, Mate, or Master, Mate (Pilot) of towing vessels may serve as pilot if he or she: 1. Is at least 21 years old; 2. Has an annual physical exam;[2] 3. Maintains current knowledge of the waters to be navigated;[1] 4. Has at least 6 months' service in the deck department on towing vessels engaged in towing operations; and 5. Has 12 roundtrips over the route.[3]	
Tank Barges authorized by their COI for inland routes only (lakes, bays, and sounds/rivers); other than vessels operating on the Great Lakes	No pilotage requirement	No pilotage requirement.

[1] One roundtrip within the past 60 months.
[2] Annual physical exam does not apply to an individual who will serve as a pilot of a tank barge of less than 1,600 GRT.
[3] If the route is to be traversed during darkness, three of the 12 roundtrips must be made during darkness.

(f) In Prince William Sound, Alaska, coastwise seagoing vessels over 1,600 GRT and propelled by machinery and subject to inspection under 46 U.S.C. Chapter 37 must—

(1) When operating from 60°49′ north latitude to the Port of Valdez, be under the direction and control of an individual holding a valid license or MMC endorsed as pilot who—

(i) Is operating under the authority of a license or MMC;

(ii) Holds a license issued by the State of Alaska; and

(iii) Is not a crewmember of the vessel; and

(2) Navigate with either two credentialed deck officers on the bridge or an individual holding a valid license or MMC endorsed as pilot, when operating south of 60°49′ north latitude and in the approaches through Hinchinbrook Entrance and in the area bounded—

(i) On the West by a line 1 mile west of the western boundary of the Traffic Separation Scheme;

(ii) On the East by 146°00′ West longitude;

(iii) On the North by 60°49′ North latitude; and

(iv) On the South by that area of Hinchinbrook Entrance within the territorial sea bounded by 60°07′ North latitude and 146°31.5′ West longitude.

■ 113. Amend § 15.815 as follows:

■ a. In paragraph (a), remove the words ''gross tons'' and add, in their place, the word ''GRT''; and remove the word ''shall'' and add, in its place, the word ''must'';

■ b. Revise paragraph (b) to read as set forth below;

■ c. In paragraph (c), remove the words ''on board'' and add, in their place, the word ''onboard''; and before the words ''26 feet'', remove the word ''approximately'';

■ d. In paragraph (d), remove the word ''their'' and add, in its place, the words ''his or her''; and

■ e. Revise paragraph (e) to read as follows.

§ 15.815 Radar observers.

* * * * *

(b) Each person who is employed or serves as pilot in accordance with Federal law onboard radar-equipped vessels of 300 GRT or over must hold an endorsement as radar observer.

* * * * *

(e) For this section, ''readily available'' means that the documentation must be provided to the Coast Guard, or other appropriate Federal agency, within 48 hours of a request by the Coast Guard or other agency. The documentation may be provided by the individual, or his or her company representative, electronically, by facsimile, or physical copy.

■ 114. Add § 15.816 to read as follows:

§ 15.816 Automatic radar plotting aids (ARPAs).

Every person in the required complement of deck officers, including the master, on seagoing vessels equipped with automatic radar plotting aids (ARPAs), except those vessels listed in § 15.105(f) and (g) of this part, must hold an appropriate STCW endorsement valid for vessels equipped with ARPA.

■ 115. Add § 15.817 to read as follows:

§ 15.817 Global Maritime Distress and Safety System (GMDSS) radio operator.

Every person in the required complement of deck officers, including the master, on seagoing vessels equipped with a GMDSS, except those

vessels listed in § 15.105(f) and (g) of this part, must provide evidence of a valid STCW endorsement as GMDSS radio operator.

■ 116. Add § 15.818 to read as follows:

§ 15.818 Global Maritime Distress and Safety System (GMDSS) at-sea maintainer.

Every person employed or engaged to maintain GMDSS equipment at sea, when the service of a person so designated is used to meet the maintenance requirements of SOLAS Regulation IV/15 (incorporated by reference, see § 15.103 of this part), must provide documentary evidence that he or she is competent to maintain GMDSS equipment at sea.

■ 117. Amend § 15.820 as follows:

■ a. In paragraph (a) introductory text, remove the words ''on board'' and add, in their place, the word ''onboard''; after the words ''the following'', remove the word ''inspected''; and after the words ''mechanically propelled'', add the word ''inspected'';

■ b. In paragraph (a)(1), remove the words ''200 gross tons and over.'' and add, in their place, the words ''200 GRT and over;'';

■ c. In paragraph (a)(2), remove the words ''200 gross tons.'' and add, in their place, the words ''200 GRT; and''

■ d. In paragraph (a)(3), remove the words ''300 gross tons and over'' and add, in their place, the words ''300 GRT or more'';

■ e. Redesignate paragraph (b) as paragraph (c);

■ f. Add new paragraph (b) as set forth below; and

■ g. In newly redesignated paragraph (c), remove the words ''gross tons or over'' and add, in their place, the words ''GRT or more''.

§ 15.820 Chief engineer.

* * * * *

(b) On vessels subject to STCW, the individual meeting the requirement of this section must also hold an STCW endorsement as chief engineer with the appropriate propulsion power for the vessel upon which he or she is operating, except as noted in § 15.105(g) of this part for vessels on domestic near-coastal voyages.

* * * * *

■ 118. Revise § 15.825 as follows:

§ 15.825 Engineers.

(a) An individual in charge of an engineering watch on a mechanically propelled, seagoing, documented vessel of 200 GRT or more, other than an individual described in § 15.820 of this subpart, must hold an appropriately endorsed license or MMC authorizing service as an assistant engineer.

(b) On vessels subject to STCW, the individual meeting the requirement of this section must also hold an STCW endorsement as officer in charge of an engineering watch with the appropriate propulsion power for the vessel upon which he or she is operating, except as noted in § 15.105(g) of this part for vessels on domestic near-coastal voyages.

(c) The OCMI determines the minimum number of credentialed engineers required for the safe operation of inspected vessels.

§ 15.830 [Amended]

■ 119. In § 15.830, after the word ''requirements'', add the words ''as found in 47 CFR part 13 and 47 CFR part 80''.

■ 120. Amend § 15.840 as follows:

■ a. In paragraph (a), remove the words ''gross tons'' and add, in their place, the word ''GRT''; remove the word ''1east'' and add, in its place, the word ''least''; and remove the words ''two watch'' and add, in their place, the words ''two-watch'';

■ b. In paragraph (b), after the words ''offshore supply vessel'', add the word ''(OSV)''; and remove the word ''chapter'' and add, in its place, the word ''subchapter'';

■ c. Redesignate paragraph (c) as new paragraph (d);

■ d. Add new paragraph (c) as set forth below; and

■ e. In newly redesignated paragraph (d), after the words ''person in charge'', add the word ''(PIC)''.

§ 15.840 Able seamen.

* * * * *

(c) On vessels subject to STCW, the individual meeting the requirement of this section must also hold an STCW endorsement as ratings forming part of a navigational watch or able seafarer-deck (according to § 15.404(a) and (b) of this part), except as noted in § 15.105 (g) of this part for vessels on domestic near-coastal voyages.

* * * * *

■ 121. Revise § 15.845 to read as follows:

§ 15.845 Lifeboatmen.

(a) The number of lifeboatmen required for a vessel is specified in part 199 of this chapter; however, on vessels not equipped with lifeboats, a lifeboatman may be replaced by a lifeboatman-limited.

(b) On vessels subject to STCW, the individual meeting the requirement of this section must also hold an STCW endorsement for proficiency in survival craft, except as noted in § 15.105 (g) of this part for vessels on domestic near-coastal voyages.

■ 122. Revise § 15.850 to read as follows:

§ 15.850 Lookouts.

(a) The requirements for the maintenance of a proper lookout are specified in Rule 5 of the International Regulations for Preventing Collisions at Sea, 1972 (33 U.S.C. 1602(c)), and Rule 5 of the Inland Navigational Rules Act of 1980 (33 CFR part 83). Lookout is a function to be performed by a member of a navigational watch.

(b) On vessels subject to STCW, the individual meeting the requirement of this section must also hold at least an STCW deck endorsement as rating forming part of a navigational watch, except as noted in § 15.105(g) of this part for vessels on domestic near-coastal voyages.

§ 15.855 [Amended]

■ 123. Amend § 15.855 as follows:

■ a. In paragraph (a), remove the word ''shall'' and add, in its place, the word ''must'';

■ b. In paragraph (b), remove the words ''gross tons'' and add, in their place, the word ''GRT''; and remove the words ''on board'' and add, in their place, the word ''onboard'';

■ c. In paragraph (c) introductory text, remove the words ''gross tons'' and add, in their place, the word ''GRT''; and

■ d. In paragraph (c)(6), after the words ''in accordance with § 15.705'', add the words ''of this part''.

■ 124. Revise § 15.860 to read as follows:

§ 15.860 Tankerman.

(a) The OCMI enters on the COI issued to each manned tank vessel subject to the regulations in this chapter the number of crewmembers required to hold valid MMDs or MMCs with the proper tankerman endorsement. Table 1 to § 15.860(a) of this section provides the minimum requirements for tankermen aboard manned tank vessels; Table 2 to § 15.860(a) of this section provides the tankerman endorsements required for personnel aboard tankships.

TABLE 1 TO § 15.860(a)—MINIMUM REQUIREMENTS FOR TANKERMEN ABOARD MANNED TANK VESSELS

Tank vessels	Tankerman-PIC	Tankerman assistant	Tankerman engineer	Tankerman-PIC or tankerman-PIC (barge)
Tankship Certified for Voyages Beyond Boundary Line:				
Over 5,000 GRT	2	3	2	
5,000 GRT or less	2		[1] 2	
Tankship Not Certified for Voyages Beyond Boundary Line	[2] 2			
Tank Barge				[3] 2

[1] If only one engineer is required, then only one tankerman-engineer is required.
[2] If the total crew complement is one or two persons, then only one tankerman-PIC is required.
[3] If the total crew complement is one or two persons, then only one tankerman-PIC or tankerman-PIC (barge) is required.

TABLE 2 TO 15.860(a)—TANKERMEN ENDORSEMENTS REQUIRED FOR PERSONNEL ABOARD TANKSHIPS

[Endorsement for the classification of the bulk liquid cargo or residues carried]

Tankship certified for voyages beyond boundary line	Tankerman-PIC		Tankerman engineer	Tankerman assistant
Master	X			
Chief Mate	X			
Chief Engineer	X	or	X	
First Assistant Engineer	X	or	X	
Cargo Engineer	X	or	X	
Credentialed Officer Acting as PIC of Transfer of Liquid Cargo in Bulk	X			
Credentialed Officer or Crewmember Not Directly Supervised by PIC				X

(b) For each tankship of more than 5,000 GRT certified for voyages beyond the boundary line as described in part 7 of this chapter—

(1) At least two tankerman-PICs or restricted tankerman-PICs must be carried;

(2) At least three tankerman-assistants must be carried; and

(3) At least two tankerman-engineers must be carried.

(c) For each tankship of 5,000 GRT or less certified for voyages beyond the boundary line, as described in part 7 of this chapter—

(1) At least two tankerman-PICs or restricted tankerman-PICs must be carried; and

(2) At least two tankerman-engineers must be carried, unless only one engineer is required, in which case at least one tankerman-engineer must be carried.

(d) For each tankship not certified for voyages beyond the boundary line, as described in part 7 of this chapter, if the total crew complement is—

(1) One or two, at least one tankerman-PIC or restricted tankerman-PIC must be carried; or

(2) More than two, at least two tankerman-PICs or restricted tankerman-PICs must be carried.

(e) For each tank barge manned under § 31.15–5 of this chapter, if the total crew complement is—

(1) One or two, at least one tankerman-PIC, restricted tankerman-PIC, tankerman-PIC (barge), or restricted tankerman-PIC (barge) must be carried; or

(2) More than two, at least two tankerman-PICs, restricted tankerman-PICs, tankerman-PICs (barge), or restricted tankerman-PICs (barge) must be carried.

(f) The following personnel aboard each tankship certified for voyages beyond the boundary line, as described in part 7 of this chapter, must hold valid MMDs or MMCs, endorsed as follows:

(1) The master and chief mate must each hold a tankerman-PIC or restricted tankerman-PIC endorsement.

(2) The chief, first assistant, and cargo engineers must each hold a tankerman-engineer or tankerman-PIC endorsement.

(3) Each credentialed officer acting as the PIC of a transfer of liquid cargo in bulk must hold a tankerman-PIC or restricted tankerman-PIC endorsement.

(4) Each officer or crewmember who is assigned by the PIC duties and responsibilities related to the cargo or cargo-handling equipment during a transfer of liquid cargo in bulk, but is not directly supervised by the PIC, must hold a tankerman-assistant endorsement.

(g) The endorsements required by this section must be for the classification of the liquid cargo in bulk or of the cargo residue being carried.

(h) All individuals serving on tankships certified for voyages beyond the boundary line, as described in part 7 of this chapter, must hold an appropriate STCW endorsement, as follows:

(1) For tankerman-PIC, an STCW endorsement as Advanced Oil Tanker Cargo Operations, Advanced Chemical Tanker Cargo Operations, or Advanced Liquefied Gas Tanker Cargo Operations, as appropriate.

(2) For tankerman-Assistant, an STCW endorsement as Basic Oil and Chemical Tanker Cargo Operations, or Basic Liquefied Gas Tanker Cargo Operations, as appropriate.

(3) For a tankerman-PIC (barge), an STCW endorsement as Advanced Oil Tanker Cargo Operations, Advanced Chemical Tanker Cargo Operations, or Advanced Liquefied Gas Tanker Cargo Operations, as appropriate, including endorsements with a limitation for non-self-propelled vessels.

(4) For a tankerman-engineer, an STCW endorsement as Advanced Oil Tanker Cargo Operations, or Advanced Chemical Tanker Cargo Operations, as appropriate, including endorsements with a limitation to maintenance and repair of cargo equipment.

■ 125. Add new § 15.865 to newly redesignated subpart H to read as follows:

§ 15.865 Qualified member of the engine department (QMED).

(a) Every person serving under the authority of a rating endorsement as QMED on any United States vessel requiring QMED must hold an endorsement as QMED.

(b) On vessels subject to STCW, certain seafarers meeting the requirement of this section must also hold either an STCW endorsement as able seafarer-engine or rating forming part of an engineering watch or designated to perform duties in a periodically unmanned engineroom (according to § 15.404(c) and (d) of this part), except as noted in § 15.105(g) of this part for vessels on domestic near-coastal voyages.

■ 126. Amend § 15.901 as follows:

■ a. Revise the heading of § 15.901 to read as set forth below;

■ b. In paragraph (a), remove the words ''over 200 gross tons'' and add, in their place, the words ''200 GRT or more''; remove the words ''100 gross tons'' and add, in their place, the words ''100 GRT''; and after the words ''on the individual's license or MMC'', add the words '', without further endorsement''; and

■ c. In paragraphs (b), (c), and (d), after the words ''mate of inspected'', remove the text '',''; and after the words ''on the individual's license or MMC'', add the words '', without further endorsement''.

§ 15.901 Inspected vessels of less than 100 GRT.

* * * * *

■ 127. Amend § 15.905 as follows:

■ a. In paragraph (a), after the words ''pilot of an inspected'', remove the text '',''; remove the words ''under 100 gross tons'' and add, in their place, the words ''of less than 100 GRT''; and after the words ''other than'' and before the word ''tonnage'', remove the word ''gross'';

■ b. In paragraph (b), after the words ''pilot of an inspected'', remove the text '',''; and remove the words ''at least 100 gross tons'' and add, in their place, the words ''100 GRT or more''; and

■ c. Revise paragraph (c) to read as follows:

§ 15.905 Uninspected passenger vessels.

* * * * *

(c) An individual holding a license or MMC endorsed as mate of an inspected self-propelled vessel (other than Great Lakes, inland, or river vessels of less than 200 GRT) is authorized to serve as operator of uninspected passenger vessels of less than 100 GRT within any restrictions, other than tonnage limitations, on the individual's license or MMC.

■ 128. Revise § 15.915 to read as follows:

§ 15.915 Engineer officer endorsements.

The following licenses and MMC officer endorsements authorize the holder to serve as noted, within any restrictions on the license or MMC, and as provided by § 15.401 of this part:

(a) A designated duty engineer license or endorsement authorizes service as chief or assistant engineer on vessels of less than 500 GT in the following manners:

(1) A designated duty engineer limited to vessels of less than 1,000 horsepower or less than 4,000 horsepower may serve only on near-coastal, Great Lakes, or inland waters.

(2) A designated duty engineer with no horsepower limitations may serve on any waters.

(3) When serving on a vessel to which STCW applies, the appropriate STCW endorsement must also be held.

(b) A chief engineer (limited) license or endorsement authorizes service as chief or assistant engineer on vessels of any gross tons on inland waters and of less than 1,600 GRT on ocean, near-coastal, or Great Lakes waters.

(c) An assistant engineer (limited) license or endorsement authorizes service on vessels of any gross tons on inland waters and of less than 1,600 GRT on ocean, near-coastal, or Great Lakes waters.

■ 129. Revise newly redesignated subpart K to read as follows:

Subpart K—Vessels Subject to Requirements of STCW

Sec.
15.1101 General.
15.1103 Employment and service within the restrictions of an STCW endorsement or of a certificate of training.
15.1105 Familiarization and basic training (BT).
15.1107 Maintenance of merchant mariners' records by owner or operator.
15.1109 Watches.
15.1111 Work hours and rest periods.
15.1113 Security personnel.

Subpart K—Vessels Subject to Requirements of STCW

§ 15.1101 General.

(a) Except as noted in paragraphs (a)(1) and (2) of this section, the regulations in this subpart apply to seagoing vessels as defined in § 10.107 of this subchapter.

(1) The following vessels are exempt from application of the STCW Convention:

(i) Fishing vessels as defined in 46 U.S.C. 2101(11)(a).

(ii) Fishing vessels used as fish-tender vessels as defined in 46 U.S.C. 2101(11)(c).

(iii) Barges as defined in 46 U.S.C. 102, including non-self-propelled MODUs.

(iv) Vessels operating exclusively on the Great Lakes or on the inland waters of the U.S., in the Straits of Juan de Fuca, or on the Inside Passage between Puget Sound and Cape Spencer.

(v) Pilot vessels engaged on pilotage duty.

(2) The following small vessels engaged exclusively on domestic voyages are not subject to any obligation for the purposes of the STCW Convention:

(i) Small passenger vessels subject to subchapter T or K of 46 CFR chapter I.

(ii) Vessels of less than 200 GRT (other than passenger vessels subject to subchapter H of 46 CFR chapter I).

(iii) Uninspected passenger vessels as defined in 46 U.S.C. 2101(42)(B).

(b) Masters, mates, and engineers serving on vessels identified in paragraphs (a)(2)(i) and (a)(2)(ii) of this section may be issued, without additional proof of qualification, an appropriate STCW endorsement when the Coast Guard determines that such a document is necessary to enable the vessel to engage on a single international voyage of a non-routine nature. The STCW endorsement will be expressly limited to service on the vessel or the class of vessels and will not establish qualification for any other purpose.

§ 15.1103 Employment and service within the restrictions of an STCW endorsement or of a certificate of training.

(a) Onboard a seagoing vessel of 500 GT or more, driven by main propulsion machinery of 1,000 HP/750 kW propulsion power or more or on an international voyage beyond the boundary line as described in part 7 of this chapter, no person may employ or engage any person to serve, and no person may serve, in a position requiring a person to hold an STCW endorsement, including master, chief mate, chief engineer officer, second engineer officer, officer of the navigational or engineering watch, or GMDSS radio operator, unless the person serving holds an appropriate, valid STCW endorsement issued in accordance with part 11 of this subchapter.

(b) Onboard a seagoing vessel of 500 GT or more, no person may employ or engage any person to serve, and no person may serve, as an RFPNW, except for training, unless the person serving holds an appropriate, valid STCW endorsement issued in accordance with part 12 of this subchapter.

(c) As of January 1, 2017, onboard a seagoing vessel of 500 GT or more, no person may employ or engage any person to serve, and no person may serve, as an able seafarer-deck, except for training, unless the person serving

holds an appropriate, valid STCW endorsement issued in accordance with part 12 of this subchapter.

(d) Onboard a seagoing vessel driven by main propulsion machinery of 1,000 HP/750 kW propulsion power or more, no person may employ or engage any person to serve, and no person may serve, as an RFPEW, nor may any person be designated to perform duties in a periodically unmanned engine-room, except for training or for the performance of duties of an unskilled nature, unless the person serving holds an appropriate, valid STCW endorsement issued in accordance with part 12 of this subchapter.

(e) As of January 1, 2017, onboard a seagoing vessel driven by main propulsion machinery of 1,000 HP/750 kW propulsion power or more, no person may employ or engage any person to serve, and no person may serve, as an able seafarer-engine, except for training, unless the person serving holds an appropriate, valid STCW endorsement issued in accordance with part 12 of this subchapter.

(f) Onboard a passenger ship, as defined by the Convention for the Safety of Life at Sea, 1974, as amended (SOLAS) (incorporated by reference, see § 15.103 of this part), on an international voyage, any person serving as master, chief mate, mate, chief engineer, engineer officer, or any person holding a license, MMD, or MMC and performing duties relating to safety, cargo handling, or care for passengers, must meet the appropriate requirements of Regulation V/2 of the STCW Convention (incorporated by reference, see § 15.103 of this part). These individuals must hold documentary evidence to show they meet these requirements.

(g) Onboard a seagoing vessel required to comply with provisions of the GMDSS in Chapter IV of SOLAS, no person may employ or engage any person to serve, and no person may serve, as the person designated to maintain GMDSS equipment at sea, when the service of a person so designated is used to meet the maintenance requirements of SOLAS Regulation IV/15, which allows for capability of at-sea electronic maintenance to ensure that radio equipment is available for radio communication, unless the person so serving holds documentary evidence that he or she is competent to maintain GMDSS equipment at sea.

(h) *Medical certificate.* (1) A person may not employ or engage an individual unless that individual maintains a current medical certificate.

(2) After January 1, 2017, all persons employed or engaged onboard vessels to which STCW applies must hold a medical certificate valid for 2 years unless the mariner is under the age of 18, in which case the maximum period of validity will be 1 year.

(3) If a mariner's medical certificate expires during a voyage, it will remain valid until the next United States port of call, provided that the period after expiration does not exceed 90 days.

§ 15.1105 Familiarization and basic training (BT).

(a) Onboard a seagoing vessel to which this subpart applies, no person may assign any person to perform shipboard duties, and no person may perform those duties, unless the person performing them has received—

(1) Training in personal survival techniques as set out in the standard of competence under Regulation VI/1 of the STCW Convention (incorporated by reference, see § 15.103 of this part); or

(2) Sufficient familiarization training or instruction that he or she—

(i) Can communicate with other persons onboard about elementary safety matters and understand informational symbols, signs, and alarm signals concerning safety;

(ii) Knows what to do if a person falls overboard; if fire or smoke is detected; or if the fire alarm or abandon-ship alarm sounds;

(iii) Can identify stations for muster and embarkation, and emergency-escape routes;

(iv) Can locate and don life jackets;

(v) Can raise the alarm and knows the use of portable fire extinguishers;

(vi) Can take immediate action upon encountering an accident or other medical emergency before seeking further medical assistance onboard; and

(vii) Can close and open the fire doors, weather-tight doors, and watertight doors fitted in the vessel other than those for hull openings.

(b) Onboard a seagoing vessel to which this subpart applies, no person may assign a shipboard duty or responsibility to any person who is serving in a position that must be filled as part of the required crew complement, and no person may perform any such duty or responsibility, unless he or she is familiar with it and with all of the vessel's arrangements, installations, equipment, procedures, and characteristics relevant to his or her routine and emergency duties or responsibilities, in accordance with Regulation I/14 of the STCW Convention.

(c) Onboard a seagoing vessel to which this subpart applies, no person may assign a shipboard duty or responsibility to any person who is serving in a position that must be filled as part of the required crew complement or who is assigned a responsibility on the muster list, and no person may perform any such duty or responsibility, unless the person performing it can produce evidence of having—

(1) Received appropriate approved basic training or instruction as set out in the standards of competence under Regulation VI/1 of the STCW Convention, with respect to personal survival techniques, fire prevention and fire-fighting, elementary first aid, and personal safety and social responsibilities; and

(2) Maintained the standard of competence under Regulation VI/1 of the STCW Convention, with respect to personal survival techniques, fire prevention and fire-fighting, elementary first aid, and personal safety and social responsibilities, every 5 years.

(d) Fish-processing vessels in compliance with the provisions of 46 CFR part 28 on instructions, drills, and safety orientation are deemed to be in compliance with the requirements of this section on familiarization and basic training.

§ 15.1107 Maintenance of merchant mariners' records by owner or operator.

For every credentialed mariner employed on a U.S.-documented seagoing vessel, the owner or operator must ensure that the following information is maintained and readily accessible to those in management positions, including the master of the vessel, who are responsible for the safety of the vessel, compliance with laws and regulations, and for the prevention of marine pollution:

(a) Experience and training relevant to assigned shipboard duties (i.e., record of training completed, ship-specific familiarization and of relevant on-the-job experience acquired).

(b) Copies of the mariner's current credentials.

§ 15.1109 Watches.

Except those serving on vessels listed in § 15.105(f) and (g) of this part, each master of a vessel that operates beyond the boundary line, as described in part 7 of this chapter, must ensure observance of the principles concerning watchkeeping set out in Regulation VIII/2 of the STCW Convention and section A–VIII/2 of the STCW Code (both incorporated by reference, see § 15.103 of this part).

§ 15.1111 Work hours and rest periods.

(a) Every person assigned duty as officer in charge of a navigational or

engineering watch, or duty as ratings forming part of a navigational or engineering watch, or designated safety, prevention of pollution, and security duties onboard any vessel that operates beyond the boundary line, as described in part 7 of this chapter, must receive—

(1) A minimum of 10 hours of rest in any 24-hour period; and

(2) 77 hours of rest in any 7-day period.

(b) The hours of rest required under paragraph (a) of this section may be divided into no more than two periods in any 24-hour period, one of which must be at least 6 hours in length, and the interval between consecutive periods of rest must not exceed 14 hours.

(c) The requirements of paragraph (a) and (b) of this section need not be maintained in the case of an emergency or drill or in other overriding operational conditions.

(d) The minimum period of rest required under paragraph (a) of this section may not be devoted to watchkeeping or other duties.

(e) Watchkeeping personnel remain subject to the work-hour limits in 46 U.S.C. 8104 and to the conditions under which crewmembers may be required to work.

(f) The master must post watch schedules where they are easily accessible. They must cover each affected person under paragraph (a) of this section, and must take into account the rest requirements of this section as well as port rotations and changes in the vessel's itinerary.

(g) Records of daily hours of rest must be maintained onboard the vessel. Each affected person under paragraph (a) of this section must receive a copy of the records pertaining to them, which will be endorsed by the master or by a person authorized by the master and by the seafarer.

(h) For every seafarer on call, such as when a machinery space is unattended, the seafarer must have an adequate compensatory rest period if the normal period of rest is disturbed by call-outs to work.

(i) The master of the vessel may suspend the schedule of hours of rest and require a seafarer to perform any hours of work necessary for the immediate safety of the ship, persons onboard, or cargo, or for the purpose of giving assistance to other ships or persons in distress at sea. As soon as practicable after the situation has been restored, the master must ensure that any seafarer who has performed work in a scheduled rest period is provided with an adequate period of rest.

(j) In exceptional circumstances, the master may authorize exceptions from the hours of rest required under paragraph (a) and (b) of this section provided that:

(1) The hours of rest provided for in paragraph (a)(1) of this section may be divided into no more than three periods, one of which must be at least 6 hours in length, and neither of the other two periods are permitted to be less than one hour in length.

(i) Exceptions to paragraph (a)(1) of this section must not extend beyond two 24-hour periods in any 7-day period; and,

(ii) The intervals between consecutive periods of rest must not exceed 14 hours.

(2) Exceptions to paragraphs (a)(2) and (b) of this section must not be less than 70 hours of rest in any 7-day period.

(3) Exceptions to paragraph (a)(2) of this section are not allowed for more than two consecutive weeks, and the intervals between two periods of exceptions to paragraph (a)(2) must not be less than twice the duration of the longer exception.

§ 15.1113 Security personnel.

(a) Onboard a seagoing vessel of 500 GT or more to which the International Ship and Port Facility Security (ISPS) Code applies, all persons performing duties as Vessel Security Officer (VSO) must hold a valid endorsement as VSO.

(b) Persons who hold an endorsement as VSO will be deemed to satisfy the requirements for vessel personnel with designated security duties in paragraph (c) of this section.

(c) After March 24, 2014, onboard a seagoing vessel of 500 GT or more to which the ISPS Code applies, all personnel with designated security duties must hold a valid endorsement as vessel personnel with designated security duties, or a certificate of course completion or documentary evidence of onboard training from an appropriate Coast Guard-accepted or Coast Guard-approved course meeting the requirements of 33 CFR 104.220.

(d) Persons who hold an endorsement as vessel personnel with designated security duties, or a certificate of course completion or documentary evidence of onboard training from an appropriate Coast Guard-accepted or Coast Guard-approved course for vessel personnel with designated security duties, will be deemed to satisfy the requirements for all other vessel personnel in paragraph (e) of this section.

(e) After March 24, 2014, onboard a seagoing vessel of 500 GT or more to which the ISPS Code applies, all other vessel personnel must hold a valid endorsement in security awareness, or a certificate of course completion from an appropriate Coast Guard-accepted or Coast Guard-approved course, or documentary evidence of onboard training meeting the requirements of 33 CFR 104.225.

(f) After March 24, 2014, onboard a seagoing vessel of 500 GT or more to which the ISPS Code applies, all contractors, whether part-time, full-time, temporary, or permanent, must have knowledge of the requirements in 33 CFR 104.225, through training or equivalent job experience. Vessel owners and operators must maintain records documenting this requirement and produce those records to the Coast Guard upon request.

Dated: November 15, 2013.

Robert J. Papp Jr.,

Admiral, U.S. Coast Guard Commandant.

[FR Doc. 2013–28032 Filed 12–23–13; 8:45 am]

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Part III

Department of Health and Human Services

Food and Drug Administration

21 CFR Parts 16 and 121

Focused Mitigation Strategies To Protect Food Against Intentional Adulteration; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 16 and 121

[Docket No. FDA–2013–N–1425]

RIN 0910–AG63

Focused Mitigation Strategies To Protect Food Against Intentional Adulteration

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA or we) is proposing to require domestic and foreign food facilities that are required to register under the Federal Food, Drug, and Cosmetic Act (the FD&C Act) to address hazards that may be intentionally introduced by acts of terrorism. These food facilities would be required to identify and implement focused mitigation strategies to significantly minimize or prevent significant vulnerabilities identified at actionable process steps in a food operation. FDA is proposing these requirements as part of our implementation of the FDA Food Safety Modernization Act (FSMA). Further, as part of the proposal, FDA discusses an approach to addressing economically motivated intentional adulteration. We expect the proposed rule, if finalized as proposed, would help to protect food from intentional adulteration caused by acts of terrorism.

DATES: Submit either electronic or written comments on the proposed rule by March 31, 2014. Submit comments on information collection issues under the Paperwork Reduction Act of 1995 by January 23, 2014, (see the ''Paperwork Reduction Act of 1995'' section of this document).

ADDRESSES: You may submit comments, identified by Docket No. FDA–2013–N–1425 and/or Regulatory Information Number (RIN) 0910–AG63, by any of the following methods, except that comments on information collection issues under the Paperwork Reduction Act of 1995 must be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) (see the ''Paperwork Reduction Act of 1995'' section of this document).

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Written Submissions

Submit written submissions in the following ways:

- *Mail/Hand delivery/Courier (for paper or CD–ROM submissions)*: Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

Instructions: All submissions received must include the Agency name and Docket No. FDA–2013–N–1425 and Regulatory Information Number (RIN) 0910–AG63 for this rulemaking. All comments received may be posted without change to *http://www.regulations.gov,* including any personal information provided. For additional information on submitting comments, see the ''Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Regarding the provisions with respect to human food: Ryan Newkirk, Center for Food Safety and Applied Nutrition (HFS–005), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 240–402–2428. Regarding the provisions with respect to food for animals: Alfred Montgomery, Center for Veterinary Medicine (HFV–200), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240–453–6836.

SUPPLEMENTARY INFORMATION:

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Executive Summary

This proposed regulation implements three provisions of the Federal Food, Drug, and Cosmetic (FD&C) Act, as amended by the FDA Food Safety Modernization Act (FSMA), that relate to the intentional adulteration of food. Section 418 of the FD&C Act (21 U.S.C. 350g) addresses intentional adulteration in the context of facilities that manufacture, process, pack, or hold food and are required to register under section 415 of the FD&C Act (21 U.S.C. 350d). Section 419 of the FD&C Act (21 U.S.C. 350h) addresses intentional adulteration in the context of fruits and vegetables that are raw agricultural commodities. Section 420 of the FD&C Act (21 U.S.C. 350i) addresses intentional adulteration in the context of high risk foods and exempts farms except for farms that produce milk. FDA is implementing the intentional adulteration provisions in sections 418, 419, and 420 of the FD&C Act in this rulemaking.

Scope of Coverage of the Proposed Rule

The subject of this proposed rule is protection of food against intentional adulteration caused by acts of terrorism. This proposed rule would apply to both domestic and foreign facilities that are required to register under section 415 of the FD&C Act. However, as explained in the remainder of this document and shown in Diagram 1 and Table 1, the proposed rule contains several exemptions. (The diagrams and table below are intended to illustrate the proposed scope and requirements of this rule, and do not include all aspects of the proposed regulation.) These exemptions are:

- The proposed rule would not apply to a qualified facility, except that the

facility would be required to provide for official review, upon request, documentation that was relied upon to demonstrate that the facility qualifies for this exemption. As proposed, a qualified facility would be: (1) A very small business (i.e., a business that has less than $10,000,000 in total annual sales of food, adjusted for inflation), or (2) a facility that meets two requirements, i.e., (a) During the 3-year period preceding the applicable calendar year, the average annual monetary value of the food manufactured, processed, packed or held at such facility that is sold directly to qualified end-users (as defined in this part) during such period exceeded the average annual monetary value of the food sold by such facility to all other purchasers; and (b) the average annual monetary value of all food sold during the 3-year period preceding the applicable calendar year was less than $500,000, adjusted for inflation.

- This proposed rule would not apply to the holding of food, except the holding of food in liquid storage tanks.
- This proposed rule would not apply to the packing, re-packing, labeling, or re-labeling of food where the container that directly contacts the food remains intact.
- This proposed rule would not apply to activities of a facility that are subject to section 419 of the Federal Food, Drug, and Cosmetic Act (Standards for Produce Safety).
- This proposed rule would not apply with respect to alcoholic beverages at a facility that meets certain conditions.
- This proposed rule would not apply to the manufacturing, processing, packing, or holding of food for animals other than man.

We seek comment on these exclusions and whether additional exclusions are warranted.

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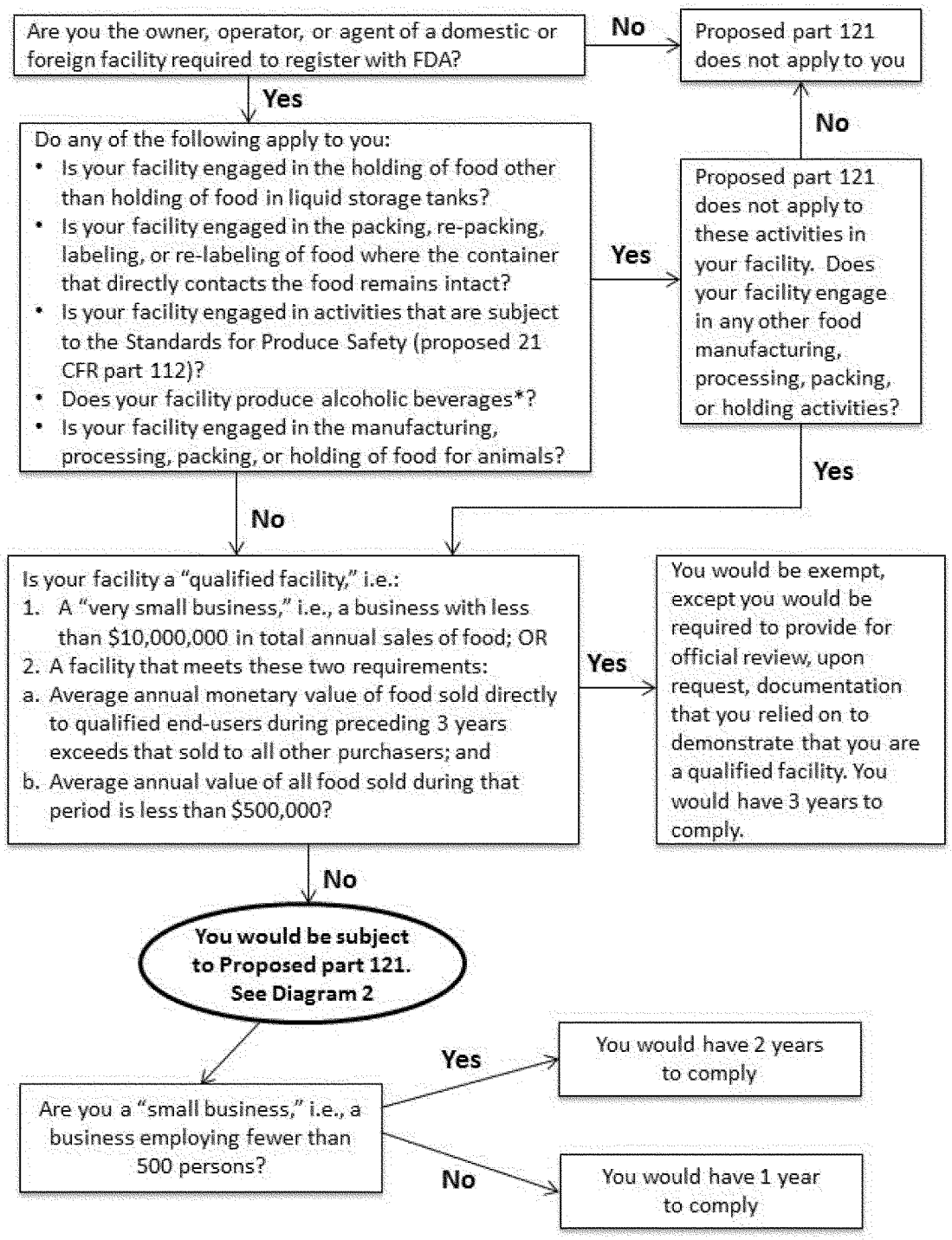
Diagram 1. Would Proposed 21 CFR Part 121 to Protect Against Intentional Adulteration Caused by Acts of Terrorism Apply to Me?



*See proposed 121.5(e) for specific conditions

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TABLE 1—SCOPE OF INTENTIONAL ADULTERATION AND PROPOSED EXCLUSIONS AND EXEMPTIONS

Type of intentional adulteration	Coverage within scope of proposed 21 CFR 121	Brief rationale, and relevant corresponding section of the rule *
I. Types of Intentional Adulteration Considered in this Proposed Rulemaking		
1. Acts of disgruntled employees, consumers, or competitors intended to attack the reputation of a company, and not to cause public health harm, although public health harm may occur.	Not within the scope of intentional adulteration covered under proposed 21 CFR 121.	▪ Not considered "high risk" because not intended to cause widespread, significant public health harm. ▪ See section IV.E of this document.
2. Economically motivated adulteration (EMA) intended to obtain economic gain, and not to cause public health harm, although public health harm may occur.	Not within the scope of intentional adulteration covered under proposed 21 CFR 121.	▪ Considering addressing as part of hazard analysis in a preventive controls framework where EMA is "reasonably likely to occur." ▪ See section IV.F of this document.
3. Acts intended to cause massive public health harm, including acts of terrorism.	Covered within scope, and is the focus of proposed 21 CFR 121.	▪ Considered "high risk" because intent of the act is to cause widespread, significant public health harm. ▪ See section IV.A of this document.
II. Facilities or Operations Excluded or Exempted from Proposed 21 CFR 121		
Facility or Operation	Exclusion or Exemption (and any associated modified requirements)	Brief rationale, and relevant corresponding section of the rule *
Activities that fall within the definition of "farm" (as defined in 21 CFR § 1.227).	Excluded	▪ Activities that occur on produce farms are not considered "high risk." ▪ Activities that occur on dairy farms are addressed below. ▪ Activities that occur on other farms are outside the scope of 103, 105, and 106 of FSMA. ▪ See section IV.B of this document.
Transportation carriers	Excluded	▪ Transportation of bulk liquids is addressed by coverage of shippers and receivers. ▪ Other transportation activities are not considered "high risk." ▪ See section IV.C of this document.
Activities that occur on dairy farms	▪ Fluid milk storage and loading appear to pose a significant vulnerability. ▪ We seek comment on practical and effective approach to address this vulnerability. ▪ See section IV.H of this document.	
Qualified facility, as defined in proposed § 121.3	Exempt, except must provide for FDA review, upon request, documentation relied on to demonstrate that the facility qualifies for this exemption.	▪ Very small businesses are not considered "high risk." ▪ See section V.B.1 of this document.
Holding of food, except the holding of food in liquid storage tanks.	Exempt	▪ Not considered "high risk" because these activities do not fit within any of the FDA-identified key activity types. ▪ See section V.B.2 of this document.
Packing, re-packing, labeling, or re-labeling of food where the container that directly contacts the food remains intact.	Exempt	▪ Not considered "high risk" because these activities do not fit within any of the FDA-identified key activity types. ▪ See section V.B.3 of this document.
Activities of a facility that are subject to Standards for Produce Safety (proposed 21 CFR 112).	Exempt	▪ Activities that occur on produce farms are not considered "high risk." ▪ See section V.B.4 of this document.
Alcoholic beverages at certain alcohol-related facilities, and certain prepackaged food sold in limited quantities along with alcoholic beverages at the same facilities (see proposed § 121.5(e)).	Exempt	▪ Alcoholic beverages at these facilities are outside the scope of 103, 105, and 106 of FSMA. ▪ See section V.B.5 of this document.
Manufacturing, processing, packing, or holding of food for animals.	Exempt	▪ Not considered "high risk" because unlikely to impact human health. ▪ See section V.B.6 of this document.

* Please see the corresponding sections of the rule identified in the column for a complete discussion of our analysis, rationale, and tentative conclusions related to the proposed exclusions or exemption.

Summary of the Major Provisions of the Proposed Rule

This proposed rule would establish various food defense measures that an owner, operator, or agent in charge of a facility would be required to implement to protect against the intentional adulteration of food, as summarized in Diagram 2. Specifically:

- Prepare and implement a written food defense plan that includes actionable process steps, focused mitigation strategies, and procedures for monitoring, corrective actions, and verification (proposed § 121.126).
- Identify any actionable process steps, using one of two procedures. FDA has analyzed vulnerability assessments conducted using the CARVER+Shock methodology and identified four key activity types: Bulk liquid receiving and loading; Liquid storage and handling; Secondary ingredient handling; and Mixing and similar activities. FDA has determined that the presence of one or more of these key activity types at a process step (e.g., manufacturing, processing, packing, or holding of food) indicates a significant vulnerability under section 418 of the FD&C Act and that the food is at high risk of intentional adulteration caused by acts of terrorism under section 420 of the FD&C Act. Facilities may identify actionable process steps using the FDA-identified key activity types as described in proposed § 121.130(a) or conduct their own facility-specific vulnerability assessments as provided in proposed § 121.130(b).
- Identify and implement focused mitigation strategies at each actionable process step to provide assurances that the significant vulnerability at each step will be significantly minimized or prevented and the food manufactured, processed, packed, or held by the facility will not be adulterated (proposed § 121.135).
- Establish and implement procedures, including the frequency with which they are to be performed, for monitoring the focused mitigation strategies (proposed § 121.140).
- Establish and implement corrective action procedures that must be taken if focused mitigation strategies are not properly implemented (proposed § 121.145).
- Verify that monitoring is being conducted and appropriate decisions about corrective actions are being made; verify that the focused mitigation strategies are consistently implemented and are effectively and significantly minimizing or preventing the significant vulnerabilities; and conduct a reanalysis of the food defense plan (proposed § 121.150).
- Ensure that personnel and supervisors assigned to actionable process steps receive appropriate training in food defense awareness and their respective responsibilities in implementing focused mitigation strategies (proposed § 121.160).
- Establish and maintain certain records, including the written food defense plan; written identification of actionable process steps and the assessment leading to that identification; written focused mitigation strategies; written procedures for monitoring, corrective actions, and verification; and documentation related to training of personnel (proposed §§ 121.301 to 121.325).

As proposed, the effective date is 60 days after a final rule is published. However, we are providing for a longer timeline for facilities to come into compliance. Facilities, other than small and very small businesses, would have one year after the effective date to comply with proposed part 121. Small businesses (i.e., those employing fewer than 500 persons) would have 2 years after the effective date to comply with proposed part 121. Very small businesses (i.e., businesses that have less than $10,000,000 in total annual sales of food, adjusted for inflation) would be considered a qualified facility and would have 3 years after the effective date to comply with proposed § 121.5(a).

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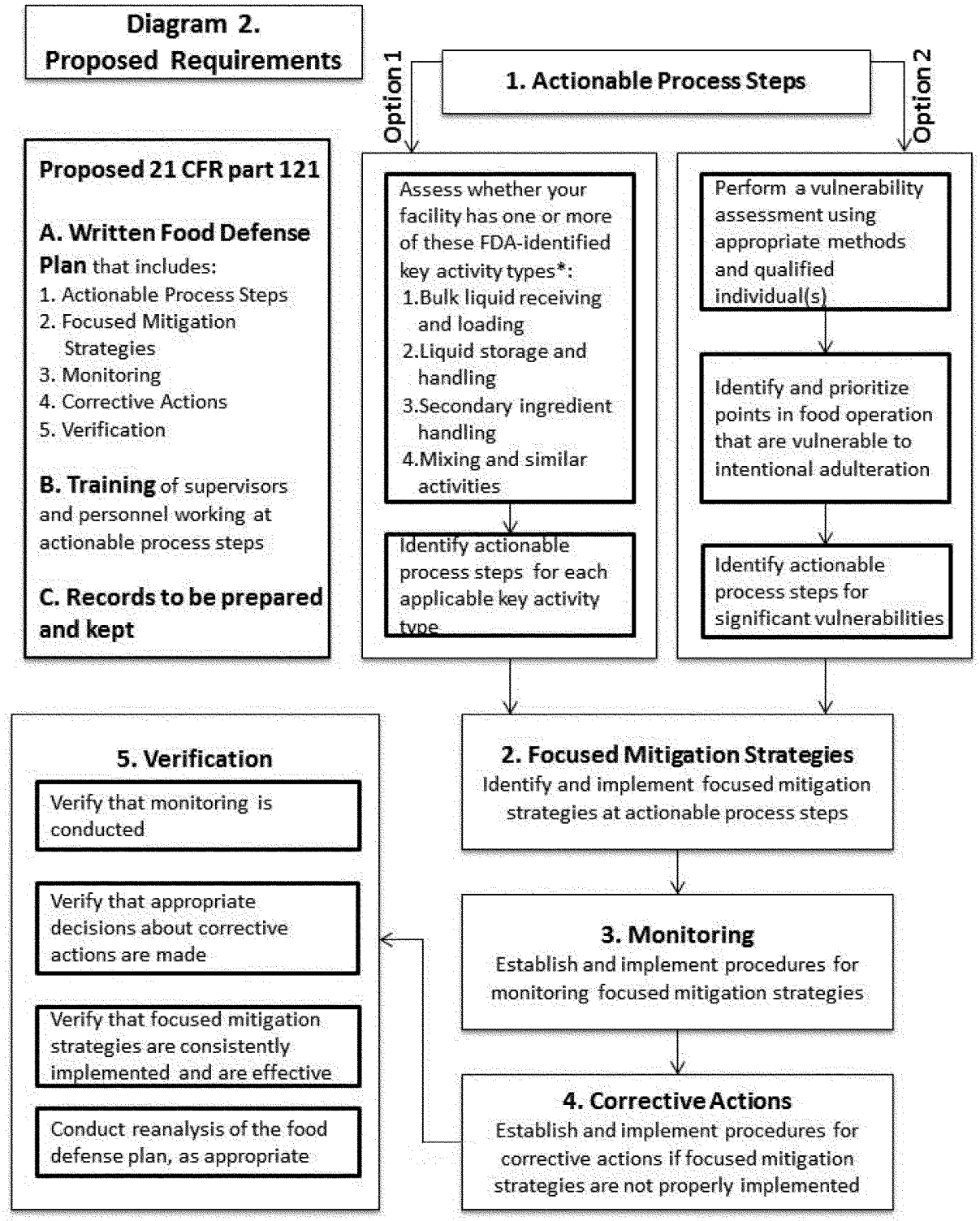

*FDA identified these key activity types using findings of vulnerability assessments of over 50 food products and processes. These activity types commonly rank high in vulnerability based on various factors, including the ability to physically access the food or process and the potential to adulterate a sufficient quantity of product in order to cause massive public health harm.

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In addition, we describe our current thinking and seek comment on other issues, including activities that occur on dairy farms and economically motivated adulteration. Finally, elsewhere in this issue of the **Federal Register**, FDA is publishing for comment its evaluation that identifies low-risk activities that occur at farm mixed-type facilities, with a specific focus on the risk presented by hazards that may be intentionally introduced by acts of terrorism.

Costs and Benefits

As described in the Preliminary Regulatory Impact Analysis (PRIA), we estimate the annualized costs of the actions required by this proposed rule to be about $370 million. The benefits of these actions are a reduction in the possibility of illness, death, and economic disruption resulting from intentional adulteration of food. We are unable to quantify these benefits. However, we monetize the damage that various intentional adulteration scenarios might cause, and present a breakeven analysis showing the number of prevented attacks at which the benefits are larger than the costs.

ANNUALIZED COST AND BENEFIT OVERVIEW

All numbers are USD millions, annualized over 10 years	3% discount	7% discount
Costs:		
Learning about Rule	$3	$3
Mitigation Costs	59	63
Monitoring and Corrective Action	100	100
Employee Training	4	5
Documentation	6	6
Subtotal (Domestic cost)	172	177
Cost to Foreign Firms	185	190
Total	357	367
Benefits: Lower Chance of Intentional Adulteration	Unquantified.	

I. Introduction

The FDA Food Safety Modernization Act (FSMA) (Pub. L. 111–353), signed into law on January 4, 2011, enables FDA to better protect public health by helping to ensure the safety and security of the food supply. FSMA enables us to focus more on preventing food safety problems rather than primarily reacting to problems after they occur. The law also provides us with new enforcement authorities to help us achieve higher rates of compliance with prevention- and risk-based safety standards and to better respond to and contain problems when they do occur. In addition, the law gives us important new tools to better ensure the safety of imported foods and directs us to build an integrated national food safety system in partnership with State, local, tribal, and territorial authorities.

Section 103 of FSMA directs FDA to issue regulations establishing requirements for facilities that manufacture, process, pack or hold food and requires facilities to consider hazards that may be intentionally introduced, including by acts of terrorism. Section 106 of FSMA requires FDA to issue regulations to protect food for which there is a high risk of intentional contamination and for which such intentional contamination could cause serious adverse health consequences or death to humans or animals. In addition, section 105 of FSMA directs FDA to issue regulations setting forth science-based minimum standards for the safe production and harvesting of produce, and requires that the rulemaking consider hazards that may be intentionally introduced, including by acts of terrorism.

Efforts to protect against intentional adulteration require a shift in perspective from that applied to traditional food safety. In proposed rules entitled ''Current Good Manufacturing Practice and Hazard Analysis and Risk-Based Preventive Controls for Human Food'' (78 FR 3646, January 16, 2013) (Docket No. FDA–2011–N–0920; hereafter referred to as ''the PC proposed rule''), ''Current Good Manufacturing Practice and Hazard Analysis and Risk-Based Preventive Controls for Food for Animals'' (78 FR 64736, October 29, 2013) (Docket No. FDA–2011–N–0922; hereafter referred to as ''the Animal Food PC proposed rule''), and ''Standards for the Growing, Harvesting, Packing and Holding of Produce for Human Consumption'' (78 FR 3504, January 16, 2013) (Docket No. FDA–2011–N–0921; hereafter referred to as ''the Produce Safety proposed rule''), FDA tentatively decided not to include requirements to address ''hazards that may be intentionally introduced, including by acts of terrorism'' (sections 418(b)(2) and 419(a)(3)(C) of the FD&C Act (21 U.S.C. 350g(b)(2) and 350h(a)(3)(C))) and to implement sections 103 and 105 of FSMA regarding such hazards in a separate rulemaking (this proposed rule). As noted in those proposed rules, FDA tentatively concluded that intentional adulteration, which is not addressed by traditional Hazard Analysis and Critical Controls Point (HACCP) or other food safety systems, likely will require different kinds of controls. FDA is taking the action described in this proposed rule to implement the intentional adulteration provisions in sections 103, 105, and 106 of FSMA.

II. Background

Intentional adulteration of the food supply can result in catastrophic public health consequences, widespread public fear, loss of public confidence in the safety of food and the ability of government to ensure food safety, and significant adverse economic impacts, including disruption of trade (Ref. 1, Ref. 2, Ref. 3, Ref. 4). Acts of intentional adulteration may take several forms, including acts of terrorism; acts of disgruntled employees, consumers, or competitors; and economically motivated adulteration. Acts of terrorism are associated with an intent to cause massive public health harm and, to a lesser extent, economic disruption (Ref. 5, Ref. 2, Ref. 3, Ref. 6). Acts of disgruntled employees, consumers, or competitors are generally understood to be directed at attacking the reputation of the company and not at public health harm. The primary purpose of economically motivated adulteration is to obtain economic gain, and not to impact public health (Ref. 7, Ref. 8, Ref. 9), although public health harm may occur (Ref. 10, Ref. 11).

''Food defense'' and ''food security'' are terms that are sometimes used interchangeably. We use the term ''food defense'' to refer to the effort to protect food from acts of intentional adulteration where there is an intent to cause public health harm and economic disruption. ''Food security'' is defined by the World Health Organization (WHO) to mean ''when all people at all times have access to sufficient, safe, nutritious food to maintain a healthy and active life'' (Ref. 12). To avoid confusion, we use the term ''food defense'' and not the term ''food security'' in the context of intentional adulteration.

A. Incidents of Intentional Adulteration of Food

Several cases of intentional adulteration with the intent to cause public health harm and economic disruption in the United States have been documented. For example, in 1984, in an attempt to prevent the general public from voting in the local elections, members of a local religious commune in The Dalles, OR, intentionally contaminated food in restaurants with *Salmonella*. A total of 751 people became ill and 45 were hospitalized (Ref. 4). In another incident, in 1996, 12 laboratory workers at a large medical facility in Texas became ill from consuming anonymously donated pastries that were intentionally contaminated with *Shigella dysenteriae* type 2, which was later discovered to have originated from the facility's stock culture (Ref. 13). In 2009, two related incidents resulted in 49 individuals reporting rapid and acute onset of gastrointestinal and neurological symptoms after eating meals at a restaurant in Lenexa, KS. Investigations concluded that the illnesses were caused by methomyl (an insecticide) poisoning associated with the consumption of salsa at the restaurant. Two former employees of the restaurant were found guilty of intentionally contaminating the salsa (Ref. 14).

A widespread incident of economically motivated adulteration occurred in China in 2008. Some Chinese milk firms added melamine, a nitrogen-rich industrial by-product, to diluted dairy products to increase the apparent protein content. This adulteration resulted in significant public health consequences, with more than 290,000 ill infants and 6 deaths in China. In addition, this incident caused significant economic disruption within the Chinese dairy industry, with estimates approaching $3 billion in loss to industry (Ref. 10, Ref. 11).

B. Interagency Approach to Food Defense

1. Homeland Security Presidential Directives and Presidential Policy Directives for the Food and Agriculture Sector

Intelligence gathered since the attacks on the United States on September 11, 2001, indicates that terrorist organizations have discussed contamination of the food supply as a means to harm U.S. citizens and disrupt the global economy (Ref. 15). In response, FDA, along with the Centers for Disease Control and Prevention (CDC), the United States Department of Agriculture (USDA), the Department of Homeland Security (DHS), the Federal Bureau of Investigation (FBI), the Environmental Protection Agency (EPA), the Department of Defense, the Department of Energy, the Department of Commerce, and the Department of the Interior, as well as with State, local, tribal, territorial, and private sector partners have coordinated efforts to prevent, prepare for, and respond to threats against the food supply. Many of these efforts were accomplished in accordance with applicable Homeland Security Presidential Directives (HSPD), specifically HSPD–7, HSPD–8, and HSPD–9, and Presidential Policy Directives (PPD), specifically PPD–8 and PPD–21 (Ref. 16, Ref. 17, Ref. 18, Ref. 19, Ref. 20). In accordance with these directives, FDA, USDA, DHS, State and local governments and the food industry collaborated to conduct vulnerability assessments of a variety of products and processes within the food and agriculture sector.

2. The Evolution of Vulnerability Assessments

Initially, FDA used Operational Risk Management (ORM), which is a vulnerability assessment methodology that uses a six-step sequence of identifying hazards and reducing the potential for negative public health consequences. The ORM process resulted in three main outcomes: (1) A calculation of risk by combining assessments of severity and probability of an attack on a specific food; (2) calculations for specific contaminants and specific food processes or related activities; and (3) a categorization of specific food/contaminant/food process or related activity into a high, medium, or low risk scheme.

At first, ORM-based assessments were focused on reducing large public health consequences of attacks on the food supply. FDA realized that other significant considerations (i.e., large economic disruptions, public alarm, loss of confidence in the food supply, and interruption of the food stream) warranted incorporation into the vulnerability assessment calculus. To incorporate these considerations, FDA and USDA's Food Safety and Inspection Service (FSIS) adapted a military targeting tool known as CARVER to assess vulnerabilities of the food and agriculture sector. CARVER is an acronym for the following six attributes used to evaluate the attractiveness of a target for attack:

- Criticality—measure of public health and economic impacts of an attack;
- Accessibility—ability to physically access and egress from target;
- Recuperability—ability of a system to recover from an attack;
- Vulnerability—ease of accomplishing an attack;
- Effect—amount of direct loss from an attack as measured by loss in production; and
- Recognizability—ease of identifying a target.

A seventh attribute, ''Shock'', was added to the original six attributes to assess the combined health, economic, and psychological impacts of an attack on the food industry. ORM and CARVER+Shock assessment conclusions were consistent; however, the CARVER+Shock methodology improved vulnerability assessment efforts because its process allowed for the identification and estimation of economic and psychological impacts throughout the food system.

In 2005, the Strategic Partnership Program Agroterrorism (SPPA), a public-private cooperative effort was established by FDA, USDA, FBI, and DHS, in partnership with State and industry partners. The intent of the SPPA Initiative was to collect the necessary data to identify food and agriculture sector-specific vulnerabilities using the CARVER+Shock method, develop mitigation strategies, identify research gaps, and increase coordination between government and industry partners. The SPPA initiative ran from 2005 to 2008, resulting in vulnerability assessments of 36 food products and processes (Ref. 21). The SPPA Initiative was a significant step towards identifying vulnerabilities, mitigation strategies, and research needs within the food and agriculture industries. This initiative also provided Federal, State, and local government agencies with an in-depth look at the vulnerabilities that may be associated with the food and agriculture industry, and helped enhance communication among industry, government, and law enforcement

stakeholders concerned with the protection of the U.S. food supply. Since the conclusion of the SPPA Initiative, we have conducted additional vulnerability assessments, which continue to help inform our research and policy.

C. Resources for the Food Sector

FDA has issued guidance documents and developed other resources to assist industry in their efforts to protect the food supply against intentional adulteration. In 2003, FDA issued five guidance documents covering food defense preventive measures for various segments of the food and cosmetic industry: (1) Guidance for Industry: Food Producers, Processors, and Transporters: Food Security Preventive Measures Guidance (Ref. 22); (2) Guidance for Industry: Importers and Filers: Food Security Preventive Measures Guidance (Ref. 23); (3) Guidance for Industry: Dairy Farms, Bulk Milk Transporters, Bulk Milk Transfer Stations and Fluid Milk Processors: Food Security Preventive Measures Guidance (Ref. 24); (4) Retail Food Stores and Food Service Establishments: Food Security Preventive Measures Guidance (Ref. 25); and(5) Cosmetics Processors and Transporters of Cosmetics Security Preventive Measures Guidance (Ref. 26). These guidance documents provide FDA's recommendations for best practices in food defense, and describe preventive measures that establishments can take to minimize the risk of intentional adulteration of food. We updated the guidance documents in 2007 to include a self-assessment tool that guides the user through an assessment of recommended preventive measures to identify those most applicable to the facility.

FDA also has made available other resources to help industry identify and mitigate potential vulnerabilities for intentional adulteration. These include:

- The ''ALERT'' program,
- The ''Employees FIRST'' training tool,
- The ''CARVER+Shock Vulnerability Assessment'' software tool,
- The ''Mitigations Strategies Database,''
- The ''Food Defense Plan Builder'' software tool,
- The Food Related Emergency Exercise Bundle, and
- The ''Food Defense 101'' training courses.

We describe each briefly in this section of the document.

The ALERT program, originally released in 2006, is an educational program intended to raise the awareness of State and local governments and industry regarding food defense (Ref. 27). ALERT identifies five key elements that industry can use in food defense planning:

- A—How do you ASSURE that the supplies and ingredients you use are from safe and secure sources?
- L—How do you LOOK after the security of the products and ingredients in your facility?
- E—What do you know about your EMPLOYEES and people coming in and out of your facility?
- R—Could you provide REPORTS about the security of your products while under your control?
- T—What do you do and who do you notify if you have a THREAT or issue at your facility, including suspicious behavior?

Similarly, the Employees FIRST educational tool, originally released in 2008, is a food defense awareness training program for front-line food industry workers about the risk of intentional adulteration and the actions they can take to identify and reduce these risks (Ref. 28). This tool identifies the following five key elements:

- F—Follow company food defense plan and procedures;
- I—Inspect your work area and surrounding areas;
- R—Recognize anything out of the ordinary;
- S—Secure all ingredients, supplies, and finished product; and
- T—Tell management if you notice anything unusual or suspicious.

The CARVER+Shock Vulnerability Assessment software tool, originally released in 2007, helps users conduct vulnerability assessments for their establishments to identify and prioritize the ''critical nodes,'' (also known as critical process steps) the potential targets vulnerable to intentional adulteration attacks (Ref. 29). It guides users through a series of questions to determine the vulnerability of each of the nodes within their facility. After the vulnerabilities are identified, the software helps users to identify mitigation strategies for reducing the risk of intentional adulteration. Using the software tool, the user can focus resources on protecting the most susceptible points in their system.

The Mitigation Strategies Database (MSD), originally released in 2011, is a database of mitigation strategies that can be applied to different steps in a food operation to reduce the risk of intentional adulteration (Ref. 30). The database is searchable by key words and processing steps common to agriculture and food operations (e.g., growing, harvesting, packing, manufacturing, processing, and holding). See also the discussion in section V.C.3 of this document.

The Food Defense Plan Builder (FDPB) software tool, released in 2013, is a user-friendly computer software program designed to assist owners and operators of food facilities in developing food defense plans for their facilities (Ref. 31). In addition to providing new functionality for food defense planning and implementation, the FDPB software tool harnesses our food defense guidance documents, CARVER+Shock Vulnerability Assessment software tool, and the MSD into a single application.

The Food Related Emergency Exercise Bundle (FREE–B), which FDA released in 2011 and developed in collaboration with CDC and FSIS and USDA's Animal and Plant Health Inspection Service (APHIS), is a compilation of scenarios based on both intentional and unintentional food contamination events. The FREE–B is designed to assist the food industry, government regulatory agencies, and public health organizations in assessing existing food emergency response plans, protocols, and procedures (Ref. 32). The FREE–B tool is designed to allow an individual agency or industry entity to test its own plans, protocols, and procedures independently. Additionally, the tool allows multiple jurisdictions and organizations (e.g., medical community, private sector, law enforcement, and first responder communities) to jointly conduct exercises. The tool is a set of five scenarios, each of which contains a Facilitator's Guide, a Lead Planner's guide, and a Situation Manual.

Finally, our food defense training courses, entitled ''Food Defense 101'' and released in 2013, reflect FDA's current thinking on how to minimize the likelihood and impact of incidents of intentional adulteration (Ref. 27). Four courses integrated into one module include: (1) Food Defense Awareness for Professionals, (2) Food Defense Awareness for Frontline Employees, (3) FDA Regulations, and (4) ALERT for owners and operators of food facilities. The ALERT program is described previously. The other programs are described in section V.C.7 of this document.

D. Outreach

We have conducted food defense awareness outreach to international and domestic stakeholders. Beginning in 2008, under the auspices of the Asia-Pacific Economic Cooperation (APEC), we collaborated with the U.S. Department of State, USDA's Foreign Agricultural Service, and FSIS to launch the Food Defense Pilot Program for the

APEC member countries. The Pilot Program was developed with the intent to implement the food defense principles endorsed by the APEC Counter Terrorism Task Force. The goal of the program was to build and foster global capacity to prevent and protect against deliberate tampering and intentional contamination of the food supply through information sharing, outreach, and technical assistance on food defense, thereby safeguarding food trade and public health across the APEC member countries. In addition, to support the international capacity building goals of FSMA, we conducted several workshops in various countries to discuss topics such as increasing food defense awareness, developing food defense plans, conducting vulnerability assessments, and implementing mitigation strategies.

In 2013, we increased our domestic outreach activities with a series of workshops in the United States. Using a similar format and agenda as the international workshops, we conducted 1-day food defense awareness workshops to provide industry, State and local governments, and academic partners with information on food defense, and share tools and resources. During these workshops, we shared information on how to use the new FDPB software tool to develop a comprehensive food defense plan. These workshops also served as a forum to discuss food defense concerns, understand industry's current practices, and share ideas for collaboration to better protect the food supply against intentional adulteration. We plan to continue to hold additional workshops in 2014.

E. Industry Standards

Guidelines accompanying industry standards in the United States have addressed intentional adulteration of food. For example, the Global Food Safety Initiative's (GFSI) Guidance Document Sixth Edition (Ref. 33) addresses food defense. Some organizations that own and manage industry standards have worked or are working to incorporate food defense requirements into their standards to meet this GFSI guideline. For example, the Safe Quality Foods (SQF) Code, edition 7.1, issued in 2013, is a process and product certification standard that specifies various food defense elements, including that the methods, responsibility, and criteria for preventing food adulteration caused by a deliberate act of sabotage or terrorist-like incident shall be documented, implemented and maintained (Ref. 34). Another example of industry standards that incorporate food defense elements is the International Featured Standards (IFS) Food Version 6 Standard, which specifies that areas critical to security be identified, food defense hazard analysis and assessment of associated risks be conducted annually or upon changes that affect food integrity, and an appropriate alert system be defined and periodically tested for effectiveness (Ref. 35).

F. International Food Defense Guidelines

In 2008, WHO issued its ''Terrorist Threats to Food—Guidelines for Establishing and Strengthening Prevention and Response Systems'' to provide policy guidance to its Member States for integrating consideration of deliberate acts of sabotage of food into existing prevention and response programs (Ref. 6). WHO uses the term ''food terrorism'' and defines it as ''an act or threat of deliberate contamination of food for human consumption with biological, chemical and physical agents or radionuclear materials for the purpose of causing injury or death to civilian populations and/or disrupting social, economic or political stability.'' Focusing on the two key strategies of prevention and response, WHO recommends that all segments of the food industry consider the development of security and response plans for their establishments, proportional to the threat and their resources. The guidelines state that the key to preventing food terrorism is enhancing existing food safety programs and implementing reasonable security measures on the basis of vulnerability assessments. The guidelines further state that the most vulnerable foods, food ingredients, and food processes should be identified, including: the most readily accessible food processes; foods that are most vulnerable to undetected tampering; foods that are the most widely disseminated or spread; and the least supervised food production areas and processes.

Other national governments, including Australia, China, France, Germany, and the United Kingdom, also have issued guidelines to assist their food industry stakeholders in protecting food against intentional adulteration (Ref. 5, Ref. 36, Ref. 37, Ref. 38, Ref. 39).

III. Legal Authority

FDA is proposing this regulation under the FD&C Act as amended by FSMA. Under sections 103 and 106 of FSMA, FDA is proposing the requirements applicable to the owner, operator, or agent in charge of a facility required to register under section 415 of the FD&C Act. Under section 106 of FSMA, FDA is proposing the requirements applicable to activities at some facilities not covered by section 103 of FSMA (i.e., activities subject to and in compliance with the juice and seafood HACCP regulations in parts 120 and 123 (21 CFR parts 120 and 123) and the manufacturing, processing, packing, or holding of a dietary supplement in compliance with certain requirements). Under section 701(a) of the FD&C Act (21 U.S.C. 371(a)), FDA is authorized to issue regulations for the efficient enforcement of the FD&C Act.

A. Section 103 of FSMA

Section 103 of FSMA, Hazard Analysis and Risk-Based Preventive Controls, amends the FD&C Act to create a new section 418 that mandates rulemaking. Section 418(n)(1)(A) of the FD&C Act requires that the Secretary of Health and Human Services issue regulations ''to establish science-based minimum standards for conducting a hazard analysis, documenting hazards, implementing preventive controls, and documenting the implementation of the preventive controls . . ..'' Section 418(n)(1)(B) of the FD&C Act requires that the regulations define the terms ''small business'' and ''very small business,'' taking into consideration the study of the food processing sector required by section 418(l)(5) of the FD&C Act. Further, section 103(e) of FSMA creates a new section 301(uu) in the FD&C Act (21 U.S.C. 331(uu)) to prohibit ''[t]he operation of a facility that manufactures, processes, packs, or holds food for sale in the United States if the owner, operator, or agent in charge of such facility is not in compliance with section 418 [of the FD&C Act].''

In addition to rulemaking requirements, section 418 of the FD&C Act contains requirements applicable to the owner, operator, or agent in charge of a facility required to register under section 415 of the FD&C Act. Section 418(a) of the FD&C Act is a general provision that requires the owner, operator, or agent in charge of a facility to evaluate the hazards that could affect food manufactured, processed, packed, or held by the facility, identify and implement preventive controls, monitor the performance of those controls, and maintain records of the monitoring. In addition to the general requirements in section 418(a) of the FD&C Act, sections 418(b) to (i) of the FD&C Act contain more specific requirements applicable to facilities, including several provisions explicitly directed at intentional adulteration. For example, section 418(b)(2) of the FD&C Act specifies that the owner, operator, or

agent in charge of a facility shall identify and evaluate hazards that may be intentionally introduced, including by acts of terrorism. Section 418(c)(2) of the FD&C Act specifies that the owner, operator, or agent in charge of a facility shall identify and implement preventive controls to provide assurances that any hazards that relate to intentional adulteration will be significantly minimized or prevented and addressed, consistent with section 420 of the FD&C Act. In sections IV and V of this document, we discuss proposed requirements (proposed subparts C and D of part 121) that would implement these provisions of section 418 of the FD&C Act.

Sections 418(j) to (m) of the FD&C Act and sections 103(c)(1)(D) and (g) of FSMA provide authority for certain exemptions and modifications to the requirements of section 418 of the FD&C Act. These include provisions related to seafood and juice HACCP, and low-acid canned food (section 418(j) of the FD&C Act); activities of facilities subject to section 419 of the FD&C Act (Standards for Produce Safety) (section 418(k)); qualified facilities (section 418(l)); facilities that are solely engaged in the production of food for animals other than man, the storage of raw agricultural commodities (other than fruits and vegetables) intended for further distribution or processing, or the storage of packaged foods that are not exposed to the environment (section 418(m)); facilities engaged only in certain low-risk on-farm activities on certain foods conducted by small or very small businesses (section 103(c)(1)(D) of FSMA), and dietary supplements (section 103(g) of FSMA). In sections IV and V of this document, we discuss the related proposed provisions that would implement these provisions of section 418 of the FD&C Act and section 103 of FSMA.

B. Section 106 of FSMA

Section 106 of FSMA, Protection Against Intentional Adulteration, amends the FD&C Act to create a new section 420, which mandates rulemaking. Section 420 of the FD&C Act requires FDA to issue regulations to protect against the intentional adulteration of food. Section 420(b)(1) of the FD&C Act requires that such regulations are to specify how a person is to assess whether the person is required to implement mitigation strategies or measures intended to protect against the intentional adulteration of food. Section 420(b)(2) of the FD&C Act requires that the regulations specify appropriate science—based mitigation strategies or measures to prepare and protect the food supply chain at specific vulnerable points, as appropriate. Section 420(c) of the FD&C Act provides that such regulations are to apply only to food for which there is a high risk of intentional adulteration and for which such intentional adulteration could cause serious adverse health consequences or death to humans or animals. Section 420(c)(1) provides that such foods are to include those for which FDA has identified clear vulnerabilities. Section 420(d) of the FD&C Act limits applicability on farms to farms that produce milk. Further, section 106(d) of FSMA creates a new section 301(ww) in the FD&C Act to prohibit ''[t]he failure to comply with section 420 [of the FD&C Act].'' We are proposing all of the provisions under section 420 of the FD&C Act.

C. Intrastate Activities

FDA tentatively concludes that the provisions in the proposed rule should be applicable to activities that are intrastate in character. Facilities are required to register under section 415 of the FD&C Act regardless of whether the food from the facility enters interstate commerce (§ 1.225(b)). The plain language of section 418 of the FD&C Act applies to facilities that are required to register under section 415 of the FD&C Act (section 418(o)(2)) and does not exclude a facility because food from such a facility is not in interstate commerce. Similarly, the plain language of section 420 of the FD&C Act requires FDA to issue regulations to protect against the intentional adulteration of food and does not include a limitation to interstate commerce. Further, the prohibited act provisions in sections 301(uu) and (ww) of the FD&C Act (21 U.S.C. 331(uu) and (ww)) do not require an interstate commerce nexus. Notably, other subsections in section 301 of the FD&C Act, and section 304 of the FD&C Act (21 U.S.C. 334) demonstrate that Congress has included a specific interstate commerce nexus in the provisions of the FD&C Act when that is its intent. Accordingly, it is reasonable to interpret sections 418, 420, 301(uu) and (ww) of the FD&C Act as not limiting the application of the proposed rule only to those facilities with a direct connection to interstate commerce. However, we seek comment on this interpretation and potential alternatives.

IV. Regulatory Approach

A. Framework of the Rule

This proposed regulation implements three provisions of FSMA that relate to the intentional adulteration of food. Section 103 of FSMA addresses intentional adulteration in the context of facilities that manufacture, process, pack, or hold food and are required to register under section 415 of the FD&C Act. Section 105 of FSMA addresses intentional adulteration in the context of fruits and vegetables that are raw agricultural commodities. Section 106 of FSMA addresses intentional adulteration in the context of high risk foods and exempts farms except for farms that produce milk.

1. Scope of Intentional Adulteration Covered by this Rule

As noted in section I of this document, acts of intentional adulteration may take several forms, including: (1) Acts of terrorism; (2) acts of disgruntled employees, consumers, or competitors; and (3) economically motivated adulteration. With regard to intentional adulteration from acts of terrorism, we are proposing to require certain facilities covered by this rule to address significant vulnerabilities by implementing focused mitigation strategies at actionable process steps. While we refer to the protection of the food supply from ''acts of terrorism'' throughout this rule, we expect our proposed approach and the proposed implementation of focused mitigation strategies would generally address acts intended to cause massive public health harm and, to a lesser extent, economic disruption, whether committed by terrorists, terrorist organizations, individuals, or groups of individuals. For the reasons described in section IV.E of this document, we have tentatively concluded not to propose additional requirements for the protection of food against intentional adulteration caused by acts of disgruntled employees, consumers, or competitors. We describe our approach to address economically motivated adulteration in section IV.F of this document, and seek comment on our current thinking on this issue.

2. Identification of Key Activity Types

Terrorist attacks on the U.S. food supply have been exceedingly rare. However, vulnerability assessments performed by FDA, USDA, DHS, and FBI, under the SPPA Initiative (Ref. 21), show that an attack could have devastating public health and economic consequences. Because such an attack is a low probability but potentially exceedingly high consequence event, we have tentatively determined that requirements should focus on those facilities and process steps within those facilities that pose the greatest risk. To

assess this risk, FDA and USDA, in collaboration with DHS, FBI, and State and local government and industry partners, performed vulnerability assessments using the CARVER+Shock methodology. This methodology is specifically tailored to assess the risk of a terrorist attack and is different from an assessment of risk posed by food safety hazards (i.e., unintentional adulteration).

As discussed in section V.C.2 of this document, based on an analysis of the vulnerability assessments that FDA has conducted using the CARVER+Shock methodology, we have identified four key activity types: Bulk liquid receiving and loading; Liquid storage and handling; Secondary ingredient handling; and Mixing and similar activities. FDA has tentatively determined that the presence of one or more of these key activity types at a process step (e.g., manufacturing, processing, packing, or holding of food) indicates a significant vulnerability under section 418 of the FD&C Act and that the food is at high risk of intentional adulteration caused by acts of terrorism under section 420 of the FD&C Act. We seek comment on the inclusion of these key activity types.

Designation of these key activity types would serve two purposes. First, it would provide a facility with a means to assess whether it is required to implement focused mitigation strategies or measures intended to protect against intentional adulteration under section 420(b)(1) of the FD&C Act. Second, it would assist a facility subject to section 418 of the FD&C Act with the performance of a hazard analysis to identify and evaluate hazards that may be intentionally introduced by acts of terrorism, in accordance with section 418(b)(2).

Facilities would be able to determine whether their operations involve one or more of the key activity types or choose to perform a vulnerability assessment. Our experience is that the most challenging part of developing a system of controls for intentional adulteration related to terrorism is identifying the points in the food operation that are most vulnerable to attack by performing a vulnerability assessment. By using the FDA-identified key activity types, facilities would be able to concentrate their efforts on the identification of appropriate focused mitigation strategies and the development and implementation of the HACCP-type system for ensuring that those strategies are consistently and effectively implemented.

3. Requirement for a HACCP-Type System of Controls

We have tentatively concluded that a preventive controls approach like the one we proposed for the systematic control of food safety hazards in the PC proposed rule is the most effective means of ensuring that the focused mitigation strategies are consistently applied once the significant vulnerabilities are identified and appropriate focused mitigation strategies are developed. The evolution and advantages of this system, derived from the HACCP methodology, is discussed in detail in section II.C of the PC proposed rule. The application of HACCP-type controls for ensuring the implementation of food defense mitigation strategies is consistent with the approach taken in Publicly Available Specification (PAS) 96, developed by the Centre for the Protection of National Infrastructure in collaboration with the British Standards Institution, entitled ''The Threat Assessment Critical Control Point (TACCP) Approach'' (Ref. 5). It is also consistent with WHO recommendations on protection against intentional adulteration (Ref. 6). We request comment on the appropriateness of a HACCP-type system to ensure that mitigation strategies designed to significantly minimize or prevent intentional adulteration related to terrorism and whether there are approaches that would be more suitable.

Section 418 of the FD&C Act exempts several kinds of activities (e.g., those related to seafood, juice, dietary supplements, low-acid canned food [for certain microbiological hazards]). These activities are subject to preventive control-type regulations that address food safety, but not food defense, concerns. Section 420 of the FD&C Act instructs FDA to issue regulations to require that science-based mitigation strategies or measures be applied to foods that are at high risk of intentional adulteration. The exemptions set out in section 418 of the FD&C Act are not applicable to the provisions of section 420 of the FD&C Act. We also have tentatively determined that some activities that are not subject to section 418 of the FD&C Act that involve manufacturing, processing, packing, or holding of food are likely to involve one of the key activity types (e.g., juice manufacturing, breaded seafood manufacturing, and mixing activity in a low-acid canned food process). Based on our tentative conclusion that the HACCP-type system in section 418 of the FD&C Act is generally appropriate for application to intentional adulteration related to terrorism, this same system would be required for these activities. Applying the same regulatory framework under sections 418 and 420 of the FD&C Act would facilitate a concise and consistent approach to protection against intentional adulteration of food and the efficient enforcement of the requirements. Further, this approach would be consistent with the approach for unintentional adulteration that many of these facilities (those subject to section 418 of the FD&C Act relative to the control of food safety hazards) would already be required to take for unintentional hazards under the PC proposed rule.

We acknowledge that regulation of entities in the food production system (in this case, facilities) to reduce the risk of intentional adulteration of food caused by acts of terrorism is, essentially, without precedent. Such an endeavor is further complicated by the low probability and potentially high impact nature of such an attack which makes estimating potential public health benefits and establishing an appropriate threshold for requiring action difficult. We are further challenged by the paucity of data on the extent to which facilities have already implemented programs to mitigate this risk, and the effectiveness of various strategies to prevent intentional adulteration of food caused by acts of terrorism.

In developing this proposed rule we have relied on our experience in both implementing preventive control schemes targeting unintentional food safety hazards as well as working with the U.S. intelligence community on the threat of a terrorist attack on the food and agriculture sector, including performing vulnerability assessments and developing guidance for industry. While these activities have provided us with a useful foundation on which to develop this proposed rule, the challenges described previously remain. We request comment on our proposed approach, including on the following issues:

- From which entities would implementation of measures to protect against intentional adulteration derive the greatest benefit to public health protection? How could this proposed regulation be modified to better target such entities?
- Would it be feasible to require measures to protect against intentional adulteration only in the event of a credible threat? If so, would such an approach be consistent with the intentional adulteration provisions of FSMA? How would such requirements

be communicated to industry in a timely and actionable manner?

- What is an appropriate level of public health protection with respect to intentional adulteration, considering the intentional adulteration provisions of FSMA?
- Are there other ways to further focus the scope of the rule (see also section IV.I of this document)?

4. Compliance Dates

Section 103(i)(1) of FSMA, General Rule, provides that ''[t]he amendments made by this section shall take effect 18 months after the date of enactment'' (i.e., by July 4, 2012). Section 103(i)(2) of FSMA, Flexibility for Small Businesses, provides that ''[n]otwithstanding paragraph (1),'' the amendments made by this section ''shall apply'' to a small business and very small business beginning on the date that are 6 months and 18 months, respectively, ''after the effective date'' of FDA's final regulation. Section 106 of FSMA does not contain similar language. FDA is implementing the amendments made by sections 103 and 106 of FSMA to the FD&C Act, as they relate to intentional adulteration, through this rulemaking.

We have tentatively concluded that it is appropriate to provide a sufficient time period following publication of the final regulation for facilities to come into compliance with proposed part 121. FDA recognizes that it can take time to develop and implement a food defense plan that would require, among other things, identification of actionable process steps, implementation of focused mitigation strategies, and monitoring of focused mitigation strategies.

FDA is proposing that the final rule would be effective 60 days after publication in the **Federal Register**, with staggered compliance dates, consistent with the proposed effective dates in the PC proposed rule and Produce Safety proposed rule. Similarly, we recognize that businesses of all sizes may need more time to comply with the new requirements established under FSMA. As noted in section VII of the PC proposed rule, FDA believes that it is reasonable to allow for 1 year after the date of publication of the final rule for businesses other than small and very small businesses to come into compliance with the new requirements established under FSMA. FDA also believes that it is reasonable to allow for 2 years after the date of publication of the final rule for small businesses to come into compliance with the new requirements established under FSMA, and 3 years after the date of publication of the final rule for very small businesses to come into compliance with the new requirements established under FSMA.

Therefore, as proposed, facilities, other than small and very small businesses, that are subject to part 121 would have 1 year after the effective date to comply with proposed part 121. Small businesses would have 2 years after the effective date to comply with proposed part 121 (see section V.A of this document for a discussion of the proposed definition of a ''small business''). With respect to very small businesses, we are proposing to exempt qualified facilities, which include very small businesses, from the requirements of proposed part 121, except that such facilities must, upon request, provide for official review documentation that was relied upon to demonstrate that the facility meets this exemption. Very small businesses then would have 3 years after the effective date to comply with proposed § 121.5(a). FDA intends to work closely with the food industry, extension and education organizations, and State partners to develop any necessary additional tools and training programs needed to facilitate implementation of this rule.

B. Activities That Occur on Produce Farms

Section 419 of the FD&C Act requires FDA to issue regulations to establish science-based minimum standards for the safe production and harvesting of fruits and vegetables. In developing these regulations, the Act requires us to consider, among others, those hazards that may be intentionally introduced, including by acts of terrorism (section 419(a)(3)(C) and (c)(1)(A) of the FD&C Act). Note that neither section 418 of the FD&C Act nor section 420 of the FD&C Act apply to these activities. Section 420 of the FD&C Act specifically exempts farms, except those that produce milk, and section 418 of the FD&C Act exempts activities of facilities subject to section 419 of the FD&C Act.

In implementing section 419 of the FD&C Act, we considered the risks posed by a terrorist attack on the kinds of activities that occur on produce farms. We considered those activities that fall within the definition of ''farm'' (as defined in 21 CFR 1.227) (e.g., planting, tilling, irrigating, treating with pesticides, harvesting, drying for purposes of storing or transporting, hydro-cooling, packing, refrigerating, waxing, shelling, sifting, removing leaves, stems and husks, culling, shelling, and washing). We utilized data gathered from vulnerability assessments that we conducted employing the CARVER+Shock methodology, and evaluated whether activities that occur on produce farms pose significant vulnerabilities (Ref. 40).

Our evaluation found that activities that are typically performed on produce farms are at relatively low risk for intentional adulteration of food from acts of terrorism (Ref. 40). Based on this evaluation, we have tentatively concluded that requirements for produce farms are not necessary to minimize the risk of serious adverse health consequences or death from this type of adulteration. Further, we have tentatively concluded that requirements relating to this form of adulteration are not reasonably necessary to prevent the introduction of known or reasonably foreseeable hazards and to provide reasonable assurances that the produce is not adulterated under section 402 of the FD&C Act. For these reasons, we are not proposing requirements for produce farms to specifically address intentional adulteration related to terrorism. We seek comment on this tentative conclusion and our analysis that informed this tentative decision.

We acknowledge that there may be activities that occur on produce farms for which we are not proposing requirements that are similar to off-farm activities for which we are proposing to require the implementation of focused mitigation strategies. However, there are aspects of the specific on-farm activities that minimize the risk for intentional adulteration caused by acts of terrorism. For example, waxing is an on-farm activity that is similar to coating and that fits within one of the key activity types. However, there are key differences that make an on-farm waxing operation less vulnerable compared to a coating operation. With waxing, there is difficulty of mixing a contaminant into a clear, heated wax in a tank in close proximity to the busy packing line in an on-farm packing house. Conversely, a coating operation involves an opaque, ambient or refrigerated, aqueous coating mix in a tank and occurs in a relatively isolated part of the manufacturing plant. In addition, the uncertainty about whether the produce leaving the farm is destined for direct consumption or for further processing, such as removal of the wax, which could inactivate or remove any contaminant intentionally added, makes it a relatively less likely target for intentional adulteration.

C. Transportation Carriers

One of the key activity types that we have tentatively determined indicates a significant vulnerability to intentional adulteration caused by acts of terrorism

is Bulk liquid receiving and loading. As proposed, receiving and loading of other types of foods (e.g., non-bulk liquids, solid foods, gaseous foods) are not identified as key activity types because we determined that they do not present this same level of risk. By requiring that shippers and receivers of bulk liquids implement focused mitigation strategies at actionable process steps involving this key activity, as proposed in § 121.135(a), we expect that shippers and receivers will institute focused mitigation strategies that will significantly minimize or prevent the potential for intention adulteration of these foods during transportation. Such mitigation strategies may include sealing or locking outbound conveyances of bulk liquid, or requiring that inbound conveyances be sealed or locked as a condition of receipt of the bulk liquid. Where such measures are implemented by the shippers and receivers of bulk liquids, we have tentatively concluded that the food would be sufficiently protected from intentional adulteration caused by acts of terrorism, and that no further actions by a carrier would be needed to ensure the safety of the food. For this reason, we are not proposing to cover transportation carriers in this proposed rule. We request comment on our analysis of this issue, and our tentative conclusion.

Note that FDA will issue a proposed rule in the near future related to transportation carriers and sanitary transportation practices.

D. Food for Animals

As discussed in section V.B.6 of this document, we are proposing to exempt the manufacturing, processing, packing, and holding of animal food from this proposed regulation with respect to intentional adulteration caused by acts of terrorism.

E. Acts of Disgruntled Employees, Consumers, or Competitors

While the goals and outcomes of acts of disgruntled employees, consumers or competitors can overlap with acts of terrorism, generally, the distinction has to do with differences in scale. Disgruntled employees are generally understood to be interested primarily in attacking the reputation of the company, and otherwise have little interest in public health harm. On the other hand, terrorist organizations are generally understood to be interested in maximizing public health harm and, to a lesser extent, economic disruption (Ref. 5, Ref. 6).

Section 420(c) of the FD&C Act requires that the regulation prepared under that section apply to ''food for which there is a high risk of intentional contamination.'' In the spectrum of risk associated with intentional adulteration of food, attacks perpetrated by terrorist organizations intent on causing massive casualties and, to a lesser extent, economic disruption would be ranked as relatively high risk. On the other hand, attacks by disgruntled employees, consumers, or competitors would be consistently ranked as relatively low risk; although these events occur annually, their public health and economic impact would be generally quite small. In general, the target food and the point in its production are those of convenience (i.e., a point to which the employee, consumer, or competitor has ready access). Should a disgruntled employee, consumer, or competitor choose to attack at an actionable process step, where the adverse public health and economic consequences could be greater, the provisions of this proposed rule would be effective in minimizing the opportunity for success. Actions taken to mitigate the potential for a terrorist attack against the food supply are likely to have collateral benefits in reducing the potential for an attack by a disgruntled employee, consumer, or competitor (as well as on other security related issues, such as theft and vandalism). As a practical matter, hardening the food supply (i.e., reducing the opportunity for attack) to attacks by disgruntled employees, consumers, or competitors could require taking steps at many more points in the food system than would be required to harden the food supply to minimize the potential for terrorist attack. We have tentatively concluded that the latter can be accomplished by focusing on those points in the food system where an attack would be expected to cause massive adverse public health impact, and, to a lesser extent, economic disruption.

F. Economically Motivated Adulteration

Efforts to protect against intentional adulteration require a shift in perspective from that applied to traditional food safety. In the PC, Animal Food PC, and Produce Safety proposed rules, we tentatively concluded that hazards associated with intentional adulteration, which are not addressed in traditional HACCP or other food safety systems, likely will require different kinds of controls, and would be best addressed in a separate rulemaking (this proposed rule). However, we also explained how in some circumstances economically motivated adulteration could be viewed as reasonably likely to occur. Further, we requested comment on where to address those hazards that may be intentionally introduced for economic gain. After additional consideration, we present our current thinking in this section of the document.

For facilities subject to section 418 of the FD&C Act, we have tentatively concluded that economically motivated adulteration would be best addressed under the regulatory regime described in the PC and Animal Food PC proposed rules and thus best addressed in those rulemakings. Before we decide to finalize provisions on economically motivated adulteration in the PC and Animal Food PC final rules, FDA plans to provide new language and an analysis of costs associated with these provisions, and seek comment. Under this approach, the owner, operator, or agent in charge of a covered facility would be required to perform a hazard analysis to identify those hazards related to economically motivated adulteration that are reasonably likely to occur. Economically motivated adulteration could be reasonably likely to occur, for example, when obtaining certain ingredients from a country in which economically motivated adulteration has occurred in those ingredients in the past. Because of past incidents regarding the addition of melamine to certain food products apparently to enhance perceived quality and/or protein content, even if there is no known history regarding the specific supplier or the specific food product, a prudent person would implement preventive controls to address the potential presence of this hazard in a food. The goal of the perpetrator of economically motivated adulteration is for the adulterant to be undetected in the product, so that the perpetrator can continue to obtain the desired economic benefits (Ref. 7, Ref. 9). Accordingly, unlike with acts of terrorism, such occurrences of economic adulteration are expected to be long term, and would not be appropriately viewed as a rare occurrence, but rather as reasonably likely to occur.

We have tentatively concluded that this hazard-analysis type approach is better suited to address economically motivated adulteration than the vulnerability assessment-type approach we are proposing to address intentional adulteration related to terrorism. In the latter approach, which we are not proposing, significant vulnerabilities would be identified based either on the presence of key activity types (which reflect FDA-conducted vulnerability assessments) or facility-specific vulnerability assessments. Under a vulnerability assessment-type approach,

the assessment would need to consider the degree to which a food is a likely target for economically motivated adulteration based on the attributes of the food (such as the nature of the food, its production system, and its supply chain) and the capabilities of a perpetrator (such as availability and access to adulterants that can be readily disguised and undetected by currently accepted testing methods). Factors to consider could include previous occurrences of economically motivated adulteration; a highly complex supply chain; sudden changes in commodity prices; known inadequacies in identification and assay testing methods for potential adulterants; a highly complex and variable food ingredient; the widespread availability of a potential adulterant; the lack of organoleptic properties of a potential adulterant; the high cost or scarcity of an ingredient; and variation in the value of a food based on variations in levels of a high value attribute of that food. The nature of economically motivated adulteration makes it difficult to identify all relevant factors to be considered in a vulnerability assessment to predict when novel events of economic adulteration are expected to occur. Moreover, predictive tools such as CARVER+Shock are not currently configured to assess the risk of economically motivated adulteration, nor have extensive vulnerability assessments for economically motivated adulteration in food products been conducted by FDA or others. Therefore, we believe the most appropriate framework to assess the risk of economically motivated adulteration is to consider whether it is reasonably likely to occur (such as whether it has occurred under similar circumstances with some regularity in the past) as part of a hazard analysis.

Under this approach, facilities subject to section 418 of the FD&C Act would be expected to implement controls against economically motivated adulteration under circumstances where there has been a pattern of such adulteration in the past, even though the past occurrences may not be associated with the specific supplier or the specific food product but the pattern suggests a potential for intentional adulteration. Further, a system of monitoring, corrective action, verification, and recordkeeping that is similar to those in the PC and Animal Food PC proposed rules would be appropriate for economically motivated adulteration. In addition, the elements of a preventive control system, including hazard analysis, preventive controls, monitoring, corrective actions, verification, and recordkeeping would be documented in a food safety plan that would include control of economically motivated adulteration. We believe that addressing both of these potential sources for contamination within the same framework is likely to streamline requirements and reduce costs to industry.

We seek comment on our tentative conclusions presented above. Specifically, we are interested in information on the specific factors that are most relevant for determining whether economically motivated adulteration is reasonably likely to occur, particularly in instances where the specific product or supplier has not been previously associated with such adulteration. In addition, we seek comment on whether and how these relevant factors may be used to develop appropriate predictive tools or establish a standard for when preventive controls are necessary.

Section 418 of the FD&C Act contains certain exemptions related to compliance with FDA's seafood and juice HACCP regulations and with regard to manufacturing, processing, packing or holding dietary supplements that are in compliance with the requirements of sections 402(g)(2) and 761 of the FD&C Act. Section 420 of the FD&C Act does not contain these exemptions and requires FDA to issue regulations to protect against the intentional adulteration of food. Seafood and juice are currently subject to HACCP-type regulations in §§ 123 and 120, respectively, and our current thinking is that under section 420 economically motivated adulteration could be addressed through the existing frameworks for these foods. Under this option, FDA would amend the seafood and juice HACCP regulations to specify that economically motivated adulteration is a hazard that must be considered in a hazard analysis of these foods, and addressed in a HACCP plan. For example, for seafood, we could propose to add ''economically motivated adulteration that could result in serious adverse health consequences or death'' to the list of hazards to be considered in a hazard analysis in accordance with § 123.6(c)(1). Similarly, for juice we could propose to add ''economically motivated adulteration that could result in serious adverse health consequences or death'' to the list of hazards to be considered in a hazard analysis in accordance with § 120.7(c). Also under this option, FDA would consider proposing to amend part 111 (21 CFR part 111), the Dietary Supplements current good manufacturing practice (CGMP) rule, to include economically motivated adulteration that could result in serious adverse health consequences or death. Current § 111.70(b) and (c) require establishing component specifications and in-process specifications to ensure the identity, purity, strength, and composition of the dietary supplement, and we could amend these provisions to cover economically motivated adulteration that could result in serious adverse health consequences or death.

We have also tentatively concluded not to require produce farms subject to section 419 of the FD&C Act and farms that produce milk (also referred to in this document as ''dairy farms'') subject to section 420 of the FD&C Act to take measures to address economically motivated adulteration. With regard to produce farms subject to section 419 of the FD&C Act, we have tentatively concluded that there are not procedures, processes, or practices that are reasonably necessary to be implemented by these entities to prevent the introduction of known or reasonably foreseeable biological, chemical, or physical hazards that can cause serious adverse health consequences or death as a result of economically motivated adulteration. With regard to farms that produce milk subject to section 420 of the FD&C Act, we have tentatively concluded that there are not appropriate science-based strategies or measures intended to protect against economically motivated adulteration that can be applied at the farm. These tentative conclusions are based on our assessment that preventive controls for economically motivated adulteration are suitable to address such adulteration when it is perpetrated by the entity's supplier, but not when it is perpetrated by the entity itself, as would be the case for economically motivated adulteration at a produce farm or a farm that produces milk. Actions such as auditing of suppliers or reliance upon supplier-supplied test results or production control records are generally considered unsuitable to address economically motivated adulteration where the supplier, if intentionally adulterating the food, would already be violating the law and would be able to subvert these controls. For both types of farms, we are not aware of inputs into the growing, harvesting, packing, or holding of produce or milk (i.e., within our farm definition) that could be subject to economically motivated adulteration that could cause serious adverse health consequences or death under sections 419 and 420 of the FD&C Act. We seek comment on this tentative conclusion.

G. Low-Risk Activities at Farm Mixed-Type Facilities

Section 103(c)(1)(C) of FSMA directs the Secretary of Health and Human Services to conduct a science-based risk analysis as part of the section 103(c) rulemaking. The science-based risk analysis is to cover ''(i) specific types of on-farm packing or holding of food that is not grown, raised, or consumed on such farm or another farm under the same ownership, as such packing and holding relates to specific foods; and (ii) specific on-farm manufacturing and processing activities as such activities relate to specific foods that are not consumed on that farm or on another farm under common ownership.'' In section VIII.G of the PC proposed rule, we describe a draft Qualitative Risk Assessment (the draft RA) we performed to satisfy this requirement. Section 103(c)(1)(D)(i) of FSMA requires FDA to use the results of this analysis to establish exemptions and inspection frequencies, or modify requirements, for facilities engaged only in specific types of on-farm activities that FDA determines to be low risk.

Elsewhere in this issue of the **Federal Register**, FDA is publishing a notice announcing the availability for public comment Appendix 4 to the draft RA (the draft RA Appendix). The purpose of the draft RA Appendix is to provide a science-based risk analysis of those foods whose production processes would be considered low risk with respect to the risk of intentional adulteration caused by acts of terrorism. FDA conducted this evaluation to satisfy the requirement in Section 103(c)(1)(C) of FSMA to conduct a science-based risk analysis with respect to the risk of intentional adulteration caused by acts of terrorism. We evaluated the production processes for the types of finished foods we expect are produced at farm mixed-type facilities to determine whether or not they are low-risk with respect to hazards that may be intentionally introduced by acts of terrorism. For the purposes of this analysis, we evaluated whether a production process involved any of the four FDA-identified key activity types, and identified a production process that did not involve any of the four key activity types as a ''low risk production process.'' Based on this evaluation, we concluded that the production processes for the following finished foods are ''low-risk'':

- Eggs (In-Shell)
- Fruits & Vegetables Other Than Pods, Seeds for Direct Consumption, and Hesperidia (Fresh, Intact)
- Game Meats (Whole or Cut, Not Ground or Shredded, Without Secondary Ingredients)
- Peanuts & Tree Nuts (Raw, In-Shell)
- Sugarcane & Sugar Beets (Fresh, Intact)

We are considering the results of this analysis in determining any specific exemptions or modified requirements. We request comment on whether we should exempt on-farm manufacturing, processing, packing, or holding of the foods identified as having low-risk production practices when conducted by a small or very small business if such activities are the only activities conducted by the business that are subject to section 418 of the FD&C Act. If we were to take this approach, only facilities meeting all of the specified criteria would be exempt as a result of being engaged in low-risk activities. Thus, a facility located on-farm, that is a small or very small business, and only produces fresh, intact apples as a finished product (e.g., by packing apples grown on a different farm that is under different ownership) would be exempt from this proposed rule. On the other hand, an apple-packing facility that is off-farm would not be exempt, an apple packing facility that is on-farm but that is not a small or very small business would not be exempt, and an apple packing facility that also packs green beans would not be exempt. We request comment on whether we should broaden this potential exemption in any way, such as by removing certain of the restrictions mentioned immediately above. We also seek comment on whether we should instead establish modified requirements for facilities that produce foods identified as having low-risk production processes, and if so, what those modified requirements should be and the scope of application of the modified requirements. In addition, we seek comment on whether and how we should consider the results of this analysis in determining whether to exempt or modify the inspections frequency requirements under Section 421 of the FD&C Act, Targeting of Inspection Resources for Domestic Facilities.

H. Activities That Occur on Dairy Farms

1. Assessment of Vulnerabilities

Under section 420 of the FD&C Act, we considered whether activities that occur on farms that produce milk pose a high risk for intentional adulteration of food caused by acts of terrorism that could cause significant adverse health consequences or death. A preliminary evaluation indicates that fluid milk storage appears to fit within the key activity type, Liquid storage and handling, and fluid milk loading appears to fit within the key activity type, Bulk liquid receiving and holding. The fluid milk storage tank is one of the actionable process steps that would be applicable to both of these activities on a dairy farm.

As discussed in section V.C.2 of this document, FDA is proposing to require that the owner, operator, or agent in charge of a facility that has one or more of the FDA-identified key activity types identify actionable process steps for those key activity types and implement focused mitigation strategies at any actionable process steps. Because dairy farms generally are not facilities as defined in this rule, they would not be subject to this requirement. However, section 420 is applicable to dairy farms (see § 420(d)) and fluid milk storage and loading in a dairy farm operation appear to pose a significant vulnerability.

The risk posed by intentional adulteration of milk on-farm results from a number of factors: (1) The system of milk collection from farms and subsequent holding and processing serves to distribute contaminants added to the milk on the farm into much larger quantities of fluid milk, increasing the potential magnitude of an intentional adulteration event; (2) in its fluid form milk has a short shelf life, increasing the potential for significant adverse public health impacts before detection and, once detected, before a public health intervention can be implemented; (3) fluid milk is widely consumed across different sub-populations, including infants and children, increasing the potential for significant adverse public health impacts and, because of public reaction to child and infant morbidity and mortality, decreasing public confidence in the food supply; (4) fluid milk is consumed in a variety of food forms, including as a beverage (finished food) and as an ingredient in other finished foods, complicating public health intervention; and (5) milk storage tanks are commonly left unlocked (Ref. 41, Ref. 42, Ref. 43, Ref. 44, Ref. 45, Ref. 46, Ref. 47).

2. Mitigation Strategies

Farms are not subject to the HACCP-type system of preventive controls prescribed in section 418 of the FD&C Act, and our current thinking is that, should we include requirements relative to dairy farms in the final rule, we would not require HACCP-type controls for dairy farms under section 420 of the FD&C Act. Similarly, under section 419 of the FD&C Act we did not propose to apply such an approach to unintentional adulteration on produce

farms in the Produce Safety proposed rule (see section IV.D of the Produce Safety proposed rule). Rather, as with produce farms, a more appropriate approach might be a CGMP-type provision that relates directly to the significant vulnerability. Generally, CGMPs set out mandatory, broad, generally applicable practices and conditions that are required to be met, and the criteria and definitions that are applicable in determining whether the food is adulterated. For example, a CGMP approach would identify the broad, generally applicable mitigation strategies that dairy farm operators must implement (e.g., limiting access to fluid milk storage tanks), without specifying how that strategy must be accomplished and without a further requirement for monitoring, recordkeeping or the development of a plan. We seek comment on this approach.

FDA previously provided guidance for the dairy industry, including dairy farms, on the potential for intentional contamination and identified the types of food defense measures that dairy farms may take to minimize the risk that fluid milk under their control will be subject to tampering or other malicious, criminal, or terrorist actions (Ref. 24). Among other recommendations, FDA's guidance recommends ''limiting access'' to raw and pasteurized milk storage as a food defense preventive measure. We acknowledge the difficulties involved in limiting access to many dairy farms, including multiple entries to the milk house, multiple visitors with customary access to the milk house (e.g., State food safety inspectors, vendors delivering veterinary medications, and drivers collecting bulk milk for transport to processing and storage facilities); continuous milk piping from the milking parlor to the bulk milk tank, providing for access points to the bulk milk tank from outside the milk house; open access to the milking parlor for workers and cows; and automated milking operations where employees are not necessarily present to escort cows into the milking parlor.

In light of these circumstances, we request comment on whether and how access to the bulk milk storage tank and associated systems can be limited, and the costs and other implications of doing so. In addition, we are interested in comment on whether and what types of focused mitigation strategies or other measures are currently employed by dairy farms. Specifically for fluid milk storage tanks, we seek comment on whether and what focused mitigation strategies would be appropriate and feasible given current dairy farming practices.

We also seek comment on whether it would be more appropriate for FDA to require that dairy farm operators receive food defense awareness training rather than requiring that they implement focused mitigation strategies to limit access to certain steps of their operation. If you support an approach based on training rather than mandated focused mitigation strategies, we are further interested in how such an approach would work at those farms where an agent of the farm may not be present at all times, given that a system based on awareness training is premised on the assumption that such training would provide the operator with the tools to report and respond to suspicious activity that they observe.

3. Scope of Dairy Farms Subject to any Requirement

Finally, we seek comment on the scope of farms that produce milk that should be subject to any requirements that we may establish in a final rule. For example, the scope of dairy farms covered could be determined based on the potential for adverse public health outcome resulting from consumption of milk produced at a farm, if a contaminant were intentionally introduced into the milk from that farm. Farms with less than 50 milk-producing cows contribute a relatively small proportion to the total volume of milk produced in the United States (i.e., approximately 4.2 percent of total milk produced in the United States), and the current trend in the dairy farm industry toward consolidation (Ref. 48) likely further reduces the percentage of production that such farms will contribute in the future. However, milk from even very small dairy farms may be pooled with milk from other farms in raw milk storage tanks at milk processing and storage facilities, potentially resulting in a public health impact from intentional adulteration that is disproportionate to the size of the farm or its contribution to the milk supply. We request comment on the appropriateness of determining the scope of dairy farms covered based on the number of cows on a farm. Alternatively, should we consider excluding farms based on how the milk from a farm is distributed (e.g., direct sale to consumers or other end users; pooling with milk from other farms; supplied to the Grade A Milk system for the production of fluid milk; or used in the production of cheese and other products that have a different risk associated with intentional adulteration caused by acts of terrorism)?

I. Other Ways to Focus on Foods With a High Risk of Intentional Adulteration Caused by Terrorism

We are requesting comment on whether, under section 420 of the FD&C Act, there are other ways in which the coverage of this proposed regulation can be further focused on foods that present a high risk of intentional adulteration caused by acts of terrorism. For example, are there ways in which a food's shelf life, turnover in the marketplace, batch size, serving size and servings per batch, distribution and consumption patterns, and intended consumer could be considered in providing for an exemption or in setting modified requirements for that food. Ordinarily, these considerations are part of a vulnerability assessment, and in such assessments the risk reduction aspects of one attribute may be offset or exacerbated by those of another attribute, and may be very facility-specific. Such attributes specific to the food(s) manufactured, processed, packed, or held at the facility can be taken into account, should a facility choose to perform its own vulnerability assessment and assign actionable process steps, as provided for in proposed § 121.130(b). However, as discussed in section V.C.2 of this document, facilities would not be required to perform a facility-specific vulnerability assessment and, instead, would have the option of identifying actionable process steps using the procedure in proposed § 121.130(a). We are particularly interested in how food-specific attributes can be taken into account in the absence of a general requirement for a facility-specific vulnerability assessment.

V. The Proposal

A. Definitions

In subpart A of proposed part 121, under § 121.3, FDA is proposing the following definitions and interpretations of terms relevant to proposed part 121. The definitions and interpretations of terms in section 201 of the FD&C Act (21 U.S.C. 321) are applicable to such terms when used in this part. As proposed, several terms in part 121 have the same definitions as in proposed part 117 and, therefore, we have not included an extensive discussion of those terms in this proposed rule. See section X.B of the PC proposed rule for a discussion of the following terms: facility, farm, holding, manufacturing/processing, mixed-type facility, packing, qualified end-user, qualified facility, and small business.

FDA is proposing to define the term ''*actionable process step*'' to mean a

point, step, or procedure in a food process at which food defense measures can be applied and are essential to prevent or eliminate a significant vulnerability or reduce such vulnerability to an acceptable level. The term ''actionable process step'' used in the food defense context is analogous to the term ''critical control point'' (CCP), which is defined as ''a point, step, or procedure in a food process at which control can be applied and is essential to prevent or eliminate a food safety hazard or reduce such hazard to an acceptable level.'' Similar to a CCP, in proposed part 121, an ''actionable process step'' is identified during a vulnerability assessment (analogous to a hazard analysis) in relation to a significant vulnerability (analogous to a hazard that is reasonably likely to occur), and is facility-specific.

As discussed in section V.C.2 of this document, based on vulnerability assessments, FDA has identified four key activity types that we have tentatively concluded pose significant vulnerabilities in a food operation. FDA identified and described these key activity types (which are not facility-specific) with the expectation that an owner, operator, or agent in charge would objectively determine whether the processing steps in a facility fit within one or more of these key activity types. The processing steps identified by facilities in their food operation that fit within the FDA-identified key activity types are ''actionable process steps,'' and are steps at which a focused mitigation strategy would be employed to prevent or eliminate a significant vulnerability or reduce it to an acceptable level. Actionable process steps might also be identified in a vulnerability assessment (proposed § 121.130(b)). Though we use the term ''actionable process step'' in FDA's FDPB software tool (Ref. 31), we recognize it is a relatively new term and, therefore, we solicit comment on its appropriateness and any other more appropriate alternative terms.

FDA is proposing to define the term ''*contaminant*'' as any biological, chemical, physical or radiological agent that may be intentionally added to food and that may cause illness, injury or death. We based the proposed definition, in part, on the definition of ''contaminant'' used in Codex Alimentarius guidelines (Ref. 49) that refers to any biological or chemical agent, foreign matter or other substances not intentionally added to feed or food that may compromise feed and food safety or suitability. In this proposal, the term ''contaminant'' is used in the context of key activity types, which are related to intentional acts of adulteration caused by acts of terrorism with intent to cause public health harm and, to a lesser extent, economic disruption. Therefore, for the purposes of proposed part 121, we focused the definition of ''contaminant'' on agents that may be intentionally added to food and that may cause illness, injury, or death, which is consistent with our determination that the primary goal of such an attack would be public health harm (i.e., illness, injury, or death). Our proposed definition of ''contaminant'' in proposed 121.3 would be applicable to proposed part 121 only. We acknowledge that this term has a broader meaning in other settings, as evidenced by its use in the Codex Alimentarius guidelines.

FDA is proposing to define the term ''facility'' to mean a domestic facility or a foreign facility that is required to register under section 415 of the FD&C Act in accordance with the requirements of part 1, subpart H (21 CFR part 1, subpart H). The proposed definition would incorporate the definition in section 418(o)(2) of the FD&C Act.

FDA is proposing to define the term ''farm'' by reference to the definition of that term in proposed § 1.227. We are proposing to cross-reference the definition of ''farm'' rather than to define it in proposed part 121 because the definition of ''farm,'' under both current § 1.227(b)(3) and proposed § 1.227, includes the word ''facility'' with a meaning that is broader than the meaning of ''facility'' in section 418(o)(2) of the FD&C Act. Under part 1, subpart H, the term ''facility'' is not limited to entities that are required to register under section 415 of the FD&C Act. We are proposing to cross-reference the definition to reduce the potential confusion that could result if we used the term ''facility'' to have two different meanings within proposed part 121. See sections X.B and VIII of the PC proposed rule for additional information.

FDA is proposing to define the term ''*focused mitigation strategies*'' to mean those risk-based, reasonably appropriate measures that a person knowledgeable about food defense would employ to significantly minimize or prevent significant vulnerabilities identified at actionable process steps, and that are consistent with the current scientific understanding of food defense at the time of the analysis. The term ''focused mitigation strategies'' used in the food defense context is analogous to the term ''preventive controls'' in a HACCP-type framework for food safety.

As discussed in section V.C.3 of this document, a mitigation strategy is a measure taken by a facility to reduce the potential for intentional adulteration of food. A ''focused mitigation strategy'' is such a strategy applied in response to the identification of a significant vulnerability and at an actionable process step. Focused mitigation strategies are customized to the processing step at which they are applied, tailored to existing facility practices and procedures, and depend on an evaluation of the vulnerabilities identified in a facility. Because they are applied in response to a significant vulnerability, we have determined that focused mitigation strategies are essential to ensure that appropriate action is taken to protect the food from intentional adulteration caused by acts of terrorism.

While an option to perform a vulnerability assessment is provided under proposed § 121.130(b), facilities may choose instead to rely on the analysis performed by FDA that resulted in the identification of the key activity types listed in proposed § 121.130(a) when identifying actionable process steps and, subsequently, focused mitigation strategies, eliminating the need for a full vulnerability assessment. See section V.C.3 of this document for examples of focused mitigation strategies.

FDA is proposing to define the term ''*food defense*'' as the effort to protect food from intentional acts of adulteration where there is an intent to cause public health harm and economic disruption. As discussed in section IV.A of this document, acts of intentional adulteration may take several forms, including acts of terrorism; acts of disgruntled employees, consumers, or competitors; and economically motivated adulteration. We are proposing to define the term ''food defense'' to refer to the sum of actions and activities (including identification of actionable process steps; implementation of focused mitigation strategies; monitoring, corrective actions, verification, and training activities) taken to protect food from intentional acts of adulteration related to terrorism.

FDA is proposing to define the term ''holding'' to mean the storage of food. The proposed definition would also state that holding facilities include warehouses, cold storage facilities, storage silos, grain elevators, and liquid storage tanks; and that, for farms and farm mixed-type facilities, holding also includes activities traditionally performed by farms for the safe or effective storage of raw agricultural commodities grown or raised on the same farm or another farm under the

same ownership, but does not include activities that transform a raw agricultural commodity, as defined in section 201(r) of the FD&C Act, into a processed food as defined in section 201(gg) of the FD&C Act. For consistency of terminology, we are proposing the same definition of ''holding'' as in the PC proposed rule (see proposed §§ 1.227 and 117.3). For a detailed discussion of ''holding,'' see sections VIII.E and X.B of the PC proposed rule.

FDA is proposing to define the term ''manufacturing/processing'' to mean making food from one or more ingredients, or synthesizing, preparing, treating, modifying or manipulating food, including food crops or ingredients. The proposed definition would also state that examples of manufacturing/processing activities are cutting, peeling, trimming, washing, waxing, eviscerating, rendering, cooking, baking, freezing, cooling, pasteurizing, homogenizing, mixing, formulating, bottling, milling, grinding, extracting juice, distilling, labeling, or packaging. The proposed definition would also specify that, for farms and farm mixed-type facilities, manufacturing/processing does not include activities that are part of harvesting, packing, or holding. For consistency of terminology, we are proposing the same definition of ''manufacturing/processing'' as in the PC proposed rule (see proposed §§ 1.227 and 117.3). For a detailed discussion of ''manufacturing/processing,'' see sections VIII.E and X.B of the PC proposed rule.

FDA is proposing to define the term ''mixed-type facility'' to mean an establishment that engages in both activities that are exempt from registration under section 415 of the FD&C Act and activities that require the establishment to be registered. The proposed definition would also state that an example of such a facility is a ''farm mixed-type facility,'' which is an establishment that grows and harvests crops or raises animals and may conduct other activities within the farm definition, but also conducts activities that require the establishment to be registered. For consistency of terminology, we are proposing the same definition of ''mixed-type facility'' as in the PC proposed rule (see proposed §§ 1.227 and 117.3). For a detailed discussion of ''mixed-type facilities,'' see sections VIII.E and X.B of the PC proposed rule.

FDA is proposing to define the term ''monitor'' to mean to conduct a planned sequence of observations or measurements to assess whether focused mitigation strategies are consistently applied and to produce an accurate record for use in verification. In the intentional adulteration framework, monitoring would be performed to ensure that focused mitigation strategies are consistently applied and to provide a record for use in verifying consistent application.

FDA is proposing to define the term ''packing'' to mean placing food into a container other than packaging the food. The proposed definition would also specify that, for farms and farm mixed-type facilities, packing also includes activities traditionally performed by farms to prepare raw agricultural commodities grown or raised on the same farm or another farm under the same ownership for storage and transport, but does not include activities that transform a raw agricultural commodity, as defined in section 201(r) of the FD&C Act, into a processed food as defined in section 201(gg). We are proposing to use the same definition of ''packing'' as in the PC proposed rule (see proposed §§ 1.227 and 117.3). For a detailed discussion of ''packing,'' see sections VIII.E and X.B of the PC proposed rule.

FDA is proposing to define the term ''qualified end-user'' to mean, with respect to a food, the consumer of the food (where the term consumer does not include a business); or a restaurant or retail food establishment (as those terms are defined in § 1.227) that: (1) Is located: (i) in the same State as the qualified facility that sold the food to such restaurant or establishment; or (ii) not more than 275 miles from such facility; and (2) is purchasing the food for sale directly to consumers at such restaurant or retail food establishment. The proposed definition would incorporate the definition in section 418(l)(4)(B) of the FD&C Act.

FDA is proposing to define the term ''qualified facility'' to mean (when including the sales by any subsidiary; affiliate; or subsidiaries or affiliates, collectively, of any entity of which the facility is a subsidiary or affiliate) a facility that is: (1) A very small business as defined in this part; or (2) a facility to which both of the following apply: (i) During the 3-year period preceding the applicable calendar year, the average annual monetary value of the food manufactured, processed, packed or held at such facility that is sold directly to qualified end-users (as defined in this part) during such period exceeded the average annual monetary value of the food sold by such facility to all other purchasers; and (ii) the average annual monetary value of all food sold during the 3-year period preceding the applicable calendar year was less than $500,000, adjusted for inflation.

We acknowledge that facilities would not need to consider the applicability of previous paragraph (2) because facilities that meet this second prong of the definition would be included in our proposed definition of a very small business, which is broader.

The proposed definition would incorporate the description of ''qualified facility'' in section 418(l)(1) of the FD&C Act with editorial changes to improve clarity.

FDA is proposing to define the term ''*significant vulnerability*'' to mean a vulnerability for which a prudent person knowledgeable about food defense would employ food defense measures because of the potential for serious adverse health consequences or death and the degree of accessibility to that point in the food process. The term ''significant vulnerability'' is analogous to the term ''hazard that is reasonably likely to occur'' in a HACCP-type framework for food safety. As proposed, a ''significant vulnerability'' is a type of vulnerability for which there is both: (1) The potential for serious adverse health consequences or death from the intentional introduction of a contaminant at the particular point in the process at which the significant vulnerability exists; and (2) a significant degree of accessibility at the particular point in the process. Unlike a ''hazard that is reasonably likely to occur'' in a HACCP system, a ''significant vulnerability'' exists at a particular point in a process (e.g., during storage in a bulk tank or during mixing). As discussed in section V.C.2 of this document, we have determined that significant vulnerabilities exist in a food operation at those actionable process steps that fit in the FDA-identified key activity types or that are identified as part of a vulnerability assessment.

We have retained in this proposed definition the concept of a ''prudent person'' used in the definition of a ''hazard that is reasonably likely to occur'' in the PC proposed rule. However, because intentional adulteration is a potentially high consequence but low probability occurrence, the portion of the proposed definition in the PC proposed rule that reads, ''experience, illness data, scientific reports, or other information provides a basis to conclude that there is a reasonable possibility that the hazard will occur in the type of food being manufactured, processed, packed, or held in the absence of those controls,'' does not appear to be appropriate. Successful intentional adulteration caused by an act of

terrorism requires not only the absence of focused mitigation strategies designed to address a significant vulnerability, but also simultaneous intent by an attacker to adulterate the food. As such, the absence of focused mitigation strategies to address a significant vulnerability alone may not present a reasonable possibility of intentional adulteration. Instead, as described above, we have tentatively concluded that the prudent person would consider the potential for public health consequences should intentional adulteration occur, and the degree of access by the attacker to commit the intentional adulteration, in determining which vulnerabilities are significant.

FDA is proposing to define the term ''significantly minimize'' to mean to reduce to an acceptable level, including to eliminate. As noted in section X.B of the PC proposed rule, the term ''significantly minimize'' is used in FSMA and is consistent with the outcome of a ''control measure'' as described in the HACCP regulations for seafood (part 123), juice (part 120), and meat and poultry (9 CFR part 417). Generally, a ''control measure'' is implemented so that hazards are prevented, reduced to an acceptable level, or eliminated.

FDA is proposing to define the term ''small business'' to mean, for the purposes of proposed part 121, a business employing fewer than 500 persons. The proposed limit of 500 employees would include all employees of the business rather than be limited to the employees of a particular facility. We are proposing to establish the same definition for small business as that which has been established by the U.S. Small Business Administration under 13 CFR part 121 for most food manufacturers.

FDA is proposing to define the term ''verification'' to mean those activities, other than monitoring, that establish that the system is operating according to the food defense plan. As discussed in section V.C.6 of this document, we are not proposing to require validation of the focused mitigation strategies and, therefore, we are not proposing to include a determination of the validity of the food defense plan within the definition of verification in proposed § 121.3.

FDA is proposing to define the term ''very small business'' to mean, for the purposes of proposed part 121, a business that has less than $10,000,000 in total annual sales of food, adjusted for inflation. In the discussion on the regulatory framework in section IV.A of this document, we discuss our assessment that the goal of terrorist organizations is to maximize public health harm and, to a lesser extent, economic disruption. It is our assessment that such goals are likely to drive terrorist organizations to target the product of relatively large facilities, especially those for which the brand is nationally or internationally recognizable. An attack on such a target would potentially provide the wide-scale consequences desired by a terrorist organization and the significant public attention that would accompany an attack on a recognizable brand. Such facilities are likely to have larger batch sizes, potentially resulting in greater human morbidity and mortality. Further, an attack on a well-recognized, trusted brand is likely to result in greater loss of consumer confidence in the food supply and in the government's ability to ensure its safety and, consequently, cause greater economic disruption than a relatively unknown brand that is distributed regionally (Ref. 2, Ref. 50, Ref. 3, Ref. 51, Ref. 6). Therefore, we have set a threshold of $10,000,000 in total food sales, adjusted for inflation, as the level defining a very small business. Data from the Dun & Bradstreet Global Business Database show that businesses with less than $10,000,000 in total food sales represent about 3 percent of the market share of food commodities, but include the majority of food facilities. Of a total of 65,900 domestic food facilities that are estimated to have actionable process steps, about 51,700 are owned by businesses with less than $10,000,000 in total annual sales. We request comment on our proposed definition, and whether a dollar amount of sales more than or less than $10,000,000 would be more appropriate. We also seek comment on whether this threshold should be based on total food sold, as we proposed, or on some appropriate proportion of food sales. For example, in the case of foreign facilities, would it be more appropriate to consider the proportion of food sold for marketing in the United States?

FDA is proposing to define the term ''*vulnerability*'' to mean the susceptibility of a point, step, or procedure in a facility's food process to intentional adulteration. ''Vulnerability'' is used in the term ''vulnerability assessment'' in section 420 of the FD&C Act and may best be described in the food defense context as analogous to the term ''hazard'' in a HACCP-type framework for food safety. While hazards in the unintentional adulteration context may also be thought of as analogous to agents or contaminants in the intentional adulteration context, we have tentatively concluded that focusing on individual agents or contaminants is generally not effective or efficient in minimizing the risk of intentional adulteration caused by acts of terrorism. There are a significant number of potential agents or contaminants that could be used in a terrorist attack on food, with one or more being suitable for essentially any point in the production of any specific food. It would be extremely difficult, if not impossible, to consider the multiple combinations of potential contaminants, points in a food operation, and food categories, and to determine a strategy that would effectively address all possible agents. For this reason, determining whether there is an agent that could be intentionally introduced to a specific food that would then cause serious adverse health consequences or death would not be a useful exercise. Further, many agents or contaminants that could be used in such an attack are different from those that are associated with foodborne illnesses caused by unintentional adulteration and, as such, are not expected to be well understood by operators of food facilities. Therefore, we have tentatively concluded that in the intentional adulteration framework related to acts of terrorism, it is appropriate to refer to ''vulnerabilities'' rather than ''hazards''. According to the Merriam-Webster dictionary (Ref. 52), vulnerability is a ''susceptibility,'' and we believe this concept best captures the idea of a point, step, or procedure where someone intent on intentional adulteration would focus an attack in a facility's food process. See section V.C.2 of this document for a discussion of assessing vulnerabilities to identify actionable process steps.

We solicit comment on the proposed definitions.

B. Exemptions

In subpart A of proposed part 121, proposed § 121.5 would establish exemptions from some or all of the provisions of this proposed regulation.

1. Proposed § 121.5(a)—Exemption for Qualified Facilities

Proposed § 121.5(a) would provide that proposed part 121 does not apply to a qualified facility, except that qualified facilities must, upon request, provide for official review documentation that was relied upon to demonstrate that the facility meets this exemption. Such documentation must be retained for 2 years.

a. Exemption of qualified facilities. As discussed in section V.A of this document, proposed § 121.3 would

define a *qualified facility* to mean (when including the sales by any subsidiary; affiliate; or subsidiaries or affiliates, collectively, of any entity of which the facility is a subsidiary or affiliate) a facility that is: (1) A very small business as defined in this part, or (2) a facility to which both of the following apply: (i) During the 3-year period preceding the applicable calendar year, the average annual monetary value of the food manufactured, processed, packed or held at such facility that is sold directly to qualified end-users (as defined in this part) during such period exceeded the average annual monetary value of the food sold by such facility to all other purchasers; and (ii) the average annual monetary value of all food sold during the 3-year period preceding the applicable calendar year was less than $500,000, adjusted for inflation. In addition, we are proposing to define very small business to mean a business that has less than $10,000,000 in total annual sales of food, adjusted for inflation.

Section 418(l)(2)(A) of the FD&C Act provides that a qualified facility ''shall not be subject to the requirements under [sections 418(a) through (i) and (n) of the FD&C Act].'' We have tentatively concluded that we should include the exemption provided in section 418(l)(2)(A) of the FD&C Act in proposed § 121.5(a) to establish by regulation the reach of the provision.

Section 418(l)(5) of the FD&C Act requires the Secretary of Health and Human Services, in consultation with the Secretary of Agriculture, to conduct a study of the food processing sector regulated by the Secretary of Health and Human Services and to make determinations in five areas. These areas include, in part: (1) Distribution of food production by type and size of operation; (2) the proportion of food produced by each type and size of operation; (3) the number and types of food facilities co-located on farms; (4) the incidence of foodborne illness originating from each size and type of operation; and (5) the effect on foodborne illness risk associated with certain activities regarding food.

Section 418(n)(1)(B) of the FD&C Act requires that the regulations define the terms ''small business'' and ''very small business,'' taking into consideration the study of the food processing sector required by section 418(l)(5) of the FD&C Act. Consistent with section 418(l)(5) of the FD&C Act, we have consulted with USDA during our study of the food processing sector. The study is available in the docket established for this proposed rule (Ref. 53). We request comment on that study. We will consider comments regarding the study, as well as comments regarding our proposed definition for very small business, in any final rule based on this proposed rule.

We note that section 420 of the FD&C Act does not contain an explicit size-based exemption, such as the qualified facility provision in section 418 of the FD&C Act. In section IV.A of this document, we discuss our assessment that the goal of terrorist organizations is to maximize public health harm and, to a lesser extent, economic disruption. We have tentatively concluded that such goals are likely to drive terrorist organizations to target the product of relatively large facilities, especially those for which the brand is nationally or internationally recognizable. The regulations issued under section 420 of the FD&C Act are to apply to food for which there is a high risk of intentional contamination. We have tentatively concluded that designating businesses with less than $10,000,000 in total annual sales of food as very small businesses, resulting in their exemption from proposed part 121, is consistent with the requirement in section 420 of the FD&C Act that the regulation be limited to foods at high risk of intentional adulteration.

We acknowledge that the amount of food sales in the proposed definition of very small business (total annual sales of food of less than $10,000,000) is significantly higher than the threshold in the PC proposed rule, in which we co-proposed three amounts ($250,000, $500,000, and $1,000,000 in total annual sales of food). The higher amount proposed here reflects the difference in the nature of risk related to intentional adulteration covered by this rule and is consistent with the requirement in section 418(n)(3)(C) of the FD&C Act that this regulation ''acknowledge differences in risk and minimize, as appropriate, the number of separate standards that apply to separate foods.''

There are some facilities that are not subject to section 418 of the FD&C Act but are subject to section 420 of the FD&C Act, and would be subject to this rulemaking because their activities would likely involve one of the key activity types (e.g., juice manufacturing and breaded seafood manufacturing). However, under proposed § 121.5(a), such facilities would be exempt from proposed part 121 if they are part of businesses with less than $10,000,000 in total annual sales of food, adjusted for inflation.

b. Documentation requirement for qualified facilities. Sections 418(l)(2)(A) and (l)(2)(B) of the FD&C Act provide that a qualified facility is exempt from the requirements of sections 418(a) through (i) and (n) (i.e., the requirements for hazard analysis and risk-based preventive controls), but must instead submit two types of documentation to the Secretary of Health and Human Services. The first type of required documentation relates to food safety practices at the facility, and section 418(l)(2)(B)(i) of the FD&C Act provides two options for satisfying this documentation requirement. Under section 418(l)(2)(B)(i)(I) of the FD&C Act, the qualified facility may choose to submit documentation that demonstrates that the owner, operator, or agent in charge of the facility has identified potential hazards associated with the food being produced, is implementing preventive controls to address the hazards, and is monitoring the preventive controls to ensure that such controls are effective. Alternatively, under section 418(l)(2)(B)(i)(II) of the FD&C Act, the qualified facility may choose to submit documentation (which may include licenses, inspection reports, certificates, permits, credentials, certification by an appropriate agency (such as a State department of agriculture), or other evidence of oversight), as specified by the Secretary of Health and Human Services, that the facility is in compliance with State, local, county, or other applicable non-Federal food safety law.

The second type of required documentation relates to whether the facility satisfies the definition of a qualified facility. Under section 418(l)(2)(B)(ii) of the FD&C Act, the facility must submit documentation, as specified by the Secretary of Health and Human Services in a guidance document, that the facility is a qualified facility under section 418(l)(1)(B) or section 418(l)(1)(C).

Section 418(l)(7)(A) of the FD&C Act requires that a qualified facility that is exempt from the requirements under sections 418(a) through (i) and subsection (n), and that does not prepare documentation under section 418(l)(2)(B)(i)(I), provide notification to consumers by one of two procedures, depending on whether a food packaging label is required on the food. With respect to a food for which a food packaging label is required by the Secretary of Health and Human Services under any other provision of the FD&C Act, section 418(l)(7)(A)(i) of the FD&C Act requires that a qualified facility include prominently and conspicuously on such label the name and business address of the facility where the food was manufactured or processed. With

respect to a food for which a food packaging label is not required by the Secretary of Health and Human Services under any other provisions of the FD&C Act, section 418(l)(7)(A)(ii) of the FD&C Act requires that a qualified facility prominently and conspicuously display, at the point of purchase, the name and business address of the facility where the food was manufactured or processed, on a label, poster, sign, placard, or documents delivered contemporaneously with the food in the normal course of business, or, in the case of Internet sales, in an electronic notice.

Section XIII.A of the PC proposed rule describes our proposed requirements pursuant to the above described modified requirements for qualified facilities in that proposed rule. In summary, in the PC proposed rule, we proposed codified language to require submission of the following to FDA: (1) Documentation that the facility is a qualified facility; and (2) documentation that demonstrates that the owner, operator, or agent in charge of the facility has identified the potential hazards associated with the food being produced, is implementing preventive controls to address the hazards, and is monitoring the performance of the preventive controls to ensure that such controls are effective; or documentation (which may include licenses, inspection reports, certificates, permits, credentials, certification by an appropriate agency (such as a State department of agriculture), or other evidence of oversight) that the facility is in compliance with State, local, county, or other applicable non-Federal food safety law, including relevant laws and regulations of foreign countries. In Section XIII.A of the PC proposed rule, we clarified that the following submission of information would be satisfactory: (1) A statement from the owner, operator, or agent in charge of a qualified facility certifying that the facility is a very small business, otherwise meets the definition of a qualified facility under proposed § 117.3, or both; and (2) a statement from the owner, operator, or agent in charge of a qualified facility certifying that the facility (a) has identified the potential hazards associated with the food being produced, is implementing preventive controls to address the hazards, and is monitoring the implementation of the preventive controls to ensure that such controls are effective; or (b) is in compliance with State, local, county, or other applicable non-Federal food safety law, including relevant laws and regulations of foreign countries. We tentatively concluded that we would not, for example, require that a facility submit documentation to FDA demonstrating the content of their hazard identification, preventive controls, or monitoring of the implementation of preventive controls; or copies of their non-Federal licenses, inspection reports, certificates, permits, credentials, or certifications. We proposed to require that the information be resubmitted to FDA at least every 2 years, or whenever there is a material change to the information. Finally, we proposed to require that a qualified facility maintain records relied upon to support their assertion of meeting the requirements of the qualified exemption. We tentatively concluded that it is appropriate to require that the records relied upon to support a self-certified statement be retained and made available to FDA upon request.

Proposed § 121.5(a) would require that qualified facilities, upon request, provide for official review documentation that was relied upon to demonstrate that the facility meets this exemption. In addition, proposed § 121.5(a) would provide that such documentation must be retained for 2 years. We are not proposing to apply all of the modified requirements described in proposed § 117.201 in the PC proposed rule to qualified facilities that would be covered under this rule. We have tentatively concluded that such an approach is reasonable, considering the context and wording of the statutory provision as it relates to intentional adulteration caused by acts of terrorism.

c. Withdrawal of exemption for qualified facilities. Section 418(l)(3) of the FD&C Act provides that the Secretary of Health and Human Services may withdraw the exemption provided in section 418(l)(2)(A) under certain circumstances. We discuss the withdrawal provisions of section 418(l)(3) of the FD&C Act, and the process we propose to use to withdraw an exemption for a qualified facility subject to that rule in section XIV.E of the PC proposed rule. We ask for comment on the appropriateness of those proposed procedures to withdraw an exemption for a qualified facility subject to this proposed rule. We also seek input on whether we should include the process for such withdrawal within proposed part 121 or whether those provisions might be best placed in a separate part and cross-referenced in proposed part 121 in order to reduce duplication, given these provisions also appear in the PC and the Produce Safety proposed rules.

2. Proposed § 121.5(b)—Exemption for Holding of Food

a. Requirement of section 418 of the FD&C Act. Section 418(m) of the FD&C Act provides in relevant part that FDA may by regulation ''exempt or modify the requirements for compliance under [section 418 of the FD&C Act] with respect to facilities that are solely engaged in . . . the storage of raw agricultural commodities (other than fruits and vegetables) intended for further distribution or processing or the storage of packaged foods that are not exposed to the environment.'' In the PC proposed rule, we proposed exemptions and modified requirements based on this provision (see proposed §§ 117.5(j), 117.7, and 117.206).

b. Petition relevant to section 418(m) of the FD&C Act. In a letter dated July 22, 2011, an industry coalition of the American Bakers Association, the American Frozen Food Institute, the Grocery Manufacturers Association, the International Bottled Water Association, the International Dairy Foods Association, the International Warehouse Logistics Association, the Peanut and Tree Nut Processors Association, and the Snack Food Association (the section 418(m) petitioners) submitted a citizen petition (Docket No. FDA–2011–P–0561). The petition requests that FDA issue regulations under section 418(m) of the FD&C Act ''to exempt from compliance or modify the requirements for compliance under section 418 [of the FD&C Act] for facilities that are solely engaged in the storage of packaged foods that are not exposed to the environment, by allowing such facilities to satisfy the requirements of that section through compliance with the [CGMPs] mandated for such facilities by [current] § 110.93.'' The section 418(m) petitioners assert that the food safety issues presented by facilities used only to store packaged foods that are not exposed to the environment are essentially the same, regardless of the type of food. As such, trade associations representing a variety of product sectors are signatories to the petition and are supportive of the request to exempt such facilities from the provisions of section 418 of the FD&C Act.

The section 418(m) petitioners stated, ''As an initial matter, the risk of intentional adulteration at facilities solely engaged in the storage of packaged foods not exposed to the environment is quite remote. The food in these facilities is stored in unit packaging, meaning any effort to adulterate the food would be laborious and likely ineffective.'' They further

asserted that, ''Members of the food industry have implemented a number of precautions against intentional adulteration. Most importantly, these facilities are locked and secured against unauthorized entry. Access is restricted to the employees of the manufacturer dropping off food, any staff employed at the facility, and the persons who deliver food to retailers and other customers. Food is often held in such facilities for a short period of time, which would not be conducive to attempts at intentional adulteration. Further, we note that the continual activity in these facilities during pickup and drop-off hours serves as a deterrent for anyone attempting to gain unauthorized access.''

c. Proposed exemption for the holding of food. Proposed § 121.5(b) would exempt from the requirements in proposed part 121 the holding of food, except the holding of food in liquid storage tanks. This provision is broader in scope than exemptions in proposed §§ 117.5(j) and 117.7 in the PC proposed rule, and would exempt, for example, storage of whole grains, shell eggs, fruits and vegetables, and packaged foods (including packaged milk and orange juice). It would not exempt, for example, storage in bulk storage tanks of milk or liquid orange juice.

As discussed in section V.C.2 of this document, based on an analysis of the vulnerability assessments that FDA has conducted using the CARVER+Shock methodology, we identified four key activity types (Bulk liquid receiving and loading; Liquid storage and handling; Secondary ingredient handling; and Mixing and similar activities) as production processes that require focused mitigation strategies. With the exception of the holding of food in liquid storage tanks, which is not included in the proposed exemption, we are not aware of activities performed during the holding of food that fit within any of these four key activity types.

We acknowledge that our proposed exemption in § 121.5(b) is not identical to the exemption in section 418(m) of the FD&C Act. However, as explained above, the holding of food that would be exempt does not include any of the four key activity types associated with actionable process steps under proposed § 121.130(a). Consequently, even without an exemption, this holding of food would not require the implementation of focused mitigation strategies under proposed § 121.130(a) to protect food against intentional adulteration. The only requirement related to holding activities would be for a written assessment that would conclude that no focused mitigation strategies are necessary with regard to the holding activities. Under these circumstances, we have tentatively concluded that an exemption is appropriate. Accordingly, we propose to exempt the holding of food, except the holding of food in liquid storage tanks, from the requirements of this proposed regulation. Although we are not responding to the merits of the arguments of the section 418(m) petitioners with regard to precautions against intentional adulteration, we believe that this proposed exemption meets the request of the section 418(m) petitioners.

3. Proposed § 121.5(c)—Exemption for Packing, Re-Packing, Labeling, and Re-labeling of Food

Proposed § 121.5(c) would exempt from the requirements in proposed part 121 the packing, re-packing, labeling, or re-labeling of food where the container that directly contacts the food remains intact. As discussed in section V.C.2 of this document, based on an analysis of the vulnerability assessments that FDA has conducted using the CARVER+Shock methodology, we identified four key activity types (Bulk liquid receiving and loading; Liquid storage and handling; Secondary ingredient handling; and Mixing and similar activities) as production processes that require focused mitigation strategies. We are not aware of activities performed during the packing, re-packing, labeling, or re-labeling of food where the immediate package or container of the food remains intact that fit within any of these four key activity types.

As discussed in section V.A of this document, the proposed rule would not require a facility that chooses to identify its actionable process steps under proposed § 121.30(a) to implement focused mitigation strategies for a food process that does not include any of the four key activity types. Even without the exemption, a facility that conducts packing, re-packing, labeling, or re-labeling activities would be able to conclude that it has no key activity types and, therefore, would not be required to implement focused mitigation strategies. However, without an exemption, under proposed § 121.130, such a facility would be required to perform a written assessment to make this determination. We have tentatively concluded that requiring such an assessment is unnecessary. Consequently, we propose to exempt the packing, re-packing, labeling, or re-labeling of food where the container that directly contacts the food remains intact from the requirements of this proposed regulation.

4. Proposed § 121.5(d)—Exemption for Produce Farms

Proposed § 121.5(d) would exempt from the requirements in proposed part 121 the activities of a facility that are subject to section 419 of the FD&C Act (Standards for Produce Safety). We discuss our tentative decision not to cover produce farms under section 419 of the FD&C Act in sections IV.B and IV.F, respectively, of this document.

Section 418(k) of the FD&C Act provides that section 418 ''shall not apply to activities of a facility that are subject to section 419''. Section 419 of the FD&C Act, ''Standards for Produce Safety,'' requires FDA to establish by regulation ''science-based minimum standards for the safe production and harvesting of those types of fruits and vegetables, including specific mixes or categories of fruits and vegetables, that are raw agricultural commodities for which [FDA] has determined that such standards minimize the risk of serious adverse health consequences or death.'' Section 419(h) of the FD&C Act provides that section 419 ''shall not apply to activities of a facility that are subject to section 418.''

Establishments that are exempt from registration under section 415 of the FD&C Act as ''farms'' would not be subject to section 418 of the FD&C Act when conducting activities within the farm definition. Farm mixed-type facilities would be subject to section 418 of the FD&C Act when conducting those activities that trigger the section 415 registration requirement. We have tentatively concluded that Congressional intent regarding the reach of section 418(k) of the FD&C Act is unambiguous in that section 418(k) directly limits the exemption to activities of the facility that are subject to section 419 of the FD&C Act. We have also tentatively concluded that we should include a provision implementing section 418(k) of the FD&C Act in the proposed regulation to establish by regulation the reach of the exemption. Therefore, in proposed § 121.5(d), we are proposing that proposed part 121 would not apply to activities of a facility that are subject to section 419 of the FD&C Act (Standards for Produce Safety).

At the time FDA developed the farm definition and its interpretations of that definition, the practical impact of an activity's classification as inside or outside that definition was limited to the potential to trigger the section 415 registration regulations and the section 414 recordkeeping regulations. With the

advent of FSMA, the scope of the farm definition has taken on more importance because, for example, activities within the farm definition are not subject to section 418 of the FD&C Act, but activities outside the farm definition are subject to section 418. Therefore, FDA proposed to clarify and adjust the scope of the farm definition, including the classification of manufacturing, processing, packing, and holding activities relevant to that definition, in the proposed preventive controls regulations for human food. In section VIII.D of the PC proposed rule, we described a set of organizing principles that would form the basis for our proposal for classifying activities to more accurately reflect the scope of activities traditionally conducted by farms and to allow for more certainty among industry with regard to how their activities will be regulated.

5. Proposed § 121.5(e)—Exemption for Alcoholic Beverages

Proposed § 121.5(e)(1) would provide that proposed part 121 does not apply with respect to alcoholic beverages at a facility that meets the following two conditions: (i) Under the Federal Alcohol Administration Act (27 U.S.C. 201 *et seq.*) or chapter 51 of subtitle E of the Internal Revenue Code of 1986 (26 U.S.C. 5001 *et seq.*) the facility is required to obtain a permit from, register with, or obtain approval of a notice or application from the Secretary of the Treasury as a condition of doing business in the United States, or is a foreign facility of a type that would require such a permit, registration, or approval if it were a domestic facility; and (ii) Under section 415 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350d) the facility is required to register as a facility because it is engaged in manufacturing, processing, packing, or holding one or more alcoholic beverages.

Proposed § 121.5(e)(2) would provide that proposed part 121 does not apply with respect to food other than alcoholic beverages at a facility described in paragraph (e)(1) of this section, provided such food: (i) Is in prepackaged form that prevents any direct human contact with such food; and (ii) Constitutes not more than 5 percent of the overall sales of the facility, as determined by the Secretary of the Treasury.

In section X.C.7 of the PC proposed rule, we explain in detail our interpretation of section 116 of FSMA and our consideration of hazards and preventive controls for the manufacturing, processing, packing, and holding of alcoholic beverages. Based on that analysis, we proposed, in proposed § 117.5(i), to exempt certain facilities engaged in the manufacturing, processing, packing, or holding of alcoholic beverages and other food. Consistent with that analysis, we are proposing similar exemptions related to alcoholic beverages in this proposed rule on focused mitigation strategies for the protection of food against intentional adulteration caused by acts of terrorism.

We have tentatively concluded that we should include a provision implementing section 116 of FSMA in the proposed rule to establish by regulation the reach of the provision. We request comment on our interpretation of section 116 of FSMA, described in section X.C.7 of the PC proposed rule, and its application to the proposed exemption in § 121.5(e).

6. Proposed § 121.5(f)—Exemption for Food for Animals

Proposed § 121.5(f) would exempt from the requirements of proposed part 121 the manufacturing, processing, packing, and holding of food for animals other than man. In the Animal Food PC proposed rule, we proposed to require that facilities that manufacture, process, pack, or hold animal food and that are not otherwise covered by certain exemptions, design and implement a system of preventive controls to address food safety issues. In that proposed rulemaking, we tentatively concluded that hazards associated with intentional adulteration would likely require different kinds of controls and would be best addressed in a separate rulemaking.

We also requested comment in that rulemaking on whether to include in those regulations potential hazards that may be intentionally introduced for economic reasons, which we refer to as economically motivated adulteration, a type of intentional adulteration. Our current thinking regarding economically motivated adulteration is discussed in section IV.F of this document.

Section 418(m) of the FD&C Act authorizes FDA to exempt or modify the requirements for compliance with section 418 with regard to facilities that engage solely in the production of animal food. Further, section 420(c) of the FD&C Act requires that regulations that FDA issues under that section apply only to food for which there is a high risk of intentional contamination. In section IV.A of this document, we discuss how FDA is proposing to implement the provisions of sections 418 and 420 of the FD&C Act with regard to circumstances under which a facility subject to either of these sections would be required to have and implement focused mitigation strategies under a HACCP-like system to address intentional adulteration related to terrorism. In summary, this proposed rule would require a facility to implement focused mitigation strategies if one or more of four key activity types are applicable to its food operation or if a facility conducts its own vulnerability assessment and identifies actionable process steps for significant vulnerabilities in its food operation.

The identification of a production step for a food as necessitating focused mitigation strategies is premised upon an analysis, based on CARVER+Shock methodology, that an attack at these points in the production of a food would likely result in an outcome that is consistent with our understanding of the goal of terrorist organizations (i.e., maximizing adverse public health impacts and, to a lesser extent, economic disruption) (Ref. 54). For human foods, our analyses show the potential for significant human morbidity and mortality should intentional adulteration occur at any one or more of these points in a food operation. (Significant economic harm is also likely, related to the human morbidity and mortality as well as disruption in the food supply as a result of loss of consumer confidence in its safety.) In contrast, for animal food, our analysis shows only minimal potential for human morbidity or mortality as a result of attacks at key activity types or other points in an animal food operation. Significantly, our CARVER+Shock vulnerability assessments of animal food have had to focus entirely on economic consequences because of the lack of potential for human morbidity and mortality.

In considering whether to provide an exemption related to animal food, we evaluated three types of possible attack scenarios: (1) Incorporation of a contaminant into feed to be used for muscle meat-producing animals; (2) incorporation of a contaminant into feed to be used for egg-producing or milk-producing animals; and (3) incorporation of a contaminant into pet food. With regard to the two former scenarios, we are not aware of contaminants that could be incorporated into feed at levels that would not produce noticeable clinical signs and/or mortality in animals but would result in significant human morbidity or mortality among consumers that subsequently eat the meat, eggs or milk (Ref. 55). While contaminants can increase the risk of chronic disease, such as cancer, among consumers (Ref. 56), such an outcome is not consistent

with our understanding of the goals of terrorist organizations, which include a more immediate impact. We recognize that such an attack could result in significant economic disruption because of the loss of consumer confidence in the safety of the food supply. While important, attacks of that nature fall significantly below those involving human morbidity and mortality when placed on a scale of risk with regard to targeting by terrorist organizations.

Regarding the third attack scenario (incorporation of a contaminant into pet food), we are aware of contaminants that could be incorporated into feed or pet food that could result in significant animal (including pet) morbidity and mortality, including some which could result in secondary infectious spread of disease (because some infectious agents can be transmitted orally as well as through aerosol). Again, such attacks could be significant from an economic and societal standpoint. However, the risk that they pose with regard to targeting by terrorist organizations appears to be significantly lower than those involving human morbidity and mortality. We request comment on this assessment of risk.

Therefore, notwithstanding the likely presence of one or more of the four key activity types in the production of many animal foods, we have tentatively concluded that animal food (regardless of whether it is produced at a facility solely engaged in the production of animal food or at a facility engaged in the production of both animal and human food) does not involve significant vulnerabilities that require focused mitigation strategies under section 418 of the FD&C Act and is not at high risk for intentional adulteration related to terrorism under section 420 of the FD&C Act. Consequently, we are proposing to exempt the manufacturing, processing, packing, and holding of food for animals other than man. We request comment on these tentative conclusions.

C. Food Defense Measures

In subpart C of proposed part 121, FDA is proposing various food defense measures, including requirements for a food defense plan, identification of actionable process steps, implementation of focused mitigation strategies and related monitoring, corrective actions, and verification, and training of certain personnel. We discuss the provisions of proposed subpart C in this section.

1. Food Defense Plan

a. Proposed § 121.126(a)—Requirement for a Food Defense Plan. Proposed § 121.126(a) would require that the owner, operator, or agent in charge of a facility prepare, or have prepared, and implement a written food defense plan. To make clear that the written plan is related to food defense rather than to other plans a facility may have (such as quality control plans or food safety plans), for purposes of this rulemaking, we have designated the ''written plan'' to be a ''food defense plan.'' A written food defense plan is essential for a facility covered by this rule to implement the plan consistently, train its employees, and periodically reanalyze and update the plan. It is also essential to auditors, and to inspectors, in the same way written plans are essential to ensuring food safety. A written food defense plan addressing vulnerabilities associated with intentional adulteration is analogous to a written HACCP or food safety plan for hazards associated with unintentional contamination.

Proposed § 121.126(a) would provide flexibility for the owner, operator, or agent in charge of the facility to either prepare the written food defense plan or have that plan prepared, in whole or in part, on its behalf. In addition, proposed § 121.126 would provide flexibility for facilities in the development of their food defense plans by allowing facilities to group food types or production method types if the vulnerabilities, focused mitigation strategies, and other required procedures, such as monitoring, are essentially identical.

Proposed § 121.126(a) would require that the owner, operator, or agent in charge of a facility implement the written food defense plan. Our proposed requirement to develop and implement a food defense plan, which includes the identification of actionable process steps and implementation of focused mitigation strategies, reflects our tentative conclusion that such actions are measures necessary to prepare and protect the food supply from intentional adulteration caused by acts of terrorism. Proposed § 121.126(a) implements sections 418(b), (c), (d), (e), (f), and (h), and 420(b) of the FD&C Act. We seek comment on these tentative conclusions.

b. Proposed § 121.126(b)—Contents of a food defense plan. Proposed § 121.126(b)(1) through (b)(5) would require that the contents of a food defense plan include:

- The written identification of actionable process steps as required by proposed § 121.130;
- The written focused mitigation strategies as required by proposed § 121.135(b);
- The written procedures for monitoring as required by proposed § 121.140(a);
- The written corrective action procedures as required by proposed § 121.145(a)(1); and
- The written verification procedures as required by proposed § 121.150(e).

Although we are proposing to require that the contents of food defense plan include only the specific elements described above, the food defense plan can be used as a resource for facilities to capture additional food defense-related information. For example, facilities may also wish to include information, such as process flow diagrams, an evaluation of broad mitigation strategies, emergency contact information, crisis management plans, action plans for implementation of broad mitigation strategies, results of supplier audits, and other documents, analysis, reviews, or information the facility finds relevant to its food defense program. FDA has developed and publicly released the user-friendly FDPB software tool that can be used to assist a facility to develop a robust food defense plan. This free tool is available on the FDA Web site at *http://www.fda.gov/Food/FoodDefense/ToolsEducationalMaterials/ucm349888.htm.*

Proposed § 121.126, if finalized, would establish a requirement for every facility covered by this rule to have its own written food defense plan. Like the food safety plan, this facility-based nature of the written food defense plan is consistent with the overall framework of section 418 of the FD&C Act, which is directed to a facility rather than, for example, a corporate entity that may have multiple facilities.

Proposed § 117.126(c) of the PC proposed rule would require that the food safety plan be prepared by (or its preparation overseen by) a qualified individual (See the discussion in section XII.A.4 of the PC proposed rule). We are proposing to require that the vulnerability assessment be performed by an individual qualified by experience and/or training only when facilities choose to identify actionable process steps in their food defense plans using the provisions of proposed § 121.130(b), whereby they would perform their own vulnerability assessment. Our proposal is based on two considerations. First, we anticipate that most facilities will develop their food defense plan using the procedure in proposed § 121.130(a) for identification of actionable process steps. Here, FDA has performed much of the scientific analysis required and identified the key activity types (see section V.C.2 of this document for

further discussion). Second, we believe that the identification of focused mitigation strategies, and the monitoring, corrective action and verification activities to implement them requires less technical expertise than required for preventive controls and implementation procedures for those controls. The former usually involve focused mitigation strategies to limit access to specific steps in the production process with simple visual checks to monitor them, while the latter often involve scientific studies to establish critical limits with process control instruments to monitor them.

Proposed § 121.126(b) implements sections 418(h) and 420(b)(2) of the FD&C Act.

We seek comment on our proposed provisions related to the written food defense plan and its contents.

2. Identification of Actionable Process Steps

a. FDA's vulnerability assessments and FDA-identified key activity types. As noted in section II.B of this document, under the SPPA Initiative, FDA, along with USDA, FBI, and DHS, conducted vulnerability assessments on products and processes in the food and agriculture sector. After conclusion of the initiative, FDA continued conducting assessments for products and processes not previously assessed. To implement section 420(a)(1)(A), FDA combined and analyzed data from a subset of these assessments (i.e., those relevant to the food manufacturing and distribution segments of the food system) and identified activities which consistently ranked high for vulnerability to intentional adulteration. FDA published the results of this analysis in April, 2013 (April 2013 Report) (Ref. 54).

CARVER+Shock methodology is a tool for assessing the vulnerabilities within a food system and determining the most vulnerable points, and focusing resources on protecting the most susceptible points. Using the CARVER+Shock methodology, FDA, in collaboration with other U.S. government partners conducted over 50 vulnerability assessments on a wide range of food products and processes. Based on these assessments, we identified the processing steps with the greatest vulnerability to intentional adulteration caused by acts of terrorism. Through this review, we determined that the processing steps we identified fit into one of four groups of activities occurring at those processing steps. We refer to these as ''key activity types.'' The key activity types that we have identified are: (1) Bulk liquid receiving and loading, (2) Liquid storage and handling, (3) Secondary ingredient handling, and (4) Mixing and similar activities. In this proposed rule we have modified the activity type names and descriptions from those in the April 2013 Report for clarity.

Providing these key activity types to facilities for their use in identifying actionable process steps and developing focused mitigation strategies provides some advantages over other approaches that we might have taken, such as identifying points in the production of specific foods at increased risk for intentional adulteration caused by an acts of terrorism, or requiring each facility to perform its own vulnerability assessment. First, publicly providing a list of key activity types does not disclose sensitive information, as might be the case if we provided CARVER+Shock scores derived from our vulnerability assessments for process steps for specific foods.

Second, providing a list of key activity types rather than requiring facilities to perform their own facility-specific vulnerability assessments relieves the burden upon the facility to assemble a team of individuals with the diverse expertise needed to properly self-score the steps in their process (using the CARVER+Shock Vulnerability Assessment software tool or another suitable tool). When we performed vulnerability assessments during the SPPA initiative our teams included individuals with expertise in the production of the food under study, law enforcement, food science, food regulatory systems, and public health. We expect that such an effort is likely beyond the capacity of many facilities. Further, by providing a list of key activity types, we eliminate the need to identify a CARVER+Shock score, for example, as the threshold for the implementation of focused mitigation strategies. This is important because CARVER+Shock scores are somewhat subjective and difficult to correlate across food types, making identification of a universal threshold score challenging.

b. Proposed § 121.130—Requirement for written identification of actionable process steps. Proposed § 121.130 would require that the owner, operator, or agent in charge of a facility identify any actionable process steps, using the procedures in either proposed § 121.130(a) or proposed § 121.130(b). A facility would be required to follow either one of the two specified procedures, but not both.

Proposed § 121.130 would also require that the identification of actionable process steps and the assessment leading to that identification be written. A written assessment of whether the facility has one or more of the key activity types (under proposed § 121.130(a)) or a written vulnerability assessment (under proposed § 121.130(b)) would help the facility organize its assessment, and fully understand the nature of the vulnerabilities. In addition, it is essential for auditors and inspectors to assess the adequacy of the facility's assessment. This written identification of actionable process steps would also be essential during reanalysis of the food defense plan, as would be required by proposed § 121.150(d). Such a written document would also be useful for training purposes as a tool to make employees aware of the elements of the facility's food defense plan.

The written identification of actionable process steps must include the justification for whatever conclusion the owner, operator, or agent in charge of a facility reaches. Proposed § 121.130 would not limit the requirement for a written identification of actionable process steps to only those circumstances where the owner, operator, or agent in charge of a facility identifies one or more actionable process steps. Rather, under proposed § 121.130, a written analysis would be required even if the conclusion of the analysis is that there are no actionable process step.

If a facility chooses to identify actionable process steps using the procedure in proposed § 121.130(a), the written documentation would not need to include the procedures for assessing the vulnerabilities associated with identified actionable process steps. If a facility chooses to identify actionable process steps using the procedure in proposed § 121.130(b), the written identification of actionable process steps must include information about the appropriate methods used to conduct the vulnerability assessment and identify actionable process steps, and the experience and training of the person(s) who conducted that assessment (see also discussion in section V.C.2.d of this document).

Proposed § 121.130 implements sections 418(b)(2), 418(b)(3), 420(a)(1), and 420(b)(1) of the FD&C Act.

c. Proposed § 121.130(a)—Identification of actionable process steps using FDA-identified key activity types. Proposed § 121.130(a) would specify the first of two procedures by which the proposed requirement for identification of actionable process steps in proposed § 121.130 can be met, i.e., using the FDA-identified key activity types.

Proposed § 121.130(a) would state that the owner, operator, or agent in charge of a facility must assess, for each type of food manufactured, processed, packed or held at the facility, whether the facility has one or more of the following key activity types and identify the actionable process steps associated with any key activity types present:

1. *Bulk liquid receiving and loading*—a step in which a bulk liquid is received and unloaded from an inbound conveyance or loaded into an outbound conveyance where a contaminant can be intentionally introduced and, if it is, it is likely that the contaminant will be distributed throughout the liquid due to sloshing, movement, or turbulence caused by the receiving and unloading or loading activity;

2. *Liquid storage and handling*—a step in which a liquid is contained in bulk storage tanks or in holding, surge, or metering tanks where a contaminant can be intentionally introduced and, if it is, it is likely that the contaminant will be distributed into the food;

3. *Secondary ingredient handling*—a staging, preparation, addition, or rework step where a contaminant can be intentionally introduced into a relatively small amount of ingredient or rework and, if it is, it is likely that the contaminant will be distributed into a larger volume of food; and

4. *Mixing and similar activities*—a step, such as mixing, blending, homogenizing, or grinding where a contaminant can be intentionally introduced and, if it is, it is likely that the contaminant will be distributed into the food.

The owner, operator, or agent in charge would be required to assess whether the facility has a food process that involves any one or more of the specified four key activity types. If the food process is found to involve any key activity types, the owner, operator, or agent would be required to identify actionable process step(s) that are associated with each key activity type that is present.

For example, based on proposed § 121.130(a), a facility may identify a mixing tank as involving the key activity type, Mixing and similar activities, in its operation because the mixing tank has an unsecured lid and several sample ports which provide direct access to the food product and because a contaminant can be introduced into the tank through the lid or one of the sampling ports and, if it is, the contaminant would be distributed into the food. The owner would conclude that the mixing tank is an actionable process step. We would expect that this conclusion would be reached for virtually all steps that involve mixing, blending, homogenizing, or grinding because these kinds of process steps generally: (1) Present an opportunity for access to the product at or just prior to the equipment (e.g., in-feed conveyor); and (2) would cause a contaminant, if intentionally added, to be distributed into the food. We expect this conclusion to be reached regardless of whether the facility may already have mitigation strategies in place to impede access to the mixing tank (e.g., a ''buddy system'' that ensures that at least two employees were present at the mixing tank at all times or a lock on the mixing tank access ports). The presence of mitigation strategies should not be considered when assessing whether a facility has a process step that involves one of the key activity types. Any existing mitigation strategies and their adequacy to significantly minimize or prevent the significant vulnerability should be considered at a later step when identifying appropriate focused mitigation strategies, in accordance with proposed § 121.135.

We acknowledge the possibility, although not likely, that circumstances may exist where access at or just prior to the equipment is not possible (i.e., because the equipment is fully enclosed, with no access ports), and that in such a situation this process step would not be identified as fitting within the key activity type. For example, the owner of the same facility may assess a second mixing tank that is part of an entirely closed system, with no direct access points into the system, such that an individual attempting to access this mixing tank would likely cause a major disruption to the line, foiling any attempted intentional adulteration. Based on this assessment, the owner may conclude that the enclosed nature of this second mixing tank renders the product inaccessible at this step and, therefore, it does not fit within the key activity type. In this circumstance, there would be no requirement to identify an actionable process step associated with this mixing tank (in which case, there also would be no requirement to implement a focused mitigation strategy at this step). Under proposed § 121.130, the owner would be required to document the basis for the determination that the second mixing tank does not fit within the key activity type. The second mixing tank would continue to be subject to the requirement for reanalysis of a food defense plan, as proposed in § 121.150(d) and the facility would consider the applicability of the four key activity types during reanalysis. We request comment on whether there are specific process steps for specific products that otherwise fit within one of the four key activity types but for which access to the equipment is not possible (i.e., because the equipment is fully enclosed, with no access ports).

If the owner, operator, or agent in charge determines that the food operation does not involve any of the key activity types, there would be no need to identify actionable process steps. Such a facility, however, would still be required to document its finding that none of the key activity types apply to its food processes, under proposed § 121.130. The documentation would be a part of the written food defense plan required under proposed § 121.126. Such a facility would continue to be subject to the requirement for reanalysis of a food defense plan, as proposed in § 121.150(d).

Proposed § 121.130(a) would require that the process of identification of actionable process steps be done ''for each type of food manufactured, processed, packed, or held at the facility.'' The vulnerability of a food to intentional contamination may differ based on the type of food and associated process, practices, and conditions at the facility. Therefore, we are proposing that the facility assess whether it has any of the key activity types for each type of food that is manufactured, processed, packed, or held at that facility. A facility may find that its operation related to one type of food manufactured at that facility involves one or more of the key activity types, but all other types of food manufactured at that facility do not involve any of the key activity types. In such an instance, actionable process steps would need to be identified and focused mitigation strategies implemented only for the food type that involved the key activity types.

Description of key activity types—As discussed in section V.C.2.a of this document, our vulnerability assessments revealed four key activity types that most commonly rank high: Bulk liquid receiving and loading; Liquid storage and handling; Secondary ingredient handling; and Mixing and similar activities. We have tentatively concluded that the presence of any of these four key activity types in a food operation indicates a significant vulnerability for intentional contamination caused by acts of terrorism. Based on our assessments, we believe that these four key activity types capture the significant vulnerabilities in a food operation. However, although generally unlikely, a vulnerability

assessment of a specific food at a specific facility conducted under proposed § 121.130(b) may identify significant vulnerabilities at actionable process steps that are not associated with one of these four key activity types. We seek comment on our tentative conclusion.

Proposed § 121.130(a)(1) would identify ''*Bulk liquid receiving and loading*'' as a key activity type, based on our finding that this activity type commonly ranked high in our vulnerability assessments. Proposed § 121.130(a) would describe this key activity type as a step in which a bulk liquid is received and unloaded from an inbound conveyance or loaded into an outbound conveyance where a contaminant can be intentionally introduced and, if it is, it is likely that the contaminant will be distributed throughout the liquid due to sloshing, movement, or turbulence caused by the receiving and unloading or loading activity. Bulk liquid receiving refers to the inbound movement of liquid product into a facility for its use in the food production process, whereas bulk liquid loading refers to the outbound movement of liquid product from a facility for further processing or use by an end customer/consumer. Examples of products that may be received or loaded in bulk include juices, high fructose corn syrup and other sweeteners, milk, animal fats, syrups, and vegetable oils.

Bulk liquid receiving and loading refers to any processing step where a liquid ingredient is being received and unloaded at a facility or a liquid intermediate or finished product is being loaded into an outbound shipping transport vehicle and for which there is an opportunity for a contaminant to be intentionally introduced into the food. This key activity type incorporates the actions of opening the transport vehicle, attaching any pumping equipment or hoses, and opening any venting hatches. The characteristics associated with these activities are such that there is a high probability of a contaminant, if intentionally added, mixing within the liquid, due to significant sloshing, movement, and turbulence associated with the receiving or loading activity. In addition, the need for worker activity associated with these processing steps provides access to hoses, the transport vessel, and potentially the product as it is being received or loaded.

Proposed § 121.130(a)(2) would identify ''*Liquid storage and handling*'' as a key activity type, based on our finding that this activity type ranked high in our vulnerability assessments. Proposed § 121.130(a) would describe this key activity type as a step in which a liquid is contained in bulk storage tanks or in holding, surge, or metering tanks where a contaminant can be intentionally introduced and, if it is, it is likely that the contaminant will be distributed into the food. This key activity type refers to any processing step where a liquid ingredient or intermediate or finished liquid product is stored in either bulk storage tanks or smaller secondary, non-bulk holding tanks or surge tanks and for which there is an opportunity for a contaminant to be intentionally introduced into the food. Bulk liquid storage refers to any storage silo or tank where liquid product may be stored prior to introduction into the product stream or prior to loading for outbound shipping. Non-bulk tanks can be used to store non-bulk liquid ingredients (e.g., fats, oils, vitamin mixes, and sweeteners), hold liquid product for sample testing and other quality control activity, or to control flow rates of liquid ingredients or product through the production system. Non-bulk storage tanks also include tanks or totes where the tamper evident seals are opened and the container itself is used for holding. Both categories of liquid storage can be considered key processing steps because if a contaminant were successfully introduced, there is a high probability of a contaminant mixing within the liquid due to the agitation commonly used to prevent separation within the liquid medium. Access necessary for the introduction of a contaminant is generally available through hatches, sample ports, and the container lid (in the case of a tanker or tote for which the tamper evident seal has been broken).

Proposed § 121.130(a)(3) would identify ''*Secondary ingredient handling*'' as a key activity type, based on our finding that this activity type commonly ranked high in our vulnerability assessments. Proposed § 121.130(a) would describe this key activity type as the staging, preparation, addition, or rework step where a contaminant can be intentionally introduced into a relatively small amount of ingredient or rework and, if it is, it is likely that the contaminant will be distributed into a larger volume of food. This key activity type refers to any processing step where ingredients (either dry or liquid) are manipulated prior to or during addition to the product stream by human contact and for which there is an opportunity for a contaminant to be intentionally introduced into the food. ''Staging'' refers to the process of opening the tamper evident packaging of a secondary ingredient and moving the ingredient to the production area in advance of being added into the primary product stream. ''Preparation'' refers to any act of measuring, weighing, premixing, or otherwise manipulating the ingredient prior to addition to the product stream. ''Addition'' refers to any act of physically adding ingredient directly into the product stream or into surge or meter hoppers in order to deliver the ingredient into the product stream. ''Rework'' refers to clean, unadulterated food that has been removed from processing for reasons other than insanitary conditions or that has been successfully reconditioned by reprocessing and that is suitable for use as food. Staging, preparation, addition, and rework involving secondary ingredients are key activities because a contaminant added to a relatively small volume of product would be distributed into the large product flow as the ingredient or rework is combined with the other components of the food. Secondary ingredient staging, preparation, addition, and rework are generally open and accessible and that accessibility is an inherent component of the activity. Thus, these key activities provide a potential point of access where a contaminant could be introduced into the product stream.

Proposed § 121.130(a)(4) would identify ''*Mixing and similar activities*'' as a key activity type, based on our finding that the activities commonly ranked high in our vulnerability assessments. Proposed § 121.130(a) would describe this key activity type as a step, such as mixing, blending, homogenizing, coating, glazing, or grinding where a contaminant can be intentionally introduced and, if it is, it is likely that the contaminant will be distributed into the food. This key activity type refers to any processing step where there is an opportunity for a contaminant to be intentionally introduced into the food, and the primary purpose or result of the processing step is: (1) Coating, i.e., to layer a powder or liquid onto the surface of a product, such as a batter, breading, glazing or flavoring; (2) mixing, i.e., to blend a powder, dough, or liquid ingredient together; (3) grinding, i.e., to reduce the particle size of a solid ingredient or mass to a smaller granularity; or (4) homogenizing, i.e., to reduce the particle size of an ingredient and disperse it throughout a liquid.

These are key activities because a potential contaminant successfully added at one of these steps would generally be readily dispersed throughout the product. Further, access is generally available through access ports, lids, and in-feed conveyors or

flumes. Examples of equipment associated with these activities include: Mixers, blenders, homogenizers, cascade breaders, mills, grinders, and pulverizers.

We seek comment on these key activity types, and whether they are each appropriate to include and whether there are additional activities that present significant vulnerability to intentional adulteration caused by acts of terrorism.

Proposed § 121.130(a) implements sections 418(a) through (c) and 420(a)(1)(A) of the FD&C Act.

d. Proposed § 121.130(b)—Identification of actionable process steps by conducting a vulnerability assessment. Proposed § 121.130(b) would provide the second of two options for identification of actionable process steps. Proposed § 121.130(b) would specify that the owner, operator, or agent in charge of a facility must conduct or have conducted, for each food type manufactured, processed, packed or held at the facility, an evaluation to identify and prioritize the points, steps, and procedures in a food operation based on their vulnerability to intentional adulteration and to identify actionable process steps.

Proposed § 121.130(b) would provide flexibility to the owner, operator, or agent in charge of a facility covered by this rule to conduct, or have conducted, their own vulnerability assessment of the food operations at a facility, rather than assessing their food operation against the FDA-identified key activity types. We are proposing that a vulnerability assessment conducted under proposed § 121.130(b) must be performed by an individual(s) qualified by experience and/or training using appropriate methods. Training or job experience is essential to the effective evaluation of vulnerabilities and identification of actionable process steps. Only a trained individual or individual qualified by job experience using appropriate methods would be capable of effectively conducting a vulnerability assessment, including assessing the various points, steps, or procedures in a food process; identifying and prioritizing those points, steps, or procedures in a food process that are susceptible to intentional contamination; and identifying actionable process steps where food defense measures are essential to address significant vulnerabilities. Our proposed definition of significant vulnerability (in proposed § 121.3), too, reflects the need for a qualified individual to make such assessments where focused mitigation strategies would be necessary to protect the food from intentional adulteration caused by acts of terrorism. As noted above, when we performed vulnerability assessments during the SPPA initiative our teams included individuals with expertise in the production of the food under study, law enforcement, food science, food regulatory systems, and public health. While we are not proposing to specify the particular training or experience requirements of the individual(s) qualified to conduct such vulnerability assessments, or the particular methods that must be used to conduct these assessments, facilities choosing this procedure in proposed § 121.130(b) would be required to employ appropriate methods and use a qualified individual(s) to conduct a robust and scientifically sound vulnerability assessment of the facility's food operation. FDA's resources available online, such as the CARVER+Shock Vulnerability Assessment software tool and the FDPB software tool may be helpful.

Finally, as in the case of proposed § 121.130(a), proposed § 121.130(b) would require that the process of identification of actionable process steps be done ''for each type of food manufactured, processed, packed, or held at the facility.'' See discussion in section V.C.2 of this document.

Elements of a Facility-Specific Vulnerability Assessment—The elements of an approach to conducting a facility-specific vulnerability assessment are:

- Planning to conduct a vulnerability assessment—collect and evaluate appropriate background information on biological, chemical, physical, and radiological agents of concern, such as those found in the CDC's Select Agents and Toxins List (Ref. 57);
- Assembling the vulnerability assessment team—identify appropriate individuals within the organization to assist in the vulnerability assessment process. This may include personnel working in the areas of security, food safety/quality assurance or control, human resources, operations, maintenance, and other individuals deemed necessary to facilitate the formation of a vulnerability assessment;
- Developing a process flow diagram—list out each of the steps in the food process to be evaluated;
- Identifying significant vulnerabilities—evaluate each process step to prioritize vulnerabilities and identify significant vulnerabilities. For each process step, the evaluation should consider, at a minimum: (1) The potential public health impact if a contaminant were added; (2) whether downstream processing steps would eliminate or remove agents of concern; (3) the degree of physical access to product; (4) the ability of an aggressor to successfully contaminate the product; and (5) the volume of product impacted. This evaluation should also include the rationale or justification for which process steps were and were not identified as significant vulnerabilities; and
- Identifying actionable process steps—for identified significant vulnerabilities, indicate where actionable process steps exist in the food process and where associated focused mitigation strategies would be required to be implemented, under proposed § 121.135.

Facilities that choose this alternative may need assistance from outside experts who are knowledgeable in food defense and vulnerability assessments. Some facilities may not have the resources or the necessary expertise on site and expert advice may be obtained when necessary from other sources, such as trade and industry associations, independent experts, and regulatory authorities.

We seek comment on the need for, and appropriateness of, proposed § 121.130(b), including whether, in a final rule, we should specify the particular qualifications of individual(s) performing the vulnerability assessment or the methods that must be used under this alternative procedure, and whether the vulnerability assessment elements, we described previously, provide sufficient direction regarding appropriate methodology.

Proposed § 121.130(b) implements sections 418(a) to (c) and 420(a)(1)(A) of the FD&C Act.

3. Focused Mitigation Strategies

a. Requirements of sections 418 and 420 of the FD&C Act. Section 418(c)(2) of the FD&C Act, in relevant part, specifies that the owner, operator, or agent in charge of a facility shall identify and implement preventive controls to provide assurances that hazards identified in the hazard analysis conducted under section 418(b)(2) of the FD&C Act will be significantly minimized or prevented and addressed, consistent with section 420 of the FD&C Act, as applicable. Section 418(c)(1)(3) of the FD&C Act, in relevant part, specifies that the preventive controls must also provide assurances that the food manufactured, processed, packed, or held by such facility will not be adulterated under section 402 of the FD&C Act. Section 418(h) of the FD&C Act requires that the owner, operator, or agent in charge of a facility prepare a written food safety plan that, among

other things, identifies the preventive controls within the plan. Section 420(b) of the FD&C Act requires FDA to issue regulations to protect against the intentional adulteration of food. Such regulations are to specify appropriate science–based mitigation strategies or measures to prepare and protect the food supply chain at specific vulnerable points, as appropriate (section 420(b)(2) of the FD&C Act).

Section 418(o)(3) of the FD&C Act defines preventive controls as ''those risk-based, reasonably appropriate procedures, practices, and processes that a person knowledgeable about the safe manufacturing, processing, packing, or holding of food would employ to significantly minimize or prevent the hazards identified under the hazard analysis conducted under [section 418(b) of the FD&C Act] and that are consistent with the current scientific understanding of safe food manufacturing, processing, packing or holding at the time of the analysis.'' The definition provides that ''those procedures, practices, and processes may include the following: (A) Sanitation procedures for food-contact surfaces and utensils and food-contact surfaces of equipment; (B) Supervisor, manager, and employee hygiene training; (C) An environmental monitoring program to verify the effectiveness of pathogen controls in processes where a food is exposed to a potential contaminant in the environment; (D) A food allergen control program; (E) A recall plan; (F) Current Good Manufacturing Practices (cGMPs) under part 110 of title 21, Code of Federal Regulations (or any successor regulations); (G) Supplier verification activities that relate to the safety of food.'' (emphasis added)

In section V.A.2 of this document, we discuss our proposed definition of focused mitigation strategy and its relationship to the definition of preventive controls in section 418(o)(3) of the FD&C Act. We are not proposing requirements for sanitation procedures, hygiene training, environmental monitoring, food allergen control, and CGMPs because these examples are relevant to food safety, but not to food defense. We considered proposing to require a recall plan (as we did in the PC proposed rule in proposed § 117.135(d)(4); see sections XII.C.8 and XII.D of that document). However, we tentatively conclude that the usefulness of a recall plan is greatly reduced in the context of preventive controls for intentional adulteration. The relationship between an implementation failure and the status of the food is different in intentional adulteration and food safety contexts. An act of intentional adulteration caused by terrorism, historically, has been a rare event. In the vast majority of cases, the failure to properly implement a focused mitigation strategy would not be expected to result in intentional adulteration. With intentional adulteration, adulteration of food requires not just the opportunity for a contamination event (i.e., failure of a mitigation strategy to limit access to an actionable process step), but also someone with intent to cause harm at that same moment. As such, it is unlikely that a deviation from the provisions of this proposed rule would necessitate a recall. In contrast, the failure to properly implement a preventive control for a food safety hazard (for example, where proper cook temperatures are not reached in a process) would be expected to more likely result in a situation where the food becomes adulterated (e.g., because the pathogen reasonably likely to be present in the raw food would not be eliminated from the food by the inadequate cooking process), potentially necessitating a recall.

b. General description of mitigation strategies. Mitigation strategies are measures taken by a facility to reduce the potential for intentional adulteration of food. Based on these vulnerability assessments, FDA previously developed recommendations for mitigation strategies that can be implemented, as appropriate, to minimize or prevent intentional contamination of food. These mitigation strategies are presented in our guidance documents (Ref. 22, Ref. 23, Ref. 24, Ref. 25, Ref. 26), the CARVER+Shock Vulnerability Assessment software tool (Ref. 29), the MSD (Ref. 30), and the FDPB software tool (Ref. 31). FDA divides mitigation strategies into two types: Broad Mitigation Strategies and Focused Mitigation Strategies. We explain each of these types in this section of the document.

i. Broad mitigation strategies. Broad mitigation strategies are general facility-level measures that are intended to minimize a facility's vulnerability, as a whole, to potential acts of intentional contamination. Examples of broad mitigation strategies are: (1) Physical security, such as perimeter security fencing, locking exterior doors, penetration alarms; (2) personnel security, such as pre-hire background, reference checks, identification badges, and controlled visitor access; (3) securing hazardous materials, such as cleaning products, laboratory materials, and pesticides; (4) management practices, such as ingredient storage inventory procedures; key security procedures, PINs or passwords; procedures to restrict personal items from all food production areas; procedures requiring IDs and uniforms to be returned when a person's employment ends; and supplier verification or certification procedures; and (5) crisis management planning, such as maintenance of updated emergency contact information, procedures for responding to reported threats, and establishment of a designated food defense leadership team.

Broad mitigation strategies, by nature, are generally applicable to a facility, regardless of the type of food being processed, and, as such, are not targeted to a specific processing step in a food operation. Broad mitigation strategies address facility-wide vulnerabilities that may present an opportunity for an attacker to access the facility and intentionally adulterate food. Broad mitigation strategies serve as foundational actions or procedures that improve a facility's overall defense against intentional contamination caused by acts of terrorism.

We are proposing to require the implementation of focused mitigation strategies only. However, as set out in our guidance documents (Ref. 22, Ref. 23, Ref. 24, Ref. 25, Ref. 26), we think it is prudent for facilities to review our guidance and implement those broad mitigation strategies that are appropriate to minimize the risk for intentional adulteration of food.

ii. Focused mitigation strategies. As discussed in section V.A of this document, we are proposing to define focused mitigation strategies as those risk-based, reasonably appropriate measures that a person knowledgeable about food defense would employ to significantly minimize or prevent significant vulnerabilities identified at actionable process steps, and that are consistent with the current scientific understanding of food defense at the time of the analysis.

Focused mitigation strategies are specific to an actionable process step in a food operation where a significant vulnerability is identified. They represent reasonably appropriate measures that are necessary to reduce the likelihood of intentional contamination caused by an act of terrorism at that process step. Focused mitigation strategies are customized to the processing step at which they are applied, tailored to existing facility practices and procedures, and depend on an evaluation of the vulnerabilities identified in a vulnerability assessment. When properly implemented, focused

mitigation strategies by themselves are sufficient to significantly minimize or eliminate the chances that an attacker would be successful if an act of intentional adulteration were attempted at the specific process step. Focused mitigation strategies focus on minimizing either the accessibility of an attacker to the product at a particular process step or the opportunity for the attacker to successfully contaminate the product at that process step, or both.

Based on our vulnerability assessments, we tentatively conclude that the implementation of focused mitigation strategies at actionable process steps in a food operation is necessary to minimize or prevent the significant vulnerabilities that are identified in a vulnerability assessment (Ref. 21, Ref. 54, Ref. 58), regardless of the existence of broad mitigation strategies. Although broad mitigation strategies are important to further reduce the vulnerability for intentional contamination, they are not sufficient to significantly minimize the risk of intentional contamination caused by an act of terrorism because broad mitigation strategies are not specific enough, for example, to counter the actions of an attacker who has legitimate access to the facility (i.e., insider attack) or an attacker who circumvents perimeter protections (e.g., scaling a fence), with the goal of intentionally contaminating the food. Focused mitigation strategies, on the other hand, are targeted to actionable process steps identified in a food operation to reduce the likelihood of intentional contamination at those process steps and, therefore, are essential to ensure that appropriate food defense measures are taken to protect the food from intentional contamination caused by acts of terrorism. In contrast to broad mitigation strategies, focused mitigation strategies are targeted to actionable process steps and, therefore, are more effective at countering an attacker who has legitimate access to the facility. We have tentatively concluded that we will continue to encourage the implementation of broad mitigation strategies on a voluntary basis, but we will require the implementation of focused mitigation strategies at actionable process steps. We request comment on this tentative conclusion, and on whether we should include, in a final rule, a requirement for the implementation of any broad mitigation strategies.

iii. Examples of focused mitigation strategies for FDA-identified key activity types. For the FDA-identified key activity types, a variety of focused mitigation strategies may be applicable, dependent both on the food manufactured, processed, packed, or held at the facility and on the practices and processes employed at that facility. We list in this section some examples of focused mitigation strategies that may be appropriate to implement at actionable process steps for each of these four key activity types. While the decision of which and how many focused mitigation strategies would be appropriate to employ at an actionable process step is dependent upon the physical layout and operation at a specific facility, the examples presented in the section immediately below illustrate the decision-making process to identify and determine appropriate focused mitigation strategies at an actionable process step.

Bulk liquid receiving and loading—Examples of focused mitigation strategies that may be appropriate include the following:

1. *Controlling access to the receiving or loading area, conveyances, and equipment, including hoses and pumping machinery,* to prevent an unauthorized person from gaining access to the food during receiving or loading. Access controls may include: strategies to easily identify authorized persons, such as color-coded uniforms or badges; restricting conveyance drivers to areas away from the receiving or loading area (e.g., restricting them to a lounge or break room); securing hoses with locking caps or in cabinets; and ensuring that conveyance access hatches, vents, and inspection ports are secured;

2. *Ensuring adequate lighting in the receiving or loading area,* which reduces the ability of an attacker to disguise his or her actions. Adequate lighting in and around vulnerable areas of a food operation increases the likelihood that other staff will witness the actions of an attacker and enable them to take steps to prevent or react to contamination;

3. *Increasing observation of the receiving or loading area,* which reduces the ability of an attacker to disguise his or her actions. For example, maximizing the line of sight by removing boxes, crates, or other obstructions from the area; positioning quality control personnel in the receiving or loading area to supervise operations; or utilizing closed-circuit TV systems or other monitoring devices;

4. *Verifying that seals on a shipping conveyance are intact prior to receiving or after loading a bulk liquid* to reduce the likelihood that the shipping conveyance was or is accessed during transport to introduce a contaminant into the product;

5. *Establishing and implementing a policy for driver check-in and identification* to help confirm driver identity and verify the individual is authorized, through verification of shipping documentation or other means, to deliver or pick-up the shipment and reduce the likelihood that an attacker could fraudulently pose as a driver as a means of gaining access to the facility; and

6. *Inspecting the shipping conveyance prior to loading bulk liquids* to help ensure that no contaminant has been introduced to the conveyance chamber that could then contaminate the product once the product is loaded.

Liquid storage and handling—Examples of focused mitigation strategies that may be appropriate include the following:

1. *Controlling access to liquid storage, holding, surge, or metering tanks,* similar to the strategies that may be applied for controlling access to bulk liquid receiving and holding;

2. *Ensuring that the area around liquid storage, holding, surge, or metering tanks is free of unrelated materials,* such as personal items (backpacks, purses, or packages), and other items that are not directly related to the food operation, to reduce the likelihood of a contaminant being brought into the area for introduction into the tank;

3. *Ensuring adequate lighting in and around liquid storage, holding, surge or metering tanks,* similar to the strategies that may be applied for ensuring adequate lighting at bulk liquid receiving and loading;

4. *Installing one-way sample ports in liquid storage, holding, surge, or metering tanks* , so that food product can be drawn out of the equipment but a contaminant cannot be inserted into the tank;

5. *Inspecting tanks prior to filling* to help ensure that no contaminant has been introduced into the empty tank that could then contaminate the product once loaded;

6. *Inspecting pumping or metering equipment prior to use* to help ensure that no contaminant has been introduced into the equipment that could contaminate the product;

7. *Using enclosed tanks and transfer systems to move materials* to reduce the potential for an attacker to access the product and introduce a contaminant; and

8. *Positioning holding, surge, or metering tanks to increase visibility,* such that frequent observation is facilitated and visibility of activity around the tank is improved. This

focused mitigation strategy may be less practical for longer term storage tanks.

Secondary ingredient handling—Examples of focused mitigation strategies that may be appropriate include the following:

1. *Controlling access to ingredient handling areas,* including where secondary ingredients or rework are staged, prepared, or added to the product stream, to prevent an unauthorized person from gaining access to the ingredients or rework during these processes. As with other key activity types, access controls may include strategies to easily identify authorized persons, such as with color coded uniforms or badges, or conducting ingredient handling activities in areas behind locking gates, doors, or other barriers;

2. *Ensuring the secondary ingredient handling area is free of unrelated materials,* such as personal items or other items not directly related to the activity, to help ensure that a contaminant is not brought into the area for introduction into the ingredient during staging, preparation, or addition;

3. *Ensuring adequate lighting and increasing visibility in and around ingredient staging and handling areas,* similar to the strategies that may be employed to ensure adequate lighting at bulk liquid receiving and holding;

4. *Reducing staging time* to reduce the opportunity for intentional adulteration. Any time sealed or tamper-evident containers are breached provides a potential opportunity for an attacker to introduce a contaminant into the ingredient or rework. Reducing the time ingredients and rework are staged in unsecured containers reduces the opportunity for an attacker to adulterate the ingredient or rework;

5. *Restricting secondary ingredient handling to senior staff* to reduce the accessibility and opportunity for intentional adulteration;

6. *Using peer monitoring in the ingredient handling area,* because requiring at least two staff members to be in the area at any given time during operations can reduce the opportunity for a contaminant to be discreetly introduced into the food;

7. *Using automated and enclosed ingredient handling equipment,* such as automated computer weighing, measuring, and addition equipment, to reduce human contact with secondary ingredients or rework and thereby reduce the opportunity for introduction of a contaminant; and

8. *Inspecting secondary ingredients held in staging and investigating any irregularities in the amount, condition, or organization of items in secondary ingredient handling areas* to identify circumstances that suggest product contamination before a contaminated ingredient is added to the product stream.

Mixing and similar activities—Examples of focused mitigation strategies that may be appropriate include the following:

1. *Controlling access to processing areas where mixing and similar activities are conducted* to prevent an unauthorized person from gaining access to the product and equipment. Access controls may include: strategies to easily identify authorized persons, such as with color coded uniforms or badges; conducting these activities in areas behind locking gates, doors, or other barriers; securing access to overhead gangways and sampling platforms; and securing hatches, ports, and lids with locks or access alarm devices;

2. *Ensuring that the area is free of unrelated materials,* such as personal items and other items that are not directly related to the activity, to reduce the likelihood of a contaminant being brought into the area for introduction into the ingredient during mixing and similar activities;

3. *Ensuring adequate lighting and increasing visibility in and around mixing and similar activities areas,* similar to the strategies that may be employed to ensure adequate lighting at bulk receiving and loading;

4. *Positioning mixing and similar equipment in a manner that maximizes visibility,* similar to the strategies that may be employed to maximize visibility for liquid storage and handling;

5. *Using one-way sample ports that prohibit introduction of a contaminant into the mixing or similar equipment,* similar to the strategies that may be employed for liquid storage and handling;

6. *Conducting inspections of mixing and similar equipment prior to use* to help ensure no contaminant has been introduced that could contaminate the product once loaded;

7. *Restricting mixing and similar activities to senior staff,* similar to the strategies that may be employed for secondary ingredient handling;

8. *Using peer monitoring in this area* to ensure that at least two staff members are in this area at any given time during operations, reducing the opportunity for a contaminant to be discreetly introduced into the food; and

9. *Using automated, self-contained, enclosed equipment* to reduce human contact with the product and reduce the opportunity for introduction of a contaminant.

These examples of focused mitigation strategies are consistent with measures included in the MSD. The examples are not intended to be an exhaustive list of appropriate focused mitigation strategies. For additional guidance on identifying appropriate focused mitigation strategies, see our guidance documents, the MSD, and other resources (see section II.D of this document).

iv. Specific examples of determining appropriate focused mitigation strategies. In this section, we discuss specific examples of the decision-making process to identify and determine appropriate focused mitigation strategies at an actionable process step for each of the FDA-identified key activity types.

Bulk liquid receiving and loading—Unloading at Facility A's bulk tanker truck unloading bay is an actionable process step for this key activity type. Facility A has a significant vulnerability related to access to the food during the unloading of the bulk liquid. At Facility A, the tanker truck drives into the unloading bay without passing through any security check-in procedures. A single facility employee is assigned to this area and takes a facility-owned hose from an open shelving unit in the unloading bay and attaches it to the tanker truck's unloading port. The driver of the tanker truck assists in unloading by opening the venting hatch at the top of the tanker truck while the facility employee is attaching the hose. The driver then waits in the unloading bay area while the truck is being unloaded. Upon completion of unloading activities, the driver gets back in the truck and exits the facility.

Facility A is not implementing focused mitigation strategies at this actionable process step such that access to the food during unloading of the bulk liquid is significantly minimized or eliminated. The food is significantly vulnerable to an attacker (in this case, potentially the driver, the facility employee, or a third party) who could intentionally add a contaminant to the product to adulterate the food. One approach for Facility A to significantly minimize or eliminate the significant vulnerability at this actionable process step is to implement the following focused mitigation strategies:

- Establish a receiving check-in and verification procedure to ensure that the shipment is being delivered by the proper firm and that the driver is properly identified. The procedure would be documented and maintained in a shipping log that records the key identifying information about the driver, tanker truck, and shipping

documentation for the delivered product. The facility would also institute a policy requiring that the shipping documentation include the ID numbers of the seals on the unloading ports so that the facility employee can verify that seal numbers match the shipping documentation and that the seals were not broken, tampered with or replaced during transport.

• Implement a procedure to store hoses securely to reduce the likelihood an attacker could add a contaminant to the hoses when not in use. This would include storing hoses in locking cabinets and placing end caps on the hoses. The facility also would issue keys only to staff working in the tanker truck receiving bay and use a key numbering and tracking system to verify that all keys are accounted for.

• Increase active observation of the unloading process to reduce the likelihood of an attacker successfully introducing a contaminant by requiring two or more production staff members to be present during unloading activities (i.e., peer monitoring), or requiring the bulk liquid unloading operations be overseen by a supervisor or a member of the quality control staff. Alternatively, the facility could employ video surveillance of the area. If the truck driver is permitted to remain in the area of the receiving bay, the introduction of active observation practices ensures that no contaminant could be intentionally introduced to the product during unloading activities. Alternatively, the facility could limit the driver's access to the product by restricting the location of the driver to designated areas outside the loading area while the truck is being unloaded.

In this example, the focused mitigation strategies were selected to achieve the following goals: Establishing the identity of personnel with access to the food; ensuring that equipment that may be used to introduce a contaminant is secured when not in use; and providing active observation of activities at actionable process steps. By implementing these focused mitigation strategies, the facility could significantly minimize the significant vulnerability identified at the actionable process step.

Liquid storage and handling—The storage of liquid in Facility B's bulk liquid storage tank is an actionable process step for this key activity type. Facility B's bulk storage tank holding a primary ingredient is located within its building, and a significant vulnerability relates to access to the food during such storage. In Facility B, a network of gangways, ladders, and platforms surround the bulk liquid storage tank so that personnel can gain access to a hatch at the top of the tank. Facility B has a procedure for securing this hatch with a lock, and the facility stores the key to the hatch in the operations manager's office. To access a key, a worker must request the key from the operations manager and justify the need to open the lock. When an employee checks out the key, the manager's assistant records the employee's name, time the key is checked out, and the reason. Facility B's bulk liquid storage tank also has a second hatch along the side which is used for cleaning the tank when empty and is not locked. This secondary hatch is not accessible while product is in the tank because it opens inward, and pressure from product in the tank prevents the hatch from being opened when product is present.

In considering the requirement for focused mitigation strategies at this actionable process step, Facility B would determine that it has sufficient safeguards in place to significantly minimize the likelihood of intentional adulteration from an attacker accessing the hatch on the top of the bulk storage tank. However, the facility would identify the secondary hatch as presenting a significant vulnerability for which insufficient focused mitigation strategies are being implemented. While food is in the tank, the secondary hatch is secure. However, when the tank is empty after cleaning, there is an opportunity for an attacker to introduce a contaminant into the tank via the secondary hatch which would then contaminate the food when it is added to the tank. To significantly minimize or eliminate the significant vulnerability presented by the secondary hatch, the facility would implement focused mitigation strategies to restrict and document access to the secondary hatch as is done for the hatch on the top of the tank. To do this, the facility would install a lock on the secondary hatch and incorporate the key for the secondary hatch into its existing key management system. Alternatively, the facility could implement a procedure of monitoring the condition of the tank interior immediately prior to reintroducing product to the tank. This monitoring check would be recorded in a monitoring log.

Facility B already has in place some practices that we would consider appropriate focused mitigation strategies. The procedures in place to control access to the top access hatch on the bulk liquid storage tank are sufficient to minimize the significant vulnerability presented by this hatch. However, Facility B still has a significant vulnerability associated with the secondary access hatch, which required additional focused mitigation strategies to significantly reduce or eliminate the risk of intentional contamination.

Another example of an actionable process step for the key activity type ''Liquid Storage and Handling'' is liquid storage in a liquid surge tank located above an in-line bottling operation at Facility C. The surge tank is used to control the flow rate of liquid product into the bottling equipment and is enclosed by an unlocked lid. A ladder and walkway enable workers to access the surge tank as needed to monitor product flow and take quality control samples. Facility C has an operations control room, which is equipped with windows to view the production floor. However, the view of the bottling operation from the operations control room is commonly blocked by pallets of empty bottles awaiting introduction into the bottling equipment.

It is not practical for Facility C to lock the surge tank lid because workers need to frequently check the status of product flow and take quality control samples. Also, it is not practical to physically limit access to the ladder or walkway used to access the surge tank, for the same reasons. One approach for Facility C to significantly minimize or eliminate the significant vulnerability at this actionable process step is to implement the following focused mitigation strategies:

• Implement a policy to prohibit all personnel not associated with the bottling operation from entering the area and issue uniforms of a particular color to the bottling personnel only. The staff working in the bottling area would enforce this policy by instructing any staff not associated with the bottling operation to leave the area.

• Prohibit staff working in the bottling area from bringing any items not associated with the bottling operation into the work area.

• Train the staff working in the bottling area in a peer monitoring program to be attentive to the activity of other staff in the area.

• Stage pallets of empty bottles awaiting introduction into the bottling equipment in another location to improve line of sight from the operations control room.

By implementing these focused mitigation strategies, the facility could significantly minimize or eliminate the significant vulnerability associated with the actionable process step at the liquid surge tank.

Secondary ingredient handling—Ingredient staging at Facility D is an actionable process step for this key activity type. Facility D opens a

containerized secondary ingredient's tamper evident package, measures out the required amount into a secondary container, and pre-positions the ingredient in the production area so that it is readily added to the product line. Access to the food during each of these activities at this actionable process step presents a significant vulnerability. Facility D stages a dry, powdered ingredient near the mixer the night before it is intended to be used so that it is ready when the production run begins the next morning. Additionally, the staging area in Facility D is accessible to all staff and is an open area on the production floor.

One approach for Facility D to significantly minimize or eliminate the significant vulnerability at this actionable process step is to implement the following focused mitigation strategies:

- Reduce staging time, by revising its procedures so that ingredients are staged immediately before they are added into the product stream. This strategy would reduce the time ingredients are accessible.
- Change its staffing procedures to ensure that only senior or long-term employees are assigned to measuring and staging secondary ingredients. Assigning the most trusted employees to work in sensitive areas reduces the risk of intentional contamination.
- Increase its observation of this area by installing closed-circuit TV cameras to monitor the actions of staff in the secondary ingredient staging area.

By its nature, the action of ingredient staging is an open and accessible process step. Focused mitigation strategies must address personnel access so that the likelihood of an intentional contamination at this step is significantly reduced or eliminated. By implementing these focused mitigation strategies, the facility could significantly minimize the significant vulnerability identified at the actionable process step.

Mixing and similar activities—Blending in Facility E's dough mixer is an actionable process step for this key activity type. Facility E operates a dough mixer to combine several dry and liquid ingredients. This mixer is not enclosed and is located in an open area of the facility where it is under regular—though not dedicated—human observation. While a batch of product is being mixed, the staff member assigned to the mixer may leave the area to retrieve and prepare ingredients for the next production batch. The line of sight in this area is clear, and management in the operations control room located above the production floor has a clear view of the mixer through an observation window.

The mixer is vulnerable to an attacker who could intentionally introduce a contaminant into the food because of the open nature of the mixer, the lack of constant and dedicated observation, and the lack of physical access control to the area where it is located. One approach for Facility E to significantly minimize or eliminate the significant vulnerability at this actionable process step is to implement the following focused mitigation strategies:

- Install a lid on the mixer that must be opened to add anything to the mixer. If Facility E determines that it would be disruptive to the production schedule to install a lock on the lid, the facility could install an access alarm that would indicate that the lid has been opened. This alarm would sound in the operation control room where a manager supervises production operations.
- Assign another member of staff the responsibility of preparing and securely staging ingredients for later production batches. This would alleviate the need for the mixer operator to leave the area, leaving the mixer unattended.

With the introduction of these two focused mitigation strategies, the facility would have taken steps to enclose the mixer, making it more difficult for an attacker to introduce a contaminant without alerting management (by the sounding of the alarm), and increased the dedicated observation of this otherwise vulnerable process step by ensuring that the mixer operator is not required to leave the area unattended.

Mixing at Facility F's rotating air dryer is another example of an actionable process step for the key activity type ''Mixing and similar activities.'' In Facility F, product, such as crackers or breakfast cereals, are fed through drum-like equipment, where warm air is blown across it while the drum rotates. Although the goal of this process is to dry the product, it also could distribute any contaminant introduced into the dryer evenly across the product. Facility F's rotating air dryer is located alongside a commonly used walkway, but is behind a guard rail to prevent employees from coming in contact with the hot exterior of the dryer. Product is fed into the top of the dryer via a pneumatic conveyor. There is sufficient space between the dryer opening and the pneumatic conveyor discharge to enable an attacker to introduce a contaminant to the dryer at this point. That opening is about six feet above the ground, accessible from the floor of the facility. Product leaves the dryer through a gravity fed line. The connection between the dryer and the discharge line is sealed.

To goal of focused mitigation strategies at this actionable process step would be to reduce access to this equipment to significantly reduce the likelihood an attacker could introduce a contaminant into the rotating air dryer. One way Facility F could do this would be to install a clear plastic shield that would be affixed to and extend from the discharge of the pneumatic conveyor to the opening of the dryer where it would also be tightly affixed to the housing of the dryer. A clear plastic shield would enable workers to supervise the product flow into the dryer while posing as an effective barrier to an attacker wishing to introduce a contaminant into the product at the dryer. This engineering improvement would significantly minimize or eliminate access to the food in the dryer and thereby significantly reduce or eliminate the likelihood of a successful act of intentional adulteration at this process step. The installation of physical barriers to access of equipment at actionable process steps can be one of the most effective focused mitigation strategies because it does not require restricting personnel or maintaining active observation of an area. The implementation of this engineering improvement would be detailed in the facility's food defense plan.

c. Proposed § 121.135(a)—Requirement to identify and implement focused mitigation strategies for actionable process steps. Proposed § 121.135(a) would require that the owner, operator, or agent in charge of a facility identify and implement focused mitigation strategies at each actionable process step to provide assurances that the significant vulnerability at each step will be significantly minimized or prevented and the food manufactured, processed, packed or held by such facility will not be adulterated under section 402 of the FD&C Act. Under § 121.135, we are proposing that, for each of the identified actionable process steps, the owner, operator, or agent in charge of a facility covered by this rule identify and implement focused mitigation strategies. Focused mitigation strategies would be required only for actionable process steps.

Because a focused mitigation strategy that would be necessary at an actionable process step must be tailored to address the significant vulnerability applicable to the specific actionable process step, we are not proposing to specify the particular focused mitigation strategies that would be appropriate. Rather, we expect the owner, operator, or agent in charge of the facility covered by this

rule to identify the specific focused mitigation strategy(s) that would be appropriate, considering the facility and food it produces, and to ensure the proper implementation of those strategies to provide assurances that the significant vulnerability at each identified actionable process step is significantly minimized or prevented and the food is not adulterated. In section V.C.3.b of this document, we list examples of focused mitigation strategies and describe scenarios for determining appropriate focused mitigation strategies at actionable process steps for each of the FDA-identified key activity types.

A facility would have the flexibility to identify and implement focused mitigation strategies from among all procedures, practices, and processes available to the facility that would provide the assurances that would be required by proposed § 121.135. The flexibility provided under this proposed provision acknowledges the existing expertise within the food industry in this regard, and recognizes the complex and varied nature of operations in food facilities. Additionally, to the extent facilities may already be engaging in practices that constitute focused mitigation strategies, facilities should consider whether those measures satisfy the requirements of proposed § 121.135, such that the implementation of additional focused mitigation strategies may not be necessary. (Note that associated requirements, such as monitoring and verification, would apply).

FDA's existing guidance documents and other resources (discussed in section II.D of this document) include guidance for industry on a range of focused mitigation strategies. In particular, the MSD includes a list of mitigation strategies that can be applied to different steps in a food operation to reduce the risk of intentional adulteration. The database is searchable by key words and processing steps common to food operations (e.g., packing, manufacturing, processing and holding).

Proposed § 121.135(a) implements the provisions in sections 418(c)(2) and 420(b)(2) of the FD&C Act. FDA requests comments on our analysis and proposed provisions related to mitigation strategies necessary to protect against intentional adulteration of food caused by acts of terrorism. We also seek input on whether and, to what extent, facilities currently employ broad mitigation strategies and focused mitigation strategies.

d. Proposed § 121.135(b)—Requirement for written focused mitigation strategies. Proposed § 121.135(b) would require that focused mitigation strategies for actionable process steps be written. The focused mitigation strategy(ies) selected for each actionable process step identified in accordance with proposed § 121.130, and a justification for how the strategy significantly reduces or eliminates the risk of intentional adulteration at that actionable process step(s) must be documented. Similar to preventive controls in a food safety plan, written focused mitigation strategies in a food defense plan are essential for the facility to implement the focused mitigation strategies consistently, and essential for the facility and inspectors. Written focused mitigation strategies also would be essential for training purposes and during reanalysis and updates of the focused mitigation strategies.

Proposed § 121.135(b) implements the provisions in sections 418(h) and 420(b)(2) of the FD&C Act.

e. Proposed § 121.135(c)—Applicability of monitoring, corrective actions, and verification. Proposed § 121.135(c) would specify that the focused mitigation strategies required under this section would be subject to monitoring as would be required by proposed § 121.140; corrective actions as would be required by proposed § 121.145; and verification as would be required by proposed § 121.150. Proposed § 121.135(c)(1) through (c)(3) would restate the requirements of proposed §§ 121.140, 121.145, and 121.150 to clearly communicate the applicability of proposed §§ 121.140, 121.145, and 121.150 to the focused mitigation strategies that would be required under proposed § 121.135 and would establish no new requirements.

4. Monitoring

a. General description of monitoring. Proposed § 121.3 would define ''monitor'' to mean ''to conduct a planned sequence of observations or measurements to assess whether focused mitigation strategies are consistently applied and to produce an accurate record for use in verification.'' In developing the proposed monitoring requirements related to food defense, we considered our proposed monitoring requirements related to food safety, which are described in section XII.E of the PC proposed rule. For the same reasons outlined in the PC proposed rule, we have tentatively concluded that monitoring is necessary to establish the performance of the implementation of the focused mitigation strategies. The proposed provisions in § 121.140 implement section 418(h) of the FD&C Act.

b. Proposed § 121.140(a)—Requirement for written procedures for monitoring. Proposed § 121.140(a) would require that the owner, operator, or agent in charge of a facility establish and implement written procedures, including the frequency with which they are to be performed, for monitoring the focused mitigation strategies. Monitoring the performance of focused mitigation strategies at specified frequencies would facilitate tracking the implementation of the focused mitigation strategies to provide assurance that they are consistently applied in a facility covered by this rule. If monitoring shows that a focused mitigation strategy is frequently not implemented, a facility can consider whether another focused mitigation strategy would be more appropriate. For example, if an ingredient storeroom door is to be kept locked when not in use, but the door is frequently left unlocked because access to the room is needed for other purposes, the facility may replace the previous focused mitigation strategy with video monitoring. Further, if monitoring is conducted with sufficient frequency, it will detect if a focused mitigation strategy is not properly implemented (e.g., if access to a particular area of a facility is not being appropriately restricted or a bulk liquid tank is not being visually inspected prior to filling), indicating a problem and signaling the need for an appropriate corrective action. In addition, the proposed monitoring requirement would result in written documentation for use in verification.

c. Proposed § 121.140(b)—Frequency of monitoring. Proposed § 121.140(b) would require that the owner, operator, or agent in charge of a facility monitor the focused mitigation strategies with sufficient frequency to provide assurances that they are consistently applied. Proposed § 121.140(b) does not specify a single monitoring frequency applicable to all facilities and processes. Rather, it requires monitoring with ''sufficient frequency'' to ensure that the focused mitigation strategies are consistently applied in a facility covered by this rule. We note that for food defense that many focused mitigation strategies may be monitored over longer timeframes (non-continuous monitoring) than preventive controls for food safety, which are often monitored continuously. In large part preventive controls for food safety are monitored continuously because they relate to physical or chemical parameters of the process, such as the temperature of a pasteurizer, which both lend themselves

to continuous monitoring and necessitate that level of monitoring to ensure that the process is under control. As discussed in greater detail in section V.C.3 of this document, most focused mitigation strategies for food defense are not related to physical or chemical parameters of the process. They tend to have more in common with sanitation preventive controls for food safety in that they relate to conditions around the food process, such as access to the equipment. A focused mitigation strategy such as ''adequate lighting at an actionable process step'' or ''secure air vents on a cooling tank with one-way valves'' would not require continuous monitoring. Management may choose to monitor lighting on a weekly basis to ensure that everything is working properly and monitoring of the security of air vents with one-way valves on a cooling tank might be done monthly. Frequency is not prescribed in this proposed rule. More frequent (e.g., daily) monitoring would be appropriate for mitigation strategies that relate to conditions or practices that are more likely to change more rapidly, such as keeping the access door to an actionable process step closed when not in use or ensuring that employees with color coded uniforms are staying in the areas designated by the color code.

d. Proposed § 121.140(c)—Requirement for records. To implement section 418(g) of the FD&C Act, proposed § 121.140(c) would require that all monitoring of focused mitigation strategies in accordance with this section must be documented in records that are subject to verification in accordance with § 121.150(a) and records review in accordance with proposed § 121.150(c).

The monitoring records would be used to verify that the focused mitigation strategies are being monitored, as would be required by proposed § 121.150(a), and to verify that the focused mitigations strategies are consistently implemented and are effective at significantly minimizing or preventing the significant vulnerabilities, as would be required by proposed § 121.150(c). Further, they are necessary to facilitate regulatory review of the system of controls. Together, proposed §§ 121.140(a), (b), and (c) and 121.150(a), (c), and (e) would establish a system that would provide assurances that the significant vulnerabilities identified for a food operation are being significantly minimized or prevented.

5. Corrective Actions

a. General description of corrective actions. When a HACCP-type system is applied to ensure food safety, the term ''corrective actions'' is used to describe procedures that are in place to correct the cause of a deviation to ensure that a critical control point is under control and to ensure that the product produced under that deviation is safe, since total adherence to a planned process may not always occur. This concept is discussed in detail in section XII.F of the PC proposed rule.

This same concept can be applied to the control of intentional adulteration related to acts of terrorism. Monitoring may detect a deviation from implementation of a focused mitigation strategy; corrective actions are implemented to re-establish control. In developing the proposed corrective actions requirements related to food defense, we considered our proposed relevant requirements related to food safety. The proposed provisions in § 121.145 implement sections 418(e), 418(h), and 420(b)(2) of the FD&C Act.

b. Proposed § 127.145(a)—Corrective action procedures. Proposed § 121.145(a)(1) would require that the owner, operator, or agent in charge of a facility establish and implement written corrective action procedures that must be taken if focused mitigation strategies are not properly implemented. Having written procedures in place would enable facilities covered by this rule to act quickly and appropriately when focused mitigation strategies are not properly implemented—e.g., a situation where a work station at an actionable process step requires two staff at all times in a ''buddy system'' but is only staffed by one person for a period of time.

The benefits of identifying corrective action procedures before corrective action is needed largely derive from having written procedures. Written corrective action procedures would be essential to the facility's management, to auditors, and to inspectors. The facility's management will be responsible for ensuring that appropriate corrective actions are taken if focused mitigation strategies are not properly implemented. Having access to appropriate, written corrective action procedures determined in advance of the need for such action can ensure that correct and complete actions are taken in a timely fashion. Having written corrective action procedures available for auditors and for inspectors is essential for them to assess the adequacy of the food defense plan; the procedures a facility will use to address implementation failures are essential to proper, consistent implementation, and without them a complete assessment cannot be made. Written corrective action procedures also will be useful for training purposes, so that employees who would need to implement the corrective action procedures will be prepared for what they would need to do.

Proposed § 121.145(a)(2) would require that corrective action procedures describe the steps to be taken to ensure that appropriate action is taken to identify and correct a problem with implementation of a focused mitigation strategy to reduce the likelihood that the problem will recur. In the previous example in which two staff are required to be at a work station at all times, the corrective action could be speaking with the employees to ensure they understand the importance of remaining at the work station together, sending staff to a refresher course on food defense awareness, and ensuring that the supervisor knows that there must be adequate staff present on a shift so two people can be at the work station at all times. If the problem recurs, management may need to consider other measures for preventing access at that process step.

c. Proposed § 121.145(b)—Documentation. Proposed § 121.145(b) would require that all corrective actions taken in accordance with this section be documented in records that are subject to verification in accordance with proposed § 121.150(b) and records review in accordance with proposed § 121.150(c). The records that document corrective actions would be used to verify that appropriate decisions about corrective actions are being made and appropriate corrective actions are being taken in facilities covered by this rule.

d. Corrective actions proposed to be required by part 117 but not part 121. Unlike in proposed part 117, in proposed part 121, we have not proposed a requirement to ensure that all affected food is evaluated for food safety if focused mitigation strategies are not properly implemented or are found to be ineffective. An act of intentional adulteration or attempted intentional adulteration has historically been a rare event and, as a result, in the vast majority of cases, the failure to properly implement a focused mitigation strategy would not be expected to result in contaminated food. This is because intentional adulteration requires not just the opportunity for contamination (i.e., failure of a mitigation strategy to limit access to an actionable process step), but also someone with intent to cause harm at that same moment. In contrast, the failure to properly implement a preventive control for a food safety hazard, such as proper cook temperatures, is more likely to result in adulterated food (e.g., because the

pathogen reasonably likely to be present in the raw food would not be eliminated from the food by the inadequate cooking process). However, our decision not to propose these requirements does not absolve an owner, operator, or agent in charge of a facility from their responsibility to ensure that food is not adulterated. In addition, food firms would continue to be subject to the reporting requirements under section 417 of the FD&C Act. Moreover, the introduction or delivery for introduction into interstate commerce of any food that is adulterated is a prohibited act under section 301(a) of the FD&C Act.

The PC proposed rule also contains requirements for corrective actions that must be taken in the event of an unanticipated problem. Unlike in proposed part 117, in proposed part 121, we are not proposing a requirement related to unanticipated problems because we are not aware of circumstances where this would be relevant. Because of the nature of the focused mitigation strategies, we expect that the outcomes of monitoring will be binary, either the focused mitigation strategy will be in place or it will not be in place. For this reason, we expect that corrective action plans will be straightforward, with no provision needed for unanticipated corrective actions. This contrasts with the circumstances of food safety preventive measures, where controls are often more complex, presenting opportunities for a more nuanced corrective action, which may not be possible to fully anticipate in advance.

We ask for comment on our rationale and tentative conclusion not to propose these requirements.

6. Verification

a. General description of verification. In the preventive controls framework, ''verification'' involves activities that help determine whether the focused mitigation strategies are valid and are implemented according to the food defense plan. Verification includes confirming that monitoring and corrective actions are being implemented as planned, through review of records and periodic reanalysis of the food defense plan. This concept as applied to food safety is discussed in detail in section XII.G of the PC proposed rule.

We have tentatively concluded that this same concept applies to the control of intentional adulteration related to acts of terrorism. Efforts must be made to ensure that the system of mitigation strategies is in place and functioning as designed. The proposed provisions in § 121.150 implement sections 418(f) and 420(b)(2) of the FD&C Act.

b. Proposed § 121.150(a)—Verification of monitoring. Proposed § 121.150(a) would require that the owner, operator, or agent in charge of a facility verify that monitoring is being conducted. Verification of monitoring can be conducted in a number of ways. One example of verification of monitoring is a periodic observation of the monitoring activity, e.g., by a supervisor. Another example is an independent test made by a person other than the person doing the monitoring. For example, if a shift supervisor is assigned to check at the end of each shift that chemicals are properly stored and secured, another supervisor may be responsible for checking periodically (e.g., once a week) that this is occurring. In another example, if an alarm is supposed to sound if a mixing tank is accessed without authorization and the monitoring procedures provide for weekly testing of the alarm, a supervisor may be responsible for performing the same test monthly to ensure that the alarm and the monitoring procedure are both working properly. Proposed § 121.150(a) would not specify the verification activities that must be conducted for monitoring. We request comment on whether proposed § 121.150(a) should do so, and if so, what verification activities should be required.

c. Proposed § 121.150(b)—Verification of corrective actions. Proposed § 121.150(b) would require that the owner, operator, or agent in charge of a facility verify that appropriate decisions about corrective actions are being made. An example of verification that appropriate decisions about corrective actions are being made is observation of the corrective actions being taken, e.g., by a supervisor. Proposed § 121.150(b) would not specify the verification activities that must be conducted for corrective actions. We request comment on whether proposed § 121.150(b) should do so, and if so, what verification activities should be required.

d. Proposed § 121.150(c)—Implementation and effectiveness. Proposed § 121.150(c) would require that the owner, operator, or agent in charge of a facility verify that the focused mitigation strategies are consistently implemented and are effectively and significantly minimizing or preventing the significant vulnerabilities. As appropriate to the facility and the food, this must include review of the monitoring and corrective action records within appropriate timeframes to ensure that the records are complete, the activities reflected in the records occurred in accordance with the food defense plan, the focused mitigation strategies are effective, and appropriate decisions were made about corrective actions.

Proposed § 121.150(c) would establish that the purpose of the review of records is to ensure that the records are complete, the activities reflected in the records occurred in accordance with the food defense plan, the focused mitigation strategies are effective, and appropriate decisions are made about corrective actions. We tentatively conclude that review of the records required by proposed § 121.150(c) would accomplish these purposes. Reviewing monitoring records can reveal whether they contain information on all of the activities or measures that were to be monitored to determine whether a focused mitigation strategy is being consistently implemented in accordance with the food defense plan. For example, a review of monitoring records can show if the shift supervisor is consistently storing and securing chemicals at the end of each shift as may be required by a food defense plan. Review of monitoring records also can reveal whether any information is missing—e.g., a date or time—so that the missing information can be quickly identified and added to the record if necessary.

Review of records also can reveal whether appropriate decisions were made about corrective actions. The review would determine whether all the corrective action procedures required by proposed § 121.145 have been followed to prevent recurrence of the problem. For example, in the previous example on corrective actions, a review of records could reveal that the supervisor spoke to the staff about always having two staff present at the work station as required in the food defense plan and, as appropriate, enrolled the staff in a refresher course on food defense awareness.

Proposed § 121.150(c) would require review of the monitoring and corrective action records within an appropriate time after the records are made. We are not proposing to require review of records within a specified timeframe. While the PC proposed rule contains a requirement that monitoring and corrective action records be reviewed within a week after the records are made, in the case of food defense, we do not believe specifying a timeframe for records review is necessary. As discussed previously, some focused mitigation strategies may be monitored less frequently than are preventive controls for food safety. In a HACCP-

type system for food safety, monitoring and corrective action records are often reviewed a short time after their creation to enable action to be taken relative to food that may be adulterated (e.g., recall). It is unlikely that an improperly implemented focused mitigation strategy would result in adulterated food (i.e., because adulteration of food would require not only opportunity but also a simultaneous intent to cause adulteration). A focused mitigation strategy such as ''adequate lighting at the bulk truck unloading bay'' or ''secure air vents on a cooling tank with one-way valves'' may be monitored on a weekly or monthly basis. Because the focused mitigation strategies may be monitored less frequently and because these frequencies may vary significantly from one focused mitigation strategy to another, we believe it is appropriate for owners, operators, or agents in charge of a facility to determine when review of the monitoring and corrective action records is best performed.

e. Proposed § 121.150(d)—Reanalysis. To implement section 418(i) of the FD&C Act, proposed § 121.150(d)(1) would require that the owner, operator, or agent in charge of a facility conduct a reanalysis of the food defense plan as follows:

1. At least once every 3 years (proposed § 121.150(d)(1)(i)).

2. Whenever a significant change is made in the activities conducted at a facility operated by such owner, operator, or agent in charge if the change creates a reasonable potential for a new vulnerability or a significant increase in a previously identified vulnerability (proposed § 121.150(d)(1)(ii)). For example, if a facility adds a new product line, then the food defense plan must be reanalyzed to consider whether it includes one of the key activity types, and, if so to implement appropriate focused mitigation strategies.

3. Whenever such owner, operator or agent in charge becomes aware of new information about potential vulnerabilities associated with the food operation or facility (proposed § 121.150(d)(1)(iii)). For example, an owner, operator, or agent in charge of a facility may become aware that access to a particular piece of equipment is greater than was thought to be the case when they initially considered whether a key activity type is applicable to their food process.

4. Whenever a focused mitigation strategy is found to be ineffective (proposed § 121.150(d)(1)(iv)). Proposed § 121.150(d)(1)(iv) would require that the owner, operator, or agent in charge of a facility reanalyze the food defense plan to determine whether modification of the plan is required if a focused mitigation strategy is found to be ineffective. For example, if the owner, operator, or agent in charge of a facility finds that color coding of employee hard hats according to their assigned work stations or areas is not effective in preventing employees from crossing into areas where they are not assigned because employees have found that adhering to the system adversely affects product, the owner, operator, or agent in charge may need to consider other focused mitigation strategies to ensure that staff access at actionable process steps is controlled.

5. Whenever FDA requires reanalysis to respond to new vulnerabilities and developments in scientific understanding including, as appropriate, results from a DHS biological, chemical, radiological, or other terrorism risk assessment (proposed § 121.150(d)(1)(v)). Risk assessments or vulnerability assessments conducted by DHS or others may reveal a significant vulnerability in process steps in addition to the significant vulnerabilities associated with the key activity types that FDA has identified. FDA would require reanalysis of food defense plans, as necessary, to respond to any new knowledge about threats or vulnerabilities to food operations based on information available to the agency. This requirement for reanalysis could involve a requirement to consider whether a new key activity type is relevant to a facility's food processes. It could also involve a requirement to reconsider existing key activity types in light of a credible threat of terrorist attack on a specific food type, product, brand, or company.

Proposed § 121.150(d)(2) would require that the owner, operator, or agent in charge of a facility complete the required reanalysis and implement any additional focused mitigation strategies needed to address the significant vulnerabilities identified, if any, before the change in activities at the facility is operative or, when necessary, during the first six weeks of production. The purpose of the reanalysis is to identify the need for, and implement, focused mitigation strategies in light of a reasonable potential for a new significant vulnerability, or a significant increase in a previously identified significant vulnerability.

Proposed § 121.150(d)(3) would require that the owner, operator, or agent in charge of a facility revise the written plan if a significant change is made or document the basis for the conclusion that no additional or revised focused mitigation strategies are needed. It is important to document that a reanalysis has been conducted and the plan has been revised accordingly or that no change has been made. Such documentation demonstrates that a facility has considered all relevant information on the defense of the operation, including new information that has become available since the last analysis. The documentation further demonstrates that appropriate changes have been made or that current procedures for implementing focused mitigation strategies are adequate to significantly minimize or prevent significant vulnerabilities.

f. Proposed § 121.150(e)—Requirement for records for verification. To implement sections 418(g) and 420(b)(2) of the FD&C Act, proposed § 121.150(e) would require that all verification activities taken in accordance with this section be documented in records.

g. Verification proposed to be required by part 117 but not part 121. In the PC proposed rule, we proposed to require, as part of verification, the validation of the adequacy of the preventive controls implemented to control the hazards identified in the hazard analysis as reasonably likely to occur. In this proposed rule, we are not including a similar proposed requirement. Unlike preventive controls, which often involve processing parameters that can be scientifically validated, focused mitigations strategies for food defense (which correspond to preventive controls for food safety) often are not of a nature that they can be scientifically validated. For example, it would not be practical for a facility to attempt to validate the effectiveness of a lock on a tank or the use of a 'buddy system' at a particular process step to prevent or significantly minimize intentional adulteration of food caused by a terrorist attack. Most of the recommended mitigation strategies in the MSD (Ref. 30) are similar in nature to the two mentioned in the example above in that validation would be impractical. Therefore, we have tentatively concluded not to propose a requirement for validation of focused mitigation strategies.

However, if a facility chooses to use a processing parameter (e.g., thermal kill step) as a focused mitigation strategy, the facility should employ such a processing parameter if it has been demonstrated to be effective in significantly minimizing or preventing the associated significant vulnerability. In many circumstances it is not appropriate to use such strategies

because they are usually effective against one or several, but not all, potential contaminants. See section XII.G of the PC proposed rule for additional discussion of validation.

The PC proposed rule also includes proposed requirements for calibration of process monitoring instruments and verification instruments and also records associated with these activities. As discussed previously, it is our expectation that most of the focused mitigation strategies will not be continuously monitored and will not require process monitoring instruments or instruments to verification purposes. Therefore, we do not believe it would be necessary to include those requirements in this part.

We ask for comment on our tentative decision not to include validation of the focused mitigation strategies and calibration of monitoring and verification instruments in codified requirements in proposed § 121.150.

7. Training of Personnel

Proposed § 121.160 would establish requirements related to training of certain personnel working in a food operation. Proposed § 121.160(a) would require that personnel and supervisors assigned to actionable process steps receive appropriate training in food defense awareness and their respective responsibilities in implementing focused mitigation strategies. Because the effectiveness of a mitigation strategy, which is applied at an actionable process step, is dependent on the proper implementation by personnel and supervisors of the strategy, we are proposing to require that personnel and supervisors assigned to actionable process steps be appropriately trained in food defense. The purpose of training a supervisor, in addition to personnel at actionable process steps, is so that the supervisor can help train employees, recognize conditions that could lead to intentional contamination, and take necessary actions to correct those conditions.

We are proposing that training required under this provision must cover food defense awareness and the respective responsibilities of personnel and supervisors assigned to actionable steps in implementing focused mitigation strategies. At a minimum, such training must include the general principles of food defense, including simple procedures for employees to follow to adhere to those principles in their jobs. We have tentatively concluded that completion of FDA's training course on Food Defense Awareness for the Front-line Employee (described in this section of the document), which takes about 20 minutes to complete, would be sufficient to satisfy this element of the proposed training requirement. Additionally, training must contain specifics about the actionable process steps where employees are working and their roles in the proper implementation of the focused mitigation strategy(ies) applied at those actionable process steps. Training on the application of focused mitigation strategies, which is likely to be specific to each facility or actionable process step, may be added to existing on-the-job training programs or provided separately.

FDA has developed training tools that are available for use by the industry. FDA revamped its online food defense courses in 2013, and the revamped courses, entitled ''Food Defense 101'' (Ref. 27), address the types of intentional contamination that have occurred in the United States in recent years and reflect FDA's current thinking on how to minimize the likelihood and impact of such incidents. The courses included in Food Defense 101 are: (1) Food Defense Awareness for the Food Professional; (2) Food Defense Awareness for the Front-line Employee; (3) Food Defense Regulations; and (4) ALERT, for owners and operators of food facilities. The course on Food Defense Awareness for the Food Professional provides an understanding of food defense and information for professionals in the food industry. The course modules progress through food defense planning including broad mitigation strategies, vulnerability assessments, focused mitigation strategies, and food defense plans. The course on Food Defense Awareness for Front-line Employees provides information specific to front-line workers and simple procedures for these employees to follow in food defense. The course on Food Defense Regulations presents an overview of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (the Bioterrorism Act), FSMA, and FDA's Reportable Food Registry. Finally, the course on ALERT, which was developed by FDA to help stakeholders better understand food defense and how food defense applies to the food industry, provides specific examples of ways to protect a firm from the threat of intentional contamination. FDA's Food Defense 101 online courses are available free-of-charge on our Web site at *http://www.fda.gov/Food/FoodDefense/default.htm.*

We expect these existing courses will assist industry to comply with this training requirement, if finalized as proposed. We are also aware of training seminars and programs offered by private sector entities (Ref. 59, Ref. 60, Ref. 61, Ref. 62) that may also assist industry to comply with this training requirement. We seek comment on the adequacy of FDA's Food Defense 101 training materials, and whether there is a need for revisions to these existing FDA courses or the development of additional FDA training materials.

FDA also previously issued guidance documents for industry on food defense (Ref. 22, Ref. 23, Ref. 24, Ref. 25, Ref. 26), which include recommendations related to personnel training. In these guidance documents, we recommended that all employees have training in food defense awareness, including information on how to prevent, detect, and respond to an intentional contamination incident at their facility. As noted in these guidance documents, we recommended incorporating periodic reminders of the importance of food defense procedures into routine facility communications, such as brochures, staff meetings or payroll stuffers. We further recommended that facilities encourage all employees to report unusual or suspicious individuals or activities to management. We reiterate these recommendations described in our guidance documents. However, in this proposed rule, we are not proposing to include additional specific training requirements to reflect all of those recommendations. For example, although we are not requiring that all employees at a facility receive training in food defense, we recognize the importance of training as a measure to protect against intentional adulteration of food and, therefore, reiterate our recommendation that all personnel working in a food operation receive training in food defense awareness. We request comment on this issue, including on whether we should require, in a final rule, that basic food defense awareness training be completed by all employees at a facility. We also request comment on whether we should require training to be repeated periodically, including when significant changes are made to food defense plans.

Proposed § 121.160(b) would require that all training received in accordance with section § 121.160 be documented in records. Under proposed § 121.305, records would include such information as the date of the training, the topics covered, and the person(s) trained. An example of records that would comply with proposed § 121.160(b) is an attendance sheet with the date, list of those in attendance, and the particular topics covered (such as an overview of food defense principles or food defense

planning). The records required by proposed § 121.160(b) would enable a facility to track the training that personnel received, thereby enabling identification of personnel that have the prerequisite awareness training for an assignment at an actionable process step. Such records could be used to document that a person has, as would be required under proposed § 121.160(a), successfully completed training appropriate to the person's duties at an actionable process step.

We recognize that industry has already begun to implement food defense measures to meet certain industry standards, which include guidelines for food defense training (Ref. 63, Ref. 33, Ref. 35). Our proposed minimum requirements for training are consistent with these standards, as well as with WHO recommendations for personnel training in its guidance on food defense (Ref. 6). We seek comment on the feasibility of our proposed training requirements, in light of the current state of food defense awareness in the industry and available training resources.

D. Requirements Applying to Records That Must Be Established and Maintained

When a HACCP-type system is implemented for food safety, records are a critical part of the system because they aid facilities in compliance with the requirements, including all the elements of a food safety plan as proposed in Part 117, and allow facilities to show, and FDA to determine, compliance with the requirements. This concept is discussed in detail in section XV of the PC proposed rule. We have tentatively concluded that records are critical to protect food from intentional adulteration caused by acts of terrorism.

In subpart D of proposed part 121, FDA is proposing to establish requirements applying to records that must be established and maintained according to the requirements of this proposed rule. This subpart implements numerous provisions in section 418 of the FD&C Act, including sections 418(a), (b)(3), (g), (h), and (n)(1)(A), as well as section 420(b) of the FD&C Act.

1. Proposed § 121.301—Records Subject to the Requirements of this Subpart D

Proposed § 121.301(a) would establish that, except as provided by proposed § 121.301(b), all records required by proposed subpart C of part 121 would be subject to all requirements of proposed subpart D. We have tentatively concluded that the requirements in subpart D describing how records must be established and maintained, including the general requirements, record retention requirements, and requirements for official review and public disclosure, are applicable to all records that would be required under subpart C. Such records would aid facilities in compliance with the requirements of proposed part 121, and allow facilities to show, and FDA to determine, compliance with the requirements of part 121. The proposed requirements of subpart D are discussed in this document.

Proposed § 121.301(b) would establish that the requirements of proposed § 121.310 apply only to the written food defense plan and is discussed in more detail in section V.D.3 of this document.

2. Proposed § 121.305—General Requirements Applying to Records

Proposed § 121.305 contains general requirements that would apply to records that would be required under proposed part 121, including the format for required records, the recording of actual values and observations obtained during monitoring, when records must be created, and information that must be included in each record.

a. Proposed § 121.305(a). Proposed § 121.305(a) would require that the records be kept as original records, true copies (such as photocopies, pictures, scanned copies, microfilm, microfiche, or other accurate reproductions of the original records), or electronic records. True copies of records should be of sufficient quality to detect whether the original record was changed or corrected in a manner that obscured the original entry (e.g., through the use of white-out). Proposed § 121.305(a) would provide flexibility for mechanisms for keeping records while maintaining the integrity of the recordkeeping system. The proposed requirement allowing true copies provides options that may be compatible with the way records are currently being kept in facilities.

Proposed § 121.305(a) also would require that electronic records be kept in accordance with part 11 (21 CFR part 11). Part 11 provides criteria for acceptance by FDA, under certain circumstances, of electronic records, electronic signatures, and handwritten signatures executed to electronic records as equivalent to paper records and handwritten signatures executed on paper. The proposed requirement clarifies and acknowledges that records required by proposed part 121 may be retained electronically, provided that they comply with part 11.

In the PC proposed rule, FDA tentatively concluded that it would be appropriate to apply the requirements of part 11 to the records that would be required to be kept under proposed part 117. However, we requested comment on whether there are any circumstances that would warrant not applying part 11 to records that would be kept under proposed part 117. In section XV.C of that document, we provided examples of circumstances in which we exempted records from the requirements of part 11 (21 CFR 1.329(b)) to avoid the necessity of establishing new recordkeeping systems as long as current practices would satisfy the requirements of the Act. In the PC proposed rule, we also asked for comment on whether we should allow additional time for electronic records to be kept in accordance with part 11. We seek similar comment with regard to circumstances that would warrant not applying part 11 to records that would be kept under proposed part 121 and whether we should allow additional time for electronic records to be kept in accordance with part 11. Comments should provide the basis for any view that the requirements of part 11 are not warranted.

b. Proposed § 121.305(b). Proposed § 121.305(b) would require that records contain the actual values and observations obtained during monitoring. For example, monitoring of the locking of an access door to an actionable process step could be recorded as ''locked'' or ''unlocked'' (or ''yes'' or ''no'') and the monitoring of the presence of staff with only appropriate color uniforms in a designated area could be recorded as ''100% staff (or 10 of 10 staff) with blue uniforms'' or conversely ''80% staff (or 8 of 10 staff) with blue uniforms'' in the case of an improperly implemented focused mitigation strategy. In the case of an improperly implemented focused mitigation strategy, it is important to document the extent to which the strategy was incorrectly applied, as monitoring data can show a trend toward loss of control at an actionable process step. So, in the example in which 8 of 10 staff have blue uniforms, a facility may also consider documenting what color the remaining two staff were wearing if such information would be valuable in establishing a trend. If the recording of numerical values is possible in the monitoring of a focused mitigation strategy (e.g., if a facility is using a processing parameter such as heat treatment), then the actual times and temperatures or other appropriate processing data should be recorded.

c. Proposed § 121.305(c), (d) and (e). Proposed § 121.305(c), (d) and (e) would require that records be accurate, indelible, and legible (proposed

§ 121.305(c)); be created concurrently with performance of the activity documented (proposed § 121.305(d)); and be as detailed as necessary to provide a history of work performed (proposed § 121.305(e)). Proposed § 121.305(c) and (d) would ensure that the records are useful to the owner, operator, or agent in charge of a facility in complying with the requirements of proposed part 121, for example, in documenting compliance with monitoring requirements and verifying compliance with the food defense plan. These proposed requirements would also ensure that the records would be useful to FDA in determining compliance with the requirements of proposed part 121. Proposed § 121.305(e) would provide flexibility to facilities to tailor the amount of detail to the nature of the record.

d. Proposed § 121.305(f). Proposed § 121.305(f) would require that the records include the following: (1) The name and location of the facility; (2) the date and time of the activity documented; (3) the signature or initials of the person performing the activity; and (4) where appropriate, the identity of the product and the production code, if any. The name and location of the facility and the date and time would allow the owner, operator, or agent in charge of a facility (and, during inspection, an FDA investigator) to assess whether the record is current, to identify when and where any deviation occurred, and to track corrective actions. The signature of the individual who made the observation would ensure responsibility and accountability. In addition, if there is a question about the record, a signature would ensure that the source of the record will be known. Linking a record to a specific product (and, when applicable, the production code) would enable the owner, operator, or agent in charge of a facility covered by this rule to isolate product if there is a question that food has been adulterated. We seek comment on the scope and potential burden associated with these proposed requirements.

The proposed requirement (proposed § 121.305(f)(4)) for the identity of the product and production code, if any, is important in the context of food safety, where the production of potentially adulterated product may result from loss of control during processing, such as an improper cook temperature, and a recall may be necessary. It is also especially applicable for food safety in cases of continuous monitoring, when the loss of control can be associated with a particular product or production code. Consistent with the PC proposed rule, we have qualified the proposed requirement to indicate that the identity of the product and the production code should be included as part of the record ''where appropriate.'' We note that, in many cases, it will likely be more difficult to include this information for a focused mitigation strategy. As noted in the discussion on monitoring in section V.C.5 of this proposed rule, some focused mitigation strategies may be monitored weekly or monthly. In that case, it may not be appropriate to include all of the products and production codes that may have been affected by an improperly implemented focused mitigation strategy. Further, in many cases the identity of the product and the production code will not be relevant because the monitoring will be performed in the area surrounding one or more production lines, used for one or more products, rather than of processing parameters on a production line for a specific lot of product. On the other hand, if control of processing parameters, such as pasteurization time and temperature, are used as a focused mitigation strategy, it would be appropriate to document the product and production code, if any, that was being processed at the time of monitoring. The nature of the focused mitigation strategy should drive the decision by an owner, operator, or agent in charge of a facility regarding whether or not to include the identity of the product and the production code, if any, in records.

3. Proposed § 121.310—Additional Requirements Applying to the Food Defense Plan

Proposed § 121.310 would require that the owner, operator, or agent in charge of a facility sign and date the food defense plan upon initial completion (proposed § 121.310(a)) and upon any modification (proposed § 121.310(b)). Such a signature would provide direct evidence of the owner, operator, or agent's acceptance of the plan and commitment to implementation of the plan. Additionally, the signature, along with the date of signing, would serve to minimize potential confusion over the authenticity of any differing versions or editions of the document that might exist.

4. Proposed § 121.315—Requirements for Record Retention

Proposed § 121.315 contains requirements on the length of time records that would be required under proposed part 121 must be retained and allowances for offsite storage of records under certain circumstances.

a. Proposed § 121.315(a) and (b). Proposed § 121.315(a) would require that all records that would be required by proposed part 121 be retained at the facility for at least 2 years after the date they were prepared. Proposed § 121.315(b) would require that the food defense plan be retained at the facility for at least 2 years after its use is discontinued (e.g., because the facility has updated the written food defense plan. The 2-year timeframe for all records required by proposed part 121 is consistent with the length of time that nonperishable food products, on average, can be expected to be in commercial distribution plus a reasonable time thereafter to ensure that the records are available for verification activities. This proposed requirement is similar to the proposed records retention requirement in the PC proposed rule, which contains a discussion of similar requirements found in other FDA regulations and in particular the proposed and final rules implementing the recordkeeping requirements of the Bioterrorism Act. This 2-year retention period would run from either the date the record is prepared, for day-to-day operational records, or the date at which use of the record is discontinued, for the food defense plan. We seek comment on this proposal.

b. Proposed § 121.315(c). Proposed § 121.315(c) would provide that, except for the food defense plan, use of offsite storage for records is permitted after 6 months following the date that the record was made if such records can be retrieved and provided onsite within 24 hours of request for official review. The food defense plan would be required to remain onsite. FDA realizes that the proposed requirements for recordkeeping could require some facilities to store a significant quantity of records, and that there may not be adequate storage space in the facility for all of these records. Providing for offsite storage of most records after 6 months would enable a facility to comply with the proposed requirements for record retention while reducing the amount of space needed for onsite storage of the records without interfering with the purpose of record retention, because the records will be readily available.

Proposed § 121.315(c) also would provide that electronic records are considered to be onsite if they are accessible from an onsite location. Computerized systems within corporations can be networked, allowing for the sending and receiving of information in a secure fashion to all of the different food processing facilities of that corporation worldwide. This

type of system can be used to provide access at multiple locations to records from multiple facilities.

c. Proposed § 121.315(d). Proposed § 121.315(d) would provide that if the facility is closed for a prolonged period, the records may be transferred to some other reasonably accessible location but must be returned to the facility within 24 hours for official review upon request. Allowing for transfer of records will give practical storage relief to seasonal operations or those closed for other reasons for prolonged periods.

5. Proposed § 121.320—Requirements for Official Review

Proposed § 121.320 would require that all records required by proposed part 121 be made promptly available to a duly authorized representative of the Secretary of Health and Human Services upon oral or written request.

6. Proposed § 121.325—Public Disclosure

Proposed § 121.325 would establish that all records required by proposed part 121 will be protected from public disclosure to the extent allowable under part 20 of this chapter. Our general policies, procedures, and practices relating to the protection of confidential or otherwise protected information received from third parties would apply to information received under this rule.

E. Compliance

Section 103(e) of FSMA amends section 301 of the FD&C Act (21 U.S.C. 331) by adding a new section—(uu)—to the list of acts and the causing thereof that are prohibited. Under section 301(uu) of the FD&C Act, the following act, and the causing thereof, are prohibited: ''[t]he operation of a facility that manufactures, processes, packs, or holds food for sale in the United States if the owner, operator, or agent in charge of such facility is not in compliance with section 418 [of the FD&C Act].'' To clearly communicate that failure to comply with the regulations established under section 418 of the FD&C Act is a prohibited act, proposed § 121.401(a) in subpart E would establish that the operation of a facility that manufactures, processes, packs, or holds food for sale in the United States if the owner, operator, or agent in charge of such facility is required to comply with, and is not in compliance with, section 418 or subparts C or D of part 121 is a prohibited act under section 301(uu) of the FD&C Act.

Section 106(d) of FSMA amends section 301 of the FD&C Act by adding a new section—(ww)—to the list of acts and the causing thereof that are prohibited. Under section 301(ww) of the FD&C Act, the following act, and the causing thereof, are prohibited: ''[t]he failure to comply with section 420 [of the FD&C Act].'' To clearly communicate that failure to comply with the regulations established under section 420 of the FD&C Act is a prohibited act, proposed § 121.401(b) would establish that the failure to comply with section 420 of the FD&C Act or subparts C or D of part 121 is a prohibited act under section 301(ww) of the FD&C Act.

VI. Preliminary Regulatory Impact Analysis

A. Overview

FDA has examined the impacts of the proposed rule under Executive Order 12866, Executive Order 13563, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). Executive Orders 12866 and 13563 direct Agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). We believe that this proposed rule is a significant regulatory action under Executive Order 12866.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act requires Agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. The annualized costs per entity due to this proposed rule are about $13,000 for a one-facility firm with 100 employees, and there are about 4,100 small businesses that would be affected by the proposed rule, so we tentatively conclude that the proposed rule could have a significant economic impact on a substantial number of small entities.

C. Small Business Regulatory Enforcement Fairness Act of 1996

The Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121) defines a major rule for the purpose of congressional review as having caused or being likely to cause one or more of the following: An annual effect on the economy of $100 million or more; a major increase in costs or prices; significant adverse effects on competition, employment, productivity, or innovation; or significant adverse effects on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. In accordance with the Small Business Regulatory Enforcement Fairness Act, the Office of Management and Budget (OMB) has determined that this proposed rule is a major rule for the purpose of congressional review.

D. Unfunded Mandates Reform Act of 1995

Section 202(a) of the Unfunded Mandates Reform Act of 1995 requires that Agencies prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing ''any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.'' The current threshold after adjustment for inflation is $141 million, using the most current (2012) Implicit Price Deflator for the Gross Domestic Product. We expect this proposed rule may result in a 1-year expenditure that would meet or exceed this amount.

E. Paperwork Reduction Act of 1995

This proposed rule contains information collection requirements that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520). A description of these provisions is given in the *Description* section of this document with an estimate of the annual reporting, recordkeeping, and third-party disclosure burden. Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing each collection of information.

FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

To ensure that comments on information collection are received, OMB recommends that written

comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the title ''Focused Mitigation Strategies to Protect Food Against Intentional Adulteration.''

In compliance with the Paperwork Reduction Act of 1995 (44. U.S.C. 3407(d)), the agency has submitted the information collection provisions of this proposed rule to OMB for review. Interested persons are requested to send comments regarding information collection by *January 23, 2014* to the Office of Information and Regulatory Affairs, OMB. To ensure that comments on information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–6974, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the title, ''Focused Mitigation Strategies to Protect Food Against Intentional Adulteration.''

F. Public Access to the Analyses

The analyses that we have performed to examine the impacts of this proposed rule under Executive Order 12866, Executive Order 13563, the Regulatory Flexibility Act (5 U.S.C. 601–612), the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), and the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) are available to the public in the docket for this final rule (Ref. 64).

VII. Analysis of Environmental Impact

The Agency has determined under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment (Ref. 65). Therefore, neither an environmental assessment nor an environmental impact statement is required.

VIII. Federalism

FDA has analyzed this proposed rule in accordance with the principles set forth in Executive Order 13132. FDA has determined that the proposed rule, if finalized, would not contain policies that would 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. Accordingly, the Agency tentatively concludes that the proposed rule does not contain policies that have federalism implications as defined in the Executive order and, consequently, a federalism summary impact statement is not required.

IX. Comments

We invite public comment on the matters specified in this document as well as any other matters concerning this proposed rule that are of interest. Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

X. References

The following references have been placed on display in the Division of Dockets Management (see **ADDRESSES**) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday. (FDA has verified the Web site addresses, but FDA is not responsible for any subsequent changes to the Web sites after this document publishes in the **Federal Register**.)

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List of Subjects in 21 CFR Part 121

Food packaging, Foods.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR chapter I be amended by adding part 121 to read as follows:

PART 121—FOCUSED MITIGATION STRATEGIES TO PROTECT FOOD AGAINST INTENTIONAL ADULTERATION

Subpart A—General Provisions

Sec.

121.3 Definitions.
121.5 Exemptions.

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121.301 Records subject to the requirements of this subpart.
121.305 General requirements applying to records.
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121.315 Requirements for record retention.
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Subpart E—Compliance

121.401 Compliance.

Authority: 21 U.S.C. 331, 342, 350g, 350(i), 371, 374.

Subpart A—General Provisions

§ 121.3 Definitions.

The definitions and interpretations of terms in section 201 of the Federal Food, Drug, and Cosmetic Act are applicable to such terms when used in this part. The following definitions also apply:

Actionable process step means a point, step, or procedure in a food process at which food defense measures can be applied and are essential to prevent or eliminate a significant vulnerability or reduce such vulnerability to an acceptable level.

Contaminant means any biological, chemical, physical or radiological agent that may be intentionally added to food and that may cause illness, injury or death.

Facility means a domestic facility or a foreign facility that is required to register under section 415 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350d), in accordance with the requirements of 21 CFR part 1, subpart H.

Farm means farm as defined in § 1.227 of this chapter.

FDA means the Food and Drug Administration.

Focused mitigation strategies mean those risk-based, reasonably appropriate measures that a person knowledgeable about food defense would employ to significantly minimize or prevent significant vulnerabilities identified at actionable process steps, and that are consistent with the current scientific understanding of food defense at the time of the analysis.

Food means food as defined in section 201(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(f)) and includes raw materials and ingredients.

Food defense means the effort to protect food from intentional acts of adulteration where there is an intent to cause public health harm and economic disruption.

Holding means storage of food. Holding facilities include warehouses, cold storage facilities, storage silos, grain elevators, and liquid storage tanks. For farms and farm mixed-type facilities, holding also includes activities traditionally performed by farms for the safe or effective storage of raw agricultural commodities grown or raised on the same farm or another farm under the same ownership, but does not include activities that transform a raw agricultural commodity, as defined in section 201(r) of the Federal Food, Drug, and Cosmetic Act, into a processed food as defined in section 201(gg).

Manufacturing/processing means making food from one or more ingredients, or synthesizing, preparing, treating, modifying or manipulating food, including food crops or ingredients. Examples of manufacturing/processing activities are cutting, peeling, trimming, washing, waxing, eviscerating, rendering, cooking, baking, freezing, cooling, pasteurizing, homogenizing, mixing, formulating, bottling, milling, grinding, extracting juice, distilling, labeling, or packaging. For farms and farm mixed-type facilities, manufacturing/processing does not include activities that are part of harvesting, packing, or holding.

Mixed-type facility means an establishment that engages in both activities that are exempt from registration under section 415 of the Federal Food, Drug, and Cosmetic Act and activities that require the establishment to be registered. An example of such a facility is a ''farm mixed-type facility,'' which is an establishment that grows and harvests crops or raises animals and may conduct other activities within the farm definition, but also conducts activities that require the establishment to be registered.

Monitor means to conduct a planned sequence of observations or measurements to assess whether focused mitigation strategies are consistently applied and to produce an accurate record for use in verification.

Packing means placing food into a container other than packaging the food. For farms and farm mixed-type facilities, packing also includes activities traditionally performed by farms to prepare raw agricultural commodities grown or raised on the same farm or another farm under the same ownership for storage and transport, but does not include activities that transform a raw agricultural commodity, as defined in section 201(r) of the Federal Food, Drug, and Cosmetic Act, into a processed food as defined in section 201(gg).

Qualified end-user, with respect to a food, means the consumer of the food (where the term consumer does not include a business); or a restaurant or retail food establishment (as those terms are defined in § 1.227 of this chapter) that:

(1) Is located:

(i) In the same State as the qualified facility that sold the food to such restaurant or establishment; or

(ii) Not more than 275 miles from such facility; and

(2) Is purchasing the food for sale directly to consumers at such restaurant or retail food establishment.

Qualified facility means (when including the sales by any subsidiary; affiliate; or subsidiaries or affiliates, collectively, of any entity of which the facility is a subsidiary or affiliate) a facility that is:

(1) A very small business as defined in this part; or

(2) A facility to which both of the following apply:

(i) During the 3-year period preceding the applicable calendar year, the average annual monetary value of the food manufactured, processed, packed or held at such facility that is sold directly to qualified end-users (as defined in this part) during such period exceeded the average annual monetary value of the food sold by such facility to all other purchasers; and

(ii) The average annual monetary value of all food sold during the 3-year period preceding the applicable calendar year was less than $500,000, adjusted for inflation.

Significant vulnerability means a vulnerability for which a prudent person knowledgeable about food defense would employ food defense measures because of the potential for serious adverse health consequences or death and the degree of accessibility to that point in the food process.

Significantly minimize means to reduce to an acceptable level, including to eliminate.

Small business means a business employing fewer than 500 persons.

Verification means those activities, other than monitoring, that establish that the system is operating according to the food defense plan.

Very small business means a business that has less than $10,000,000 in total annual sales of food, adjusted for inflation.

Vulnerability means the susceptibility of a point, step, or procedure in a facility's food process to intentional adulteration.

§ 121.5 Exemptions.

(a) This part does not apply to a qualified facility, except that qualified facilities must, upon request, provide for official review documentation that was relied upon to demonstrate that the facility meets this exemption. Such documentation must be retained for 2 years.

(b) This part does not apply to the holding of food, except the holding of food in liquid storage tanks.

(c) This part does not apply to the packing, re-packing, labeling, or re-labeling of food where the container that directly contacts the food remains intact.

(d) This part does not apply to activities of a facility that are subject to section 419 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350h) (Standards for Produce Safety).

(e)(1) This part does not apply with respect to alcoholic beverages at a facility that meets the following two conditions:

(i) Under the Federal Alcohol Administration Act (27 U.S.C. 201 *et seq.*) or chapter 51 of subtitle E of the Internal Revenue Code of 1986 (26 U.S.C. 5001 *et seq.*) the facility is required to obtain a permit from, register with, or obtain approval of a notice or application from the Secretary of the Treasury as a condition of doing business in the United States, or is a foreign facility of a type that would require such a permit, registration, or approval if it were a domestic facility; and

(ii) Under section 415 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350d) the facility is required to register as a facility because it is engaged in manufacturing, processing, packing, or holding one or more alcoholic beverages.

(2) This part does not apply with respect to food other than alcoholic beverages at a facility described in paragraph (e)(1) of this section, provided such food:

(i) Is in prepackaged form that prevents any direct human contact with such food; and

(ii) Constitutes not more than 5 percent of the overall sales of the facility, as determined by the Secretary of the Treasury.

(f) This part does not apply to the manufacturing, processing, packing, or holding of food for animals other than man.

Subpart B—[Reserved]

Subpart C—Food Defense Measures

§ 121.126 Requirement for a food defense plan.

(a) *Food defense plan.* The owner, operator, or agent in charge of a facility must prepare, or have prepared, and implement a written food defense plan.

(b) *Contents of a food defense plan.* The food defense plan must include:

(1) The written identification of actionable process steps as required by § 121.130;

(2) The written focused mitigation strategies as required by § 121.135(b);

(3) The written procedures for monitoring as required by § 121.140(a);

(4) The written corrective action procedures as required by § 121.145(a)(1); and

(5) The written verification procedures as required by § 121.150(e).

§ 121.130 Identification of actionable process steps.

The owner, operator, or agent in charge of a facility must identify any actionable process steps, using the procedures described in either paragraph (a) or paragraph (b) of this section. The identification of actionable process steps and the assessment leading to that identification must be written.

(a) *Key activity types.* The owner, operator, or agent in charge of a facility must assess, for each type of food manufactured, processed, packed or held at the facility, whether the facility has one or more of the following key activity types and identify the actionable process steps associated with any key activity types present:

(1) *Bulk liquid receiving and loading*—a step in which a bulk liquid is received and unloaded from an inbound conveyance or loaded into an outbound conveyance where a contaminant can be intentionally introduced and, if it is, it is likely that the contaminant will be distributed throughout the liquid due to sloshing, movement, or turbulence caused by the receiving and unloading or loading activity.

(2) *Liquid storage and handling*—a step in which a liquid is contained in bulk storage tanks or in holding, surge,

or metering tanks where a contaminant can be intentionally introduced and, if it is, it is likely that the contaminant will be distributed into the food.

(3) *Secondary ingredient handling*—a staging, preparation, addition, or rework step where a contaminant can be intentionally introduced into a relatively small amount of ingredient or rework and, if it is, it is likely that the contaminant will be distributed into a larger volume of food.

(4) *Mixing and similar activities*—a step, such as mixing, blending, homogenizing, or grinding where a contaminant can be intentionally introduced and, if it is, it is likely that the contaminant will be distributed into the food.

(b) *Vulnerability assessment.* The owner, operator, or agent in charge of a facility must conduct or have conducted, for each type of food manufactured, processed, packed or held at the facility, an evaluation to identify and prioritize the points, steps, and procedures in a food operation based on their vulnerability to intentional adulteration and to identify actionable process steps. Such vulnerability assessments must be performed by an individual(s) qualified by experience and/or training using appropriate methods.

§ 121.135 Focused mitigation strategies for actionable process steps.

(a) The owner, operator, or agent in charge of a facility must identify and implement focused mitigation strategies at each actionable process step to provide assurances that the significant vulnerability at each step will be significantly minimized or prevented and the food manufactured, processed, packed, or held by such facility will not be adulterated under section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342).

(b) Focused mitigation strategies must be written.

(c) Focused mitigation strategies required under this section are subject to:

(1) Monitoring as required by § 121.140;

(2) Corrective actions as required by § 121.145; and

(3) Verification as required by § 121.150.

§ 121.140 Monitoring.

(a) The owner, operator, or agent in charge of a facility must establish and implement written procedures, including the frequency with which they are to be performed, for monitoring the focused mitigation strategies.

(b) The owner, operator, or agent in charge of a facility must monitor the focused mitigation strategies with sufficient frequency to provide assurances that they are consistently applied.

(c) All monitoring of focused mitigation strategies in accordance with this section must be documented in records that are subject to verification in accordance with § 121.150(a) and records review in accordance with § 121.150(c).

§ 121.145 Corrective actions.

(a) *Corrective action procedures.* (1) The owner, operator, or agent in charge of a facility must establish and implement written corrective action procedures that must be taken if focused mitigation strategies are not properly implemented.

(2) The corrective action procedures must describe the steps to be taken to ensure that appropriate action is taken to identify and correct a problem with implementation of a focused mitigation strategy to reduce the likelihood that the problem will recur.

(b) *Documentation.* All corrective actions taken in accordance with this section must be documented in records that are subject to verification in accordance with § 121.150(b) and records review in accordance with § 121.150(c).

§ 121.150 Verification.

(a) *Monitoring.* The owner, operator, or agent in charge of a facility must verify that monitoring is being conducted, as required by § 121.140.

(b) *Corrective actions.* The owner, operator, or agent in charge of a facility must verify that appropriate decisions about corrective actions are being made, as required by § 121.145.

(c) *Implementation and effectiveness.* The owner, operator, or agent in charge of a facility must verify that the focused mitigation strategies are consistently implemented and are effectively and significantly minimizing or preventing the significant vulnerabilities. As appropriate to the facility and the food, this must include review of the monitoring and corrective actions records within appropriate timeframes to ensure that the records are complete, the activities reflected in the records occurred in accordance with the food defense plan, the focused mitigation strategies are effective, and appropriate decisions were made about corrective actions.

(d) *Reanalysis.* The owner, operator, or agent in charge of a facility must:

(1) Conduct a reanalysis of the food defense plan:

(i) At least once every 3 years;

(ii) Whenever a significant change is made in the activities conducted at a facility operated by such owner, operator, or agent in charge if the change creates a reasonable potential for a new vulnerability or a significant increase in a previously identified vulnerability;

(iii) Whenever such owner, operator or agent in charge becomes aware of new information about potential vulnerabilities associated with the food operation or facility;

(iv) Whenever a focused mitigation strategy is found to be ineffective; and

(v) Whenever FDA requires reanalysis to respond to new vulnerabilities and developments in scientific understanding including, as appropriate, results from the Department of Homeland Security biological, chemical, radiological, or other terrorism risk assessment.

(2) Complete such reanalysis and implement any additional focused mitigation strategies needed to address the significant vulnerabilities identified, if any, before the change in activities at the facility is operative or, when necessary, during the first 6 weeks of production; and

(3) Revise the written plan if a significant change is made or document the basis for the conclusion that no additional or revised focused mitigation strategies are needed.

(e) *Documentation.* All verification activities taken in accordance with this section must be documented in records.

§ 121.160 Training.

(a) Personnel and supervisors assigned to actionable process steps must receive appropriate training in food defense awareness and their respective responsibilities in implementing focused mitigation strategies.

(b) All training received in accordance with this section must be documented in records.

Subpart D—Requirements Applying to Records That Must Be Established and Maintained

§ 121.301 Records subject to the requirements of this subpart D.

(a) Except as provided by paragraph (b) of this section, all records required by subpart C of this part are subject to all requirements of this subpart D.

(b) The requirements of § 121.310 apply only to the written food defense plan.

§ 121.305 General requirements applying to records.

Records must:

(a) Be kept as original records, true copies (such as photocopies, pictures, scanned copies, microfilm, microfiche,

or other accurate reproductions of the original records), or electronic records, which must be kept in accordance with part 11 of this chapter;

(b) Contain the actual values and observations obtained during monitoring;

(c) Be accurate, indelible, and legible;

(d) Be created concurrently with performance of the activity documented;

(e) Be as detailed as necessary to provide history of work performed; and

(f) Include:

(1) The name and location of the facility;

(2) The date and time of the activity documented;

(3) The signature or initials of the person performing the activity; and

(4) Where appropriate, the identity of the product and the production code, if any.

§ 121.310 Additional requirements applying to the food defense plan.

The food defense plan must be signed and dated by the owner, operator, or agent in charge of the facility:

(a) Upon initial completion; and

(b) Upon any modification.

§ 121.315 Requirements for record retention.

(a) All records required by this part must be retained at the facility for at least 2 years after the date they were prepared.

(b) The food defense plan must be retained for at least 2 years after its use is discontinued;

(c) Except for the food defense plan, offsite storage of records is permitted after 6 months following the date that the record was made if such records can be retrieved and provided onsite within 24 hours of request for official review. The food defense plan must remain onsite. Electronic records are considered to be onsite if they are accessible from an onsite location.

(d) If the facility is closed for a prolonged period, the records may be transferred to some other reasonably accessible location but must be returned to the facility within 24 hours for official review upon request.

§ 121.320 Requirements for official review.

All records required by this part must be made promptly available to a duly authorized representative of the Secretary of Health and Human Services upon oral or written request.

§ 121.325 Public disclosure.

Records required by this part will be protected from public disclosure to the extent allowable under part 20 of this chapter.

Subpart E—Compliance

§ 121.401 Compliance.

(a) The operation of a facility that manufactures, processes, packs, or holds food for sale in the United States if the owner, operator, or agent in charge of such facility is required to comply with, and is not in compliance with, section 418 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350g) or subparts C or D of this part is a prohibited act under section 301(uu) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(uu)).

(b) The failure to comply with section 420 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350i) or subparts C or D of this part is a prohibited act under section 301(ww) of the Federal Food, Drug, and Cosmetic Act.

Dated: December 13, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–30373 Filed 12–20–13; 8:45 am]

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Part IV

Department of Health and Human Services

Food and Drug Administration

21 CFR Parts 16 and 121

Appendix 4 to Draft Qualitative Risk Assessment of Risk of Activity/Food Combinations for Activities (Outside the Farm Definition) Conducted in a Facility Co-Located on a Farm; Availability; Proposed Rule

Department of Health and Human Services

Food and Drug Administration

21 CFR Parts 16 and 121

[Docket No. FDA–2013–N–1563]

Appendix 4 to Draft Qualitative Risk Assessment of Risk of Activity/Food Combinations for Activities (Outside the Farm Definition) Conducted in a Facility Co-Located on a Farm; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Request for comments.

SUMMARY: On January 16, 2013, the Food and Drug Administration (FDA) announced the availability of, and requested comment on, a document entitled ''Draft Qualitative Risk Assessment of Risk of Activity/Food Combinations for Activities (Outside the Farm Definition) Conducted in a Facility Co-Located on a Farm'' (the draft RA). FDA is now announcing the availability of, and requesting comment on, a document entitled ''Appendix 4 to Draft Qualitative Risk Assessment of Risk of Activity/Food Combinations for Activities (Outside the Farm Definition) Conducted in a Facility Co-Located on a Farm'' (the draft RA Appendix). The purpose of the draft RA Appendix is to provide a science-based risk analysis of those foods whose production would be considered low risk with respect to the risk of intentional adulteration caused by acts of terrorism. The appendix supplements the science-based risk analysis already included in the draft RA, which does not consider the risk of intentional adulteration caused by acts of terrorism. FDA conducted this evaluation to satisfy requirements of the FDA Food Safety Modernization Act (FSMA) to conduct a science-based risk analysis and to consider the results of that analysis in rulemaking that is required by FSMA.

DATES: Submit either electronic or written comments on the draft RA Appendix by March 31, 2014.

ADDRESSES: Submit electronic comments to *http://www.regulations.gov.* Submit written comments to Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Ryan Newkirk, Center for Food Safety and Applied Nutrition (HFS–005), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 240–402–3712.

SUPPLEMENTARY INFORMATION:

I. Background

On January 4, 2011, FSMA (Pub. L. 111–353) was signed into law. Section 103 of FSMA, Hazard analysis and risk-based preventive controls, amends the FD&C Act to create a new section 418 with the same name. Section 418 of the FD&C Act (21 U.S.C. 350g) contains requirements applicable to food facilities that are required to register under section 415 of the FD&C Act (21 U.S.C. 350d) and mandates Agency rulemaking. Section 418(a) of the FD&C Act is a general provision that requires the owner, operator, or agent in charge of a facility to evaluate the hazards that could affect food manufactured, processed, packed, or held by the facility, identify and implement preventive controls, monitor the performance of those controls, and maintain records of the monitoring. Section 418(a) of the FD&C Act specifies that the purpose of the preventive controls is to prevent the occurrence of such hazards and provide assurances that such food is not adulterated under section 402 of the FD&C Act (21 U.S.C. 342) or misbranded under section 403(w) of the FD&C Act (21 U.S.C. 343(w)). Section 418(b) of the FD&C Act requires that the hazard analysis identify and evaluate hazards that may be intentionally introduced, including by acts of terrorism. Sections 418(c) through (i) of the FD&C Act contain additional requirements applicable to facilities, including requirements for preventive controls (section 418(c)), monitoring (section 418(d)), corrective actions (section 418(e)), verification (section 418(f)), recordkeeping (section 418(g)), a written plan and documentation (section 418(h)), and reanalysis of hazards (section 418(i)). On January 16, 2013, FDA issued a proposed rule (the proposed preventive controls rule for human food) to implement section 418 of the FD&C Act for human food with respect to hazards other than intentional adulteration (78 FR 3646). Elsewhere in this issue of the **Federal Register,** FDA is issuing a proposed rule entitled ''Focused Mitigation Strategies to Protect Food Against Intentional Adulteration'' (hereafter, the Intentional Adulteration proposed rule) to implement section 418 of the FD&C Act with respect to intentional adulteration caused by acts of terrorism.

Among other things, section 103(c) of FSMA requires FDA to consider possible exemption from or modification of requirements of section 418 and section 421 (U.S.C. 350j) (Targeting of inspection resources for domestic facilities, foreign facilities, and ports of entry; annual report) of the FD&C Act for certain facilities as FDA deems appropriate.

Section 103(c)(1)(C) of FSMA directs the Secretary of Health and Human Services (the Secretary) to conduct a science-based risk analysis as part of the section 103(c) rulemaking. The science-based risk analysis is to cover: (1) Specific types of on-farm packing or holding of food that is not grown, raised, or consumed on such farm or another farm under the same ownership, as such packing and holding relates to specific foods and (2) specific on-farm manufacturing and processing activities as such activities relate to specific foods that are not consumed on that farm or on another farm under common ownership.

Section 103(c)(1)(D)(i) of FSMA requires that the Secretary consider the results of the science-based risk analysis, and exempt certain facilities from the requirements in section 418 of the FD&C Act (including requirements related to intentional adulteration), and the mandatory inspection frequency in section 421 of the FD&C Act, or modify the requirements in sections 418 or 421, as the Secretary determines appropriate, if such facilities are engaged only in specific types of on-farm manufacturing, processing, packing, or holding activities that the Secretary determines to be low risk involving specific foods the Secretary determines to be low risk. Section 103(c)(1)(D)(ii) of FSMA provides, in relevant part, that the exemptions or modifications described in section 103(c)(1)(D)(i) shall apply only to small businesses and very small businesses, as defined in the regulation issued under section 418(n) of the FD&C Act.

II. Qualitative Risk Assessment and Appendix

On January 16, 2013, the Food and Drug Administration (FDA) announced the availability of, and requested comment on, a document entitled ''Draft Qualitative Risk Assessment of Risk of Activity/Food Combinations for Activities (Outside the Farm Definition) Conducted in a Facility Co-Located on a Farm'' (the draft RA) (78 FR 3824).

We conducted the qualitative risk assessment to identify activity/food combinations that would be considered low risk for human foods with respect to hazards that may be unintentionally introduced to the food (Ref. 1).

FDA is now announcing the availability of, and requesting comment on, a document entitled ''Appendix 4 to Draft Qualitative Risk Assessment of Risk of Activity/Food Combinations for

Activities (Outside the Farm Definition) Conducted in a Facility Co-Located on a Farm'' (the draft RA Appendix) (Ref. 2). The purpose of the draft RA Appendix is to provide a science-based risk analysis of those foods whose production would be considered low risk with respect to the risk of intentional adulteration caused by acts of terrorism. The appendix supplements the science-based risk analysis already included in the draft RA, which does not consider the risk of intentional adulteration caused by acts of terrorism. In the Intentional Adulteration proposed rule, FDA is considering using the results of this evaluation to exempt, or modify requirements for, food facilities that are small or very small businesses that are engaged only in specific types of on-farm food production identified in the draft RA Appendix as low-risk with respect to intentional adulteration caused by acts of terrorism.

In both risk assessments, we focused on food types produced on farms. When considering intentional adulteration, however, we considered the overall production practices for various types of finished foods rather than separating manufacturing, processing, packing, and holding activities (Ref. 2). This reflects the different analysis for ''low risk'' we used to evaluate the risk of hazards that may be intentionally introduced by acts of terrorism as compared to determining ''low risk'' for other hazards in the draft RA. In the draft RA Appendix, we describe the approach applied to identify low-risk production processes and to determine food types out of the scope of the draft RA Appendix, and to evaluate hazards associated with foods within the scope of the draft RA Appendix (Ref. 2).

We are seeking comments that can be used to improve: (1) the approach used, (2) the assumptions made, (3) the data used, and (4) the transparency of the draft RA Appendix. Specifically we request comment on: (1) The criteria for identifying a ''low-risk production process,'' and the approach to characterizing the risk of specific food production processes, including whether there are other ways in which we could further focus on foods that present a high risk of intentional adulteration caused by acts of terrorism. For example, whether there are ways in which a food's shelf life, turnover in the marketplace, batch size, serving size and servings per batch, distribution and consumption patterns and intended consumer could be considered and (2) the food types that we are considering outside the scope of the draft RA Appendix and those we are considering within the scope of the draft RA Appendix.

We will consider public comments regarding the draft RA Appendix in preparing a final version of the RA Appendix and the Intentional Adulteration rule.

III. Comments

Interested persons may submit either electronic comments regarding the draft RA Appendix 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

The draft RA Appendix is available electronically at *http://www.regulations.gov* and at *http://www.fda.gov/downloads/Food/FoodScienceResearch/RiskSafetyAssessment/UCM377408.pdf.*

V. References

The following references have been placed on display in the Division of Dockets Management (see **ADDRESSES**) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday. (FDA has verified the Web site addresses, but FDA is not responsible for any subsequent changes to the Web sites after this document publishes in the **Federal Register**.)

1. FDA, ''Draft Qualitative Risk Assessment of Risk of Activity/Food Combinations for Activities (Outside the Farm Definition) Conducted in a Facility Co-Located on a Farm,'' 2012. Available at: *http://www.fda.gov/downloads/Food/FoodScienceResearch/UCM334110.pdf.*

2. FDA, ''Appendix 4 to Draft Qualitative Risk Assessment of Risk of Activity/Food Combinations for Activities (Outside the Farm Definition) Conducted in a Facility Co-Located on a Farm,'' 2013. Available at: *http://www.fda.gov/downloads/Food/FoodScienceResearch/RiskSafetyAssessment/UCM377408.pdf.*

Dated: December 13, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–30375 Filed 12–20–13; 8:45 am]

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Part V

Department of Health and Human Services

Food and Drug Administration

21 CFR Parts 16 and 121

Focused Mitigation Strategies To Protect Food Against Intentional Adulteration; Public Meeting on Proposed Rule; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 16 and 121

[Docket No. FDA–2013–N–1425]

Focused Mitigation Strategies To Protect Food Against Intentional Adulteration; Public Meeting on Proposed Rule

AGENCY: Food and Drug Administration, HHS.

ACTION: Notification of public meeting.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing a public meeting to discuss the proposed rule to require domestic and foreign food facilities that are required to register under the Federal Food, Drug, and Cosmetic Act (the FD&C Act) to address hazards that may be intentionally introduced by acts of terrorism. FDA is proposing these requirements as part of our implementation of the FDA Food Safety Modernization Act (FSMA). The purpose of the public meeting is to inform the public of the provisions of the proposed rule and the rulemaking process (including how to submit comments, data, and other information to the rulemaking docket) as well as solicit oral stakeholder and public comments on the proposed rule and to respond to questions about the rule.

DATES: See section II, ''How to Participate in the Public Meeting'' in the **SUPPLEMENTARY INFORMATION** section of this document for date and time of the public meeting, closing dates for advance registration, and information on deadlines for submitting either electronic or written comments to FDA's Division of Dockets Management.

ADDRESSES: See section II, ''How to Participate in the Public Meeting'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT:

For questions about registering for the meeting, to register by phone, or to submit a notice of participation by mail, FAX, or email, contact: Nick Cane, Nakamoto Group, Inc., 11820 Parklawn Dr., suite 240, Rockville, MD 20852, 240–357–1176, FAX: 301–468–6536, email: *nick.cane@nakamotogroup.com.*

For general questions about the meeting, to request an opportunity to make an oral presentation at the public meeting, to submit the full text, comprehensive outline, or summary of an oral presentation, or for special accommodations due to a disability, contact: Juanita Yates, Center for Food Safety and Applied Nutrition (HFS–009), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 240–402–1731, email: J*uanita.yates@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

FSMA (Pub. L. 111–353) was signed into law by President Obama on January 4, 2011, to better protect public health by helping to ensure the safety and security of the food supply. FSMA amends the FD&C Act to establish the foundation of a modernized, prevention-based food safety system. Among other things, FSMA requires FDA to issue regulations requiring domestic and foreign food facilities that are required to register under the FD&C Act to address hazards that may be intentionally introduced by acts of terrorism. These food facilities would be required to identify and implement focused mitigation strategies to significantly minimize or prevent significant vulnerabilities identified at actionable process steps in a food operation. We expect the rulemaking would help to protect food from intentional adulteration caused by acts of terrorism.

Along with this public meeting, FDA is considering additional public meetings on this subject or other public engagement opportunities. Any further public meetings on this subject would be announced at a later time in the **Federal Register**.

II. How To Participate in the Public Meeting

FDA is holding the public meeting on ''Focused Mitigation Strategies to Protect Food Against Intentional Adulteration'' to: (1) Inform the public about the rulemaking process, including how to submit comments, data, and other information to the rulemaking docket; (2) respond to questions about the proposed rules; and (3) provide an opportunity for interested persons to make oral presentations. Due to limited space and time, FDA encourages all persons who wish to attend the meeting to register in advance. There is no fee to register for the public meeting, and registration will be on a first-come, first-served basis. Early registration is recommended because seating is limited. Onsite registration will be accepted, as space permits, after all preregistered attendees are seated.

Those requesting an opportunity to make an oral presentation during the time allotted for public comment at the meeting are asked to submit a request and to provide the specific topic or issue to be addressed. Due to the anticipated high level of interest in presenting public comment and limited time available, FDA is allocating 3 minutes to each speaker to make an oral presentation. Speakers will be limited to making oral remarks; there will not be an opportunity to display materials such as slide shows, videos, or other media during the public meeting. If time permits, individuals or organizations that did not register in advance may be granted the opportunity to make an oral presentation. FDA would like to maximize the number of individuals who make a presentation at the public meeting and will do our best to accommodate all persons who wish to make a presentation or express their opinions at the public meeting.

FDA encourages persons and groups who have similar interests to consolidate their information for presentation by a single representative. After reviewing the presentation requests, FDA will notify each participant before the meeting of the approximate time their presentation is scheduled to begin, and remind them of the presentation format (i.e., 3-minute oral presentation without visual media).

Table 1 of this document provides information on participation in the public meeting:

TABLE 1—INFORMATION ON PARTICIPATION IN THE MEETING AND ON SUBMITTING COMMENTS TO THE RULEMAKING DOCKETS

	Date	Electronic address	Address	Other information
College Park, MD public meeting.	February 20, 2014, 8:30 a.m. to 3 p.m.	*https://collaboration.fda.gov/r38z65kh91j/.*	Wiley Auditorium, Harvey W. Wiley Federal Bldg., 5100 Paint Branch Pkwy., College Park, MD 20740.	

TABLE 1—INFORMATION ON PARTICIPATION IN THE MEETING AND ON SUBMITTING COMMENTS TO THE RULEMAKING DOCKETS—Continued

	Date	Electronic address	Address	Other information
Deadline for registration	February 7, 2014	*http://www.fda.gov/Food/GuidanceRegulation/FSMA/ucm377956.htm.* Docket No. FDA–2013–N–1425.	We encourage you to use electronic registration if possible [1].	There is no registration fee for the public meeting. Early registration is recommended because seating is limited.
Request to make a public comment.	January 17, 2014	*http://www.fda.gov/Food/NewsEvents/WorkshopsMeetingsConferences/default.htm* [2].		Requests made on the day of the public meeting to make an oral presentation will be granted as time permits. Information on requests to make an oral presentation may be posted without change to *http://www.regulations.gov,* including any personal information provided.
Request special accommodations due to a disability.	January 17, 2014	Juanita Yates, email: *Juanita.yates@fda.hhs.gov.*	See **FOR FURTHER INFORMATION CONTACT**.	
Closing date for electronic or written comments.	March 31, 2014	Docket No. FDA–2013–N–1425.		

[1] For questions about registering for the public meeting, to register by phone, or to submit a notice of participation by mail, FAX or email, contact: Nick Cane, Nakamoto Group, Inc., 11820 Parklawn Dr., suite 240, Rockville, MD 20852, 240–357–1176, FAX: 301–468–6536, email: *nick.cane@nakamotogroup.com.*

[2] You may also request to make an oral presentation at the public meeting via email. Please include your name, title, firm name, address, and phone and FAX numbers as well as the full text, comprehensive outline, or summary of your oral presentation and send to: Juanita Yates, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5100 Paint Branch Pkwy, College Park, MD 20740, 240–402–1731, email: *Juanita.yates@fda.hhs.gov.*

While oral presentations from specific individuals and organizations will be necessarily limited due to time constraints during the public meeting, stakeholders may submit electronic or written comments discussing any issues of concern to the administrative record (the docket) for the rulemaking. All relevant data and documentation should be submitted with the comments to the relevant docket, i.e., Docket No. FDA–2013–N–1425.

III. Comments, Transcripts, and Recorded Video

Information and data submitted voluntarily to FDA during the public meeting will become part of the administrative record for the relevant rulemaking and will be accessible to the public at *http://www.regulations.gov.* The transcript of the proceedings from the public meeting will become part of the administrative record for each of the rulemakings. Please be advised that as soon as a transcript is available, it will be accessible at *http://www.regulations.gov* and at FDA's FSMA Web site at: *http://www.fda.gov/Food/GuidanceRegulation/FSMA/default.htm.* It may also be viewed at the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. A transcript will also be available in either hardcopy or on CD–ROM, after submission of a Freedom of Information request. Written requests are to be sent to the Division of Freedom of Information (ELEM–1029), 12420 Parklawn Dr., Element Bldg., Rockville, MD 20857. Additionally, FDA will be live webcasting and recording the public meeting. Once the recorded video is available, it will be accessible at FDA's FSMA Web site at *http://www.fda.gov/Food/GuidanceRegulation/FSMA/default.htm.*

Dated: December 13, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–30372 Filed 12–18–13; 8:45 am]

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Part VI

Environmental Protection Agency

40 CFR Part 82

Protection of Stratospheric Ozone: Adjustments to the Allowance System for Controlling HCFC Production, Import and Export; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[EPA–HQ–OAR–2013–0263; FRL–9900–52–OAR]

RIN 2060–AR04

Protection of Stratospheric Ozone: Adjustments to the Allowance System for Controlling HCFC Production, Import and Export

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: EPA is seeking comment on options for adjusting the allowance system controlling United States consumption and production of hydrochlorofluorocarbons (HCFCs). Under Title VI of the Clean Air Act, EPA is required to phase out production and import of these chemicals in accordance with United States obligations under the *Montreal Protocol on Substances that Deplete the Ozone Layer* (Protocol). Under the Protocol and the Clean Air Act, total United States HCFC production and consumption is capped, and will be completely phased out by 2030. Beginning January 1, 2015, United States production and consumption of all HCFCs must be no more than ten percent of the established cap. Existing EPA regulations prohibit production and consumption of HCFC–22 and HCFC–142b as of January 1, 2020. At that time, all other HCFC production and consumption must not exceed 0.5 percent of the cap, and is limited to use as a refrigerant in existing air conditioning and refrigeration equipment. Given these requirements, EPA is seeking comment on how best to implement the 2015 stepdown to no more than 10 percent of the cap. Since the beginning of the HCFC phaseout program, the agency has tried to ensure a smooth transition out of HCFCs into non-ozone depleting alternatives. Essential to a smooth transition are the recycling and emissions reductions requirements mandated by section 608 of the Clean Air Act. This proposal also includes a request for comment on potential changes to regulations promulgated under that authority, found in 40 CFR part 82 subpart F. In addition to taking comment on the implementation of phaseout requirements and proposed changes to section 608 regulations, the agency is also highlighting important Clean Air Act requirements that take effect in 2015, specifically the section 611 labeling requirements and the section 605 restrictions on HCFC use and introduction into interstate commerce.

DATES: Comments on this notice of proposed rulemaking must be received on or before February 24, 2014, unless a public hearing is held. If a public hearing is held, comments must be received on or before March 10, 2014. Any party requesting a public hearing must notify the contact listed below under **FOR FURTHER INFORMATION CONTACT** by 5 p.m. Eastern Daylight Time on January 8, 2014. If a public hearing is requested, the hearing will be held on January 23, 2014. If a hearing is held, it will take place at EPA headquarters in Washington, DC. EPA will post a notice on our Web site, *www.epa.gov/ozone/strathome.html,* announcing further information should a hearing take place.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2013–0263, by one of the following methods:

- *www.regulations.gov:* Follow the online instructions for submitting comments.
- *Email: a-and-r-docket@epa.gov*
- *Mail:* Docket # EPA–HQ–OAR–2013–0263, Air and Radiation Docket and Information Center, United States Environmental Protection Agency, Mail code: 6102T, 1200 Pennsylvania Avenue NW., Washington, DC 20460
- *Hand Delivery:* Docket #EPA–HQ–OAR–2013–0263 Air and Radiation Docket at EPA West, 1301 Constitution Avenue NW., Room B108, Mail Code 6102T, Washington, DC 20004. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2013–0263. EPA's policy is that all comments received 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 information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statue. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. If you want to submit confidential comments, please send them to the individual listed in the **FOR FURTHER INFORMATION CONTACT** section. The *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 *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *www.epa.gov/epahome/dockets.htm.*

FOR FURTHER INFORMATION CONTACT: Elizabeth Whiteley by telephone at (202) 343–9310 or by email at *whiteley.elizabeth@epa.gov,* or by mail at United States Environmental Protection Agency, Stratospheric Protection Division, Stratospheric Program Implementation Branch (6205J), 1200 Pennsylvania Ave. NW., Washington DC, 20460. You may also visit the Ozone Protection Web site of EPA's Stratospheric Protection Division at *www.epa.gov/ozone/strathome.html* for further information about EPA's Stratospheric Ozone Protection regulations, the science of ozone layer depletion, and related topics.

SUPPLEMENTARY INFORMATION: *Acronyms and Abbreviations.* The following acronyms and abbreviations are used in this document.

ANPRM Advance Notice of Proposed Rulemaking
CAA Clean Air Act
CAAA Clean Air Act Amendments of 1990
CFC Chlorofluorocarbon
CFR Code of Federal Regulations
EPA Environmental Protection Agency
FR Federal Register
HCFC Hydrochlorofluorocarbon
HVACR Heating, Ventilating, Air Conditioning and Refrigeration
Montreal Protocol *Montreal Protocol on Substances That Deplete the Ozone Layer*
MOP Meeting of the Parties
MT Metric Ton
ODP Ozone Depletion Potential
ODS Ozone-Depleting Substance(s)
Party States and regional economic integration organizations that have consented to be bound by the *Montreal Protocol on Substances That Deplete the Ozone Layer*
RACA Request for Additional Consumption Allowances

Organization of This Document. The following outline is provided to aid in locating information in this preamble.

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I. National Technology Transfer and Advancement Act
J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

I. General Information

A. Does this action apply to me?

This rule will affect the following categories:

—Industrial Gas Manufacturing entities (NAICS code 325120), including fluorinated hydrocarbon gas manufacturers and reclaimers;
—Other Chemical and Allied Products Merchant Wholesalers (NAICS code 424690), including chemical gases and compressed gases merchant wholesalers;
—Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing entities (NAICS code 333415), including air-conditioning equipment and commercial and industrial refrigeration equipment manufacturers;
—Air-Conditioning Equipment and Supplies Merchant Wholesalers (NAICS code 423730), including air-conditioning (condensing unit, compressors) merchant wholesalers;
—Electrical and Electronic Appliance, Television, and Radio Set Merchant Wholesalers (NAICS code 423620), including air-conditioning (room units) merchant wholesalers;
—Plumbing, Heating, and Air-Conditioning Contractors (NAICS code 238220), including Central air-conditioning system and commercial refrigeration installation, HVACR contractors; and
—Refrigerant reclaimers, manufacturers of recovery/recycling equipment and refrigerant recovery/recycling equipment testing organizations.

This list is not intended to be exhaustive, but rather provides a guide for readers regarding the types of entities that could potentially be regulated by this action. Other types of entities not listed in this table could also be affected. To determine whether your facility, company, business organization, or other entity is regulated by this action, you should carefully examine these regulations. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

B. What should I consider as I prepare my comments for EPA?

1. Confidential Business Information (CBI)

Do not submit CBI information to EPA through *www.regulations.gov* or *a-and-r-docket@epa.gov.* Submit CBI directly to the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. Tips for Preparing Your Comments

When submitting comments, remember to:

• Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).

• Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

• Explain why you agree or disagree, suggest alternatives and substitute language for your requested changes.

• Describe any assumptions and provide any technical information and/or data that you used.

• If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

• Provide specific examples to illustrate your concerns, and suggest alternatives.

• Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

• Make sure to submit your comments by the comment period deadline identified.

II. Background

A. How does the Montreal Protocol phase out HCFCs?

The *Montreal Protocol on Substances that Deplete the Ozone Layer* is the international agreement aimed at reducing and eventually eliminating the production and consumption of ozone-depleting substances (ODS). The United States was one of the original signatories to the 1987 Montreal Protocol, and ratified the Protocol on April 12, 1988. Congress then enacted, and President George H.W. Bush signed into law, the Clean Air Act Amendments of 1990 (CAAA) to ensure that the United States could satisfy its obligations under the Montreal Protocol. Title VI of the Act (codified as 42 U.S.C. Chapter 85, Subchapter VI) is titled Stratospheric Ozone Protection; it includes restrictions on production, consumption, and use of ODS that are subject to acceleration if ''the Montreal Protocol is modified to include a schedule to control or reduce production, consumption, or use . . . more rapidly than the applicable schedule'' prescribed by the statute. Both the Montreal Protocol and the Clean Air Act (CAA) define consumption as production plus imports minus exports.

In 1990, as part of the London Amendment to the Montreal Protocol, the Parties identified HCFCs as ''transitional substances'' to serve as temporary, lower ozone depletion potential (ODP) substitutes for chlorofluorocarbons (CFCs) and other ODS. EPA similarly viewed HCFCs as ''important interim substitutes that will allow for the earliest possible phaseout of CFCs and other class I substances [1]'' (58 FR 65026, December 10, 1993). In 1992, through the Copenhagen Amendment to the Montreal Protocol, the Parties created a detailed phaseout schedule for HCFCs, beginning with a cap on consumption for developed countries not operating under Article 5 of the Montreal Protocol (non-Article 5 Parties), a schedule to which the United States adheres. The consumption cap for each non-Article 5 Party was set at 3.1 percent (later tightened to 2.8 percent) of a Party's CFC consumption in 1989, plus a Party's consumption of HCFCs in 1989 (weighted on an ODP basis). Based on this formula, the HCFC consumption cap for the United States was set at 15,240 ODP-weighted metric tons, effective January 1, 1996. This cap is the United States HCFC consumption baseline.

The 1992 Copenhagen Amendment created a schedule with graduated reductions and eventual phaseout of HCFC consumption (Copenhagen, 23–25 November, 1992, Decision IV/4). The schedule for non-Article 5 Parties initially called for tighter consumption caps based on a Party's baseline, as follows: An annual consumption cap equal to 65 percent of baseline in 2004, 35 percent of baseline in 2010, 10 percent of baseline in 2015, and 0.5 percent of baseline in 2020, with a complete HCFC phaseout by 2030.

The Copenhagen Amendment did not cap HCFC production. In 1999, the Parties created a cap on production for non-Article 5 Parties through an amendment to the Montreal Protocol agreed to at the Eleventh Meeting of the Parties (Beijing, 29 November–3 December 1999, Decision XI/5). The cap on production was set at the average of: (a) 1989 HCFC production plus 2.8 percent of 1989 CFC production, and (b) 1989 HCFC consumption plus 2.8 percent of 1989 CFC consumption. Based on this formula, the HCFC production cap for the United States was set at 15,537 ODP-MT, effective January 1, 2004. This cap is the United States HCFC production baseline.

To further protect human health and the environment, the Parties to the Montreal Protocol adjusted the Montreal Protocol's phaseout schedule for HCFCs at the 19th Meeting of the Parties in September 2007. As a result of the 2007 Montreal Adjustment (reflected in Decision XIX/6),[2] the United States and other non-Article 5 parties were obligated to reduce HCFC production and consumption to 25 percent of baseline by 2010, rather than 35 percent as previously required. The other milestones remain the same. The adjustment also resulted in a phaseout schedule for HCFC production that parallels the consumption phaseout schedule. All production and consumption for non-Article 5 Parties must be phased out by 2030.

Decision XIX/6 also adjusted the provisions for Parties operating under paragraph 1 of Article 5, considered as developing countries under the Protocol: (1) To set HCFC production and consumption baselines based on the average 2009–2010 production and consumption, respectively; (2) to freeze HCFC production and consumption at those baselines in 2013; and (3) to add stepwise reductions to 90 percent of baseline by 2015, 65 percent by 2020, 32.5 percent by 2025, and an average of 2.5 percent for 2030–2039. All production and consumption for Article 5 Parties must be phased out by 2040.

In addition, Decision XIX/6 adjusted Article 2F to allow non-Article 5 Parties to produce ''up to 10 percent of baseline levels'' for export to Article 5 countries ''in order to satisfy basic domestic needs'' until 2020.[3] Paragraph 14 of

[1] Class I refers to the controlled substances listed in appendix A to 40 CFR part 82 subpart A. Class II refers to the controlled substances listed in appendix B to 40 CFR part 82 subpart A; HCFCs are class II substances.

[2] The adjustment entered into force and became binding for all Parties on May 14, 2008.

[3] Paragraphs 4–6 of adjusted Article 2F read as follows:

''4. Each Party shall ensure that for the twelve-month period commencing on 1 January 2010, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex C does not exceed, annually, twenty-five per cent of the sum referred to in paragraph 1 of this Article. Each Party producing one or more of these substances shall, for the same periods, ensure that its calculated level of production of the controlled substances in Group I of Annex C does not exceed, annually, twenty-five per cent of the calculated level referred to in paragraph 2 of this Article. However, in order to satisfy the basic domestic needs of the Parties operating under paragraph 1 of Article 5, its calculated level of production may exceed that limit by up to ten per cent of its calculated level of production of the controlled substances in Group I of Annex C as referred to in paragraph 2.

5. Each Party shall ensure that for the twelve-month period commencing on 1 January 2015, and in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex C does not exceed, annually, ten per cent of the sum referred to in paragraph 1 of this Article. Each Party producing one or more of these substances shall, for the same periods, ensure that its calculated level of production of the controlled substances in Group I of Annex C does not exceed, annually, ten per cent of the calculated level referred to in paragraph 2 of this Article. However, in order to satisfy the basic domestic needs of the Parties operating under paragraph 1 of Article 5, its calculated level of production may exceed that limit by up to ten per cent of its calculated level of production of the controlled substances in Group I of Annex C as referred to in paragraph 2.

6. Each Party shall ensure that for the twelve-month period commencing on 1 January 2020, and

Decision XIX/6 notes that no later than 2015, the Parties would consider ''further reduction of production for basic domestic needs'' in 2020 and beyond. Paragraph 3 of Decision XIX/6 contains the accelerated phaseout schedule, allowing consumption and production up to 0.5 percent of baseline from 2020–2030 for servicing needs only. Under paragraph 13 of Decision XIX/6, the Parties will review in 2015 and 2025, respectively, the need for the ''servicing tails'' for Article 5 and non-Article 5 countries. The term ''servicing tail'' refers to an amount of HCFCs used to service existing equipment, such as certain types of air-conditioning and refrigeration appliances.

B. How do the Clean Air Act and EPA regulations phase out HCFCs?

The Clean Air Act schedules for the phase out of HCFC production and consumption, and for the restriction of HCFC use, appear in Section 605. The EPA has used its authority under Section 606 to accelerate those schedules. EPA regulations that apply to production and consumption of HCFCs are designed to enable the United States to meet the phaseout schedule under the Montreal Protocol.

The United States has chosen to implement the Montreal Protocol phaseout schedule on a chemical-by-chemical basis. In 1992, environmental and industry groups petitioned EPA to implement the required phaseout by eliminating the most ozone-depleting HCFCs first. Based on data available at that time, EPA believed the United States could meet, and possibly exceed, the required Montreal Protocol reductions through a chemical-by-chemical phaseout that employed a ''worst-first'' approach. In 1993, as authorized by section 606 of the CAA, EPA established a phaseout schedule that eliminated HCFC–141b first and would greatly restrict HCFC–142b and HCFC–22 next, followed by restrictions on all other HCFCs and ultimately a complete phaseout (58 FR 15014, March 18, 1993 and 58 FR 65018, December 10, 1993).

On January 21, 2003, EPA promulgated regulations (68 FR 2820, January 21, 2003, subsequently referred to in this document as the 2003 Final Rule) to ensure compliance with the first reduction milestone in the HCFC phaseout: the requirement that by January 1, 2004, the United States reduce HCFC consumption to 65 percent of baseline and freeze HCFC production. In the 2003 Final Rule, EPA established chemical-specific consumption and production baselines for HCFC–141b, HCFC–22, and HCFC–142b for the initial regulatory period ending December 31, 2009. Section 601(2) states that EPA may select ''a representative calendar year'' to serve as the company baseline for HCFCs. In the 2003 Final Rule, EPA concluded that because the entities eligible for allowances had differing production and import histories, no single year was representative for all companies. Therefore, EPA assigned an individual consumption baseline year to each company by selecting its highest ODP-weighted consumption year from 1994 through 1997. EPA assigned individual production baseline years in the same manner. EPA also provided for new entrants that began importing after the end of 1997 but before April 5, 1999, the date the advanced notice of proposed rulemaking was published. EPA took this action to ensure that small businesses that might not have been aware of the impending rulemaking would be able to continue in the HCFC market.

In the United States, an allowance is the unit of measure that controls production and consumption of ODS. EPA allocates calendar-year allowances equal to a percentage of the baseline—they are valid from January 1 to December 31 of that control period. A calendar-year allowance represents the privilege granted to a company to produce or import one kilogram (not ODP-weighted) of the specific substance. ''Production allowance'' and ''consumption allowance'' are defined at section 82.3. To produce an HCFC for which allowances have been allocated, an allowance holder must expend both production and consumption allowances. To import an HCFC for which allowances have been allocated, an allowance holder must expend consumption allowances. An allowance holder exporting HCFCs for which it has expended consumption allowances may request a refund of those consumption allowances by submitting proper documentation and receiving approval from EPA.

The 2003 Final Rule set production and consumption baselines for the 2003–2009 regulatory period, using each company's highest ''production year'' or ''consumption year''. It completely phased out the production and import of HCFC–141b by granting zero percent of baseline for production and consumption in the table at 40 CFR 82.16. EPA did, however, create a petition process to allow applicants to request small amounts of HCFC–141b beyond the phaseout. The 2003 Final Rule allocated allowances for production and consumption of HCFC–22 and HCFC–142b for each of the years 2003 through 2009. EPA was able to allocate allowances for HCFC–22 and HCFC–142b at 100 percent of baseline because, in light of the concurrent complete phaseout of HCFC–141b, the allocations for HCFC–22 and HCFC–142b, combined with projections for consumption of all other HCFCs, remained below the 2004 cap of 65 percent of the United States baseline.

Since EPA is implementing the phaseout on a chemical-by-chemical basis, it allocates and tracks production and consumption allowances on an absolute kilogram basis for each chemical. Upon EPA approval, an allowance holder may transfer calendar-year allowances of one type of HCFC for calendar-year allowances of another type of HCFC, with transactions weighted according to the ODP of the chemicals involved. Pursuant to section 607 of the CAA, EPA applies an offset to each HCFC transfer by deducting 0.1 percent from the transferor's allowance balance. The offset benefits the ozone layer since it ''results in greater total reductions in the production in each year of . . . class II substances than would occur in that year in the absence of such transactions'' (42 U.S.C. 7671f).

The United States remained comfortably below the aggregate HCFC cap through 2009. The 2003 Final Rule announced that EPA would allocate allowances for 2010–2014 in a subsequent action and that those allowances would be lower in aggregate than for 2003–2009, consistent with the next stepwise reduction for HCFCs under the Montreal Protocol. EPA subsequently monitored the market to estimate servicing needs and market adjustments in the use of HCFCs, including HCFCs for which EPA did not establish baselines in the 2003 Final Rule. In the 2009 Final Rule (74 FR 66412, December 15, 2009), EPA issued production and import allowances for

in each twelve-month period thereafter, its calculated level of consumption of the controlled substances in Group I of Annex C does not exceed zero. Each Party producing one or more of these substances shall, for the same periods, ensure that its calculated level of production of the controlled substances in Group I of Annex C does not exceed zero. However:

a. each Party may exceed that limit on consumption by up to zero point five per cent of the sum referred to in paragraph 1 of this Article in any such twelve-month period ending before 1 January 2030, provided that such consumption shall be restricted to the servicing of refrigeration and air conditioning equipment existing on 1 January 2020;

b. each Party may exceed that limit on production by up to zero point five per cent of the average referred to in paragraph 2 of this Article in any such twelve-month period ending before 1 January 2030, provided that such production shall be restricted to the servicing of refrigeration and air conditioning equipment existing on 1 January 2020.''

HCFC–22, HCFC–142b and other HCFCs not previously included in the allowance system, for the 2010–2014 control periods.

In the 2009 Final Rule, EPA determined both the estimated need for HCFC–22 during the 2010–2014 regulatory period and the percentage of that estimated need for which it was appropriate to allocate allowances. EPA decided that the percentage of the estimated need allocated in the form of allowances should not remain constant from year to year, but rather should decline on an annual basis. For 2010, EPA allocated HCFC–22 allowances equal to 80 percent of the estimated need, concluding that reused, recycled, and reclaimed material could meet the remaining 20 percent. The percentage of estimated need for which there was no allocation, and that would therefore need to be met through recycling and reclamation, rose from 20 percent in 2010 to 29 percent in 2014. The intent of this approach was to foster reclamation, and to ensure that the United States could meet the 2015 stepdown under the Montreal Protocol.

However, part of the 2009 Final Rule was vacated in an August 27, 2010 decision issued by the United States Court of Appeals for the District of Columbia Circuit (Court) in *Arkema* v. *EPA* (618 F.3d 1, D.C. Cir. 2010). Certain allowance holders affected by the 2009 Final Rule filed petitions for judicial review of the rule under section 307(b) of the Clean Air Act. Among other arguments, the petitioners contended that the rule was impermissibly retroactive because in setting the baselines for the new regulatory period, EPA did not take into account certain inter-pollutant baseline transfers that petitioners had performed during the prior regulatory period. Accounting for these transfers in the 2009 Final Rule and applying the same methodology would have resulted in different baselines and calendar-year allowances for HCFC–22 and HCFC–142b.

The Court agreed with petitioners that ''the [2009] Final Rule unacceptably alters transactions the EPA approved under the 2003 Rule,'' (*Arkema* v. *EPA,* 618 F.3d at 3). The Court vacated the rule in part, ''insofar as it operates retroactively,'' and remanded to EPA ''for prompt resolution,'' (618 F.3d at 10). EPA's petition for rehearing was denied on January 21, 2011. EPA addressed the Court's partial vacatur as it related to 2011 in an August 5, 2011 interim final rule, ''Protection of Stratospheric Ozone: Adjustments to the Allowance System for Controlling HCFC Production, Import, and Export,'' (76 FR 47451, August 5, 2011, 2011 Interim Final Rule). In that rule, EPA established new baselines that (1) credited the 2008 inter-pollutant trades at issue in *Arkema* v. *EPA* based on the Court's decision, (2) reflected inter-company, single-pollutant baseline transfers that occurred since the 2009 Final Rule was signed, (3) allocated HCFC–22 and HCFC–142b allowances for 2011, (4) clarified EPA's policy on all future inter-pollutant transfers and (5) updated company names. The HCFC–22 and HCFC–142b use restrictions and the allocation for other controlled HCFCs were not affected by the partial vacatur.

To complete its response to the court's decision, EPA published a final rule with the same name on April 3, 2013, allocating HCFC–142b and HCFC–22 allowances for 2012–2014 (78 FR 20004, 2013 Final Rule). In that rule, EPA reduced HCFC–22 allowances in 2012–2014 by almost 30 percent relative to the 2009 Final Rule in order to incentivize proper handling and recovery of HCFC–22 and encourage transition to non-ODS alternatives.

EPA has not yet allocated any HCFC allowances for year 2015 or beyond. The regulations at 40 CFR 82.15(a) and (b) prohibit the production and import of HCFCs for which EPA has apportioned baseline allowances without calendar-year (or ''annual'') allowances. As a result, production and import of HCFC–22 and HCFC–142b, as well as HCFC–123, HCFC–124 and HCFC–225ca/cb is prohibited in 2015 and beyond under current regulations, pending the allocation of allowances. This proposed rule initiates the rulemaking process for setting the 2015–2019 HCFC allocations.

For more information on the history of the HCFC phaseout and applicable rulemakings, see: *http://www.epa.gov/ozone/title6/phaseout/classtwo.html.*

C. What sections of the Clean Air Act apply to this rulemaking?

Several sections of the CAA apply to this rulemaking. Section 602 states that EPA shall publish an initial list of class II substances, which is to include the HCFCs specified in the statute as well as their isomers. EPA's listing of class II substances appears at appendix B to 40 CFR part 82, subpart A.

Section 605 of the CAA phases out production and consumption and restricts the use of HCFCs in accordance with the schedule set forth in that section. As discussed in the 2009 Final Rule (74 FR 66416), section 606 provides EPA authority to set a more stringent phaseout schedule than the schedule in section 605 based on an EPA determination regarding current scientific information or the availability of substitutes, or to conform to any acceleration under the Montreal Protocol. EPA previously set a more stringent schedule than the section 605 schedule through a rule published December 10, 1993 (58 FR 65018). Through the 2009 Final Rule, EPA made a further adjustment to the section 605 schedule based on the acceleration under the Montreal Protocol as agreed to at the Meeting of the Parties in September 2007. The more stringent schedule established in that rule is still in effect.

Section 606 provides authority for EPA to promulgate regulations that establish a schedule for production and consumption that is more stringent than what is set forth in section 605 if: ''(1) based on an assessment of credible current scientific information (including any assessment under the Montreal Protocol) regarding harmful effects on the stratospheric ozone layer associated with a class I or class II substance, the Administrator determines that such more stringent schedule may be necessary to protect human health and the environment against such effects, (2) based on the availability of substitutes for listed substances, the Administrator determines that such more stringent schedule is practicable, taking into account technological achievability, safety, and other relevant factors, or (3) the Montreal Protocol is modified to include a schedule to control or reduce production, consumption, or use of any substance more rapidly than the applicable schedule under this title.'' It is only necessary to meet one of the three criteria. In the 2009 Final Rule, EPA determined that all three criteria had been met with respect to the schedule for phasing out production and consumption of HCFC–22 and HCFC–142b.[4]

Section 608 of the CAA, titled National Recycling and Emission Reduction Program, requires EPA to establish standards and requirements for the use and disposal of class I and II substances. Those requirements must reduce the use and emissions of controlled substances to the lowest achievable level, as well as maximize their recapture and recycling. Additionally, section 608(c) prohibits any person maintaining, servicing, repairing or disposing of an appliance that contains refrigerant from knowingly venting, releasing, or disposing of that substance to the environment, regardless of whether the refrigerant is an ODS or a substitute. Substitutes are

[4] The phaseout schedule for HCFC–22 and HCFC–142b was unaffected by the decision in *Arkema* v. *EPA.*

exempted from this prohibition only if EPA has determined that venting, releasing, or disposing of the substitute does not pose a threat to the environment.

Section 611 of the CAA requires EPA to establish and implement labeling requirements for containers of, and products containing or manufactured with class I or class II ODS. While containers of class II substances (i.e. HCFCs) already are subject to labeling requirements, products containing or manufactured with class II substances must be labeled beginning January 1, 2015. The specific requirements and existing regulation implementing those requirements are discussed in the following section.

Finally, Section 614 of the CAA describes the relationship of Title VI to the Montreal Protocol. Section 614(b) states: ''In the case of conflict between any provision of this title and any provision of the Montreal Protocol, the more stringent provision shall govern.'' Section 614 ensures that EPA regulations are in accordance with United States obligations under the Montreal Protocol.

III. Clean Air Act Requirements That Begin in 2015

A. Labeling Requirements in Section 611(c) and (d)

Section 611 of the CAA requires EPA to establish and implement labeling requirements for containers of, and products containing or manufactured with class I or class II ODS. In 1993, EPA published regulations on these labeling requirements (58 FR 8136, February 11, 1993), codified at 40 CFR part 82 subpart E. Currently, these requirements only apply to containers containing class I or II ODS and products containing or manufactured with class I ODS. Products containing or manufactured with class II substances will be subject to these requirements beginning on January 1, 2015. As a result, in 2015, containers containing, products containing, and products manufactured with a class I or class II substance must bear a product label stating: ''Warning: Contains [or Manufactured with, if applicable] [insert name of class I or II substance], a substance which harms public health and environment by destroying ozone in the upper atmosphere'' (40 CFR 82.106).

EPA defines a ''product containing'' a class II substance as a ''product including, but not limited to, containers, vessels, or pieces of equipment, that physically holds a controlled substance at the point of sale to the ultimate consumer which remains within the product,'' (40 CFR 82.104). Two examples of a ''product containing'' a class II substance that would require a label are (1) portable fire extinguishers containing an HCFC and (2) appliances that incorporate closed-cell foam blown with an HCFC. Foams are plastics (such as polyurethane or polystyrene) that are manufactured using blowing agents to create bubbles or cells in the material's structure. Closed-cell foam physically holds blowing agent within the cells. While HCFCs are no longer used as blowing agents in the United States, they are used in other countries from which the United States may import products. In the case of portable fire extinguishers, the fire suppression agent is contained in a reservoir within the extinguisher and released by the user when needed.

On the other hand, the definition of a product ''manufactured with'' a class II substance is a product for which the manufacturer used a class II substance directly in that product's manufacturing, but where the product itself does not contain more than trace quantities of the ODS at the point of introduction into interstate commerce. A product ''manufactured with'' a class II substance would include electronics cleaned with HCFC solvent and open cell foam blown with an HCFC. Open cell foam is different from closed cell foam in that it was manufactured with a blowing agent, but no longer contains the blowing agent because the cells or bubbles in open cell foam are open to the surrounding environment. Since HCFCs are no longer used as foam blowing agents in the United States, and the Nonessential Products Ban prohibits the sale or distribution of open cell plastic foam products made with HCFCs (40 CFR 82.70(c)), EPA expects the requirement for a ''manufactured with'' label should not be relevant to most open cell foam products. The agency welcomes comment on which open or closed cell foam products are currently being imported, and whether those products are likely blown with an HCFC. EPA would like this information so it can communicate with and offer guidance to companies that must determine whether the HCFC labeling requirements apply to their products. Final products that incorporate another product that was ''manufactured with'' a class I or class II ODS do not have to bear a label so long as the manufacturer of the final product is distinct from the manufacturer of the product ''manufactured with'' the ODS (40 CFR 82.116). By contrast, final products that incorporate ''products containing'' a class I or II ODS will require a warning label, even if the final product manufacturer purchases the ''product containing'' the ODS from another manufacturer or supplier (40 CFR 82.114). For a discussion of the labeling pass-through requirements, see the February 11, 1993 final rule that implemented the statutory labeling requirements (58 FR 8136).

EPA has created a preliminary list of products that might be affected by these requirements beginning in 2015. This list, along with guidance for manufacturers and importers of potentially affected products, is titled *Summary of HCFC Product Labeling Requirements & Potentially Affected Products* (Labeling Memo) and can be found in the docket for this rulemaking. EPA is seeking comment on whether this list is accurate and complete, and would like to know where products made with or containing HCFCs are manufactured. This information will help the agency better inform manufacturers in the United States and abroad about the labeling requirement taking effect in 2015.

The agency is also interested in comments on which products have mainly switched to non-ODS alternatives so it can assist companies in determining whether the labeling requirements are likely to apply to their products. For products that no longer are manufactured with or contain HCFCs, the agency would like to know if that change applies globally, or only to manufacture in the United States. The agency also welcomes comment on whether any clarification to the regulations at 40 CFR subpart E (82.100–82.124) is needed in order to implement the existing labeling requirement for products containing or manufactured with class II substances. More background on the labeling requirements can be found in the 1993 Final Rule (58 FR 8136), which is also included in the docket to this rulemaking.

EPA is not proposing any substantive changes to the regulations at 40 CFR subpart E; however, the agency is proposing three very minor modifications to clarify the intent of the regulatory language with respect to class II substances. The first two proposed clarifications are to replace ''class I substance'' with ''controlled substance.'' While the emphasis in 1993 was on class I substances, EPA is now proposing to remove any ambiguity with respect to class II substances by reconciling inconsistent terminology, specifically at 82.110(c) and 82.112(d). The *Combined statement for multiple class I substances* at 82.110(c) states, ''If a container containing or a product

contains or is manufactured with, more than one class I or class II substance, the warning statement may include the names of all of the substances in a single warning statement, provided that the combined statement clearly distinguishes which substances the container or product contains and which were used in the manufacturing process.'' This paragraph clearly applies to both class I and class II products, as stated in the operative text. EPA is proposing to modify the title of this paragraph to be *Combined statement for multiple controlled substances,* consistent with the operative text. Similarly, 82.112(d), which is titled: *Manufacturers, distributors, wholesalers, retailers that sell spare parts manufactured with controlled substances solely for repair,* includes the more general term ''controlled substances'' in the title, but not the operative text. The operative text that follows the title reads: ''Manufacturers, distributors, wholesalers, and retailers that purchase spare parts manufactured with a class I substance from another manufacturer or supplier, and sell such spare parts for the sole purpose of repair, are not required to pass through an applicable warning label if such products are removed from the original packaging provided by the manufacturer from whom the products are purchased . . .'' EPA is proposing to replace ''class I substance'' with ''controlled substance'' in order to clarify that this narrow exemption to the labeling requirements also applies to class II products in the same way it applied to class I products.

The final minor change that EPA is proposing is at 82.122, *Certification, recordkeeping, and notice requirements.* The first sentence at (a)(1) refers to persons claiming the exemption for certain methyl chloroform users provided for in 82.106(b)(2); however, this exemption is actually provided for in 82.106(b)(4). EPA is proposing to revise the current text to reference the correct paragraph, which is 82.106(b)(4) not (b)(2). EPA also notes that this exemption ended May 15, 1994 and that the agency is proposing this minor change solely to avoid confusion.

B. Use and Sales Restriction in Section 605(a)

Starting January 1, 2015, section 605(a) of the Clean Air Act prohibits the use or introduction into interstate commerce of any class II substance that does not meet one of four exceptions. Specifically, use or introduction into interstate commerce is allowed only if (1) the substance has been used, recovered and recycled; (2) it is entirely transformed, except for trace quantities, in the production of other chemicals; (3) it is used as a refrigerant in appliances manufactured prior to 2020; or (4) it is listed as acceptable for use as a nonresidential fire suppression agent in accordance with CAA section 612(c).[5] Section 612 is the statutory authority for EPA's Significant New Alternatives Policy program, under which the agency reviews potential substitutes for class I and class II substances in certain end uses and lists those potential substitutes as acceptable, acceptable subject to use conditions, acceptable subject to narrowed use limits, or unacceptable (see 40 CFR subpart G).

In the 2009 Final Rule (74 FR 66412), EPA used its authority under section 606 to accelerate the section 605(a) restrictions on use and introduction into interstate commerce for HCFC–22 and HCFC–142b, applying them to HCFC–22 and HCFC–142b[6] as of January 1, 2010, five years earlier than the date specified in section 605(a). Effective January 1, 2010, EPA prohibited the use of virgin HCFC–22 and HCFC–142b to manufacture or service new air-conditioning and refrigeration appliances. In a separate rule, under the authority provided in section 615 of the CAA, EPA also prohibited the sale and distribution of appliances and appliance components pre-charged with virgin or used, recovered and recycled HCFC–22 and HCFC–142b (74 FR 66450). For all other HCFCs, including those for which EPA has not historically issued allowances, the section 605(a) prohibitions and exceptions apply as of January 1, 2015. All HCFCs other than HCFC–22 and HCFC–142b may continue to be used and sold as refrigerants, but only for use in appliances manufactured before 2020.

EPA believes the term ''use'' is ambiguous in the context of section 605(a) with respect to potential categories of use that Congress did not directly address. Historically, in the context of section 605, EPA has focused on use of refrigerants to manufacture and service appliances and the section 605(a)(3) exception for servicing existing equipment. In 1993, EPA took the section 605(a) use restrictions into account in establishing the HCFC chemical-by-chemical phaseout. The 1993 Notice of Proposed Rulemaking (58 FR 15014) discusses the acceleration of the use restriction for HCFC–22 and HCFC–142b from the standpoint of when it would be technologically feasible to cease using these two chemicals in new refrigeration and air-conditioning equipment. In that rulemaking, EPA did not explore how to interpret or apply the term ''use'' in other circumstances. EPA considered various interpretations of that term in developing the 2009 Final Rule but again focused on refrigerants. In the 2008 Notice of Proposed Rulemaking (73 FR 78680, December 23, 2008), EPA noted that the three statutory exceptions that existed at that time ''inform EPA's understanding of the term 'use'" (73 FR 78698). The preamble to the 2009 Final Rule states: ''With regard to HCFCs used as refrigerants, EPA interprets the term 'use' to mean initially charging as well as maintaining and servicing refrigeration equipment'' (74 FR 66437). In regard to non-refrigerant uses, EPA addressed two manufacturing uses of HCFC–22 (manufacture of sterilant blends for medical equipment and manufacture of thermostatic expansion valves); EPA also concluded that section 605(a) would ban the primary pre-2010 use of HCFC–142b (foam-blowing). At that time, however, EPA was not yet implementing section 605(a) with respect to other HCFCs and did not fully explore what ''use'' might mean in the context of non-refrigerants.

In the development of the 2009 Final Rule, EPA did consider whether section 605(a) applies to the operation of products containing HCFCs. With regard to refrigeration equipment, EPA concluded: ''the section 605(a) 'use' ban does not apply to a consumer's operation of equipment containing HCFCs'' (74 FR 66438). The agency's conclusion was partially based on the third exemption to 605(a), for class II substances that are used as refrigerants in appliances manufactured before a specified date. This exemption indicated ''that Congress intended to permit the continued use of previously manufactured appliances.'' EPA also stated that for ''products containing HCFCs for non-refrigerant uses. . . . EPA interprets the term 'use' as relating to the manufacture (and where applicable, the service) of those products, not the utilization of those products in the hands of the end user'' (74 FR 66437).

EPA is not revisiting its interpretation of section 605(a) with respect to how it interprets ''use'' for products containing

[5] The fourth exception in this list is a recent change to the Clean Air Act, which was included in the National Defense Authorization Act for Fiscal Year 2012 [112th Congress, H.R. 1540, Title III, Section 320, *Fire Suppression Agents*]. EPA is proposing to incorporate this change into the regulations at 40 CFR 82.15(g)(4) and 82.16(d). See Section III.B.2. of this preamble for further discussion.

[6] EPA also accelerated the restrictions on use and introduction into interstate commerce for HCFC–141b in the same rulemaking; however, HCFC–141b is not discussed further in this section because it is not used for refrigeration purposes.

HCFCs. For purposes of implementing the 2015 use restriction in section 605(a), ''use'' of a controlled substance would include manufacture of products that contain or are made with HCFCs; however, it would not include use of existing products containing HCFCs (i.e., for substances other than HCFC–22 and HCFC–142b, products manufactured before January 1, 2015). The reasons for this conclusion are explained in the preamble to the 2009 Final Rule. As made clear in that notice, EPA interprets section 605(a) as prohibiting the use of substances, not the use of products. The statutory language does not directly address whether use of a product containing controlled substances might constitute a prohibited use of the substance. However, consistent with its earlier statements, EPA does not intend to treat use of a product containing HCFCs as use of the HCFC. The agency has a long history of distinguishing between products and substances in its ODS phaseout regulations. Controlled substances are defined in 40 CFR part 82 subpart A as listed substances ''whether existing alone or in a mixture, but excluding any such substance or mixture that is in a manufactured product other than a container used for the transportation or storage of the substance or mixture.'' EPA distinguishes between bulk containers of HCFCs and products containing HCFCs. The subpart A definition of controlled substance clarifies that if a substance needs to be transferred from a bulk container to a piece of equipment or another container to realize its intended use, it will be treated as a ''substance.'' Examples of bulk containers include jugs, drums, and cylinders.

EPA refers readers to the preamble of the 2009 Final Rule for two other clarifications on how EPA interprets the term ''use'' in the context of section 605(a). First, the agency provided the following clarification on how the Nonessential Products Ban (CAA section 610) and the HCFC use restriction (CAA section 605(a)) should be interpreted together: ''By prohibiting use and introduction into interstate commerce of HCFCs as bulk substances, section 605(a) effectively prohibits the continued manufacture of any products containing HCFCs (which qualifies as a type of 'use') unless specifically exempted in that section.'' EPA explained that while the section 610(a) Nonessential Products Ban exempts certain products, these exempted products may not be manufactured after 2014 due to the HCFC use restrictions in section 605(a). EPA clarified that ''such products are prohibited from continued manufacture, unless manufactured with recovered HCFCs'' (74 FR 66439). Second, in the preamble to the 2009 Final Rule the agency clarified that ''EPA does not interpret 'use' [in the context of section 605] to include destruction, recovery for disposal, discharge consistent with all other regulatory requirements, or other similar actions where the substance is part of a disposal chain'' (74 FR 66439).

Because the use prohibition will apply to a variety of sectors and circumstances beginning in 2015, EPA believes it may be helpful to define ''use'' in the phaseout regulations (40 CFR part 82 subpart A). There is currently a definition of ''use'' in the regulations for the Significant New Alternatives Policy (SNAP) Program (40 CFR part 82 subpart G), which reads as follows: ''Use means any use of a substitute for a Class I or Class II ozone-depleting compound, including but not limited to use in a manufacturing process or product, in consumption by the end user, or in intermediate uses, such as formulation or packaging for other subsequent uses'' (40 CFR 82.172). In this rulemaking, the agency is proposing a related, but somewhat different definition for purposes of the section 605(a) use prohibition, which is implemented at 40 CFR 82.15: ''Use of a class II controlled substance, for the purposes of section 82.15 of this subpart, includes but is not limited to use in a manufacturing process, use in manufacturing a product, intermediate uses such as formulation or packaging for other subsequent uses, and use in maintaining, servicing, or repairing an appliance or other piece of equipment. Use of a class II controlled substance also includes use of that controlled substance when it is removed from a container used for the transportation or storage of the substance but does not include use of a manufactured product containing a controlled substance.'' The primary difference between this proposed definition under section 605(a) and the SNAP definition is that the SNAP definition includes use by the consumer of a product containing ODS. This difference reflects EPA's interpretation of the section 605(a) use restriction as set forth in the preamble to the 2009 Final Rule.

EPA welcomes comment on its proposed section 605(a) definition of ''use'' of a class II controlled substance, particularly with regard to how such a definition can help clarify the distinction between use of a controlled substance and use of a product. Please note that the language regarding that distinction in the last line of the proposed definition is based on the existing definition of controlled substance in 40 CFR 82.3. If finalized, the definition of use of a class II controlled substance would appear at 40 CFR 82.3, which is the Definitions section of subpart A.

The section 605(a) restrictions on use and introduction into interstate commerce apply to all class II controlled substances. As explained in section V.H. of this preamble, the agency is proposing to revise the list of class II controlled substances in 40 CFR part 82 subpart A, appendix B to include all isomers of listed substances, consistent with section 602 of the CAA and the Montreal Protocol listing of HCFCs (found in Group I to Annex C of the Protocol).

1. What is EPA proposing for existing inventory of HCFC–225ca and HCFC–225cb?

Numerous stakeholders have asked what they will be able to do with inventory of HCFC–225ca/cb that exists as of January 1, 2015. To EPA's knowledge, HCFC–225ca, HCFC–225cb and mixtures thereof are only used as solvents, primarily for precision cleaning in the aerospace and electronics industries. As explained above, the section 605(a) use ban does not apply to the use of products that contain class II controlled substances. However, some substances, including HCFC–225ca/cb, may be used directly in cleaning equipment or in manufacturing a product without first being put into a manufactured product themselves. For example, a person may take HCFC–225ca/cb from a bulk container and either add it to a vapor degreaser or pour it on a hand wipe to clean a piece of equipment or component. In those circumstances, the substance itself—not a product containing the substance—is being used. (This differs from use of products that contain HCFC–225ca/cb, such as aerosol cans or pre-soaked wipes). In general, EPA is proposing to interpret the section 605(a) use ban to apply to use when the substance is removed from a container used for transportation or storage.

However, EPA believes the use of HCFC–225ca/cb entered into inventory prior to January 1, 2015 by persons that use these substances as solvents may fairly be considered to be de minimis. Thus, for reasons discussed below, the agency is proposing a de minimis exemption to the use prohibition in 605(a), which would allow any person with HCFC–225ca/cb in inventory prior to January 1, 2015 to use that material

as a solvent for as long as needed.[7] ''Person'' is defined in 40 CFR 82.3 to include corporations and federal agencies, among other entities. EPA is not proposing an exemption to the prohibition on introduction into interstate commerce, nor is it proposing to change the existing regulatory phaseout date for production and import of HCFC–225ca/cb. The person holding the HCFC–225ca/cb in inventory would not be able to transfer or sell it to another person, nor would EPA issue any allowances to produce or import new HCFC–225ca/cb. Additionally, neither companies that manufacture products for their own use, nor companies that manufacture products for sale to others would be allowed to manufacture products containing virgin HCFC–225ca/cb, as that would constitute a prohibited use of the substance; however, a person would be able to sell any products containing HCFC–225ca/cb that had been manufactured and entered into initial inventory prior to January 1, 2015, since at that point they would be ''products'' and not ''class II controlled substances.'' A product is considered to be a part of ''initial inventory'' at the point where the original product has completed its manufacturing process and is ready for sale by the product manufacturer. For more discussion of EPA's interpretation of the term ''initial inventory,'' see the 1993 Nonessential Products Ban at 58 FR 69661. Also, for purposes of section 605(a), manufacturers may continue to use HCFC–225ca/cb to make both products ''manufactured with'' and products ''containing'' HCFC–225ca/cb as of January 1, 2015, so long as the HCFC–225ca/cb has been used, recovered and recycled. Labeling requirements for these products manufactured with either virgin or used, recovered and recycled HCFC–225ca/cb would apply beginning January 1, 2015 (see section III.A. of this preamble). Manufacturers should also ensure that they are in compliance with the Nonessential Products Ban and with SNAP regulations.

EPA believes it has implied authority to propose a de minimis exemption from the section 605(a) use restriction. The United States Court of Appeals for the District of Columbia Circuit has recognized that ''[u]nless Congress has been extraordinarily rigid, there is likely a basis for an implication of de minimis authority to provide exemption when the burdens of regulation yield a gain of trivial or no value.'' *Alabama Power Co.* v. *Costle,* 636 F.2d 323, 360–61 (D.C. Cir. 1980). In *Alabama Power,* the Court held that ''[c]ategorical exemptions from statutory commands may . . . be permissible as an exercise of agency power, inherent in most statutory schemes, to overlook circumstances that in context may fairly be considered de minimis. It is commonplace, of course, that the law does not concern itself with trifling matters, and this principle has often found application in the administrative context. Courts should be reluctant to apply the literal terms of a statute to mandate pointless expenditures of effort.'' *Id.* (internal citations omitted).

In an earlier case cited by the court in *Alabama Power,* the court described the doctrine as follows: ''The 'de minimis' doctrine that was developed to prevent trivial items from draining the time of the courts has room for sound application to administration by the Government of its regulatory programs. . . The ability, which we describe here, to exempt de minimis situations from a statutory command is not an ability to depart from the statute, but rather a tool to be used in implementing the legislative design.'' *District of Columbia* v. *Orleans, 406 F.2d 957, 959 (1968).*

In this respect, the *Alabama Power* opinion observed in a footnote that the de minimis principle ''is a cousin of the doctrine that, notwithstanding the 'plain meaning' of a statute, a court must look beyond the words to the purpose of the act where its literal terms lead to 'absurd or futile results.' '' *Id.* at 360 n. 89 (citations omitted). To apply an exclusion based on the de minimis doctrine, ''the agency will bear the burden of making the required showing'' that a matter is truly de minimis which naturally will turn on the assessment of particular circumstances. *Id.* The *Alabama Power* opinion concluded that ''most regulatory statutes, including the CAA, permit such agency showings in appropriate cases.'' *Id.*

A notable limitation on the de minimis doctrine is that it does not authorize the agency to exclude something on the basis of a cost-benefit analysis. As the court explained, this ''implied authority is not available for a situation where the regulatory function does provide benefits, in the sense of furthering the regulatory objectives, but the agency concludes that the acknowledged benefits are exceeded by the costs.'' *Id.* The court held that any ''implied authority to make cost-benefit decisions must be based not on a general doctrine but on a fair reading of the specific statute, its aims and legislative history.'' *Id.*

Since *Chevron,* several courts have recognized de minimis exceptions (1) so long as they are not contrary to the express terms of the statute[8] and (2) the agency's interpretation of the exception is a permissible reading of the statute. See e.g., *Ober* v. *Whitman, 243 F.3d 1190 (9th Cir. 2001*); see also *Ohio* v. *EPA, 997 F.2d 1520 (D.C. Cir. 1993*).

EPA believes a de minimis exemption is permissible in this situation for several reasons. First, section 605(a) is not extraordinarily rigid. Second, the use prohibition in section 605(a) is ambiguous with respect to potential categories of use that Congress did not directly address. Third, banning the use of HCFC solvent inventory held by the end user would not advance the statutory purpose. These arguments are discussed in more detail in the following paragraphs.

The purpose of Title VI of the Clean Air Act is, as its title suggests, ''Stratospheric Ozone Protection.'' Title VI can be summarized into three principal areas: the phaseout of production and import of ozone depleting substances (section 602–607); reduction in emissions of these substances via various means such as required servicing practices, restrictions on sale and distribution of products, and consumer education (section 608–611); and the transition to alternatives that do not harm the stratospheric ozone layer and that reduce overall risk to human health and the environment (section 612). Section 605 specifically addresses the ''Phase-out of production and consumption of class II controlled substances.'' Section 604 applies to the ''Phase-out of production and consumption of class I substances.'' There are notable differences between the two phaseouts. The phaseout under section 604 operates much quicker than the phaseout under section 605. In addition, the section 604 phaseout operates much earlier than the section 605 phaseout. Section 604 required the first reductions in class I substances in 1992, followed by a series of stepdowns culminating in the complete phaseout of nearly all class I substances by 2000. For

[7] Since the section 605(a) Clean Air Act prohibition only limits the use of virgin or unused HCFC–225ca/cb solvent, used, recovered and recycled solvent can still be used for precision cleaning and manufacturing products after January 1, 2015 regardless of EPA's decision on the proposed exemption.

[8] In *Sierra Club* v. *EPA,* 705 F.3d 458 (D.C. Cir. 2013), the DC Circuit held that EPA had no de minimis authority to create an exemption from the preconstruction monitoring requirement in § 165(e)(2) of the CAA. ''Whether we call preconstruction monitoring a 'plain requirement' or a requirement mandated by an 'extraordinarily rigid' statute, the result is the same: The EPA has no *de minimis* authority to exempt the requirement.'' *Id.* at 468.

class II substances, section 605 freezes production and consumption in 2015, with the complete phaseout not occurring until 2030.[9] Two principal factors drive the distinction in phaseout schedules; class I substances have much higher ODPs relative to class II substances,[10] and class II substances were recognized as important transitional chemicals, beneficial in phasing out class I substances as quickly as possible. During the development of the 1990 Clean Air Act Amendments, Congress heard testimony on the need to phase out HCFCs as well as class I substances. Senator Chaffee acknowledged that ''one difficulty, however, is the fact that achieving the goal of eliminating the potent long-lived CFCs as rapidly as possible is, to some extent, dependent on the continued availability of HCFCs as intermediate substitutes pending development of other, safe, non-ozone depleting substances or processes.'' (A Legislative History of the Clean Air Act Amendments of 1990, volume 1, p. 5210 (Senate debate)).

It is clear that Congress' intent was to phase out production and import of class I substances ''as rapidly as possible,'' and certainly more rapidly than class II substances given the difference in the start and duration of the two phaseout schedules; however, nowhere in section 604 does Congress restrict the use of class I substances. Instead, Congress phases out the production and import for domestic use, and allows for certain exemptions to the phaseout for specific uses (see, e.g., section 604 (f) and (g).) Given the comparable titles of sections 604 and 605 and the overarching goal of phasing out both class I and class II ODS [11], Congress likely intended that the ''use'' restriction, which is unique to section 605, should be interpreted in a manner that furthers the phaseout of production and import of HCFCs while recognizing the role of HCFCs as transitional substances.

Congress' overall approach to the class II phaseout is generally less rigid than its approach to the class I phaseout, given the longer timeframes and the presence of only one intermediate reduction step (see section 605(b)). Given this context, EPA is not inclined to view section 605(a) as ''extraordinarily rigid.'' In addition, section 605(a) provides an explicit exception for class II substances that have been ''used, recovered, and recycled.'' Thus, Congress clearly did not envision that all HCFC use in applications not specifically exempted come to a halt by 2015. Indeed, end users of HCFC–225ca/cb could avail themselves of this exception by putting their entire existing inventory of HCFC–225ca/cb into their equipment before January 1, 2015. For example, an end user could use its entire inventory of virgin HCFC–225ca/cb in its vapor degreaser, recover the HCFC–225ca/cb from the degreaser, and then recycle it for reuse in 2015 and beyond. In other instances, an end user could take virgin HCFC–225ca/cb, apply it to a surface via the typical application method such that the surface is cleaned as intended, at which point any recovered HCFC–225ca/cb would be rendered ''used''. EPA does not wish to encourage this approach to meeting § 605(a) requirements, which would do nothing to advance the statutory purpose. Rather than insist on an inflexible reading of the statute that may create ''absurd or futile results,'' EPA believes the better option is to allow end users to continue to use virgin inventory that they hold prior to 2015.

EPA views Section 605(a) as ambiguous with respect to potential categories of use that Congress did not explicitly address. Section 605(a) explicitly addresses refrigerant uses of HCFCs but is silent with respect to solvents. At the time the 1990 Clean Air Act Amendments were written, HCFCs were used predominantly as refrigerants and much consideration was given to this use in the legislative history. HCFC solvent uses, on the other hand, were not considered by Congress in the context of the class II phaseout, because they did not exist. At that time, two class I substances, CFC–113 and methyl chloroform, were used as solvents. Far from expecting an early transition, Congress allowed production and import of methyl chloroform until 2002, two years after the phaseout date for most class I substances. In addition, in 604(d)(1), Congress specifically allowed for limited exemptions to the production and import phaseout for methyl chloroform for ''use in essential applications.'' It was not until 1995 that HCFC–225ca/cb was listed under SNAP as acceptable subject to use conditions in electronics cleaning and precision cleaning (see 60 FR 31092, June 13, 1995). HCFC–225ca/cb was listed as acceptable in metals cleaning as recently as 2002 (see 67 FR 77927, December 20, 2002). In all three of these end uses, HCFC–225ca/cb, which has an ODP of 0.025/0.033, is a substitute for CFC–113 and methyl chloroform, which have ODPs of 0.8 and 0.1, respectively. While HCFC–225ca/cb solvents have acted since 1995 as transitional substances between class I ODS and non-ODS substitutes for certain niche needs, there is no evidence that Congress anticipated in 1990 that any HCFCs would be used as solvents. Thus, Congress did not have the opportunity to consider whether to apply the section 605(a) use restriction to HCFC–225ca/cb solvents.

EPA does not believe that prohibiting persons that use HCFC–225ca/cb as a solvent to clean their equipment or to clean components of products they manufacture–resulting in products ''manufactured with'' these HCFCs–from using their existing inventory of HCFC–225ca/cb would advance the goals of Title VI. As discussed above, any person could avoid such a prohibition by rendering all their inventory ''used'' in advance of the effective date. From the perspective of potential ozone destruction, there is little or no difference in this instance whether the person uses such de minimis quantities already on site at the end of 2014 or after January 1, 2015.

EPA believes a de minimis exemption is appropriate for the reasons provided, and also because the quantities involved are extremely limited. This is a small niche use and EPA is only proposing to exempt HCFC–225ca/cb held in inventory by persons that use these substances as a solvent. The quantities produced or imported using allowances act as a ceiling on the quantities that can comprise pre-2015 inventory, and the annual allocation of allowances for HCFC–225ca/cb from 2010–2014 is only 20.7 ODP-weighted MT. Recent HCFC–225ca/cb consumption has been substantially less than the allocation, further decreasing the absolute maximum amount that could remain in inventories as of 2015.

EPA also considered its past use of de minimis authority under Title VI of the Clean Air Act; in fact, the agency is modeling this proposed exemption to 605(a) on the de minimis exemption to the nonessential products ban for class II substances (CAA section 610(c) and (d)). In the 1993 Nonessential Products Rule, EPA proposed and finalized an exemption to the ban on sale and distribution in interstate commerce of products manufactured with or

[9] Through rulemakings, EPA accelerated the statutory deadlines in section 604 and 605, in accordance with the requirements in section 606. See 57 FR 3354 and 58 FR 65013.

[10] For example, all CFCs have an ODP of 0.6 or greater, with most having an ODP of1.0, whereas the HCFC with the highest ODP is HCFC–141b, which has an ODP of 0.11.

[11] ''The centerpiece of the stratospheric ozone protection program established by this title is the phaseout of production and consumption of all ozone depleting substances.'' Clean Air Act Amendments—Conference Report (Senate—October 27, 1990) (136 Cong. Rec. S16946).

containing HCFCs. The ban applied to products that were placed in initial inventory by December 27, 1993—90 days after the proposed rule published and four days prior to the statutory ban on sale and distribution (58 FR 50464, September 27, 1993 and 58 FR 69638, December 30, 1993). EPA finalized this narrow ''grandfather'' exception for existing inventories based on the de minimis rationale: ''The crux of EPA's reasoning for providing any exemption for existing inventories was that emissions from products already in existence were de minimis'' (58 FR 69660). EPA believes that emissions from existing inventories of HCFC–225ca/cb would also be de minimis.

As discussed, EPA believes it has sufficient authority to propose a de minimis exemption to the section 605(a) use prohibition for use of HCFC–225ca/cb held in inventory by persons using these substances as solvents. In addition to evaluating its legal authority, EPA has also considered policy aspects of proposing an exemption. In the 1993 Nonessential Products Rule, EPA identified various policy reasons for exempting existing inventory. One policy goal was to relieve a potentially onerous burden on small businesses because, absent a sell through provision, existing inventories would otherwise have to be liquidated (or in the case of the section 605(a) use restriction, intentionally used, recovered and recycled prior to the effective date of the prohibition). EPA recognizes the potential inefficiency of a company rendering all of their HCFC–225ca/cb inventory used in advance of 2015. The agency welcomes comment from end users of HCFC–225ca/cb, with specifics on their continued HCFC–225ca/cb needs, whether they are planning to transition to an alternative solvent prior to 2015, the time required to transition to alternatives for specific uses of HCFC–225ca/cb, and what hardships they would face with or without an exemption to the 605(a) use prohibition.

If EPA does not finalize an exemption for inventories of virgin HCFC–225ca/cb, use of all virgin HCFC–225ca/cb would be prohibited as of January 1, 2015 under the current regulations. EPA urges destruction of virgin ODS for which use is prohibited as the appropriate method for disposal. There are seven EPA-approved destruction technologies for ODS (see 40 CFR 82.3). EPA recognizes, however, that use of these technologies does have a cost. Further, the agency is concerned that some persons might dispose of their supplies of HCFC–225ca/cb in a manner allowing release into the environment if they are not allowed to use the substance for its intended purpose of cleaning. This could result in as much or more harm to the environment as the use of existing inventory as a solvent.

An important policy consideration is that the nature of precision cleaning is such that the group of affected entities is small, but their needs are very specific. Those needs often include minimal to zero flammability as well as excellent solvency properties, and if those needs are not met, human safety can be jeopardized (for example, in the case of future space vehicle launches). The agency believes that manufacturers of products containing HCFC–225ca/cb have sufficient lead time to use their remaining HCFC–225ca/cb inventory to manufacture products and place them into initial inventory, or alternatively, to sell virgin bulk HCFC–225ca/cb to users of these solvents prior to 2015. However, EPA has heard from several entities that use HCFC–225ca/cb directly as solvents for cleaning existing equipment or for cleaning surfaces that are part of a newly-produced product who still have not found a suitable alternative to HCFC–225ca/cb. In some instances, entities need more time to test alternatives in order to ensure that the chosen replacement has acceptable solvency, flammability and usability characteristics. Also, in some areas of the United States, a number of federal, state and local regulations affect the choice of solvents. In particular, areas that are not meeting the national ambient air quality standard for ground-level ozone may regulate solvents that are volatile organic compounds (VOC) to reduce emissions that contribute to the formation of smog. HCFC–225ca and HCFC–225cb are exempt from the definition of VOC under CAA regulations (see 40 CFR 51.100(s)) addressing the development of State Implementation Plans (SIPs) to attain and maintain the national ambient air quality standards. This exemption allows greater flexibility in the use of HCFC–225ca/cb than is allowed for cleaning solvents that are regulated as VOCs. Only some SNAP-listed alternatives to HCFC–225ca/cb are exempt from the definition of VOC (e.g., *trans*-1-chloro-3,3,3-trifluoroprop-1-ene).

Given these legal and policy considerations, EPA is proposing a de minimis exemption to the use restriction in CAA section 605(a) for entities that use HCFC–225ca/cb as solvents and that have HCFC–225ca/cb in their inventory prior to January 1, 2015. The exemption would appear at 40 CFR 82.15(g). This exemption would not pertain to manufacturers of products containing HCFC–225ca/cb, such as technical aerosol solvents, or to producers and importers of HCFC–225ca/cb. Any aerosol solvent product manufactured prior to January 1, 2015, could be sold and used after that date, since an aerosol can is a product, not a controlled substance; however, manufacture of the product or HCFC blends used in those products would be considered use of a controlled substance, and would be prohibited after January 1, 2015, unless the HCFC were used, recovered and recycled. The agency invites comment on the proposed exemption, particularly on the need for continued use of HCFC–225ca/cb after 2014. The agency is also seeking comment on whether there are other small niche uses of HCFCs that Congress may not have contemplated in the 1990 CAA Amendments for which a prohibition on use of inventory would yield trivial or no benefits in light of the statutory purpose. The agency may consider extending the proposed exemption to other such niche uses in the final rule.

2. How is EPA planning to update regulations to account for recent changes to section 605(a)?

In the National Defense Authorization Act for fiscal year 2012, Congress amended section 605(a) of the Clean Air Act to allow for continued use and introduction into interstate commerce of a class II substance that ''is listed as acceptable for use as a fire suppression agent for nonresidential applications in accordance with section 612(c).'' Section 612 of the Clean Air Act requires EPA to develop a program for evaluating alternatives to ozone-depleting substances. EPA refers to this program as the Significant New Alternatives Policy (SNAP) program. Section 612(c) requires EPA to publish a list of the substitutes unacceptable for specific uses and to publish a corresponding list of acceptable alternatives for specific uses. The list of acceptable substitutes is found at *www.epa.gov/ozone/snap/lists/index.html*, and the lists of ''unacceptable,'' ''acceptable subject to use conditions,'' and ''acceptable subject to narrowed use limits'' substitutes are found in the appendices to subpart G of 40 CFR part 82. HCFC–123, HCFC–124, and several blends containing an HCFC are currently listed as acceptable and acceptable subject to narrowed use limits, where the only use limit restricts use to nonresidential fire suppression. EPA assumes that Congress intended the statutory phrase ''listed as acceptable for use'' to include HCFCs listed as acceptable and acceptable subject to narrowed use limits. In light

of this statutory revision, EPA is proposing to update its regulations for use and introduction into interstate commerce of HCFCs (82.15(g)), as well as the regulations governing production and import (82.16). Specifically, the agency intends to add the following language to 82.15(g)(4) allowing for use and introduction into interstate commerce of any class II controlled substance not governed by the acceleration of the use prohibition to 2010, when used ''as a fire suppression streaming agent listed as acceptable for use or acceptable subject to narrowed use limits for nonresidential applications in accordance with the regulations at subpart G of [part 82].'' EPA believes this addition is necessary and appropriate, given Congress' addition to section 605(a).

Though section (a) pertains only to use and introduction into interstate commerce, EPA believes that allowing for continued HCFC production and import for nonresidential fire suppression uses is a natural follow-on, and is in accordance with Congressional intent. Section 605 does not establish a production phaseout date for any specific HCFC. EPA has used its discretion to establish a regulatory phaseout date, which the agency is proposing to modify in this action. This change has minimal impact on the overall allocation since the primary HCFC used for fire suppression, HCFC–123, has a low ODP, and the quantities used for fire suppression are small relative to the other uses of HCFCs.

In large part, the regulatory phaseout date for HCFCs used in fire suppression was driven by the section 605(a) limitations on use and introduction into interstate commerce of class II controlled substances, to which Congress has now created an exception. Therefore, EPA is also proposing to amend 82.16(d), by allowing for HCFC production and import in the 2015–2019 regulatory period for use in nonresidential streaming fire suppression applications. Accordingly, EPA is proposing to add the following text to 82.16(d), allowing for both production and import of class II controlled substances ''for use as a fire suppression streaming agent listed as acceptable for use or acceptable subject to narrowed use limits for nonresidential applications in accordance with the regulations at subpart G of [part 82].'' To give practical effect to this proposed change, EPA is proposing to allocate consumption allowances for HCFC–123, not just for use as a refrigerant, but for use as a fire suppression agent as well. As discussed in section V.D.1., EPA is proposing to allocate the maximum allowed amount of HCFC–123 consumption allowances under section 605(b) (i.e., 100 percent of HCFC–123 baseline), which is still less than three percent of United States consumption allowed under the Montreal Protocol cap for 2015–2019. EPA is proposing to allow production and import for fire suppression purposes for the 2015–2019 regulatory period only. Beginning January 1, 2020, Article 2F of the Montreal Protocol limits United States production and import of HCFCs to use in servicing and repair of existing refrigeration equipment. Under section 614(b), where either the Montreal Protocol or Title VI is more stringent, the more stringent provision governs. To reflect this Montreal Protocol time limitation, EPA is proposing to add language to 82.16(e) indicating the purposes for which production and import may continue in 2020 and beyond: The proposed list does not include fire suppression purposes. The agency welcomes comment on any aspect of these proposed regulatory additions.

C. Step Down to 10 Percent of Montreal Protocol Baseline

As discussed in section II.A. of this preamble, the United States has agreed under the Montreal Protocol to limit consumption and production of HCFCs by January 1, 2015 to no more than 10 percent of its Montreal Protocol baseline. Starting in 2015, the United States cap on consumption will be 1,524 ODP-weighted MT and the cap on production will be 1,553.7 ODP-weighted MT. By January 1, 2020, the United States is required to limit consumption and production of HCFCs to 0.5 percent of baseline. As required under sections 606(a) and 614(b) of the Clean Air Act, the EPA phaseout regulations reflect the Montreal Protocol schedule for phasing out HCFCs, including the 2015 and 2020 stepdowns. In developing the proposed HCFC allocation schedule for 2015–2019, the agency bore in mind that as of January 1, 2020, the consumption and production caps will be approximately 76 and 77.5 ODP-weighted MT, respectively. Also, as of January 1, 2020, Article 2F of the Protocol limits United States production and consumption of HCFCs to servicing needs for refrigeration and air conditioning equipment. In addition, CAA section 605(a) limits the use of virgin HCFCs as of January 1, 2015, to use as a refrigerant in equipment manufactured prior to 2020, and use as a nonresidential fire suppressant. EPA regulations also prohibit the production and import of virgin HCFC–22 or HCFC–142b for refrigeration uses as of January 1, 2020 (see 40 CFR 82.16(e)). In determining the proposed allocation options in this rule, EPA took into account the 2015 and 2020 milestones in the Montreal Protocol and the Clean Air Act.

IV. How will EPA determine baselines for 2015–2019?

The current structure of the HCFC allowance program was first established in the 2003 Final Rule (68 FR 2820), in which EPA decided to allocate HCFC allowances using a baseline system for the 2003–2009 regulatory period. Specifically, calendar-year allowances for production and consumption of HCFCs would be issued as a percentage of each company's baseline. A company's baseline would be calculated from historic levels of production and import. Since 2003, the program has changed very little, using the same baseline system to issue consumption and production allowances on an annual basis.

In the 2003 Final Rule, EPA prohibited production and consumption of HCFCs subject to the allowance system without the appropriate allowances (40 CFR 82.15(a),(b)). The agency sets the maximum production and consumption of each HCFC by issuing allowances that are valid for a single calendar year, equal to a certain percentage of each company's baseline.[12] The agency determines the percentage of baseline for each year by taking into account limits set under the Montreal Protocol, estimated need for a particular HCFC, and restrictions under the Clean Air Act. 2015 is a significant milestone in the domestic phaseout of HCFCs, since United States production and consumption of all HCFCs must be at or below 10 percent of baseline levels by January 1, 2015, and use of those HCFCs must comply with restrictions in section 605 of the Clean Air Act.

[12] The process works as follows for each HCFC: First, all the company-specific consumption baselines (listed in the table at 40 CFR 82.19) are added to determine the aggregate amount of consumption baseline. Second, EPA determines how many allowances to allocate in a given year and divides that amount by the aggregate amount of baseline allowances. The resulting percentage listed in the table at section 82.16 becomes what each company is allowed to consume in a given control period. For example, a company with 100,000 kg of HCFC–22 baseline consumption allowances would multiply that number by the percentage allowed (for example, 14.2 percent in 2014) to determine its calendar-year consumption allocation of 14,200 kg. Until the 2013 Final Rule, the percentage listed in 82.16 applied to production allocations as well. However, now that EPA has decoupled baseline percentages, there are two tables at 82.16 and the process of calculating baseline percentages applies to production as well.

A. Using Existing Baselines

In the 2003 Final Rule, EPA decided that each company producing or importing HCFC–22 or HCFC–142b between 1994 and 1997 would receive baseline allowances equal to its highest annual production and import level from those four years, with a limited extension for small businesses that began importing before April 5, 1999—the date EPA published the HCFC Allocation System ANPRM for the 2003–2009 regulatory period. In the 2009 Final Rule (74 FR 66412), EPA continued this approach for HCFC–22 and HCFC–142b. EPA also applied the same general approach to allocating allowances for HCFC–123, HCFC–124 and HCFC–225ca/cb, using 2005–2007 as the baseline years for those substances. The portion of the 2009 Final Rule governing baselines and allocations of HCFC–22 and HCFC–142b allowances was vacated by the Court in *Arkema* v. *EPA.* However, the rest of the rule, including the baselines for four other HCFCs and the use restrictions on HCFC–22 and HCFC–142b, remains in effect. HCFC–22 and HCFC–142b baselines and allowances were re-established for 2011 in the 2011 Interim Final Rule (76 FR 47451) and for 2012–2014 in the 2013 Final Rule (78 FR 20004).

In this rulemaking, EPA is proposing to keep the post-*Arkema* historical baselines as reflected in the 2013 Final Rule (as adjusted to reflect subsequent name changes and inter-company baseline allowance transfers) for the 2015–2019 regulatory period. The baselines for production and consumption of the seven HCFCs for which EPA has allocated allowances can be found at 40 CFR 82.17 and 82.19, respectively. The agency believes there is benefit to the regulated community in continuing with the established system, with updates to reflect name changes and inter-company baseline allowance transfers. In the past, some stakeholders have acknowledged the certainty and stability of continuing with established baselines. Others have pointed out that the established baselines do not reflect current market conditions. Because of this concern, the agency considered an option to update baselines, which in the case of HCFC–22 and HCFC–142b were derived from 1994–1997 data. However, EPA's preferred approach is to keep the current baselines in place. EPA has several reasons for maintaining historic baselines. EPA determines the total amount of allowances to be allocated independent from the baseline amounts. Re-establishing each company's baseline would alter the distribution of allowances, but would not affect the total allocation. EPA sets the baseline percentage such that once every company receives its allowances, the number of allowances issued equals the total allocation for that year. Therefore, EPA does not see an environmental rationale to updating baselines, since changing individual company baselines would not affect the total amount of HCFC–22 that could be produced or imported in a given year. Further, choosing and implementing changed baseline years would change existing market expectations, and thus potentially may detract from the certainty that allows stakeholders, all of whom are already familiar with the existing system (in place since 2003), to plan for an orderly transition to alternatives. Such a change may not be justified given that there are only five remaining years for HCFC allocation (excluding the 0.5 percent of baseline for servicing needs). Under EPA's preferred approach of maintaining current baselines, baseline allocations would be the same as those shown in the proposed regulatory text at 40 CFR 82.17 and 82.19.

EPA invites comment on the advantages and disadvantages of maintaining the established baseline system.

B. Consideration of Establishing Revised Baselines Using More Recent Production and Import Data

Current production and consumption baselines were established using data from 1994–1997 and 2005–2007. EPA's preferred option is to keep the current baselines. However, EPA considered a second option: Re-establishing baselines using more recent production and import data. Updating baselines would result in fewer allowances for companies that have fully or partially left the HCFC market and a greater number of allowances for companies that have more recently used calendar-year allowances.

In the 2012 Proposed Rule (77 FR 237, January 4, 2012), the agency provided advance notice that for the 2015–2019 regulatory period, it would consider using more recent production and import data than the 1994–1997 data used to set baselines for the first time in the 2003 Final Rule. EPA was particularly interested in stakeholders' views on whether there would be an environmental benefit to updating baselines. In response to the proposed rule, the agency received several comments, both for and against updating baselines, but did not receive any comments indicating there was an environmental benefit to changing baselines. In the 2013 Final Rule, EPA stated that it would continue to assess the merits of using a more recent set of years to determine HCFC–22 and HCFC–142b baselines, but pointed out that it still had not heard an environmental rationale for making such a change.

Further, the program's market-based orientation encouraged EPA to consider ways to promote an orderly phaseout—one in which stakeholders are offered advance planning certainty in their efforts to replace controlled chemicals. Thus, in completing the 2013 Final Rule we concluded that the certainty that facilitates orderly market transition to new, safer alternatives could be best promoted by maintaining expectations. Given the current state of the phaseout—within 5 years of virtual completion—the market may be best served by predictability and by the confirmation of long-established policy approaches.

In developing this proposed rule, the agency evaluated whether to update baselines for the 2015–2019 regulatory period. First, consistent with its earlier statements, EPA considered whether there would be an environmental benefit to doing so. Second, EPA considered how it would pick ''a representative calendar year'' or years to serve as the baseline, as required by CAA section 601. Third, EPA also considered whether the agency would credit only actual production and import, or if a company would receive credit for allowances held as the result of a transfer. Fourth, EPA considered the length of time the baselines have already been used, as well as the length of time remaining before the HCFC–22 and HCFC–142b phaseout.

Based on these considerations, EPA has decided not to propose to use a more recent set of years to establish company baselines. First, the agency does not see an environment benefit to using a more recent set of years: It is the percentage of baseline issued—not the aggregate baseline itself—that determines the allowed amount of production and import in a given year. A shift to different baselines would simply rearrange companies' shares of allowances. EPA has not made a practice of updating company baselines to reflect changes in the market. Rather, private entities may use the allowance transfer provisions in Part 82 to sell or acquire baseline allowances as appropriate. Second, it is unlikely that there is a more recent year or range of years that the majority of stakeholders could accept as representative. Third, while it would be important for the agency to consider whether to credit

only actual production and import, or also allowances held as the result of a transfer, such consideration would introduce uncertainty into the process. Fourth, the use of production and import data from 1994–97 for HCFC–22 and HCFC–142b baselines began in the 2003 Final Rule and has continued through the present. These substances will be phased out in 2020. The current baselines are well understood by all affected entities and a change that would apply only to the last few years before the phaseout might simply cause confusion, in addition to affecting any longer-term business plans that companies may have based on the current baselines. Confusion resulting from resetting existing baselines would be counter to the Agency's goal of promoting a smooth transition to alternatives. For these reasons, the agency is not proposing to update the baselines for the 2015–2019 regulatory period.

V. How is EPA developing allocation levels for each HCFC?

In developing proposed allocation levels, EPA considered what uses of HCFCs will be permitted in 2015 through 2019. Section 605(a) of the Clean Air Act limits the use of newly-produced (i.e. virgin) HCFCs beginning January 1, 2015. Under the statute, virgin HCFCs may be used as a refrigerant in appliances [13] manufactured prior to 2020 (EPA accelerated this manufacturing date to 2010 for HCFC–22 and HCFC–142b) [14] and also as a nonresidential fire suppressant, if listed as acceptable under SNAP for this end use. HCFC–22 and HCFC–123 are both used as refrigerants, and thus EPA is proposing to issue allowances for these chemicals. HCFC–22 has many refrigeration applications, and accounts for over 90 percent of all HCFC use; HCFC–123, on the other hand, accounts for a much smaller portion of refrigerant use, predominantly in large chillers. HCFC–123 and HCFC–123 blends are also listed as acceptable or acceptable subject to narrowed use limits for nonresidential fire suppression uses. EPA is proposing to issue allowances for both HCFC–22 and HCFC–123; however, since refrigeration represents a larger market than fire suppression, nearly all consumption and production allowances proposed for 2015–2019 will be for HCFC–22. EPA is also proposing to issue consumption and production allowances for HCFC–142b and HCFC–124, since both are listed as acceptable for certain refrigerant end uses and there continues to be small, albeit decreasing, demand for refrigerant blends containing these HCFCs. In addition, HCFC–124 is listed as acceptable in certain fire suppression blends. The proposed allocation options for HCFC–142b and HCFC–124 are presented in section V.C. and V.E., respectively. EPA is not proposing to issue allowances for HCFC–225ca or HCFC–225cb because neither is used as a refrigerant nor as a fire suppressant. Use of HCFC–141b was banned effective January 1, 2010 under existing regulations (see 82.15(g)(1),(3)), with limited exceptions. In addition, the exemption from the production and import phaseout that allows for HCFC–141b exemption allowances does not continue beyond 2014 (see 40 CFR 82.16(b),(d)). Since the exemption does not exist beyond 2014, EPA is proposing, effective January 1, 2015, to remove 40 CFR 82.16(h), which describes the petition requirements for receiving HCFC–141b exemption allowances. However, in accordance with 40 CFR 82.18(a)(2) and (3), each company with an HCFC production baseline will receive Article 5 allowances [15] in 2015 through 2019 equal to 10 percent of its baseline for that HCFC, even if EPA does not issue consumption, production or exemption allowances for that substance.

The proposed allocations in the following sections are based on EPA's Vintaging Model demand projections, recent market research on current HCFC uses and trends, and the expected availability of recovered and reused material. In the case of HCFC–22 and HCFC–142b, EPA also considered the fact that under longstanding regulations, these two HCFCs will be phased out as of January 1, 2020. Thus, EPA will cease issuing HCFC–22 and HCFC–142b consumption and production allowances by 2020 at the latest. The agency has compiled Vintaging Model projections and other data supporting its proposed allocations for 2015–2019 in the *2013 Servicing Tail Report* on HCFC market needs, found in the docket to this rulemaking. EPA welcomes comment on all aspects of the report, including but not limited to the underlying assumptions and sensitivity analyses. Since the data in the report will be used to support the final allocations for 2015–2019, EPA requests any relevant data and market information that would improve the accuracy of the agency's projections. If commenters wish to submit confidential business information to support their comments on this proposal, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section and review section I.B.1. of this notice.

A. How will EPA determine the HCFC–22 consumption allocation?

EPA is considering three options for determining the HCFC–22 consumption allocation. Each would involve a declining allocation from year to year. Under the linear drawdown (Option 1), which is EPA's preferred approach, the agency is proposing to decrease the allocation by the same amount each year, such that there is a linear decrease in allowances from 2015 through 2019, ending at zero in 2020. Under Option 2, EPA is proposing a three year version of the linear drawdown, where consumption is phased out in 2018 instead of 2020. Under the estimation approach (Option 3), EPA is proposing to estimate servicing need using the Vintaging Model, and then make adjustments to account for estimated recovery and reuse, and inventory, much like it did in the 2009 and 2013 Final Rules. Regardless of the option chosen, once the final rule is issued EPA does not intend to revise the 2015–2019 allocation. Leaving the possibility of additional EPA action to increase or decrease the allocation could create unnecessary uncertainty and undermine business planning and a smooth phaseout.

In 2009, EPA published the *2009 Servicing Tail Report* (available in the docket), which estimated HCFC–22 servicing need through 2020 using the Vintaging Model and several rounds of industry feedback. Through 2011 and early 2012, market factors and feedback from industry indicated there was an over-supply of HCFC–22, which was discouraging use of recycled refrigerant and slowing transition to ozone-safe alternatives. EPA developed *Analysis of HCFC–22 Servicing Needs in the U.S. Air Conditioning and Refrigeration Sector: Additional Considerations for Estimating Virgin Demand* (Adjustment Memo, available in the docket) to accompany the proposed rule for 2012–2014, which contained new proposed

[13] The Clean Air Act defines appliance as ''any device which contains and uses a class I or class II substance as a refrigerant and which is used for household or commercial purposes, including any air conditioner, refrigerator, chiller or freezer.''

[14] EPA accelerated the 605(a) use restrictions for HCFC–22 and HCFC–142b in the 2009 Final Rule. Consequently, HCFC–22, HCFC–142b and blends containing either can only be used as a refrigerant in appliances manufactured before January 1, 2010, not 2020. Additionally, the Clean Air Act allows use and introduction into interstate commerce of virgin HCFCs for use in transformation, but since this use does not require consumption or production allowances, it will not be discussed in this section.

[15] Article 5 allowances allow a company with an HCFC baseline to produce that HCFC only for export to Article 5 Parties under the Montreal Protocol. See 40 CFR 82.18(a).

allocations in the wake of the Court's decision in *Arkema.* The Adjustment Memo examined updated projections from EPA's Vintaging Model, and then took into account recent market conditions. The Adjustment Memo considered reductions in the allocation based on increased reclaimer capacity, existing HCFC–22 inventory, and recovery and reuse by supermarkets. After reviewing public comment and stakeholder feedback, EPA finalized HCFC–22 allowances for 2012, 2013 and 2014 in the 2013 Final Rule (78 FR 20004).

As presented in the revised *2013 Servicing Tail Report* included in the docket, EPA's Vintaging Model estimates that HCFC–22 servicing need in 2015 will be 46,165 MT, or 2,539 ODP-weighted MT. In 2015, the Montreal Protocol cap for all HCFC consumption is 1,524 ODP-weighted MT, which means that even if EPA allocated only HCFC–22 allowances, it still could not provide enough allowances to account for all projected HCFC–22 need. The gap in 2015 between projected servicing need and the Montreal Protocol cap is why EPA has continually emphasized the need for recovery, reuse and reclamation of HCFC–22, in addition to transition to non-ODS alternatives. Recovery, reuse and reclamation will become even more important in 2020, when HCFC–22 may no longer be produced or imported, but the projected servicing need is 22,572 MT.

EPA also uses the Vintaging Model to project the amount of recoverable HCFC–22 each year. This projection is based on the modeled retirement of HCFC–22 equipment and modeled recovery rates specific to each equipment type. For example, for residential air conditioning, the Vintaging Model assumes each system being retired in a given year has a full charge at decommissioning, and that an average of 35 percent of the refrigerant in each retiring system is recovered. For other end uses, particularly those with very large charge sizes, the modeled recovery rate is much higher. In the Vintaging Model, the overall, industry-wide recovery rate is approximately 50 percent, though the exact number fluctuates each year based on the amount of equipment modeled as retiring in each end use. See Appendix A of the *2013 Servicing Tail Report* for modeled recovery rates specific to each equipment type.

In the *2013 Servicing Tail Report,* EPA has also included several sensitivity analyses to gauge how changes in several key assumptions affect estimated servicing need in 2015–2019. The assumptions EPA looked at include system charge size, average annual equipment leak rates (i.e., loss rates), and the expected length of time a system is in operation (i.e., equipment lifetime). All of these factors were examined as a result of information provided by industry representatives concerned that the agency's assessment of servicing need in the Vintaging Model could be too high. In addition to the sensitivity analyses, EPA has also updated its assessment of HCFC–22 inventory and is providing more discussion of other factors affecting the HCFC–22 phaseout. The agency welcomes comment on all aspects of the *2013 Servicing Tail Report.* This information will support the allocation option chosen in the final rule.

1. Using a Linear Drawdown From 2014 Allocation Levels

In 2020, the United States must be at 0.5 percent of its HCFC baseline, and under EPA regulations none of the HCFC production or import at that time may be for HCFC–22 or HCFC–142b. Given the agency's goal of ensuring a smooth transition away from HCFC–22 and into non-ODS alternatives, EPA is proposing a linear decrease in HCFC–22 allowances from 2015–2019. That is, allowances would decrease by the same amount each year, such that a decrease by that same amount from 2019 to 2020 would bring the HCFC–22 allocation to zero. Under the linear drawdown approach, EPA is proposing to use the lowest proposed 2014 allocation level as its starting point (approximately 16,500 MT). Under this approach, the 2015 allocation would be approximately 13,700 MT with an annual decrease of approximately 2,700 MT. In 2019 the allocation would be 2,700 MT and in 2020 the allocation would be zero, with a total allocation of approximately 41,100 MT over the five year period. This linear drawdown—from the lowest proposed allocation in 2014 to zero in 2020—is EPA's preferred approach. Since the market for virgin HCFC–22 is solely for servicing air-conditioning and refrigeration equipment that was installed prior to 2010 (with limited exceptions through the end of 2011), EPA believes that decreasing the allocation by the same amount each year will drive the necessary changes in the service market to prepare for the 2020 phaseout, without unnecessarily forcing transition or retrofits out of HCFC–22 for equipment that is still within its expected lifetime. Several industry representatives have also suggested a 2015 allocation very close to EPA's preferred 2015 allocation of approximately 13,700 MT; their support for such an allocation stems from the belief that the allocation for 2013 and 2014 was higher than needed, resulting in an over-supply of HCFC–22 and an increase in inventory levels.

EPA believes its preferred 2015 allocation is sufficient based on how the market responded in 2012 and early 2013 to the allowed amount of consumption under the No Action Assurance (i.e., non-enforcement) letters. The 2015 proposed allocation is only about 20 percent lower than the allowed consumption at the start of 2013 (17,902 MT). At that time, there was minimal concern that allowed consumption levels were too low; certain industry practices were changing and significant inventory was available to meet servicing need (summarized below). EPA obtained this information through numerous conversations with stakeholders, all of which are noted in the memo in the docket titled *Relevant Meetings With External Stakeholders.*

First, channel inventory (i.e., existing material available for sale and distribution) likely helped meet servicing needs. Some industry feedback indicates a significant amount of inventory was consumed in 2012 to meet servicing needs. Industry feedback continues to indicate that despite this drawdown there remains a significant amount of inventory that can help meet servicing need in 2015 and later years.

Second, servicing practices likely changed with the lower allocation to help meet servicing needs. With the price of HCFC–22 increasing, industry feedback indicates service technicians may have been more careful with the refrigerant, resulting in lower loss rates and higher recovery rates than those estimated in the Vintaging Model.

Third, industry feedback indicates the demand for dry-shipped HCFC–22 condensing units continued to decrease. This suggests that the service contractor or the consumer's repair/replace decision may be affected by the price and availability of HCFC–22.

Fourth, as the price of HCFC–22 increased and as equipment reached the end of its useful life, retrofits and system replacements occurred more rapidly than modeled. This is particularly apparent in the retail food segment. For example, feedback from numerous contacts in the supply chain indicate supermarkets used the seven- to 10-year remodel cycle to not only update display cases, but to also switch to new refrigerants (either through retrofits or system replacements). These retrofits result in significant amounts of used refrigerant that can be reclaimed, or recovered and reused. Feedback from several sources indicates HCFC–22 sales

to supermarkets dropped off significantly in the past few years, especially in 2012 and early 2013, with the reduction in allocation. Information from recovery companies also shows that supermarkets were holding onto their recovered HCFC–22 from decommissioned or retrofitted stores for use in other equipment under the same ownership. This practice will likely accelerate as the phaseout progresses.

Other evidence indicates that service technicians also became more aware of and comfortable using non-ODS retrofit refrigerants. Feedback from numerous points in the supply chain indicates sales of HCFC–22 retrofit refrigerants (e.g., R–407C, R–421A, R–422B, R–422D, R–438A, and numerous other non-ODS alternatives) have increased dramatically since 2011. This is also supported by data received recently from producers and distributors of HCFCs. As the phaseout progresses, the percentage of HCFC–22 demand met by retrofit refrigerants is expected to rise, thereby further reducing the need for HCFC–22 and adding to the potential inventory of reclaimed refrigerant.

While EPA encourages equipment owners to retrofit when it makes sense, the agency also encourages equipment owners to look at the lowest GWP refrigerant that meets their needs and to consider the capacity and efficiency tradeoffs associated with a retrofit out of HCFC–22. HCFC–22 is typically the most efficient refrigerant to use in a piece of equipment designed to use HCFC–22—an important consideration when servicing an existing system. When changing the type of refrigerant used in a system, technicians and contractors may only use substitutes listed as an acceptable retrofit refrigerant for that end use under the SNAP program. If replacing the equipment, new systems may only use refrigerants listed under the SNAP program as acceptable for new equipment for that end use. A complete list of acceptable substitutes by end use is available at *www.epa.gov/ozone/snap/refrigerants/*. In addition to being illegal, failure to use an acceptable substitute may be unsafe. For example, equipment that is not designed for flammable refrigerants should not be retrofitted for use with hydrocarbons or other flammable substitutes.

Fifth, as HCFC–22's price increased and its perceived availability decreased, reclamation increased by about 13 percent in 2012 from 8.3 million lbs to 9.4 million lbs. While the increase between 2011 and 2012 is only one year of data, the higher price of HCFC–22 was likely a factor since reclaimers started offering a higher buyback price for used material. Since the higher price of virgin refrigerant also encouraged retrofits, HCFC–22 from retiring systems was available for recovery and reclamation.

EPA has attempted to quantify the possible effects on servicing need from many of these trends in the *2013 Servicing Tail Report.* Coupled with the fact that an additional two years of retrofits and system retirements will have occurred by 2015, the agency's analysis and feedback from industry affirm that the preferred allocation option can meet servicing needs without causing shortages. EPA seeks comment on its assessment of market trends and the agency's preferred allocation of 13,700 MT of HCFC consumption allowances in 2015, with an annual decrease in allocation of 2,700 MT.

EPA also notes that there appears to be a significant amount of HCFC–22 in inventory. As discussed in EPA's *2013 Servicing Tail Report,* EPA has revised its estimate of HCFC–22 inventory. In the last rulemaking, EPA estimated HCFC–22 inventory at 22,700–45,400 MT. Based on information received recently, inventory is above that range.[16] While excess HCFC–22 may provide the market more flexibility in its transition timeline, it may also discourage recovery and recycling of existing HCFCs. Since EPA has attempted to encourage recovery and reclamation throughout the HCFC phaseout, as well as a smooth transition, the agency is also seeking comment on whether a lower 2015 allocation is preferable. Specifically, EPA is proposing as an alternative a lower linear drawdown starting at 10,000 MT in 2015 and dropping by 2,000 MT per year before reaching zero in 2020. Over the five year period, it would result in approximately 11,000 MT fewer HCFC–22 allowances than under the agency's preferred approach and could encourage better refrigerant management practices and more recycling and reclamation.

Though all evidence received to date suggests that a 2015 allocation of 13,700 MT is sufficient to meet market needs, EPA is also proposing as an alternative a linear drawdown starting from the 2014 pre-recoupment[17] allocation of 20,100 MT and ending at zero in 2020. Under this alternative linear drawdown, the allocation would start at about 16,700 MT in 2015 and would decrease by about 3,350 MT each year over the five year period; over five years EPA would allocate 9,200 MT more than under the preferred linear drawdown approach.

As discussed in the preceding paragraphs, EPA is proposing higher and lower alternatives to its preferred approach for the linear drawdown. However, some stakeholders have encouraged EPA to go to zero and cease allocating allowances for HCFC–22 in 2015 instead of in 2020. They base this recommendation on the availability of alternatives, the capacity for reclamation, and the presence of a significant amount of inventory. While this approach could offer environmental benefits, the agency believes going to zero too quickly could have unintended consequences for end users that have been making equipment retrofit and replacement plans based on EPA's long-standing 2020 deadline for phasing out HCFC–22.

EPA believes the linear drawdown approaches discussed in this section have several advantages. First, a linear drawdown provides the market with a clear signal that features consistent annual decreases that will drive transition to alternatives in advance of the 2020 phaseout. The agency believes, and past commenters agree, that gradually decreasing the allocation provides the appropriate and necessary signal to encourage equipment owners and service technicians to transition when it makes sense for their individual circumstances. The linear drawdown allows the industry to establish plans in advance and develop the infrastructure to transition without significant market disruptions. Without a gradual transition, large quantities of system owners could wait until the last possible moment to transition, which could pose significant financial hardship and lead to widespread market disruptions in the 2019 to 2020 timeframe as end users scramble to find solutions to the HCFC–22 phaseout. While the estimation approach (Option 3) also decreases year-by-year, the 2015 allocation is significantly higher than under the preferred linear drawdown approach.

Additionally, the change from 2019 to 2020 is substantially higher under the estimation approach than under any of the linear drawdown options, which could prompt system owners to stay in old HCFC–22 equipment longer,

[16] This revised assessment is based on inventory data from a limited number of companies as of December 31, 2012, as well as other information received by the agency during the development of this proposed rule.

[17] Recoupment allowances refer to the additional HCFC–22 and HCFC–142b allowances that EPA allocated for 2013 and 2014, which were in addition to the aggregate allocations determined by the established percentage of baseline. EPA issued recoupment allowances to address the Court's decision in *Arkema* with respect to allowances for 2010. For a discussion of the agency's decision to provide recoupment, see the 2013 Final Rule at 78 FR 20015.

potentially contributing to market disruption. Regardless of the option chosen, a lower allocation could result in economic advantages for companies investing in reclamation and alternative refrigerants and equipment if it encourages consumers to use reclaimed refrigerant or an alternative sooner.

The linear drawdown is also simple and easy to explain. This aspect is important for service technicians, since they are the ones directly interacting with home and business owners. It is often their job to explain what the HCFC phaseout means and how it works. Providing technicians with an easier-to-explain transition should improve consumers' understanding of the phaseout and the options available to them.

Finally, this linear drawdown approach is preferred because it does not primarily rely on EPA's ability to predict annual servicing need, which becomes increasingly difficult as HCFC–22 is phased out. While the Vintaging Model is updated frequently to reflect changes in the marketplace, it doesn't model how the allocation in recent years affects servicing need in future years. For example, the final 2013–2014 allocations will affect how HCFC–22 is bought, sold and stockpiled in each year. While there are limitations of the model, the sensitivity analyses in the *2013 Servicing Tail Report* indicate the proposed linear drawdown approach is reasonable and can meet servicing need without shortages if servicing practices improve, and recycling and transition occur. The linear drawdown approach also takes into account how the market responded in 2012 and 2013 under the agency's No Action Assurance, which indicates the linear allocation approach may even more accurately reflect servicing need.

The agency is also proposing a linear drawdown option that would use fewer steps and less time to arrive at an HCFC–22 allocation of zero. Option 2 in Table 1 shows a linear drawdown over three years instead of five, resulting in a consumption allocation of zero in 2018 instead of 2020. One possible benefit of decreasing the HCFC–22 allocation to zero sooner would be increased incentive to recover and recycle HCFC–22, and increased incentive to transition to alternatives and replace older, less energy efficient equipment. The three year linear drawdown provides environmental benefits as compared to the five year linear drawdown because it issues fewer HCFC–22 consumption allowances over the five year period. As under the five year linear drawdown (Option 1), EPA is proposing to use the lowest proposed allocation in 2014 as a starting point. The 2015 allocation would therefore be approximately 12,400 MT, with an annual decrease of about 4,100 MT such that 2017 would be the final year of HCFC–22 consumption allowances (Option 2 in Table 1). In total, Option 2 would result in approximately 24,800 MT of allowances, which is 16,200 MT fewer than under EPA's preferred five year linear drawdown approach. EPA is also proposing a variant to this three year linear drawdown under which the agency would start from the pre-recoupment 2014 allocation of 20,100 MT. EPA seeks comment on its alternative proposal to base the allocation on a three year linear drawdown instead of five years, and on whether, in this case, the 2015 allocation should be determined from the lowest proposed amount in 2014 or the actual 2014 allocation prior to the addition of recoupment allowances. Regardless of which variant of the three year linear drawdown is chosen, it would provide the largest environmental benefit of the options presented in this rule, since it results in the fewest allowances overall.

In summary, EPA believes a linear drawdown helps ensure a smooth, simpler transition out of HCFC–22. This method of decreasing allowances does not rely directly on EPA's estimate of HCFC–22 servicing needs or changes in demand for refrigerant, though the *2013 Servicing Tail Report* does confirm that a linear drawdown of allowances would still enable projected servicing need to be met under plausible recovery and reuse scenarios and changes in servicing practices. As a result, the agency believes making simple and consistent reductions in allowances each year could provide the certainty the market needs to transition smoothly from HCFC–22 to non-ODS alternatives.

The agency welcomes comment on the benefits or drawbacks to a linear allocation schedule, as well as comments on both linear drawdown options (Options 1 and 2 in Table 1) and the proposed variants of Option 1 and Option 2, which are discussed in this section but not shown in Table 1.

2. Determining the Allocation by Estimating Servicing Need and Then Accounting for Need That Can Be Met by Sources Other Than New Production

While not its preferred approach, EPA is also proposing to take the modeled servicing need for 2015–2019 as estimated in the *2013 Servicing Tail Report,* subtract the amount of expected recovery and reuse, and then issue consumption allowances to account for the remaining HCFC–22 need. This is the estimation approach, shown as Option 3 in Table 1. In the 2009 Final Rule covering 2010–2014, comments on the *2009 Servicing Tail Report* prompted EPA to account for 12,500 MT of recovery and reuse in each year. That is, the allowances issued each year were 12,500 MT lower than the modeled servicing need for HCFC–22. This same methodology was used in the 2013 Final Rule covering 2012–2014, except the 2013 Final Rule also accounted for existing inventory, which could be used to meet servicing need as well. When EPA addressed existing inventory in the 2013 Final Rule, it did not necessarily intend to address inventory in subsequent rules or make it part of the ongoing allocation methodology. However, recent data received by EPA indicates there still is a significant inventory of HCFC–22. The proposal to account for existing inventory when setting the final HCFC–22 allocation under this option is discussed in section V.A.3.

In 2015, the amount of projected servicing need, minus the amount of expected recovery [18] and reuse, is actually higher than the 2014 allocation of 23,100 MT. The agency does not see any reason to increase the allocation from 2014 to 2015 because allowing the allocation to increase from 2014 to 2015 could reduce incentives for recovery and transition. In addition, EPA has received feedback from stakeholders that the final allocations for 2013 and 2014 were higher than the market was expecting. Thus, under this approach, the agency is proposing to issue the same amount of allowances in 2015 as in 2014, instead of allowing the allocation to increase in 2015. EPA would then apply the methodology presented earlier in this section to years 2016 through 2019. EPA is proposing to use the currently modeled average recovery and reuse rate of approximately 50 percent. The resulting allocation schedule would start at 23,100 MT in 2015 and end at 6,200 MT in 2019 before going to zero in 2020, shown as Option 3 in Table 1 of this section. EPA welcomes comment on using the estimation approach to allocate allowances, in addition to comments on model parameters, such as the recovery rates used in the model for each end use and the installed equipment base (see *2013 Servicing Tail Report* and appendices). The agency is especially interested in comment on modeled equipment characteristics, like

[18] The expected recovery rate is approximately 50 percent industry-wide and is listed as the baseline recovery rate in the *2013 Servicing Tail Report* available in the docket.

expected lifetime, charge size and leak rate, since assumptions about equipment characteristics affect the projected servicing needs for each end use.

TABLE 1—PROPOSED OPTIONS FOR HCFC–22 CONSUMPTION ALLOCATION IN 2015–2019

[Metric tons]

HCFC–22 Proposed consumption allocation options	2015	2016	2017	2018	2019	2020
Option 1: Linear drawdown over 5 years	13,700	10,900	8,200	5,500	2,700	0
Option 2: Linear drawdown over 3 years	12,400	8,300	4,100	0	0	0
Option 3: Estimation Approach	23,100	20,900	15,100	11,500	6,200	0

3. Accounting for Existing HCFC–22 Inventory

As stated earlier in this section, EPA did not commit itself to account for existing HCFC–22 inventory when setting the allocations for 2015–2019; however, EPA is proposing to account for existing inventory for two primary reasons. The first is that EPA has heard from stakeholders that industry-wide inventory is still very large. In addition, many feel that the final 2013 and 2014 allocations were higher than the market needs, and will therefore lead to a buildup of additional HCFC–22 stocks going in to 2015. The second reason EPA is proposing to account for existing inventory is based on the agency's fall 2011 market analysis supporting its proposal to reduce allowances, as compared to the 2009 Final Rule (see Adjustment Memo, included in the docket to this rulemaking). That analysis assumed there was a surplus inventory between 22,700 and 45,400 MT at the beginning of 2012. Given expectations about the transition away from HCFCs, as well as the 2015 and 2020 HCFC phaseout milestones, EPA estimated that the complete drawdown could take somewhere between four to eight years. Based on its estimates of existing inventory, EPA proposed and finalized a 6,000 MT reduction in allowances for 2012–2014. Given that a 6,000 MT reduction over 2012–2014 is only 18,000 MT total, the agency believes there still is ample existing supply of HCFC–22. Recent data from stakeholders confirms that the inventory level is above the high end or above EPA's previous estimate. As such, EPA is proposing to account for up to 10,000 MT of inventory each year in 2015–2019 under the estimation approach. EPA is also proposing to make larger annual reductions in the earlier years and smaller annual reductions in the later years under this approach. Such a tapered approach to accounting for existing inventory would be consistent with the recent feedback and comments that EPA has received. Many stakeholders have noted that sending strong market signals early in the control period is fundamental to preparing the market for the complete phaseout of virgin HCFC–22 production and import by 2020.

For this modified estimation approach, as well as the linear drawdown approaches, the agency will consider inventory data in choosing its final allocation methodology and welcomes comment on its approach.

B. How will EPA determine the HCFC–22 production allocation?

Since the start of the HCFC phaseout program in 2003, the agency has determined the HCFC–22 production allocation in one of two ways. Under either method, EPA first determines the aggregate consumption allocation needed and assigns the consumption baseline percentage accordingly. The process for assigning consumption baseline percentages works as follows: First, all the company-specific baselines listed in the tables at 40 CFR 82.19 are added to determine the aggregate consumption baseline. Second, EPA determines how many consumption allowances to allocate for a given year and divides that amount by the aggregate baseline. The resulting percentage listed in the table at section 82.16 becomes what each company is allowed to consume in a given control period. For example, a company with 100,000 kg of HCFC–22 consumption baseline allowances would multiply that number by the percentage allowed in a given year (for example, 25 percent) to determine its calendar-year consumption allowance is 25,000 kg.

In the 2003 Final Rule covering 2003–2009, and again in the 2009 Final Rule covering 2010–2014, EPA allocated the same percentage of baseline allowances for production as it did for consumption. A company with a production baseline at 40 CFR 82.17 would simply multiply its baseline by the percentage listed at 82.16 to determine its calendar-year production allocation. However, in the 2013 Final Rule covering 2012–2014, EPA provided a larger percentage of baseline and more HCFC–22 production allowances than it did for consumption. That is, section 82.16 was amended to include two tables, one listing the baseline percentage for consumption and the other listing the percentage for production. As discussed in the 2013 Final Rule, the reason for this change was to allow United States manufacturers to produce at the same level as under the 2009 Final Rule and continue to compete globally, and to potentially reduce the need for less efficient production abroad (see 78 FR 20020).

For the 2015–2019 regulatory period, EPA is considering two options for the HCFC–22 production allocation: (1) Issue production allowances at the highest allowable level under the Montreal Protocol to continue to allow United States producers to compete globally much like it did in the 2013 Final Rule covering 2012–2014, which is the agency's preferred approach or (2) provide approximately the same number of production allowances as consumption allowances.

1. Allocate the Maximum Production Allocation Allowed Under the Cap

In the 2013 Final Rule, EPA determined that it has the authority to issue calendar-year consumption and production allowances using different percentages of baseline, as long as the agency complies with the overall schedule set by the Montreal Protocol and Congress, as accelerated under section 606. Therefore, the agency has the ability to set baseline percentages such that the aggregate production allocation is larger than the consumption allocation. See the 2013 Final Rule (78 FR 20018) for a discussion of EPA's ability to decouple production and consumption baselines.

As stated in the 2013 Final Rule, EPA believes that allocating more production allowances than consumption allowances cannot lead to an increase in United States consumption, would not

result in a global increase in production or consumption of HCFC–22, but could result in more United States production for export relative to the scenario in which production allowances are at approximately the same level as consumption allowances. This may have economic benefits for the United States and potentially environmental benefits to the extent that production might otherwise occur in plants that lack HFC–23 byproduct destruction technologies. EPA's preferred approach is to allocate more production allowances than consumption allowances, up to the maximum allowed under the Montreal Protocol cap.

Allocating more production allowances than consumption allowances would not provide United States producers the opportunity to produce more HCFCs for domestic consumption than the amount allowed by the consumption allocation. Production of one kilogram of an HCFC still requires both a production allowance and a consumption allowance (82.15(a)(1), (2)). Allocating more production than consumption would provide United States producers the opportunity to continue production for export subject to existing regulatory constraints. A company must submit documentation to verify the export of an HCFC for which consumption allowances were expended in order to request a reimbursement of spent consumption allowances. The agency reviews the documentation and issues a notice to either deny or grant the request. Therefore, a company would not be able to produce more HCFC–22 unless it had exported an equal amount of material and been granted a refund of spent consumption allowances.

As mentioned previously, EPA also believes that allocating more production allowances than consumption allowances could have environmental benefits if United States production displaces production at facilities that do not control byproduct emissions of hydrofluorocarbon (HFC)-23, which has a global warming potential of 14,800.[19] In the 2013 Final Rule, EPA responded to comments that cited the growth of HFC–23 emissions globally and indicated that facilities in Article 5 countries do not control HFC–23 emissions to the same degree as companies operating in the United States. EPA has worked with industry through its HFC–23 Emission Reduction Partnership to encourage companies to reduce HFC–23 byproduct emissions from the manufacture of HCFC–22. Production of HCFC–22 in the United States may provide environmental benefits in reduced HFC–23 emissions to the extent United States production supplants the Article 5 production in those specific plants that do not have HFC–23 byproduct destruction technologies installed. For further discussion of HFC–23 byproduct emissions in Article 5 countries, see the 2013 Final Rule at 78 FR 20021.

EPA also determined in the 2013 Final Rule that allowing United States production to remain at the levels finalized in the 2009 Final Rule would not result in increased global consumption. Providing more production than consumption allowances could allow companies to continue exporting to non-Article 5 countries, which have the same overall Montreal Protocol phaseout schedule as the United States but may not use the United States' chemical-by-chemical approach to phasing out HCFCs. Also, consumption of HCFCs in Article 5 countries was capped starting in 2013, which further limits global HCFC–22 demand (*see* Montreal Protocol Art. 5, para. 8 *ter*.). And finally, at least one company holding production allowances does not produce HCFC–22 in the United States, so it is unlikely that every production allowance issued will be used. EPA is concerned that the alternative approach—issuing production allowances at the same level as consumption, instead of at the maximum level allowed under the cap—could deprive United States manufacturers of existing global business.

Therefore, EPA is proposing to issue the maximum number of HCFC–22 production allowances allowed under the Montreal Protocol cap, after accounting for production allocations of any other HCFCs. Starting in 2015, the United States production cap under the Montreal Protocol is 1,553.7 ODP-weighted MT; when converted entirely to HCFC–22, the production cap is 28,249 MT of HCFC–22. To put the 2015 cap in perspective, EPA issued 41,200 MT of HCFC–22 production allowances in 2013 and 36,000 MT in 2014. Allocating the maximum allowed under the cap would still be a significant decrease from 2013 and 2014 production allocations. EPA is proposing to take the cap of 1,553.7 ODP-weighted MT, subtract the final production allocation for any other HCFCs, and then issue the remaining amount for HCFC–22 production. Under the agency's preferred options for all other production allocations, the resulting HCFC–22 allocation in 2015–2019 would be approximately 28,000 MT, or 21.7% percent of baseline. EPA welcomes comment on this approach.

2. Allocate Approximately the Same Number of Production Allowances as Consumption Allowances

A second option for determining the HCFC–22 production allocation is to issue approximately the same number of production allowances as consumption allowances. Under this approach, the production allocation would be significantly lower than in 2013 and 2014. The highest proposed consumption allocation in this rulemaking is 23,100 MT in 2015, which is close to half as much as the 2013 production allocation and about two-thirds as much as the 2014 production allocation. This approach could result in less United States production for export, with economic disadvantages for the United States and potentially environmental disbenefits to the extent that more production might occur in plants that lack HFC–23 byproduct destruction technologies.

Under this approach, EPA would determine the desired aggregate consumption allocation in each year and set the percentage of consumption baseline accordingly. The percentage of *production* baseline issued would be whatever percentage results in an aggregate production allocation that is approximately equal to the aggregate consumption allocation. EPA welcomes comment on the merits of this option.

C. How will EPA determine the HCFC–142b allocation?

In the 2009 Final Rule for 2010–2014, EPA allocated 100 MT of HCFC–142b consumption allowances for each of those years (74 FR 66412). When EPA re-established HCFC–22 and HCFC–142b baselines in the 2011 Interim Final Rule and 2013 Final Rule, the HCFC–142b consumption allocation remained at 100 MT. However, since the HCFC–142b production baseline was significantly higher than the consumption baseline, and the same percentage of baseline was used for both consumption and production, the production allocation became 463 MT (not including recoupment) in 2011–2014.

As discussed briefly in the *2013 Servicing Tail Report,* the Vintaging Model does not model demand for HCFC–142b uses after 2014. However, several HCFC manufacturers anticipate continued, albeit decreasing, sales of refrigerant blends containing HCFC–142b in 2015 and later. HCFC–142b is predominantly used in refrigerant

[19] GWP of HFC–23 presented in the Intergovernmental Panel on Climate Change (IPCC) Fourth Assessment Report: Climate Change 2007 (AR4).

blends that have historically served as replacements for CFC–12 and R–500 in medium- and large-sized refrigeration equipment. It is important to note that some of these blends containing HCFC–142b, namely R–409A, are in use today but are not modeled in the Vintaging Model; thus, the model is not an accurate reflection of the niche refrigeration needs for HCFC–142b. Given that the agency knows there is some R–409A equipment in use based on refrigerant sales data collected by the California Air Resources Board (see *Preliminary 2011 and 2012 Sales and Distribution Data from the California Air Resources Board's Refrigerant Management Program* in the docket) and industry feedback, the agency is proposing to allocate 35 MT in 2015 with a decrease of 5 MT each year. EPA believes an allocation of 35 MT in 2015 is an appropriate balance between the 2010–2014 allocation of 100 MT, the actual consumption of HCFC–142b in recent years, and the fact that while R–409A is still needed, it is used mainly in CFC retrofitted equipment (i.e., equipment that is at or is nearing its expected retirement). With an annual decrease of 5 MT, the HCFC–142b allocation would be 15 MT in 2019. The agency thinks that a decreasing allocation sends a stronger market signal that production and import of HCFC–142b are ending, as compared to a constant allocation in all five years. Such a signal should help encourage equipment owners to transition to more energy efficient equipment that uses non-ODS refrigerants. EPA will consider issuing up to 100 MT of HCFC–142b consumption allowances, but would need substantial data supporting such an allocation. Specifically, EPA would need to know for which blends, in what quantity and for what end use(s) the HCFC–142b is needed.

EPA is proposing to issue HCFC–142b production allowances at the same level as consumption, not the same percentage of baseline. Given historic exports of HCFC–142b, EPA does not believe the same rationale for allowing production to be higher than consumption applies to HCFC–142b as it applies to HCFC–22. In the 2013 Final Rule, HCFC–142b production was higher than consumption due to the different changes in production and consumption baselines, not due to any concerns about HCFC–142b export (as was the case for HCFC–22 production). The agency would consider issuing up to 100 MT of production, even if the final consumption allocation is lower, if there is documented need for United States-produced HCFC–142b in other non-Article 5 countries. The agency is not proposing to issue any more than 100 MT of HCFC–142b production allowances. EPA requests comments on its proposal, as well as data on current and future needs of HCFC–142b.

D. How will EPA determine the HCFC–123 allocation?

HCFC–123 is currently used as a refrigerant and as a fire suppression agent, which are the two consumptive uses of virgin HCFCs permitted by section 605(a) of the CAA as of January 1, 2015. The agency is proposing to issue consumption allowances to allow import for these two uses. For the 2010–2014 regulatory period, EPA issued approximately 2,500 MT of HCFC–123 consumption allowances each year, which is 125% of the HCFC–123 consumption baseline. EPA has never established a production baseline for HCFC–123, and the agency has no record of domestic production of HCFC–123 for consumptive uses during the baseline years (2005–2007). Section 605(b) of the Clean Air Act restricts production of any class II substance to 100% of baseline levels or less beginning on January 1, 2015. Section 605(c) requires that consumption of class II substances be phased out on the same schedule as production. The agency's reading of 605(b) and 605(c) together is that as of January 1, 2015, EPA may allocate no more than 100 percent of baseline for production or consumption of each class II substance. This milestone is part of the phaseout schedule contained in the CAA. EPA has accelerated the section 605 phaseout schedule under the authority of section 606. Nevertheless, the 2015 milestone in section 605(b) is still relevant because it applies to each class II substance individually. This is in contrast to the basket approach contained in the Montreal Protocol. Under section 614(b), where there is a conflict between Title VI of the CAA and the Montreal Protocol, ''the more stringent provision shall govern.'' With respect to individual substances, section 605 is more stringent. Thus, for the 2015 control period and beyond, EPA may not allocate more than 100 percent of baseline for any class II substance. EPA did determine in the 2013 Final Rule that the percent of production and consumption baseline allocated as calendar-year allowances may be different, but only so long as the phaseout of a substance continues on the same overall schedule presented in the CAA and the Protocol (78 FR 20004). See the 2013 Final Rule and the accompanying Response to Comments for a complete discussion of the agency's authority to decouple production and consumption percentages.

In considering allocation options, EPA has looked at the projected need for virgin HCFC–123 for refrigeration and nonresidential fire suppression uses. EPA's modeled need for each of these uses is presented in the *2013 Servicing Tail Report,* included in the docket to this rulemaking. EPA is taking comment on the remaining refrigerant and fire suppression uses of HCFC–123, how much is needed, and why non-ODS alternatives could not meet this need. Commenters should clarify the quantity of their specific needs, in addition to any broader comments on industry demand for HCFC–123.

Under the current phaseout regulations, beginning in 2015, production and import of HCFC–123 is limited to servicing of existing refrigeration and air conditioning equipment only. EPA is proposing to revise section 82.16(d) to allow production and import of HCFC–123 for fire suppression purposes to complement section 605(a)(4) of the CAA. This exemption would sunset on December 31, 2019 because, as discussed in more detail in Section II.A. of this preamble, beginning in 2020, Article 2F of the Montreal Protocol restricts production and import of HCFCs to servicing of existing refrigeration and air conditioning equipment.[20] Under section 614 of the CAA, where either the Montreal Protocol or the CAA is more stringent, the more stringent provision governs. While virgin HCFCs could continue to be used in fire suppression applications, EPA does not intend to issue consumption allowances for fire suppression after 2019. In addition, beginning in 2020, section 605(a) of the CAA prohibits the use of virgin class II substances in the installation and/or manufacture of new AC and refrigeration systems. Any HCFC–123 consumption allowances issued after 2019 would only allow HCFC–123 import for use as a refrigerant for servicing existing HCFC–123 systems.

EPA's understanding is that much of the HCFC–123 refrigerant in use today is to service and manufacture low pressure chillers, which have relatively long expected lifetimes; the Vintaging Model assumes a 27-year average lifetime, and the United States tax code uses a 39-year depreciation schedule for a category of equipment that includes HCFC–123 chillers (26 U.S.C. 168).

[20] Use of HCFC–123 that was imported prior to 2020, or that is used, recovered and recycled, is still allowed beyond January 1, 2020.

Given the expectation that these chillers will last for well over 20 years, EPA seeks comment on whether it should provide a static amount of HCFC–123 allowances through 2019, or whether it should begin to gradually reduce HCFC–123 allowances now to foster transition. The two proposed options for issuing HCFC–123 consumption allowances are outlined below, though EPA's preferred option is to issue 100 percent of the HCFC–123 baseline. Commenters should explain why they prefer either option in as much detail, and with as much quantitative reasoning, as possible.

1. Allocate 100 Percent of HCFC–123 Consumption Baseline Through 2019

EPA is proposing to issue approximately 2,000 MT of HCFC–123 consumption allowances for each year from 2015–2019, which is the maximum allocation allowed under the CAA because it is equal to 100 percent of the consumption baseline. The agency believes this amount would be sufficient to meet the refrigeration and nonresidential fire suppression needs, even though projected need is 2,200 MT in 2015–2018 and 2,300 MT in 2019. EPA expects 2,000 MT of HCFC–123 allowances will be sufficient to meet modeled need because the Vintaging Model projects that at least 330 MT of HCFC–123 will be available for recovery and reuse in 2015, and even more should be available in later years, mainly because HCFC–123 chillers have high (90 percent) expected recovery rates due to their large charge size. So while this proposed option does not incorporate specific reductions for recovery and reuse, it does assume that some demand for HCFC–123 can be met with recovered material. EPA prefers this approach because (1) the allocation is still below modeled need; (2) HCFC–123 may be produced and imported for use as a refrigerant until 2030; and (3) there are no commercially available alternatives to HCFC–123 in low-pressure chillers as of mid-2013. EPA welcomes comment on its preferred proposal to issue 2,000 MT in each year, and again notes that it cannot issue more than 100 percent of the HCFC–123 baseline.

2. Allocate Less Than 100 Percent of HCFC–123 Consumption Baseline

EPA is proposing in the alternative to issue only enough HCFC–123 allowances to meet anticipated need, after specifically accounting for recovery and reuse. Under this option, EPA would allocate 1,900 MT of consumption allowances in 2015–2017, and 1,400 MT of allowances in 2018 and 2019. The objective of this approach is to foster recovery and reuse, and to recognize that while virgin production of HCFC–123 could occur through 2029, HCFC–123 equipment can only be manufactured through 2019. As shown in Table 4–12 of the *2013 Servicing Tail Report,* the total servicing demand plus the demand for charging new refrigeration and fire suppression equipment is 2,200 MT in 2015–2018 and 2,300 MT in 2019. After subtracting the amount of that total demand that EPA estimates can be met by recovered and reused material, the remaining need that would be met by virgin production is equal to the proposed allocation in each year. For 2015–2017 the proposed allocation is 1,900 MT, dropping to 1,400 MT in 2018 and 2019, as discussed in the *2013 Servicing Tail Report.* The agency is seeking comment on this approach, especially the HCFC–123 need estimates presented in the *2013 Servicing Tail Report,* to what extent need could reasonably be met with recovered material and to what extent commenters believe the HCFC–123 allocation will affect transition to alternatives.

E. How will EPA determine the HCFC–124 allocation?

Though HCFC–124 has both refrigeration and fire suppression applications that are listed as acceptable under the Significant New Alternatives Policy (SNAP) program, its primary use today is in sterilant blends. Beginning January 1, 2015, CAA section 605(a) prohibits the use of virgin HCFCs as sterilants, since sterilant use is not one of the four statutory exceptions. As discussed earlier in section III.B. of this preamble, 605(a) restricts the use of bulk class II substances, not products containing class II substances. However, manufacture of a product is considered ''use'' of a bulk substance and therefore is prohibited beginning January 1, 2015, unless the manufacturer is using recovered and recycled HCFC–124. EPA's understanding is that most of the sterilant industry is on target to transition to non-ODS alternatives prior to January 1, 2015, but welcomes comment on the transition out of HCFC–124 sterilants, particularly the status of sterilant users' transition to alternatives.

While most HCFC–124 use is as a sterilant, there are, in fact, several refrigerant blends with HCFC–124 that are listed as acceptable by the SNAP program. These blends include: R–401A, R–401B, R–409A, R–414A, R–414B and R–416A. Similarly, EPA has also listed as acceptable certain fire suppression alternatives that contain HCFC–124. For total flooding applications, EPA has listed neat HCFC–124 and HCFC Blend A (NAFS–III) as acceptable alternatives to Halon 1301. For streaming applications, the agency has listed neat HCFC–124 and HCFC Blend C (NAF P–III) as acceptable alternatives to Halon 1211. However, the agency is not aware of any HCFC–124 fire suppression uses in the United States.

Given the small projected need for HCFC–124 beyond 2014 and the continued use of certain refrigerant blends containing HCFC–124, the agency is proposing to issue some HCFC–124 allowances in 2015–2019, consistent with the most recent Vintaging Model projections of HCFC–124 servicing need and recent feedback from industry stakeholders. Due to the very small projected need, HCFC–124 is only discussed briefly in the *2013 Servicing Tail Report;* the remainder of the HCFC–124 discussion is included here. The estimated need in the Vintaging Model decreases from 4.5 MT in 2015 to 3.1 MT in 2019, with just over half of the need modeled for use in Industrial Process Refrigeration and the other half for Medium Retail Food. EPA could propose to allocate just 4 MT in each year, but the agency recognizes that the Vintaging Model may not capture all current uses of HCFC–124 refrigeration equipment, as is the case with HCFC–142b equipment. Based on Vintaging Model estimates, along with industry feedback on the needs and uses of HCFC–124, and the use of HCFC–124 allowances in recent years, EPA is proposing to allocate 200 MT of HCFC–124. For reference, the 2010–2014 consumption and production allocations are roughly 3,000 MT and 5,000 MT, respectively, though reported consumption and production has been substantially less in recent years. EPA's goal is to ensure that servicing needs can be met, while also encouraging recovery and reuse or transition to non-ODS refrigerant blends. An allocation of 200 MT supports this goal because it accounts for allowed end uses of HCFC–124 that may not be captured by the Vintaging Model (e.g. use of niche refrigerant blends containing HCFC–124), but also recognizes that the primary use of HCFC–124 will no longer be allowed as of January 1, 2015.

Unlike HCFC–123, companies do have HCFC–124 production baselines and so EPA is proposing to allocate consumption and production at the same level. EPA's preferred approach is to allocate 200 MT of production and consumption allowances to allow for limited manufacture of niche refrigerant blends; however, the agency is proposing in the alternative to issue as

few as 4 MT of HCFC–124 consumption and/or production allowances, consistent with the Vintaging Model projections. This is not EPA's preferred allocation, but the agency is open to comments in support of this lower proposed option if commenters can provide evidence suggesting that the allocation should be as low as 4 MT. Similarly, EPA is also requesting data from commenters in support of allocating up to 400 MT of HCFC–124 allowances and is proposing to issue up to 400 MT if comments and data warrant an increase. The agency seeks comment on the transition or retrofit plans of equipment owners, and for how long they expect to need virgin HCFC–124.

F. How will EPA determine the HCFC–225ca/cb allocation?

According to the *2009 Servicing Tail Report,* more recent updates to EPA's Vintaging Model and conversations with stakeholders, HCFC–225ca and HCFC–225cb are used only as solvents, usually in precision cleaning of electronics, optical equipment or liquid oxygen systems. In the 2009 Final Rule, the agency used HCFC–225ca/cb as an example of the future effects of the section 605(a) use restriction, stating that ''HCFC–225ca and HCFC–225cb are generally used as solvents, but as of January 1, 2015, under section 605(a), HCFCs may not be used as solvents'' (74 FR 66433). This restriction is reflected in the regulations at section 82.15(g). However, as discussed in section III.B, EPA is proposing a limited exemption to allow entities that have HCFC–225ca/cb in their inventory prior to January 1, 2015 to continue to use their HCFC–225ca/cb as a solvent beyond that date.

The proposed exemption would apply only to use of HCFC–225ca/cb as a solvent by persons who hold that HCFC–225ca/cb in their inventory as of January 1, 2015; EPA is not proposing an exemption from the restriction on introduction into interstate commerce of HCFCs for solvent purposes. Accordingly, the agency is not proposing to issue any allowances for the production or consumption of HCFC–225ca/cb. Combined with the continued use of products containing HCFC–225ca/cb, EPA's understanding from stakeholders is that an exemption to the use prohibition to allow for continued use of virgin HCFC–225ca/cb as a solvent by persons with HCFC–225ca/cb in their inventory would be sufficient to meet the anticipated solvent needs for specialized, niche applications that are not able to transition to alternatives prior to 2015. EPA is proposing such an exemption in section III.B.1. of this preamble.

G. What is EPA proposing to do with the HCFC–141b exemption program?

The HCFC–141b exemption program has been in place since the start of the HCFC allowance program in 2003. In the preamble to the 2009 Final Rule, EPA stated that the petition process for HCFC–141b exemption allowances at section 82.16(h) would end in 2015, since HCFC–141b is not used as a refrigerant and thus does not meet the criteria established by section 605(a) for continued use. HCFC–141b similarly is not used as a fire suppression agent. EPA is proposing to revise 40 CFR 82.16, which is the section of subpart A that addresses the phaseout schedule of class II controlled substances. The date limitation on the HCFC–141b petition process can already be seen by comparing section 82.16(b), which lists ''HCFC–141b exemption needs'' as one of the exceptions to the HCFC–141b phaseout, with section 82.16(d), which does not include HCFC–141b exemption needs in the list of exceptions that continue beyond January 1, 2015. However, the HCFC–141b petition process in 82.16(h) does not specify an end date. EPA is proposing to remove the HCFC–141b petition process from the regulations effective January 1, 2015. Removing the text will clarify that EPA will not grant petitions, whether new or existing, for HCFC–141b exemption allowances in 2015 or beyond.

In recent years the amount of HCFC–141b imported or produced has been decreasing significantly. The agency does not anticipate there will be any remaining need for HCFC–141b import or production starting in 2015. Excluding transhipments, heels or used material, the regulations at 40 CFR 82.15(g)(3) limit the use or introduction into interstate commerce of HCFC–141b to export to Article 5 countries and use in transformation or destruction processes, beginning January 1, 2015. Despite the strict limits on HCFC–141b *use* in 82.15(g)(3), EPA appreciates that some current users of HCFC–141b may face a similar situation as users of HCFC–225ca/cb. That is, there may be users with HCFC–141b inventory that will not be allowed to use any remaining HCFC–141b after 2014. The agency has not heard from any HCFC–141b users, and thus does not anticipate the need for any exemption to the use restrictions for HCFC–141b; however, EPA welcomes comment on whether there are remaining niche uses of HCFC–141b. Commenters should explain the use and the quantity of HCFC–141b needed, why alternatives or used HCFC–141b cannot meet this need and the plan for transitioning to alternatives.

H. Other HCFCs That Are Class II Controlled Substances

To date, EPA has not established baselines or issued allowances for the production or import of HCFCs that are not included in the tables at 40 CFR 82.16(a). The prohibitions in 40 CFR 82.15(a) and (b) on production and import without allowances do not apply to such HCFCs. However, the phaseout schedule in 40 CFR 82.16 applies to all class II substances, whether or not they are governed by the allowance system. Similarly, all class II substances are subject to the restrictions on introduction into interstate commerce and use contained in 40 CFR 82.15(g). HCFCs that EPA has listed as class II controlled substances are identified in appendix B to subpart A.

Beginning January 1, 2015, the use of all class II substances is banned, unless specifically exempted (see section III.B. of this preamble for more details). EPA is seeking comment on whether any of the HCFCs not governed by the allowance system qualify for the nonresidential fire suppression and/or refrigeration servicing exemptions and what quantity the market will need going forward for these purposes. Should the need for any of these chemicals grow or potentially put the United States in danger of not meeting its commitments under the Montreal Protocol, EPA would consider establishing baselines and allocating calendar-year allowances via a separate rulemaking.

As mentioned earlier in section III.B. of this preamble, EPA is proposing to amend the list of class II controlled substances in appendix B of subpart A to better match the Clean Air Act section 602 and the Montreal Protocol HCFC lists (found in Group I to Annex C of the Protocol). Currently, both the Protocol and CAA section 602 include all isomers of listed substances, but 40 CFR part 82 subpart A, appendix B does not include all isomers, only those that are specifically named (e.g., HCFC–141b is listed as such, but there are other isomers of HCFC–141 that are not included in appendix B). CAA section 602 states that EPA ''shall publish'' a list of class II substances that shall include the specified HCFCs and ''shall also include the isomers'' of those substances. EPA's intent was to list all isomers in appendix B, as indicated by the footnote explaining that when a range of ODPs is listed for a chemical, the range applies to an isomeric group. The proposed change would correct this

omission. Specifically, EPA is proposing to reconcile the statutory and Montreal Protocol lists with the list in the regulations, and to add a statement that appendix B of the regulations includes all isomers of a listed chemical, even if the isomer itself is not listed on its own.

VI. What other adjustments to the HCFC allocation system is EPA considering?

A. Will EPA consider banning dry-shipped HCFC–22 condensing units?

Condensing units are a type of component in split system air conditioners. Under current regulations, the sale or distribution of a condensing unit pre-charged with HCFC–22 is prohibited (40 CFR 82 subpart I); however, a dry-shipped unit may be sold and used to repair an existing system that uses HCFC–22 as the refrigerant. In February 2011, the Carrier Corporation sent a letter to EPA, asking the agency to ban this particular type of repair. In the proposed rule providing 2012–2014 HCFC–22 allocations (77 FR 237), EPA took comment on whether repairs using dry-shipped condensing units affect the phaseout of HCFC–22. The agency received numerous comments, and responded to them in the 2013 Final Rule (78 FR 20004). While many comments discussed dry-shipped condensing units, very few provided EPA any additional data or information to indicate that repairs using condensing units affect the HCFC phaseout. The agency is again seeking quantifiable information on the number of dry-shipped condensing units being shipped, whether they are being used as a repair in lieu of a compressor or motor replacement, and whether and to what extent condensing unit replacements extend the life of an existing system. The agency continues to assess whether or not dry-shipped units jeopardize the agency's ability to phase out and ensure a smooth transition from HCFC–22. If the agency believes its ability to phase out HCFC–22 smoothly is jeopardized, EPA would consider proposing a ban via a separate rulemaking process.

B. How will EPA respond to requests for additional consumption allowances in 2020 and beyond?

Currently, the regulations at 82.20(a) allow a person to obtain consumption allowances equivalent to the quantity of class II controlled substances that the person exported during the control period, provided that the substances were originally produced or imported with consumption allowances. The exporter must submit certain information to EPA which the agency reviews before issuing a notice either denying the request, or granting the additional consumption allowances. A person may submit this request (known as a Request for Additional Consumption Allowances, or RACA) upon export of any HCFC for which consumption allowances were originally expended, regardless of what control period the production or import took place. As the phaseout deadline approaches for certain HCFCs, the agency believes it makes sense to restrict RACAs accordingly. For example, 1,000 kg of HCFC–22 could be produced in 2019 using consumption and production allowances. In 2020, or some later year, that material could be exported—and under the current regulations the exporter would be eligible to request 1,000 additional HCFC–22 consumption allowances; however, there will not be any consumption allowances for HCFC–22 in 2020 or subsequent years.

The agency believes that issuing additional consumption allowances past the phaseout date for an HCFC—thereby allowing for continued import—would be contrary to the goals of a program that has purposefully set phaseout dates based on a worst-first approach. Continuing to issue RACAs beyond the phaseout date for a substance would also be contrary to past EPA actions for class I substances. For class I substances, the option to obtain consumption allowances equivalent to the level of class I controlled substances that the person exported was available for most class I substances only until January 1, 1996, which was the phaseout date for CFCs and most other class I substances, and until January 1, 2005 for class I group VI substances (i.e. methyl bromide), which was the phaseout date for that substance. Therefore, EPA is proposing to add the following sentence to paragraph 82.20(a): ''Both the export of the class II controlled substance and the request for additional consumption allowances must occur during a calendar year in which consumption allowances were issued for that class II controlled substance.'' EPA welcomes comment on its proposed addition to 82.20, and on its proposal to treat class II RACAs the same as it treated the request for additional consumption allowances for class I substances.

C. How might EPA maximize compliance with HCFC regulations?

EPA is interested in comments and suggestions for ensuring compliance with HCFC regulations. EPA recognizes that the 2015 stepdown and the approaching complete phaseout of HCFC–22 may affect prices, which could have the effect of increasing the incentives for illegal activity, particularly illegal imports of HCFCs or HCFC blends. On the other hand, the agency believes that reduced allocations and market changes increasing the value of the material will encourage proper recovery and decrease motivation to vent HCFCs, especially HCFC–22. EPA seeks comment on how it could alter existing regulations to encourage compliance with the HCFC phaseout requirements and section 608 refrigerant regulations. In addition, the agency is interested in ways it could increase awareness and ensure compliance with the section 605(a) use restrictions and the section 611 labeling requirements that will begin in 2015.

VII. What modifications to Section 608 regulations is EPA proposing?

The portion of the stratospheric ozone regulations titled *Recycling and Emissions Reduction* (40 CFR 82 subpart F) contains requirements promulgated under CAA section 608. The section 608 requirements are intended to: ''Reduce emissions of class I and class II refrigerants and their substitutes to the lowest achievable level,'' by designing standards for the use of ''refrigerants during the service, maintenance, repair, and disposal of appliances'' (40 CFR 82.150). To support this goal, EPA is proposing to update its reclamation standards.

A. Overview of Current Reclamation Standards

Recovered refrigerant often contains contaminants, including air, water, particulates, acids, chlorides, high boiling residues, and other impurities. Reclamation is the re-processing and upgrading of a recovered controlled substance through such mechanisms as filtering, drying, distillation, and chemical treatment in order to restore the substance to a specified standard of performance. EPA regulations at 40 CFR 82.152 define reclaim as ''. . . to reprocess refrigerant to all of the specifications in appendix A to 40 CFR part 82, subpart F (based on ARI Standard 700–1995, *Specification for Fluorocarbons and Other Refrigerants*) that are applicable to that refrigerant and to verify that the refrigerant meets these specifications using the analytical methodology prescribed in Section 5 of appendix A of 40 CFR part 82, subpart F.'' Before a used refrigerant may re-enter the market place, it must be reclaimed to the purity level specified by the regulations, and its purity must be verified (40 CFR 82.154(g)).

B. Benefits of Reclamation

EPA believes that proper recovery, recycling or reclamation, and reuse of HCFC–22 and other ODS refrigerants is an essential component of stratospheric protection. Refrigerant reuse is preferable to venting or destruction. Recovery and reuse reduces emissions of HCFCs to the atmosphere. Reuse also reduces the amount of virgin material that needs to be produced. Section 608 of the CAA prohibits knowingly venting HCFCs due to the adverse effects on stratospheric ozone, and EPA regulations require that HCFCs be recovered during service or disposal of appliances and then be either recycled, reclaimed, or destroyed.

Recovery and reuse is becoming increasingly important as the United States continues its progress in the phaseout of ODS. As discussed earlier in this preamble, in 2015 the United States consumption cap for HCFCs will decrease from 3,810 ODP-weighted metric tons to 1,524 ODP-weighted metric tons (i.e. 10 percent of baseline).

C. Regulatory Changes That EPA Is Proposing Under Section 608 Authority

1. Adoption of AHRI 700–2012 Standards

On July 24, 2003 (68 FR 43786), EPA adopted the requirements of ARI Standard 700–1995 into its regulation as appendix A of 40 CFR part 82 subpart F. EPA has not updated its use of this standard since then. The current version of the ARI (now AHRI) Standard 700 is 700–2012, including addenda added in August 2008 and August 2012 (*AHRI 700C–2008: Appendix C to AHRI Standard 700-Analytical Procedures for AHRI Standard 700–06* and *AHRI 700D–2012: Appendix D Gas Chromatograms for AHRI Standard 700–2012-Informative,* all three of which are included in the docket). Appendix A to subpart F has not kept pace with these revisions. It lacks the most up-to-date listing of refrigerants, purity requirements and changes to analytical methodologies. EPA's intent is for reclaimers to use the most recent AHRI standards as reclamation technology changes, and the agency would like its regulations to reflect the best technical information and industry practices. For that reason EPA is proposing to revise appendix A to reflect the most recent set of AHRI standards, thereby keeping abreast of advances in the reclamation industry. Under this option, EPA would replace Appendix A's current text with the text in AHRI 700–2012 and its appendices. EPA also intends to revise the definition of ''reclaim'' to reflect this update to appendix A.

Alternatively, rather than continue its practice of modifying the language of appendix A to accommodate revisions to AHRI Standard 700 (in this case, to AHRI Standard 700–2012), EPA is proposing to cross-reference AHRI Standard 700–2012 directly, eliminating the need for reproducing the entire standard in appendix A. Such an approach, known as incorporation by reference, allows a Federal agency to comply with the requirement to publish rules in the **Federal Register** by referring to materials already published elsewhere. The legal effect of incorporation by reference is that the material is treated as if it were published in the **Federal Register**. When EPA incorporates material by reference, it references a specific version of the material instead of providing a ''generic'' reference. Here, EPA is proposing to refer specifically to AHRI Standard 700–2012 *Specification for Fluorocarbon Refrigerants* and not to ''AHRI Standard 700'' or ''the most recent version of AHRI Standard 700.'' The proposed regulatory text incorporates by reference AHRI Standard 700–2012 at appendix A to subpart F, and changes the definition of reclaim to the updated standard incorporated by reference at appendix A.

EPA believes incorporating AHRI Standard 700–2012 by reference, and deleting the text in appendix A, has several advantages. AHRI standards are published standards, they are widely known to and used by the persons affected by this regulation, and they are available free of charge at *www.ahrinet.org/standards.aspx.* Referencing the AHRI standard, in lieu of duplicating it in appendix A, would reduce any potential confusion about the relationship between the two sets of requirements. It would also substantially reduce the amount of material published in the **Federal Register** and Code of Federal Regulations. On the other hand, EPA recognizes that there is an advantage to including the requirements of the standard in an appendix to its own regulation, avoiding the need to search for the 2012 version of the technical standard and providing certainty that compliance with appendix A (although possibly outdated) constitutes compliance with EPA regulations. EPA seeks comment on incorporation by reference of a specific version of the AHRI 700 standard, as compared to revising appendix A to reflect a specific version. EPA also seeks comment on whether the definition of ''reclaim'' should contain other aspects that are not reflected in the AHRI standard, or conversely, whether there are aspects of the AHRI standard that are not appropriate to include in the regulatory definition.

2. Notification to EPA if Change in Business, Management, Location or Contact Information

Reclaimer certification does not transfer when there is a change in ownership. Section 40 CFR 82.164(f) requires the new owner of the reclamation company to certify with EPA within thirty days of the change of ownership; however, there are no provisions that a reclamation company must notify EPA of changes in business management, location or contact information. EPA believes that notification of changes in business information would improve accountability and benefit reclaimers in the long run. Without accurate information, EPA may not be able to communicate with a reclaimer in a timely manner, potentially causing unnecessary burden to the reclaimer. For example, if EPA does not receive an annual report from a reclaimer, the agency wants to be able to contact the reclaimer by phone or mail to follow up. If there is no response from the company, EPA sends a certification revocation letter. Prior to revoking a reclaimer certification, EPA would prefer to contact the company to find out what happened to their annual reclaim report. Additionally, as a benefit to the public, the agency wants to ensure that the Web site listing certified reclaimers and their contact information is up-to-date. EPA is seeking comment on its proposal to require notification from the reclaimer when there is a change in business management, location or contact information (i.e., for the refrigerant manager who communicates with EPA).

3. Reporting and Recordkeeping Requirements

EPA's ability to verify whether reclaimers are complying with section 608 regulations is limited. Currently, 40 CFR 82.166(h) requires that reclaimers, on an annual basis, report how much material was received, how much they reclaimed, and the amount of waste product generated as a result of reclamation activities. Under paragraph 82.166(g) refrigerant reclaimers must also maintain records of the names and addresses of persons sending them material for reclamation and the quantity of material (combined mass of refrigerant and contaminant) sent to them for reclamation on a transactional basis. However, the regulations do not

clearly state that information must be broken down by refrigerant type. Some reclaimers do submit information broken down by refrigerant, and EPA typically asks for refrigerant-specific information when it is not provided. This information is used as part of an overall review of refrigerant supply to help ensure the continued smooth transition out of ODS refrigerants. The agency believes it is essential for EPA and the public to have accurate information concerning the amounts of specific types of refrigerants that are available from reclaimers for reuse, and is therefore proposing to clarify the regulations to require disaggregated information for all reclaimed refrigerants as part of the annual reporting. The agency is proposing to revise paragraph 82.166(h) to read: ''Reclaimers must maintain records of the quantity of material (the combined mass of refrigerant and contaminants) sent to them for reclamation, the mass of each refrigerant reclaimed, and the mass of waste products. Reclaimers must report this information to the Administrator annually within 30 days of the end of the calendar year.'' This information is typically maintained by reclaimers and in current practice is either included in the initial report to EPA or transmitted in response to a specific request; therefore the agency does not believe this proposed option increases reporting burden. The agency hopes that this proposed change will clarify what information it needs from reclaimers up front, and will alleviate the need for additional back-and-forth between EPA and reclamation companies that in the past were not submitting refrigerant-specific data, thereby potentially reducing reporting burden.

EPA also believes that in the future it may be beneficial to have an accountability system that tracks refrigerant material at reclaimer facilities on a longer time scale. 40 CFR 82.164(c) mandates that no more than 1.5 percent of total refrigerant reclaimed shall be released during the reclamation process. However, emissions can occur from leaks in tubing, valves and other loss pathways and may not be recorded or tracked. To increase accountability and awareness of any leaks or losses, in the future EPA could require reclaimers to regularly report, by refrigerant type, how much is in inventory, including storage, regardless of when material was received. Based on information available to the agency (Stratus, 2010), EPA believes that reclaimers generally could support these modest changes. EPA believes that inventory information is routinely maintained by reclaimers in the course of normal business activity, and that the burden of reporting it to EPA would be minimal.

EPA is seeking input on future possible reporting and recordkeeping changes that would help minimize emissions and facilitate a smooth transition away from ODS. Commenters should consider what evidence, if any, reclaimers should submit to verify their product is meeting AHRI–700 standards, what format results should be reported in, and whether summary results would be acceptable. EPA is taking comment on the benefits of requiring reporting of testing sample results, and the mechanisms that exist for EPA to validate that samples are representative samples of reclaimer product. Additionally, the agency is seeking information on the various mechanisms for material loss during the reclamation process, and whether the losses can be quantified.

4. Technical and Process Information Required in Reclaimer Certification Application

The reclamation regulations at 40 CFR 82.164(e)(2) include a general requirement to submit ''a list of equipment used to reprocess and analyze the refrigerant.'' This requirement, dating to the May 14, 1993 final rule, titled ''Protection of Stratospheric Ozone; Refrigerant Recyling,'' (58 FR 28660), was included to help EPA ensure that an applicant would own and use equipment that achieves AHRI 700 standards. Given the general language of this requirement, submissions are often incomplete or vague, forcing EPA to request additional information from the applicant. As the reclamation industry has matured, EPA has developed a more precise understanding of technical information, which, if submitted with a certification, would enable the agency to more reliably assess a reclaimer's ability to achieve AHRI standards and minimize emissions.

While EPA is not proposing changes to this requirement in this rulemaking, EPA seeks comment on whether developing a more robust reclaimer certification process that requires more specific information would clarify EPA's expectations for submitted certification information and minimize refrigerant leaks. The agency believes that reclaimers maintain this information as part of good business practice, and that the burden of providing it to EPA as part of a certification application would be small. Specifically, the agency is seeking comment on the importance for EPA to collect the following information and the burden that would be imposed by requiring it to be submitted: (1) Detailed description of technology applied to achieve the applicable AHRI Standard 700 requirements. If home-engineered, the certification would include a schematic. If off-the-shelf, the applicant would provide (1) the make, manufacturer, and serial number; (2) Batch capacity; (3) Types of refrigerant to be reclaimed by reclaimer and standard operating procedures for reclaiming those refrigerants; (4) Information on the instrumentation and methodology that meets AHRI 700 requirements for determination of acidity, determination of moisture, determination of chloride, determination of non-condensable, determination of impurities, including other refrigerants, or, for reclaimers that send refrigerant to an outside lab for analysis, a certified letter from the outside lab identifying the methodology that meets the AHRI 700 standards. In addition, the agency is considering adding a provision to the regulations that clarifies what information is necessary in order for EPA to approve certification. The agency is also considering a new requirement that reclaimers submit a partial recertification if they plan to accept refrigerants that are not addressed in its current certification or if the reclaimer decides to use a different type of reclamation equipment, thereby ensuring the agency can assess whether they have the capability to properly process all refrigerants they receive. EPA welcomes comment on other triggers for requiring recertification, for example, a significant change in the type of reclamation equipment.

5. Expanded End Product Testing Requirements

EPA is interested in potentially expanding the requirements for sampling and testing of reclaimed refrigerant in a future agency rulemaking. Currently, the definition of ''reclaim'' says that reclaimers are required to verify that reclaimed refrigerant meets the AHRI Standard specifications using the analytical methodology in Section 5 of appendix A of subpart F. Section 5 contains requirements for sampling, test methods, and maximum permissible contaminant levels of reclaimed refrigerant. However, the regulations do not specify how often, or on what basis, reclaimers must use the Section 5 methodology. EPA's concern is that it does not have current knowledge on the quality of reclaimer product, and the agency is therefore interested in ways to

verify that reclaimed refrigerant is of acceptable quality. It is possible that some reclaimed refrigerant entering the market does not meet the AHRI standard and is being illegally vented due to the high cost associated with disposition or destruction of the material.

Section 5 of appendix A, as well as AHRI 700–2012, contains test methods but does not specify testing frequency or requirements for reporting test results. EPA is seeking information on what specific criteria end product testing and reporting could be based on in order to help validate that reclaimed product is meeting AHRI 700 standards. Specifically, the agency is interested in: Sampling procedures and specific testing protocols beyond what is currently in section 5; how frequently testing should be required; how a batch of refrigerant would be defined and whether testing should be on a per batch basis, or if multiple tests should be required and on what time frame. Additionally, EPA is interested in how it could ensure product quality, for example, by requiring third party certification for all reclaimers, and the advantages and disadvantages to such an approach. The agency notes that technicians must be certified by a third party in order to service equipment containing ODS, and is interested in how a third party certification for reclaimers could be similar or different.

VIII. Statutory and Executive Order Reviews

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

Under Executive Order (EO) 12866 (58 FR 51735, October 4, 1993), this action is a ''significant regulatory action'' since it raises ''novel legal or policy issues.'' Accordingly, EPA submitted this action to the Office of Management and Budget (OMB) for review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011) and any changes made in response to OMB recommendations have been documented in the docket for this action.

EPA did not conduct a specific analysis of the benefits and costs associated with this action. Many previous analyses provide a wealth of information on the costs and benefits of the United States HCFC phaseout including:

- The 1993 *Addendum to the 1992 Phaseout Regulatory Impact Analysis: Accelerating the Phaseout of CFCs, Halons, Methyl Chloroform, Carbon Tetrachloride, and HCFCs.*
- The 1999 Report *Costs and Benefits of the HCFC Allowance Allocation System.*
- The 2000 Memorandum *Cost/Benefit Comparison of the HCFC Allowance Allocation System.*
- The 2005 Memorandum *Recommended Scenarios for HCFC Phaseout Costs Estimation.*
- The 2006 ICR *Reporting and Recordkeeping Requirements of the HCFC Allowance System.*
- The 2007 Memorandum *Preliminary Estimates of the Incremental Cost of the HCFC Phaseout in Article 5 Countries.*
- The 2007 Memorandum *Revised Ozone and Climate Benefits Associated with the 2010 HCFC Production and Consumption Stepwise Reductions and a Ban on HCFC Pre-charged Imports.*

A memorandum summarizing these analyses is available in the docket.

B. Paperwork Reduction Act

The Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing regulations at 40 CFR part 82, subpart A under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2060–0498. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

However, EPA is proposing modifying the regulations covering recordkeeping and reporting contained in the existing regulations at 40 CFR part 82, subpart F, which were approved by OMB under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* under OMB control number 2060–0256. The two modifications, (1) requiring reclaimers to provide updated contact information and (2) requiring reclaimers to provide the amount of each refrigerant reclaimed in their annual reporting, are already customary business practices and therefore do not affect information collection burden. In both of these cases, EPA is modifying the regulations so they align with current practices.

C. Regulatory Flexibility Act (RFA)

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions. For purposes of assessing the impacts of this rulemaking on small entities, a small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

This action will affect the following categories:

—Industrial Gas Manufacturing entities (NAICS code 325120), including fluorinated hydrocarbon gas manufacturers and reclaimers;
—Other Chemical and Allied Products Merchant Wholesalers (NAICS code 424690), including chemical gases and compressed gases merchant wholesalers;
—Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing entities (NAICS code 333415), including air-conditioning equipment and commercial and industrial refrigeration equipment manufacturers;
—Air-Conditioning Equipment and Supplies Merchant Wholesalers (NAICS code 423730), including air-conditioning (condensing unit, compressors) merchant wholesalers;
—Electrical and Electronic Appliance, Television, and Radio Set Merchant Wholesalers (NAICS code 423620), including air-conditioning (room units) merchant wholesalers;
—Plumbing, Heating, and Air-Conditioning Contractors (NAICS code 238220), including Central air-conditioning system and commercial refrigeration installation, HVACR contractors; and
—Refrigerant reclaimers, manufacturers of recovery/recycling equipment, and refrigerant recovery/recycling equipment testing organizations.

After considering the economic impacts of this proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives ''which minimize any

significant economic impact of the rule on small entities.'' 5 U.S.C. 603 and 604. Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule.

Without allowances for the 2015–2019 regulatory period, existing regulations would prohibit production and import of HCFCs, thus the proposal to issue allowances is not a potential burden to small business. EPA's HCFC Phaseout Benefits and Costs Memo, included in the docket for this rulemaking, provides a summary of previous small business analyses. Also, under section 608 of the CAA and 40 CFR subpart F, EPA is proposing some minor modifications to recordkeeping and reporting provisions; however, these proposed changes are to lessen burden on small reclamation businesses by ensuring that businesses that have already reported do not have to spend additional time responding to follow-up requests from EPA, and so that EPA can reach businesses in a timely manner with any necessary information. We have therefore concluded that this proposed rule will relieve regulatory burden for all affected small entities. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

D. Unfunded Mandates Reform Act

This action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for State, local, or tribal governments or the private sector. UMRA does not apply to rules that are necessary for the national security or the ratification or implementation of international treaty obligations. This proposed rule would implement the 2015 milestone for the phase-out of HCFCs under the Montreal Protocol. Therefore, this action is not subject to the requirements of sections 202 or 205 of the UMRA.

This action is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. This action apportions production and consumption allowances and establishes baselines for private entities, not small governments.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This action is expected to primarily affect producers, importers, and exporters of HCFCs. Thus, Executive Order 13132 does not apply to this action.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposed action from State and local officials.

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

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). This action does not significantly or uniquely affect the communities of Indian tribal governments. It does not impose any enforceable duties on communities of Indian tribal governments. Thus, Executive Order 13175 does not apply to this action. EPA specifically solicits additional comment on this proposed action from tribal officials.

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

This action is not subject to EO 13045 (62 FR 19885, April 23, 1997) because it is not economically significant as defined in EO 12866. The Agency nonetheless has reason to believe that the environmental health or safety risk addressed by this action may have a disproportionate effect on children. Depletion of stratospheric ozone results in greater transmission of the sun's ultraviolet (UV) radiation to the earth's surface. The following studies describe the effects of excessive exposure to UV radiation on children: (1) Westerdahl J, Olsson H, Ingvar C. ''At what age do sunburn episodes play a crucial role for the development of malignant melanoma,'' Eur J Cancer 1994: 30A: 1647–54; (2) Elwood JM Japson J. ''Melanoma and sun exposure: an overview of published studies,'' Int J Cancer 1997; 73:198–203; (3) Armstrong BK, ''Melanoma: childhood or lifelong sun exposure,'' In: Grobb JJ, Stern RS Mackie RM, Weinstock WA, eds. ''Epidemiology, causes and prevention of skin diseases,'' 1st ed. London, England: Blackwell Science, 1997: 63–6; (4) Whiteman D., Green A. ''Melanoma and Sunburn,'' Cancer Causes Control, 1994: 5:564–72; (5) Heenan, PJ. ''Does intermittent sun exposure cause basal cell carcinoma? A case control study in Western Australia,'' Int J Cancer 1995; 60: 489–94; (6) Gallagher, RP, Hill, GB, Bajdik, CD, et. al. ''Sunlight exposure, pigmentary factors, and risk of nonmelanocytic skin cancer I, Basal cell carcinoma,'' Arch Dermatol 1995; 131: 157–63; (7) Armstrong, DK. ''How sun exposure causes skin cancer: an epidemiological perspective,'' Prevention of Skin Cancer. 2004. 89–116.

This action implements the United States' commitment to reduce the total basket of HCFCs produced and imported to a level that is 90 percent below the respective baselines. While on an ODP-weighted basis, this is not as large a step as previous actions, such as the 1996 class I phaseout, it is one of the most significant remaining actions the United States can take to complete the overall phaseout of ODS and further decrease impacts on children's health from stratospheric ozone depletion.

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

This action is not a ''significant energy action'' as defined in Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. This proposed rule would issue allowances for the production and consumption of HCFCs.

I. National Technology Transfer and Advancement Act

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

AHRI Standard 700–2012 *Specification for Fluorocarbons and Other Refrigerants* and its appendices, which is available in the docket for this rulemaking and online at *http://www.ahrinet.org/search+standards.aspx.* This industry standard for refrigerant reclamation is an updated version of the standard contained in the current regulations.

EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially-applicable voluntary consensus standards and to explain why such standards should be used in this regulation.

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

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

EPA has determined that this action will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because the 2015 phaseout step increases the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority or low-income population. This action continues the implementation of the United States commitment to reduce the total basket of HCFCs produced and imported to a level that is 90 percent below the respective baselines. While on an ODP-weighted basis, this is not as large a step as previous actions, such as the 1996 class I phaseout, it is one of the most significant remaining actions the United States can take to complete the overall phaseout of ODS and further lessen the adverse human health effects for the entire population.

List of Subjects in 40 CFR Part 82

Environmental protection, Administrative practice and procedure, Air pollution control, Chemicals, Exports, Hydrochlorofluorocarbons, Imports, Incorporation by reference.

Dated: December 5, 2013.

Gina McCarthy,

Administrator.

40 CFR part 82 is proposed to be amended to read as follows:

PART 82—PROTECTION OF STRATOSPHERIC OZONE

■ 1. The authority citation for part 82 continues to read as follows:

Authority: 42 U.S.C. 7414, 7601, 7671–7671q.

Subpart A—Production and Consumption Controls

■ 2. Amend § 82.3 by adding the definition of ''Use of a class II controlled substance'' to read as follows:

§ 82.3 Definitions for class I and class II controlled substances.

* * * * *

Use of a class II controlled substance, for the purposes of 82.15 of this subpart, includes but is not limited to use in a manufacturing process, use in manufacturing a product, intermediate uses such as formulation or packaging for other subsequent uses, and use in maintaining, servicing, or repairing an appliance or other piece of equipment. Use of a class II controlled substance also includes use of that controlled substance when it is removed from a container used for the transportation or storage of the substance but does not include use of a manufactured product containing a controlled substance.

* * * * *

■ 3. Amend § 82.15 by revising paragraph (g)(4) to read as follows:

§ 82.15 Prohibitions for class II controlled substances.

* * * * *

(g) * * *

(4)(i) Effective January 1, 2015, no person may introduce into interstate commerce or use any class II controlled substance not governed by paragraphs (g)(1) through (3) of this section (unless used, recovered and recycled) for any purpose other than for use in a process resulting in its transformation or its destruction; for use as a refrigerant in equipment manufactured before January 1, 2020; for use as a fire suppression streaming agent listed as acceptable for use or acceptable subject to narrowed use limits for nonresidential applications in accordance with the regulations at subpart G of this part; for export to Article 5 Parties under § 82.18(a); as a transshipment or heel; for exemptions permitted under paragraph (f) of this section; or for exemptions permitted under paragraph (g)(4)(ii) of this section.

(ii) Effective January 1, 2015, use of HCFC–225ca or HCFC–225cb as a solvent (excluding use in manufacturing a product containing HCFC–225ca or HCFC–225cb) is not subject to the use prohibition in paragraph (g)(4)(i) of this section if the person using the HCFC–225ca or HCFC–225cb placed the controlled substance into inventory before January 1, 2015. This paragraph does not create an exemption to the prohibition on introduction into interstate commerce in paragraph (g)(4)(i) of this section.

* * * * *

■ 4. Amend § 82.16 by revising paragraphs (a), (d) and (e) and removing and reserving paragraph (h) to read as follows:

§ 82.16 Phaseout schedule of class II controlled substances.

(a) *Calendar-year Allowances.* (1) In each control period as indicated in the following tables, each person is granted the specified percentage of baseline production allowances and baseline consumption allowances for the specified class II controlled substances apportioned under §§ 82.17 and 82.19:

CALENDAR-YEAR HCFC PRODUCTION ALLOWANCES

Control period	Percent of HCFC–141b	Percent of HCFC–22	Percent of HCFC–142b	Percent of HCFC–123	Percent of HCFC–124	Percent of HCFC–225ca	Percent of HCFC–225cb
2003	0	100	100				
2004	0	100	100				
2005	0	100	100				
2006	0	100	100				
2007	0	100	100				
2008	0	100	100				
2009	0	100	100				

CALENDAR-YEAR HCFC PRODUCTION ALLOWANCES—Continued

Control period	Percent of HCFC–141b	Percent of HCFC–22	Percent of HCFC–142b	Percent of HCFC–123	Percent of HCFC–124	Percent of HCFC–225ca	Percent of HCFC–225cb
2010	0	41.9	0.47	0	125	125	125
2011	0	32.0	4.9	0	125	125	125
2012	0	17.7	4.9	0	125	125	125
2013	0	30.1	4.9	0	125	125	125
2014	0	26.1	4.9	0	125	125	125
2015	0	21.7	0.37	0	5.0	0	0
2016	0	21.7	0.32	0	5.0	0	0
2017	0	21.7	0.26	0	5.0	0	0
2018	0	21.7	0.21	0	5.0	0	0
2019	0	21.7	0.16	0	5.0	0	0

CALENDAR-YEAR HCFC CONSUMPTION ALLOWANCES

Control period	Percent of HCFC–141b	Percent of HCFC–22	Percent of HCFC–142b	Percent of HCFC–123	Percent of HCFC–124	Percent of HCFC–225ca	Percent of HCFC–225cb
2003	0	100	100	.....	.....	.....	.....
2004	0	100	100	.....	.....	.....	.....
2005	0	100	100	.....	.....	.....	.....
2006	0	100	100	.....	.....	.....	.....
2007	0	100	100	.....	.....	.....	.....
2008	0	100	100	.....	.....	.....	.....
2009	0	100	100	.....	.....	.....	.....
2010	0	41.9	0.47	125	125	125	125
2011	0	32.0	4.9	125	125	125	125
2012	0	17.7	4.9	125	125	125	125
2013	0	18.0	4.9	125	125	125	125
2014	0	14.2	4.9	125	125	125	125
2015	0	9.6	1.7	100	8.3	0	0
2016	0	7.7	1.5	100	8.3	0	0
2017	0	5.8	1.2	100	8.3	0	0
2018	0	3.9	1.0	100	8.3	0	0
2019	0	1.9	0.7	100	8.3	0	0

* * * * *

(d) Effective January 1, 2015, no person may produce class II controlled substances not previously controlled for any purpose other than for use in a process resulting in their transformation or their destruction, for use as a refrigerant in equipment manufactured before January 1, 2020, for use as a fire suppression streaming agent listed as acceptable for use or acceptable subject to narrowed use limits for nonresidential applications in accordance with the regulations at subpart G of this part;, for export under § 82.18(b) using unexpended Article 5 allowances, or for export under § 82.18(a) using unexpended export production allowances, or for exemption permitted in § 82.15(f). Effective January 1, 2015, no person may import class II controlled substances not subject to the requirements of paragraph (b) or (c) of this section (other than transhipments, heels or used class II controlled substances) for any purpose other than for use in a process resulting in their transformation or their destruction, for exemption permitted in § 82.15(f), for use as a refrigerant in equipment manufactured prior to January 1, 2020, or for use as a fire suppression streaming agent for nonresidential applications in accordance with the regulations at subpart G of this part.

* * * * *

(e)(1) Effective January 1, 2020, no person may produce HCFC–22 or HCFC–142b for any purpose other than for use in a process resulting in their transformation or their destruction, for export under § 82.18(a) using unexpended Article 5 allowances, or for export under § 82.18(b) using unexpended export production allowances, or for exemptions permitted in § 82.15(f). Effective January 1, 2020, no person may import HCFC–22 or HCFC–142b for any purpose other than for use in a process resulting in their transformation or their destruction, or for exemptions permitted in § 82.15(f).

(2) Effective January 1, 2020, no person may produce HCFC–123 for any purpose other than for use in a process resulting in its transformation or its destruction, for use as a refrigerant in equipment manufactured before January 1, 2020, for export under § 82.18(a) using unexpended Article 5 allowances, or for export under § 82.18(b) using unexpended export production allowances, or for exemptions permitted in § 82.15(f). Effective January 1, 2020, no person may import HCFC–123 for any purpose other than for use in a process resulting in its transformation or its destruction, for use as a refrigerant in equipment manufactured before January 1, 2020 or for exemptions permitted in § 82.15(f).

* * * * *

(h) [Reserved].

■ 5. Amend § 82.17 by revising the table to read as follows:

§ 82.17 Apportionment of baseline production allowances for class II controlled substances.

The following persons are apportioned baseline production allowances for HCFC–22, HCFC–141b, HCFC–142b, HCFC–123, HCFC–124, HCFC–225ca and HCFC–225cb, as set forth in the following table:

Person	Controlled substance	Allowances (kg)
AGC Chemicals Americas	HCFC–225ca	266,608
	HCFC–225cb	373,952
Arkema	HCFC–22	46,692,336
	HCFC–141b	24,647,925
	HCFC–142b	484,369
DuPont	HCFC–22	42,638,049
	HCFC–124	2,269,210
Honeywell	HCFC–22	37,378,252
	HCFC–141b	28,705,200
	HCFC–142b	2,417,534
	HCFC–124	1,759,681
MDA Manufacturing	HCFC–22	2,383,835
Solvay Specialty Polymers USA, LLC	HCFC–142b	6,541,764

■ 6. Amend § 82.19 by revising the table to read as follows:

§ 82.19 Apportionment of baseline consumption allowances for class II controlled substances.

The following persons are apportioned baseline consumption allowances for HCFC–22, HCFC–142b, HCFC–123, HCFC–124, HCFC–225ca and HCFC–225cb, as set forth in the following table:

Person	Controlled substance	Allowances (kg)
ABCO Refrigeration Supply	HCFC–22	279,366
AGC Chemicals Americas	HCFC–225ca	285,328
	HCFC–225cb	286,832
Altair Partners	HCFC–22	302,011
Arkema	HCFC–22	48,637,642
	HCFC–141b	25,405,570
	HCFC–142b	483,827
	HCFC–124	3,719
Carrier	HCFC–22	54,088
Continental Industrial Group	HCFC–141b	20,315
Coolgas, Inc.	HCFC–141b	16,097,869
Combes Investment Property	HCFC–22	1,040,458
	HCFC–123	19,980
	HCFC–124	3,742
Discount Refrigerants	HCFC–141b	994
DuPont	HCFC–22	38,814,862
	HCFC–141b	9,049
	HCFC–142b	52,797
	HCFC–123	1,877,042
	HCFC–124	743,312
H.G. Refrigeration Supply	HCFC–22	40,068
Honeywell	HCFC–22	35,392,492
	HCFC–141b	20,749,489
	HCFC–142b	1,315,819
	HCFC–124	1,284,265
ICC Chemical Corp.	HCFC–141b	81,225
ICOR	HCFC–124	81,220
Mexichem Fluor Inc.	HCFC–22	2,546,305
Kivlan & Company	HCFC–22	2,081,018
MDA Manufacturing	HCFC–22	2,541,545
Mondy Global	HCFC–22	281,824
National Refrigerants	HCFC–22	5,528,316
	HCFC–123	72,600
	HCFC–124	50,380
Perfect Technology Center, LP	HCFC–123	9,100
Refricenter of Miami	HCFC–22	381,293
Refricentro	HCFC–22	45,979
R-Lines	HCFC–22	63,172
Saez Distributors	HCFC–22	37,936
Solvay Fluorides, LLC	HCFC–22	3,781,691
	HCFC–141b	3,940,115
Solvay Specialty Polymers USA, LLC	HCFC–142b	194,536
Tulstar Products	HCFC–141b	89,913
	HCFC–123	34,800
	HCFC–124	229,582
USA Refrigerants	HCFC–22	14,865

■ 7. Amend § 82.20 by revising paragraph (a) introductory text to read as follows:

§ 82.20 Availability of consumption allowances in addition to baseline consumption allowances for class II controlled substances.

(a) A person may obtain at any time during the control period, in accordance with the provisions of this section, consumption allowances equivalent to the quantity of class II controlled substances that the person exported from the United States and its territories to a foreign state in accordance with this section, when that quantity of class II controlled substance was produced in the U.S. or imported into the United States with expended consumption allowances. Both the export of the class II controlled substance and the request for additional consumption allowances must occur during a calendar year in which consumption allowances were issued for that class II controlled substance.

* * * * *

■ 8. Amend appendix B to subpart A by inserting footnote B following footnote A, to read as follows:

APPENDIX B TO SUBPART A OF PART 82—CLASS II CONTROLLED SUBSTANCES [A] [B]

Controlled Substance	ODP
1. HCFC–21 (CHFCl2) Dichlorofluoromethane	0.04
2. HCFC–22 (CHF2Cl) Monochlorodifluoromethane	0.055
3. HCFC–31 (CH2FCl) Monochlorofluoromethane	0.02
4. HCFC–121 (C2HFCl4) Tetrachlorofluoroethane	0.01–0.04
5. HCFC–122 (C2HF2Cl3) Trichlorodifluoroethane	0.02–0.08
6. HCFC–123 (C2HF3Cl2) Dichlorotrifluoroethane	0.02
7. HCFC–124 (C2HF4Cl) Monochlorotetrafluoroethane	0.022
8. HCFC–131 (C2H2FCl3) Trichlorofluoroethane	0.007–0.05
9. HCFC–132 (C2H2F2Cl2) Dichlorodifluoroethane	0.008–0.05
10. HCFC–133 (C2H2F3Cl) Monochlorotrifluoroethane	0.02–0.06
11. HCFC–141 (C2H3FCl2) Dichlorofluoroethane	0.005–0.07
12. HCFC–141b (CH3CFCl2) Dichlorofluoroethane	0.11
13. HCFC–142 (C2H3F2Cl) chlorodifluoroethane	0.008–0.07
14. HCFC–142b (CH3CF2Cl) Monochlorodifluoroethane	0.065
15. HCFC–151 (C2H4FCl) Chlorofluoroethane	0.003–0.005
16. HCFC–221 (C3HFCl6) Hexachlorofluoropropane	0.015–0.07
17. HCFC–222 (C3HF2Cl5) Pentachlorodifluoropropane	0.01–0.09
18. HCFC–223 (C3HF3Cl4) Tetrachlorotrifluoropropane	0.01–0.08
19. HCFC–224 (C3HF4Cl3) Trichlorotetrafluoropropane	0.01–0.09
20. HCFC–225 (C3HF5Cl2) Dichloropentafluoropropane	0.02–0.07
21. HCFC–225ca (CF3CF2CHCl2) Dichloropentafluoropropane	0.025
22. HCFC–225cb (CF2ClCF2CHClF) Dichloropentafluoropropane	0.033
23. HCFC–226 (C3HF6Cl) Monochlorohexafluoropropane	0.02–0.1
24. HCFC–231 (C3H2FCl5) Pentachlorofluoropropane	0.05–0.09
25. HCFC–232 (C3H2F2Cl4) Tetrachlorodifluoropropane	0.008–0.1
26. HCFC–233 (C3H2F3Cl3) Trichlorotrifluoropropane	0.007–0.23
27. HCFC–234 (C3H2F4Cl2) Dichlorotetrafluoropropane	0.01–0.28
28. HCFC–235 (C3H2F5Cl) Monochloropentafluoropropane	0.03–0.52
29. HCFC–241 (C3H3FCl4) Tetrachlorofluoropropane	0.004–0.09
30. HCFC–242 (C3H3F2Cl3) Trichlorodifluoropropane	0.005–0.13
31. HCFC–243 (C3H3F3Cl2) Dichlorotrifluoropropane	0.007–0.12
31. HCFC–244 (C3H3F4Cl) Monochlorotetrafluoropropane	0.009–0.14
33. HCFC–251 (C3H4FCl3) Monochlorotetrafluoropropane	0.001–0.01
34. HCFC–252 (C3H4F2Cl2) Dichlorodifluoropropane	0.005–0.04
35. HCFC–253 (C3H4F3Cl) Monochlorotrifluoropropane	0.003–0.03
36. HCFC–261 (C3H5FCl2) Dichlorofluoropropane	0.002–0.02
37. HCFC–262 (C3H5F2Cl) Monochlorodifluoropropane	0.002–0.02
38. HCFC–271 (C3H6FCl) Monochlorofluoropropane	0.001–0.03

[a] * * *

[b] This table includes all isomers of the substances above, regardless of whether the isomer is explicitly listed on its own.

Subpart E—The Labeling of Products Using Ozone-Depleting Substances

■ 9. Amend § 82.110 by revising paragraph (c) title to read as follows:

§ 82.110 Form of label bearing warning statement.

* * * * *

(c) *Combined statement for multiple controlled substances* * * *

* * * * *

■ 10. Amend § 82.112 by revising paragraph (d) to read as follows:

§ 82.112 Removal of label bearing warning statement.

* * * * *

(d) *Manufacturers, distributors, wholesalers, retailers that sell spare parts manufactured with controlled substances solely for repair* Manufacturers, distributors, wholesalers, and retailers that purchase spare parts manufactured with a class I or class II substance from another manufacturer or supplier, and sell such spare parts for the sole purpose of repair, are not required to pass through an applicable warning label if such products are removed from the original packaging provided by the manufacturer from whom the products are purchased. * * *

* * * * *

■ 11. Amend § 82.122 by revising paragraph (a)(1) to read as follows:

§ 82.122 Certification, recordkeeping, and notice requirements.

(a) * * * (1) Persons claiming the exemption provided in § 82.106(b)(4) must submit a written certification to the following address: Labeling Program Manager, Stratospheric Protection

Division, Office of Atmospheric Programs, 6205–J, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

* * * * *

Subpart F—Recycling and Emissions Reductions

■ 12. Amend § 82.152 by revising the definition ''Reclaim'' to read as follows:

§ 82.152 Definitions.

* * * * *

Reclaim refrigerant means to reprocess refrigerant to all of the specifications in AHRI Standard 700–2012 Specification for Fluorocarbon Refrigerants (incorporated by reference at appendix A to 40 CFR part 82 subpart F) that are applicable to that refrigerant and to verify that the refrigerant meet these specifications using the analytical methodology prescribed therein.

* * * * *

■ 13. Amend § 82.164 by revising paragraph (f) to read as follows:

§ 82.164 Reclaimer certification.

* * * * *

(f) Certificates are not transferrable. In the event of a change in ownership of an entity which reclaims refrigerant, the new owner of the entity shall certify within 30 days of the change of ownership pursuant to this section. In the event of a change in business management, location or contact information, the owner of an entity shall notify EPA within 30 days of the change.

* * * * *

■ 14. Amend § 82.166 by revising paragraph (h) to read as follows:

§ 82.166 Reporting and recordkeeping requirements.

* * * * *

(h) Reclaimers must maintain records of the quantity of material (the combined mass of refrigerant and contaminants) sent to them for reclamation, the mass of each refrigerant reclaimed, and the mass of waste products. Reclaimers must report this information to the Administrator annually within 30 days of the end of the calendar year.

* * * * *

■ 15. Revise all text in appendix A to subpart F of Part 82-Specifications for Fluorocarbon and Other Refrigerants to read as follows:

Appendix A to Subpart F of Part 82—Specifications for Fluorocarbon and Other Refrigerants

AHRI Standard 700–2012: *Specifications for Fluorocarbon Refrigerants* specifies acceptable levels of contaminants (purity requirements) for fluorocarbon refrigerants and lists acceptable test methods. This appendix incorporates by reference AHRI Standard 700–2012: *Specifications for Fluorocarbon Refrigerants* (2012 edition, Air-Conditioning, Heating, and Refrigeration Institute). The entire standard, including Appendices A and B, are made part of the regulations in part 82 subpart F. Accordance with the specifications in AHRI Standard 700–2012 is required by the relevant regulations of this subpart.

The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain a copy from AHRI online at: *http://www.ahrinet.org* or by contacting AHRI by phone: (+1) 703–524–8800 or by fax: (+1) 703–562–1942. You may also obtain a copy in person or by mail at Air-Conditioning, Heating, and Refrigeration Institute (AHRI) 2111 Wilson Blvd., Suite 500 Arlington, VA 22201, USA.

AHRI Standard 700–2012 is also available online at *http://www.regulations.gov/* by searching for docket number: EPA–HQ–OAR–2013–0263. You may also inspect a copy at the United States EPA's Air Docket; EPA West Building, Room 3334; 1301 Constitution Ave. NW., Washington, DC or at the National Archives and Records Administration (NARA). For questions regarding access to these standards, the telephone number of EPA's Air Docket is 202–566–1742. For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

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Part VII

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Parts 216 and 218

Takes of Marine Mammals Incidental to Specified Activities; U.S. Navy Training and Testing Activities in the Hawaii-Southern California Training and Testing Study Area; Final Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 216 and 218

[Docket No. 130107014–3969–02]

RIN 0648–BC52–X

Takes of Marine Mammals Incidental to Specified Activities; U.S. Navy Training and Testing Activities in the Hawaii-Southern California Training and Testing Study Area

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

ACTION: Final rule.

SUMMARY: Upon application from the U.S. Navy (Navy), we (the National Marine Fisheries Service) are issuing regulations under the Marine Mammal Protection Act (MMPA) to govern the unintentional taking of marine mammals incidental to training and testing activities conducted in the Hawaii-Southern California Training and Testing (HSTT) Study Area from December 2013 through December 2018. These regulations allow us to issue Letters of Authorization (LOAs) for the incidental take of marine mammals during the Navy's specified activities and timeframes, set forth the permissible methods of taking, set forth other means of effecting the least practicable adverse impact on marine mammal species or stocks and their habitat, and set forth requirements pertaining to the monitoring and reporting of the incidental take.

DATES: Effective December 24, 2013, through December 24, 2018.

ADDRESSES: To obtain an electronic copy of the Navy's application or other referenced documents, visit the Internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications.* Documents cited in this notice may also be viewed, by appointment, during regular business hours, at 1315 East-West Highway, SSMC III, Silver Spring, MD 20912.

FOR FURTHER INFORMATION CONTACT: Michelle Magliocca, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Availability

A copy of the Navy's application may be obtained by visiting the Internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications.* The Navy's Final Environmental Impact Statement/Overseas Environmental Impact Statement (FEIS/OEIS) for HSTT may be viewed at *http://www.hstteis.com.* Documents cited in this notice may also be viewed, by appointment, during regular business hours, at the aforementioned address (see **ADDRESSES**).

Background

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and regulations are issued. We are required to grant authorization for the incidental taking of marine mammals if we find that the total taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant). We must also set forth the permissible methods of taking and requirements pertaining to the mitigation, monitoring, and reporting of such takings. NMFS has defined negligible impact in 50 CFR 216.103 as ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

The National Defense Authorization Act of 2004 (NDAA) (Pub. L. 108–136) amended section 101(a)(5)(A) of the MMPA by removing the small numbers and specified geographical region provisions and amending the definition of ''harassment'' as it applies to a ''military readiness activity'' to read as follows (section 3(18)(B) of the MMPA): ''(i) Any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild [Level A Harassment]; or (ii) any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or sheltering, to a point where such behavioral patterns are abandoned or significantly altered [Level B Harassment].''

Summary of Request

On April 13, 2012, NMFS received an application from the Navy requesting two LOAs for the take of 39 species of marine mammals incidental to Navy training and testing activities to be conducted in the HSTT Study Area over 5 years. The Navy submitted an addendum on September 24, 2012 and NMFS considered the application complete. The Navy requests authorization to take marine mammals by Level A and Level B harassment and mortality during training and testing activities. The Study Area includes three existing range complexes (Southern California (SOCAL) Range Complex, Hawaii Range Complex (HRC), and Silver Strand Training Complex (SSTC)) plus pierside locations and areas on the high seas where maintenance, training, or testing may occur. These activities are considered military readiness activities. Marine mammals present in the Study Area may be exposed to sound from active sonar, underwater detonations, airguns, and/or pile driving and removal. In addition, incidental takes of marine mammals may occur from ship strikes. The Navy requests authorization to take 39 marine mammal species by Level B harassment and 24 marine mammal species by Level A harassment or mortality.

The Navy's application and the HSTT FEIS/OEIS contain acoustic thresholds that, in some instances, represent changes from what NMFS has used to evaluate the Navy's activities for previous authorizations. The revised thresholds, which the Navy developed in coordination with NMFS, are based on the evaluation and inclusion of new information from recent scientific studies; a detailed explanation of how they were derived is provided in the HSTT FEIS/OEIS Criteria and Thresholds Technical Report (available at *http://www.hstteis.com*). The revised thresholds are adopted for this rulemaking after providing the public with an opportunity for review and comment via the proposed rule for this action, which published on January 31, 2013 (78 FR 6978).

Further, more generally, NMFS is committed to the use of the best available science. NMFS uses an adaptive transparent process that allows for both timely scientific updates and public input into agency decisions regarding the use of acoustic research and thresholds. NMFS is currently in the process of re-evaluating acoustic thresholds based on the best available science, as well as how these thresholds are applied in the application of the MMPA standards for all activity types (not just for Navy activities). This re-evaluation could potentially result in changes to the acoustic thresholds or their application as they apply to future Navy activities. However, it is important to note that while changes in acoustic criteria may affect the enumeration of

''takes,'' they do not necessarily significantly change the evaluation of population level effects or the outcome of the negligible impact analysis. Further, while acoustic criteria may also inform mitigation and monitoring decisions, the Navy has a robust adaptive management program that regularly addresses new information and allows for modification of mitigation and/or monitoring measures as appropriate.

Description of Specified Activities

The proposed rule (78 FR 6978, January 31, 2013) and HSTT FEIS/OEIS include a complete description of the Navy's specified activities that are being authorized in this final rule. Sonar use, underwater detonations, airguns, pile driving and removal, and ship strike are the stressors most likely to result in impacts on marine mammals that could rise to the level of harassment, thus necessitating MMPA authorization. Below we summarize the description of the specified activities.

Overview of Training Activities

Training activities are categorized into eight functional warfare areas (anti-air warfare; amphibious warfare; strike warfare; anti-surface warfare; anti-submarine warfare; electronic warfare; mine warfare; and naval special warfare). The Navy determined that the following stressors used in these warfare areas are most likely to result in impacts on marine mammals:

- Amphibious warfare (underwater detonations, pile driving and removal)
- Anti-surface warfare (underwater detonations)
- Anti-submarine warfare (active sonar, underwater detonations)
- Mine warfare (active sonar, underwater detonations, and marine mammal systems (see description below))
- Naval special warfare (underwater detonations)

The Navy's activities in anti-air warfare, strike warfare, and electronic warfare do not involve stressors that could result in harassment of marine mammals. Therefore, these activities are not discussed further.

Overview of Testing Activities

Testing activities may occur independently of or in conjunction with training activities. Many testing activities are conducted similarly to Navy training activities and are also categorized under one of the primary mission areas. Other testing activities are unique and are described within their specific testing categories. The Navy determined that stressors used during the following testing activities are most likely to result in impacts on marine mammals:

Naval Air Systems Command (NAVAIR) Testing

- Anti-surface warfare testing (underwater detonations)
- Anti-submarine warfare testing (active sonar, underwater detonations)
- Mine warfare testing (active sonar, underwater detonations)
- Naval Sea Systems Command (NAVSEA) Testing
- New ship construction (active sonar, underwater detonations)
- Life cycle activities (active sonar, underwater detonations)
- Anti-surface warfare/anti-submarine warfare testing (active sonar, underwater detonations)
- Mine warfare testing (active sonar, underwater detonations)
- Ship protection systems and swimmer defense testing (active sonar, airguns)
- Unmanned vehicle testing (active sonar)
- Other testing (active sonar)

Space and Naval Warfare Systems Commands (SPAWAR) Testing

- SPAWAR research, development, test, and evaluation (active sonar)

Office of Naval Research (ONR) and Naval Research Laboratory (NRL) Testing

- ONR/NRL research, development, test, and evaluation (active sonar)

Other Navy testing activities do not involve stressors that could result in marine mammal harassment. Therefore, these activities are not discussed further.

Classification of Non-Impulsive and Impulsive Sources Analyzed

In order to better organize and facilitate the analysis of about 300 sources of underwater non-impulsive sound or impulsive energy, the Navy developed a series of source classifications, or source bins. This method of analysis provides the following benefits:

- Allows for new sources to be covered under existing authorizations, as long as those sources fall within the parameters of a ''bin;''
- Simplifies the data collection and reporting requirements anticipated under the MMPA;
- Ensures a conservative approach to all impact analysis because all sources in a single bin are modeled as the loudest source (e.g., lowest frequency, highest source level, longest duty cycle, or largest net explosive weight within that bin);
- Allows analysis to be conducted more efficiently, without compromising the results;
- Provides a framework to support the reallocation of source usage (hours/explosives) between different source bins, as long as the total number and severity of marine mammal takes remain within the overall analyzed and authorized limits. This flexibility is required to support evolving Navy training and testing requirements, which are linked to real world events.

A description of each source classification is provided in Tables 1, 2, and 3. Non-impulsive sources are grouped into bins based on the frequency, source level when warranted, and how the source would be used. Impulsive bins are based on the net explosive weight of the munitions or explosive devices. The following factors further describe how non-impulsive sources are divided:

Frequency of the non-impulsive source:

- Low-frequency sources operate below 1 kilohertz (kHz)
- Mid-frequency sources operate at or above 1 kHz, up to and including 10 kHz
- High-frequency sources operate above 10 kHz, up to and including 100 kHz
- Very high-frequency sources operate above 100 kHz, but below 200 kHz

Source level of the non-impulsive source:

- Greater than 160 decibels (dB), but less than 180 dB
- Equal to 180 dB and up to 200 dB
- Greater than 200 dB

How a sensor is used determines how the sensor's acoustic emissions are analyzed. Factors to consider include pulse length (time source is on); beam pattern (whether sound is emitted as a narrow, focused beam, or, as with most explosives, in all directions); and duty cycle (how often a transmission occurs in a given time period during an event).

There are also non-impulsive sources with characteristics that are not anticipated to result in takes of marine mammals. These sources have low source levels, narrow beam widths, downward directed transmission, short pulse lengths, frequencies beyond known hearing ranges of marine mammals, or some combination of these factors. These sources were not modeled by the Navy, but are qualitatively analyzed in Table 1–4 of the LOA application and the HSTT FEIS/OEIS. In addition, impulsive sources with explosive weights less than 0.1 lb net explosive weight (less than bin E1) were not modeled.

TABLE 1—IMPULSIVE TRAINING AND TESTING SOURCE CLASSES ANALYZED

Source class	Representative munitions	Net explosive weight (lbs)
E1	Medium-caliber projectiles	0.1–0.25 (45.4–113.4 g).
E2	Medium-caliber projectiles	0.26–0.5 (117.9–226.8 g).
E3	Large-caliber projectiles	>0.5–2.5 (>226.8 g–1.1 kg).
E4	Improved Extended Echo Ranging Sonobuoy	>2.5–5.0 (1.1–2.3 kg).
E5	5 in. (12.7 cm) projectiles	>5–10 (>2.3–4.5 kg).
E6	15 lb. (6.8 kg) shaped charge	>10–20 (>4.5–9.1 kg).
E7	40 lb. (18.1 kg) demo block/shaped charge	>20–60 (>9.1–27.2 kg).
E8	250 lb. (113.4 kg) bomb	>60–100 (>27.2–45.4 kg).
E9	500 lb. (226.8 kg) bomb	>100–250 (>45.4–113.4 kg).
E10	1,000 lb. (453.6 kg) bomb	>250–500 (>113.4–226.8 kg).
E11	650 lb. (294.8 kg) mine	>500–650 (>226.8–294.8 kg).
E12	2,000 lb. (907.2 kg) bomb	>650–1,000 (>294.8–453.6 kg).
E13	1,200 lb. (544.3 kg) HBX charge	>1,000–1,740 (>453.6–789.3 kg).

TABLE 2—NON-IMPULSIVE TRAINING SOURCE CLASSES ANALYZED

Source class category	Source class	Description
Mid-Frequency (MF): Tactical and non-tactical sources that produce mid-frequency (1 to 10 kHz) signals.	MF1	Active hull-mounted surface ship sonar (e.g., AN/SQS–53C and AN/SQS–60).
	MF1K	Kingfisher object avoidance mode associated with MF1 sonar.
	MF2	Active hull-mounted surface ship sonar (e.g., AN/SQS–56).
	MF2K	Kingfisher mode associated with MF2 sonar.
	MF3	Active hull-mounted submarine sonar (e.g., AN/BQQ–10).
	MF4	Active helicopter-deployed dipping sonar (e.g., AN/AQS–22 and AN/AQS–13).
	MF5	Active acoustic sonobuoys (e.g., AN/SSQ–62 DICASS).
	MF6	Active underwater sound signal devices (e.g., MK–84).
	MF11	Hull-mounted surface ship sonar with an active duty cycle greater than 80%.
	MF12	High duty cycle—variable depth sonar.
High-Frequency (HF) and Very High-Frequency (VHF): Tactical and non-tactical sources that produce high-frequency (greater than 10 kHz but less than 200 kHz) signals.	HF1	Active hull-mounted submarine sonar (e.g., AN/BQQ–15).
	HF4	Active mine detection, classification, and neutralization sonar (e.g., AN/SQS–20).
Anti-Submarine Warfare (ASW): Tactical sources such as active sonobuoys and acoustic countermeasures systems used during ASW training activities.	ASW1	MF active Deep Water Active Distributed System (DWADS).
	ASW2	MF active Multistatic Active Coherent (MAC) sonobuoy (e.g., AN/SSQ–125).
	ASW3	MF active towed active acoustic countermeasure systems (e.g., AN/SLQ–25 NIXIE).
	ASW4	MF active expendable active acoustic device countermeasures (e.g., MK–3).
Torpedoes (TORP): Source classes associated with active acoustic signals produced by torpedoes.	TORP1	HF active lightweight torpedo sonar (e.g., MK–46, MK–54, or Anti-Torpedo Torpedo).
	TORP2	HF active heavyweight torpedo sonar (e.g., MK–48).

TABLE 3—NON-IMPULSIVE TESTING SOURCE CLASSES ANALYZED

Source class category	Source class	Description
Low-Frequency (LF): Sources that produce low-frequency (less than 1 kilohertz [kHz]) signals [1].	LF4	Low-frequency sources equal to 180 dB and up to 200 dB
	LF5	Low-frequency sources less than 180 dB
	LF6	Low-frequency sonar currently in development (e.g., anti-submarine warfare sonar associated with the Littoral Combat Ship).
Mid-Frequency (MF): Tactical and non-tactical sources that produce mid-frequency (1 to 10 kHz) signals.	MF1	Hull-mounted surface ship sonar (e.g., AN/SQS–53C and AN/SQS–60).
	MF1K	Kingfisher mode associated with MF1 sonar (Sound Navigation and Ranging).
	MF2	Hull-mounted surface ship sonar (e.g., AN/SQS–56).
	MF3	Hull-mounted submarine sonar (e.g., AN/BQQ–10).
	MF4	Helicopter-deployed dipping sonar (e.g., AN/AQS–22 and AN/AQS–13).
	MF5	Active acoustic sonobuoys (e.g., DICASS).
	MF6	Active underwater sound signal devices (e.g., MK–84).

TABLE 3—NON-IMPULSIVE TESTING SOURCE CLASSES ANALYZED—Continued

Source class category	Source class	Description
	MF8	Active sources (greater than 200 dB).
	MF9	Active sources (equal to 180 dB and up to 200 dB).
	MF10	Active sources (greater than 160 dB, but less than 180 dB) not otherwise binned.
	MF12	High duty cycle—variable depth sonar.
High-Frequency (HF) and Very High-Frequency (VHF): Tactical and non-tactical sources that produce high-frequency (greater than 10 kHz but less than 200 kHz) signals	HF1	Hull-mounted submarine sonar (e.g., AN/BQQ–10).
	HF3	Hull-mounted submarine sonar (classified).
	HF4	Mine detection, classification, and neutralization sonar (e.g., AN/SQS–20).
	HF5	Active sources (greater than 200 dB).
	HF6	Active sources (equal to 180 dB and up to 200 dB).
Anti-Submarine Warfare (ASW): Tactical sources such as active sonobuoys and acoustic countermeasures systems used during the conduct of anti-submarine warfare testing activities.	ASW1	Mid-frequency Deep Water Active Distributed System (DWADS).
	ASW2	Mid-frequency Multistatic Active Coherent sonobuoy (e.g., AN/SSQ–125)—sources analyzed by number of items (sonobuoys).
	ASW2	Mid-frequency sonobuoy (e.g., high duty cycle)—Sources that are analyzed by hours.
	ASW3	Mid-frequency towed active acoustic countermeasure systems (e.g., AN/SLQ–25).
	ASW4	Mid-frequency expendable active acoustic device countermeasures (e.g., MK–3).
Torpedoes (TORP): Source classes associated with the active acoustic signals produced by torpedoes.	TORP1	Lightweight torpedo (e.g., MK–46, MK–54, or Surface Ship Defense System).
	TORP2	Heavyweight torpedo (e.g., MK–48).
Acoustic Modems (M): Systems used to transmit data acoustically through water.	M3	Mid-frequency acoustic modems (greater than 190 dB).
Swimmer Detection Sonar (SD): Systems used to detect divers and submerged swimmers.	SD1—SD2	High-frequency sources with short pulse lengths, used for the detection of swimmers and other objects for the purpose of port security.
Airguns (AG): Underwater airguns are used during swimmer defense and diver deterrent training and testing activities.	AG	Up to 60 cubic inch airguns (e.g., Sercel Mini-G).
Synthetic Aperture Sonar (SAS): Sonar in which active acoustic signals are post-processed to form high-resolution images of the seafloor.	SAS1	MF SAS systems.
	SAS2	HF SAS systems.
	SAS3	VHF SAS systems.

[1] This source class category does not include the SURTASS LFA system, which is authorized under a separate rulemaking and EIS/OEIS.

Authorized Action

Training—Table 4 describes the annual number of impulsive source detonations during training activities within the HSTT Study Area, and Table 5 describes the annual number of hours or items of non-impulsive sources used during training within the HSTT Study Area.

TABLE 4—ANNUAL NUMBER OF IMPULSIVE SOURCE DETONATIONS DURING TRAINING IN THE HSTT STUDY AREA

Explosive class	Net explosive weight (NEW)	Annual in-water detonations (training)
E1	(0.1 lb.–0.25 lb.)	19,840
E2	(0.26 lb.–0.5 lb.)	1,044
E3	(>0.5 lb.–2.5 lb.)	3,020
E4	(>2.5 lb.–5 lb.)	668
E5	(>5 lb.–10 lb.)	8,154
E6	(>10 lb.–20 lb.)	538
E7	(>20 lb.–60 lb.)	407
E8	(>60 lb.–100 lb.)	64
E9	(>100 lb.–250 lb.)	16
E10	(>250 lb.–500 lb.)	19
E11	(>500 lb.–650 lb.)	8
E12	(>650 lb.–1,000 lb.)	224
E13	(>1,000 lb.–1,740 lb.)	9

TABLE 5—ANNUAL HOURS AND ITEMS OF NON-IMPULSIVE SOURCES USED DURING TRAINING WITHIN THE HSTT STUDY AREA

Source class category	Source class	Annual Use
Mid-Frequency (MF) Active sources from 1 to 10 kHz	MF1	11,588 hours.
	MF1K	88 hours.
	MF2	3,060 hours.
	MF2K	34 hours.
	MF3	2,336 hours.
	MF4	888 hours.
	MF5	13,718 items.
	MF11	1,120 hours.
	MF12	1,094 hours.
High-Frequency (HF) and Very High-Frequency (VHF) Tactical and non-tactical sources that produce signals greater than 10kHz but less than 200kHz.	HF1	1,754 hours
	HF4	4,848 hours.
Anti-Submarine Warfare (ASW)—Active ASW sources	ASW1	224 hours.
	ASW2	1,800 items.
	ASW3	16,561 hours.
	ASW4	1,540 items.
Torpedoes (TORP)—Active torpedo sonar	TORP1	170 items.
	TORP2	400 items.

Testing—Table 6 describes the annual number of impulsive source detonations during testing activities within the HSTT Study Area, and Table 7 describes the annual number of hours or items of non-impulsive sources used during testing within the HSTT Study Area.

TABLE 6—ANNUAL NUMBER OF IMPULSIVE SOURCE DETONATIONS DURING TESTING ACTIVITIES WITHIN THE HSTT STUDY AREA

Explosive class	Net explosive weight (NEW)	Annual in-water detonations (testing)
E1	(0.1 lb.–0.25 lb.)	14,501
E2	(0.26 lb.–0.5 lb.)	0
E3	(>0.5 lb.–2.5 lb.)	2,990
E4	(>2.5 lb.–5 lb.)	753
E5	(>5 lb.–10 lb.)	202
E6	(>10 lb.–20 lb.)	37
E7	(>20 lb.–60 lb.)	21
E8	(>60 lb.–100 lb.)	12
E9	(>100 lb.–250 lb.)	0
E10	(>250 lb.–500 lb.)	31
E11	(>500 lb.–650 lb.)	14
E12	(>650 lb.–1,000 lb.)	0
E13	(>1,000 lb.–1,740 lb.)	0

TABLE 7—ANNUAL HOURS AND ITEMS OF NON-IMPULSIVE SOURCES USED DURING TESTING WITHIN THE HSTT STUDY AREA

Source class category	Source class	Annual use
Low-Frequency (LF) Sources that produce signals less than 1 kHz [1]	LF4	52 hours.
	LF5	2,160 hours.
	LF6	192 hours.
Mid-Frequency (MF) Tactical and non-tactical sources that produce signals from 1 to 10 kHz	MF1	180 hours.
	MF1K	18 hours.
	MF2	84 hours.
	MF3	392 hours.
	MF4	693 hours.
	MF5	5,024 items.
	MF6	540 items.
	MF8	2 hours.
	MF9	3,039 hours.
	MF10	35 hours.
	MF12	336 hours.
High-Frequency (HF) and Very High-Frequency (VHF): Tactical and non-tactical sources that produce signals greater than 10kHz but less than 200kHz.	HF1	1,025 hours.
	HF3	273 hours.
	HF4	1,336 hours.

TABLE 7—ANNUAL HOURS AND ITEMS OF NON-IMPULSIVE SOURCES USED DURING TESTING—Continued WITHIN THE HSTT STUDY AREA

Source class category	Source class	Annual use
	HF5	1,094 hours.
	HF6	3,460 hours.
Anti-Submarine Warfare (ASW) Tactical sources used during anti-submarine warfare training and testing activities.	ASW1	224 hours.
	ASW2	2,260 items.
	ASW2	255 hours.
	ASW3	1,278 hours.
	ASW4	477 items.
Torpedoes (TORP) Source classes associated with active acoustic signals produced by torpedoes	TORP1	701 items.
	TORP2	732 items.
Acoustic Modems (M) Transmit data acoustically through the water	M3	4,995 hours.
Swimmer Detection Sonar (SD) Used to detect divers and submerged swimmers	SD1	38 hours.
Airguns (AG) Used during swimmer defense and diver deterrent training and testing activities	AG	5 uses.
Synthetic Aperture Sonar (SAS): Sonar in which active acoustic signals are post-processed to form high-resolution images of the seafloor.	SAS1	2,700 hours.
	SAS2	4,956 hours.
	SAS3	3,360 hours.

[1] This source class category does not include the SURTASS LFA system, which is authorized under a separate rulemaking and EIS/OEIS.

Vessels—Representative Navy vessel types, lengths, and speeds used in both training and testing activities are shown in Table 8. While these speeds are representative, some vessels operate outside of these speeds due to unique training, testing, or safety requirements for a given event. Examples include increased speeds needed for flight operations, full speed runs to test engineering equipment, time critical positioning needs, etc. Examples of decreased speeds include speeds less than 5 knots or completely stopped for launching small boats, certain tactical maneuvers, target launch or retrievals, unmanned underwater vehicles, etc.

TABLE 8—TYPICAL NAVY BOAT AND VESSEL TYPES WITH LENGTH GREATER THAN 18 METERS USED WITHIN THE HSTT STUDY AREA

Vessel Type (>18 m)	Example(s) (specifications in meters (m) for length, metric tons (mt) for mass, and knots for speed)	Typical operating speed (knots)
Aircraft Carrier	Aircraft Carrier (CVN) length: 333 m beam: 41 m draft: 12 m displacement: 81,284 mt max. speed: 30+ knots.	10 to 15.
Surface Combatants	Cruiser (CG) length: 173 m beam: 17 m draft: 10 m displacement: 9,754 mt max. speed: 30+ knots.	10 to 15.
	Destroyer (DDG) length: 155 m beam: 18 m draft: 9 m displacement: 9,648 mt max. speed: 30+ knots.	
	Frigate (FFG) length: 136 m beam: 14 m draft: 7 m displacement: 4,166 mt max. speed: 30+ knots.	
	Littoral Combat Ship (LCS) length: 115 m beam: 18 m draft: 4 m displacement: 3,000 mt max. speed: 40+ knots.	
Amphibious Warfare Ships	Amphibious Assault Ship (LHA, LHD) length: 253 m beam: 32 m draft: 8 m displacement: 42,442 mt max. speed: 20+ knots.	10 to 15.
	Amphibious Transport Dock (LPD) length: 208 m beam: 32 m draft: 7 m displacement: 25,997 mt max. speed: 20+ knots.	
	Dock Landing Ship (LSD) length: 186 m beam: 26 m draft: 6 m displacement: 16,976 mt max. speed: 20+ knots.	
Mine Warship Ship	Mine Countermeasures Ship (MCM) length: 68 m beam: 12 m draft: 4 m displacement: 1,333 max. speed: 14 knots.	5 to 8.
Submarines	Attack Submarine (SSN) length: 115 m beam: 12 m draft: 9 m displacement: 12,353 mt max. speed: 20+ knots.	8 to 13.
	Guided Missile Submarine (SSGN) length: 171 m beam: 13 m draft: 12 m displacement: 19,000 mt max. speed: 20+ knots.	
Combat Logistics Force Ships *	Fast Combat Support Ship (T–AOE) length: 230 m beam: 33 m draft: 12 m displacement: 49,583 max. speed: 25 knots.	8 to 12.
	Dry Cargo/Ammunition Ship (T–AKE) length: 210 m beam: 32 m draft: 9 m displacement: 41,658 mt max speed: 20 knots.	
Fleet Replenishment Oilers (T–AO) length: 206 m beam: 30 m draft: 11 displacement: 42,674 mt max. speed: 20 knots		
	Fleet Ocean Tugs (T–ATF) length: 69 m beam: 13 m draft: 5 m displacement: 2,297 max. speed: 14 knots.	
Support Craft/Other	Landing Craft, Utility (LCU) length: 41m beam: 9 m draft: 2 m displacement: 381 mt max. speed: 11 knots.	3 to 5.
	Landing Craft, Mechanized (LCM) length: 23 m beam: 6 m draft: 1 m displacement: 107 mt max. speed: 11 knots.	

TABLE 8—TYPICAL NAVY BOAT AND VESSEL TYPES WITH LENGTH GREATER THAN 18 METERS—Continued USED WITHIN THE HSTT STUDY AREA

Vessel Type (>18 m)	Example(s) (specifications in meters (m) for length, metric tons (mt) for mass, and knots for speed)	Typical operating speed (knots)
Support Craft/Other Specialized High Speed.	MK V Special Operations Craft length: 25 m beam: 5 m displacement: 52 mt max. speed: 50 knots.	Variable.

*CLF vessels are not homeported in Pearl Harbor or San Diego, but are frequently used for various fleet support and training support events in the HSTT Study Area.

Duration and Location

The description of the location of authorized activities has not changed from what was provided in the proposed rule and HSTT FEIS/OEIS (78 FR 6978, January 31, 2013; pages 6987–6988; *http://www.hstteis.com*). For a complete description, please see those documents. Training and testing activities will be conducted in the HSTT Study Area from December 2013 through December 2018. The Study Area includes three existing range complexes: the Hawaii Range Complex (HRC), the Southern California (SOCAL) Range Complex, and the Silver Strand Training Complex (SSTC). Each range complex is an organized and designated set of specifically bounded geographic areas, which includes a water component (above and below the surface), airspace, and sometimes a land component. Operating areas (OPAREAs) and special use airspace are established within each range complex. In addition to Navy range complexes, the Study Area includes other areas where training and testing activities occur, including pierside locations in San Diego Bay and Pearl Harbor, the transit corridor between SOCAL and Hawaii, and throughout the San Diego Bay. The majority of active sonar activities occur in SOCAL and the HRC, while the SSTC is used primarily for explosive activities and pile driving. However, hull mounted mid-frequency active sonar during Major Training Events (MTEs) is not typically used in the San Diego Arc area or in areas of high humpback whale density around Hawaii (with the exception of water adjacent to the Pacific Missile Range Facility). Much less sonar activity and no explosive activities are conducted within the transit corridors.

Description of Marine Mammals in the Area of the Specified Activities

Thirty-nine marine mammal species are known to occur in the Study Area, including seven mysticetes (baleen whales), 25 odontocetes (dolphins and toothed whales), six pinnipeds (seals and sea lions), and the Southern sea otter. Among these species, there are 72 stocks managed by NMFS or the U.S. Fish and Wildlife Service (USFWS) in the U.S. Exclusive Economic Zone (EEZ). To address a public comment on population structure, and consistent with NMFS most recent Pacific Stock Assessment Report, a single species may include multiple stocks recognized for management purposes (e.g., spinner dolphin), while other species are grouped into a single stock due to limited species-specific information (e.g., beaked whales belonging to the genus *Mesoplodon*). However, when there is sufficient information available, the Navy's take estimates and NMFS' negligible impact determination are based on stock-specific numbers. Eight of the 39 marine mammal species are endangered and one of the 39 marine mammal species are threatened under the Endangered Species Act of 1978 (ESA; 16 U.S.C. 1531 *et seq.*).

The Description of Marine Mammals in the Area of the Specified Activities section has not changed from what was in the proposed rule (78 FR 6978, January 31, 2013; pages 6988–6994). Table 9 of the proposed rule provided a list of marine mammals with possible or confirmed occurrence within the HSTT Study Area, including stock, abundance, and status. Since publishing the proposed rule, NMFS released new stock assessment reports for some of the marine mammal species occurring within the HSTT Study Area. The new species abundance estimates were considered in making our final determinations. Table 3.4–1 of the HSTT FEIS/OEIS includes a table with the revised species abundance estimates. Although not repeated in this final rule, we have reviewed these data, determined them to be the best available scientific information for the purposes of the rulemaking, and consider this information part of the administrative record for this action.

The proposed rule (78 FR 6978, January 31, 2013; pages 6994–6995), the Navy's LOA application and the HSTT FEIS/OEIS include a complete description of information on the status, distribution, abundance, vocalizations, density estimates, and general biology of marine mammal species.

Potential Effects of Specified Activities on Marine Mammals

For the purpose of MMPA authorizations, NMFS' effects assessments serve five primary purposes: (1) To prescribe the permissible methods of taking (i.e., Level B harassment (behavioral harassment), Level A harassment (injury), or mortality, including an identification of the number and types of take that could occur by harassment or mortality), (2) to prescribe other means of effecting the least practicable adverse impact on such species or stock and its habitat (i.e., mitigation); (3) to determine whether the specified activity would have a negligible impact on the affected species or stocks of marine mammals (based on the likelihood that the activity would adversely affect the species or stock through effects on annual rates of recruitment or survival); (4) to determine whether the specified activity would have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses; and (5) to prescribe requirements pertaining to monitoring and reporting.

In the Potential Effects of Specified Activities on Marine Mammals section of the proposed rule, we included a qualitative discussion of the different ways that Navy training and testing activities may potentially affect marine mammals without consideration of mitigation and monitoring measures (78 FR 6978, January 31, 2013; pages 6997–7011). Marine mammals may experience direct physiological effects (e.g., threshold shift and non-acoustic injury), acoustic masking, impaired communication, stress responses, behavioral disturbance, stranding, behavioral responses from vessel movement, and injury or death from vessel collisions. NMFS made no changes to the information contained in that section of the proposed rule, and it adopts that discussion for purposes of this final rule.

NMFS is constantly evaluating new science and how to best incorporate it into our decisions. This process involves careful consideration of new data and how it is best interpreted

within the context of a given management framework. Since publication of the proposed rule, a few studies have been published regarding behavioral responses that are relevant to the proposed activities and energy sources: Moore and Barlow, 2013; DeRuiter *et al.,* 2013; and Goldbogen *et al.,* 2013, among others. These articles are specifically addressed in the Comments and Responses section of this document. Each of these articles emphasizes the importance of context (e.g., behavioral state of the animals, distance from the sound source, etc.) in evaluating behavioral responses of marine mammals to acoustic sources. In addition, New *et al.,* 2013, Houser *et al.,* 2013, and Claridge, 2013 were recently published.

New *et al.* uses energetic models to investigate the survival and reproduction of beaked whales. The model suggests that impacts to habitat quality may affect adult female beaked whales' ability to reproduce; and therefore, a reduction in energy intake over a long period of time may have the potential to impact reproduction. However, the SOCAL Range Complex continues to support high densities of beaked whales and there is no data to suggest a decline in this population.

Houser *et al.* performed a controlled exposure study involving California sea lions exposed to a simulated mid-frequency sonar signal. The purpose of this Navy-sponsored study was to determine the probability and magnitude of behavioral responses by California sea lions exposed to differing intensities of simulated mid-frequency sonar signals. Houser *et al.'s* findings are consistent with current scientific studies and criteria development concerning marine mammal reactions to mid-frequency sonar sounds.

Claridge published her Ph.D. thesis, which investigated the potential effects exposure to mid-frequency active sonar could have on beaked whale demographics. In summary, Claridge suggested that lower reproductive rates observed at the Navy's Atlantic Undersea Test and Evaluation Center (AUTEC), when compared to a control site, were due to stressors associated with frequent and repeated use of Navy sonar. However, the author noted that there may be other unknown differences between the sites. It is also important to note that there were some relevant shortcomings of this study. For example, all of the re-sighted whales during the 5-year study at both sites were female, which Claridge acknowledged can lead to a negative bias in the abundance estimation. There was also a reduced effort and shorter overall study period at the AUTEC site that failed to capture some of the emigration/immigration trends identified at the control site. Furthermore, Claridge assumed that the two sites were identical and therefore should have equal potential abundances; when in reality, there were notable physical differences. All of the aforementioned studies were considered in NMFS' determination to issue regulations and associated LOAs to the Navy for their proposed activities in the HSTT Study Area.

Also, since the publication of the proposed rule, the Independent Scientific Review Panel investigating potential contributing factors to a 2008 mass stranding of melon-headed whales (*Peponocephala electra*) in Antsohihy, Madagascar released its final report. This report suggests that the operation of a commercial high-powered 12 kHz multi-beam echosounder during an industry seismic survey was a plausible and likely initial trigger that caused a large group of melon-headed whales to leave their typical habitat and then ultimately strand as a result of secondary factors such as malnourishment and dehydration. The report indicates that the risk of this particular convergence of factors and ultimate outcome is likely very low, but recommends that the potential be considered in environmental planning. Because of the association between tactical mid-frequency active sonar use and a small number of marine mammal strandings, the Navy and NMFS have been considering and addressing the potential for strandings in association with Navy activities for years. In addition to a suite of mitigation intended to more broadly minimize impacts to marine mammals, the Navy and NMFS have a detailed Stranding Response Plan that outlines reporting, communication, and response protocols intended both to minimize the impacts of, and enhance the analysis of, any potential stranding in areas where the Navy operates.

Mitigation

In order to issue regulations and LOAs under section 101(a)(5)(A) of the MMPA, NMFS must set forth the ''permissible methods of taking pursuant to such activity, and other means of effecting the least practicable adverse impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.'' NMFS' duty under this ''least practicable adverse impact'' standard is to prescribe mitigation reasonably designed to minimize, to the extent practicable, any adverse population-level impacts, as well as habitat impacts. While population-level impacts can be minimized only by reducing impacts on individual marine mammals, not all takes translate to population-level impacts. NMFS' objective under the ''least practicable adverse impact'' standard is to design mitigation targeting those impacts on individual marine mammals that are most likely to lead to adverse population-level effects.

The NDAA of 2004 amended the MMPA as it relates to military readiness activities and the Incidental Take Authorization (ITA) process such that ''least practicable adverse impact'' shall include consideration of personnel safety, practicality of implementation, and impact on the effectiveness of the ''military readiness activity.'' The training and testing activities described in the Navy's LOA application are considered military readiness activities.

NMFS reviewed the proposed activities and the suite of proposed mitigation measures as described in the Navy's LOA application to determine if they would result in the least practicable adverse effect on marine mammal species and stocks and their habitat, which includes a careful balancing of the degree to which the mitigation measures are expected to reduce the likelihood and/or magnitude of adverse impacts to marine mammal species or stocks and their habitat with the likely effect of the measures on personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity. Included below are the mitigation measures the Navy proposed in their LOA application.

NMFS described the Navy's proposed mitigation measures in detail in the proposed rule (78 FR 6978, January 31, 2013; pages 7011–7017), and they have not changed. NMFS worked with the Navy in the development of the Navy's initially proposed measures, and they are informed by years of experience and monitoring. As described in the mitigation conclusions below and in responses to comments, and in the HSTT EIS, additional measures were considered and analyzed, but ultimately not chosen for implementation. However, the Navy's low use of mid-frequency active sonar in certain areas of particular importance to marine mammals has been clarified in the Comments and Responses section of this document. Below are the mitigation measures as agreed upon by the Navy and NMFS.

- At least one Lookout during training and testing activities;

• Mitigation zones during impulse and non-impulsive sources to avoid or reduce the potential for onset of the lowest level of injury, PTS, out to the predicted maximum range (Tables 11 and 12);

• Mitigation zones of 500 yards (yd) (457 meters(m)) for whales and 200 yd (183 m) for all other marine mammals (except bow riding dolphins) during vessel movement;

• A mitigation zone of 250 yd (229 m) for marine mammals during use of towed in-water devices being towed from manned platforms;

• A mitigation zone of 200 yd (183 m) around the intended impact location during non-explosive gunnery exercises (all calibers) and small and medium caliber explosive gunnery exercises;

• A mitigation zone of 600 yd (549 m) around the intended impact location during large caliber explosive gunnery exercises;

• A mitigation zone of 1,000 yd (914 m) around the intended impact location during non-explosive bombing exercises;

• A mitigation zone of 1.5 miles (mi) (2.3 kilometers (km)) for explosive bombing exercises;

• Standard operating procedures to limit the low risk of disease transmission during Navy Marine Mammal Program operations; and

• Humpback whale cautionary area requiring high-level clearance if training or testing use of mid-frequency active sonar is necessary between December 15 and April 15.

TABLE 11—PREDICTED RANGES TO TTS, PTS, AND RECOMMENDED MITIGATION ZONES

Activity category	Bin (representative source) *	Predicted average (longest) range to TTS	Predicted average (longest) range to PTS	Predicted maximum range to PTS	Recommended mitigation zone
Non-Impulsive Sound					
Low-Frequency and Hull-Mounted Mid-Frequency Active Sonar [1].	MF1 (SQS–53 ASW hull-mounted sonar).	3,821 yd (3.5 km) for one ping.	100 yd (91 m) for one ping.	N/A	6 dB power down at 1,000 yd. (914 m); 4 dB power down at 500 yd. (457 m); and shutdown at 200 yd. (183 m).
High-Frequency and Non-Hull Mounted Mid-Frequency Active Sonar.	MF4 (AQS–22 ASW dipping sonar).	230 yd (210 m) for one ping.	20 yd (18 m) for one ping.	N/A	200 yd. (183 m).
Explosive and Impulsive Sound					
Improved Extended Echo Ranging Sonobuoys.	E4 (Explosive sonobuoy).	434 yd (397 m)	156 yd (143 m)	563 yd (515 m)	600 yd (549 m).
Explosive Sonobuoys using 0.5–2.25 lb. NEW.	E3 (Explosive sonobuoy).	290 yd (265 m)	113 yd (103 m)	309 yd (283 m)	350 yd (320 m).
Anti-Swimmer Grenades.	E2 (Up to 0.5 lb. NEW).	190 yd (174 m)	83 yd (76 m)	182 yd (167 m)	200 yd (183 m).
Mine Countermeasure and Neutralization Activities Using Positive Control Firing Devices.	NEW dependent (see Table 12)				
Mine Neutralization Diver-Placed Mines Using Time-Delay Firing Devices.	E7 (29 lb. NEW only)	846 yd (774 m)	286 yd (262 m)	541 yd (495 m)	1,000 yd (915 m).
Gunnery Exercises—Small-and Medium-Caliber (Surface Target).	E2 (40 mm projectile)	190 yd (174 m)	83 yd (76 m)	182 yd (167 m)	200 yd (183 m).
Gunnery Exercises—Large-Caliber (Surface Target).	E5 (5 in. projectiles at the surface ***).	453 yd (414 m)	186 yd (170 m)	526 yd (481 m)	600 yd (549 m).
Missile Exercises up to 250 lb. NEW (Surface Target).	E9 (Maverick missile)	949 yd (868 m)	398 yd (364 m)	699 yd (639 m)	900 yd (823 m).
Missile Exercises up to 500 lb. NEW (Surface Target).	E10 (Harpoon missile).	1,832 yd (1.7 km)	731 yd (668 m)	1,883 yd (1.7 k m)	2,000 yd (1.8 km).
Bombing Exercises	E12 (MK–84 2,000 lb. bomb).	2,513 yd (2.3 km)	991 yd (906 m)	2,474 yd (2.3 km)	2,500 yd (2.3 km).**
Torpedo (Explosive) Testing.	E11 (MK–48 torpedo)	1,632 yd (1.5 km)	697 yd (637 m)	2,021 yd (1.8 km)	2,100 yd (1.9 km).
Sinking Exercises	E12 (Various sources up to the MK–84 2,000 lb. bomb).	2,513 yd (2.3 km)	991 yd (906 m)	2,474 yd (2.3 km)	2.5 nm.

TABLE 11—PREDICTED RANGES TO TTS, PTS, AND RECOMMENDED MITIGATION ZONES—Continued

Activity category	Bin (representative source) *	Predicted average (longest) range to TTS	Predicted average (longest) range to PTS	Predicted maximum range to PTS	Recommended mitigation zone
At-Sea Explosive Testing.	E5 (Various sources less than 10 lb. NEW at various depths ***).	525 yd (480 m)	204 yd (187 m)	649 yd (593 m)	1,600 yd (1.4 km).**
Elevated Causeway System—Pile Driving.	24 in. steel impact hammer.	1,094 yd (1 k m)	51 yd (46 m)	51 yd (46 m)	60 yd (55 m).

Note: The predicted average and maximum ranges have been updated for bins MF1 and MF4 since the proposed rules. These distances are consistent with the HSTT FEIS and do not change the recommended mitigation zones. ASW: anti-submarine warfare; NEW: net explosive weight; PTS: permanent threshold shift; TTS: temporary threshold shift.

[1] The mitigation zone would be 200 yd for sources not able to be powered down (e.g., LF4 and LF5).

* This table does not provide an inclusive list of source bins; bins presented here represent the source bin with the largest range to effects within the given activity category.

** Recommended mitigation zones are larger than the modeled injury zones to account for multiple types of sources or charges being used.

*** The representative source bin E5 has different range to effects depending on the depth of activity occurrence (at the surface or at various depths).

TABLE 12—PREDICTED RANGES TO EFFECTS AND MITIGATION ZONE RADIUS FOR MINE COUNTERMEASURE AND NEUTRALIZATION ACTIVITIES USING POSITIVE CONTROL FIRING DEVICES

Charge size	General mine countermeasure and				Mine countermeasure and neutralization			
Net explosive weight (bins)	Neutralization activities using positive control firing devices *				Activities using diver placed charges under positive control**			
	Predicted average range to TTS	Predicted average range to PTS	Predicted maximum range to PTS	Recommended mitigation zone	Predicted average range to TTS	Predicted average range to PTS	Predicted maximum range to PTS	Recommended mitigation zone
2.6–5 lb (1.2–2.3 kg) (E4).	434 yd (397 m)	197 yd (180 m)	563 yd (515 m)	600 yd (549 m)	545 yd (498 m)	169 yd (155 m)	301 yd (275 m)	350 yd. (320 m).
6–10 lb (2.7–4.5 kg) (E5).	525 yd (480 m)	204 yd (187 m)	649 yd (593 m)	800 yd (732 m)	587 yd (537 m)	203 yd (185 m)	464 yd (424 m)	500 yd. (457 m).
11–20 lb (5–9.1 kg) (E6).	766 yd (700 m)	288 yd (263 m)	648 yd (593 m)	800 yd (732 m)	647 yd (592 m)	232 yd (212 m)	469 yd (429 m)	500 yd. (457 m).
21–60 lb (9.5–27.2 kg) (E7) ***.	1,670 yd (1.5 km)	581 yd (531 m)	964 yd (882 m)	1,200 yd. (1.1 km)	1,532 yd (1.4 km)	473 yd (432 m)	789 yd (721 m)	800 yd. (732 m).
61–100 lb (27.7–45.4 kg) (E8) ****.	878 yd (802 m)	383 yd (351 m)	996 yd (911 m)	1,600 yd. (1.4 m)	969 yd (886 m)	438 yd (400 m)	850 yd (777 m)	850 yd. (777 m).
250–500 lb (113.4–226.8 kg) (E10).	1,832 yd (1,675 m)	731 yd (668 m)	1,883 yd (1,721 m)	2,000 yd. (1.8 km)	.....	.....	.....	700 yd (640 m).*****
501–650 lb (227.3–294.8) (E11).	1,632 yd (1,492 m)	697 yd (637 m)	2,021 yd (1,848 m)	2,100 yd. (1.9 km)	.....	.....	.....	* N/A.

PTS: permanent threshold shift; TTS: temporary threshold shift.

* These mitigation zones are applicable to all mine countermeasure and neutralization activities conducted in all locations that Tables 2.8–1 through 2.8–5 in the HSTT FEIS/OEIS specifies.

** These mitigation zones are only applicable to mine countermeasure and neutralization activities involving the use of diver placed charges. These activities are conducted in shallow-water and the mitigation zones are based only on the functional hearing groups with species that occur in these areas (mid-frequency cetaceans and sea turtles).

*** The E7 bin was only modeled in shallow-water locations so there is no difference for the diver placed charges category.

**** The E8 bin was only modeled for surface explosions, so some of the ranges are shorter than for sources modeled in the E7 bin which occur at depth.

***** The mitigation zone for the E10 charge applies only to very shallow water detonations and is based on empirical data as described in section 5.3.2.1.2.4 of the HSTT FEIS/OEIS (Mine Countermeasure and Neutralization Activities Using Positive Control Firing Devices).

Time-Delay Firing Devices

When mine neutralization activities using diver placed charges (up to a 29 lb NEW) are conducted with a time-delay firing device, the detonation is fused with a specified time-delay by the personnel conducting the activity and is not authorized until the area is clear at the time the fuse is initiated. During these activities, the detonation cannot be terminated once the fuse is initiated due to human safety concerns. During activities using up to a 29 lb NEW (bin E7) detonation, the Navy will have four Lookouts and two small rigid hull inflatable boats (two Lookouts positioned in each of the two boats) monitoring a 1,000-yd (915-m) mitigation zone. In addition, when aircraft are used, the pilot or member of the aircrew will serve as an additional Lookout. The Navy will monitor the mitigation zone for 30 minutes before, during, and 30 minutes after the activity to ensure that the area is clear of marine mammals and time-delay firing device events will only be conducted during daylight hours.

Vessel Strike

Naval vessels will maneuver to keep at least 500 yd (457 m) away from any observed whale in the vessel's path and avoid approaching whales head-on. These requirements do not apply if a vessel's safety is threatened, such as

when change of course will create an imminent and serious threat to a person, vessel, or aircraft, and to the extent vessels are restricted in their ability to maneuver. Restricted maneuverability includes, but is not limited to, situations when vessels are engaged in dredging, submerged activities, launching and recovering aircraft or landing craft, minesweeping activities, replenishment while underway and towing activities that severely restrict a vessel's ability to deviate course. Vessels will take reasonable steps to alert other vessels in the vicinity of the whale. Given rapid swimming speeds and maneuverability of many dolphin species, naval vessels would maintain normal course and speed on sighting dolphins unless some condition indicated a need for the vessel to maneuver. Vessels will take all practical steps to alert other vessels in the vicinity of a whale.

If a large whale surfaces within 500 yd (457 m) of a Navy vessel (or if a vessel is within this distance of a large whale for any other reason), the vessel should exercise caution, increase vigilance, and consider slower speed if operationally supportable and does not interfere with safety of navigation until the vessel has moved beyond a 500 yd (457 m) radius of the observed whale, or any subsequently observed whales (whales often travel in pairs within several body lengths of one another (fin/blue) and humpbacks in feeding aggregations).

Cetacean and Sound Mapping

NMFS Office of Protected Resources routinely considers available information about marine mammal habitat use to inform discussions with applicants regarding potential spatio-temporal limitations on their activities that might help effect the least practicable adverse impact on species or stocks and their habitat (e.g., Humpback Whale Cautionary Area). Through the Cetacean and Sound Mapping effort (*cetsound.noaa.gov*), NOAA's Cetacean Density and Distribution Mapping Working Group (CetMap) is currently involved in a process to compile available literature and solicit expert review to identify areas and times where species are known to concentrate for specific behaviors (e.g., feeding, breeding/calving, or migration) or be range-limited (e.g., small resident populations). These areas, called Biologically Important Areas (BIAs), are useful tools for planning and impact assessments and are being provided to the public via the CetSound Web site, along with a summary of the supporting information. While these BIAs are useful tools for analysts, any decisions regarding protective measures based on these areas must go through the normal MMPA evaluation process (or any other statutory process that the BIAs are used to inform)—the designation of a BIA does not pre-suppose any specific management decision associated with those areas. Additionally, the BIA process is iterative and the areas will be updated as new information becomes available. Currently, NMFS has published some BIAs in Hawaii (which are considered in the Comments and Responses section of this document). The BIAs in other regions, such as the Atlantic and West Coast of the continental U.S., are preliminary and are being prepared for submission to a peer-reviewed journal for review. NMFS and the Navy have discussed the draft BIAs, what Navy activities take place in these areas (in the context of what their effects on marine mammals might be or whether additional mitigation is necessary), and what measures could be implemented to reduce impacts in these areas (in the context of their potential to reduce marine mammal impacts and their practicability). As we learn more about marine mammal density, distribution, and habitat use (and the BIAs are updated), NMFS and the Navy will continue to reevaluate appropriate time-area measures through the Adaptive Management process outlined in these regulations.

Stranding Response Plan

NMFS and the Navy developed a Stranding Response Plan for the HRC and SOCAL Range Complexes in 2009 as part of previous incidental take authorizations (ITAs). The Stranding Response Plans are specifically intended to outline applicable requirements in the event that a marine mammal stranding is reported in the HRC or SOCAL Range Complex during a major training exercise. NMFS considers all plausible causes within the course of a stranding investigation and these plans in no way presume that any strandings in a Navy range complex are related to, or caused by, Navy training and testing activities, absent a determination made during investigation. The plans are designed to address mitigation, monitoring, and compliance. The Navy is currently working with NMFS to refine these plans for the new HSTT Study Area (to include regionally specific plans that include more logistical detail) and revised plans will be made available here: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications.* Modifications to the Stranding Response Plan may also be made through the adaptive management process.

Mitigation Conclusions

NMFS has carefully evaluated the Navy's proposed suite of mitigation measures and considered a broad range of other measures (including those recommended during the public comment period) in the context of ensuring that NMFS prescribes the means of effecting the least practicable adverse impact on the affected marine mammal species and stocks and their habitat. Our evaluation of potential measures included consideration of the following factors in relation to one another: the manner in which, and the degree to which, the successful implementation of the required mitigation measures is expected to reduce the likelihood and/or magnitude of adverse impacts to marine mammal species and stocks and their habitat; the proven or likely efficacy of the measures; and the practicability of the suite of measures for applicant implementation, including consideration of personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

In some cases, additional mitigation measures are required beyond those that the applicant proposes. NMFS may consider the practicability of implementing a particular mitigation measure if the best available science indicates that the measure (either alone or in combination with other mitigation measures) has a reasonable likelihood of accomplishing or contributing to the accomplishment of one or more of the goals listed below, which in turn would be expected to lessen the likelihood and/or magnitude of adverse impacts on marine mammal species or stocks and their habitat:

(a) Avoidance or minimization of injury or death of marine mammals wherever possible (goals b, c, and d may contribute to this goal).

(b) A reduction in the numbers of marine mammals (total number or number at biologically important time or location) exposed to received levels of active sonar, underwater detonations, or other activities expected to result in the take of marine mammals (this goal may contribute to a, above, or to reducing harassment takes only).

(c) A reduction in the number of times (total number or number at biologically important time or location) individuals would be exposed to received levels of active sonar, underwater detonations, or other activities expected to result in the take of marine mammals (this goal may contribute to a, above, or to reducing harassment takes only).

(d) A reduction in the intensity of exposures (either total number or number at biologically important time or location) to received levels of MFAS/HFAS, underwater detonations, or other activities expected to result in the take of marine mammals (this goal may contribute to a, above, or to reducing the severity of harassment takes only).

(e) Avoidance or minimization of adverse effects to marine mammal habitat, paying special attention to the food base, activities that block or limit passage to or from biologically important areas, permanent destruction of habitat, or temporary destruction/disturbance of habitat during a biologically important time.

(f) For monitoring directly related to mitigation—an increase in the probability of detecting marine mammals, thus allowing for more effective implementation of the mitigation (shut-down zone, etc.).

Based on our evaluation of the Navy's proposed measures, as well as other measures considered by NMFS or recommended by the public, NMFS has determined that the Navy's proposed mitigation measures (especially when the adaptive management component is taken into consideration (see Adaptive Management, below)), along with the additions detailed in the Mitigation section above, are adequate means of effecting the least practicable adverse impacts on marine mammals species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, while also considering personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

Monitoring

Section 101(a)(5)(A) of the MMPA states that in order to issue an incidental take authorization for an activity, NMFS must set forth ''requirements pertaining to the monitoring and reporting of such taking.'' The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for LOAs must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present.

Monitoring measures prescribed by NMFS should accomplish one or more of the following general goals:

- An increase in the probability of detecting marine mammals, both within the mitigation zone (thus allowing for more effective implementation of the mitigation) and in general to generate more data to contribute to the analyses mentioned below;
- An increase in our understanding of how many marine mammals are likely to be exposed to levels of active sonar (or in-water explosives or other stimuli) that we associate with specific adverse effects, such as behavioral harassment, TTS, or PTS;
- An increase in our understanding of how marine mammals respond to active sonar (at specific received levels), underwater explosives, or other stimuli expected to result in take and how anticipated adverse effects on individuals (in different ways and to varying degrees) may impact the population, species, or stock (specifically through effects on annual rates of recruitment or survival) through any of the following methods:
  - Behavioral observations in the presence of active sonar compared to observations in the absence of sonar (need to be able to accurately predict received level and report bathymetric conditions, distance from source, and other pertinent information);
  - Physiological measurements in the presence of active sonar compared to observations in the absence of tactical sonar (need to be able to accurately predict received level and report bathymetric conditions, distance from source, and other pertinent information);
  - Pre-planned and thorough investigation of stranding events that occur coincident to naval activities; and
  - Distribution and/or abundance comparisons in times or areas with concentrated active sonar versus times or areas without active sonar.
- An increased knowledge of the affected species; and
- An increase in our understanding of the effectiveness of certain mitigation and monitoring measures.

NMFS described an overview of Navy monitoring and research, highlighted recent findings, and explained the Navy's new approach to monitoring in the proposed rule (78 FR 6978, January 31, 2013; pages 7017–7020). Below is a summary of the Navy's Integrated Comprehensive Monitoring Program (ICMP) and the Navy's Strategic Planning Process for Marine Species Monitoring. A summary of the Navy's potential HSTT projects in 2014 is included in Response 2 of the Comments and Responses section of this document and will be detailed through the Navy Marine Species Monitoring web portal (*http://www.navymarinespeciesmonitoring.us/*).

Integrated Comprehensive Monitoring Program (ICMP)—The Navy's ICMP is intended to coordinate monitoring efforts across all regions and to allocate the most appropriate level and type of effort for each range complex based on a set of standardized objectives, and in acknowledgement of regional expertise and resource availability. The ICMP is designed to be flexible, scalable, and adaptable through the adaptive management and strategic planning processes to periodically assess progress and reevaluate objectives. Although the ICMP does not specify actual monitoring field work or projects, it does establish top-level goals that have been developed in coordination with NMFS. As the ICMP is implemented, detailed and specific studies will be developed which support the Navy's top-level monitoring goals. In essence, the ICMP directs that monitoring activities relating to the effects of Navy training and testing activities on marine species should be designed to accomplish one or more top-level goals. Monitoring will address the ICMP top-level goals through a collection of specific regional and ocean basin studies based on scientific objectives. Quantitative metrics of monitoring effort (e.g., 20 days of aerial surveys) will not be a specific requirement. The adaptive management process and reporting requirements will serve as the basis for evaluating performance and compliance, primarily considering the quality of the work and results produced, as well as peer review and publications, and public dissemination of information, reports and data. Details of the current ICMP are available online (*http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications* and at *http://www.navymarinespeciesmonitoring.us/*).

Strategic Planning Process for Marine Species Monitoring—The Navy also developed the Strategic Planning Process for Marine Species Monitoring, which establishes the guidelines and processes necessary to develop, evaluate, and fund individual projects based on objective scientific study questions. The process uses an underlying framework designed around top-level goals, a conceptual framework incorporating a progression of knowledge, and in consultation with the Scientific Advisory Group and other regional experts. The Strategic Planning Process for Marine Species Monitoring

will be used to set intermediate scientific objectives, identify potential species of interest at a regional scale, and evaluate and select specific monitoring projects to fund or continue supporting for a given fiscal year. This process will also address relative investments to different range complexes based on goals across all range complexes, and monitoring would leverage multiple techniques for data acquisition and analysis whenever possible. The Strategic Planning Process for Marine Species Monitoring is also available on our Web site (*http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications*) and at *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications.*

Past and Current Monitoring in the HSTT Study Area

NMFS has received multiple years' worth of annual exercise and monitoring reports addressing active sonar use and explosive detonations within the HRC, SOCAL Range Complex, and the SSTC. The data and information contained in these reports have been considered in developing mitigation and monitoring measures for the training and testing activities within the HSTT Study Area. The Navy's annual exercise and monitoring reports may be viewed at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications* and *http://www.navymarinespeciesmonitoring.us.* NMFS' summary of the Navy's monitoring reports was included in the proposed rule (78 FR 6978, January 31, 2013; pages 7018–7019).

Monitoring for the HSTT Study Area

2014 will be a transitional year for Navy monitoring so that ongoing data collection from the Navy's current HRC and SOCAL rulemakings can be completed. Therefore, monitoring in 2014 will be a combination of previously funded Fiscal Year 2013 (FY–13) ''carry-over'' projects and new FY–14 project starts. A more detailed description of the Navy's planned projects starting in 2014 (and some continuing from previous years) is available on NMFS Web site (*www.nmfs.noaa.gov/pr/permits/incidental.htm#applications*). The Navy will update the status of its monitoring program and funded projects through their Navy Marine Species Monitoring web portal: *http://www.navymarinespeciesmonitoring.us/.* Potential HSTT projects for 2014 are summarized in Response 2 of the Comments and Responses section of this document. NMFS will provide one public comment period on the Navy's monitoring program during the 5-year regulations. At this time, the public will have an opportunity (likely in the second year) to comment specifically on the Navy's HSTT monitoring projects and data collection to date, as well as planned projects for the remainder of the regulations.

Through the adaptive management process (including annual meetings), the Navy will coordinate with NMFS and the Marine Mammal Commission (Commission) to review and provide input for projects that will meet the scientific objectives that are used to guide development of individual monitoring projects. The adaptive management process will continue to serve as the primary venue for both NMFS and the Commission to provide input on the Navy's monitoring program, including ongoing work, future priorities, and potential new projects. The Navy will continue to submit annual monitoring reports to NMFS as part of the HSTT rulemaking and LOA requirements. Each annual report will contain a section describing the adaptive management process and summarize the Navy's anticipated monitoring projects for the next reporting year. Following annual report submission to NMFS, the final rule language mandates a 3-month NMFS review prior to each report being finalized. This will provide ample time for NMFS and the Commission to comment on the next year's planned projects as well as ongoing regional projects or proposed new starts. Comments will be received by the Navy prior to the annual adaptive management meeting to facilitate a meaningful and productive discussion. NMFS and the Commission will also have the opportunity for involvement at the annual monitoring program science review meetings and/or regional Scientific Advisory Group meetings. This will help NMFS and the Commission stay informed and understand the scientific considerations and limitations involved with planning and executing various monitoring projects.

Adaptive Management

Although substantial improvements have been made in our understanding of the effects of Navy training and testing activities (e.g., sonar, underwater detonations) on marine mammals, the science in this field is evolving fairly quickly. These circumstances make the inclusion of an adaptive management component both valuable and necessary within the context of 5-year regulations.

The reporting requirements associated with this rule are designed to provide NMFS with monitoring data from the previous year to allow us to consider whether any changes are appropriate. NMFS, the Navy, and the Commission will meet to discuss the monitoring reports, Navy R&D developments, current science, and whether mitigation or monitoring modifications are appropriate. The use of adaptive management allows NMFS to consider new information from different sources to determine (with input from the Navy regarding practicability) on an annual or biennial basis if mitigation or monitoring measures should be modified (including additions or deletions). Mitigation measures could be modified if new data suggests that such modifications would have a reasonable likelihood of reducing adverse effects to marine mammals species or stocks and their habitat and if the measures are practicable.

The following are some of the possible sources of applicable data to be considered through the adaptive management process: (1) Results from monitoring and exercise and testing reports, as required by MMPA authorizations; (2) compiled results of Navy funded R&D studies; (3) results from specific stranding investigations; (4) results from general marine mammal and sound research; and (5) any information which reveals that marine mammals may have been taken in a manner, extent, or number not authorized by these regulations or subsequent LOAs.

Reporting

In order to issue an ITA for an activity, section 101(a)(5)(A) of the MMPA states that NMFS must set forth ''requirements pertaining to the monitoring and reporting of such taking.'' Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring. NMFS described the proposed Navy reporting requirements in the proposed rule (78 FR 6978, January 31, 2013; page 7021). Since then, the Navy has expanded on those reports to include specific language for testing activities, which is detailed in the regulatory text at the end of this document. Reports from individual monitoring events, results of analyses, publications, and periodic progress reports for specific monitoring projects will be posted to the Navy's Marine Species Monitoring web portal: *http://www.navymarinespeciesmonitoring.us* and NMFS' Web site: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications.* There are several different reporting requirements

that are further detailed in the regulatory text at the end of this document and summarized below.

General Notification of Injured or Dead Marine Mammals

Navy personnel will ensure that NMFS (the appropriate Regional Stranding Coordinator) is notified immediately (or as soon as clearance procedures allow) if an injured or dead marine mammal is found during or shortly after, and in the vicinity of, any Navy training or testing activities utilizing active sonar or underwater explosive detonations. The Navy will provide NMFS with species identification or a description of the animal(s), the condition of the animal(s) (including carcass condition if the animal is dead), location, time of first discovery, observed behaviors (if alive), and photographs or video (if available). The HSTT Stranding Response Plan contains further reporting requirements for specific circumstances (*http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications*).

Vessel Strike

Since the proposed rule, NMFS has added the following language to address monitoring and reporting measures specific to vessel strike. Most of this language comes directly from the Stranding Response Plan. This section has also been included in the regulatory text at the end of this document. In the event that a Navy vessel strikes a whale, the Navy shall do the following:

Immediately report to NMFS (pursuant to the established Communication Protocol) the:

- Species identification (if known);
- Location (latitude/longitude) of the animal (or location of the strike if the animal has disappeared);
- Whether the animal is alive or dead (or unknown); and
- The time of the strike.

As soon as feasible, the Navy shall report to or provide to NMFS, the:

- Size, length, and description (critical if species is not known) of animal;
- An estimate of the injury status (e.g., dead, injured but alive, injured and moving, blood or tissue observed in the water, status unknown, disappeared, etc.);
- Description of the behavior of the whale during event, immediately after the strike, and following the strike (until the report is made or the animal is no longer sighted);
- Vessel class/type and operational status;
- Vessel length;
- Vessel speed and heading; and
- To the best extent possible, obtain a photo or video of the struck animal, if the animal is still in view.

Within 2 weeks of the strike, provide NMFS:

- A detailed description of the specific actions of the vessel in the 30-minute timeframe immediately preceding the strike, during the event, and immediately after the strike (e.g., the speed and changes in speed, the direction and changes in direction, other maneuvers, sonar use, etc., if not classified);
- A narrative description of marine mammal sightings during the event and immediately after, and any information as to sightings prior to the strike, if available; and use established Navy shipboard procedures to make a camera available to attempt to capture photographs following a ship strike.

NMFS and the Navy will coordinate to determine the services the Navy may provide to assist NMFS with the investigation of the strike. The response and support activities to be provided by the Navy are dependent on resource availability, must be consistent with military security, and must be logistically feasible without compromising Navy personnel safety. Assistance requested and provided may vary based on distance of strike from shore, the nature of the vessel that hit the whale, available nearby Navy resources, operational and installation commitments, or other factors.

Annual Monitoring and Exercise and Testing Reports

As noted above, reports from individual monitoring events, results of analyses, publications, and periodic progress reports for specific monitoring projects will be posted to the *Navy's Marine Species Monitoring web portal* and NMFS' Web site as they become available. Progress and results from all monitoring activity conducted within the HSTT Study Area, as well as required Major Training Event exercise and testing activity, will be summarized in an annual report.

In the past, each annual report has summarized data for a single year. At the Navy's suggestion, the annual reports under this final rule will take a cumulative approach in that each report will compare data from that year to all previous years. For example, the third annual report will include data from the third year and compare it to data from the first and second years. This will provide an ongoing cumulative look at the Navy's annual monitoring and exercise and testing reports and eliminate the need for a separate comprehensive monitoring and exercise summary report (as included in the proposed rule) at the end of the 5-year period. A draft of the annual reports will be submitted to NMFS for review in April of each year in order to cover the entire reporting period for the authorization. NMFS will review the reports and provide comments for incorporation within 3 months.

Comments and Responses

On January 13, 2013 (78 FR 6978), NMFS published a proposed rule in response to the Navy's request to take marine mammals incidental to training and testing activities in the HSTT Study Area and requested comments, information, and suggestions concerning the request. During the 30-day public comment period, NMFS received over 200 comments from private citizens, the Marine Mammal Commission (Commission), and several non-governmental organizations, including the Natural Resources Defense Council (NRDC), the Cascadia Research Collective (CRC), and Earthjustice (on behalf of the Center for Biological Diversity and Ocean Mammal Institute). Comments specific to section 101(a)(5)(A) of the MMPA and NMFS' analysis of impacts to marine mammals are summarized, sorted into general topic areas, and addressed below and/or throughout the final rule. Comments specific to the FEIS/OEIS, which NMFS participated in developing as a cooperating agency and adopted, or that were also submitted to the Navy during the DEIS/OEIS public comment period are addressed in Appendix E (Public Participation) of the FEIS/OEIS. Last, some commenters presented technical comments on the general behavioral risk function that are largely identical to those posed during the comment period for the HRC proposed rule, one of the predecessors to the HSTT rule. The behavioral risk function remains unchanged since then, and here we incorporate our responses to those initial technical comments (74 FR 1455, Acoustic Threshold for Behavioral Harassment section, page 1473). Full copies of the comment letters may be accessed at *http://www.regulations.gov.*

Monitoring and Reporting

Comment 1: The Commission recommended that we require the Navy to use passive and active acoustics to supplement visual monitoring during implementation of mitigation measures for all activities that could cause Level A harassment or mortality. Specifically, the Commission questioned why passive and active acoustic monitoring used during the Navy's Surveillance Towed Array Sensory System Low

Frequency Active (SURTASS LFA) activities is not applied here.

Response 1: The Navy requested Level A take of marine mammals for impulse and non-impulse sources during training and testing based on its acoustic analysis. The Navy also requested take of marine mammals by mortality for impulse sources, unspecified sources (impulse or non-impulse), and vessel strike. While it is impractical for the Navy to conduct passive acoustic monitoring during all training and testing activities, the Navy has engineered the use of passive acoustic detection for monitoring purposes, taking into consideration where the largest impacts could potentially occur, and the effectiveness and practicality of installing or using these devices. The Navy will use passive acoustic monitoring to supplement visual observations during Improved Extended Echo Ranging (IEER) sonobuoy activities, explosive sonobuoys using 0.6–2.5 pound (lb) net explosive weight, torpedo (explosive) testing, and sinking exercises, to detect marine mammal vocalizations. However, it is important to note that passive acoustic detections do not provide range or bearing to detected animals, and therefore cannot provide locations of these animals. Passive acoustic detections will be reported to Lookouts to increase vigilance of the visual surveillance.

The active sonar system used by SURTASS LFA is unique to the platforms that use SURTASS LFA. Moreover, this system requires the platforms that carry SURTASS LFA to travel at very slow speeds for the system to be effective. For both of these reasons it is not possible for the Navy to use this system for the platforms analyzed in the HSTT EIS/OEIS.

NMFS believes that the Navy's suite of mitigation measures (which include mitigation zones that exceed or meet the predicted maximum distance to PTS) will typically ensure that animals will not be exposed to injurious levels of sound. To date, the Navy has conducted and submitted 22 post-explosive monitoring reports for the HRC between 2009 and 2012, none of which show any evidence of injured marine mammals. In addition, within the SSTC portion of the HSTT Study Area, the Navy has conducted eight post-explosive monitoring events between 2012 and 2013, none of which show any evidence of injured marine mammals.

Comment 2: The Commission recommended that NMFS require the Navy to submit a proposed monitoring plan for public review and comment prior to issuance of final regulations.

Response 2: NMFS provided an overview of the Navy's Integrated Comprehensive Monitoring Program (ICMP) in the proposed rule (78 FR 6978, January 31, 2013). While the ICMP does not specify actual monitoring field work or projects, it does establish top-level goals that have been developed by the Navy and NMFS. As explained in the proposed rule, detailed and specific studies will be developed as the ICMP is implemented and funding is allocated.

Since the proposed rule was published, the Navy has provided a more detailed short-term plan for the first year of the rule. 2014 will be a transitional year with ongoing data collection straddling the shift from Phase I (metric-based) to Phase II Compliance Monitoring. Therefore, monitoring in 2014 will be a combination of previously funded FY–13 ''carry-over'' projects from Phase I and new FY–14 project starts under the vision for Phase II monitoring. A more detailed description of the Navy's planned projects starting in 2014 (and some continuing from previous years) is available on NMFS Web site (*www.nmfs.noaa.gov/pr/permits/incidental.htm#applications*).

Additionally, NMFS will provide one public comment period on the Navy's monitoring program during the 5-year regulations. At this time, the public will have an opportunity (likely in the second year) to comment specifically on the Navy's HSTT monitoring projects and data collection to date, as well as planned projects for the remainder of the regulations.

In summary, HSTT projects in 2014 may include analysis of passive acoustic data from Ecological Acoustic Recorders (EARs) around Niihau and Kaula Island; an exposure and response study of species exposed to mid-frequency active sonar during Naval training events around Kauai; post-training event aerial shoreline surveys for stranded marine mammals around Niihau and Kauai; post-training event ground-based shoreline surveys for stranded marine mammals following a Navy training event around Niihau; a pre-training event visual survey, cetacean tagging, and passive acoustic monitoring around Kauai and Kaula Island; a glider survey of the HRC; the use of marine mammal observers on guided missile destroyers and at Puuloa during underwater detonations. In addition, two SOCAL projects were already funded in FY–13 and field work will continue through 2014. Details of already funded projects are available through the Navy Marine Species Monitoring web portal (*http://www.navymarinespeciesmonitoring.us/*). The Navy will update the status of their monitoring projects through this site, which serves as a public portal for information regarding all aspects of the Navy's monitoring program, including background and guidance documents, access to reports and data, and specific information on current monitoring projects. The public will also have the opportunity to review the Navy's monitoring reports, which will be posted and available for download every year form the Navy's Marine Species Monitoring web portal (*http://www.navymarinespeciesmonitoring.us/*).

Through the adaptive management process (including annual meetings), the Navy will coordinate with NMFS and the Commission to review and revise, if required, the list of intermediate scientific objectives that are used to guide development of individual monitoring projects. As described previously in the Monitoring section of this document, NMFS and the Commission will also have the opportunity to attend monitoring program science review meetings and/or regional Scientific Advisory Group meetings.

The Navy will continue to submit annual monitoring reports to NMFS, which will describe the results of the adaptive management process and summarize the Navy's anticipated monitoring projects for the next reporting year. NMFS will have a 3-month review period to comment on the next year's planned projects, ongoing regional projects, and proposed new project starts. NMFS' comments will be submitted to the Navy prior to the annual adaptive management meeting to facilitate a meaningful and productive discussion between NMFS, the Navy, and the Commission.

Comment 3: One commenter recommended the use of remote control underwater video cameras to help monitor for marine mammals.

Response 3: The use of remote control underwater video cameras is not a practical means of monitoring during Navy training and testing activities due to the inability to observe a large enough range to protect marine mammals from acoustic or explosive effects; expansive monitoring areas; the lack of personnel and resources available; and safety and security concerns.

Comment 4: One commenter asked about the qualifications, training, and time schedules of observers.

Response 4: The Navy has Lookouts stationed onboard ships whose primary duty is to detect objects in the water, estimate the distance from the ship, and identify them as any number of

inanimate or animate objects that are significant to a Navy activity or as a marine mammal so that the mitigation measure can be implemented. Navy Lookouts undergo extensive training to learn these skills and the Navy's Marine Species Awareness Training is used to make them more aware of marine mammal species and behaviors. Detailed information on the Navy's Marine Species Awareness Training program, which speaks to qualifications and training, is also provided in Chapter 5 of the HSTT FEIS/OEIS. Lookouts are used continuously, throughout the duration of activities that involve the following: active sonar, Improved Extended Echo Ranging (IEER) sonobuoys, anti-swimmer grenades, positive control firing devices, time-delay firing devices, gunnery exercises (surface target), missile exercises (surface target), bombing exercises, torpedo (explosive) testing, sinking exercises, at-sea explosives testing, pile driving, vessels underway, towed in-water devices, and non-explosive practice munitions.

Comment 5: Several commenters proposed the use of seabed listening stations, modification of sonobuoys for passive acoustic detection, or other Navy detection devices to enhance marine mammal monitoring.

Response 5: While there are some established bottom-mounted hydrophone arrays in the Pacific Ocean, they cover a very small portion of the HSTT Study Area. The Navy has used passive acoustics in the past and continues to use arrays such as the Pacific Missile Range Facility in Hawaii and the Southern California Anti-Submarine Warfare Range in California to study animal movements and behavioral response to Navy training activities. Results from these studies are available in the Navy's annual monitoring reports through our Web site (*http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications*) or the Navy's (*http://www.navymarinespeciesmonitoring.us/*).

Passive acoustic monitoring will also be conducted with Navy assets, such as sonobuoys, already participating in an activity (e.g., sinking exercises, torpedo (explosive) testing, and improved extended echo ranging sonobuoys). These assets would only detect vocalizing marine mammals within the frequency bands monitored by Navy personnel. Passive acoustic detections would not provide range or bearing to detected animals, and therefore cannot provide locations of these animals. However, passive acoustic detections would be reported to Lookouts posted in aircraft to increase vigilance of their visual observation. Modifying sonobuoys to increase the bandwidth is considered impractical for the Navy because it would require significant modification to the sonobuoy receiving equipment at a substantial cost and reduce the effectiveness of the sonobuoy system's primary purpose—to detect submarines. It is impractical for the Navy to construct and maintain additional passive acoustic monitoring systems for each training and testing activity.

Comment 6: One commenter shared concerns about how sequestration will affect the Navy's marine mammal monitoring program and research efforts.

Response 6: The Navy is required to comply with the terms of the regulations and LOAs regardless of sequestration.

Comment 7: One commenter suggested that Navy Lookouts should be dedicated solely to the observation of marine mammals and turtles.

Response 7: The Navy has Lookouts stationed onboard ships whose primary duty is to detect objects in the water, estimate the distance from the ship, and identify them as any number of inanimate or animate objects that are significant to a Navy activity or as a marine mammal so that the mitigation measure can be implemented. Navy Lookouts undergo extensive training to learn these skills and the Navy's Marine Species Awareness Training is used to make them more aware of marine mammal species and behaviors. However, because Lookouts must be able to detect and identify multiple objects in the water to ensure the safety of the ship, they are not expected to solely observe for marine mammals and sea turtles.

Comment 8: One commenter suggested that small Rigid Hull Inflatable Boats (RHIBs) are not adequate for monitoring 900 or 1,200-meter mitigation zones.

Response 8: The only activity with a mitigation zone of larger than 900 yd where RHIBs are the primary means of monitoring the mitigation zone is for time-delay firing devices (TDFDs), which have a mitigation zone of 1,000 yd. All other diver-placed charges, which are the vast majority of underwater detonations, have smaller mitigation zones. All other activities with mitigation zones larger than 900 yd (i.e., missile exercises, bombing exercises, torpedo testing, etc.) use aircraft, larger surface craft, or a combination of assets (not just RHIBs) for monitoring.

For the TDFD mitigation zone, the Navy considered 1,000 yd (914 m) to be the maximum distance that Lookouts in two small boats can effectively and realistically monitor. The Navy considered this limitation when proposing mitigation zones and available assets for each of their activities. Navy Lookouts are trained to detect objects in the water and it is in the Navy's best interest (for safety, security, and compliance with the MMPA) to ensure that mitigation zones can be properly monitored from each available vessel or boat. RHIBs are used during particular nearshore underwater detonation training activities. The Navy's RHIBs are agile enough and the boat drivers are experienced enough to conduct frequent circular sweeps around a given mitigation zone looking for marine mammals. Also, these kinds of training activities are not typically conducted if sea state is above a level 3.

Comment 9: NRDC recommended that the Navy use all available range assets for marine mammal monitoring.

Response 9: NMFS has worked with the Navy over the years to help develop the most effective mitigation protocols using the platforms and assets that are available for monitoring. The required mitigation measures in this document represent the maximum level of effort (e.g., numbers of Lookouts and passive sonobuoys) that the Navy can commit to observing mitigation zones given the number of personnel that will be involved and the number and type of assets and resources available. The Navy has determined that it is impractical to increase visual and passive acoustic observations for the purpose of mitigation.

The National Defense Authorization Act of 2004 amended the MMPA as it relates to military readiness activities (which these Navy activities are) and the incidental take authorization process such that ''least practicable adverse impact'' shall include consideration of personnel safety, practicality of implementation, and impact on the effectiveness of the ''military readiness activity.'' As explained in Chapter 5 of the HSTT FEIS/OEIS, it is impractical for the Navy to increase the level of marine mammal monitoring. The Navy has a limited number of resources (e.g., personnel and other assets) and the monitoring requirements in this rulemaking represent the maximum level of effort that the Navy can commit to marine mammal monitoring.

Mitigation

Comment 10: The Commission requested that NMFS require the Navy to cease use of sound sources and not reinitiate them for (1) at least 15

minutes if small odontocetes or pinnipeds enter the mitigation zone and are not observed to leave; and (2) relevant time periods based on the maximum dive times of mysticetes or large- or medium-sized odontocetes if they enter the mitigation zone and are not observed to leave. Other commenters also suggested that activities should not resume until the animal is observed to exit the mitigation zone or the target has been repositioned more than 400 yd (366 m) away from the last marine mammal sighting; and that monitoring the mitigation zone for 30 minutes, before, during, and after the activity is insufficient for deep-diving species.

Response 10: Section 5.3.2 of the HSTT FEIS/OEIS details the mitigation measures in place for each type of activity. These mitigation measures are also provided in the regulatory text at the end of this document. In summary, depending on the specific activity type and following the shutdown or delay of acoustic activities, the Navy may resume activities if any one of the following conditions are met: (1) The animal is observed exiting the mitigation zone; (2) the animal is thought to have exited the mitigation zone based on a determination of its course and speed and the relative motion between the animal and the source; (3) the mitigation zone has been clear from any additional sightings for a period of 10 or 30 minutes (depending on whether aircraft is involved and specific fuel restrictions); (4) the intended target location has been repositioned more than 400 yd (366 m) away from the location of the last sighting; (5) the ship has transited more than 140 yd (128 m) (large-caliber gunnery exercises) or 2,000 yd (1.8 km) (active sonar) beyond the location of the last sighting; or (6) dolphins are bow riding and there are no other marine mammal sightings within the mitigation zone.

The Commission expressed concern regarding the Navy's ability to determine the relative position of an animal. Understanding relative motion is a critical skill for Navy personnel, who receive training in target and contact tracking, target and contact interception, multi-ship maneuvering drills, etc. While an animal may occasionally act unpredictably, it is more likely that the animal will be seen leaving the mitigation zone or Navy personnel will be able to track the animal's location.

With regard to maximum dive times, NMFS disagrees that the clearance time should be lengthened for deep-diving species for the following reasons: (1) Just because an animal can dive for longer than 30 minutes does not mean that they always do, so a longer delay would only potentially add value in instances when animals had remained underwater for more than 30 minutes; and (2) The animal would need to have stayed in the immediate vicinity of the sound source for more than 30 minutes. Considering the maximum area that both the vessel and the animal could cover in that amount of time, it is improbable that this would randomly occur. For example, during a 1-hour dive by a beaked whale or sperm whale, a mid-frequency active sonar ship moving at a nominal speed of 10 knots could transit up to 10 nautical miles from its original location. Additionally, the times when marine mammals are diving deep (i.e., the times when they are under the water for longer periods of time) are the same times that a large portion of their motion is in the vertical direction, which means that they are far less likely to keep pace with a horizontally moving vessel. Moreover, considering that many animals have been shown to avoid both acoustic sources and ships without acoustic sources, it is improbable that a deep-diving cetacean (as opposed to a dolphin that might bow ride) would choose to remain in the immediate vicinity of the acoustic source; (3) Visual observers are not always able to differentiate species to the degree that would be necessary to implement this measure; and (4) Increasing clearance time is not operationally feasible for Navy activities that require aircraft surveillance because of fuel limitations. NMFS does not believe that increasing the clearance time based on maximum dive times will add to the protection of marine mammals in the vast majority of cases, and therefore, we have not required it.

Comment 11: The Commission recommended that NMFS require the Navy to either (1) adjust the size of the mitigation zone for mine neutralization activities using the average swim speed of the fastest swimming marine mammal occurring in the area where time-delay firing devices will be used and ensure that the zone is adequately monitored; or (2) authorize all model-estimated takes for Level A harassment and mortality for mine neutralization activities in which divers use time-delay firing devices.

Response 11: The Navy proposed a mitigation zone of 1,000 yards for all charge sizes (5, 10, and 29 lb) and for a maximum time-delay of 10 minutes. This is the maximum distance that Lookouts in two small boats can realistically monitor. The use of more than two boats for monitoring during time-delay firing device events is impractical due to the Navy's limited personnel resources. The Navy's proposed mitigation zone covers the potential for mortality up to a 9-minute time delay (but not 10-minute). The proposed mitigation zone also covers the potential for injury up to a 5-minute time-delay for 10 and 29 lb charges, and a 6-minute time-delay for 5 lb charges, but not for time delays greater than 6 minutes for any charge size. As a result of the mitigation zone restriction and the Commission's recommendation, and based on the Navy's modeling results and mitigation effectiveness, the Navy has requested seven mortalities and 56 Level A injuries for any training or testing event (not just underwater detonations), in case of an unavoidable incident.

Comment 12: A few commenters recommended that the leeward side of the island of Hawaii out to a depth of 3,281 yd (3,000 m) should be off limits to Navy training and testing activities.

Response 12: As described in the proposed rule, there is evidence suggesting that several resident populations of marine mammals may be present off the leeward side of Hawaii. NMFS considers the nature, level, and spatial extent of activities expected to co-occur with resident populations in both the analysis and in the development of mitigation measures. Time-area restrictions may be considered in order to help ensure that these small populations, limited to a small area of preferred habitat, are not exposed to concentrations of activities within their ranges that have the potential to impact a large portion of the stock/species over longer amounts of time that could have detrimental consequences to the stock/species. Here, NMFS has reviewed the Navy's exercise reports and considered/discussed their historical level of activity in the area where resident populations of marine mammals are concentrated, found that it is very low, and concluded that time/area restrictions in this area would not further reduce the likelihood or magnitude of adverse impacts on marine mammal species or stocks in this location and are not necessary at this point. However, if future monitoring and exercise and testing reports suggest that increased operations overlap with these resident populations, NMFS will revisit the consideration of area limitations around these populations.

Comment 13: One commenter suggested that an alternate industrial shipping route could be created to reduce the risk of vessel strike to blue whales if the Navy would allow

shipping lanes south of the northern Channel Islands.

Response 13: The U.S. Coast Guard, rather than the Navy, designates commercial shipping lanes. The Channel Islands are north of the SOCAL Range Complex and are not part of the HSTT Study Area. Furthermore, there has not been a Navy ship strike to any marine mammal north of the SOCAL Range Complex over the last 10 years.

However, NOAA National Marine Sanctuaries recently worked with the U.S. Coast Guard to modify the International Maritime Organization's shipping lane approaches to the Los Angeles, Long Beach, and San Francisco Bay ports in order to reduce the co-occurrence of ships and whales in the Santa Barbara Channel and the San Francisco Bay area.

Comment 14: Several commenters suggested that the proposed mitigation measures were inadequate because observers do not always detect marine mammals and cannot see as far as sound travels.

Response 14: It is the duty of Navy Lookouts to detect marine mammals in the water and estimate the distance from the ship so that the mitigation measures (shutdown, powerdown, etc.) can be implemented. Navy Lookouts undergo extensive training to learn these skills and the Marine Species Awareness Training is used to augment this general training with information specific to marine mammals. However, the mitigation measures the Navy is implementing are designed primarily to avoid and minimize the likelihood of mortality and injury, which are associated with acoustic exposures above a certain level, and therefore it is not necessary to see as far as sound travels to successfully implement the mitigation measures.

Comment 15: Earthjustice suggested that NMFS did not propose any additional mitigation measures beyond what the Navy included in their application.

Response 15: NMFS worked closely with the Navy in the development of mitigation for training and testing both in the first 5-year rules and for this 2013 proposal. The measures that the Navy proposed reflect years of experience and consideration of extensive monitoring results. NMFS and the Navy considered a wide array of additional measures, both before and after the public comment period. A description of some of the additional measures that were considered, and how they were analyzed in the context of the ''least practicable adverse impact on the species and/or stock'' finding, is included in this document (see Comments and Responses and Mitigation sections) as well as the Navy's HSTT FEIS/OEIS. As described, NMFS has determined that the Navy's proposed mitigation measures (especially when the adaptive management component is taken into consideration (see previous Adaptive Management discussion)), along with the additions detailed in the Mitigation section, are adequate means of effecting the least practicable adverse impacts on marine mammal species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, while also considering personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

Comment 16: Earthjustice suggested that Navy training and testing activities should be prohibited in the Hawaiian Islands Humpback National Marine Sanctuary during critical calving and mating months.

Response 16: Scientific evidence shows that there are well-known areas of high density for humpback whales within the Hawaiian Islands Humpback National Marine Sanctuary and in nearshore areas of the Main Hawaiian Islands. In recognition of the significance of the Hawaiian Islands for humpback whales, the Navy will continue their designation of a humpback whale cautionary area in Hawaiian waters. As explained in the proposed rule, this area consists of a 5-kilometer (3.1-mile) buffer zone having one of the highest concentrations of humpback whales during winter months. The Navy has to receive a very high level of clearance if training or testing use of mid-frequency active sonar is necessary between December 15 and April 15. To date, the Navy has never requested approval to conduct training or testing use of mid-frequency active sonar in the area during this time period. Additionally, the fact that high concentrations of marine mammals make conducting training and testing activities difficult and unsafe reduces the likelihood that the Navy will conduct training or testing in the higher density areas (with the exception of the PMRF Range, an essential training and testing asset) unless absolutely necessary.

The Navy has been collecting hull-mounted mid-frequency active sonar usage data in many areas of high-density humpback whale concentrations since 2009 and reporting to NMFS since 2010. The Navy has verified that, with the exception of the Pacific Missile Range Facility, there is limited use of any hull-mounted sonar (from training and testing activities) overlapping with humpback whale high-density areas around the Main Hawaiian Islands.

Comment 17: Several commenters recommended that the Navy use more than one Lookout during all training and testing activities.

Response 17: The Navy will have more than one Lookout for several higher risk training and testing activities or where the ensonified area is larger, such as during mine countermeasure and neutralization activities involving time-delay firing devices; for some vessels using low-frequency active sonar or hull-mounted mid-frequency active sonar associated with ASW activities, depending on the size and status/location of the vessel; during mine neutralization activities involving diver placed charges of up to 100 lb (45 kg) net explosive weight; and during sinking exercises. Aircrew and divers may also be used as additional observers during mine countermeasure and neutralization activities. However, for the reasons stated below, the Navy cannot use more than one Lookout for all training and testing activities—however, a minimum of one Lookout would always be required.

The National Defense Authorization Act of 2004 amended the MMPA as it relates to military readiness activities (which these Navy activities are) and the incidental take authorization process such that ''least practicable adverse impact'' shall include consideration of personnel safety, practicality of implementation, and impact on the effectiveness of the ''military readiness activity.'' As explained in Chapter 5 of the HSTT FEIS/OEIS, it is impractical for the Navy to increase visual observations for the purpose of mitigation beyond the amounts that have already been worked out in coordination with NMFS here. The Navy has a limited number of resources (e.g., personnel and other assets) and the mitigation requirements in this rulemaking represent the maximum level of effort that the Navy can commit to observing mitigation zones. Also, the use of additional Lookouts in association with lower risk activities with smaller ensonified areas would not be expected to provide as much of an additional protective value as is provided for the activities mentioned above.

Comment 18: Several commenters suggested that the Navy limit their activities to periods of good visibility. More specifically, NRDC suggested that all weapons firing in missile, bombing, and sinking exercises involving detonations exceeding 20 lb. net explosive weight take place during the

period 1 hour after sunrise to 30 minutes before sunset.

Response 18: The Navy explained in Chapter 5 of the HSTT FEIS/OEIS that avoiding or reducing active sonar at night and during periods of low visibility for the purpose of mitigation would result in an unacceptable impact on readiness. In summary, the Navy must train and test in a variety of conditions (including at night and in low-visibility) to adequately train for military operations and test systems and equipment in all appropriate conditions and ensure that systems and equipment operate as intended. However, certain activities, such as those involving explosives greater than 20 lb net explosive weight, are currently conducted during daylight hours only. The Navy does not anticipate impacts to the training or testing programs, as long as training or testing requirements do not change; however, the Navy needs to retain the ability to conduct these activities at night if emergent requirements dictate the need for this capability.

The Navy will use passive acoustic monitoring to supplement visual observations during Improved Extended Echo Ranging (IEER) sonobuoy activities, explosive sonouboys using 0.6–2.5 lb net explosive weight, torpedo (explosive) testing, and sinking exercises, to detect marine mammal vocalizations. However, it is important to note that passive acoustic detections do not provide range or bearing to detected animals, and therefore cannot provide locations of these animals. Passive acoustic detections will be reported to Lookouts to increase vigilance of the visual surveillance.

Comment 19: One commenter suggested that Navy training and testing activities could be significantly reduced while still maintaining military readiness.

Response 19: The Navy has identified the level of training and testing requirements that are necessary to meet its legally mandated requirements. NMFS must decide whether to authorize the take of marine mammals incidental to an applicant's proposed action based on the factors contained in the MMPA; NMFS does not permit or authorize the underlying action itself. In this case, NMFS has determined that the Navy's training and testing activities will have a negligible impact on the affected species or stocks and has met all other statutory requirements, therefore, we plan to issue the requested MMPA authorization.

Comment 20: NRDC and other commenters recommended an expansion of the Navy's mitigation zones during the use of mid-frequency active sonar to reflect international best practice (4 km) or the standard prescribed by the California Coastal Commission (2 km).

Response 20: The Navy developed mitigation zones to avoid or reduce the potential for onset of the lowest level of injury, PTS, out to the predicted maximum range. For mid-frequency active sonar, the Navy will implement a 6 dB power down at 1,000 yd (914 m), an additional 4 dB (total 10 dB) power down at 500 yd (457 m), and shutdown at 200 yd (183 m). Both powerdown criteria exceed the predicted average and maximum ranges to PTS. NMFS believes that these mitigation zone distances will help avoid the potential for onset of PTS in marine mammals and reduce the potential for TTS. These shutdown zones, combined with other mitigation measures, are expected to effect the least practicable adverse impact on marine mammal species or stocks and their habitat.

Furthermore, the Navy's mitigation zones represent the maximum area the Navy can observe based on the platform of observation, number of personnel that will be involved, and the number and types of assets and resources available. Increasing the size of observed mitigation zones for the purposes of mitigation would be impractical with regard to implementation of military readiness activities and result in an unacceptable impact on readiness.

Comment 21: NRDC recommended that the Navy use sonar and other active acoustic sources at the lowest practicable source level.

Response 21: The Navy utilizes sonar and other active acoustic sources to support a variety of missions. Primary uses of sonar include detection of and defense against submarines (anti-submarine warfare) and mines (mine warfare); safe navigation and effective communications; and oceanographic surveys. The source levels must be adequate to perform these tasks, but mitigation measures (e.g., powerdown and shutdown) will be implemented if marine mammals are within or approaching established zones. The Navy will submit annual exercise and testing reports to NMFS that summarize major training exercises, sinking exercises, and sound sources used. These reports will be made available to the public via NMFS' Web site and the U.S. Navy Marine Species Monitoring web portal.

Comment 22: NRDC suggested that the Navy delay or relocate activities when beaked whales are detected through passive acoustic monitoring, even if potentially occurring beyond the established mitigation zone.

Response 22: This recommendation is impractical for the Navy because operators of passive acoustic systems may not be able to identify whether a vocalization is from a beaked whale. As stated previously, passive acoustic monitoring can neither provide range or bearing to detected animals, and therefore cannot provide locations of these animals. However, all passive acoustic detections will be reported to Lookouts to increase vigilance of the visual surveillance.

Comment 23: NRDC suggested that the Navy use gliders or other platforms for pre-activity monitoring to avoid significant aggregations of marine mammals and delay or relocate activities when significant aggregations of marine mammals are detected within the vicinity of an exercise.

Response 23: The development of passive acoustic detectors on gliders and other platforms is still in the research and development stages under funding from the Office of Naval Research and the Navy's new Living Marine Resources programs. While promising, many of the various technologies are still being tested and not ready for transition to compliance monitoring where a higher degree of performance is needed. Gliders, even if able to report in real-time, or even delayed near real-time, would only be able to document the presence of marine mammals, not the marine mammal distance from the glider or individual animal movement. In many places where Navy activity occurs, there are almost near constant small odontocete passive acoustic detections. Finally, gliders would only provide an indication that animals are in the area, but these same animals could easily move substantial distances over the course of just a few hours. In some cases, use of gliders in and around where Navy submarines also operate is an underwater safety hazard to the submarine and to the glider. Gliders and other passive acoustic platforms, therefore, are more appropriate for broad area searches within Navy ranges to document marine mammal seasonal occurrence, but are not practical as a mitigation tool.

The Navy will implement mitigation measures for all marine mammals regardless of species, if they approach or enter a mitigation zone, which were calculated to help avoid the potential for onset of PTS and reduce the potential for TTS.

Comment 24: NRDC suggested that the Navy use simulated geography and planning of ship tracks to reduce or

eliminate chokepoint exercises in near-coastal environments, particularly within canyons and channels or other important habitat. Similarly, NRDC suggested the use of dedicated aerial monitors during chokepoint exercises, major exercises, and near-coastal exercises.

Response 24: For decades, the Navy has been using simulated electronic depictions of land in some of its at-sea exercises. However, the types of exercises the commenter refers to are critical to realistic and effective training due to the unique sound propagation characteristics and they cannot be replicated by simulated geography. The Navy will implement mitigation for all training and testing activities to minimize any potential effects.

Specific aerial monitoring is not typically feasible given the limited duration of typical monitoring flights (less than 4 hours). In addition, there are significant flight safety considerations and airspace restrictions during major exercises when larger groups of military aircraft are present in high numbers at various altitudes.

It is important to note that the Navy does have a particular set of monitoring measures (intended to help reduce the chance of a stranding) that would be applied if circumstances are thought to make a stranding more likely (e.g., steep bathymetry, multiple vessels in a single area over an extended period of time, constricted channels or embayments). However, there are no areas with these features included in the HSTT Study Area.

Comment 25: NRDC stated that the Navy did not account for reverberation in its modeling and also suggested the use of additional powerdowns when significant surface ducting conditions coincide with other conditions that elevate risk (such as during exercises involving the use of multiple systems or in beaked whale habitat).

Response 25: The Navy's propagation model used for all non-impulsive modeling accommodates surface and bottom boundary interactions (including reverberation), but does not account for side reflections that would be a factor in a highly reverberant environment, such as a depression or canyon, or in a man-made structure, such as a dredged harbor. The details of the Navy's propagation models are provided in a supporting technical report for the HSTT EIS/OEIS (''The Determination of Acoustic Effects on Marine Mammals and Sea Turtles,'' *hstteis.com*).

Based on the lessons learned from five beaked whale stranding events, all of which took place outside of the HSTT Study Area, and occurred over approximately a decade, exposure of beaked whales to mid-frequency active sonar in the presence of certain conditions (e.g., multiple units using tactical sonar, steep bathymetry, constricted channels, strong surface ducts, etc.) may result in strandings, potentially leading to mortality. Although these physical features are not present in the HSTT Study Area in aggregate, scientific uncertainty exists regarding what other factors, or combination of factors, may contribute to beaked whale strandings. To minimize risk to beaked whales, several conditions will be considered during exercise planning: (1) Areas of at least 1,000 m (1,094 yd) depth near a shoreline where there is rapid change in bathymetry on the order of 1,000–6,000 m (1,094–6,562 yd) occurring across a relatively short horizontal distance (e.g., 5 nm); (2) cases in which multiple ships or submarines (≥ 3) are operating active sonar in the same area over extended periods of time (≥ 6 hours) in close proximity (≤ 10 nm apart); (3) an area surrounded by land masses, separated by less than 35 nm and at least 10 nm in length, or an embayment, wherein operations involving multiple ships/submarines (≥ 3) employing active sonar near land may produce sound directed toward the channel or embayment that may cut off the lines of egress for marine mammals; and (4) though not as dominant a condition as bathymetric features, the historical presence of a strong surface duct (i.e., mixed layer of constant water temperature extending from the sea surface to 100 or more feet).

If a major exercise must occur in an area where the above conditions exist in the aggregate, these conditions must be fully analyzed in environmental planning documentation. The Navy will increase vigilance by undertaking the following additional protective measure: a dedicated aircraft (Navy asset or contracted aircraft) will undertake reconnaissance of the embayment or channel ahead of the exercise participants to detect marine mammals that may be in the area exposed to active sonar. Where practical, the advance survey should occur within about 2 hours prior to sonar use and periodic surveillance should continue for the duration of the exercise. Any unusual conditions (e.g., presence of marine mammals, groups of species milling out of habitat, and any stranded animals) shall be reported to the Officer in Tactical Command, who should give consideration to delaying, suspending, or altering the activity. All mitigation zone powerdown requirements described in the Mitigation section of this document will apply. Finally, the post-exercise report must include specific reference to any event conducted in areas where the above conditions exist, with exact location and time/duration of the event and noting results of surveys conducted.

Comment 26: NRDC suggested the suspension or postponement of chokepoint exercises during surface ducting conditions and scheduling of such exercises during daylight hours.

Response 26: See response to Comment 16, 18, 24, and 39.

Comment 27: NRDC suggested the use of aerial surveys and ship-based surveys before, during, and after major exercises.

Response 27: As proposed, and detailed in the HSTT FEIS/OEIS, the Navy will implement pre-exercise aerial or vessel-based observation as a mitigation measure for Improved Extended Echo Ranging (IEER) sonobuoys and explosive buoys using 0.6–2.5 lb net explosive weight, mine countermeasure and neutralization activities using positive control firing devices involving explosives in bin E11 (501–650 lb net explosive weight), sinking exercises, bombing exercises, gunnery exercises, and missile exercises. Monitoring will continue throughout the duration of these exercises. This amount of monitoring represents the maximum level of effort that the Navy can commit to observing mitigation zones given the number of personnel and assets available. Surveys before, during, and after major exercises would require an inordinate amount of resources that are not available and would have a significant impact on readiness.

In addition to the monitoring required to implement mitigation, the Navy is also committed to a robust marine mammal monitoring program designed to answer specific questions about the effects of the Navy's activities on marine mammals. The Navy uses visual surveys (by trained protected species observers; from aircraft and vessels), passive acoustic monitoring devices, and tagging as some of the methods to best detect and evaluate any effects. See the Navy's monitoring reports at *http://www.navymarinespeciesmonitoring.us/*.

Comment 28: NRDC suggested the use of NMFS-certified observers for marine mammal detection and several commenters requested further information on the Navy's Lookout effectiveness study. More specifically, NRDC suggested that the Navy complete a Lookout effectiveness study comparing the abilities of Navy vessel-based Lookouts and third-party protected species observers. If Navy Lookouts are significantly less likely to

detect marine mammals, NRDC recommends the use of NMFS-certified Lookouts or other monitoring enhancements.

Response 28: The Navy has determined that the use of third-party observers (e.g., NMFS-certified protected species observers) in air or on surface platforms in lieu of or in addition to existing Navy Lookouts for the purposes of mitigation is impractical for the following reasons: the use of third-party observers would compromise security for some activities involving active sonar due to the requirement to provide advance notification of specific times and locations of Navy platforms; reliance on the availability of third-party personnel could impact training and testing flexibility; the presence of additional aircraft in the vicinity of naval activities would raise safety concerns; and there is limited space aboard Navy vessels. Furthermore, Navy personnel are extensively trained in spotting items on or near the water surface and receive more hours of training than many third-party personnel.

The Navy undertakes monitoring of marine mammals during training and testing activities and has mitigation procedures designed to minimize risk to these animals. One key component of this monitoring and mitigation is the shipboard Lookouts (also known as watchstanders), who are part of the standard operating procedure that ships use to detect objects (including marine mammals) within a specific area around the ship during events. The Lookouts are an element of the Navy's monitoring plan, as required by NMFS and specified in the LOAs. The goal is to detect marine mammals entering ranges of 200, 500, and 1,000 yd (183, 457, and 914 m) around the vessel, which correspond to distances at which various mitigation actions should be performed. In addition to the Lookouts, officers on the bridge search visually and sonar operators listen for marine mammal vocalizations. All of these observers together are referred to as the observation team.

In 2010, the Navy initiated a study designed to evaluate the effectiveness of the Navy Lookout team. The University of St. Andrews, Scotland, under contract to the Navy, developed an initial data collection protocol for use during the study. Between 2010 and 2012, trained Navy marine mammal observers collected data during nine field trials as part of a ''proof of concept'' phase. The goal of the proof of concept phase was to develop a statistically valid protocol for quantitatively analyzing the effectiveness of Lookouts during Navy training exercises. Field trials were conducted in the HRC, SOCAL Range Complex, and Jacksonville Range Complex onboard one frigate, one cruiser, and seven destroyers. Preliminary analysis of the proof of concept data is ongoing. The Navy is also working to finalize the data collection process for use during the next phase of the study. While data was collected as part of this proof of concept phase, those data are not fairly comparable because protocols were being changed and assessed, nor are those data statistically significant. Therefore, it is improper to use these data to draw any conclusions on the effectiveness of Navy Lookouts at this time.

In addition, given the distance from shore and especially the dynamic and moving nature of Major Training Events (MTEs) where sonar platforms can be widely dispersed and then move on to another area, aerial or ship-based civilian monitoring concurrent to MTEs would not be logistically practical or safe. Before and after surveys would only duplicate similar marine mammal sightings that have already been conducted under the previous HRC and SOCAL rulemakings. During the period from 2009 to 2012, the Navy has visually surveyed approximately 100,000 nm of ocean within HRC and SOCAL with marine mammal sightings described in annual monitoring reports as well as posted electronically on public online data portals. While contributing to the body of science on marine mammal occurrence, these broad area surveys are less informative for monitoring of Navy impacts to marine mammals. The Navy's revised HSTT monitoring plan consists of more focused objective-oriented studies to address both species-specific occurrence and determine impact or lack of impact from training and testing activities.

Comment 29: NRDC recommended that the Navy comply with underwater detonation and gunnery exercise mitigation measures as set forth in NMFS' final rule for the SOCAL Range Complex.

Response 29: The mitigation measures for underwater detonation and gunnery exercises in NMFS' final rule for the SOCAL Range Complex have been carried over to HSTT (i.e., buffer zones around the intended target, monitoring before and during the exercise, avoidance of sighted marine mammals). There have been some slight modifications to the TDFD mitigation to account for resource limitations in the number of available boats and Lookouts.

Comment 30: NRDC recommended the use of dedicated aerial monitoring for all Navy explosive activities using time-delay firing devices and/or all activities involving explosives greater than 20 lb net explosive weight.

Response 30: Time-delay firing device events can occur over several hours and the exact detonation time is dependent on multiple variables including, but not limited to, weather, background traffic, training requirements, delays for mitigation, etc., that make it impractical and unsafe to have aircraft surveys. Time-delay firing device events also typically occur near commercial and military airspace that would pose a serious risk to the survey and non-survey aircraft.

Mitigation during explosive events (greater than 20 lb net explosive weight) already includes the use of available aircraft for mitigation monitoring. However, these activities can occur offshore and over several hours duration, making a dedicated aerial survey platform unsafe and impractical. The Navy has mitigation zones in place designed to minimize potential effects from all explosive activities

Comment 31: NRDC suggested avoidance and reduction in the use of time-delay firing devices in favor of explosives with positive controls.

Response 31: The Navy has explained their use of time-delay firing devices in previous documents (LOA application for the Silver Strand Training Complex, LOA application for the Hawaii Range Complex, and the HSTT FEIS/OEIS). The Navy relies on both time-delay and positive control to initiate underwater detonations, depending on the training event and objectives. The Navy has cited time-delay firing devices as the simplest, safest, least expensive, most operationally acceptable method of initiating an underwater detonation. They are preferred due to their light weight, low magnetic signature, and reduced risk of accidental detonation from nearby radios or other electronics. Time-delay firing devices allow sufficient time for personnel to swim outside of the detonation plume radius and human safety buffer zone after the timer is set. The Navy considers it critical that personnel qualify annually with necessary time-delay certification, maintain proficiency, and train to face real-world scenarios that require the use of time-delay firing devices. However, the Navy does strive to use positive control detonation whenever feasible depending on the training need. Within the SSTC portion of HSTT for instance, during the last year of the 86 completed underwater detonations with charge weights between 10–20 lb net explosive

weight, only two TDFDs were used; the remaining 84 detonations used positive control.

Time-delay firing devices raised concern in 2011, when three or four long-beaked common dolphins were killed in an explosion during an underwater detonation training event. About 5 minutes remained on a time-delay fuse when a pod of long-beaked common dolphins was observed, but attempts to guide the dolphins away from the area were unsuccessful. Following the event, the Navy worked with NMFS to develop a more robust monitoring and mitigation plan to ensure that marine mammal mortality and injury would not occur during activities that involve time-delay firing devices. NMFS incorporated additional mitigation and monitoring measures into the appropriate authorizations. Those additions are being carried over to the HSTT rule, with some modifications to the mitigation zone and number of observers due to the impracticality of the initial changes. As detailed in the proposed rule, NMFS believes that the Navy's modifications will still reduce the potential for injury and mortality because (1) the mitigation zone exceeds the predicted ranges to TTS and PTS; (2) the number of Lookouts for a 1,000-yd (915-m) mitigation zone would not change; (3) the maximum net explosive weight would decrease; (4) monitoring 30 minutes before, during, and 30 minutes after the activity would still take place; and (5) time-delay firing device activities are only conducted during daylight hours.

Comment 32: NRDC suggested that the Navy should evaluate before each major exercise whether reductions in sonar are possible, given the readiness status of the strike groups involved.

Response 32: The Navy only uses active sonar for validated training requirements, so this type of pre-exercise evaluation is unnecessary.

Comment 33: NRDC recommended that the Navy establish a plan and timetable for maximizing synthetic training in order to reduce the use of active sonar training.

Response 33: As described in section 2.5.1.4 of the HSTT FEIS/OEIS, the Navy currently uses computer simulation for training and testing whenever possible. Computer simulation can provide familiarity and complement live training and testing; however, it cannot provide the fidelity and level of training necessary to prepare naval forces for deployment.

The Navy is required to provide a ready and capable force. In doing so, the Navy must operationally test major platforms, systems, and components of these platforms and systems in realistic combat conditions before full-scale production can occur. Substituting simulation for live training and testing fails to meet the Navy's statutory requirement to properly prepare forces for national defense.

Comment 34: NRDC recommended that specific mitigation requirements be prescribed for individual classes (or sub-classes) of training and testing activities in order to maximize mitigation given varying sets of operational needs.

Response 34: NMFS has already worked with the Navy to develop mitigation by activity type to reduce potential impacts on marine mammals. The regulatory text of this document details the different types of mitigation required for different activities.

Comment 35: NRDC recommended that the Navy submit timely, regular reports to NMFS, state coastal management authorities, and the public to describe and verify use of mitigation measures during training and testing activities.

Response 35: The Navy will be required to submit annual reports and the unclassified portions of these reports will be made available to the public through NMFS' Web site. The reports will include a description of the mitigation measures implemented during major training exercises and will also include an evaluation of the effectiveness of any mitigation measure implemented.

Comment 36: One commenter suggested that there are sufficient resources to identify important areas off California for large whales and the potential impacts could be reduced if the Navy avoided using these areas.

Response 36: As addressed in Response 12, while NMFS acknowledges that there are important areas for fin and blue whales that overlap with the SOCAL Range Complex, these areas are also adjacent to the Navy's only west coast underwater instrumented training range. This range has been in operation for decades and is considered mission-critical by the Navy for ASW training and testing. In addition, nearby infrastructure supports multiple warfare mission areas used concurrently with sonar and explosive use. The Navy has indicated that establishment of a time-area closure within this region is not practical. However, the Navy has also stated that given the closeness to shore, relatively shallow water, and lack of other nearby training infrastructure, Major Training Events (MTEs) are not typically planned in this vicinity. Additionally, the Navy has further strengthened mitigation measures intended to reduce the likelihood of a ship strike (adding at least a 500-yd (457-m) exclusion zone for whales during vessel movement), which are particularly important in areas where greater concentrations of marine mammals may be encountered.

NMFS has carefully evaluated the Navy's proposed suite of mitigation measures and considered a broad range of other measures (including those recommended during the public comment period) in the context of ensuring that NMFS prescribes the means of effecting the least practicable adverse impact on the affected marine mammal species and stocks and their habitat. Our evaluation of potential measures included consideration of the following factors in relation to one another: the manner in which, and the degree to which, the successful implementation of the required mitigation measures is expected to reduce the likelihood and/or magnitude of adverse impacts to marine mammal species and stocks and their habitat; the proven or likely efficacy of the measures; and the practicability of the suite of measures for applicant implementation, including consideration of personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

The Navy's list of monitoring projects for the SOCAL Range Complex has been finalized and is available on the Navy's marine species monitoring Web site (*http://www.navymarinespeciesmonitoring.us/*). This list of 2013–2014 projects includes studies of blue and fin whale vocalizations from numerous passive acoustic devices within the SOCAL Range Complex. In addition, long-term satellite tag tracking of fin and blue whales will enhance understanding of residence times within the SOCAL Range Complex as well as within other areas of their Pacific Ocean range. Through this data collection, review of other new science, and the Adaptive Management process, NMFS and the Navy will continue to regularly evaluate whether there are other appropriate practicable measures that could further reduce impacts to marine mammals in Southern California.

Comment 37: Several commenters recommended additional mitigation, including exclusion zones and time-area closures, and suggested that NMFS did not provide any additional mitigation to the Navy's proposed measures in order to reduce impacts on marine mammals.

Response 37: Exclusion zones (termed ''mitigation zones'' in the proposed rule and this document) are already in place for the Navy's training and testing activities. Training and testing activities require continuous access to large areas consisting potentially of thousands of square miles of ocean and air space to provide naval personnel the ability to train with and develop competence and confidence in their capabilities and their entire suite of weapons and sensors. Exercises may change mid-stream based on evaluators' assessment of performance and other conditions including weather or mechanical issues. This means that the designation of time-area closures is not practicable in some cases, and NMFS and the Navy evaluate mitigation of this nature on a case-by-case basis and within the context of the Navy's overall suite of mitigation.

NMFS has been heavily involved in developing the Navy's suite of mitigation measures since 2007. Many of the Navy's proposed mitigation measures were a result of NMFS' input over the past 5 years. It is also important to note that the NDAA of 2004 amended the MMPA to require the consideration of personnel safety, practicality of implementation, and impact on the effectiveness of the ''military readiness activity'' when determining the ''least practicable adverse impact.'' Mitigation measures that the Navy considered, but could not implement, are included in the FEIS/OEIS.

However, the Navy has designated a Humpback Whale Cautionary Area that is effective between December 15 and April 15, which essentially restricts certain Navy activities within a certain time and location. Conducting exercises with mid-frequency active sonar within the Humpback Whale Cautionary Area between December 15 and April 15 requires approval for the use of hull-mounted mid-frequency active sonar from a four-star Admiral, the highest ranking officer in the U.S. Pacific Fleet. Since 2009 (when the current rule for the HRC was issued), the Navy has never requested this approval.

The Navy addresses numerous other mitigation measures in section 5.3 of the HSTT FEIS/OEIS that were considered but eliminated for various reasons. We address other areas that were considered off Hawaii and Southern California in responses to Comments 12, 16, and 36 above.

Comment 38: Several commenters suggested that the Navy's activities should be moved to pelagic sea depths, away from continental shelves and islands to reduce impacts on marine mammals.

Response 38: As stated in section 5.3 of the HSTT FEIS/OEIS, the Navy has eliminated from consideration alternative training and testing locations because there are no other potential locations where land ranges, operating areas, undersea terrain and ranges, testing ranges, and military airspace combine to provide the venues necessary for the training and testing realism and effectiveness required to train and certify naval forces ready for combat operations. Training and testing in shallow water is an essential component to maintaining military readiness. Sound propagates differently in shallow water and operators must learn to train in this environment. Additionally, submarines have become quieter through the use of improved technology and have learned to hide in the higher ambient noise levels of shallow coastal waters. In real world events, it is likely that sailors would be working in, and therefore must train in, and use systems that have been tested in, these types of environments.

However, as described in Response 28 above, in order to reduce impacts to humpback whales in the Hawaiian Islands, the Navy has designated the Humpback Whale Cautionary area between December 15 and April 15, which includes shallow water environments. In addition, following the implementation of the rule and issuance of LOAs, the adaptive management process will also provide a mechanism for considering if modifications to mitigation measures are necessary in the future.

Comment 39: NRDC recommended that the Navy avoid or reduce their activities during months with historically significant surface ducting conditions.

Response 39: The Navy's activities must be conducted during all months and in a variety of conditions in order for the Navy to meet its mission. The Navy's training schedules are driven by deployment requirements, which are established by the Department of Defense and the President of the United States. These schedules are dynamic, based on real-world events, ship availability, and numerous others factors that prevent the Navy's activities from being able to limit at sea training to only certain months. Similarly, Navy testing schedules are driven by Fleet maintenance, repair, and modernization needs; and the delivery of Navy ships, aircraft, and systems to support these training and deployment requirement, and cannot be limited to certain months. Therefore, the Navy's MMPA authorization must support year-round training and testing.

Comment 40: NRDC recommended that the Navy delay activities or implement powerdowns during significant surface ducting conditions.

Response 40: Avoiding or reducing active sonar during strong surface ducts for the purpose of mitigation would increase safety risks to personnel, be impractical with regard to implementation of military readiness activities, and result in unacceptable impacts on readiness for the following reasons: The Navy must train in the same manner as it will fight. Anti-submarine warfare can require a significant amount of time to develop the ''tactical picture,'' or an understanding of the battle space (e.g., area searched or unsearched, identifying false contacts, and understanding the water conditions). Training in surface ducting conditions is a critical component to military readiness because sonar operators need to learn how sonar transmissions are altered due to surface ducting, how submarines may take advantage of them, and how to operate sonar effectively in this environment. Furthermore, avoiding surface ducting would be impractical to implement because ocean conditions contributing to surface ducting change frequently, and surface ducts can be of varying duration. Surface ducting can also lack uniformity and may or may not extend over a large geographic area, making it difficult to determine where to reduce power and for what periods.

Comment 41: NRDC recommended that the Navy plan their ship tracks to avoid embayments and provide escape routes for marine mammals.

Response 41: As noted in Response 15, the Navy has a particular set of monitoring measures (intended to help reduce the chance of a stranding) that would be applied if circumstances are thought to make a stranding more likely (e.g., steep bathymetry, multiple vessels in a single area over an extended period of time, constricted channels or embayments). However, there are no areas with these features in aggregate included in the HSTT Study Area.

Comment 42: NRDC recommended that the Navy be required to implement mitigation prescribed by state regulators, by the courts, by other navies or research centers, or from past Navy actions.

Response 42: NMFS and the Navy have worked together on developing a comprehensive suite of mitigation measures to reduce the impacts from Navy training and testing activities on marine mammal species or stocks and their habitat. During the process of developing mitigation measures, NMFS and the Navy considered all potentially

applicable mitigation measures. NMFS has determined that the Navy's proposed mitigation measures, along with the Planning Awareness Areas, Stranding Response Plan, and Adaptive Management are adequate means of effecting the least practicable adverse impacts on marine mammal species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, while also considering personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity. The justification for this conclusion is discussed in the Mitigation Conclusions section of the proposed rule (78 FR 6978, January 31, 2013; page 7016).

Comment 43: One commenter stated that there is no compelling case for why Navy activities need to occur in areas of high humpback whale concentrations around Hawaii.

Response 43: Due to the combination of installed MIW targets, range instrumentation, and unique shallow water bathymetry, these areas represent an important training and testing capability within the HRC and must be available to support deploying forces year round. However, it is likely that the demonstrated low use of hull-mounted mid-frequency active sonar within these areas will continue in the foreseeable future. See Response 7 of this section.

Acoustic Thresholds

Comment 44: The Commission recommended that NMFS require the Navy to adjust all acoustic and explosive thresholds for low-, mid-, and high-frequency cetaceans by the appropriate amplitude factor (e.g., 16.5 or 19.4 dB), if the Type II weighting functions from Figure 6 of Finneran and Jenkins (2012) are to be used.

Response 44: The acoustic and explosive thresholds were adjusted based on weighting the exposures from the original research from which the thresholds were derived with the Type II weighing functions. The weighted threshold is not derived by a simple amplitude shift.

The high-frequency cetacean onset TTS threshold is based on the onset-TTS threshold derived from data in Lucke *et al.* (2009) for impulsive exposures. This threshold was subsequently adjusted in Finneran and Jenkins (2012) to reflect Type II high-frequency cetacean weighting. Therefore, a simple 19.4 dB adjustment to the thresholds presented in Southall *et al.* (2007) is not appropriate.

At the time the acoustic criteria and thresholds were developed, no direct measurements of TTS due to non-impulsive sound exposures were available for any high-frequency cetacean; therefore, the relationship between onset-TTS sound exposure level (SEL)-based thresholds (Type II weighted) for mid-frequency cetaceans exposed to impulsive and non-impulsive sounds (beluga data) was used to derive the onset-TTS threshold for high-frequency cetaceans exposed to non-impulsive sounds (6-dB difference). The derived high-frequency cetacean non-impulsive onset TTS threshold is consistent with data recently published by Kastelein, *et al.* (2012) on TTS measured after exposing a harbor porpoise to non-impulsive sounds.

Comment 45: The Commission requested an explanation of why data from Kastak *et al.* (2005) was used as the basis for explosive thresholds in pinnipeds and for the extrapolation process and factors used as the basis for associated TTS thresholds.

Response 45: The same offset between impulsive and non-impulsive TTS found for the only species where both types of sound were tested (beluga) was used to convert the Kastak *et al.* (2005) data (which used non-impulsive tones) to an impulsive threshold. This method is explained in Finneran and Jenkins (2012) and Southall *et al.* (2007).

Comment 46: The Commission recommended that NMFS require the Navy to provide the predicted average and maximum ranges for all impact criteria (behavioral response, TTS, PTS, onset slight lung injury, onset slight gastrointestinal injury, and onset mortality), all activities, and all functional hearing groups.

Response 46: The Navy discusses range to effects in sections 3.4.3.2.1.1 and 3.4.3.2.2.1 of the HSTT FEIS/OEIS. The active acoustic tables in section 3.4.3.2.1.1 illustrate the ranges to PTS, TTS, and behavioral response. The active acoustic tables for PTS and TTS show ranges for all functional hearing groups and the tables for behavioral response show ranges for low-, mid-, and high-frequency cetaceans. The active acoustic source class bins used to assess range to effects represent some of the most powerful sonar sources and are often the dominant source in an activity. The explosives table in section 3.4.3.2.2.2 illustrates the range to effects for onset mortality, onset slight lung injury, onset slight gastrointestinal tract injury, PTS, TTS, and behavioral response. The explosives table shows ranges for all functional hearing groups. The source class bins used for explosives range from the smallest to largest amount of net explosive weight. These ranges represent conservative estimates (i.e., longer ranges) based on assuming all impulses are 1-second in duration. In fact, most impulses are much shorter and contain less energy. Therefore, these ranges provide realistic maximum distances over which the specific effects would be possible.

NMFS believes that these representative sources provide adequate information to analyze potential effects on marine mammals. Because the Navy conducts training and testing in a variety of environments having variable acoustic propagation conditions, variations in acoustic propagation conditions are considered in the Navy's acoustic modeling and the quantitative analysis of acoustic impacts. Average ranges to effect are provided in the HSTT FEIS/OEIS to show the reader typical zones of impact around representative sources.

Comment 47: One commenter suggested, based on Kastelein *et al.* (2012), that using sound exposure level (SEL) may sometimes underestimate the amount of TTS experienced by a marine mammal.

Response 47: The basic assumption of using the SEL metric with TTS thresholds is that the equal energy hypothesis (EEH) holds true in all situations (i.e., if the SELs of two sources are similar, a sound from a lower level source with a longer exposure duration may have similar risks to a sound from a higher level source with a shorter exposure duration). It is known from marine mammal and terrestrial mammal data that this is not always the case, especially in situations of long exposure periods with lower sound pressure levels. However, the EEH also does not account for any possible recovery between intermittent exposures and that non-impulsive, intermittent sources typically require higher SELs to induce TTS compared to continuous exposures of the same duration (Mooney *et al.,* 2009; Finneran *et al.,* 2010). Additionally, Kastelein *et al.* (2012b) expose animals to continuous durations of 7.5 minutes and longer, which do not necessarily reflect exposure durations expected for the majority of Navy sources.

Comment 48: One commenter claimed that a statement in the proposed rule suggested that NMFS believes that data from bottlenose dolphins and beluga whales represent the full diversity of mid-frequency cetaceans.

Response 48: The commenter is referring to a paper by Finneran and Jenkins (2012) titled ''Criteria and Thresholds for Navy Acoustic Effects Analysis.'' The authors do not claim that bottlenose dolphins and belugas

encompass the full diversity of mid-frequency odontocetes. Rather, they state that these two species are diverse. Because both species showed similar TTS thresholds, and because TTS data has not been collected for other mid-frequency cetaceans, the TTS thresholds for bottlenose dolphins and belugas were applied to all mid-frequency cetaceans.

Comment 49: One commenter suggested that low-frequency cetaceans should be split into two groups because the blue and fin whales (and possibly sei whales) are more low-frequency specialists than others.

Response 49: NMFS does not plan on splitting low-frequency cetaceans into two groups. Although there is some variation among the 13 species of marine mammals identified in the proposed rule as ''low-frequency'' cetaceans, these species all fall within the ''low-frequency'' functional hearing group identified by Southall *et al.* (2007) where functional hearing is estimated to occur between approximately 7 Hz and 22 kHz.

Comment 50: One commenter referred specifically to the criteria and thresholds used for TTS as described in a paper by Finneran and Jenkins (2012): ''Criteria and Thresholds for Navy Acoustic Effects Analysis Technical Report.'' The commenter believes that scientific literature is at odds with the conclusions made in the Navy document and referred to the following quote on page 18 of the technical report: ''This means the (Type I) weighted exposure SEL for harbor seals under water is 183 dB re 1 μPa2•s.'' However, Kastelein *et al.* (2012a) note for harbor seals that ''[while] TTS onset (6 dB) is predicted to occur at 183 dB re 1 μPa2•s . . . [i]n the present study, statistically significant TTS, at ca. 2.5 dB, began to occur at SELs of ~170 [136 dB SPL, 60 min.] and 178 dB re 1 μPa2•s [148 dB SPL, 15 min.], but actual TTS onset is probably at lower SELs.'' The Kastelein *et al.* (2012a) study used two young (4–5 year old) female harbor seals, whereas the 183 dB figure originates from a study (Kastak *et al.* 2005) using one male that was 14 years old. Kastelein *et al.* (2012a) found that even for the same seal, ''thresholds changed [hearing became slightly less sensitive (3 dB) for 4 kHz test signals and slightly more sensitive (2 dB) for 5.7 kHz test signals] over time in the control sessions.'' The commenter claims the authors caution that ''[m]odeling TTS from exposure SPLs and duration (as done by Finneran *et al.* 2010) would require more data points, e.g., at lower and higher exposure SPLs, to find the SPL and duration thresholds at which TTS starts. It would be risky to fit a formula to the 14 SEL data points found in the present study because the TTS results of the two seals differ, and because this study shows that harbor seals' TTSs may reach asymptote after certain exposure durations.'' The highest TTS in the Kastelein *et al.* (2012a) study was 10 dB produced by 148 dB re 1 μPa at 120 and 240 minute exposures. The authors also stressed that the TTS may have an ecological impact, '' . . . reduc[ing] the audibility of ecologically and socially important sounds for seals. For example, a TTS of 6 dB would halve the distance at which the seal suffering that TTS would be able to detect another seal, a vociferous fish, or a predator acoustically. . . ''

Response 50: There are some distinct differences between the Kastelein *et al.* (2012a) study and the Kastak *et al.* (2005) study, from which the current pinniped TTS onset criterion was derived, including differences associated with the sex and age of individuals tested, different background noise levels, and differences in experimental procedure, as well as different center frequency of exposure stimuli. It should be noted that a threshold shift of 6 dB is considered the minimum threshold shift clearly larger than any day-to-day or session-to-session variation in a subject's normal hearing ability (Schlundt *et al.* 2000; Finneran *et al.* 2000; Finneran *et al.* 2002). Southall *et al.* (2007) also defined TTS onset as a 6 dB shift in threshold. Similarly, for humans, the National Institute for Occupational Safety and Health (1998) regards the range of audiometric testing variability to be approximately 5 dB. Additionally, despite Kastelein *et al.* (2012a) indicating possible ecological impacts associated with TTS, they also say ''Recovery from small TTSs (up to 10 dB), such as those caused by the sound exposures in the present study, is very fast (within_60 min). Reduced hearing for such a short period probably has little effect on the total foraging period of a seal, as long as TTS occurs infrequently.''

It should also be noted that the Navy's acoustic analysis indicated that predicted TTS in harbor seals was typically caused by higher sound pressure levels (greater than 160 dB re 1μPa) over much shorter total durations (on the order of a few seconds) than the exposure regime used by Kastelein *et al.* (2012a). Therefore, the most appropriate dataset of Kastelein *et al.* (2012a) to derive a TTS threshold for harbor seals that is relevant to the way Navy sound sources are used is the dataset that uses the highest exposure level (i.e., 148 dB re 1μPa). According to Figure 9 of Kastelein *et al.* (2012a) a 6-dB hearing threshold shift (i.e., a reliably detectable TTS) would occur at an sound exposure level of approximately 182–183 dB re 1μPa2-s. Therefore, the Kastelein *et al.* (2012a) results agree with the harbor seal TTS-inducing sound levels found by Kastak *et al.* (2005) and the phocid seal TTS thresholds currently used by the Navy in its acoustic analysis as described in Finneran and Jenkins (2012).

Comment 51: One commenter referred specifically to the criteria and thresholds used for behavioral effects as described in a paper by Finneran and Jenkins (2012) ''Criteria and Thresholds for Navy Acoustic Effects Analysis Technical Report.'' The commenter referred to the following quote on page 22 of the technical report: ''The BRF [Behavioral Response Function] relies on the assumption that sound poses a negligible risk to marine mammals if they are exposed to SPL below a certain ''basement value.'' The commenter referred to the basement value of 120 dB, but claims that the reasoning and literature interpretation behind the basement value is weak. The commenter then provided NMFS with examples from other studies in support of her argument. For example, she referred to a study by Miller *et al.* (2012) involving controlled exposures of naval sonar to killer whales, pilot whales, and sperm whales. They scored responses based on behavioral severity scores of 1–3 (not likely to influence vital rates; 4–6 (could affect vital rates), and 7–9 (likely to influence vital rates). In 83 percent of LFAS (1–2 kHz) exposure sessions, the response was at a maximum severity of 4 or greater (could or likely to affect vital rates). Behavioral severity scores of 5, 6, and 7 occurred with received levels of 90–99 dB in killer whales. Since many responses occurred at received levels below 120 dB, Miller *et al.* (2012) postulate that killer whales may be particularly sensitive ''. . . with some groups responding strongly to sonar at received SPLs just loud enough to be audible.'' The commenter claims that in sperm whales, behavioral severity scores of 4 and 6 happened at received levels of 120–129 dB. Miller *et al.* (2012) note that ''. . . there is little indication in our results of a dose-response pattern in which higher severity changes are less common at lower received levels and more common at higher received levels. Instead, we scored behavioral responses to have occurred across a wide range of received levels. Seven scored responses to sonar started at received SPLs of < 110 dB re: 1 μPa''.

They add that ''. . . though there was an overall tendency for increased risk of a severe behavioral response above 120 to 130 dB re: 1 μPa received SPLmax, our results do imply that any signal audible to the animal can represent some risk of a behavioral response at any severity level between 0 and 7.'' LFAS (1–2 kHz) exposure resulted in both a greater number and more severe scored responses than for mid-frequency active sonar (6–7 kHz), despite the behavioral and electrophysiological audiograms of three killer whales showing 10–40 dB less sensitivity at 1–2 kHz than 6–7 kHz. Taxonomically similar species also didn't react more similarly to naval sonar, leading Miller *et al.* (2012) to caution that ''. . . great care [must be applied] during the extrapolation of results from experimental studies on a particular species to other closely related species.''

Response 51: Behavioral responses can be complex and highly variable and may be influenced strongly by the context of exposure (e.g., sound source within a close proximity of a few kilometers) and exposure history of the individual, among several of other factors, including distance from the source, as has been discussed by Southall *et al.* (2007), Southall *et al.* (2012), and Ellison *et al.* (2011), among others. These responses were observed in animals that were being followed and approached by multiple ships, including the one with the sound source. However, no control was conducted that measured the response of animals to the presence of multiple ships without a sonar source. Killer whales in particular have demonstrated avoidance behavior and other severe behavioral responses to being surrounded by multiple vessels (e.g., Erbe 2002, Kruse 1991, and Noren *et al.* 2009). There are several advantages associated with playback studies, like Miller *et al.* (2012) (i.e., highly controlled exposure, baseline behavioral data before exposure is available, etc.). However, an important consideration is that these situations may not always accurately reflect how an individual would behaviorally respond to an actual sound source that is often either much further away at comparable received levels or whose movement is independent from an individual's movement (i.e., not intentionally approaching an individual). For example, DeRuiter *et al.* (2013) recently observed that beaked whales (considered a particularly sensitive species) exposed to playbacks of U.S. tactical mid-frequency sonar from 89 to 127 dB at close distances responded notably (i.e., alter dive patterns), while individuals did not behaviorally respond when exposed to the similar received levels from actual U.S. tactical mid-frequency sonar operated at much further distances. Miller *et al.* (2012) even points out that ''the approach of the vessel from a starting distance of 6 to 8 km probably led to a more intense exposure than would be typical for actual exercises, where the motion of sonar vessels is independent of whale location. All of these factors make the experiments a realistic though possibly worse than normal scenario for sonar exposures from real navy activities.'' Similarly, we addressed Tyack *et al.* (2011) in the proposed rule (78 FR 6978, January 31, 2013), which indicates that beaked whales responded to mid-frequency signals at levels below 140 dB. In summary, a greater sample size is needed before robust and definitive conclusions can be drawn.

Comment 52: One commenter suggested that NMFS is inconsistent in applying behavioral response data from a few individuals to all mid-frequency cetaceans, but not applying behavioral response data from harbor porpoises to all high-frequency cetaceans. Another commenter further suggested that instead of distinguishing sensitive species and identifying separate thresholds, NMFS should instead include the data from the more sensitive species into the general threshold, thus lowering it. Last, one commenter suggested that the 140-dB threshold for beaked whales is not low enough because Tyack *et al.* (2011) shows that some beaked whales are taken below 140 dB.

Response 52: NMFS approach is consistent and appropriate for sensitive species. NMFS believes that the behavioral response data used to inform the behavioral response curve is the best data to generally predict behavioral response across odontocetes. However, two exceptions to the use of the general behavioral response curve, for particularly sensitive species, have been established based on the best available science. A lower behavioral response threshold of 120 dB SPL is used for harbor porpoises because data suggest that this particular species is likely sensitive to a wide range of anthropogenic sounds at lower received levels than other species, at least for initial exposures. There are no data to indicate whether other or all high-frequency cetaceans are as sensitive to anthropogenic sound as harbor porpoises are and therefore the general odontocete curve is applied to other high-frequency species. Similarly, beaked whales are considered particularly sensitive both because of their involvement in several strandings associated with mid-frequency active sonar exercises in certain circumstances, and because of additional newer information showing certain behavioral responses at lower levels (Tyack *et al.,* 2011) and therefore, NMFS and the Navy have utilized a lower behavioral response threshold of 140 dB.

Regarding the suggestion that the data from Tyack *et al.* (2011) support the use of a behavioral threshold below 140 dB, NMFS disagrees. While Tyack *et al.* (2011) does report tagged whales ceasing clicking when exposed to levels slightly below 140 dB, they also report that some beaked whales exposed above 140 dB did not stop clicking, and further assert that ''our results support a similar criterion of about 140 dB SPL [sound pressure level] for beaked whale exposure to mid-frequency sounds.'' More importantly, as noted above, DeRuiter *et al.* (2013) recently reported on the importance of context (for example, the distance of a sound source from the animal) in predicting behavioral responses as supported by observations that beaked whales exposed to playbacks of U.S. tactical mid-frequency active sonar (such as those used in Tyack *et al.* (2011)) from 89 to 127 dB at close distances responded notably (i.e., altered dive patterns), while individuals did not behaviorally respond when exposed to similar received levels from actual U.S. tactical mid-frequency active sonar operated at much further distances.

Behavioral responses of species to sound should not be confused with a particular functional hearing group's perception of loudness at specific frequencies. Behavioral responses can be highly variable and depend on a multitude of species-specific factors (including context, etc.), while hearing abilities are based on anatomy and physiology, which is more likely to be conserved across similar species making extrapolations of auditory abilities more appropriate.

Comment 53: One commenter cited Melcon *et al.* 2012 to suggest that behavioral responses in marine mammals could occur below 120 dB (NMFS' acoustic threshold for Level B harassment from non-impulse sources).

Response 53: First, it is important to note that not all marine mammal behavioral responses rise to the level of a ''take'' as considered under section 101(a)(5)(A) of the MMPA. NMFS' analysis of the Navy's activities does not state that marine mammals will not respond behaviorally to sounds below 120 dB; rather, the 120 dB level is taken

as the estimated received level below which the risk of significant change in a biologically important behavior approaches zero for the risk assessment for sonar and other active acoustic sources.

As stated in the proposed rule, the studies that inform the basement value of 120 dB are from data gathered in the field and related to several types of sound sources (of varying similarity to active sonar) after applying the behavioral response function. These sound sources include: vessel noise, drilling and machinery playback, low-frequency M-sequences (sine wave with multiple phase reversals) playback, tactical low-frequency active sonar playback, drill ships, Acoustic Thermometry of Ocean Climate (ATOC) source, and non-pulse playbacks. These studies generally indicate no (or very limited) responses to received levels in the 90 to 120 dB range and an increasing likelihood of avoidance and other behavioral effects in the 120 to 160 dB range. It is important to note that contextual variables play a very important role in the reported responses and the severity of effects are not linear when compared to received level. Melcon *et al.* (2012) also reported that ''probability of D calls given MFA sonar decreased significantly with increasing received level'' and decreases seemed to start at levels around 120 dB. Additionally, whales were found to start vocalizing again once sonar ceased. Melcon *et al.*'s (2012) findings do not necessarily apply to every low-frequency cetacean in every scenario and results should be considered merely beyond the application to the BRF (i.e., within overall analysis) to more accurately determine the potential consequences of decreased feeding calls in various scenarios with overlapping Navy MFA exercises (e.g., in Melcon *et al.,* 2012 study there was an overlap of 9 percent of the total hours analyzed where MFA sonar was detected).

Comment 54: One commenter pointed out the increases in a beluga whale's average heart rate during acoustic playbacks (Lyamina *et al.,* 2011).

Response 54: The commenter referenced this paper in the context of acoustic criteria and thresholds for behavioral effects. It is important to note that this study was done on a beluga whale in captivity, captured two months prior to the experiment, and constrained to a stretcher. In natural circumstances (i.e., the wild), the animal would be able to move away from the sound source. Contextual variables such as distance, among numerous other factors, play a large role in determining behavioral effects to marine mammals from acoustic sources. This study is difficult to directly apply to the anticipated behavioral effects of the Navy's impulsive and non-impulsive sound sources on marine mammals because there are some distinct differences between the sound source used in this study and Navy sources. For one, the frequency of the sound source in the Lyamin *et al.* (2011) study ranged from 19 to 108 kHz (trying to test effects in range of best hearing), which is outside the frequency range of the majority of Navy sonar hours. Additionally, exposures that led to a response in this study were of 1-minute continuous duration, which again does not mimic exposure durations for the majority of Navy sources.

Comment 55: One commenter believes that certain studies are at odds with the conclusions made by NMFS and the Navy and referred specifically to the criteria and thresholds used for behavioral effects as described in a paper by Finneran and Jenkins (2012) ''Criteria and Thresholds for Navy Acoustic Effects Analysis Technical Report.'' The commenter referred to the following quote on page 24 of the technical report: ''an (unweighted) SPL of 120 dB re 1μPa is used for harbor porpoises as a threshold to predict behavioral disturbance.'' In support of her position, the commenter referred to text from a study by Kastelein *et al.* (2012c), ''[F]or 1–2 kHz sweeps without harmonics, a 50 percent startle response rate occurred at mean received levels of 133 dB re 1 μPa; for 1–2 kHz sweeps with strong harmonics at 99 dB re 1 μPa; for 6–7 kHz sweeps without harmonics at 101 dB re 1 μPa.'' Thus, according to the commenter, the presence of harmonics in sonar signals increases their detectability by harbor porpoises. Moreover, the startle response rate increased with increasing mean received level. This study and others show that there is no clear-cut relationship between the startle response and hearing threshold. To cause no startle response, single emissions (once every 3 minutes) had to be below a mean received level of 112 dB for 1–2 kHz sweeps without harmonics, below a mean received level of 80 dB for the same sweeps with harmonics, and below a mean received level of 83 dB for 6–7 kHz sweeps without harmonics (Kastelein *et al.* 2012c). Harmonics can be reduced by lowering sonar signals' source levels. Harmonics can also be perceived to be even louder than the fundamental frequencies of sonars and therefore could influence harbor porpoise behavior more (Kastelein *et al.* 2012c).

Response 55: All harbor porpoises exposed to (unweighted) sound pressure levels equal to or greater than 120 dB are considered behaviorally harassed. Since this metric is unweighted, the entire frequency content of the signal (including potential harmonics) are considered when comparing the received sound level with the behavioral threshold. Behavioral responses can be variable, with a number of factors affecting the response, including the harmonics associated with a sound source, as demonstrated by Kastelein *et al.* (2012c). The presence of harmonics in the 1–2 kHz sweep had two related effects: (1) They increased the frequency range of the tonal (made it more high frequency); and therefore (2) they made the overall spectrum more broadband, with energy over 90 dB re 1 μPa from about 1–11 kHz, rather than the narrowband energy of the sweeps without harmonics (Kastelein *et al* 2012). However, as Kastelein points out, ''both the spectrum and the received level of an underwater noise appear to determine the effect the sound has . . .,'' and as harmonics are related to the intensity of the sound, in most cases harmonics will not be perceived by an animal unless the intensity of the sound is already well over background levels. In addition, Kastelein *et al.* (2012) define a startle response as a ''short-latency defensive response that protects animals in the brief period (up to a few 100 ms) before cognitive evaluation of a situation can take place to allow an adaptive response'', and further states ''After about one strong tail movement, the animal's behavior returned to normal. The animal did not avoid the area near the transducer during sessions any more than usual.'' Therefore, this startle response did not indicate a behavioral disturbance. Furthermore, these sounds were below true ambient noise levels (as would be found outside of an artificially quiet pool) and are not likely to be produced at those levels outside of an artificial environment (e.g., tonals with harmonics would be at received levels far above the conservative 120 dB level used by NMFS and the Navy).

Southall *et al.* (2007) indicate a startle response is ''a brief, transient event [that] is unlikely to persist long enough to constitute significant disturbance.'' The 120 dB (unweighted) behavioral threshold used for harbor porpoises is associated with Level B harassment under the MMPA. Thus, the mere presence of a startle response, without any further information on whether an animal perceives and behaviorally responds to a sound as a threat, is not

considered a behavioral response that rises to the level of behavioral harassment.

Comment 56: One commenter referred specifically to the criteria and thresholds used for TTS as described in a paper by Finneran and Jenkins (2012) ''Criteria and Thresholds for Navy Acoustic Effects Analysis Technical Report.'' The commenter referred to the following quote on page 20 of the technical report: ''Since no studies have been designed to intentionally induce PTS in marine mammals, onset-PTS levels for marine mammals must be estimated using available information . . . Data from Ward *et al.* (1958) reveal a linear relationship between TTS and SEL with growth rates of 1.5 to 1.6 dB TTS per dB increase in SEL. This value for the TTS growth rate is larger than those experimentally measured in a dolphin exposed to 3 and 20 kHz tones (Finneran and Schlundt, 2010), and so appears to be a protective value to use for cetaceans.'' The commenter then cites the following studies in support of her belief that recent literature is at odds with the conclusions made by the Navy and NMFS. According to the commenter, Kastak *et al.* (2008) and Reichmuth (2009) found that a harbor seal exposed to a maximum received sound pressure of 184 dB re 1 μPa with a duration of 60 seconds (SEL=202 dB re 1 μPa2s) a second time, showed an initial threshold shift in excess of 48 dB at 5.8 kHz, a half-octave above the fatiguing tone (4.1 kHz pure tone). This occurred suddenly with no warning, after ''a level of no measurable effect,'' following progressive gradual increases in noise exposure level, i.e. this was a nonlinear response, in contrast to what is written above in the ''Criteria and Thresholds for U.S. Navy Acoustic and Explosive Effects Analysis.'' A permanent threshold shift of 7 to 10 dB remained after two years (Reichmuth 2009). Reichmuth notes that ''. . . tonal noise exposures, not commonly studied in terrestrial models of hearing, may be of particular concern with respect to residual auditory effects.''

Response 56: The commenter cites the TTS growth rate used for cetaceans; however, the reported TTS growth rate for a pinniped was used to develop the onset PTS threshold for all pinnipeds (including harbor seals). The onset PTS threshold used in this analysis is lower than the SEL reported in Kastak *et al.* (2008).

Comment 57: One commenter suggested that TTS should be considered a form of injury.

Response 57: NMFS developed acoustic criteria that estimate at what received level (when exposed to sonar or explosive detonations) TTS (Level B harassment) would occur. A number of investigators have measured TTS in marine mammals. These studies measured hearing thresholds in trained marine mammals before and after exposure to intense sound. For example, Ward (1997) suggested that TTS is within the normal bounds of physiological variability and tolerance and does not represent physical injury. In addition, Southall *et al.* (2007) indicates that although PTS is a tissue injury, TTS is not because the reduced hearing sensitivity following exposure to intense sound results primarily from fatigue, not loss, of cochlear hair cells and supporting structures, and is reversible. Accordingly, NMFS considers TTS to be a form of Level B harassment rather than Level A harassment (injury).

NMFS is aware of recent studies by Kujawa and Liberman (2009) and Lin *et al.* (2011). These studies found that despite completely reversible threshold shifts that leave cochlear sensory cells intact, large threshold shifts could cause synaptic level changes and delayed cochlear nerve degeneration in mice and guinea pigs, respectively. NMFS notes that the high level of TTS that led to the synaptic changes shown in these studies is in the range of the high degree of TTS that Southall *et al.* (2007) used to calculate PTS levels. It is not known whether smaller levels of TTS would lead to similar changes. NMFS, however, acknowledges the complexity of noise exposure on the nervous system, and will re-examine this issue as more data become available.

Comment 58: With regards to the development of marine mammal auditory weighting functions, one commenter believes that there is insufficient recognition that at high enough amplitudes, the curves for hearing impairment are quite flat across all frequencies (suggesting that audiograms are irrelevant at these levels).

Response 58: The exposure levels where hearing impairment becomes flat across broad auditory frequency ranges are typically associated with high risks of permanent hearing loss and where the threshold of pain occurs. Auditory weighting functions are being applied to levels where the onset of TTS and PTS occur. Additionally, the peak pressure metric criteria (part of dual criteria for most sound sources) does not take weighting functions into consideration (i.e., this metric is unweighted), which offers additional protection from exposure to sounds that have the potential to have extremely high amplitudes.

Effects Analysis

Comment 59: The Commission requested information regarding how the Navy determined takes that occur when multiple source types are used simultaneously.

Response 59: The Navy treated events involving multiple source types (e.g., acoustic vs. explosive) as separate events and did not sum the sound exposure levels. In most cases, explosives and sonar are not used during the same activities and therefore are unlikely to affect the same animals over the same time period.

The Navy summed energy for multiple exposures of similar source types. For sonar, including use of multiple systems within any scenario, energy is accumulated within the following four frequency bands: low-frequency, mid-frequency, high-frequency, and very high-frequency. After the energy has been summed within each frequency band, the band with the greatest amount of energy is used to evaluate the onset of PTS or TTS. For explosives, including use of multiple explosives in a single scenario, energy is summed across the entire frequency band. This process is detailed in a technical report titled ''The Determination of Acoustic Effects on Marine Mammals and Sea Turtles'' on the HSTT EIS Web site (*http://www.hstteis.com*).

Comment 60: A few commenters recommended that insular stocks of bottlenose dolphins in Hawaii be assessed on a stock-by-stock basis to estimate take and determine negligible impacts.

Response 60: Since 2009, multiple stocks of bottlenose dolphin (Hawaii pelagic; Kauai and Niihau; Oahu; 4-Island Region; and Hawaii Island) have been designated around Hawaii. NMFS' science centers and the Navy have been working to evaluate potential methods for estimating impacts on a stock-by-stock basis. The Navy, in consultation with NMFS, has revised take estimates of the Hawaii bottlenose dolphin. Because there is not published NMFS-derived density data for the multiple stocks of Hawaii bottlenose dolphins, the Navy could not quantitatively model affects to each of the stocks. However, the Navy was able to distribute Hawaii bottlenose dolphin takes from its LOA application to each of the five stocks based on NMFS' derived estimates of relative population size. The breakdown of those takes is included in Tables 18 and 20 of this document, as well as the regulatory text at the end of this document.

Comment 61: One commenter suggested that species population estimates should be based on minimum population estimates.

Response 61: NMFS considered the best population estimates when assessing impacts to marine mammal populations from Navy activities because we believe these provided the most accurate estimate based on the best available science.

Comment 62: One commenter claimed that the Navy's proposed activities are likely to result in jeopardy of the continued existence of ESA-listed species.

Response 62: Pursuant to section 7 of the Endangered Species Act, the Navy consulted with NMFS on its proposed action and NMFS consulted internally on the issuance of LOAs under section 101(a)(5)(A) of the MMPA. The purpose of that consultation was to determine whether the proposed action is likely to result in jeopardy of the continued existence of a species. In the Biological Opinion, NMFS concluded that the issuance of the rule and two LOAs are likely to adversely affect, but are not likely to jeopardize the continued existence of the threatened and endangered species under NMFS' jurisdiction and are not likely to result in the destruction or adverse modification of critical habitat that has been designated for endangered or threatened species in the HSTT Study Area. The Biological Opinion for this action is available on NMFS' Web site (*http://www.nmfs.noaa.gov/pr/permits/incidental.html#applications*).

Comment 63: One commenter stated that the Navy's proposed activities are not just ''incidental,'' but serious and potentially catastrophic.

Response 63: In section 101(a)(5)(A) and (D) of the MMPA, incidental is defined as an unintentional, but not unexpected, taking. In other words, the Navy's activities are considered incidental because they may result in the unintentional taking of marine mammals. The term incidental does not refer to the type or level of impacts that an activity may have on marine mammals.

Comment 64: One commenter suggested that the authorized take numbers should reflect the Navy's inability to mitigate for onset of TTS during every activity.

Response 64: As discussed in the proposed rule, TTS is a type of Level B harassment. In the Estimated Take of Marine Mammal section of the proposed rule (78 FR 6978, January 31, 2013; pages 7021–7030), we quantify the effects that might occur from the specific training and testing activities that the Navy proposes in the HSTT Study Area, which includes the number of takes by Level B harassment (behavioral harassment, acoustic masking and communication impairment, and TTS). Through this rulemaking, NMFS has authorized the Navy to take marine mammals by Level B harassment incidental to Navy training and testing activities in the HSTT Study Area. In order to issue an incidental take authorization, we must set forth the ''permissible methods of taking pursuant to such activity, and other means of effecting the least practical adverse impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.'' We have determined that the mitigation measures implemented under this rule reduce the potential impacts to marine mammals from training and testing activities.

The Navy developed activity-specific mitigation zones based on the Navy's acoustic propagation model. Each recommended mitigation zone is intended to avoid or reduce the potential for onset of the lowest level of injury, PTS, out to the predicted maximum range. Mitigating to the predicted maximum range to PTS consequently also mitigates to the predicted maximum range to onset mortality (1 percent mortality), onset slight lung injury, and onset slight gastrointestinal tract injury, since the maximum range to effects for these criteria are shorter than for PTS. Furthermore, in most cases, the predicted maximum range to PTS also covers the predicted average range to TTS. In some instances, the Navy recommended mitigation zones that are larger or smaller than the predicted maximum range to PTS based on the associated effectiveness and operational assessments presented in section 5.3.2 (Mitigation Zone Procedural Measures) of the HSTT FEIS/OEIS. NMFS worked closely with the Navy in the development of the recommendations and carefully considered them prior to adopting them in this final rule. The mitigation zones contained in this final rule represent the maximum area the Navy can effectively observe based on the platform of observation, number of personnel that will be involved, and the number and type of assets and resources available. As mitigation zone sizes increase, the potential for reducing impacts decreases. For instance, if a mitigation zone increases from 1,000 to 4,000 yd. (914 to 3,658 m), the area that must be observed increases sixteen-fold. The mitigation measures contained in this final rule balance the need to reduce potential impacts with the Navy's ability to provide effective observations throughout a given mitigation zone. Implementation of mitigation zones is most effective when the zone is appropriately sized to be realistically observed. The Navy does not have the resources to maintain the additional Lookouts or observer platforms that would be needed to effectively observe mitigation zones of increased size.

Comment 65: One commenter cited Madsen *et al.* (2006) to suggest that airgun use could cause whales to stop feeding.

Response 65: NMFS referenced Madsen *et al.* (2006) in the behavioral disturbance (specifically, foraging) section of the proposed rule. However, airguns used during Navy testing are small (up to 60 in^3) compared to the airgun arrays used in Madsen *et al.* (2006), which ranged from 1,680 in^3 to 2,590 in^3. The results from Madsen *et al.* (2006) cannot be directly tied to the expected impacts from the Navy's limited use of small airguns during testing activities. The Navy will only use airguns an average of five times per year. Furthermore, airgun usage in the Study Area is a component of pierside integration swimmer defense activities, which occur pierside in San Diego and do not overlap with any major feeding areas.

Comment 66: One commenter noted that it is not always possible to differentiate between marine mammal habituation of a sound and hearing impairment.

Response 66: We do not have a perfect understanding of marine mammal behavioral responses, but we have sufficient information (based on multiple MFA sonar-specific studies, marine mammal hearing/physiology/anatomy, and an extensive body of studies that address impacts from other anthropogenic sources) to be able to assess potential impacts and design mitigation and monitoring measures to ensure that the Navy's action will avoid injury and mortality whenever possible, have the least practicable adverse impact on marine mammal species and stocks and their habitat, and have a negligible impact on the affected species and stocks.

In the Potential Effects of Specified Activities on Marine Mammals section of the proposed rule (78 FR 6978, January 31, 2013; pages 6997–7011), we included a qualitative discussion of the different ways that Navy training and testing activities involving active sound sources may potentially affect marine mammals, which was based on MFA

sonar-specific studies and other studies addressing impacts from non-mid-frequency active sonar anthropogenic sources.

Comment 67: One commenter noted that the behavioral harassment analysis in the proposed rule (78 FR 6978, January 31, 2013; page 7034) shows that from 120–138 dB and 174–198 dB, very few low-frequency and mid-frequency cetaceans are behaviorally harassed. The commenter suggested that this is counter to the literature and requests an explanation for why high-frequency cetaceans are not included.

Response 67: The number of behavioral harassments is determined from the behavioral risk function criteria. At the lower received levels, the probability is significantly decreased and results in lower numbers. The distance to higher received levels is relatively small, therefore encompassing a relatively small area. Since only a small area is ensonified, there is less chance for exposure. Additionally, it is possible that an animal could experience TTS at higher received levels, and if the animal has already been counted under TTS it would not be reflected in the table. As depicted in Table 3.4–12 of the HSTT FEIS/OEIS, the behavioral response function table also applies to high-frequency cetaceans.

To the commenter's last point, the portion of the table labeled ''Mid-frequency Cetaceans'' (Table 21) should actually be labeled ''Mid- and High-frequency Cetaceans.'' There is one single behavioral harassment curve applied to both mid- and high-frequency cetaceans and Table 21 lists the breakdown of takes for that curve.

Comment 68: One commenter noted that NMFS should highlight declines in beaked whales off California and that Navy sonar impacts are one of two leading hypotheses for their decline.

Response 68: The commenter cited Moore and Barlow (2013) when referring to declines in beaked whales off California. Moore and Barlow (2013) have noted a decline in beaked whale populations in a broad area of the Pacific Ocean out to 300 nautical miles from the coast and extending from the Canadian-U.S. border to the tip of Baja Mexico. There are scientific caveats and limitations to the data used for that analysis, as well as oceanographic and species assemblage changes not thoroughly addressed in Moore and Barlow (2013). The authors suggest Navy sonar as one possible explanation for the apparent decline in beaked whale numbers over that broad area. However, in the small portion of the Pacific coast overlapping with the SOCAL Range Complex (where the Navy has been intensively training and testing with sonar and other systems for decades), long-term residency by individual Cuvier's beaked whales and higher densities of beaked whales have been documented. While it is possible that a downward trend in beaked whales may have gone unnoticed in the SOCAL Range Complex (due to a lack of survey precision) or that beaked whale densities may have been higher before the Navy began using sonar earlier in the 1900's, there is no data to suggest that beaked whale numbers have declined in the SOCAL Range Complex and as Moore and Barlow (2013) point out, it remains clear that the Navy range in Southern California continues to support high densities of beaked whales.

Comment 69: One commenter pointed out the stable or declining blue whale population off California (Calambokidis *et al.,* 2009) and that the SOCAL-Behavioral Response Study demonstrates that playback of low levels of sonar-like sounds disrupt blue whale feeding behavior during deep feeding. However, the reason for this shift is not fully understood and the commenter believes that key feeding areas should be avoided by the Navy.

Response 69: Calambokidis *et al.* (2009) suggest that the blue whale population off California has not actually declined; but that the whales have shifted away from feeding off California to feeding in other areas much farther north and south. It is important to note that while 1991–2005 may show a slight decline in detections of blue whales from shipboard visual surveys, the corresponding mark-recapture photo identification analysis shows a 3 percent increase in blue whales (Carretta *et al.,* 2013). The commenter specifically cites Goldbogen *et al.,* 2013, which shows blue whale feeding disruption in response to pseudo random noise and simulated sonar signals. It is important to note that this behavior was observed in response to exposure to pseudo random noise and not a simulated sonar signal. Once again, this study shows the complexity of behavioral responses to acoustic sources and the importance of contextual variables.

Again, while NMFS agrees that there are important areas for fin and blue whales that overlap with the SOCAL Range Complex, these areas are also adjacent to the Navy's only west coast underwater instrumented training range. This range has been in operation for decades and is considered mission-critical by the Navy for ASW training and testing. In addition, nearby infrastructure supports multiple warfare mission areas used concurrently with sonar and explosive use. The Navy has determined that establishment of a time-area closure within this region is not practical. However, the Navy has stated that given the closeness to shore, relatively shallow water, and lack of other nearby training infrastructure, major training events are not typically planned in this vicinity.

As previously stated in Response 36, the Navy had two passive acoustic monitoring devices in the water offshore La Jolla and San Clemente Island to record blue, fin, and Cuvier's beaked whale vocalization rates in the presence of anthropogenic sounds. This analysis is continuing through 2015 and results will be posted on the Navy's marine species monitoring Web site: *http://www.navymarinespeciesmonitoring.us/*. Additional monitoring projects are planned for the SOCAL Range Complex, but have not yet been finalized.

Comment 70: Several commenters suggested that the Navy grossly underestimates the effects of its activities on the marine environment and that NMFS fails to consider longer term effects or conduct a population-level analysis.

Response 70: NMFS disagrees that impacts to marine mammals from the Navy's training and testing activities are grossly underestimated. The Navy's model uses the best available science to analyze impacts and often overestimates the potential effects of their activities by considering the worst case scenario (e.g., modeling for the loudest sound source within a source bin). The Navy also analyzed the potential environmental impacts of their activities, including on marine mammal populations, in the HSTT FEIS/OEIS.

NMFS considers population-level effects under our ''least practicable adverse impact'' standard and also when making a negligible impact determination. The Analysis and Negligible Impact Determination section of this final rule explicitly addresses the effects of the 5-year activity on populations, considering: when impacts occur in known feeding or reproductive areas; the number of mortalities; the status of the species; and other factors. Further, NMFS' duty under the ''least practicable adverse impact'' standard is to design mitigation targeting those impacts on individual marine mammals that are most likely to lead to adverse population-level effects. These mitigation measures are discussed in detail both in the Mitigation section of this final rule and also considered in the Negligible Impact Determination section.

Comment 71: Several commenters suggested that NMFS failed to analyze the cumulative effects of the Navy's activities.

Response 71: Section 101(a)(5)(A) of the MMPA requires NMFS to make a determination that the harassment incidental to a specified activity will have a negligible impact on the affected species or stocks of marine mammals, and will not result in an unmitigable adverse impact on the availability of marine mammals for taking for subsistence uses. Neither the MMPA nor NMFS' implementing regulations specify how to consider other activities and their impacts on the same populations. However, consistent with the 1989 preamble for NMFS' implementing regulations (54 FR 40338, September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into the negligible impact analysis via their impacts on the environmental baseline (e.g., as reflected in the density/distribution and status of the species, population size and growth rate, and ambient noise).

In addition, cumulative effects are addressed in the Chapter 4 of the HSTT FEIS/OEIS and NMFS' Biological Opinion for this action. These documents provided NMFS with information regarding other activities in the action area that affect marine mammals, an analysis of cumulative impacts, and other information relevant to the determination made under the MMPA.

Comment 72: One commenter claimed that NMFS' negligible impact determination is not accurate because the Navy's activities will result in hearing loss for 1,600 marine mammals and mortality of 130 marine mammals.

Response 72: Based on our analysis of the effects of the specified activity on marine mammals and their habitat, and dependent on the implementation of mitigation and monitoring measures, we have found that the total taking from Navy training and testing will have a negligible impact on the affected species and stocks. First, the negligible impact finding is made for each individual species and the numbers the commenter cites are totals for all 39 species, i.e., the numbers are not nearly that large for any individual species. Second, in some cases, as described throughout the document, the estimated takes by mortality and injury are not always expected to occur but rather are authorized to ensure that the Navy is in compliance for the maximum that could occur. Last, PTS is a reduction in hearing sensitivity within a particular frequency band (which often occurs naturally as animals age)—NMFS would not expect that complete hearing loss would result from exposure to Navy activities, as it would require an animal stay in very close proximity to a loud source for an extended period of time. As a result, we have promulgated regulations for these activities that prescribe the means of effecting the least practicable adverse impact on marine mammal species or stocks and their habitat and set forth requirements pertaining to the monitoring and reporting of that taking.

Comment 73: One commenter requested a list of unexploded ordnances, mitigation measures for unexploded ordnances, and the impacts on marine mammals from unexploded ordnances.

Response 73: The HSTT FEIS/OEIS addresses the potential impacts from the introduction of things like unexploded ordnance into the water column. As stated in the previous response, the HSTT DEIS/OEIS was made available to the public on May 11, 2012 and was referenced in our notice of receipt (77 FR 60678, October 4, 2012) and proposed rule (78 FR 6978, January 31, 2013). In summary, and as included in the Marine Mammal Habitat section of the proposed rule, chemical, physical, or biological changes in sediment or water quality would not be detectable. In the event of an ordnance failure, the energetic materials it contained would remain mostly intact. The explosive materials in failed ordnance items and metal components from training and testing would leach slowly and would quickly disperse in the water column. Unexploded ordnances are unlikely to affect marine mammals or their habitat.

Comment 74: One commenter suggested that while no reported cases of harmful effects to humpback whales off the Hawaiian Islands have been attributed to mid-frequency active sonar, thorough monitoring has not taken place and marine mammal strandings and deaths at sea are only detected in 2 percent of all cases (Williams *et al.,* 2011).

Response 74: The Navy has been conducting mid-frequency active sonar around Hawaii for decades, and during that time there have been no reported cases of negative impacts to humpback whales from Navy activities. NMFS believes that the Navy's required mitigation measures will result in the least practicable adverse impacts to marine mammal species or stocks and their habitat in the area. Williams *et al.* (2011) does not provide a definitive amount of detected marine mammal deaths; rather, based on data from the Gulf of Mexico, they suggest that on average, carcasses are recovered from 2 percent of cetacean deaths. Comment 3 of the Mitigation section also addresses the limited amount of Navy activity on the leeward side of the island of Hawaii.

Comment 75: The Commission recommended that NMFS authorize the total number of model-estimated Level A harassment and mortality takes rather than reducing the estimated numbers of Level A harassment and mortality takes based on the Navy's proposed post-model analysis. Specifically, the Commission was concerned that the Navy did not provide a basis for the assumption that animals would avoid repeated sound exposure (including sensitive species) or that the implementation of mitigation would prevent Level A harassment.

Response 75: The Navy's post-model assessment process was developed using the best available science and in coordination with NMFS, and appropriately accounts for mitigation and avoidance behavior. Relying solely on the output of the Navy Acoustic Effects Model presents an overestimate of acoustic impacts for higher order effects such as injury or mortality for the following reasons:

(1) Sensitive species (i.e., beaked whales and harbor porpoises) are modeled as if they would remain stationary and tolerate any very close anthropogenic encounters, although these species are known to avoid anthropogenic activity (see HSTT FEIS/OEIS Section 3.4.3.1.2.6 Behavioral Reactions).

(2) Implementation of mitigation is not currently modeled; however, the Navy has developed mitigation measures in cooperation with NMFS that are considered effective at reducing environmental impacts while being operationally feasible (see HSTT FEIS/OEIS Chapter 5, Standard Operating Procedures, Mitigation, and Monitoring).

(3) Animals are assumed to remain horizontally stationary in the model and tolerate any disturbing or potentially injurious sound exposure, although animals have been observed to avoid sound sources with high source levels (see HSTT FEIS/OEIS Section 3.4.3.1.2.5 Behavioral Reactions).

(4) The model estimates the potential for mortality based on very conservative criteria (see HSTT FEIS/OEIS Section 3.4.3.1.4.8, Mortality and Injury from Explosives). With the implementation of proven mitigation and decades of historical information from conducting training and testing in the Study Area, the likelihood of mortality is very low.

The Navy has required that any ''incident'' (marine mammal mortality

or otherwise) be reported since the 1990s. In that time, only four marine mammal mortalities have been reported in the Atlantic Fleet Training and Testing (AFTT) and HSTT Study Area from training and testing activities. While it is possible that some mortalities may have gone undetected, it is highly unlikely that they would reach the high level of Level A harassments and mortalities as suggested by the raw model results.

The Navy's quantitative analysis of acoustic impacts is discussed in HSTT FEIS/OEIS Section 3.4.3.1.6, Quantitative Analysis, as well as in Section 6.3 of the Navy's LOA application. Specifically, post-model analysis taking into account sensitive species' avoidance of anthropogenic activity is discussed in HSTT FEIS/OEIS Section 3.4.3.1.7, Marine Mammal Avoidance of Sound Exposures. Background information discussing harbor porpoise and beaked whale sensitivity to vessels and aircraft is discussed in HSTT FEIS/OEIS Section 3.4.3.1.2.6, Behavioral Reactions. Reactions due to repeated exposures to sound-producing activities are discussed in HSTT FEIS/OEIS Section 3.4.3.1.2.7, Repeated Exposures.

The Navy's model-estimated effects (without consideration of avoidance or mitigation) are provided in a technical report (''Determination of Acoustic Effects on Marine Mammal and Sea Turtles'') available at *http://www.hstteis.com*. In addition to the information already contained within the HSTT FEIS/OEIS, and in response to public comments, the Navy has prepared a Technical Report which describes the process for the post-modeling analysis in further detail. The ''Analysis of Animal Avoidance, Behavior, and Mitigation Effectiveness Technical Report'' is available at *http://www.hstteis.com*.

Comment 77: The Commission raised concerns regarding the Navy's approach to adjusting its take estimates based on both mitigation effectiveness scores and g(0)—the probability that an animal on a vessel's or aircraft's track line will be detected. Specifically, the Commission questioned how the Navy determined the appropriate adjustment factors because the information needed to judge mitigation effectiveness has not been made available. The Commission also stated that the Navy did not provide the criteria (i.e., the number and types of surveillance platforms, number of Lookouts, and sizes of the respective zones) needed to elicit the three mitigation effectiveness scores and pointed out that the simple detection of a marine mammal does not guarantee that mitigation measures will be effective.

Response 77: The Navy Acoustic Effects Model currently does not have the ability to account for mitigation or horizontal animal movement; either as representative animal movements or as avoidance behavior (see HSTT FEIS/OEIS Section 3.4.3.1.6.4, Model Assumptions and Limitations). While the Navy will continue to incorporate best available science and modeling methods into future versions of the Navy Acoustic Effects Model, it was appropriate to perform post-model analysis to account for mitigation and avoidance behavior not captured by the Navy Acoustic Effects Model.

A summary of the current status of the Navy's Lookout effectiveness study and why the data cannot be used in the analysis was added in Section 5.3.1.2.4, Effectiveness Assessment for Lookouts, of the HSTT FEIS/OEIS. Both NMFS and the Navy believe consideration of marine mammal sightability and activity-specific mitigation effectiveness in its quantitative analysis is appropriate in order to provide decision makers a reasonable assessment of potential impacts under each alternative. A comprehensive discussion of the Navy's quantitative analysis of acoustic impacts, including the post-model analysis to account for mitigation and avoidance, is presented in the Navy's LOA application. The assignment of mitigation effectiveness scores and the appropriateness of consideration of sightability using detection probability, g(0), when assessing the mitigation in the quantitative analysis of acoustic impacts is discussed in HSTT FEIS/OEIS Section 3.4.3.1.8, Implementing Mitigation to Reduce Sound Exposures. Additionally, the activity category, mitigation zone size and number of Lookouts is provided in HSTT FEIS/OEIS Tables 5.3–2 and 5.4–1. In addition to the information already contained within the HSTT FEIS/OEIS, and in response to public comments, the Navy has prepared a Technical Report which describes the process for the post-modeling analysis in further detail. The ''Analysis of Animal Avoidance, Behavior, and Mitigation Effectiveness Technical Report'' is available at *http://www.hstteis.com*.

NMFS believes that detection of a marine mammal within the Navy's relatively small mitigation zones will help prevent animals from being exposed to sound levels that constitute Level A harassment (injury). The Navy's relatively small mitigation zones help increase the likelihood that an animal will be detected before incurring PTS. During the entire reporting period for the Hawaii Range Complex (January 2009 to August 2012), there were zero instances during Major Training Exercises (MTEs) where a ship neglected to mitigate adequately for a marine mammal sighted by the watchstander team within 1,000 yd. During the same reporting period for the SOCAL Range Complex, adequate mitigation was conducted over 98 percent of the time during MTEs for marine mammals sighted by the watchstander team within 1,000 yd.

Details on implementation of mitigation can be found in the annual exercise reports provided to NMFS and briefed annually to NMFS and the Commission. The annual exercise reports can be found at *http://www.navymarinespeciesmonitoring.us/* and at *http://www.nmfs.noaa/pr/permits/incidental.htm#applications*. For more information on how mitigation is implemented see HSTT FEIS/OEIS Chapter 5.

Comment 78: The Commission further stated that the Navy's post-model analysis approach is confusing because the Navy is inconsistent in its use of the terms ''range to effects zone'' and ''mitigation zone,'' which are not the same. More importantly, some of the mitigation zones are smaller than the estimated range to effects zones.

Response 78: The terms ''range to effects zone'' and ''mitigation zone'' are used appropriately in the discussion of mitigation in both the Navy's LOA application and in HSTT FEIS/OEIS Section 5.3.2 (Mitigation Zone Procedural Measures). In summary, the range to effects zone is the distance over which the specific effects would be expected, and the mitigation zone is the distance that the Lookout will be implementing mitigation within and is developed based on the range to effects distance for injury (i.e. PTS).

In all cases, the mitigation zones encompass the ranges to PTS for the most sensitive marine mammal functional hearing group (see HSTT FEIS/OEIS Table 5.3–2), which is usually the high-frequency cetacean hearing group. Therefore, the mitigation zones are even more protective for the remaining functional hearing groups (i.e., low-frequency cetaceans, mid-frequency cetaceans, and pinnipeds), and likely cover a larger portion of the potential range to onset of TTS. The Navy believes that ranges to effect for PTS that are based on spherical spreading best represent the typical range to effects near a sonar source; therefore, the ranges to effects for sonar presented in Table 11–1 of the Navy's LOA application have been revised as

shown in Table 5.3–2 of the HSTT FEIS/OEIS. The predicted ranges to onset of PTS for a single ping are provided for each marine mammal functional hearing group in Table 3.4–11 of the HSTT FEIS/OEIS. The single ping range to onset of PTS for sonar in Sonar Bin MF1 (i.e., AN/SQS–53), the most powerful source bin analyzed, is no greater than 109 yd (100 m) for any marine mammal functional hearing group. Furthermore, as discussed in Section 3.4.3.2.1.1 (Range to Effects) of the HSTT FEIS/OEIS, there is little overlap of PTS footprints from successive pings, indicating that in most cases, an animal predicted to receive PTS would do so from a single exposure (i.e., ping). Additional discussion regarding consideration of mitigation in the quantitative analysis of sonar and other active acoustic sources is provided in HSTT FEIS/OEIS Section 3.4.3.2.1.2, Avoidance Behavior and Mitigation Measures as Applied to Sonar and Active Acoustic Sources.

Comment 79: The Commission noted that although the Navy states that Lookouts will not always be effective at avoiding impacts to all species, it bases its g(0) estimates on seasoned researchers conducting the associated surveys, not Navy Lookouts whose observer effectiveness has yet to be determined.

Response 79: A summary of the current status of the Navy's Lookout effectiveness study and why the data cannot be used in the analysis has been added in Section 5.3.1.2.4, Effectiveness Assessment for Lookouts, of the HSTT FEIS/OEIS. NMFS believes that consideration of marine mammal sightability and activity-specific mitigation effectiveness in the Navy's quantitative analysis is appropriate in order to provide a reasonable assessment of potential impacts under each alternative. A comprehensive discussion of the Navy's quantitative analysis of acoustic impacts, including the post-model analysis to account for mitigation and avoidance, is presented in the Navy's LOA application. Currently, the g(0) probabilities are the only quantitative measures available for estimating mitigation effectiveness.

However, the differences between Navy training and testing events and systematic line-transect marine mammal surveys suggest that the use of g(0), as a sightability factor to quantitatively adjust model-predicted effects based on mitigation, is likely to result in an underestimate of the protection afforded by the implementation of mitigation. For instance, mitigation zones for Navy training and testing events are significantly smaller (typically less than 1,000 yd radius) than the area typically searched during line-transect surveys, which includes the maximum viewable distance out to the horizon. In some cases, Navy events can involve more than one vessel or aircraft (or both) operating in proximity to each other or otherwise covering the same general area, potentially resulting in more observers looking at the mitigation zone than the two primary observers used in marine mammal surveys upon which g(0) is based. Furthermore, a systematic marine mammal line-transect survey is designed to sample broad areas of the ocean, and generally does not retrace the same area during a given survey. In contrast, many Navy training and testing activities involve area-focused events (e.g., anti-submarine warfare tracking exercise), where participants are likely to remain in the same general area during an event. In other cases, Navy training and testing activities are stationary (i.e., pierside sonar testing or use of dipping sonar), which allows Lookouts to focus on the same area throughout the activity. Both of these circumstances result in a longer observation period of a focused area with more opportunities for detecting marine mammals than are offered by a systematic marine mammal line-transect survey that only passes through an area once. Additional discussion regarding the use of detection probability, g(0), in the consideration of mitigation in the quantitative analysis is provided in HSTT FEIS/OEIS Section 3.4.3.1.8, Implementing Mitigation to Reduce Sound Exposures.

Comment 80: The Commission and others voiced concern that the Navy's post-model analysis cannot account for the magnitude of adjustment to take estimates from what was originally presented in the draft HSTT EIS/OEIS to what was presented in the proposed rule (78 FR 6978, January 31, 2013) and that the public does not have enough information to comment on this issue.

Response 80: A comprehensive discussion of the Navy's acoustic impact analysis, including modeling and post-model analysis, is in Section 3.4.3.1.6, Quantitative Analysis, of the HSTT FEIS/OEIS. The information presented in the proposed rule and the Navy's LOA application was sufficient to notify the public of the post-modeling analysis and provide the public an opportunity to comment. However, in response to public comments, in addition to the information already contained within the HSTT FEIS/OEIS and the Navy's LOA application, the Navy also prepared a Technical Report which describes the process for the post-modeling analysis in further detail. The ''Analysis of Animal Avoidance Behavior and Mitigation Effectiveness Technical Report'' is available at *http://www.hstteis.com*. This report demonstrates that the differences in predicted impacts due to the post-modeling analysis and the corrections in modeling the proposed action made after publication of the HSTT DEIS/OEIS were not substantial changes in the proposed action that will significantly affect the environment in a manner not already considered in the HSTT DEIS/OEIS.

Comment 81: One commenter included several criticisms of the behavioral threshold used to assess impacts from airguns and pile driving, including that it is outdated and uses an inappropriate metric.

Response 81: NMFS is committed to the use of the best available science and, as noted in the summary at the beginning of the final rule, is in the process of updating and revising our acoustic thresholds. As has always been our process, we will solicit public input on revised draft thresholds before making any changes in the acoustic thresholds that applicants are required to use. The process for establishing new acoustic guidance is outlined on our Web site: *http://www.nmfs.noaa.gov/pr/acoustics/guidelines.htm*. Until revised criteria are finalized (after both public and peer review), ensuring the inclusion and appropriate interpretation of any newer information, applicants should continue to use NMFS' current acoustic thresholds.

Vessel Strikes

Comment 82: The Commission recommended that NMFS require the Navy to use its spatially and temporally dynamic simulation models to estimate strike probabilities for specific activities.

Response 82: The Navy considered using a dynamic simulation model to estimate strike probability. However, the Navy determined that the use of historical data was a more appropriate way to analyze the potential for strike. The Navy's strike probability analysis in the HSTT FEIS/OEIS is based on data collected from historical use of vessels, in-water devices, and military expended materials, and the likelihood that these items may have the potential to strike an animal. This data accounts for real-world variables over the course of many years and is considered more accurate than model results.

Comment 83: NRDC recommended the application of ship-speed restrictions (10 knots) for Navy support vessels and/or other vessels while transiting high-value habitat for baleen

whales and endangered species, or other areas of biological significance and/or shipping lanes (e.g., the Santa Barbara Channel).

Response 83: The Navy typically chooses to run vessels at slower speeds for efficiency and to conserve gas; however, some exercises, tests, or military needs require the Navy to exceed 10–15 knots. The Santa Barbara Channel, specifically, is not part of the HSTT Study Area; rather, it overlaps with the Navy's target and missile launch activities at San Nicolas Island, which do not include vessels and were analyzed in NMFS' 2009 EA and final rule (74 FR 26580, June 3, 2009).

General Opposition

Comment 84: Several commenters expressed general opposition to Navy activities and NMFS' issuance of an MMPA authorization.

Response 84: NMFS appreciates the commenters' concern for the marine environment. However, the MMPA directs NMFS to issue an incidental take authorization if certain findings can be made. NMFS has determined that the Navy's training and testing activities will have a negligible impact on the affected species or stocks and, therefore, we plan to issue the requested MMPA authorization.

Other

Comment 85: One commenter stated that the Navy's activities can be conducted inside and outside of designated ranges and that there is essentially no boundary for their activities.

Response 85: The National Defense Authorization Act of 2004 (NDAA) (Pub. L. 108–136) removed the ''specified geographical region'' limitation of the MMPA as it applies to a ''military readiness activity.'' However, the Navy did designate a Study Area that includes three existing range complexes (Southern California (SOCAL) Range Complex, Hawaii Range Complex (HRC), and Silver Strand Training Complex (SSTC)). In addition, the Study Area includes other areas where training and testing activities occur including the pierside locations in San Diego Bay and Pearl Harbor, the transit corridor between SOCAL and Hawaii, and throughout the San Diego Bay.

Comment 86: One commenter asked if NMFS would address issues raised in Dr. Lubchenco's 2010 letter to the Center for Environmental Quality, which noted a lack of knowledge on effects of sonar to marine mammals and the difficulties of limiting impacts from sonar where mitigation efforts depend on visual sightings.

Response 86: The Navy's LOA application and the HSTT FEIS/OEIS clearly discuss the potential impacts on marine mammals when exposed to sonar. The Navy has worked, and will continue to work, as an active partner to investigate the extent and severity of the impacts on marine mammals and how to reduce them. With respect to monitoring effectiveness, neither the Navy nor NMFS have indicated that monitoring (and the associated mitigation) will eliminate impacts. The MMPA requires that NMFS implement the means of effecting the least practicable adverse impacts on marine mammal species or stocks and their habitat, and NMFS has determined that required monitoring and associated mitigation measures accomplish this.

Comment 87: One commenter voiced concern about stranding networks not being equipped or willing to deal with the influx of marine mammals if NMFS' authorizes the Navy's activities.

Response 87: The National Marine Mammal Stranding Network consists of over 120 organizations who partner with NMFS to investigate marine mammal strandings. Given the current fiscal environment, NMFS has needed to make tough budget choices, including reducing and defunding valuable programs. With the reduction in federal funding, response resources may be limited in some geographic regions.

In 2011, NMFS and the Navy signed a National Memorandum of Understanding (MOU) that established a framework for the Navy to assist NMFS with response to, and investigation of, Uncommon Stranding Events (USEs) during major training exercises by providing in-kind services to NMFS. The MOU is implemented through Regional Stranding Investigation Assistance Plans and outlines the region-specific Navy services that are available to assist with USE responses. As resources are available, the stranding network has and will continue to respond to marine mammal strandings.

Comment 88: One commenter claimed that Navy activities taking place in Hawaii and Southern California must be separated in NMFS' regulations.

Response 88: The Navy designated a Study Area that includes three existing range complexes (SOCAL Range Complex, HRC, and SSTC). In addition, the Study Area includes other areas where training and testing activities occur including the pierside locations in San Diego Bay and Pearl Harbor, the transit corridor between SOCAL and Hawaii, and throughout the San Diego Bay. Combining the Navy's activities at each of these range complexes has no effect on how we analyze the impacts of Navy training and testing activities on marine mammals.

Comment 89: One commenter suggested that the Navy should not be allowed to increase their activities while the impacts on marine mammals are not fully documented or understood.

Response 89: It is important to note that, as stated in the Navy's LOA application and the proposed rule, the expansion of the HSTT Study Area from previous analyses is not an increase in areas where the Navy will train and test, but merely an expansion of the area to be included in our analysis and resulting authorization. Both NMFS and the Navy have a responsibility to use the best available science to support our analyses and decisions under the MMPA and NEPA. However, because the best available science is constantly changing and our current knowledge of marine mammal behavioral response is limited, NMFS utilizes an adaptive management approach. In so doing, we are able to continuously assess impacts and incorporate new mitigation or monitoring measures when necessary.

Comment 90: One commenter asked about the effects of missile launches on air and water quality; how much aluminum oxide is released by rockets and missile launches and the effects on marine life; and the effects of hazardous materials discharged from Navy vessels on marine life.

Response 90: The HSTT FEIS/OEIS addresses all potential impacts to the human environment, which is available online at *http://www.hstteis.com*. The HSTT DEIS/OEIS was made available to the public on May 11, 2012 and was referenced in our notice of receipt (77 FR 60678, October 4, 2012) and the proposed rule (78 FR 6978, January 31, 2013).

Comment 91: One commenter asked why the Navy does not plan to suspend sonar operations during gray whale and fish migration periods.

Response 91: The Navy will implement mitigation measures for all marine mammals, including gray whales, if they approach or enter a mitigation zone. NMFS does not think that mitigation specific to gray whale migration is necessary because mitigation measures are already in place to help avoid the potential for onset of PTS and reduce the potential for TTS. Furthermore, suspending sonar operations during migration periods of any marine mammal may negatively impact the effectiveness of Navy training and testing activities; these activities must be conducted during all months of the year and in a variety of conditions for the Navy to meet its mission.

The concern regarding fish migration is outside the purview of the MMPA. Impacts to fish spawning grounds and habitat use are dealt with under the Magnuson-Stevens Fishery Conservation and Management Act as it relates to Essential Fish Habitat.

Comment 92: One commenter asked about the impacts of testing new electromagnetic weapons systems on marine mammals and what studies have been done.

Response 92: The Navy did not request MMPA authorization for takes resulting from electromagnetic stressors. Data regarding the influence of magnetic fields and electromagnetic fields on cetaceans is inconclusive. Dolman *et al.* (2003) provides a literature review of the influences of marine wind farms on cetaceans. The literature focuses on harbor porpoises and dolphin species because of their nearshore habitats. Teilmann *et al.* (2002) evaluated the frequency of harbor porpoise presence at wind farm locations around Sweden (the electrical current conducted by undersea power cables creates an electromagnetic field around those cables). Although electromagnetic field influences were not specifically addressed, the presence of cetacean species implies that at least those species are not repelled by the presence of electromagnetic fields around undersea cables associated with offshore wind farms. Based on the available literature, no evidence of electrosensitivity in marine mammals was found except recently in the Guiana dolphin (Czech-Dama *et al.,* 2011). Based on the available literature, no evidence suggests any magnetic sensitivity for polar bears, sea otters, sea lions, fur seals, walrus, earless seals, and Sirenia (Normandeau *et al.,* 2011). As described in the discussion below, some literature suggests that some cetaceans (whales, dolphin, and porpoises) may be sensitive to changes in magnetic fields; however, NMFS concurred with the Navy that the available data did not support the need for MMPA authorization at this time.

Comment 93: Earthjustice suggested that the Navy's DEIS/OEIS is fatally flawed because it fails to consider a ''no action'' alternative.

Response 93: The Council on Environmental Quality regulations require that agencies develop and analyze a range of alternatives to the proposed action, including a No Action Alternative. The No Action Alternative serves as a baseline description from which to compare the potential impacts of the proposed action. The Council on Environmental Quality provides two interpretations of the No Action Alternative, depending on the proposed action. One interpretation would mean the proposed action would not take place. For example, this interpretation would be used if the proposed action was the construction of a facility where a facility did not previously exist. The second interpretation, which applies to the HSTT FEIS/OEIS, allows the No Action Alternative to be the continuation of the present course of action until that action is changed. The purpose of a ''No Action Alternative'' is to ensure that agencies compare the potential impacts of the proposed action to the potential impacts of maintaining the status quo.

The HSTT FEIS/OEIS includes a ''No Action Alternative'' where the Navy would continue baseline training and testing activities, as defined by existing Navy environmental planning documents, including the FEISs for the Hawaii Range Complex, the Southern California Range Complex, and the Silver Strand Training Complex. The baseline testing activities also include those testing events that historically occur in the Study Area and have been subject to previous analyses. However, the No Action Alternative fails to meet the purpose of and need for the Navy's proposed action because it would not allow the Navy to meet current and future training and testing requirements necessary to achieve and maintain military readiness.

Comment 94: One commenter suggested that activities in the HSTT DEIS/OEIS that were determined to ''not involve stressors that could result in harassment of marine mammals'' should be further addressed.

Response 94: The Navy requested authorization to take marine mammals incidental to activities that have the potential to cause harassment, injury, or mortality. Other activities are discussed in the HSTT FEIS/OEIS and outside the scope of this analysis.

Comment 95: NRDC recommended that the Navy avoid fish spawning grounds and important habitat for fish species potentially vulnerable to significant behavioral change, such as wide-scale displacement within the water column or changes in breeding behavior.

Response 95: While NMFS considers impacts to prey species as a component of marine mammal habitat, these concerns are mostly outside the purview of the MMPA. Impacts to fish spawning grounds and habitat use are dealt with under the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA) as it relates to Essential Fish Habitat (EFH). The Navy determined that their activities may adversely affect EFH; therefore, the Navy concluded that a consultation under the MSFCMA was necessary. NMFS Pacific Islands Regional Office determined that adverse effects to EFH could be avoided and minimized given that the Navy factors the listed sensitive EFH and Habitat Areas of Particular Concerns into decisions as areas to avoid when conducting HSTT activities that result in more than minimal impact to seafloor. NMFS Southwest Regional Office determined that the proposed conservation measures are sufficient to avoid, minimize, or offset impacts to EFH and had no additional conservation recommendations.

Comment 96: NRDC recommended that the Navy dedicate research and technology development to reduce the impacts of active acoustic sources on marine mammals.

Response 96: As stated in the Ongoing Navy Research section of the proposed rule (78 FR 6978, January 31, 2013; pages 7019–7020), the Navy provides a significant amount of funding and support to marine research. In summary, from 2004 to 2012, the Navy provided over $230 million for marine species research and currently sponsors 70 percent of all U.S. research concerning the effects of human-generated sound on marine mammals and 50 percent of such research conducted worldwide. The Navy's research and development efforts have significantly improved our understanding of the effects of Navy-generated sound in the marine environment. These studies have supported the modification of acoustic criteria to more accurately assess behavioral impacts to beaked whales and the thresholds for auditory injury for all species, and the adjustment of mitigation zones to better avoid injury. In addition, Navy scientists work cooperatively with other government researchers and scientists, universities, industry, and non-governmental conservation organizations in collecting, evaluating, and modeling information on marine resources.

Comment 97: NRDC recommended that the Navy agree to additional clean-up and retrieval of the massive amount of discarded debris and expended materials associated with its proposed activities.

Response 97: The Navy conducted a full analysis of the potential impacts of military expended materials on marine mammals and will implement several mitigation measures to help avoid or reduce those impacts. This analysis is contained throughout Chapter 3 (Affected Environment and Environmental Consequences) of the HSTT FEIS/OEIS. The Navy determined

that military expended materials related to training exercises under a worst-case scenario will not impact more than 0.00009 percent of the available soft bottom habitat annually within any of the range complexes. The Navy has standard operating procedures in place to reduce the amount of military expended materials to the maximum extent practical, including recovering targets and associated parachutes.

Estimated Take of Marine Mammals

In the Estimated Takes of Marine Mammals section of the proposed rule, NMFS described the potential effects to marine mammals from active sonar and underwater detonations in relation to the MMPA regulatory definitions of Level A and Level B harassment (78 FR 6978, January 31, 2013; pages 7021–7030). That information has not changed and is not repeated here.

Tables 13 and 14 provide a summary of non-impulsive and impulsive thresholds to TTS and PTS for marine mammals. A detailed explanation of how these thresholds were derived is provided in the HSTT DEIS/OEIS Criteria and Thresholds Technical Report (*http://www.hstteis.com/DocumentsandReferences/HSTT Documents/SupportingTechnical Documents.aspx*) and summarized in Chapter 6 of the Navy's LOA application (*http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications*).

TABLE 13—ONSET TTS AND PTS THRESHOLDS FOR SONAR AND OTHER ACTIVE ACOUSTIC SOURCES

Group	Species	Onset TTS	Onset PTS
Low-Frequency Cetaceans	All mysticetes	178 dB re 1μPa2-sec(LF_{II})	198 dB re 1μPa2-sec(LF_{II}).
Mid-Frequency Cetaceans	Most delphinids, beaked whales, medium and large toothed whales.	178 dB re 1μPa2-sec(MF_{II})	198 dB re 1μPa2-sec(MF_{II}).
High-Frequency Cetaceans	Porpoises, Kogia spp.	152 dB re 1μPa2-sec(HF_{II})	172 dB re 1μPa2-secSEL (HF_{II}).
Phocidae In-water	Harbor, Hawaiian monk, elephant seals.	183 dB re 1μPa2-sec(P_{WI})	197 dB re 1μPa2-sec(P_{WI}).
Otariidae & Obodenidae In-water	Sea lions and fur seals	206 dB re 1μPa2-sec(O_{WI})	220 dB re 1μPa2-sec(O_{WI}).
Mustelidae In-water	Sea otters.		

LF_{II}, MF_{II}, HF_{II}: New compound Type II weighting functions; P_{WI}, O_{WI}: Original Type I (Southall *et al.* 2007) for pinniped and mustelid in water.

TABLE 14—IMPULSIVE SOUND EXPLOSIVE CRITERIA AND THRESHOLDS FOR PREDICTING PHYSIOLOGICAL EFFECTS

Group	Species	Behavior		Slight Injury			Mortality
		Behavioral (for ≥2 pulses/24 hours)	TTS	PTS	GI Tract	Lung	
Low-frequency Cetaceans.	All mysticetes	167 dB SEL (LF_{II})	172 dB SEL (LF_{II}) or 224 dB Peak SPL.	187 dB SEL (LF_{II}) or 230 dB Peak SPL.	237 dB SPL or 104 psi.	Equation 1	Equation 2
Mid-frequency Cetaceans.	Most delphinids, medium and large toothed whales.	167 dB SEL (MF_{II}).	172 dB SEL (MF_{II}) or 224 dB Peak SPL.	187 dB SEL (MF_{II}) or 230 dB Peak SPL.			
High-frequency Cetaceans.	Porpoises and *Kogia* spp..	141 dB SEL (HF_{II}).	146 dB SEL (HF_{II}) or 195 dB Peak SPL.	161 dB SEL (HF_{II}) or 201 dB Peak SPL.			
Phocidae	Hawaiian monk, elephant, and harbor seal.	172 dB SEL (P_{WI})	177 dB SEL (P_{WI}) or 212 dB Peak SPL.	192 dB SEL (P_{WI}) or 218 dB Peak SPL.			
Otariidae	Sea lions and fur seals.	195 dB SEL (O_{WI}).	200 dB SEL (O_{WI})or 212 dB Peak SPL.	215 dB SEL (O_{WI}) or 218 dB Peak SPL.			
Mustelidae	Sea otters.						

Equation 1: $= 39.1M^{1/3}\ (1+[D_{Rm}/10.081])^{1/2}$ Pa-sec

Equation 2: $= 91.4M^{1/3}\ (1+[D_{Rm}/10.081])^{1/2}$ Pa-sec

Where:

M = mass of the animals in kg

D_{Rm} = depth of the receiver (animal) in meters

$$R = \frac{1-\left(\frac{L-B}{K}\right)^{-A}}{1-\left(\frac{L-B}{K}\right)^{-2A}}$$

Where:

R = Risk (0–1.0)

L = Received level (dB re: 1 μPa)

B = Basement received level = 120 dB re: 1 μPa

K = Received level increment above B where 50-percent risk = 45 dB re: 1 μPa

A = Risk transition sharpness parameter = 10 (odontocetes and pinnipeds) or 8 (mysticetes)

Existing NMFS criteria was applied to sounds generated by pile driving and airguns (Table 16).

TABLE 16—THRESHOLDS FOR PILE DRIVING AND AIRGUNS

Species groups	Underwater vibratory pile driving criteria (sound pressure level, dB re 1 μPa)		Underwater impact pile driving and airgun criteria (sound pressure level, dB re 1 μPa)	
	Level A injury threshold	Level B disturbance threshold	Level A injury threshold	Level B disturbance threshold
Cetaceans (whales, dolphins, porpoises).	180 dB rms	120 dB rms	180 dB rms	160 dB rms.
Pinnipeds (seals)	190 dB rms	120 dB rms	190 dB rms	160 dB rms.

Take Request

The HSTT FEIS/OEIS considers all training and testing activities to occur in the Study Area that have the potential to result in the MMPA defined take of marine mammals. The stressors associated with these activities included the following:

- Acoustic (sonar and other active non-impulse sources, explosives, pile driving, swimmer defense airguns, weapons firing, launch and impact noise, vessel noise, aircraft noise);
- Energy (electromagnetic devices);
- Physical disturbance or strikes (vessels, in-water devices, military expended materials, seafloor devices);
- Entanglement (fiber optic cables, guidance wires, parachutes);
- Ingestion (munitions, military expended materials other than munitions); and
- Indirect stressors (risk to monk seals from Navy California sea lions from the transmission of disease or parasites).

The Navy determined, and NMFS agrees, that three stressors could potentially result in the incidental taking of marine mammals from training and testing activities within the Study Area: (1) Non-impulsive stressors (sonar and other active acoustic sources), (2) impulsive stressors (explosives, pile driving and removal, and airguns), and (3) vessel strikes. Non-impulsive and impulsive stressors have the potential to result in incidental takes of marine mammals by harassment, injury, or mortality. Vessel strikes have the potential to result in incidental take from direct injury and/or mortality. It is important to note that the Navy's take estimates represent the number of exposures—not the number of individual marine mammals that may be affected by training and testing activities. Some individuals may be harassed multiple times while other individuals may only be harassed once. Multiple exposures are especially likely in areas where resident populations overlap with stationary activities.

Training Activities—Based on the Navy's model and post-model analysis (described in detail in Chapter 6 of their LOA application), Table 18 summarizes the authorized take for training activities for an annual maximum year (a notional 12-month period when all annual and non-annual events could occur) and the summation over a 5-year period (annual events occurring five times and non-annual events occurring three times). Table 19 summarizes the authorized take for training activities by species.

TABLE 17—SUMMARY OF ANNUAL AND 5-YEAR TAKES REQUESTED AND AUTHORIZED FOR TRAINING ACTIVITIES

MMPA Category	Source	Training activities	
		Annual authorization sought [1]	5-Year authorization sought [2]
Injury or Mortality	Impulse	7 mortalities applicable to any small odontocete (i.e., dolphin) or pinniped species [3].	35 mortalities applicable to any small odontocete (i.e., dolphin) or pinniped species over five years.
	Unspecified [4]	2 mortalities to beaked whales [4]	10 mortalities to beaked whales over five years [4]
	Vessel strike	No more than 4 large whale injuries or mortalities in any given year [5].	No more than 12 large whale injuries or mortalities over five years over five years [5]
Level A	Impulse and Non-Impulse.	266—Species specific data shown in Table 19.	1,314—Species specific data shown in Table 19.
Level B	Impulse and Non-Impulse.	1,690,698—Species specific data shown in Table 19.	8,396,806—Species specific data shown in Table 19.

[1] These numbers constitute the total for an annual maximum year (a notional 12-month period when all annual and non-annual events could occur) in which a RIMPAC exercise and Civilian Port Defense events would occur in Hawaii and SOCAL.

[2] These numbers constitute the summation over a 5-year period with annual events occurring five times and non-annual events occurring three times.

[3] No more than four of any one species. This authorization by mortality does not include Hawaiian monk seals or Guadalupe fur seals.

[4] The Navy's NAEMO model did not quantitatively predict these mortalities. Navy, however, is seeking this particular authorization given sensitivities these species may have to anthropogenic activities. Request includes two *Ziphidae* beaked whale annually to include any combination of Cuvier's beaked whale, Baird's beaked whale, Longman's beaked whale, and unspecified *Mesoplodon* spp. (not to exceed 10 beaked whales total over the 5-year length of requested authorization).

[5] The Navy cannot quantifiably predict that proposed takes from training will be of any particular species, and therefore seeks take authorization for any combination of large whale species (gray whale, fin whale, blue whale, humpback whale, Bryde's whale, sei whale, minke whale, or sperm whale), but of the four takes per year no more than two of any one species of blue whale, fin whale, Western North Pacific gray whale, humpback whale, sei whale, or sperm whale is requested.

TABLE 18—SPECIES-SPECIFIC TAKE REQUEST AND AUTHORIZATION FROM MODELING ESTIMATES OF IMPULSIVE AND NON-IMPULSIVE SOURCE EFFECTS FOR ALL TRAINING ACTIVITIES

Species	Stock	Annually [1]			Total over 5-Year Rule [2]		
		Level B	Level A	Mortality	Level B	Level A	Mortality
Blue whale	Eastern North Pacific	4,145	0	0	20,725	0	0
	Central North Pacific	180	0	0	834	0	0
Fin whale	California, Oregon, & Washington.	1,528	0	0	7,640	0	0
	Hawaiian	191	0	0	891	0	0
Humpback whale	California, Oregon, & Washington.	1,081	0	0	5,405	0	0
	Central North Pacific	8,192	0	0	40,960	0	0
Sei whale	Eastern North Pacific	146	0	0	730	0	0
	Hawaiian	484	0	0	2,266	0	0
Sperm whale	California, Oregon, & Washington.	1,958	0	0	9,790	0	0
	Hawaiian	1,374	0	0	6,130	0	0
Guadalupe fur seal	Mexico	2,603	0	0	13,015	0	0
Hawaiian monk seal	Hawaiian	1,292	0	0	6,334	0	0
Bryde's whale	Eastern Tropical Pacific	112	0	0	560	0	0
	Hawaiian	137	0	0	637	0	0
Gray whale	Eastern North Pacific	9,533	2	0	47,665	10	0
	Western North Pacific	10	0	0	50	0	0
Minke whale	California, Oregon, & Washington.	359	0	0	1,795	0	0
	Hawaiian	447	0	0	2,235	0	0
Baird's beaked whale	California, Oregon, & Washington.	4,420	0	0	22,100	0	0
Blainville's beaked whale	Hawaiian	10,316	0	0	48,172	0	0
Bottlenose dolphin	California coastal	351	0	0	1,755	0	0
	California, Oregon & Washington offshore.	26,618	0	0	133,090	0	0
	Hawaii pelagic	3,942	0	0	19,709	0	0
	Oahu	728	0	0	3,641	0	0
	4-Islands region	188	0	0	938	0	0
	Kauai and Niihau	180	0	0	901	0	0
	Hawaii Island	125	0	0	625	0	0
Cuvier's beaked whale	California, Oregon, & Washington.	13,353	0	0	66,765	0	0
	Hawaiian	52,893	0	0	248,025	0	0
Dwarf sperm whale	Hawaiian	22,359	46	0	101,291	214	0
Dall's porpoise	California, Oregon, & Washington.	36,891	47	0	184,455	235	0
False killer whale	Main Hawaiian Islands Insular.	49	0	0	220	0	0
	Hawaii Pelagic	480	0	0	2,116	0	0
	Northwestern Hawaiian Islands.	177	0	0	776	0	0
Fraser's dolphin	Hawaiian	2,009	0	0	8,809	0	0
Killer whale	Eastern North Pacific offshore/transient.	321	0	0	1,605	0	0
	Hawaiian	182	0	0	822	0	0
Kogia spp.	California	12,943	33	0	64,715	165	0
Long-beaked common dolphin.	California	73,088	2	0	365,440	10	0
Longman's beaked whale	Hawaiian	3,666	0	0	17,296	0	0
Melon-headed whale	Hawaiian	1,511	0	0	6,733	0	0
Mesoplodon beaked whales [3].	California, Oregon, & Washington.	1,994	0	0	9,970	0	0
Northern right whale dolphin.	California, Oregon, & Washington.	51,596	1	0	257,980	5	0
Pacific white-sided dolphin	California, Oregon, & Washington.	38,451	1	0	192,255	5	0
Pantropical spotted dolphin.	Hawaiian	10,887	0	0	48,429	0	0
Pygmy killer whale	Hawaiian	571	0	0	2,603	0	0
Pygmy sperm whale	Hawaiian	229	0	0	1,093	0	0
Risso's dolphin	California, Oregon, & Washington.	86,504	1	0	432,520	5	0
	Hawaiian	1,085	0	0	4,887	0	0
Rough-toothed dolphin	Hawaiian	5,131	0	0	22,765	0	0
Short-beaked common dolphin.	California, Oregon, & Washington.	999,282	70	*3	4,996,410	350	*15

TABLE 18—SPECIES-SPECIFIC TAKE REQUEST AND AUTHORIZATION FROM MODELING ESTIMATES OF IMPULSIVE AND NON-IMPULSIVE SOURCE EFFECTS FOR ALL TRAINING ACTIVITIES—Continued

Species	Stock	Annually [1]			Total over 5-Year Rule [2]		
		Level B	Level A	Mortality	Level B	Level A	Mortality
Short-finned pilot whale	California, Oregon, & Washington.	308	0	0	1,540	0	0
	Hawaiian	9,150	0	0	40,760	0	0
Spinner dolphin [4]	Hawaii Stock Complex	2,576	0	0	11,060	0	0
Striped dolphin	California, Oregon, & Washington.	3,545	0	0	17,725	0	0
	Hawaiian	3,498	0	0	15,422	0	0
California sea lion	U.S. Stock	126,841	25	* 4	634,205	125	* 20
Northern fur seal	San Miguel Island	20,083	5	0	100,415	25	0
Harbor seal	California	5,899	11	0	29,495	55	0
Northern elephant seal	California Breeding	22,516	22	0	112,580	110	0

[1] These numbers constitute the total for an annual maximum year (a notional 12-month period when all annual and non-annual events could occur) in which a RIMPAC exercise and Civilian Port Defense events would occur in Hawaii and SOCAL.
[2] These numbers constitute the summation over a 5-year period with annual events occurring five times and non-annual events occurring three times.
[3] *Mesoplodon* spp. in SOCAL for the undifferentiated occurrence of five *Mesoplodon* species (*M. carlhubbsi, M. ginkgodens, M. perrini, M. peruvianus, M. stejnegeri* but does not include Blainville's beaked whale listed separately above.
* These mortalities are considered in Table 18 as an unspecified ''any small odontocete and pinniped species.''
[4] No more than 1,166 of Hawaii Island stock, 887 of Kauai/Niihau stock, and 524 of Oahu/4-Islands stock may be taken during training activities.

Testing Activities—Table 19 summarizes the Navy's take request and NMFS' authorization for testing activities and Table 20 specifies the Navy's take request and NMFS authorization for testing activities by species from the modeling estimates.

TABLE 19—SUMMARY OF ANNUAL AND 5-YEAR TAKES REQUESTED AND AUTHORIZED FOR TESTING ACTIVITIES

MMPA category	Source	Testing activities	
		Annual authorization sought	5-Year authorization sought
Injury or Mortality	Impulse	19 mortalities applicable to any small odontocete (i.e., dolphin) or pinniped species [1].	95 mortalities applicable to any small odontocete (i.e., dolphin) or pinniped species over five years.[2]
	Vessel strike	No more than 2 large whale injuries or mortalities in any given year [3].	No more than 3 large whale injuries or mortalities over five years.[3]
Level A	Impulse and Non-Impulse.	145—Species specific data shown in Table 21.	725—Species specific data shown in Table 21.
Level B	Impulse and Non-Impulse.	238,886—Species specific data shown in Table 20 [4].	1,194,430—Species specific data shown in Table 20.[4]

[1] No more than four of any one of the following stocks/species: Hawaii Stock Complex of bottlenose dolphins, Fraser's dolphin, Pantropical spotted dolphin, Hawaiian stock of Risso's dolphin, rough-toothed dolphin, spinner dolphin, Hawaiian stock of striped dolphin. No more than 13 of any of the following stocks/species: CA/OR/WA offshore stock of bottlenose dolphin, Dall's porpoise, long-beaked common dolphin, northern right whale dolphin, Pacific white-sided dolphin, CA/OR/WA stock of Risso's dolphin, CA/OR/WA stock of short-beaked common dolphin, CA/OR/WA stock of striped dolphin, California sea lion, northern fur seal, harbor seal, and northern elephant seal.
[2] This authorization by mortality does not include Hawaiian monk seals or Guadalupe fur seals.
[3] Navy cannot quantifiably predict that the proposed takes from testing (a total of two in a given year or over the course of 5-years) will be of any particular species, and therefore seeks take authorization for any combination of large whale species (gray whale, fin whale, blue whale, humpback whale, Bryde's whale, sei whale, minke whale, or sperm whale), but of the two takes in any given year, no more than one of each species of blue whale, fin whale, Western North Pacific gray whale, humpback whale, sei whale, or sperm whale is requested.
[4] Following publication of the proposed rule, the Navy identified an addition error in non-impulsive source takes for testing activities. The error resulted in too few Level B harassment takes of central North Pacific humpback whales. Table 20 and the regulatory text of this document have been revised accordingly (six takes added annually, 30 over the 5-year period).

TABLE 20—SPECIES-SPECIFIC TAKES REQUESTED AND AUTHORIZED FROM MODELING ESTIMATES OF IMPULSIVE AND NON-IMPULSIVE SOURCE EFFECTS FOR ALL TESTING ACTIVITIES

Species	Stock	Annually			Total over 5-year rule		
		Level B	Level A	Mortality	Level B	Level A	Mortality
Blue whale	Eastern North Pacific	413	0	0	2,065	0	0
	Central North Pacific	15	0	0	75	0	0
Fin whale	California, Oregon, & Washington.	202	0	0	1,010	0	0
	Hawaiian	23	0	0	115	0	0
Humpback whale	California, Oregon, & Washington.	101	0	0	505	0	0

TABLE 20—SPECIES-SPECIFIC TAKES REQUESTED AND AUTHORIZED FROM MODELING ESTIMATES OF IMPULSIVE AND NON-IMPULSIVE SOURCE EFFECTS FOR ALL TESTING ACTIVITIES—Continued

Species	Stock	Annually			Total over 5-year rule		
		Level B	Level A	Mortality	Level B	Level A	Mortality
	Central North Pacific	826	0	0	4,130	0	0
Sei whale	Eastern North Pacific	21	0	0	105	0	0
	Hawaiian	30	0	0	150	0	0
Sperm whale	California, Oregon, & Washington.	146	0	0	730	0	0
	Hawaiian	117	0	0	585	0	0
Guadalupe fur seal	Mexico	269	0	0	1,345	0	0
Hawaiian monk seal	Hawaiian	358	0	0	1,790	0	0
Bryde's whale	Eastern Tropical Pacific	5	0	0	25	0	0
	Hawaiian	13	0	0	65	0	0
Gray whale	Eastern North Pacific	2,570	1	0	12,850	5	0
	Western North Pacific	2	0	0	10	0	0
Minke whale	California, Oregon, & Washington.	49	0	0	245	0	0
	Hawaiian	30	0	0	150	0	0
Baird's beaked whale	California, Oregon, & Washington.	1,045	0	0	5,225	0	0
Blainville's beaked whale	Hawaiian	960	0	0	4,800	0	0
Bottlenose dolphin	California coastal	769	0	0	3,845	0	0
	California, Oregon & Washington offshore.	2,407	0	0	12,035	0	0
	Hawaii pelagic	257	0	0	1,286	0	0
	Oahu	48	0	0	238	0	0
	4-islands region	12	0	0	61	0	0
	Kauai and Niihau	12	0	0	59	0	0
	Hawaii Island	8	0	0	41	0	0
Cuvier's beaked whale	California, Oregon, & Washington.	2,319	0	0	11,595	0	0
	Hawaiian	4,549	0	0	22,745	0	0
Dwarf sperm whale	Hawaiian	2,376	28	0	11,880	140	0
Dall's porpoise	California, Oregon, & Washington.	5,215	32	0	26,075	160	0
False killer whale	Hawaii Insular	4	0	0	20	0	0
	Hawaii Pelagic	37	0	0	185	0	0
False killer whale	Northwest Hawaiian Islands.	14	0	0	70	0	0
Fraser's dolphin	Hawaiian	45	0	0	225	0	0
Killer whale	Eastern North Pacific offshore/transient.	53	0	0	265	0	0
	Hawaiian	14	0	0	70	0	0
Kogia spp.	California	1,232	6	0	6,160	30	0
Long-beaked common dolphin.	California	47,851	2	0	239,255	10	0
Longman's beaked whale	Hawaiian	436	0	0	2,180	0	0
Melon-headed whale	Hawaiian	124	0	0	620	0	0
Mesoplodon beaked whales [1].	California, Oregon, & Washington.	345	0	0	1,725	0	0
Northern right whale dolphin.	California, Oregon, & Washington.	5,729	1	0	28,645	5	0
Pacific white-sided dolphin	California, Oregon, & Washington.	4,924	1	0	24,620	5	0
Pantropical spotted dolphin.	Hawaiian	685	2	0	3,425	10	0
Pygmy killer whale	Hawaiian	61	0	0	305	0	0
Pygmy sperm whale	Hawaiian	117	1	0	585	5	0
Risso's dolphin	California, Oregon, & Washington.	8,739	1	0	43,695	5	0
	Hawaiian	113	0	0	565	0	0
Rough-toothed dolphin	Hawaiian	410	0	0	2,050	0	0
Short-beaked common dolphin.	California, Oregon, & Washington.	122,748	40	*13	613,740	200	*65
Short-finned pilot whale	California, Oregon, & Washington.	79	0	0	395	0	0
	Hawaiian	797	0	0	3,985	0	0
Spinner dolphin [2]	Hawaii Stock Complex	167	1	0	835	5	0
Striped dolphin	California, Oregon, & Washington.	998	0	0	4,990	0	0
	Hawaiian	269	1	0	1,345	5	0
California sea lion	U.S. Stock	13,038	17	*6	65,190	85	*30

TABLE 20—SPECIES-SPECIFIC TAKES REQUESTED AND AUTHORIZED FROM MODELING ESTIMATES OF IMPULSIVE AND NON-IMPULSIVE SOURCE EFFECTS FOR ALL TESTING ACTIVITIES—Continued

Species	Stock	Annually			Total over 5-year rule		
		Level B	Level A	Mortality	Level B	Level A	Mortality
Northern fur seal	San Miguel Island	1,088	3	0	5,440	15	0
Harbor seal	California	892	3	0	4,460	15	0
Northern elephant seal	California Breeding	2,712	5	0	13,560	25	0

[1] *Mesoplodon* spp. in SOCAL for the undifferentiated occurrence of five *Mesoplodon* species (*M. carlhubbsi, M. ginkgodens, M. perrini, M. peruvianus, M. stejnegeri*) but does not include Blainville's beaked whale listed separately above.
[2] No more than 76 of Hawaii Island stock, 57 of Kauai/Niihau stock, and 34 of Oahu/4-Islands stock may be taken during testing activities.
* These mortalities are considered in Table 19 as an unspecified ''any small odontocete (i.e., dolphin) and pinniped species.''

Of note, in the regulatory text, NMFS quantifies take by presenting the 5-year totals for each species for harassment (combined Level A and Level B for training and testing) and for mortality (training and testing combined). The specific types of harassment expected annually, and whether they will occur during training or testing, will continue to be specified in the LOAs as described in the preamble. This less specific language in the regulations will provide potential flexibility in the event that a change in activities or our analysis of impacts results in changes in the anticipated types, numbers, or distribution of take. If such a change were to occur, NMFS would conduct an analysis to determine whether the changes fall within the scope of impacts contemplated by the rule and also whether they still result in a negligible impact. If the changes are expected to result in impacts that fall within the scope of the rule and if we still anticipate a negligible impact to result, NMFS would propose the issuance of a revised LOA and publish a **Federal Register** notice announcing our findings and requesting public comments. If not, the changes would need to be addressed through a new or amended rulemaking.

Marine Mammal Habitat

The Navy's training and testing activities could potentially affect marine mammal habitat through the introduction of sound into the water column, impacts to the prey species of marine mammals, bottom disturbance, or changes in water quality. Each of these components was considered in the HSTT FEIS/OEIS. Based on the information in the Marine Mammal Habitat section of the proposed rule (78 FR 6978, January 31, 2013; pages 7030–7033) and the supporting information included in the HSTT FEIS/OEIS, NMFS has determined that training and testing activities would not have adverse or long-term impacts on marine mammal habitat. Important marine mammal habitat areas are also addressed in the Comments and Responses section and the Cetacean and Sound Mapping section of this document. In summary, expected effects to marine mammal habitat will include elevated levels of anthropogenic sound in the water column; short-term physical alteration of the water column or bottom topography; brief disturbances to marine invertebrates; localized and infrequent disturbance to fish; a limited number of fish mortalities; and temporary marine mammal avoidance.

Analysis and Negligible Impact Determination

Pursuant to NMFS' regulations implementing the MMPA, an applicant is required to estimate the number of animals that will be ''taken'' by the specified activities (i.e., takes by harassment only, or takes by harassment, injury, and/or death). This estimate informs the analysis that NMFS must perform to determine whether the activity will have a ''negligible impact'' on the affected species or stock. Level B (behavioral) harassment occurs at the level of the individual(s) and does not assume any resulting population-level consequences, though there are known avenues through which behavioral disturbance of individuals can result in population-level effects. For example, New *et al.* (2013) developed a model to assess the link between feeding energetics of beaked whales (family *Ziphiidae*) and their requirements for survival and reproduction.

A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (i.e., population-level effects). An estimate of the number of Level B harassment takes, alone, is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through behavioral harassment, NMFS must consider other factors, such as the likely nature of any responses (their intensity, duration, etc.), the context of any responses (critical reproductive time or location, migration, etc.), as well as the number and nature of estimated Level A harassment takes, the number of estimated mortalities, and effects on habitat. Generally speaking, and especially with other factors being equal, the Navy and NMFS anticipate more severe effects from takes resulting from exposure to higher received levels (though this is in no way a strictly linear relationship throughout species, individuals, or circumstances) and less severe effects from takes resulting from exposure to lower received levels.

The Navy's specified activities have been described based on best estimates of the maximum amount of sonar and other acoustic source use or detonations that the Navy will conduct. There may be some flexibility in that the exact number of hours, items, or detonations may vary from year to year, but take totals are not authorized to exceed the 5-year totals indicated in Tables 19 and 21. Furthermore the Navy's take request is based on their model and post-model analysis. The requested number of Level B takes does not equate to the number of individual animals the Navy expects to harass (which is lower), but rather to the instances of take (i.e., exposures above the Level B harassment threshold) that will occur. Depending on the location, duration, and frequency of activities, along with the distribution and movement of marine mammals, individual animals may be exposed multiple times to impulse or non-impulse sounds at or above the Level B harassment threshold. However, the Navy is currently unable to estimate the number of individuals that may be taken during training and testing activities. The model results estimate the total number of takes that may occur to a smaller number of individuals. While the model shows that an increased number of exposures may take place (compared to the 2009 rulemakings for HRC and the SOCAL Range Complex), the types and severity of individual responses to training and testing activities are not expected to change.

Taking the above into account, considering the Analysis and Negligible Impact Determination section of the proposed rule (78 FR 6978, January 13, 2013; pages 7033–7040), and dependent upon the implementation of mitigation measures, NMFS has determined that the Navy's training and testing activities will have a negligible impact on the marine mammal species and stocks present in the Study Area.

Species-Specific Analysis

In the discussions below, the ''acoustic analysis'' refers to the Navy's model results and post-model analysis. Using the best available information, including marine mammal density estimates, marine mammal depth occurrence distributions, oceanographic and environmental data, marine mammal hearing data, and criteria and thresholds for levels of potential effects, and in coordination with NMFS, the Navy performed a quantitative analysis to estimate the number of marine mammals that could be harassed by acoustic sources or explosives used during Navy training and testing activities. Marine mammal densities used in the model may overestimate actual densities when species data is limited and for species with seasonal migrations (e.g., humpbacks, blue whales, Hawaiian stock of fin whales, sei whales, gray whales). The quantitative analysis consists of computer modeled estimates and a post-model analysis to determine the number of potential mortalities and harassments. The model calculates sound energy propagation from sonars, other active acoustic sources, and explosives during naval activities; the sound or impulse received by animat dosimeters representing marine mammals distributed in the area around the modeled activity; and whether the sound or impulse received by a marine mammal exceeds the thresholds for effects. It is important to note that the Navy's take estimates represent the total number of takes and not the number of individuals taken, as a single individual may be taken multiple times over the course of a year.

Although this more complex computer modeling approach accounts for various environmental factors affecting acoustic propagation, the current software tools do not consider the likelihood that a marine mammal would attempt to avoid repeated exposures to a sound or avoid an area of intense activity where a training or testing event may be focused. Additionally, the software tools do not consider the implementation of mitigation (e.g., stopping sonar transmissions when a marine mammal is within a certain distance of a ship or range clearance prior to detonations). In both of these situations, naval activities are modeled as though an activity would occur regardless of proximity to marine mammals and without any horizontal movement by the animal away from the sound source or human activities (e.g., without accounting for likely animal avoidance). The initial model results overestimate the number of takes (as described previously). The final step of the quantitative analysis of acoustic effects is to consider the implementation of mitigation and the possibility that marine mammals would avoid continued or repeated sound exposures. Mitigation and marine mammal avoidance primarily reduce impacts by reducing Level A harassment to Level B harassment. NMFS provided input to the Navy on this process and the Navy's qualitative analysis is described in detail in section 6.3 of their LOA application (*http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications*). A detailed explanation of this analysis is also provided in the technical report Analysis of Animal Avoidance Behavior and Mitigation Effectiveness Technical Report (*http://hstteis.com/DocumentsandReferences/HSTTDocuments/SupportingTechnicalDocuments.aspx*).

Mysticetes—The Navy's acoustic analysis indicates that numerous exposures of mysticete species to sound levels likely to result in Level B harassment may occur, mostly from sonar and other active acoustic stressors associated with mostly training and some testing activities in the HSTT Study Area. Of these species, humpback, blue, Western North Pacific gray, fin, and sei whales are listed as endangered under the ESA. Level B takes are anticipated to be in the form of behavioral harassment and no injurious takes of humpback, blue, Western North Pacific gray, fin, or sei whales from sonar, or other active acoustic stressors are expected. The majority of acoustic effects to mysticetes from sonar and other active sound sources during training activities would be primarily from anti-submarine warfare events involving surface ships and hull-mounted mid-frequency active sonar. Most Level B harassments to mysticetes from sonar would result from received levels between 144 and 162 SPL. High-frequency systems are not within mysticetes' ideal hearing range and it is unlikely that they would cause a significant behavioral reaction. The only mysticete species that may be exposed to sound or energy from explosions resulting in the possibility of PTS is the Eastern North Pacific stock of gray whale. Exposures would occur in the SOCAL Range Complex during the cool season. However, nearly all of the Navy's proposed mitigation zones for explosive activities extend beyond the predicted maximum range to PTS. The only exception is in the case of 61–100 lb (27.7–45.4 kg; E8) net explosive weight charges for mine countermeasure and neutralization activities using positive control; the mitigation zone for these activities extend to the predicted maximum range to PTS. The implementation of mitigation and the sightability of mysticetes (due to their large size) reduce the potential for a significant behavioral reaction or a threshold shift to occur. Furthermore, gray whales in particular should be easier to sight because they will be migrating through the HSTT Study Area and there is often more than one whale in an area at the same time.

In addition to Level B takes, the Navy is requesting no more than 12 large whale injuries or mortalities over 5 years (no more than four large whale mortalities in a given year) due to vessel strike during training activities and no more than three large whale injuries or mortalities over 5 years (no more than two large whale injuries or mortalities in any given year) due to vessel strike during testing activities. However, no more than three injuries or mortalities of any of the following species would be authorized to occur in a given year between both training and testing activities (two injuries or mortalities from training and one injury or mortality from testing): blue whale, fin whale, humpback whale, sei whale, and sperm whale. The Navy provided a detailed analysis of strike data in section 6.3.4 of their LOA application. Marine mammal mortalities were not previously authorized by NMFS in the 2009 rulemakings for HRC and the SOCAL Range Complex. However, over a period of 20 years (1991 to 2010), there have been 16 Navy vessel strikes in the SOCAL Range Complex and five Navy vessel strikes in HRC. No single 5-year period exceeded ten whales struck within SOCAL and HRC. The number of injuries or mortalities from vessel strike is not expected to be an increase over the past decade, but rather NMFS is authorizing these takes for the first time.

Areas of high humpback whale density in the HRC were discussed earlier in this document. Since humpback whales migrate to the north in the summer, impacts are predicted only for the cool season in the HSTT Study Area. While the humpback

breeding areas around Hawaii are important, NMFS has determined that mid-frequency active sonar training in these areas is rare and infrequent during the cool season and any resulting impacts to individuals are not expected to affect annual rates of recruitment or survival. As discussed in the Mitigation section of this document, the Navy has agreed that training exercises utilizing mid-frequency active sonar in the designated Humpback Whale Cautionary Area from December 15 to April 15 would require a much higher level of approval than is normal practice in planning and conducting mid-frequency active sonar training. To date, the Navy has never requested approval to conduct training or testing use of mid-frequency active sonar in the area during this time period. Furthermore, no reported cases of harmful effects to humpback whales attributed to mid-frequency active sonar use have occurred during the Navy's 40-plus years of training in the waters off the Hawaiian Islands and Coincident with this use of mid-frequency active sonar, abundance estimates reflect an annual increase in the humpback whale stock (Mobley 2001a, 2004). A recent long-term study of humpback whales in Hawaiian waters shows long-term fidelity to the Hawaiian winter grounds, with many showing sighting spans ranging from 10 to 32 years (Herman *et al.,* 2011). The overall abundance of humpback whales in the north Pacific has continued to increase and is now greater than some pre-whaling abundance estimates (Barlow *et al.,* 2011). The California, Oregon, Washington stock of humpback whales uses the waters within the Southern California portion of the HSTT Study Area as a summer feeding ground.

There are also important feeding areas for fin and blue whales that overlap with the SOCAL Range Complex, adjacent to and in the vicinity of the Navy's only west coast underwater instrumented training range. However, the Navy has stated that given the closeness to shore, relatively shallow water, and lack of other nearby training infrastructure, major training events are not typically planned in this vicinity. The implementation of mitigation and sightability of these large whales is expected to reduce the potential for harassment.

Sperm Whales—The Navy's acoustic analysis indicates that 3,595 annual exposures of sperm whales to sound levels likely to result in Level B harassment may occur in the HSTT Study Area from sonar or other active acoustic stressors during training and testing activities. No modeled effects are expected from explosives. Level B takes are anticipated to be in the form of behavioral harassment and no injurious takes of sperm whales from sonar, other active acoustic stressors, or explosives are requested or proposed for authorization. Sperm whales have shown resilience to acoustic and human disturbance, although they may react to sound sources and activities within a few kilometers. Sperm whales that are exposed to activities that involve the use of sonar and other active acoustic sources may alert, ignore the stimulus, avoid the area by swimming away or diving, or display aggressive behavior. Some (but not all) sperm whale vocalizations might overlap with the frequency range for the onset of TTS from active sonar, which could temporarily decrease an animal's sensitivity to the calls of conspecifics or returning echolocation signals. However, as noted previously, NMFS does not anticipate TTS of a long duration or severe degree to occur as a result of exposure to MFAS/HFAS. The majority of Level B takes are expected to be in the form of mild responses. There are no modeled effects expected on sperm whales from explosives. No areas of specific importance for reproduction or feeding for sperm whales have been identified in the HSTT Study Area.

Pygmy and Dwarf Sperm Whales—The Navy's acoustic analysis indicates that 25,081 exposures of pygmy and dwarf sperm whales to sound levels likely to result in Level B harassment may occur from sonar and other active acoustic stressors and explosives associated with training and testing activities in the HRC. In SOCAL, the two *Kogia* species are managed as a single stock and management unit and up to 14,175 exposures to sound levels likely to result in Level B harassment may occur from sonar and other active acoustic stressors and explosives associated with training and testing activities. The Navy's acoustic analysis also indicates that 74 exposures of dwarf sperm whale and one exposure of pygmy sperm whale to sound levels likely to result in Level A harassment may occur from active acoustic stressors and explosions in HRC and 39 exposures of *Kogia* to sound levels likely to result in Level A harassment may occur from active acoustic stressors or explosions in SOCAL. Behavioral responses can range from a mild orienting response, or a shifting of attention, to flight and panic. These species tend to avoid human activity and presumably anthropogenic sounds. Pygmy and dwarf sperm whales may startle and leave the immediate area of activity, reducing the potential impacts. Significant behavioral reactions seem more likely than with most other odontocetes; however, it is unlikely that animals would receive multiple exposures over a short period of time, allowing animals to recover lost resources (e.g., food) or opportunities (e.g., mating). Therefore, long-term consequences for individual *Kogia* or their respective populations are not expected. Furthermore, many explosions actually occur upon impact with above-water targets. However, sources such as these were modeled as exploding at 1 meter depth, which overestimates the potential effects.

Data from several sources, which are summarized and cited on NOAA's Cetacean and Sound Mapping Web site (*cetsound.noaa.gov*) indicate that there are likely resident populations of dwarf sperm whales (among other species) off the western side of the Big Island of Hawaii. As discussed earlier, we highlight the potential presence of resident populations in the interest of helping to support decisions that ensure that these small populations, limited to a small area of preferred habitat, are not exposed to concentrations of activities within their ranges that have the potential to impact a large portion of the stock/species over longer amounts of time that could have detrimental consequences to the stock/species. However, NMFS has reviewed the Navy's exercise reports and considered/discussed their historical level of activity in the area where these resident populations are concentrated, which is very low, and concluded that time/area restrictions would not afford much reduction of impacts in this location and are not necessary at this point. If future monitoring and exercise and testing reports suggest that increased operations are overlapping more significantly with these resident populations, NMFS would revisit the consideration of temporal limitations around these populations through the adaptive management process.

Dall's Porpoise—The Navy's acoustic analysis indicates that 42,106 exposures of Dall's porpoise to sound levels likely to result in Level B harassment may occur from sonar and other active acoustic stressors and explosives associated with training and testing activities in the SOCAL Range Complex. The analysis also indicates that 79 exposures to sound levels likely to result in Level A harassment may occur from sonar and other active acoustic stressors.

Predicted impacts to odontocetes from activities from sonar and other active

acoustic sources are mostly from anti-submarine warfare events involving surface ships and hull mounted sonar. For high-frequency cetaceans, such as Dall's porpoise, ranges to TTS for multiple pings can, under certain conditions, reach over 10 km from a source. Activities involving ASW training often involve multiple participants and activities associated with the event. Dall's porpoise may avoid the area for the duration of the event and then return, allowing the animal to recover from any energy expenditure or missed resources. However, the Navy's proposed mitigation has a provision that allows the Navy to continue operation of mid-frequency active sonar if the animals are clearly bow-riding even after the Navy has initially maneuvered to try and avoid closing with the animals. Since these animals sometimes bow-ride, they could potentially be exposed to levels associated with TTS. Some dolphin vocalizations might overlap with the frequency range for the onset of TTS from active sonar (2–20 kHz), which could potentially temporarily decrease an animal's sensitivity to the calls of conspecifics or returning echolocation signals. However, for the reasons described in the beginning of this section, NMFS does not anticipate TTS of a long duration or severe degree to occur as a result of exposure to MFA/HFAS.

Ranges to PTS are on average about 855 meters from the largest explosive (Bin E12) for a high-frequency cetacean such as Dall's porpoise, which is less than the proposed mitigation zone for most explosive source bins. The metrics used to estimate PTS from explosives are based on the animal's mass; the smaller an animal, the more susceptible that individual is to these effects. In the Navy's analysis, all individuals of a given species were assigned the weight of that species' newborn calf. Since many individual Dall's porpoise are obviously larger than a newborn calf, this assumption causes the acoustic model to overestimate the potential effects. Threshold shifts do not necessarily affect all hearing frequencies equally, so some threshold shifts may not interfere with an animal hearing biologically relevant sound. Odontocetes, such as Dall's porpoise, may further minimize sound exposure during avoidance due to directional hearing. No areas of specific importance for reproduction or feeding for Dall's porpoise have been identified in the HSTT Study Area.

Beaked Whales—The Navy's acoustic analysis indicates that numerous exposures of beaked whale species to sound levels likely to result in Level B harassment may occur from sonar and other active acoustic stressors associated with training and testing activities. Research and observations show that if beaked whales are exposed to sonar or other active acoustic sources they may startle, break off feeding dives, and avoid the area of the sound source to levels of 157 dB (McCarthy *et al.,* 2011). Furthermore, in research done at the Navy's instrumented tracking range in the Bahamas, animals leave the immediate area of the anti-submarine warfare training exercise, but return within a few days after the event ends. At the Bahamas range and at Navy instrumented ranges in the HSTT Study Area that have been operating for decades (in Hawaii north of Kauai and in SOCAL west of San Clemente Island), populations of beaked whales appear to be stable. The analysis also indicates that no exposures to sound levels likely to result in Level A harassment would occur. However, while the Navy's model did not quantitatively predict any mortalities of beaked whales, the Navy is requesting a limited number of takes by mortality given the sensitivities these species may have to anthropogenic activities. Almost 40 years of conducting similar exercises in the HSTT Study Area without observed incident indicates that injury or mortality are not expected to occur as a result of Navy activities.

As noted in the Comments and Responses section, a recent paper by Moore and Barlow (2013) reported a decline in beaked whale populations in a broad area of the Pacific Ocean. In summary, there is no data to suggest that beaked whale numbers have declined in the SOCAL Range Complex and as Moore and Barlow (2013) point out, it remains clear that the Navy range in Southern California continues to support high densities of beaked whales.

Some beaked whale vocalizations might overlap with the frequency range for the onset of TTS from active sonar (2–20 kHz), which could potentially temporarily decrease an animal's sensitivity to the calls of conspecifics or returning echolocation signals. However, NMFS does not anticipate TTS of a long duration or severe degree to occur as a result of exposure to active sonar. No beaked whales are predicted to be exposed to active sonar sound levels associated with PTS or injury. No areas of specific importance for reproduction or feeding for beaked whales have been identified in the HSTT Study Area.

As discussed previously, scientific uncertainty exists regarding the potential contributing causes of beaked whale strandings and the exact behavioral or physiological mechanisms that can potentially lead to the ultimate physical effects (stranding and/or death) that have been documented in a few cases. Although NMFS does not expect injury or mortality of any of these species to occur as a result of the active sonar training exercises, there remains the potential for the operation of mid-frequency active sonar to contribute to the mortality of beaked whales. Consequently, NMFS intends to authorize mortality and we consider the 10 potential mortalities from across the seven species potentially effected over the course of 5 years in our negligible impact determination (NMFS only intends to authorize a total of 10 beaked whale mortality takes, but since they could be of any of the species, we consider the effects of 10 mortalities of any of the seven species).

False Killer Whale—The Navy's acoustic analysis indicates that 761 exposures of false killer whales (53 exposures to the Main Hawaiian Islands insular stock) to sound levels likely to result in Level B harassment may occur from sonar or other active acoustic stressors associated with training and testing activities in the HRC. False killer whales are not expected to be present within the SOCAL Range Complex. These takes are anticipated to be in the form of behavioral harassment and no injurious takes of false killer whales from active acoustic stressors or explosives are requested or proposed for authorization. Behavioral responses can range from a mild orienting response, or a shifting of attention, to flight and panic.

No areas of specific importance for reproduction or feeding for false killer whales have been identified in the HSTT Study Area.

Short-beaked Common Dolphin—The Navy's acoustic analysis indicates that 1,122,030 exposures of short-beaked common dolphins to sound levels likely to result in Level B harassment may occur from sonar and other active acoustic stressors associated with training and testing activities and sound or energy from explosions. Analysis also indicates that 110 exposures to sound levels likely to result in Level A harassment may occur from active acoustic stressors and sound or energy from explosions. Up to 17 short-beaked common dolphin mortalities are also requested as part of an unspecified ''any small odontocete (i.e., dolphin) and pinniped species'' take from training and testing activities. However, this species generally travels in large pods and should be visible from a distance in

order to implement mitigation measures and reduce potential impacts. Short-beaked common dolphins are one of the most abundant dolphin species in SOCAL. Behavioral responses can range from alerting, to changing their behavior or vocalizations, to avoiding the sound source by swimming away or diving. The high take numbers are due in part to an increase in expended materials.

No areas of specific importance for reproduction or feeding for short-beaked common dolphins have been identified in the HSTT Study Area.

California Sea Lion—The Navy's acoustic analysis indicates that 139,999 exposures of California sea lions to sound levels likely to result in Level B harassment may occur from sonar and other active acoustic stressors associated with training and testing activities and sound or energy from explosions. Analysis also indicates that 42 exposures to sound levels likely to result in Level A harassment may occur from active acoustic stressors and sound or energy from explosions. Up to 17 California sea lion mortalities are also requested as part of an unspecified ''any small odontocete (i.e., dolphin) and pinniped species'' take from training and testing activities. California sea lions are the most abundant pinniped species along the California coast. Research and observations show that pinnipeds in the water are tolerant of anthropogenic noise and activity. California sea lions may not react at all until the sound source is approaching within a few hundred meters and then may alert, ignore the stimulus, change their behavior, or avoid the immediate area by swimming away or diving. Significant behavioral reactions are not expected, based on previous observations. The high take numbers are due in part to the explosive criteria being based on newborn calf weights. Assuming that the majority of the population is larger than a newborn calf, the model overestimates the effects to California sea lions. The criteria for slight lung injury are also very conservative and may over-predict the effects. Research and observations show that pinnipeds in the water are tolerant of anthropogenic noise and activity. They may react in a number of ways depending on their experience with the sound source and what activity they are engaged in at the time of the exposure.

Northern Fur Seal—The Navy's acoustic analysis indicates that 21,171 exposures of northern fur seals to sound levels likely to result in Level B harassment may occur from sonar and other active acoustic stressors associated with training and testing activities in the SOCAL Range Complex and sound or energy from explosions. Analysis also indicates that eight exposures to sound levels likely to result in Level A harassment may occur from active acoustic stressors and sound or energy from explosions. Northern fur seals are common in SOCAL. Behavioral responses can range from a mild orienting response, or a shifting of attention, to flight and panic. Research and observations show that pinnipeds in the water are tolerant of anthropogenic noise and activity. They may react in a number of ways depending on their experience with the sound source and what activity they are engaged in at the time of the exposure.

A small population breeds on San Miguel Island, outside of the SOCAL Range Complex.

Northern Elephant Seal—The Navy's acoustic analysis indicates that 25,228 exposures of northern elephant seals to sound levels likely to result in Level B harassment may occur from sonar and other active acoustic stressors associated with training and testing activities in the SOCAL Range Complex and sound or energy from explosions. Analysis also indicates that 27 exposures to sound levels likely to result in Level A harassment may occur from active acoustic stressors and sound or energy from explosions. The majority of predicted effects would be from anti-submarine warfare events involving surface ships, submarines, and hull mounted sonar, while a small percentage of effects would be from mine countermeasure events. Northern elephant seals are common in SOCAL and the proposed take is less than 21 percent of the California breeding population. Behavioral responses can range from a mild orienting response, or a shifting of attention, to flight and panic. Research and observations show that pinnipeds in the water are tolerant of anthropogenic noise and activity. They may react in a number of ways depending on their experience with the sound source and what activity they are engaged in at the time of the exposure.

Different age classes of northern elephant seals haul out on the Channel Islands within SOCAL and spend 8–10 months at sea each year.

Hawaiian Monk Seal—The Navy's acoustic analysis indicates that 1,650 exposures (not necessarily number of individuals) of Hawaiian monk seals (listed as endangered under the ESA) to sound levels likely to result in Level B harassment may occur from sonar or other active acoustic stressors associated with training and testing activities in HRC. No exposures to sound levels likely to result in Level A harassment are expected to occur and takes from injury or mortality are not requested or proposed for authorization. The majority of exposures from testing have ranges to TTS less than 55 yd (50 m). Behavioral effects are not expected to be significant because (1) significant behavioral effects are more likely at higher received levels within a few kilometers of the source, (2) Hawaiian monk seals may avoid the activity area; and (3) mitigation measures would be implemented. Hawaiian monk seals predominantly occur in the Northwestern Hawaiian Islands and the Papahanaumokuakea National Marine Monument, which is mostly outside of the main Hawaii Operating Area. Navy activity within the Northwest Hawaiian Islands and the Papahanaumokuakea National Marine Monument is rare. Ranges to TTS for hull mounted sonars can be on the order of several kilometers for monk seals, and some behavioral impacts could take place at distances exceeding 173 km, although significant behavioral effects are much more likely at higher received levels within a few kilometers of the sound source and therefore, the majority of behavioral effects are not expected to be significant. Activities involving sound or energy from sonar and other active acoustic sources would not occur on shore in designated Hawaiian monk seal critical habitat where haul out and resting behavior occurs and would have no effect on critical habitat at sea.

Final Determination

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat and dependent upon the implementation of the mitigation and monitoring measures, NMFS finds that the total taking from Navy training and testing activities in the HSTT Study Area will have a negligible impact on the affected species or stocks. NMFS has issued regulations for these activities that prescribe the means of effecting the least practicable adverse impact on marine mammal species or stocks and their habitat and set forth requirements pertaining to the monitoring and reporting of that taking.

Subsistence Harvest of Marine Mammals

NMFS has determined that the issuance of 5-year regulations and subsequent LOAs for Navy training and testing activities in the HSTT Study Area will not have an unmitigable adverse impact on the availability of the affected species or stocks for subsistence use, since there are no such uses in the specified area.

ESA

There are nine marine mammal species under NMFS jurisdiction that are listed as endangered or threatened under the ESA with confirmed or possible occurrence in the Study Area: blue whale, humpback whale, Western North Pacific gray whale, fin whale, sei whale, sperm whale, the Main Hawaiian Islands insular false killer whale, Guadalupe fur seal, and Hawaiian monk seal. The Navy consulted with NMFS pursuant to section 7 of the ESA, and NMFS also consulted internally on the issuance of LOAs under section 101(a)(5)(A) of the MMPA for HSTT activities. NMFS issued a Biological Opinion concluding that the issuance of the rule and two LOAs are likely to adversely affect, but are not likely to jeopardize, the continued existence of the threatened and endangered species (and species proposed for listing) under NMFS' jurisdiction and are not likely to result in the destruction or adverse modification of critical habitat that has been designated for threatened and endangered species in the HSTT Study Area. The Biological Opinion for this action is available on NMFS' Web site (*http://www.nmfs.noaa.gov/pr/permits/incidental.html#applications*).

National Marine Sanctuaries Act (NMSA)

Federal agency actions that are likely to injure sanctuary resources are subject to consultation with the Office of National Marine Sanctuaries (ONMFS) under section 304(d) of the National Marine Sanctuaries Act. The Navy analyzed potential impacts to sanctuary resources and has provided the analysis in the Navy's HSTT FEIS/OEIS to ONMS. Navy HSTT activities will occur within three sites in the National Marine Sanctuary System—the Papahanaumokuakea Marine National Monument and the Channel Islands and Hawaiian Islands Humpback Whale national marine sanctuaries. The Navy did not propose new, modified, or an increased frequency of activities in these areas. ONMS has therefore determined that consultation under the NMSA is not required for HSTT at this time.

National Environmental Policy Act (NEPA)

NMFS participated as a cooperating agency on the HSTT FEIS/OEIS, which was published on August 30, 2013 and is available on the Navy's Web site: *http://hstteis.com*. NMFS determined that the HSTT FEIS/OEIS is adequate and appropriate to meet our responsibilities under NEPA for the issuance of regulations and LOAs. NMFS adopted the Navy's HSTT FEIS/OEIS, on December 5, 2013.

Classification

The Office of Management and Budget has determined that this rule is not significant for purposes of Executive Order 12866.

Pursuant to the Regulatory Flexibility Act (RFA), the Chief Counsel for Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The RFA requires federal agencies to prepare an analysis of a rule's impact on small entities whenever the agency is required to publish a notice of proposed rulemaking. However, a federal agency may certify, pursuant to 5 U.S.C. 605 (b), that the action will not have a significant economic impact on a substantial number of small entities. The Navy is the sole entity that would be affected by this rulemaking, and the Navy is not a small governmental jurisdiction, small organization, or small business, as defined by the RFA. Any requirements imposed by an LOA issued pursuant to these regulations, and any monitoring or reporting requirements imposed by these regulations, would be applicable only to the Navy. NMFS does not expect the issuance of these regulations or the associated LOAs to result in any impacts to small entities pursuant to the RFA. Because this action, if adopted, would directly affect the Navy and not a small entity, the Chief Counsel for Regulation concluded that the action would not result in a significant economic impact on a substantial number of small entities. No comments were received regarding the economic impact of this final rule. As a result, a final regulatory flexibility analysis was not prepared.

The Assistant Administrator for Fisheries has determined that there is good cause under the Administrative Procedure Act (5 U.S.C. 553(d)(3)) to waive the 30-day delay in the effective date of the measures contained in the final rule. The Navy is the only entity subject to the regulations and it has informed NMFS that it requests that this final rule take effect on the day of publication in the **Federal Register**. The existing regulations for the SOCAL and Hawaii Range Complexes expire starting in early January 2014. Any suspension or interruption of the Navy's ability to train or conduct testing, for even a small number of days, disrupts vital sequential training and certification processes essential to national security. Therefore, a waiver of the 30-day delay of the effective date of the final rule will allow the Navy to finalize operational procedures to ensure compliance with required mitigation, monitoring, and reporting requirements, and have MMPA authorization in place prior to expiration of the existing regulations to support unit level training and testing activities events scheduled for January 2014. Any delay of enacting the final rule would result in the Navy's procedural non-compliance with the MMPA (should the Navy conduct training or testing without an LOA), thereby resulting in the potential for unauthorized takes of marine mammals. Moreover, the Navy is ready to implement the rule immediately. For these reasons, the Assistant Administrator finds good cause to waive the 30-day delay in the effective date.

List of Subjects in 50 CFR Parts 216 and 218

Exports, Fish, Imports, Incidental take, Indians, Labeling, Marine mammals, Navy, Penalties, Reporting and recordkeeping requirements, Seafood, Sonar, Transportation.

Dated: December 13, 2014.

Alan D. Risenhoover,

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

For reasons set forth in the preamble, 50 CFR parts 216 and 218 are amended as follows:

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

■ 1. The authority citation for part 216 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*

Subpart P—[Removed and Reserved]

■ 2. Remove and reserve, subpart P, consisting of §§ 216.170 through 216.179.

Subpart X—[Removed and Reserved]

■ 3. Remove and reserve, subpart X, consisting of §§ 216.270 through 216.279.

PART 218—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

■ 4. The authority citation for part 218 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*

■ 5. Subpart H is added to part 218 to read as follows:

Subpart H—Taking and Importing Marine Mammals; U.S. Navy's Hawaii-Southern California Training and Testing (HSTT)

Sec.
218.70 Specified activity and specified geographical region.
218.71 Effective dates and definitions.
218.72 Permissible methods of taking.
218.73 Prohibitions.
218.74 Mitigation.
218.75 Requirements for monitoring and reporting.
218.76 Applications for Letters of Authorization.
218.77 Letters of Authorization.
218.78 Renewals and modifications of Letters of Authorization and Adaptive Management.

Subpart H—Taking and Importing Marine Mammals; U.S. Navy's Hawaii-Southern California Training and Testing (HSTT)

§ 218.70 Specified activity and specified geographical region.

(a) Regulations in this subpart apply only to the U.S. Navy for the taking of marine mammals that occurs in the area outlined in paragraph (b) of this section and that occurs incidental to the activities described in paragraph (c) of this section.

(b) The taking of marine mammals by the Navy is only authorized if it occurs within the HSTT Study Area, which is comprised of established operating and warning areas across the north-central Pacific Ocean, from Southern California west to Hawaii and the International Date Line (see Figure 1–1 in the Navy's application). The Study Area includes three existing range complexes: the Southern California (SOCAL) Range Complex, Hawaii Range Complex (HRC), and Silver Strand Training Complex (SSTC). In addition, the Study Area includes other areas where training and testing activities occur, including the pierside locations in San Diego Bay and Pearl Harbor, the transit corridor between SOCAL and Hawaii, and throughout the San Diego Bay.

(c) The taking of marine mammals by the Navy is only authorized if it occurs incidental to the following activities:

(1) Non-impulsive Sources Used During Training:

(i) Mid-frequency (MF) Source Classes:

(A) MF1—an average of 11,588 hours per year.

(B) MF1K—an average of 88 hours per year.

(C) MF2—an average of 3,060 hours per year.

(D) MF2K—an average of 34 hours per year.

(E) MF3—an average of 2,336 hours per year.

(F) MF4—an average of 888 hours per year.

(G) MF5—an average of 13,718 items per year.

(H) MF11—an average of 1,120 hours per year.

(I) MF12—an average of 1,094 hours per year.

(ii) High-frequency (HF) and Very High-frequency (VHF) Source Classes:

(A) HF1—an average of 1,754 hours per year.

(B) HF4—an average of 4,848 hours per year.

(iii) Anti-Submarine Warfare (ASW) Source Classes:

(A) ASW1—an average of 224 hours per year.

(B) ASW2—an average of 1,800 items per year.

(C) ASW3—an average of 16,561 hours per year.

(D) ASW4—an average of 1,540 items per year.

(iv) Torpedoes (TORP) Source Classes:

(A) TORP1—an average of 170 items per year.

(B) TORP2—an average of 400 items per year.

(2) Non-impulsive Sources Used During Testing:

(i) Low-frequency (LF) Source Classes:

(A) LF4—an average of 52 hours per year.

(B) LF5—an average of 2,160 hours per year.

(C) LF6—an average of 192 hours per year.

(ii) Mid-frequency (MF):

(A) MF1—an average of 180 hours per year.

(B) MF1K—an average of 18 hours per year.

(C) MF2—an average of 84 hours per year.

(D) MF3—an average of 392 hours per year.

(E) MF4—an average of 693 hours per year.

(F) MF5—an average of 5,024 items per year.

(G) MF6—an average of 540 items per year.

(H) MF8—an average of 2 hours per year.

(I) MF9—an average of 3,039 hours per year.

(J) MF10—an average of 35 hours per year.

(K) MF12—an average of 336 hours per year.

(iii) High-frequency (HF) and Very High-frequency (VHF):

(A) HF1—an average of 1,025 hours per year.

(B) HF3—an average of 273 hours per year.

(C) HF4—an average of 1,336 hours per year.

(D) HF5—an average of 1,094 hours per year.

(E) HF6—an average of 3,460 hours per year.

(iv) ASW:

(A) ASW1—an average of 224 hours per year.

(B) ASW2—an average of 2,260 items per year.

(C) ASW2—an average of 255 hours per year.

(D) ASW3—an average of 1,278 hours per year.

(E) ASW4—an average of 477 items per year.

(v) TORP:

(A) TORP1—an average of 701 items per year.

(B) TORP2—an average of 732 items per year.

(vi) Acoustic Modems (M):

(A) M3—an average of 4,995 hours per year.

(B) [Reserved]

(vii) Swimmer Detection Sonar (SD):

(A) SD1—an average of 38 hours per year.

(B) [Reserved]

(viii) Airguns (AG):

(A) AG—an average of 5 airgun uses per year.

(B) [Reserved]

(ix) Synthetic Aperture Sonar (SAS):

(A) SAS1—an average of 2,700 hours per year.

(B) SAS2—an average of 4,956 hours per year.

(C) SAS3—an average of 3,360 hours per year.

(3) Annual Number of Impulsive Source Detonations During Training:

(i) Explosive Classes:

(A) E1 (0.1 lb to 0.25 lb NEW)—an average of 19,840 detonations per year.

(B) E2 (1.26 lb to 0.5 lb NEW)—an average of 1,044 detonations per year.

(C) E3 (>0.5 lb to 2.5 lb NEW)—an average of 3,020 detonations per year.

(D) E4 (>2.5 lb to 5 lb NEW)—an average of 668 detonations per year.

(E) E5 (>5 lb to 10 lb NEW)—an average of 8,154 detonations per year.

(F) E6 (>10 lb to 20 lb NEW)—an average of 538 detonations per year.

(G) E7 (>20 lb to 60 lb NEW)—an average of 407 detonations per year.

(H) E8 (>60 lb to 100 lb NEW)—an average of 64 detonations per year.

(I) E9 (>100 lb to 250 lb NEW)—an average of 16 detonations per year.

(J) E10 (>250 lb to 500 lb NEW)—an average of 19 detonations per year.

(K) E11 (>500 lb to 650 lb NEW)—an average of 8 detonations per year.

(L) E12 (>650 lb to 1,000 lb NEW)—an average of 224 detonations per year.

(M) E13 (>1,000 lb to 1,740 lb NEW)—an average of 9 detonations per year.

(ii) [Reserved]

(4) Impulsive Source Detonations During Testing:

(i) Explosive Classes:

(A) E1 (0.1 lb to 0.25 lb NEW)—an average of 14,501 detonations per year.

(B) E2 (0.26 lb to 0.5 lb NEW)—an average of 0 detonations per year.

(C) E3 (>0.5 lb to 2.5 lb NEW)—an average of 2,990 detonations per year.

(D) E4 (>2.5 lb to 5 lb NEW)—an average of 753 detonations per year.

(E) E5 (>5 lb to 10 lb NEW)—an average of 202 detonations per year.

(F) E6 (>10 lb to 20 lb NEW)—an average of 37 detonations per year.

(G) E7 (>20 lb to 60 lb NEW)—an average of 21 detonations per year.

(H) E8 (>60 lb to 100 lb NEW)—an average of 12 detonations per year.

(I) E9 (>100 lb to 250 lb NEW)—an average of 0 detonations per year.

(J) E10 (>250 lb to 500 lb NEW)—an average of 31 detonations per year.

(K) E11 (>500 lb to 650 lb NEW)—an average of 14 detonations per year.

(L) E12 (>650 lb to 1,000 lb NEW)—an average of 0 detonations per year.

(M) E13 (>1,000 lb to 1,740 lb NEW)—an average of 0 detonations per year.

(ii) Pile Driving: No more than four events per year.

§ 218.71 Effective dates and definitions.

(a) The regulations in this subpart are effective December 24, 2013, through December 24, 2018.

(b) The following definitions are utilized in this subpart:

(1) *Uncommon Stranding Event (USE)*—A stranding event that takes place within an OPAREA where a Major Training Event (MTE) occurs and involves any one of the following:

(i) Two or more individuals of any cetacean species (not including mother/calf pairs), unless of species of concern listed in paragraph (b)(1)(ii) of this section found dead or live on shore within a 2-day period and occurring within 30 miles of one another.

(ii) A single individual or mother/calf pair of any of the following marine mammals of concern: beaked whale of any species, *Kogia* spp., Risso's dolphin, melon-headed whale, pilot whale, humpback whale, sperm whale, blue whale, fin whale, sei whale, or monk seal.

(iii) A group of two or more cetaceans of any species exhibiting indicators of distress.

(2) *Shutdown*—The cessation of active sonar operation or detonation of explosives within 14 nautical miles of any live, in the water, animal involved in a USE.

§ 218.72 Permissible methods of taking.

(a) Under Letters of Authorization (LOAs) issued pursuant to § 218.77, the Holder of the Letter of Authorization may incidentally, but not intentionally, take marine mammals within the area described in § 218.70, provided the activity is in compliance with all terms, conditions, and requirements of these regulations and the appropriate LOA.

(b) The incidental take of marine mammals under the activities identified in § 218.70(c) is limited to the following species, by the identified method of take:

(1) Harassment (Level A and Level B) for all Training and Testing Activities:

(i) Mysticetes:

(A) Blue whale (*Balaenoptera musculus*)—23,699.

(B) Bryde's whale (*Balaenoptera edeni*)—1,287.

(C) Fin whale (*Balaenoptera physalus*)—9,656.

(D) Gray whale (*Eschrichtius robustus*), Eastern North Pacific—60,590.

(E) Gray whale (Eschrichtius robustus), Western North Pacific—60.

(F) Humpback whale (*Megaptera novaeangliae*)—51,000.

(G) Minke whale (*Balaenoptera acutorostrata*)—4,425.

(H) Sei whale (*Balaenoptera borealis*)—3,251.

(ii) Odontocetes:

(A) Baird's beaked whale (*Berardius bairdii*)—27,325.

(B) Blainville's beaked whale (*Mesoplodon densirostris*)—52,972.

(C) Bottlenose dolphin (*Tursiops truncatus*), California Coastal—5,600.

(D) Bottlenose dolphin (Tursiops truncatus), CA/OR/WA—145,125.

(E) Bottlenose dolphin (Tursiops truncatus), Hawaii pelagic—20,995.

(F) Bottlenose dolphin (Tursiops truncatus), Oahu—3,879.

(G) Bottlenose dolphin (Tursiops truncatus), 4-Islands region—999.

(H) Bottlenose dolphin (Tursiops truncatus), Kauai and Niihau—960.

(I) Bottlenose dolphin (Tursiops truncatus), Hawaii Island—666.

(J) Cuvier's beaked whale (*Ziphius cavirostris*)—349,130.

(K) Dwarf sperm whale (*Kogia sima*)—113,525.

(L) Dall's porpoise (*Phocoenoidea dalli*)—210,925.

(M) False killer whale (*Pseudorca crassidens*), Main Hawaiian Islands insular—240.

(N) False killer whale (*Pseudorca crassidens*)—3,147.

(O) Fraser's dolphin (*Lagenodelphis hosei*)—9,034.

(P) Killer whale (*Orcinus orca*)—2,762.

(Q) *Kogia* spp.—71,070.

(R) Long-beaked common dolphin (*Delphinus capensis*)—604,715.

(S) Longman's beaked whale (*Indopacetus pacificus*)—19,476.

(T) Melon-headed whale (*Peponocephala electra*)—7,353.

(U) Mesoplodon beaked whales—11,695.

(V) Northern right whale dolphin (*Lissodelphis borealis*)—286,635.

(W) Pacific white-sided dolphin (*Lagenorhynchus obliquidens*)—216,885.

(X) Pantropical spotted dolphin (*Stenella attenuata*)—51,864.

(Y) Pygmy killer whale (*Feresa attenuata*)—2,908.

(Z) Pygmy sperm whale (*Kogia breviceps*)—1,683.

(AA) Risso's dolphin (*Grampus griseus*)—481,677.

(BB) Rough-toothed dolphin (*Steno bredanensis*)—24,815.

(CC) Short-beaked common dolphin (*Delphinus delphis*)—5,610,700.

(DD) Short-finned pilot whale (*Globicephala macrorhynchus*)—46,680.

(EE) Sperm whale (*Physeter macrocephalus*)—17,235.

(FF) Spinner dolphin (*Stenella longirostris*)—11,900.

(GG) Striped dolphin (*Stenella coerulealba*)—39,487.

(iii) Pinnipeds:

(A) California sea lion (*Zalophus californianus*)—699,605.

(B) Guadalupe fur seal (*Arctocephalus townsendi*)—14,360.

(C) Harbor seal (*Phoca vitulina*)—34,025.

(D) Hawaiian monk seal (*Monachus schauinslandi*)—8,124.

(E) Northern elephant seal (*Mirounga angustirostris*)—126,275.

(F) Northern fur seal (*Callorhinus ursinus*)—105,895.

(3) Mortality (or lesser Level A injury) for all Training and Testing Activities:

(i) No more than 130 mortalities applicable to any small odontocete (i.e., dolphin) or pinniped (with the exception of Hawaiian monk seal) species from an impulse source.

(ii) No more than 10 beaked whale mortalities.

(iii) No more than 15 large whale injuries or mortalities or serious injuries from vessel strike.

§ 218.73 Prohibitions.

Notwithstanding takings contemplated in § 218.72 and authorized by an LOA issued under §§ 216.106 and 218.77 of this chapter, no person in connection with the activities described in § 218.70 may:

(a) Take any marine mammal not specified in § 218.72(c);

(b) Take any marine mammal specified in § 218.72(c) other than by incidental take as specified in § 218.72(c);

(c) Take a marine mammal specified in § 218.72(c) if such taking results in more than a negligible impact on the species or stocks of such marine mammal; or

(d) Violate, or fail to comply with, the terms, conditions, and requirements of these regulations or an LOA issued under §§ 216.106 and 218.77.

§ 218.74 Mitigation.

(a) When conducting training and testing activities, as identified in § 218.70, the mitigation measures contained in the LOA issued under §§ 216.106 and 218.77 of this chapter must be implemented. These mitigation measures include, but are not limited to:

(1) *Lookouts*—The following are protective measures concerning the use of Lookouts.

(i) Lookouts positioned on ships will be dedicated solely to diligent observation of the air and surface of the water. Their observation objectives will include, but are not limited to, detecting the presence of biological resources and recreational or fishing boats, observing mitigation zones, and monitoring for vessel and personnel safety concerns.

(ii) Lookouts positioned in aircraft or on small boats will, to the maximum extent practicable and consistent with aircraft and boat safety and training and testing requirements, comply with the observation objectives described above in § 218.74 (a)(1)(i).

(iii) Lookout measures for non-impulsive sound:

(A) With the exception of ships less than 65 ft (20 m) in length and ships which are minimally manned, ships using low-frequency or hull-mounted mid-frequency active sonar sources associated with anti-submarine warfare and mine warfare activities at sea will have two Lookouts at the forward position of the ship. For the purposes of this rule, low-frequency active sonar does not include surveillance towed array sensor system low-frequency active sonar.

(B) While using low-frequency or hull-mounted mid-frequency active sonar sources associated with anti-submarine warfare and mine warfare activities at sea, vessels less than 65 ft (20 m) in length and ships which are minimally manned will have one Lookout at the forward position of the vessel due to space and manning restrictions.

(C) Ships conducting active sonar activities while moored or at anchor (including pierside testing or maintenance) will maintain one Lookout.

(D) Surface ships or aircraft conducting high-frequency or non-hull-mounted mid-frequency active sonar activities associated with anti-submarine warfare and mine warfare activities at sea will have one Lookout.

(iv) Lookout measures for explosives and impulsive sound:

(A) Aircraft conducting IEER sonobuoy activities will have one Lookout.

(B) Explosive sonobuoys with 0.6 to 2.5 lb net explosive weight will have one Lookout.

(C) Surface vessels conducting anti-swimmer grenade activities will have one Lookout.

(D) During general mine countermeasure and neutralization activities using up to a 500-lb net explosive weight detonation (bin E10 and below), vessels greater than 200 ft will have two Lookouts, while vessels less than 200 ft or aircraft will have one Lookout.

(E) General mine countermeasure and neutralization activities using a 501 to 650-lb net explosive weight detonation (bin E11), will have two Lookouts. One Lookout will be positioned in an aircraft and one in a support vessel.

(F) During activities involving diver-placed mines under positive control, activities using up to a 500 lb net explosive weight (bin E10) detonation will have a total of two Lookouts (one Lookout positioned on two small boats, or one small boat in combination with either a helicopter or shore-based. The shore-based observer would be stationed at an elevated on-shore position and would only be used during activities conducted in very shallow waters.

(G) When mine neutralization activities using diver-placed charges with up to a 29-lb net explosive weight detonation (bin E7) are conducted with a time-delay firing device, four Lookouts will be used. Two Lookouts will be positioned in each of two small rigid hull inflatable boats or on one boat. In addition, when aircraft are used, the pilot or member of the aircrew will serve as an additional Lookout. The divers placing the charges on mines will report all marine mammal sightings to their dive support vessel or Range Safety Officer.

(H) Surface vessels or aircraft conducting small- and medium-caliber gunnery exercises against a surface target will have one Lookout.

(I) Surface vessels conducting large-caliber gunnery exercises against a surface target will have one Lookout.

(J) Aircraft conducting missile exercises (including rockets) against surface targets will have one Lookout.

(K) Aircraft conducting bombing exercises will have one Lookout.

(L) During explosive torpedo testing, one Lookout will be used and positioned in an aircraft.

(M) During sinking exercises, two Lookouts will be used. One Lookout will be positioned in an aircraft and one on a surface vessel.

(N) Each surface vessel supporting at-sea explosive testing will have at least one Lookout.

(O) During pile driving, one Lookout will be used and positioned on the platform that will maximize the potential for marine mammal sightings (e.g., the shore, an elevated causeway, or on a small boat).

(P) Surface vessels conducting explosive and non-explosive large-caliber gunnery exercises will have one Lookout. This may be the same Lookout used during large-caliber gunnery exercises with a surface target.

(v) Lookout measures for physical strike and disturbance:

(A) While underway, surface ships will have at least one Lookout.

(B) During activities using towed in-water devices, when towed from a manned platform, one Lookout will be used.

(C) Activities involving non-explosive practice munitions (e.g., small-, medium-, and large-caliber gunnery exercises) using a surface target will have one Lookout.

(D) During activities involving non-explosive bombing exercises, one Lookout positioned in an aircraft will be used.

(E) During activities involving non-explosive missile exercises (including rockets) using a surface target, one Lookout will be used.

(2) *Mitigation Zones*—The following are protective measures concerning the implementation of mitigation zones.

(i) Mitigation zones will be measured as the radius from a source and represent a distance to be monitored.

(ii) Visual detections of marine mammals within a mitigation zone will be communicated immediately to a watch station for information dissemination and appropriate action.

(iii) Mitigation zones for non-impulsive sound: [1]

(A) When marine mammals are visually detected, the Navy shall ensure that low-frequency and hull-mounted mid-frequency active sonar transmission

[1] The mitigation zone would be 200 yd (183 m) for low-frequency non-hull mounted sources in bins LF4 and LF5.

levels are limited to at least 6 dB below normal operating levels, for sources that can be powered down, if any detected marine mammals are within 1,000 yd (914 m) of the sonar dome (the bow).

(B) The Navy shall ensure that low-frequency and hull-mounted mid-frequency active sonar transmissions are limited to at least 10 dB below the equipment's normal operating level, for sources that can be powered down, if any detected marine mammals are within 500 yd (457 m) of the sonar dome.

(C) The Navy shall ensure that low-frequency sonar and hull-mounted mid-frequency active sonar transmissions are ceased, for sources that can be turned off during the activity, if any visually detected marine mammals are within 200 yd (183 m) of the sonar dome. Transmissions will not resume until one of the following conditions is met: the animal is observed exiting the mitigation zone; the animal is thought to have exited the mitigation zone based on a determination of its course and speed and the relative motion between the animal and the source; the mitigation zone has been clear from any additional sightings for a period of 30 minutes; the ship has transited more than 2,000 yd (1.8 km) beyond the location of the last sighting; or the ship concludes that dolphins are deliberately closing in on the ship to ride the ship's bow wave (and there are no other marine mammal sightings within the mitigation zone). Active transmission may resume when dolphins are bow riding because they are out of the main transmission axis of the active sonar while in the shallow-wave area of the bow.

(D) The Navy shall ensure that low-frequency and hull-mounted mid-frequency active sonar transmissions are ceased for sources that cannot be powered down during the activity, if any visually detected marine mammals are within 200 yd (183 m) of the source. Transmissions will not resume until one of the following conditions is met: the animal is observed exiting the mitigation zone; the animal is thought to have exited the mitigation zone based on a determination of its course and speed and the relative motion between the animal and the source; the mitigation zone has been clear from any additional sightings for a period of 30 minutes; the ship has transited more than 400 yd (366 m) beyond the location of the last sighting.

(E) When marine mammals are visually detected, the Navy shall ensure that high-frequency and non-hull-mounted mid-frequency active sonar transmission levels are ceased if any visually detected marine mammals are within 200 yd (183 m) of the source. Transmissions will not resume until one of the following conditions is met: the animals is observed exiting the mitigation zone; the animal is thought to have exited the mitigation zone based on a determination of its course and speed and the relative motion between the animal and the source; the mitigation zone has been clear from any additional sightings for a period of 10 minutes for an aircraft-deployed source; the mitigation zone has been clear from any additional sightings for a period of 30 minutes for a vessel-deployed source; the vessel or aircraft has repositioned itself more than 400 yd (366 m) away from the location of the last sighting; or the vessel concludes that dolphins are deliberately closing to ride the vessel's bow wave (and there are no other marine mammal sightings within the mitigation zone).

(iv) Mitigation zones for explosive and impulsive sound:

(A) A mitigation zone with a radius of 600 yd (549 m) shall be established for IEER sonobuoys (bin E4).

(B) A mitigation zone with a radius of 350 yd (320 m) shall be established for explosive sonobuoys using 0.6 to 2.5 lb net explosive weight (bin E3).

(C) A mitigation zone with a radius of 200 yd (183 m) shall be established for anti-swimmer grenades (bin E2).

(D) A mitigation zone ranging from 600 yd (549 m) to 2,100 yd (1.9 km), dependent on charge size, shall be established for general mine countermeasure and neutralization activities using positive control firing devices. Mitigation zone distances are specified for charge size in Table 11–2 of the Navy's application.

(E) A mitigation zone ranging from 350 yd (320 m) to 850 yd (777 m), dependent on charge size, shall be established for mine countermeasure and neutralization activities using diver-placed positive control firing devices. Mitigation zone distances are specified for charge size in Table 11–2 of the Navy's application.

(F) A mitigation zone with a radius of 1,000 yd (914 m) shall be established for mine neutralization diver placed mines using time-delay firing devices (bin E7).

(G) A mitigation zone with a radius of 200 yd (183 m) shall be established for small- and medium-caliber gunnery exercises with a surface target (bin E2).

(H) A mitigation zone with a radius of 600 yd (549 m) shall be established for large-caliber gunnery exercises with a surface target (bin E5).

(I) A mitigation zone with a radius of 900 yd (823 m) shall be established for missile exercises (including rockets) with up to 250 lb net explosive weight and a surface target (up to bin E9).

(J) A mitigation zone with a radius of 2,000 yd (1.8 km) shall be established for missile exercises with 251 to 500 lb net explosive weight and a surface target (E10).

(K) A mitigation zone with a radius of 2,500 yd (2.3 km) shall be established for bombing exercises (up to bin E12).

(L) A mitigation zone with a radius of 2,100 yd (1.9 km) shall be established for torpedo (explosive) testing (up to bin E11).

(M) A mitigation zone with a radius of 2.5 nautical miles shall be established for sinking exercises (up to bin E12).

(N) A mitigation zone with a radius of 1,600 yd (1.4 km) shall be established for at-sea explosive testing (up to bin E5).

(O) A mitigation zone with a radius of 60 yd (55 m) shall be established for elevated causeway system pile driving.

(P) A mitigation zone with a radius of 70 yd (64 m) within 30 degrees on either side of the gun target line on the firing side of the vessel for explosive and non-explosive large-caliber gunnery exercises.

(v) Mitigation zones for vessels and in-water devices:

(A) A mitigation zone of 500 yd (457 m) for observed whales and 200 yd (183 m) for all other marine mammals (except bow riding dolphins) shall be established for all vessel movement, providing it is safe to do so.

(B) A mitigation zone of 250 yd (229 m) for any observed marine mammal shall be established for all towed in-water devices that are towed from a manned platform, providing it is safe to do so.

(vi) Mitigation zones for non-explosive practice munitions:

(A) A mitigation zone of 200 yd (183 m) shall be established for small, medium, and large caliber gunnery exercises using a surface target with non-explosive practice munitions.

(B) A mitigation zone of 1,000 yd (914 m) shall be established for bombing exercises with non-explosive practice munitions.

(C) A mitigation zone of 900 yd (823 m) shall be established for missile exercises (including rockets) using a surface target.

(vii) Mitigation zones for the use of Navy sea lions:

(A) If a monk seal is seen approaching or within 100 m of a Navy sea lion, the handler will hold the Navy sea lion in the boat or recall the Navy sea lion immediately if it has already been released.

(3) Humpback Whale Cautionary Area:

(i) The Navy will maintain a 5-km (3.1-mi) buffer zone between December 15 and April 15 where conducting mid-frequency active sonar exercises will require authorization by the Commander, U.S. Pacific Fleet (CPF).

(ii) If authorized, the CPF will provide specific direction on required mitigation prior to operational units transiting to and training in the area.

(iii) The Navy will provide NMFS with advance notification of any mid-frequency active sonar training and testing activities in the humpback whale cautionary area between December 15 and April 15.

(4) Stranding Response Plan:

(i) The Navy shall abide by the letter of the ''Stranding Response Plan for Major Navy Training Exercises in the HSTT Study Area,'' to include the following measures:

(A) Shutdown Procedures—When an Uncommon Stranding Event (USE—defined in § 218.71 (b)(1)) occurs during a Major Training Exercise (MTE) in the HSTT Study Area, the Navy shall implement the procedures described below.

(*1*) The Navy shall implement a shutdown (as defined § 218.71 (b)(2)) when advised by a NMFS Office of Protected Resources Headquarters Senior Official designated in the HSTT Study Area Stranding Communication Protocol that a USE involving live animals has been identified and that at least one live animal is located in the water. NMFS and the Navy will maintain a dialogue, as needed, regarding the identification of the USE and the potential need to implement shutdown procedures.

(*2*) Any shutdown in a given area shall remain in effect in that area until NMFS advises the Navy that the subject(s) of the USE at that area die or are euthanized, or that all live animals involved in the USE at that area have left the area (either of their own volition or herded).

(*3*) If the Navy finds an injured or dead animal floating at sea during an MTE, the Navy shall notify NMFS immediately or as soon as operational security considerations allow. The Navy shall provide NMFS with species or description of the animal(s), the condition of the animal(s), including carcass condition if the animal(s) is/are dead, location, time of first discovery, observed behavior (if alive), and photo or video (if available). Based on the information provided, NFMS will determine if, and advise the Navy whether a modified shutdown is appropriate on a case-by-case basis.

(*4*) In the event, following a USE, that qualified individuals are attempting to herd animals back out to the open ocean and animals are not willing to leave, or animals are seen repeatedly heading for the open ocean but turning back to shore, NMFS and the Navy shall coordinate (including an investigation of other potential anthropogenic stressors in the area) to determine if the proximity of mid-frequency active sonar training activities or explosive detonations, though farther than 14 nautical miles from the distressed animal(s), is likely contributing to the animals' refusal to return to the open water. If so, NMFS and the Navy will further coordinate to determine what measures are necessary to improve the probability that the animals will return to open water and implement those measures as appropriate.

(B) Within 72 hours of NMFS notifying the Navy of the presence of a USE, the Navy shall provide available information to NMFS (per the HSTT Study Area Communication Protocol) regarding the location, number and types of acoustic/explosive sources, direction and speed of units using mid-frequency active sonar, and marine mammal sightings information associated with training activities occurring within 80 nautical miles (148 km) and 72 hours prior to the USE event. Information not initially available regarding the 80-nautical miles (148-km), 72-hour period prior to the event will be provided as soon as it becomes available. The Navy will provide NMFS investigative teams with additional relevant unclassified information as requested, if available.

(b) [Reserved]

§ 218.75 Requirements for monitoring and reporting.

(a) As outlined in the HSTT Study Area Stranding Communication Plan, the Holder of the Authorization must notify NMFS immediately (or as soon as operational security considerations allow) if the specified activity identified in § 218.70 is thought to have resulted in the mortality or injury of any marine mammals, or in any take of marine mammals not identified in § 218.71.

(b) The Holder of the LOA must conduct all monitoring and required reporting under the LOA, including abiding by the HSTT Monitoring Plan.

(c) General Notification of Injured or Dead Marine Mammals—Navy personnel shall ensure that NMFS (regional stranding coordinator) is notified immediately (or as soon as operational security considerations allow) if an injured or dead marine mammal is found during or shortly after, and in the vicinity of, an Navy training or testing activity utilizing mid- or high-frequency active sonar, or underwater explosive detonations. The Navy shall provide NMFS with species or description of the animal(s), the condition of the animal(s) (including carcass condition if the animal is dead), location, time of first discovery, observed behaviors (if alive), and photo or video (if available). The Navy shall consult the Stranding Response Plan to obtain more specific reporting requirements for specific circumstances.

(d) Vessel Strike—In the event that a Navy vessel strikes a whale, the Navy shall do the following:

(1) Immediately report to NMFS (pursuant to the established Communication Protocol) the:

(i) Species identification if known;

(ii) Location (latitude/longitude) of the animal (or location of the strike if the animal has disappeared);

(iii) Whether the animal is alive or dead (or unknown); and

(iv) The time of the strike.

(2) As soon as feasible, the Navy shall report to or provide to NMFS, the:

(i) Size, length, and description (critical if species is not known) of animal;

(ii) An estimate of the injury status (e.g., dead, injured but alive, injured and moving, blood or tissue observed in the water, status unknown, disappeared, etc.);

(iii) Description of the behavior of the whale during event, immediately after the strike, and following the strike (until the report is made or the animal is no long sighted);

(iv) Vessel class/type and operation status;

(v) Vessel length

(vi) Vessel speed and heading; and

(vii) To the best extent possible, obtain

(3) Within 2 weeks of the strike, provide NMFS:

(i) A detailed description of the specific actions of the vessel in the 30-minute timeframe immediately preceding the strike, during the event, and immediately after the strike (e.g., the speed and changes in speed, the direction and changes in the direction, other maneuvers, sonar use, etc., if not classified); and

(ii) A narrative description of marine mammal sightings during the event and immediately after, and any information as to sightings prior to the strike, if available; and

(iii) Use established Navy shipboard procedures to make a camera available to attempt to capture photographs following a ship strike.

(e) Annual HSTT Monitoring Plan Report—(1) The Navy shall submit an annual report for the HSTT Monitoring

Plan in April of each year, describing the implementation and results from the previous calendar year. Data collection methods will be standardized across range complexes and study areas to allow for comparison in different geographic locations. Although additional information will be gathered, the protected species observers collecting marine mammal data pursuant to the HSTT Monitoring Plan shall, at a minimum, provide the same marine mammal observation data required in § 218.75. (2) As an alternative, the Navy may submit a multi-Range Complex annual Monitoring Plan report to fulfill this requirement. Such a report would describe progress of knowledge made with respect to monitoring plan study questions across all Navy ranges associated with the ICMP. Similar study questions shall be treated together so that progress on each topic shall be summarized across all Navy ranges. The report need not include analyses and content that does not provide direct assessment of cumulative progress on the monitoring plan study questions.

(f) Annual HSTT Exercise and Testing Reports—The Navy shall submit preliminary reports detailing the status of authorized sound sources within 21 days after the end of the annual authorization cycle. The Navy shall submit detailed reports 3 months after the anniversary of the date of issuance of the LOA. The detailed annual reports shall contain information on Major Training Exercises (MTE), Sinking Exercise (SINKEX) events, and a summary of sound sources used, as described below. The analysis in the detailed reports will be based on the accumulation of data from the current year's report and data collected from previous reports. The detailed reports shall contain information identified in paragraphs (e)(1) through (e)(5) of this section.

(1) Major Training Exercises/SINKEX:

(i) This section shall contain the reporting requirements for Coordinated and Strike Group exercises and SINKEX. Coordinated and Strike Group Major Training Exercises include:

(A) Sustainment Exercise (SUSTAINEX).

(B) Integrated ASW Course (IAC).

(C) Composite Training Unit Exercises (COMPTUEX).

(D) Joint Task Force Exercises (JTFEX).

(E) Undersea Warfare Exercise (USWEX).

(ii) Exercise information for each MTE:

(A) Exercise designator.

(B) Date that exercise began and ended.

(C) Location (operating area).

(D) Number of items or hours (per the LOA) of each sound source bin (impulsive and non-impulsive) used in the exercise.

(E) Number and types of vessels, aircraft, etc., participating in exercise.

(F) Individual marine mammal sighting info for each sighting for each MTE:

(*1*) Date/time/location of sighting.

(*2*) Species (if not possible, indication of whale/dolphin/pinniped).

(*3*) Number of individuals.

(*4*) Initial detection sensor.

(*5*) Indication of specific type of platform the observation was made from (including, for example, what type of surface vessel or testing platform).

(*6*) Length of time observers maintained visual contact with marine mammal(s).

(*7*) Sea state.

(*8*) Visibility.

(*9*) Sound source in use at the time of sighting.

(*10*) Indication of whether animal is <200 yd, 200–500 yd, 500–1,000 yd, 1,000–2,000 yd, or >2,000 yd from sound source.

(*11*) Mitigation implementation—whether operation of sonar sensor was delayed, or sonar was powered or shut down, and how long the delay was; or whether navigation was changed or delayed.

(*12*) If source in use is a hull-mounted sonar, relative bearing of animal from ship and estimation of anima's motion relative to ship (opening, closing, parallel).

(*13*) Observed behavior—watchstanders shall report, in plain language and without trying to categorize in any way, the observed behavior of the animal(s) (such as closing to bow ride, paralleling course/speed, floating on surface and not swimming, etc.), and if any calves present.

(G) An evaluation (based on data gathered during all of the MTEs) of the effectiveness of mitigation measures designed to minimize the received level to which marine mammals may be exposed. This evaluation shall identify the specific observations that support any conclusions the Navy reaches about the effectiveness of the mitigation.

(iii) Exercise information for each SINKEX:

(A) List of the vessels and aircraft involved in the SINKEX.

(B) Location (operating area).

(C) Chronological list of events with times, including time of sunrise and sunset, start and stop time of all marine species surveys that occur before, during, and after the SINKEX, and ordnance used.

(D) Visibility and/or weather conditions, wind speed, cloud cover, etc. throughout exercise if it changes.

(E) Aircraft used in the surveys, flight altitude, and flight speed and the area covered by each of the surveys, given in coordinates, map, or square miles.

(F) Passive acoustic monitoring details (number of sonobuoys, area and depth that was heard, detections of biologic activity, etc.).

(G) Individual marine mammal sighting info for each sighting that required mitigation to be implemented:

(*1*) Date/time/location of sighting.

(*2*) Species (if not possible, indication of whale/dolphin/pinniped).

(*3*) Number of individuals.

(*4*) Initial detection sensor.

(*5*) Indication of specific type of platform the observation was made from (including, for example what type of surface vessel or platform).

(*6*) Length of time observers maintained visual contact with marine mammal(s).

(*7*) Sea state.

(*8*) Visibility.

(*9*) Indication of whether animal is <200 yd, 200–500 yd, 500–1,000 yd, 1,000–2,000 yd, or >2,000 yd from the target.

(*10*) Mitigation implementation—whether the SINKEX was stopped or delayed and length of delay.

(*11*) Observed behavior—watchstanders shall report, in plain language and without trying to categorize in any way, the observed behavior of the animals (such as animal closing to bow ride, paralleling course/speed, floating on surface and not swimming, etc.), and if any calves present.

(H) List of the ordnance used throughout the SINKEX and net explosive weight (NEW) of each weapon and the combined ordnance NEW.

(2) Summary of Sources Used.

(i) This section shall include the following information summarized from the authorized sound sources used in all training and testing events:

(A) Total annual hours or quantity (per the LOA) of each bin of sonar or other non-impulsive source;

(B) Total annual expended/detonated rounds (missiles, bombs, etc.) for each explosive bin;

(C) Total annual airgun use; and

(D) Improved Extended Echo-Ranging System (IEER)/sonobuoy summary, including:

(*1*) Total expended/detonated rounds (buoys).

(*2*) Total number of self-scuttled IEER rounds.

(3) Sonar Exercise Notification—The Navy shall submit to NMFS (specific contact information to be provided in LOA) either an electronic (preferably) or verbal report within fifteen calendar days after the completion of any major exercise (RIMPAC, USWEX, or Multi Strike Group) indicating:

(i) Location of the exercise.

(ii) Beginning and end dates of the exercise.

(iii) Type of exercise (e.g., RIMPAC, USWEX, or Multi Strike Group).

(4) Geographic Information Presentation—The reports shall present an annual (and seasonal, where practical) depiction of training exercises and testing bin usage geographically across the Study Area.

(5) Special Reporting Requirements—To the extent practicable, and as it applies to the specific Study Area, these reports will also include:

(i) The total hours (from 15 December through 15 April) of hull-mounted active sonar operation occurring in the dense humpback areas generally shown on the Mobley map (73 FR 35510, 35520) plus a 5-km buffer, but not including the Pacific Missile Range Facility (as illustrated in the HSTT FEIS/OEIS).

(ii) The total estimated annual hours of hull-mounted active sonar operation conducted in the Humpback Whale Cautionary Area between 15 December and 15 April.

(6) 5-year Close-out Exercise and Testing Report—This report will be included as part of the 2019 annual exercise or testing report. This report will provide the annual totals for each sound source bin with a comparison to the annual allowance and the 5-year total for each sound source bin with a comparison to the 5-year allowance. Additionally, if there were any changes to the sound source allowance, this report will include a discussion of why the change was made and include the analysis to support how the change did or did not result in a change in the FEIS and final rule determinations. The report will be submitted 3 months after the expiration of the rule. NMFS will submit comments on the draft close-out report, if any, within 3 months of receipt. The report will be considered final after the Navy has addressed NMFS' comments, or 3 months after the submittal of the draft if NMFS does not provide comments.

§ 218.76 Applications for Letters of Authorization.

To incidentally take marine mammals pursuant to the regulations in this subpart, the U.S. citizen (as defined by § 216.106) conducting the activity identified in § 218.70(c) (the U.S. Navy) must apply for and obtain either an initial LOA in accordance with § 218.77 or a renewal under § 218.78.

§ 218.77 Letters of Authorization.

(a) An LOA, unless suspended or revoked, will be valid for a period of time not to exceed the period of validity of this subpart.

(b) Each LOA will set forth:

(1) Permissible methods of incidental taking;

(2) Means of effecting the least practicable adverse impact on the species, its habitat, and on the availability of the species for subsistence uses (i.e., mitigation); and

(3) Requirements for mitigation, monitoring and reporting.

(c) Issuance and renewal of the LOA will be based on a determination that the total number of marine mammals taken by the activity as a whole will have no more than a negligible impact on the affected species or stock of marine mammal(s).

§ 218.78 Renewals and modifications of Letters of Authorization.

(a) A Letter of Authorization issued under §§ 216.106 and 218.77 for the activity identified in § 218.70(c) will be renewed or modified upon request of the applicant, provided that:

(1) The proposed specified activity and mitigation, monitoring, and reporting measures, as well as the anticipated impacts, are the same as those described and analyzed for these regulations (excluding changes made pursuant to the adaptive management provision of this chapter), and;

(2) NMFS determines that the mitigation, monitoring, and reporting measures required by the previous LOA under these regulations were implemented.

(b) For LOA modification or renewal requests by the applicant that include changes to the activity or the mitigation, monitoring, or reporting (excluding changes made pursuant to the adaptive management provision of this chapter) that do not change the findings made for the regulations or result in no more than a minor change in the total estimated number of takes (or distribution by species or years), NMFS may publish a notice of proposed LOA in the **Federal Register**, including the associated analysis illustrating the change, and solicit public comment before issuing the LOA.

(c) A LOA issued under § 216.106 and § 218.77 of this chapter for the activity identified in § 218.70(c) of this chapter may be modified by NMFS under the following circumstances:

(1) Adaptive Management—NMFS may modify (including augment) the existing mitigation, monitoring, or reporting measures (after consulting with the Navy regarding the practicability of the modifications) if doing so creates a reasonable likelihood of more effectively accomplishing the goals of the mitigation and monitoring set forth in the preamble for these regulations.

(i) Possible sources of data that could contribute to the decision to modify the mitigation, monitoring, and reporting measures in an LOA:

(A) Results from Navy's monitoring form the previous year(s);

(B) Results from other marine mammal and/or sound research or studies; or

(C) Any information that reveals marine mammals may have been taken in a manner, extent, or number not authorized by these regulations or subsequent LOAs.

(ii) If, through adaptive management, the modifications to the mitigation, monitoring, or reporting measures are substantial, NMFS will publish a notice of proposed LOA in the **Federal Register** and solicit public comment.

(2) Emergencies—If NMFS determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in § 218.72(c) of this chapter, an LOA may be modified without prior notice or opportunity for public comment. Notice would be published in the **Federal Register** within 30 days of the action.

[FR Doc. 2013–30245 Filed 12–23–13; 8:45 am]

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FEDERAL REGISTER

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Part VIII

The President

Memorandum of December 10, 2013—Delegation of Authority Under Section 506(a)(1) of the Foreign Assistance Act of 1961, as Amended

Presidential Determination No. 2014–05 of December 16, 2013—Eligibility of the Gulf Cooperation Council To Receive Defense Articles and Defense Services Under the Foreign Assistance Act of 1961 and the Arms Export Control Act

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Presidential Documents

Title 3—

The President

Memorandum of December 10, 2013

Delegation of Authority Under Section 506(a)(1) of the Foreign Assistance Act of 1961, as Amended

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, I hereby delegate to the Secretary of State the authority under section 506(a)(1) of the Foreign Assistance Act of 1961, as amended, to direct the drawdown of up to $60 million in defense articles from the stocks of the Department of Defense (DOD) and defense services of the DOD to provide assistance to France, the African Union, the Republic of the Congo, Chad, Cameroon, Gabon, Burundi, Uganda, Rwanda, and other countries that contribute forces to the African Union-led International Support Mission in the Central African Republic and to make the determinations required under such section to direct such a drawdown.

You are authorized and directed to publish this memorandum in the *Federal Register.*

THE WHITE HOUSE,
Washington, December 10, 2013.

[FR Doc. 2013–30982
Filed 12–23–13; 11:15 am]
Billing code 4710–10

Presidential Documents

Presidential Determination No. 2014–05 of December 16, 2013

Eligibility of the Gulf Cooperation Council To Receive Defense Articles and Defense Services Under the Foreign Assistance Act of 1961 and the Arms Export Control Act

Memorandum for the Secretary of State

Pursuant to the authority vested in me as President by the Constitution and the laws of the United States, including section 503(a) of the Foreign Assistance Act of 1961 and section 3(a)(1) of the Arms Export Control Act, I hereby find that the furnishing of defense articles and defense services to the Gulf Cooperation Council will strengthen the security of the United States and promote world peace.

You are authorized and directed to transmit this determination, and attached memorandum of justification, to the Congress and to arrange for the publication of this determination in the *Federal Register.*

THE WHITE HOUSE,
Washington, December 16, 2013.

[FR Doc. 2013–30984
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